Request for Information (RFI) on Public and Private Sector Uses of Biometric Technologies: Responses

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Re: Notice of Request for Information (RFI) on Public and Private Sector Uses of Biometric Technologies — Comments of Center on Privacy & Technology at Georgetown Law

The Center on Privacy & Technology at Georgetown Law (the “Center”) welcomes this Office of Science and Technology Policy (OSTP) proceeding on public and private sector uses of biometric technologies. The Center is a law and research think tank that focuses on the privacy rights and surveillance of historically marginalized communities. Our track record includes rigorous, long-term research and groundbreaking legal and policy analysis and advocacy, resulting in state and federal legal reforms to protect privacy and civil rights.¹

This submission focuses on the use of biometric surveillance technologies by private sector employers on low-wage workers across the United States.² Part I responds to Topic 1 of the RFI (“Descriptions of use of biometric information for recognition and inference”), with an overview and examples of biometric worker surveillance in various industries.

Part II responds to Topic 4 (“Exhibited and potential harms of a particular biometric technology”), by situating biometric worker surveillance in critical historical context to inform harms analysis. This section traces biometric surveillance technologies back to 20th-century Taylorism and Fordism, and connects them to surveillance of Black bodies as originating in the transatlantic slave trade and plantation slavery, drawing on the scholarship of Simone Browne.

Part III responds to Topic 6 (“Governance programs, practices or procedures applicable to the context, scope, and data use of a specific use case”), by setting out the implications of Part II for legal and policy reform to address biometric surveillance technologies as used on low-wage workers and intersecting marginalized groups.

I. Biometric Surveillance of Low-Wage Workers Is Proliferating (RFI Topic 1)

Biometric worker surveillance technologies make up a rapidly proliferating industry, as a subset of thousands of little known commercial vendors, business intelligence firms, start-ups, and apps that “are used in all aspects of labor, hiring, workplace and workforce management, gig economy, benefits, and more.” Coworker.org has deemed this group of workplace technology products and services “Little Tech” — in contrast to their household-name counterparts — and in a recent study of over 550 such products, nearly one-third “emerged between 2020-2021; the rest were developed between 2018 and 2020.”

Biometric surveillance of workers while they are on the job is often used for generating inferences about their physical, physiological, mental, emotional, and social or relational states at any given moment, with a view to extracting as much efficiency and productivity from the monitored workers as possible. Examples include:

- Ford workers donning “skin-tight bodysuits” that contain 15 motion-tracking wireless sensors to monitor the wearer’s body as a posture and productivity aid;  
- Oracle and Thomson Reuters developing “intrusive and sophisticated workplace monitoring systems that are expanding the collection of vulnerable worker data such as sentiment, heart rate, blood pressure, and mental health status”;
- Microsoft Wellness Insights collecting workers’ biometric data such as heart rate and blood pressure as part of providing “wellness recommendations”;
- Humanyze’s “Sociometric Badge”, which places on workers two microphones, an infrared sensor, and an accelerometer, to “determine when employees are interacting, … analyze the tones of employees’ voices, [and] determine which employees are interacting, where, for how long, and with what general type of emotional valence”;
- Focus UX, by SAP and EMOTIV (a provider of “mobile neuroinformatics solutions”), which purports to detect a worker’s “cognitive state and then adapt the user experience… to best fit what [the worker] can handle at that moment,” while providing “personalized feedback on their cognitive performance and needs”;
- Amazon’s biometric surveillance of its warehouse workers and delivery drivers, including installing in all delivery vehicles four-lens “AI-powered” cameras by

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5 Negrón, supra note 3 at 24.  
6 This submission will focus on the use of biometric surveillance technologies for the purpose of generating inferences about workers, as opposed to for identification or recognition purposes.  
8 Negrón, supra note 3 at 20.  
9 Ibid., at 67.  
Netradyne, which reportedly can “sense when a driver yawns, appears distracted, or isn’t wearing a seatbelt … and monitor drivers’ body and facial movements.”

