August 25, 2025

<u>Via Email & U.S. Mail</u>
Inspector General Jeanene Barrett
Office of the Inspector General for the
New York City Police Department
New York City Department of Investigation
180 Maiden Lane
New York, NY 10038

Re: <u>Violations of NYPD's Facial Recognition Policies</u>

Dear Inspector General Jeanene Barrett,

We write to respectfully request that you open an investigation into the New York City Police Department's (NYPD's) violations of its facial recognition technology policies and include the details and results of your investigation in the next annual audit pursuant to the Public Oversight of Surveillance Technology Act (Local Law 65 of 2020).

Facial recognition technology is utilized when an investigating officer has a photo of a criminal suspect but does not know their identity. The officer sends that image (the "probe image") to the NYPD's Facial Identification Section (FIS), and FIS uses its facial recognition technology to compare the probe image to the photos in the NYPD's photo repository. The photo repository allegedly contains only arrest and parole photos of individuals who have been charged with a New York crime.

According to the NYPD's own Impact and Use Policy for facial recognition, "[t]he use of facial recognition technology that compares probe images against images outside the photo repository is prohibited unless approval is granted for such analysis in a specific case for an articulable reason by the Chief of Department, Chief of Detectives, or Deputy Commissioner, Intelligence and Counterterrorism." Facial Recognition: Impact and Use Policy, at 6 (Nov. 24, 2023)[1] (hereinafter "IUP"); <u>accord</u> Patrol Guide, Procedure No. 212-129 at 363.[2] If there is such approval for a previously unprescribed use of facial recognition technology, the NYPD must write an addendum to the existing IUP that describes the additional uses of facial recognition technology. IUP at 7.

Despite these clear limitations on comparing probe images to any images outside the NYPD's own photo repository, The Legal Aid Society has become aware that, in some cases where the NYPD's

---

[1] Available at https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/post-final/facial-recognition-nypd-impact-and-use-policy_11.24.23.pdf.
[2] Available at https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/public-pguide2.pdf.

Justice in Every Borough.

Facial Identification Section (FIS) finds no match in the NYPD's photo repository, the Special Activities Unit (SAU) in the Intelligence Division uses facial recognition technology and finds a possible match. For example, earlier this year, when the NYPD was investigating a case of public lewdness, a detective sent a surveillance video to FIS in order to identify a suspect in the video. FIS determined that there was no match found for the unidentified suspect. The investigating detective's DD5 states that she was advised of an FIS no match notification. But just a few hours later, there was another DD5 from the same detective stating that she was uploading a possible FIS match. A review of ECMS records clearly shows that possible match came from SAU—not FIS.

This match led to the wrongful arrest of Trevis Williams, a Black man who did not match the physical description given by the victim, but was nevertheless arrested for the crime based on the facial recognition match and an unnecessarily and unduly suggestive identification procedure. Mr. Williams was falsely arrested, and his life and job prospects were put on hold—all because of the NYPD's adoption of a biased surveillance tool and disregard for the policies governing its use.

We do not know how or why SAU is able to find possible matches when FIS is not. We do not know whether SAU is relying only on the NYPD's photo repository—and making changes in order to get a possible match—or using other sets of photos, although we have reason to believe that at least on some occasions they are using the NY/NJ High Intensity Drug Trafficking Area's database of photos. We do not know whether SAU or FIS is getting the required approval to use facial recognition technology to compare probe images to photos outside of the NYPD's photo repository. We do not know whether or how SAU's facial recognition technology differs from FIS's—in part because SAU has not disclosed this information, even when it is responsible for identifying matches in criminal cases.

We were also alarmed to learn that NYPD circumvents its facial recognition policies by relying on other entities altogether to use facial recognition technology and then share the results with the NYPD. *See* Samantha Maldonado, *NYPD Bypassed Facial Recognition Ban to ID Pro-Palestinian Student Protester*, The City (Jul. 18, 2025).[3] For example, on June 3, 2024, an FDNY fire marshal sent an NYPD detective an email saying he ran a photo from Crime stoppers "through our facial and it came back to this guy who graduated from Ossining High School in 2022," and included screenshots of facial recognition matches. *People v. Ahmed*, No. CR-017044-24NY (Crim. Ct. Jun. 17, 2025).[4] In the same email chain, the fire marshal told the detective that if he could get a name, then the fire marshal could "get the DL photo for [him]." *Id.* The detective replied with a name, date of birth, and driver's license number; the fire marshal replied "Bingo," indicating he had found a match. *Id.* Judge Morales recognized this as a case of the FDNY doing "what the NYPD could not," as "the NYPD does not permit a facial recognition search to extend as widely as it did in this case."

