



April 6, 2023

The Honorable Phil Ting
P.O. Box 942849
Sacramento, CA 94249

Re: **AB 642 – as amended 4/4/2023**
Oppose

Dear Assemblymember Ting:

We are a coalition of civil rights, racial justice, reproductive justice, and LGBTQI groups writing in respectful opposition to AB 642, which purports to create standards for police use of facial recognition technology (FRT) but in fact provides sweeping legislative authorization that would normalize and incentivize unprecedented mass surveillance systems in California communities, exacerbate racial profiling, and erode the civil rights and safety of people in the state. Recent amendments to the bill do not change our opposition.

AB 642 Places Often-Targeted Communities at Risk

If AB 642 becomes law, California will see an explosion of the sensitive databases containing face prints and biometric information that are part and parcel of FRT. These databases are routinely and disproportionately populated with millions of mugshots of Black and Brown victims of the War on Drugs and other discriminatory laws. As a result, Black and Brown people may be more likely to be identified by systems running on this technology, profiled, stopped, detained, and entered into these databases, magnifying a cycle of racially biased policing and incarceration. Unfortunately, recent

amendments to AB 642 make this problem worse, sanctioning the expansion of mugshot databases while explicitly permitting police to make use of unaccountable for-profit databases sold by data brokers and other private companies.

The amendments to AB 642 fail to meaningfully limit the dangerous sharing of information with other agencies, risking serious consequences for women and LGBTQI people. The national attacks on abortion rights, bodily autonomy, and trans people demand that California provide a haven for those seeking reproductive or gender-affirming care. Amendments to AB 642 merely limit police from sharing info about the literal “the provision” of these services, preserving wide latitude for police to share information about people who plan to seek care or have already done so and are travelling within California. AB 642 incentivizes uses of FRT that could be exploited to identify and prosecute people who travel to our state to visit a doctor’s office or a Planned Parenthood clinic.

AB 642 Places Communities in Danger and Unjustifiably Erodes Civil Rights

AB 642 threatens more than our privacy. It is also foreseeable that out-of-state and federal agencies will demand access to and exploit the biometric databases ushered in by AB 642, placing dangerous pressure on our state’s sanctuary laws. ICE has already been caught tapping into and demanding access to facial recognition databases in other states.¹ Amendments to AB 642 do nothing to address the inherent vulnerability of biometric databases to outside demands. California has chosen not to proactively use state resources for immigration enforcement, and it should continue to protect immigrants.

By allowing police to scan and identify people with few limitations, AB 642 will also increase unnecessary interactions with innocent residents. With regularity, we are learning stories about Black men like Robert Williams.² Mr. Williams was wrongfully arrested in his driveway with his wife and daughter watching; he was jailed because police misused facial recognition. In Mr. Williams’ case, police ignored warnings like those contained in AB 642, so we know this bill will not prevent egregious mistakes. Indeed, recent amendments would actually prevent people like Mr. Williams from bringing a lawsuit and seeking justice wherever police claim they were acting in good faith. By legally sanctioning the widespread use of FRT, AB 642 will magnify the bias and over-policing already disproportionately harming communities of color, immigrants, and other minority groups. Too often we have seen that police labeling results in unjustified interactions that have the potential to easily escalate into fatal encounters. This will remain true regardless of how accurate FRT becomes. Thus, AB 642 also puts lives at risk.

AB 642 Ignores the Evidence

FRT is an inherently dangerous form of surveillance that gives governments the power to automatically identify us without our consent and track where we go, who we know, and even how we feel, and there is no way to prevent this encroachment on personal privacy. Rather than meaningfully constrain this power, amendments to AB 642 explicitly specify that police may use FRT for “real time” surveillance of entire areas, exposing entire communities to the scanning of

¹ Catie Edmondson, *ICE Used Facial Recognition to Mine State Driver’s License Databases*, The New York Times, Jul. 8, 2019, <https://www.nytimes.com/2019/07/07/us/politics/ice-drivers-licenses-facial-recognition.html> (last visited Mar 13, 2023).

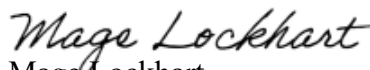
² Kashmir Hill, *Wrongfully Accused by an Algorithm*, The New York Times, Jun. 24, 2020, <https://www.nytimes.com/2020/06/24/technology/facial-recognition-arrest.html> (last visited Mar 13, 2023).

their faces and identities by police cameras mounted on streetlights, buildings, and attached to officers. Simply put, this is how authoritarian states use this technology to track, target, and control their populations and marginalized communities.³ As a result, the face surveillance systems permitted by AB 642 will chill the exercise of important civil rights, including at protests, places of worship, and political gatherings. There are no acceptable standards under which law enforcement can use face surveillance. Rather than aligning with the civil rights community and national consensus, AB 642 grants law enforcement agencies sweeping statutory authority to use face recognition technology to identify and track people across the state.