Researchers and reporters have also identified potential future applications of biometric surveillance of workers through technology companies’ patent filings, including:

- an Uber patent for predictive risk assessment algorithms to determine if a driver is “safe”, which involves generating a “safety score based on how carefully they drive (‘vehicle operation’) and how they interact with passengers (‘interpersonal behavior’)”;\(^\text{13}\)
- a Walmart patent for “sound sensors” that would record and analyze conversations between workers and customers, including “how employees greet customers,” and evaluate workers based on generated “performance metrics”;\(^\text{14}\)
- an Amazon patent representing the “automation of relational labor”, which uses “imaging and spatial sensors” to “capture [a worker’s] position in space, movements, or facial expressions” as they walk through a warehouse to “detect frustration rather than boredom” and potentially alert a supervisor or trigger automated assistance;\(^\text{15}\) and
- another Amazon patent for “a wristband that can precisely track where warehouse employees are placing their hands and use vibrations to nudge them in a different direction”, using ultrasonic tracking and a haptic feedback system.”\(^\text{16}\)

As the above examples demonstrate, emerging workplace technologies are a “key driver in the commodification of low-wage workers’ data” and worker surveillance,\(^\text{17}\) with “next generation” productivity tools “expand[ing] employment and labor organizing surveillance in order to mine more data from low-wage workers.”\(^\text{18}\) Such tools increasingly include biometric surveillance capabilities, such as “facial recognition technology,… more intrusive data collection inside and outside the workplace, increasingly more sensitive data collected about workers (medical, sentiment, stress levels, cognitive functioning, etc.), and real-time monitoring of workers.”\(^\text{19}\)

In addition, the growing availability and accessibility of biometric worker surveillance tools means that granular worker monitoring and algorithmic management capabilities are no longer necessarily limited to large corporations or deep-pocketed employers. A prominent proponent of so-called “people analytics,” Humanyze’s co-founder Ben Waber, called this type of technology “management in a box” for small business.”\(^\text{20}\) In fact, Coworker.org’s Little Tech study found “an ongoing digitization of small business and working class industries such as auto repair (ShopMonkey), plumbing and electricians (ServiceTitan), beauty salons


\(^{13}\) Belle Lin, ”Uber Patents Reveal Experiments with Predictive Algorithms to Identify Risky Drivers,” Intercept (October 30, 2021), https://theintercept.com/2021/10/30/uber-patent-driver-risk-algorithms. Given the myriad known harms of algorithmic discrimination, it is already concerning that one patent involving machine learning and rider feedback “suggests a driver’s ‘heavy accent’ corresponds to ‘low quality’ service.”


\(^{15}\) Alessandro Delfanti & Bronwyn Frey, Humanly Extended Automation or the Future of Work Seen through Amazon Patents, 46:3 Science, Technology, & Human Values 655 (2020) at 671.


\(^{17}\) Negrón, supra note 3 at 32.

\(^{18}\) Ibid., at 61.

\(^{19}\) Ibid.

lens that lawmakers, regulators, employers, and technology vendors should manage and other forms of worker surveillance, have been and continue to be well documented. The harms of biometric worker surveillance, and related technologies such as algorithmic decision systems, are intertwined with civil rights, data bias, algorithmic discrimination, and algorithmic decision systems across the board. Thus, workers’ rights are intertwined with civil rights, which is the topic Part II will elaborate.

II. Situating Biometric Worker Surveillance in Historical Context (RFI Topic 4)

The harms of biometric worker surveillance, and related technologies such as algorithmic management and other forms of worker surveillance, have been and continue to be documented. Instead of repeating them here, the following subsections provide a historical lens that lawmakers, regulators, employers, and technology vendors should apply when it

21 Negrón, supra note 3 at 62.
22 Ibid., at 43.
comes to assessing the demonstrated and potential harms of biometric surveillance, to ensure that such harms are placed in their full historical context and given appropriate weight.

II.A. Taylorism, Fordism, and Foucauldian Biopower

Today’s biometric worker surveillance technologies are not new or innovative, but are a more powerful iteration of long existing ideologies and systems implemented to manage and control workers—specifically, the 20th-century strategies of Taylorism and Fordism. This section will discuss how biometric worker surveillance facilitates contemporary and more thorough executions of these two management systems, further enabling mass transfer of political power away from already largely disenfranchised workers, in part through the phenomenon of “biopower” as conceptualized by Michel Foucault.