---

[3] Available at https://www.thecity.nyc/2025/07/18/nypd-fdny-clearview-ai-ban-columbia-palestinian-protest/.
[4] Available at
https://www.nycourts.gov/reporter//3dseries/2025/2025_51047.htm#:~:text=The%20defendant%20was%20identified%20in%20early%20June%202024,to%20dismiss%20the%20felony%20on%20September%2023%2C%202024.

Justice in Every Borough.

Id. The court further emphasized that "[w]here the state routinely gathers, searches, seizes, and preserves colossal amounts of information, transparency must remain a touchstone, lest fairness be lost." *Id.*

NYPD's circumvention of its facial recognition policies is particularly unnerving given the rising number of cases in which clients, like Mr. Williams, were falsely arrested based on faulty facial recognition matches. We are aware of multiple such cases, and we are gravely concerned that the cases we have identified are only the tip of the iceberg. The NYPD's vague IUP does not adequately address serious concerns about the accuracy and fairness of facial recognition technology. High profile cases of individuals being wrongfully arrested based on facial recognition technology have shed light on just how devastating the consequences of this technology can be—particularly for Black individuals. *See, e.g.*, Kashmir Hill, *Eight Months Pregnant and Arrested After False Facial Recognition Match*, N.Y. Times (Aug. 6, 2023);[5] Khari Johnson, *How Wrongful Arrests Based on AI Derailed 3 Men's Lives*, Wired (Mar. 7, 2022).[6] As your office has noted, there is significant public concern surrounding the use of facial recognition technology leading to increased bias in policing. A 2022 study by Amnesty International found that the use of facial recognition technology reinforced discriminatory stop and frisk policing in New York. Amnesty International Press Release, *New Research Finds Facial Recognition Technology Is Reinforcing Racist Stop-and-Frisk Policing in New York* (Feb. 14, 2022).[7] Your office has recognized the need for clear policies with respect to the NYPD's use of facial recognition technology as well as audits, DOI's Ninth Annual Report at 15–16,[8] and the City Council's passage of Intro 233 confirms the urgency of those measures.

We respectfully request that your office conduct an expeditious and thorough investigation into the NYPD's facial recognition policies and any methods employed to circumvent its own policies, including through reliance on units outside of FIS and other city agencies or departments.

Please do not hesitate to contact our office if you would like to discuss these concerns or have any questions for us.

---

[5] Available at https://www.nytimes.com/2023/08/06/business/facial-recognition-false-arrest.html.
[6] Available at https://www.wired.com/story/wrongful-arrests-ai-derailed-3-mens-lives/.
[7] Available at https://www.amnestyusa.org/press-releases/facial-recognition-technology-reinforcing-racist-policing-new-york/
[8] Available at https://www.nyc.gov/assets/doi/reports/pdf/2023/13OIGNYPDRpt.Release.03.30.2023.pdf.

Justice in Every Borough.

Sincerely,

Jennvine Wong, Esq.
49 Thomas Street
New York, NY 10013
(212) 577-3309
JWong@legal-aid.org

Laura Moraff, Esq.
49 Thomas Street
New York, NY 10013
(929) 536-1637
LMoraff@legal-aid.org

Cc: NYC Council Speaker Adrienne E. Adams (via email & U.S. mail)
        NYC Council Committee on Public Safety Chair Yusef Salaam (via email & U.S. mail)
        NYC Council Committee on Technology Chair Jennifer Gutiérrez (via email & U.S. mail)
        NYC Council Committee on Oversight and Investigations Chair Gale A. Brewer (via email
        & U.S. mail)

Justice in Every Borough.