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**STATEMENT OF
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**BEFORE THE
COMMITTEE ON TECHNOLOGY
NEW YORK CITY COUNCIL**

ON INT. 2305-2021

**PRESENTED
September 24, 2021**

Good afternoon Councilmembers, Chair Holden. My name is Carrie Magee, and I am a legal fellow at the Surveillance Technology Oversight Project. Thank you for allowing me to testify today about Introduction 2305-2021.

To put it simply: digital identification solves a problem we don't have. New Yorkers already have to carry photo ID in too-many places throughout this city. Rather than expanding the types of ID we have and the number of places we must use it, the council should be rolling-back the need for photo ID in public life.

Already we have drivers' licenses, NYCID, work IDs, student IDs and many more. Making ID digital will only increase demands for it, until we are IDed every time we buy groceries, book a theater ticket, or enter a store. These demands will inevitably fall on BIPOC and undocumented New Yorkers, their ID data tracked by police and even ICE. Whether online, or locally stored, New Yorkers simply do not need this kind of digital ID. Thus, we urge the Committee on Technology to not pass this Introduction.

I. A Lack of Clarity on a Goal

The draft legislation fails to explain what type of ID it's seeking to investigate. We read the bill as contemplating two discrete use cases, each of which is concerning for the reasons stated below.

In the first case, the City might generate a locally-stored digital credential, similar to what is used for many sports and cultural events. Such an ID could be presenting on a phone or smart device for in-person verification. Alternatively, the legislation could contemplate a remotely-verifiable credential that can be used remotely via an internet-enabled portal. These products pose drastically different, public policy and civil rights consequences.

Creating in-person digital identification will pose significant privacy problems. Iowa's transportation director has already excitedly proclaimed how a digital license could be bound to "hunting and fishing licenses, weapons' permits, tax returns."¹ The consolidation of this volume of information to something as immediately personal – and as frequently used – as a driver's license, should scare you. The examples given are just the beginning; your license could eventually be tied to recent purchases, to outcomes of parole-mandated drug testing, to your recent attendance at a ball game or on a subway train or anywhere. The points of personal information that could be tied to this kind of identification are limitless. The consequences of this could be devastating.

¹ See: Jay Stanley, *Identity Crisis: What Digital Driver's Licenses Could Mean for Privacy, Equity, and Freedom* | American Civil Liberties Union ([aclu.org](https://www.aclu.org)), American Civil Liberties Union (July 2021), <https://www.aclu.org/report/identity-crisis-what-digital-drivers-licenses-could-mean-privacy-equity-and-freedom>, last accessed: September 24, 2021.

Furthermore, by unlocking one's phone to display a digital ID, New Yorkers would put themselves at risk. Think of a typical traffic stop, where you are asked to provide your license. What if you had a digital license, but you had to unlock your phone to access it; inherently, that system would demand that you unlock your phone and hand it to the police.² Think of everything in your phone: your texts, your photos, your contacts. Digital ID creates a real risk of exposing New Yorkers to warrantless searches every time an officer asks to see ID. Forgetting your turn signal should not give officers access to your most intimate files.

If digital ID is used remotely, it would quickly become yet another online tracking tool. The easier we make it for websites to ask for ID, the more they will do it. This provides unprecedented ability to connect our digital and real-world identities. This should terrify you. The ability to be anonymous online would evaporate.

It's easy to write this off as something not necessary for 'regular people' but it absolutely is. LGBTQ+ teenagers looking for resources and information. Adults who google medical symptoms in search of whether they need a doctor. Individuals who are working one job, searching for another. These searches could become tied to your identity – your name, address, income, everything. Digital identification is a slippery slope to never being anonymous, in any space. This bill fails to acknowledge the danger that the system it wants to create would pose.

II. The Effect on BIPOC New Yorkers

New York City's surveillance always falls hardest on BIPOC New Yorkers; digital IDs will be no exception. BIPOC New Yorkers systematically surveilled, from NYPD surveillance of mosques³ to being targeted by Stop and Frisk⁴ to the audio surveillance that is ShotSpotter.⁵ Expanding digital identification will – now matter your intent – evolve into dossiers that New Yorkers are forced to compile on themselves.

III. Conclusion

Have you ever left your phone on the seat of the bus, or on the table at your favorite restaurant? Have you ever attempted to start an app on your phone – one that was just working – and suddenly

²See: Lily Hay Newman, *Apple Says It's Time to Digitize Your ID, Ready or Not*, WIRED (June 15, 2021), <https://www.wired.com/story/apple-wallet-drivers-license-digital-id/>, last accessed: September 24, 2021.

³ See: *Factsheet: The NYPD Muslim Surveillance Program*, American Civil Liberties Union, <https://www.aclu.org/other/factsheet-nypd-muslim-surveillance-program>, last accessed: September 24, 2021.

⁴ Bridget Initiative Team, *Factsheet: NYPD STOP AND FRISK POLICY*, Georgetown University, <https://bridge.georgetown.edu/research/factsheet-nypd-stop-and-frisk-policy/>, last accessed: September 24, 2021.

⁵ See: Gabriel Sandoval, Rachel Holiday Smith, *'ShotSpotter' Tested as Shootings and Fireworks Soar, While Civil Rights Questions Linger*, The City (June 2020), <https://www.thecity.nyc/2020/7/5/21312671/shotspotter-nyc-shootings-fireworks-nypd-civil-rights>, last accessed: September 24, 2021.

it won't stop crashing? Technology fails sometimes, and as your phone becomes more closely tied to your identity, losing it – or breaking it – will be disaster. These systems undergirding the physical phones are also not invulnerable to hacking or simple mistake. For the foregoing reasons, I urge the City Council not to pass Introduction 2305-2021 or create this new tracking tool.