Many scholars and experts at the intersection of worker rights and technology studies have pointed out that present-day systems of worker surveillance and algorithmic management amount to a continuation and further fulfillment of Frederick Taylor’s tenets for organizing a workplace, as set out in his Principles of Scientific Management. This can be seen in examples such as Amazon’s scanners and biometric cameras; UPSs’ telematics; rideshare and food delivery apps’ worker algorithmic route and price management; and all of their respective ongoing data collection from and granular directives to workers. As Laura Nurski points out, Taylor’s treatise “reads like a twenty-first century guide to data-driven management: data collection and process analysis, efficiency and standardisation, and knowledge transfer from workers into tools, processes and documentation. … With the rise of workplace AI, Taylor’s dream of perfectly optimised work processes might finally become a reality.”

In fact, reality may be on track to overshoot Taylor’s dream. One study that analyzed Amazon’s patent filings concluded that the future logical endpoint of their proposed technologies is a “workplace in which human operators serve machines rather than vice versa.” Not only that, but the machines would be subjected to their own form of Taylorism, where their processes and any corrective aid provided by human workers would be continually monitored, and both the biometric and cybernetic data is “fed back to digital machinery to improve its performance.”

In this ultimate scenario, deemed “humanly extended automation,” data is harnessed to

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27 “The surveillance of workers is not a new phenomenon in the United States. In the 1800s, ‘the Pinkertons’ worked on behalf of employers, infiltrating and busting unions, enforcing company rules, and monitoring workers deemed to be a threat. … [T]he advent of Taylorism in the early twentieth century inspired Henry Ford to surveil the factory floor with a stop watch and to institute the Sociological Department, which was a team of detectives hired to monitor the private lives of his workers. In recent years, technological innovations, both digital and otherwise, have become the primary tools of employee monitoring.” Ifeoma Ajunwa, Protecting Workers’ Civil Rights In The Digital Age, 21 North Carolina Journal of Law & Technology 1 (2020) at 22-23.

28 “Scientific management, for all its pretensions, was less about determining ideal working methods and more about shattering this tremendous source of worker power… The modernizing terminology of ‘science’ and ‘efficiency’ masked the prerogatives of discipline and control of workers.” Gavin Mueller, Breaking Things at Work: The Luddites Were Right About Why You Hate Your Job (2021) at 33.


31 Delfanti & Frey, supra note 15 at 675.

32 Ibid., at 660.
optimize the *machines’* performance, as workplace technologies have by then relegated humans to little more than “living labor operat[ing] as a new kind of appendage of machinery, making up for its shortages.” Such a potential outcome, even if Amazon and other employers end up falling short of it, highlights more starkly the need to ensure a “just transition” for workers in the event of their workplaces, duties, or managers becoming automated.

Fordism, emerging from the mass production factories of Henry Ford, built on and extended Taylorism and included the additional element of worker surveillance for adherence to behavioral and lifestyle dictates even outside of work. This too is mirrored in present-day biometric surveillance of workers, only instead of Sociology Department inspectors knocking on doors, human resources departments hand out wearable fitness devices and enroll workers in digitally monitored “wellness programs”, some of which are mandatory or include penalties for non-compliance. As a result, employers now “combine Taylorism’s workers-as-inputs mindset with Fordism’s pervasive intrusion into employees personal lives, and wield this data to algorithmically maximize organizational profit.”

Furthermore, this web of demands, pressures, and incentives, all of which are tied to workers’ bodies in one or more ways, gives rise to what some scholars have noted is a 21st-century privatization and enactment of Foucauldian “biopower.” Biopower refers to the process by which the individual’s body, through norms, standards, and implicit or explicit requirements placed upon it (for instance, what is considered “healthy”), becomes a tool of social ordering and political control, “mark[ing] the inscription of the biological into the political.” “Privatization” has occurred because biopower is now in the hands of private sector employers—especially where biometric surveillance is in use—whereas in Foucault’s original formulation, it was primarily a tool of the state. One core aspect of biopower is that, like Jeremy Bentham’s Panopticon, it instils a “disciplinary power”, including self-discipline in

