



**NEW YORK CITY COUNCIL  
JOINT HEARING BY THE COMMITTEE ON TECHNOLOGY AND  
COMMITTEE ON PUBLIC SAFETY**

**TESTIMONY OF JOCELYN E. STRAUBER  
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**CONCERNING OVERSIGHT OF NYPD'S IMPLEMENTATION OF THE  
PUBLIC OVERSIGHT OF SURVEILLANCE TECHNOLOGY (POST) ACT**

**FRIDAY, DECEMBER 15, 2023**

Good morning. My name is Jocelyn Strauber and I am the Commissioner of the Department of Investigation (“DOI”). Thank you, Chair Gutiérrez and members of the Committee on Technology, and Chair Hanks and members of the Committee on Public Safety, for the opportunity to speak about DOI’s oversight role with respect to NYPD’s use of surveillance technology, as set out in the Public Oversight of Surveillance Technology legislation, which I’ll refer to as the POST Act.

As you know, DOI oversees the operations, policies, programs and practices of the New York City Police Department (“NYPD”) through DOI’s Office of the Inspector General for the NYPD (“OIG-NYPD”). The POST Act requires NYPD to produce and publish Impact and Use Policies, IUPs for short (“IUPs”), for each surveillance technology used by the NYPD and directs OIG-NYPD to prepare an annual audit of the Department’s compliance with these IUPs.

Today I will give you a summary of DOI’s findings from our first annual report pertaining to the POST Act, speak briefly about the focus of our second report which is currently in draft, and also share our view of the three proposed bills under consideration today with respect to the NYPD’s use of surveillance technology.

Before I begin, I want to recognize Inspector General (“IG”) Jeanene Barrett, who I appointed to the permanent position of Inspector General in August. Jeanene unfortunately could not be here today as planned, but I am very proud to be working with her. She has led the OIG-NYPD since January 2022 as the Acting Inspector General. She brings critical experience to this role in relevant areas including police oversight and accountability, community engagement, and supporting underserved communities.

### **November 2022 Report: An Assessment of NYPD’s Response to the POST Act**

In November 2022, DOI issued its first report pursuant to the POST Act. The report was the result of an in-depth examination in which OIG-NYPD interviewed a range of individuals including NYPD officials, members of the advocacy community who called for the legislation that ultimately became the POST Act, and experts on various surveillance technologies. For this first report, the OIG-NYPD reviewed all published IUPs and performed a section-by-section assessment of one IUP, conducted an in-depth assessment of two selected surveillance technologies; and compared the POST Act to similar statutes in other jurisdictions to better understand other models for achieving transparency and public engagement in this area.

While the OIG-NYPD investigative team found that NYPD largely complied with the technical POST ACT requirements, it also found that the IUPs did not contain sufficient detail to allow for a full assessment of NYPD’s compliance with those IUPs, as the statute requires. OIG-NYPD concluded that improvements to the IUPs would enable more robust oversight, as well as more transparency with respect to the nature and use of these technologies. Specifically, the IUPs reviewed contained certain overly general language that failed to provide sufficiently specific information about the nature of the technologies, the retention period for data obtained via use of the technologies, and the entities with which the data can be shared. Per our assessment, the broad and non-specific language within the IUPs failed to provide clear direction to NYPD — and sufficiently concrete information to the public — in these and other areas.

Additionally, OIG-NYPD interprets the POST Act to require an IUP for each unique surveillance technology and disagrees with NYPD’s view that grouping is permitted as a general matter. While grouping may be appropriate for devices that use identical or very similar technologies, OIG-NYPD is concerned that grouping of related surveillance technologies into single IUPs is inconsistent with the spirit, if not the letter of the POST Act. Grouping may mask certain unique technological capabilities because they may not be publicly disclosed at all, as they will be deemed “covered” by an existing IUP. Furthermore, because there will be no new IUP applicable to those new technological capabilities, there will be no opportunity for public comment on those policies. It is also difficult for OIG-NYPD to meaningfully assess NYPD’s compliance with the IUP when the IUP applies to various technologies that could have different functions or capabilities.

Based on its review, OIG-NYPD issued 15 policy and procedure recommendations to NYPD in November of 2022. I want to be clear that many of these recommendations went beyond the requirements

that the POST Act imposes, and that we made these recommendations to enhance public transparency with respect to NYPD's use of surveillance technology. Equally important, the recommendations are intended to be sensitive to the need to protect confidential law enforcement information. For the most part, as the report made clear — with the exception of NYPD's practice with respect to grouping — we did not find that NYPD had violated the POST Act. The recommendations advised the NYPD to issue an IUP for each individual surveillance technology, to ensure that each IUP contains specific information such as the names of the entities with which the NYPD shares surveillance data as well as specific safeguards or restrictions on the use or dissemination of the surveillance data, and to describe the potential disparate impacts on protected groups of the use and deployment of the surveillance technology. OIG-NYPD also requested an itemized list of all surveillance technologies used by NYPD, in order to determine whether grouping of multiple devices or technologies under a single IUP was appropriate. NYPD previously rejected OIG-NYPD's recommendation to provide an itemized list of the surveillance technologies that it uses, and has since agreed to provide this itemized list. We look forward to receiving that list so that we can further consider the question whether any technologies currently grouped within a single IUP in fact require distinct IUPs.

The OIG-NYPD recommended that NYPD convene a working group that included NYPD personnel, relevant City Council members, and representatives from select advocacy groups who have expertise in surveillance technologies to make recommendations to NYPD on any necessary updates to existing IUPs, for example recommending updates to IUPs to reflect disparate impact of technologies. Other recommendations included strengthening internal tracking of each instance when NYPD provides an external agency with data collected via its surveillance technologies and other transparency measures.

With the exception of our recommendation that DOI receive an itemized list of technologies, NYPD has rejected all of our POST Act report recommendations.

### **DOI OIG-NYPD's Ongoing Role**

DOI understands the relevant and important concerns about the use of surveillance technology in New York City and we are committed to providing oversight in this important area. I want to be clear that an annual comprehensive inquiry into the NYPD's compliance with each of its three dozen IUPs, for more than 80 surveillance technologies that it employs, is not a feasible undertaking for DOI. For that reason, both in last year's annual report and in the one we plan to issue in the first quarter of 2024, we are focused on particular surveillance technologies of public interest and concern, as well as broader issues with respect to the POST Act's requirements and NYPD's compliance more generally.

In our upcoming report we will discuss NYPD's compliance with the POST Act with respect to a group of technologies of particular public interest, including Digidog and the Autonomous Robot.

### **Proposed Legislation**

DOI has reviewed Introductions 1193, 1195, and 1207, which are being considered at today's hearing, and is broadly supportive of the three bills as they generally track several of DOI's recommendations from the 2022 report. We look forward to working with the Council on these bills if they move forward to a vote.

Thank you for your time and I am happy to take any questions you may have.