Congress of the United States
Washington, DC 20515

February 9, 2022

The Honorable Alejandro N. Mayorkas
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Mayorkas:

We write regarding the Department of Homeland Security's use of Clearview AI's facial recognition technology. In August 2021, the Government Accountability Office (GAO) published a report identifying the Secret Service, Immigrations and Customs Enforcement (ICE), and Customs and Border Protection (CBP), as federal entities that have used Clearview AI's technology.[1] Facial recognition tools pose a serious threat to the public's civil liberties and privacy rights, and Clearview AI's product is particularly dangerous. We urge you to immediately stop the Department's use of facial recognition technology, including Clearview AI's tools.

Clearview AI's technology could eliminate public anonymity in the United States. It reportedly allows users to capture and upload photos of strangers, analyze the photographed individuals' biometric information, and provide users with existing images and personal information of the photographed individuals found online. Clearview AI reportedly scrapes billions of photos from social media sites without permission from or notice to the pictured individuals.[2] In conjunction with the company's facial recognition capabilities, this trove of personal information is capable of fundamentally dismantling Americans' expectation that they can move, assemble, or simply appear in public without being identified. Reports indicate that use of this technology is already threatening to do so.[3]

This is especially troubling because studies show that when individuals believe the government is surveilling them, they are likely to avoid engaging in activities protected by the First Amendment.[4] The use of facial recognition technology runs the risk of deterring the public from participating in marches or rallies, or speaking out against injustice, to give just two examples,

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[1] *Facial Recognition Technology: Current and Planned Uses by Federal Agencies*, Government Accountability Office (Aug. 2021), https://www.gao.gov/assets/gao-21-526.pdf.

[2] Kashmir Hill, *The Secretive Company That Might End Privacy As We Know It,* N.Y. Times (Jan. 18, 2020), https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html.

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for fear of being permanently included in law enforcement databases. In short, this technology utilizes a high level of surveillance that is often inconsistent with Americans' right to privacy.

Additionally, this technology poses unique threats to Black communities, other communities of color, and immigrant communities. An analysis of facial recognition tools conducted by the National Institute of Standards and Technology (NIST) found that Black, Brown, and Asian individuals were up to 100 times more likely to be misidentified than white male faces.[5] Consistent with this research, at least three Black men have already been wrongfully arrested based on a false facial recognition match.[6]

Facial recognition technology like Clearview's poses unique threats to marginalized communities in ways that extend beyond the tools' inaccuracy issues. Communities of color are systematically subjected to over-policing,[7] and the proliferation of biometric surveillance tools is, therefore, likely to disproportionately infringe upon the privacy of individuals in Black, Brown, and immigrant communities. With respect to law enforcement use of biometric technologies specifically, reports suggest that use of the technology has been promoted among law enforcement professionals,[8] and reviews of deployment of facial recognition technology show that law enforcement entities are more likely to use it on Black and Brown individuals than they are on white individuals.[9] Additionally, past law enforcement use of this technology reportedly targeted Black Lives Matter activists.[10]

Use of increasingly powerful technologies like Clearview AI's have the concerning potential to violate Americans' privacy rights and exacerbate existing injustices. Therefore, as the authors of the *Facial Recognition and Biometric Technology Moratorium Act* (S. 2052/H.R. 3907) — which would halt a federal agency or official from using these technologies[11] — we urge you to stop use of facial recognition tools, including Clearview AI's products.

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[5] National Institute of Standards and Technology, *NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software* (Dec. 19, 2019), https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software

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Thank you for your attention to this important matter.

Sincerely,

Edward J. Markey
United States Senator

Pramila Jayapal
United States Representative

Jeffrey A. Merkley
United States Senator

Ayanna Pressley
United States Representative

cc: The Honorable James M. Murray, Director, U.S. Secret Service
The Honorable Tae Johnson, Director, U.S. Immigration and Customs Enforcement
The Honorable Chris Magnus, Commissioner, U.S. Customs and Border Protection

Congress of the United States
Washington, DC 20515

February 9, 2022

The Honorable Merrick B. Garland
U.S. Attorney General
Department of Justice
Washington, DC 20530

Dear Attorney General Garland:

We write regarding the Department's use of Clearview AI's facial recognition technology. In August 2021, the Government Accountability Office (GAO) published a report identifying the Bureau of Alcohol, Tobacco, Firearms and Explosives, the Drug Enforcement Administration (DEA), the Federal Bureau of Investigation (FBI), and the U.S. Marshals Service, as federal entities that have used Clearview AI's technology.[1] Facial recognition tools pose a serious threat to the public's civil liberties and privacy rights, and Clearview AI's product is particularly dangerous. We urge you to immediately stop the Department's use of facial recognition technology, including Clearview AI's tools.

