

March 1, 2018

Via E-mail

Acting Director Emily W. Newman
Deputy Commissioner Brittny Saunders
New York City Automated Decision Systems Task Force Members
ADSTaskForce@cityhall.nyc.gov

Re: New York City's Automated Decision Systems Task Force- Public Engagement

Dear Task Force Chairs and Members:

The undersigned organizations and individuals write to request that the New York City Automated Decision System Task Force (“Task Force”) expeditiously initiate an inclusive and meaningful public engagement process to inform its forthcoming report and recommendations on a range of issues relating to government use of automated decision systems. Local Law 49 of 2018 requires the Task Force to make this report publicly available by December 2019, and we fear that given this timeline the window of opportunity for the type of *meaningful* public engagement that would inform the Task Force’s work is rapidly closing. In our view, a robust and inclusive public engagement process, review of evidence-based research, and ongoing public communication about the Task Force process and work are necessary predicates to any publication that the Task Force produces.

In August 2018, a number of the undersigned and other advocates wrote to the Task Force with recommendations based on the provisions of the law, and provided a list of individuals and organizations with expertise in relevant domains that the Task Force should engage while developing its report.ⁱ We remain hopeful that this letter will contribute to ongoing debates regarding government use of automated decision systems and provide a means for the Task Force to engage with stakeholders. While we recognize the City has since developed a webform and email address for residents to share concerns with the Task Force, we believe these options must be supplemented with further avenues for public engagement that are accessible to a broader range of New Yorkers. Additional avenues are necessary to empower the public to help determine how automated decision systems appeals processes are structured, how the impact and harms of such systems might be measured, and which systems should, and should not, be classified within the automated decision systems definition.ⁱⁱ

When Local Law 49 of 2018 was codified in the New York City Charter, it made New York City the first jurisdiction in the world to require a comprehensive review of how its government uses automated decision systems, and to require recommendations on a range of complicated legal, technical, and social concerns that arise from continued government use of these systems. In the wake of that historic step, several other jurisdictions have followed the City’s lead by establishing government bodies to evaluate similar questions, or considered legislation requiring

a comprehensive reviews of government use of automated decision system or artificial intelligence, more broadly.ⁱⁱⁱ

While New York City led the way for the evaluation of automated decision systems, other municipalities, have provided a template for the type of public engagement and transparency necessary to make the work of the Task Force successful. For example, Vermont created a statewide Artificial Intelligence Task Force five months after New York City. That AI Task Force has already held and broadcasted several public hearings where subject matter experts were invited to testify; it publicly posts its meeting agendas and minutes, and its task force is expected to release a report by this summer.^{iv}

Similarly, when the Pennsylvania Sentencing Commission engaged the public about its intentions to develop a sentencing risk assessment, a series of public hearings were held throughout the state and drew participation from advocates, people affected by the criminal justice system, researchers, lawyers, lawmakers, and other stakeholders.^v And when the Judicial Council of California requested public comments on its proposed rules regarding a new state law that replaced cash bail with a pretrial risk assessment system, advocates enthusiastically responded with detailed and thoughtful comments that will hopefully inform future policymaking.^{vi} Meaningful public engagement is pivotal to effective democratic governance because it provides policymakers an opportunity to hear diverse perspectives and to critically engage with the potential consequence of future decisions.

Given the scope of issues that the Task Force must grapple with, we do not wish to prescribe or suggest that any one form of public engagement is a panacea. We encourage the Task Force to explore and initiate several forms of public engagement to help elucidate as much information as possible from the public. To help fulfil this request, we encourage the Task Force to evaluate the approaches taken in other states referenced in this letter, as well as explore other models.^{vii}

We welcome the Task Force to use the undersigned as resources during this process and look forward to the Task Force's prospective findings and recommendations.