35 The term “just transition” is taken from the climate justice context, where the term means “greening the economy in a way that is as fair and inclusive as possible to everyone concerned, creating decent work opportunities and leaving no one behind” (such as workers whose livelihoods currently depend on the fossil fuel industries).
37 “Ford … endeavored to shape his employees’ lives by managing off-duty habits that might affect their performance. He created a ‘Sociological Department’ to address the problems of boredom, absenteeism, and turnover amongst Ford workers. The Department deployed a team of 150 to investigate the lifestyle of each Ford employee and their personal vices...” Bodie et al, *supra* note 10 at 966 (citations omitted).
39 Pedersen, *supra* note 29 at 1132.
41 In this respect, it is important to note Simone Browne’s observation here on Foucault and biopower: “While Foucault argued that the decline of the spectacle of public torture as punishment might have marked ‘a slackening of the hold on the body,’ this chapter contends that when that body is black, the grip hardly loosened during slavery and continued post-Emancipation with, for example, the mob violence of lynching and other acts of racial terrorism.” SIMONE BROWNE, DARK MATTERS: ON THE SURVEILLANCE OF BLACKNESS (2015) at 37.
42 “[F]or workers placed under digital surveillance, the three main assumptions behind the panopticon are now increasingly fulfilled: the omnipresence of the employer is ensured by the digital gathering and storage of all information concerning productivity; their universal visibility is guaranteed by the fact that everything that they do, including the organization of their lunch or toilet breaks, may be monitored; and, as a result, workers must assume that they are constantly observed.” Manokha, *supra* note 10 at 547.
particular. Under this self-disciplinary power, workers feel constant pressure, regardless of formal work requirements or official policies, “to perform better, to beat the targets, to outperform team members,” — or to skip legally required breaks, pee in water bottles, run into traffic, sustain chronic injuries, or forego legally protected accommodations. Legislation or regulation to address biometric surveillance of workers should take these forms of overt and tacit control into account, so that employers creating technology-facilitated Taylorist or Fordist workplaces cannot circumvent fair labor standards or other labor and employment laws.

Lawmakers and regulators should also recognize that intervention to protect workers’ rights and well-being from employers’ adoption of surveillance and algorithmic technologies is urgently needed now. This recommendation arises from noting some of the key forces that led to the eventual undermining of Taylorism and to Ford shutting down his Sociological Department: high costs of worker surveillance at and outside of work; the company head (Ford) considering that “prying into employees’ private concerns is out of date”; Congressional willingness and ability to act in favor of impacted workers at the expense of large employers; and workers’ ability to organize away from the technologically enhanced eyes and ears of their employers. These circumstances mostly do not exist today. Thus, workers are being subjected to a strengthened version of Taylorism and Fordism combined, using biometric and other forms of surveillance and algorithmic technologies, while thanks to these same technologies, workers are simultaneously restricted in their ability to resist or oppose such developments, relative to their historical counterparts. The law must step in.

II.B. Slavery, Biometric Surveillance, and Racial Capitalism

Biometric worker surveillance is inherently a racial justice issue. This intrinsic connection is demonstrated in the foundational work of Black feminist surveillance studies scholar Simone Browne, who locates the origins of biometric surveillance not in Ford’s factories, nor in Bentham’s Panopticon, but on transatlantic slave ships and colonial plantations. To be clear at the outset: 21st-century workers are not slaves, and suggesting any equivalency would

44 See also: “People who are subject to such monitoring are also tasked with actively participating in their own confinement by partnering, in a way, with the overseeing body or agency in the check for violations and infractions.” Browne, supra note 41 at 16.
45 Manokha, supra note 10 at 548.
47 Addams-Prassl, supra note 20 at 130 & 146 (“One of the reasons why Taylorism failed was the high transaction cost involved in monitoring and measuring each individual worker’s performance. With algorithmic management, the marginal monitoring costs for additional employees are minimal.”)
48 Bodie et al, supra note 10 at 966.
49 Mueller, supra note 28 at 35.
50 “It turns out Bentham travelled on a ship transporting slaves during the trip where he sketched out the Panopticon… [Browne] asks how ‘the view from “under the hatches” of Bentham’s Turkish ship … might change our narrative about the emergence of disciplinary power and the modern management of life as a resource.’” Daniel Greene, “Digital Dark Matters,” b2o (December 14, 2016), https://www.boundary2.org/2016/12/digital-dark-matters/.
51 “The historical formation of surveillance is not outside of the historical formation of slavery. Using narratives of ex-slaves, runaway slave advertisements, the census, and a set of plantation rules as primary source data, what follows is a historicizing of [key surveillance studies concepts and issues].” Browne, supra note 41 at 50.
constitute reprehensible co-optation and trivialization. The purpose of this section is to demonstrate how surveillance of labor is historically tied to surveillance of Blackness.\textsuperscript{52}

To start, Browne’s historical research and analysis establishes early examples of surveillance technologies used to categorize, control, commodify, and dehumanize Black bodies, such as: \textsuperscript{53}

