John Ying – Brunswick – **In support of LD 1585** – An Act To Increase Privacy and Security by Prohibiting the Use of Facial Surveillance by Certain Government Employees and Officials

Thank you for the opportunity to submit testimony in support of LD 1585. I was fortunate to work on Portland's ban on facial surveillance technology that passed at the ballot box last November.[1] What we learned from that effort is the support is overwhelming for banning this chilling and invasive technology.[2]

In organizing for this ban, we ran into a few myths around facial surveillance technology that must be dispelled:

Myth #1: "I don't have anything to hide and neither should law-abiding citizens, so why should it matter that police have this technology?"

It matters that police do not have access to this technology for four reasons: First, as characterized by the Center on Privacy and Technology at Georgetown Law, facial surveillance technology turns our streets into a "perpetual lineup" that one cannot opt out of and is never aware that is it being used on them.[3] This could potentially suppress people's right to free expression, their right to protest, and their right to free association if police or other government actors could essentially pick someone out of a crowd. Second, police training from the companies creating these tools encourages inaccurate matching.[4] Third, by entrusting sensitive, personally identifiable information to third-party facial surveillance technology providers, it gives another avenue for cyber criminals to continue their malicious acts. Finally, it serves as another medium for police to abuse the vast amount of personal data to get know more about potential romantic interests, journalists, or other people completely disconnected with their official capacity.[5]

Myth #2: "If it is going to help catch criminals, then why not let the police have it?"

The technology may help catch a few criminals, but at what cost? As stated by others submitting testimony, this technology is notoriously unreliable. It misidentifies black persons, especially black females, at an error rate almost 30 times higher than white males.[6] For example, when plugging an image of my face into a commercially available facial recognition system, I was incorrectly identified as being white, when I am of Chinese/Asian dissent.

---

[1] C|Net, *Portland, Maine, bans police from using facial recognition software*, https://www.cnet.com/news/portland-maine-bans-police-from-using-facial-recognition-software/
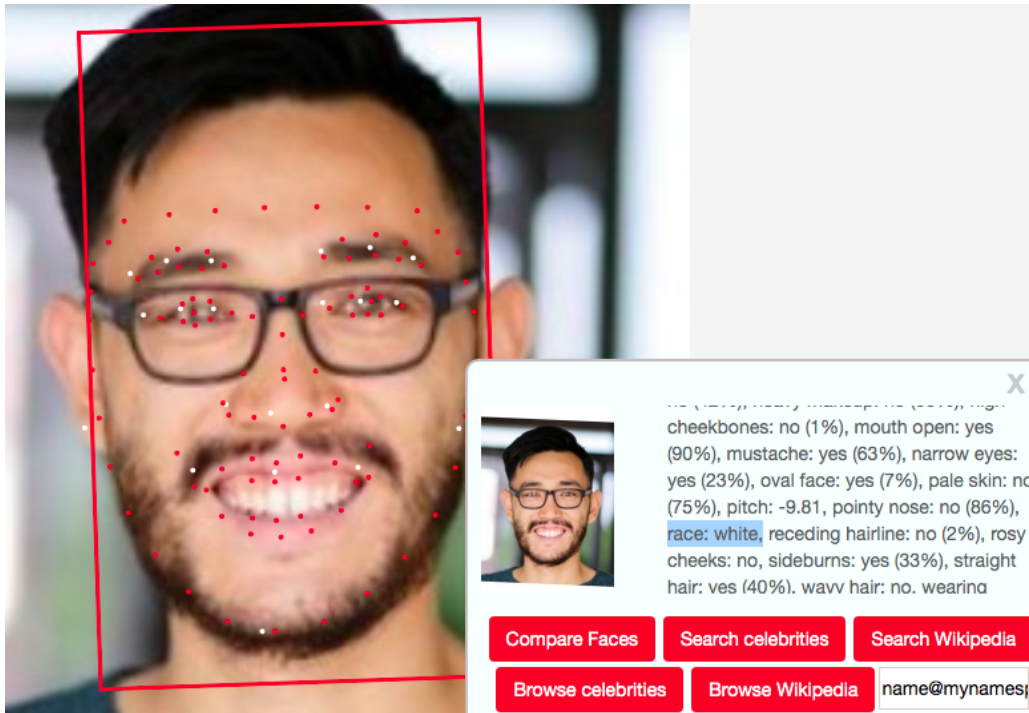[2] WGME, *Election Results*, https://wgme.com/news/election-results
[3] Georgetown Law Center on Privacy and Technology, *Perpetual Lineup*, https://www.perpetuallineup.org/
[4] Gizmodo, *Defense of Amazon's Face Recognition Tool Undermined by Its Only Known Police Client*, https://gizmodo.com/defense-of-amazons-face-recognition-tool-undermined-by-1832238149. (A Freedom of Information Act request revealed that police in Washington County, Oregon were instructed by Amazon to identify leads using less than 99% confidence matches.)
[5] Associated Press, *Across US, police officers abuse confidential databases,* https://apnews.com/article/699236946e3140659fff8a2362e16f43
[6] Massachusetts Institute of Technology, *Study finds gender and skin-type bias in commercial artificial-intelligence systems*, https://news.mit.edu/2018/study-finds-gender-skin-type-bias-artificial-intelligence-systems-0212

This misidentification has real-world impacts. Robert Williams is currently suing Detroit, Michigan's police department for wrongfully identifying him as the suspect of a retail theft, while he was 25 miles away in his home during the incident.[7] In another case, Nijeer Parks was misidentified by Woodbridge, NJ police for aggravated assault, resisting arrest, and other serious felony charges for an incident that he was 30 miles away from.[8]

For the reasons above, Maine should not subject its citizens to this inaccurate and invasive technology. This committee should vote LD 1585 **ought to pass**.

---

[7] NPR, *'The Computer Got It Wrong': How Facial Recognition Led To False Arrest Of Black Man*, https://www.npr.org/2020/06/24/882683463/the-computer-got-it-wrong-how-facial-recognition-led-to-a-false-arrest-in-michig

[8] CNN, *A false facial recognition match sent this innocent Black man to jail*, https://www.cnn.com/2021/04/29/tech/nijeer-parks-facial-recognition-police-arrest/index.html