Sincerely,

Albert Fox Cahn
Surveillance Technology Oversight Project
albert@stopspying.org

Angel Diaz
Brennan Center for Justice at NYU School
of Law
diaza@brennan.law.nyu.edu

Daniel Schwarz
New York Civil Liberties Union (NYCLU)
dschwarz@nyclu.org

Data for Black Lives
max@d4bl.org

Janet Haven
Data & Society Research Institute
info@datasociety.net

Jason Schultz
Clinical Professor
NYU Law Technology Law and Policy
Clinic
SchultzJ@exchange.law.nyu.edu

Katya Abazajian
Sunlight Foundation
katya@sunlightfoundation.com

Marc Canellas
IEEE-USA AI Policy Committee
marc.c.canellas@gmail.com

Noel Hidalgo
BetaNYC
noel@beta.nyc

Nora McCarthy
Rise
nora@risemagazine.org

Rashida Richardson
AI Now Institute
rashida@ainowinstitute.org

Yana Kalmyka, Arnelle Johnson, Coco
Rhum, Sarah “Zaps” Zapiler
IntegrateNYC
hello@integratenyc.org

ⁱ Advocates Letter to the New York City Automated Decision Systems Task Force, Aug. 17, 2018, http://assets.ctfassets.net/8wprhhvnpfc0/1T0KpNv3U0EKAcQKselsqA/52fee9a932837948e3698a658d6a8d50/NYC_ADS_Task_Force_Recs_Letter.pdf

ⁱⁱ New York City Automated Decision System Task Force, <https://www1.nyc.gov/site/adstaskforce/index.page>.

ⁱⁱⁱ H.B. 378, 91 Leg., Reg. Sess. (Vt. 2018),

<https://legislature.vermont.gov/Documents/2018/Docs/ACTS/ACT137/ACT137%20As%20Enacted.pdf>; H.B. 2701, 191 Leg., Reg. Sess. (Ma.2019), <https://malegislature.gov/Bills/191/HD951>; H.B.1655, 66 Leg., Reg. Sess. (Wa. 2019), <https://app.leg.wa.gov/bills/summary?BillNumber=1655&Initiative=false&Year=2019>.

^{iv} Vermont Agency of Commerce and Community Development, Artificial Intelligence Task Force, <https://accd.vermont.gov/economic-development/artificial-intelligence-task-force>.

^v See e.g. Samantha Melamed, *Move afoot to dismantle work of Sentencing Commission*, Pitts. Post-Gazette (Dec. 12, 2018), <https://www.post-gazette.com/news/politics-state/2018/12/12/Move-afoot-to-dismantle-work-of-Sentencing-Commission/stories/201812120200>.

^{vi} Upturn, Comments on Proposed California Rules of Court 4.10 and 4.40 (2018), https://www.upturn.org/static/files/2018-12-14_Final-Coalition-Comment-on-SB10-Proposed-Rules.pdf; Human Rights Watch, Comments on Proposed California Judicial Council Rules 4.10 and 4.40 (2018), <https://www.hrw.org/news/2018/12/10/human-rights-watch-comments-california-judicial-council-bail-reform-rules>; Electronic Frontier Foundation, Written Comments on Proposed Rules 4.10 and 4.40 (2018), <https://www.eff.org/document/written-comments-eff-proposed-california-rules-court-410-and-440>; JusticeLA S.B.10 Comments (2018), <http://justicelanow.org/sb10comments/>.

^{vii} For instance, the Obama Administration’s Task Force on 21st Century Policing was given 90 days to conduct hearings around the country, review research and make recommendations to the President. To fulfill this mission, the Task Force invited stakeholders to participate in issue-specific listening sessions, which allowed stakeholders to provide specific and detailed feedback as well as engaged with cross-cutting issues and concerns. They also held sessions targeted at communities with particular concerns (e.g. people with disabilities) so their concerns were not overlooked or missed. The President’s Task Force on 21st Century Policing, *Final Report of The President’s Task Force on 21st Century Policing* (2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.