- the plan of the slave ship as the precursor of prisons, displacing and complicating the Panopticon’s central role in surveillance studies,\textsuperscript{54} and which Browne asserts should equally be “understood as an operation of the power of modernity, and as part of the violent regulation of blackness”;\textsuperscript{55}
- lantern laws in 18\textsuperscript{th}-century New York City, which required Black, Indigenous, and mixed-race slaves “to carry small lamps, if in the streets after dark and unescorted by a white person”\textsuperscript{56} — under such laws, the lantern became “a technology that made it possible for the black body to be constantly illuminated from dusk to dawn, made knowable, locatable, and contained … a supervisory device that sought to render those who could be, or were always and already, criminalized by this legal framework as outside of the category of the human and as un-visible”;\textsuperscript{57}
- the physical branding of slaves, which according to Browne “played a key role in the historical formation of surveillance”\textsuperscript{58} and was a “biometric technology, as it was a measure of slavery’s making, marking, and marketing of the black subject as commodity”;\textsuperscript{59} and
- public advertisements for runaway slaves, which “were not only about ascribing physical details to the runaway, but also offered the slave owner’s assessment of the fugitive’s character”\textsuperscript{60} — bringing to mind so-called predictive algorithms that purport to use biometrics to infer someone’s likelihood of “criminality,”\textsuperscript{61} or to determine and assess a job candidate’s or employee’s character for likelihood of “success” within the company, or for predisposition to unionization or collective organizing.\textsuperscript{62}

Thus, “rather than seeing surveillance as something inaugurated by new technologies, … to see it as ongoing is to insist that we factor in how racism and antiblackness undergird and sustain the intersecting surveillances of our present order”\textsuperscript{63} — including the present order of low-wage employment, gig work, and other types of labor increasingly governed by “Little Tech.”

Surveillance of slaves as a function of anti-Black racism marks the beginning of racial justice and socioeconomic justice being inseparable, including in the context of biometric worker

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\item[52] “Surveillance is nothing new to black folks. It is the fact of antiblackness.” \textit{Ibid.}, at 10.
\item[53] “[B]iometric information technology — as a measure of the black body — has a long history in the technologies of slavery that sought to govern black people on the move, notably those technologies concerned with escape.” \textit{Ibid.}, at 25.
\item[54] \textit{Ibid.}, at 42.
\item[55] \textit{Ibid.}, at 22.
\item[56] \textit{Ibid.}, at 24.
\item[57] \textit{Ibid.}, at 79.
\item[58] \textit{Ibid.}, at 91.
\item[59] \textit{Ibid.} “Current biometric technologies and slave branding, of course, are not one and the same; however, when we think of our contemporary moment when ‘suspect’ citizens, trusted travelers, prisoners, welfare recipients, and others are having their bodies informationalized by way of biometric surveillance, … we can find histories of these accountings of the body in [primary sources associated with slavery, as detailed in the book].” \textit{Ibid.}, at 128.
\item[60] \textit{Ibid.}, at 54.
\item[63] BROWNE, supra note 41 at 8.
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surveillance. In other words, “[c]apitalism has always, as Browne’s notes on plantation
surveillance make clear, been racial capitalism.” 64 Tracing biometric worker surveillance and
algorithmic management back to Taylor and Ford only reveals half the picture, 65 when they
were long pre-empted by “a set of rules from the 1800s for the management of slaves on an East
Texas plantation,” 66 and slave management methods on plantations in general. 67 Such methods
included—with clear present-day echoes—data collection (such as tracking missing tools or
weapons) “to anticipate rebellion”; regulating “slave diets and clothing”; and enforcing quotas
of how much cotton to pick per day, with missed quotas resulting in physical punishment,
while exceeding one’s quota could result in a permanently raised “picking rate.” 68

To reiterate, drawing the parallels above is not to equate present-day low-wage employment
with chattel slavery. 69 The point is to situate technology-related workers’ rights issues in their
full historical context, 70 which includes the history of slavery and racial injustice, and how such
a national legacy impacts intersecting forms of injustice (such as socioeconomic) to this day. 71

III. Protecting Workers by Centering Racial and Socioeconomic Justice (RFI Topic 6)

The historical legacies outlined above in Part II raise at least two overarching implications for
lawmaking and regulation of biometric surveillance technologies and their use on low-wage
workers, alongside related data-driven systems such as algorithmic management tools.