There is a strong and growing public consensus that FRT is simply too dangerous and corrosive to our rights to be used by law enforcement. Companies like Amazon, Microsoft, and IBM refuse to sell FRT to police, as has Axon, the most prominent police body camera maker.⁴ At least 20 U.S. cities, including your hometown of San Francisco, have banned the government use of face recognition technology. Progressive leadership in the United States Congress recently introduced a bill that would prohibit the government's use of facial recognition and condition funding to localities on their adopting the same.⁵ These local laws and federal bill recognize that the most responsible standard for FRT is a ban on its use by governments. Prohibitions on the government use of facial recognition protect our privacy, reduce dangerous encounters and wrongful detentions, safeguard our freedom of speech, and impede the creation of dangerous biometric databases.


For these reasons, our coalition of civil rights, reproductive justice, LGBTQI, and racial justice groups remains opposed to AB 642.

Sincerely,


Mage Lockhart
A New Way of Life


Xochitl Lopez-Ayala
ACCESS REPRODUCTIVE JUSTICE


Carmen-Nicole Cox
ACLU California Action


Fidel Chagolla
All of Us or None - Riverside

³ See Mozur, Paul. "Inside China's Dystopian Dreams: A.I., Shame and Lots of Cameras." The New York Times, 8 July 2018. NYTimes.com, <https://www.nytimes.com/2018/07/08/business/china-surveillance-technology.html>; Mozur, Paul. "One Month, 500,000 Face Scans: How China Is Using A.I. to Profile a Minority." The New York Times, 14 Apr. 2019. NYTimes.com, <https://www.nytimes.com/2019/04/14/technology/china-surveillance-artificial-intelligence-racial-profiling.html>.

⁴ Rebecca Heilweil, *Big tech companies back away from selling facial recognition to police*. That's progress., Vox (2020), <https://www.vox.com/recode/2020/6/10/21287194/amazon-microsoft-ibm-facial-recognition-moratorium-police> (last visited Mar 13, 2023).

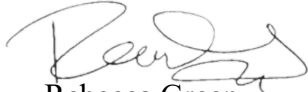
⁵ Markey, Merkley, Jayapal Lead Colleagues on Legislation to Ban Government Use of Facial Recognition and Other Biometric Technology | U.S. Senator Ed Markey of Massachusetts, <https://www.markey.senate.gov/news/press-releases/markey-merkley-jayapal-lead-colleagues-on-legislation-to-ban-government-use-of-facial-recognition-and-other-biometric-technology> (last visited Mar 13, 2023).



James Burch
Anti Police-Terror Project



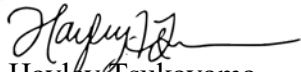
Richard Konda
Asian Law Alliance



Rebecca Green
Bend the Arc: Jewish Action California



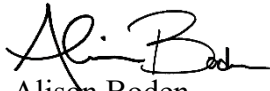
Amber-Rose Howard
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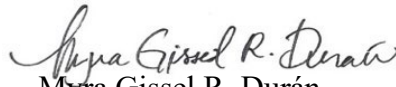
Hayley Tsukayama
Electronic Frontier Foundation



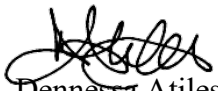
Mona Tawatao
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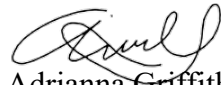
Alison Boden
Free Speech Coalition



Myra Gissel R. Durán
If/When/How



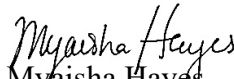
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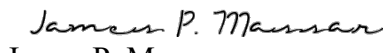
Tracy Rosenberg
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Myaisha Hayes
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James P. Massar
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Laura Hernandez
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Karen G. Hernández
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San Francisco Public Defender Racial Justice
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Brian Hofer
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Avalon Edwards
StartingOver Inc.



Mai Tran
Stop the Musick Coalition



Michael Maharrey
Tenth Amendment Center



Flor Hunt
Training in Early Abortion for Comprehensive
Healthcare



Daisy Ramirez
Transforming Justice Orange County



Alex Binsfeld
Transgender, Gender-Variant & Intersex Justice
Project

cc: Members and Committee Staff, Assembly Public Safety Committee