December 1, 2020

**Sent Via Electronic Mail**

Attention: Madison Common Council Members
allalders@cityofmadison.com

RE: Written Comments Regarding Proposed Section 23.63 of the Madison General Ordinances establishing a Ban on the Use of Face Surveillance Technology

Dear Common Council Members:

I write on behalf of the American Civil Liberties Union of Wisconsin (ACLU) to provide comments regarding the proposed addition of Section 23.63 "Banning the Use of Face Surveillance Technology" to the Madison General Ordinances (the "Ban"). The ACLU works to protect the civil liberties and civil rights of all Wisconsinites and does not support the use of any kind of facial recognition technology for the following reasons.

First, facial recognition technology can be used so pervasively that the technology essentially eliminates any expectation of privacy in public spaces. In many instances, the technology has the practical effect of forcing every person that enters public spaces to walk around with an enlarged copy of their driver's licenses on their shirts and turns the phone in their pocket into a government GPS tracking device. Whatever speculative benefits the technology might have in theory, the technology's dramatic and often imperceptible adverse effects on citizen's civil liberties cannot be overcome.

Second, facial recognition technology is significantly more inaccurate in identifying Black, Indigenous, and people of color, women, young people, older people, and transgender/non-binary persons. These technological shortcomings place these already vulnerable groups in danger of being falsely identified, wrongly arrested, and even jailed by law enforcement officials that use this technology. Even when coupled with safeguards like adding human reviewers to verify the identification of a person recognized by this technology, the technology has remained inaccurate in identifying these groups. In short, facial recognition technology's propensity for false identifications of members of already vulnerable groups is both unacceptable and unavoidable. As such, the Common Council should adopt the Ban.

Third, no matter what database facial recognition technology is run against, the outcomes undermine the civil liberties of the public. If the technology runs against law enforcement mugshot databases, the technology risks magnifying existing racial biases in our criminal justice system. Moreover, if the technology is run against the Department of Motor Vehicle databases, the technology increases the intrusion on the public's right to privacy. In any event, neither option is tenable and as a result, facial recognition technology should not be used by law enforcement officials.

The ACLU thanks the Common Council for this opportunity to comment on the Ban and strongly encourages the Common Council to adopt it.

Respectfully Submitted,

Christopher Ott
Executive Director
American Civil Liberties Union of Wisconsin