First, accurately assessing and weighing the harms of biometric surveillance technologies,
particularly in the case of historically marginalized groups, must integrate “a critical biometric
consciousness.” This requires “acknowledg[ing] the connections between contemporary
biometric information technologies and their historical antecedents,” 72 and “understand[ing] the
histories and the social relations that form part of the very conditions that enable these
technologies.” 73 Biometric surveillance comes with historical and “racial baggage,” 74 and that is
a weight that should not be (further) placed on the lives of historically marginalized people.

Second, “[w]hen designing policy and regulatory interventions, we must center America’s
legacy of racial capitalism.” 75 In part, this involves recognizing that for Black, Brown, and
Indigenous workers, as well as migrant workers, it is not only private sector employers who

64 Greene, supra note 50.
65 “It’s a more comforting origin story, one that protects the idea that America’s economic ascendancy developed not
because of, but in spite of, millions of black people toiling on plantations. But management techniques used by
19th-century corporations were implemented during the previous century by plantation owners.” Matthew
Desmond, “In order to understand the brutality of American capitalism, you have to start on the plantation,” New
capitalism.html.
66 BROWNE, supra note 41 at 32.
67 Desmond, supra note 65.
68 Ibid.
69 Similarly, “it is crucial to note that the panopticon is a metaphor and that the workplace is not a panoptic
prison—workers are not inmates, they have rights and legal protections, and they may organize to resist or limit
the use of new surveillance technologies by employers.” Manokha, supra note 10 at 550.
70 “Whether through slavery, sharecropping, the prison-industrial complex, overpolicing, or the overrepresentation
of Black and brown workers in low-wage work, the exploitation and subjugation of Black and brown people has
also consistently undermined the norms, values, and practices that shape American society and the economy.
The tech political economy and the tech products that come out of it are not only recipients of this legacy, but are
exacerbating and extending it into the 21st century.” Negrón, supra note 3 at 51.
71 Ibid., at 41.
72 BROWNE, supra note 41 at 119.
73 Ibid., at 128.
74 BROWNE, supra note 41 at 131-32 (generalizing from Browne’s concept used in the airport security context).
75 Negrón, supra note 3 at 43.
pose a threat to fundamental human rights and mental and physical well-being. The state itself
is a threat, through institutions such as policing, immigration laws, and the criminal legal
system, which are similarly rooted in the above-mentioned histories of slavery and colonialism.
Therefore, “tech and labor policy design processes need to not only address tangible concerns
brought forth by technology companies and the tech industry [and by their clients, employers
which buy and use these technologies on their workers] but at the same time reimagine and
strengthen a strong, accountable, and inclusive administrative state.”

More broadly, workers deserve a bill of rights with guaranteed protections in the face of harms
resulting from employer adoption of biometric surveillance and other forms of data-driven or
algorithmic technologies in the workplace. This includes principles such as restoring and
promoting worker dignity; protecting worker voice and collective organizing; restricting
electronic monitoring and algorithmic decision-making; more meaningful protection of civil
rights and freedom from discrimination; and establishing robust oversight, accountability, and
enforcement mechanisms, including building interdisciplinary expertise and capacity within all
relevant federal agencies.

The combination of new technological capabilities with old systems of sociopolitical ordering
threatens to do away with workers’ human rights and dignity in addition to their livelihoods
and economic security. If current employer practices such as biometric worker surveillance and
algorithmic management are left unchecked, the future of workers as little more than
“appendage[s] of machinery” may become the norm (to an even greater extent than it already is
in some sectors). However, workers do not stop being people at the doors to their workplace
(or work vehicles), nor should they be expected to cede their fundamental human rights and
freedoms in exchange for employment. U.S. labor, employment, technology, and privacy laws
should reflect this basic principle.

Thank you for the opportunity to comment.

Respectfully submitted,

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76 Ibid., at 43.
77 For a broad principles-based framework with specific recommendations, see Bernhardt, Kresge & Suleiman, supra note 23 at 18-26.
78 For recommendations that address building federal agency capacity in the technology and civil rights context, see Laura Moy & Gabrielle Rejouis, “Addressing Challenges at the Intersection of Civil Rights and Technology,” Day One Project (December 2020), https://www.dayoneproject.org/post/addressing-challenges-at-the-intersection-of-civil-rights-and-technology.