Clearview AI's technology could eliminate public anonymity in the United States. It reportedly allows users to capture and upload photos of strangers, analyze the photographed individuals' biometric information, and provide users with existing images and personal information of the photographed individuals found online. Clearview AI reportedly scrapes billions of photos from social media sites without permission from or notice to the pictured individuals.[2] In conjunction with the company's facial recognition capabilities, this trove of personal information is capable of fundamentally dismantling Americans' expectation that they can move, assemble, or simply appear in public without being identified. Reports indicate that use of this technology is already threatening to do so.[3]

This is especially troubling because studies show that when individuals believe the government is surveilling them, they are likely to avoid engaging in activities protected by the First Amendment.[4] The use of facial recognition technology runs the risk of deterring the public from participating in marches or rallies, or speaking out against injustice, to give just two examples, for fear of being permanently included in law enforcement databases. In short, this technology utilizes a high level of surveillance that is often inconsistent with Americans' right to privacy.

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Use of increasingly powerful technologies like Clearview AI's have the concerning potential to violate Americans' privacy rights and exacerbate existing injustices. Therefore, as the authors of the *Facial Recognition and Biometric Technology Moratorium Act* (S. 2052/H.R. 3907) — which would halt a federal agency or official from using these technologies[11] — we urge you to stop use of facial recognition tools, including Clearview AI's products.

Thank you for your attention to this important matter.

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Sincerely,

Edward J. Markey
United States Senator

Pramila Jayapal
United States Representative

Jeffrey A. Merkley
United States Senator

Ayanna Pressley
United States Representative

cc: The Honorable Marvin Richardson, Acting Director, U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives
The Honorable Anne Milgram, Administrator, U.S. Drug Enforcement Administration
The Honorable Christopher A. Wray, Director, Federal Bureau of Investigation
The Honorable Ronald L. Davis, Director, U.S. Marshals Service

Congress of the United States
Washington, DC 20515

February 9, 2022

The Honorable Lloyd J. Austin III
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301

Dear Secretary Austin:

We write regarding the Department of Defense's use of Clearview AI's facial recognition technology. In August 2021, the Government Accountability Office (GAO) published a report identifying the U.S. Air Force, as a federal entity that has used Clearview AI's technology.[1] Facial recognition tools pose a serious threat to the public's civil liberties and privacy rights, and Clearview AI's product is particularly dangerous. We urge you to immediately stop the Department's use of facial recognition technology, including Clearview AI's tools.

Clearview AI's technology could eliminate public anonymity in the United States. It reportedly allows users to capture and upload photos of strangers, analyze the photographed individuals' biometric information, and provide users with existing images and personal information of the photographed individuals found online. Clearview AI reportedly scrapes billions of photos from social media sites without permission from or notice to the pictured individuals.[2] In conjunction with the company's facial recognition capabilities, this trove of personal information is capable of fundamentally dismantling Americans' expectation that they can move, assemble, or simply appear in public without being identified. Reports indicate that use of this technology is already threatening to do so.[3]

This is especially troubling because studies show that when individuals believe the government is surveilling them, they are likely to avoid engaging in activities protected by the First Amendment.[4] The use of facial recognition technology runs the risk of deterring the public from participating in marches or rallies, or speaking out against injustice, to give just two examples, for fear of being permanently included in law enforcement databases. In short, this technology utilizes a high level of surveillance that is often inconsistent with Americans' right to privacy.

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Additionally, this technology poses unique threats to Black communities, other communities of color, and immigrant communities. An analysis of facial recognition tools conducted by the National Institute of Standards and Technology (NIST) found that Black, Brown, and Asian individuals were up to 100 times more likely to be misidentified than white male faces.[5] Consistent with this research, at least three Black men have already been wrongfully arrested based on a false facial recognition match.[6]

Facial recognition technology like Clearview's poses unique threats to marginalized communities in ways that extend beyond the tools' inaccuracy issues. Communities of color are systematically subjected to over-policing,[7] and the proliferation of biometric surveillance tools is, therefore, likely to disproportionately infringe upon the privacy of individuals in Black, Brown, and immigrant communities. With respect to law enforcement use of biometric technologies specifically, reports suggest that use of the technology has been promoted among law enforcement professionals,[8] and reviews of deployment of facial recognition technology show that law enforcement entities are more likely to use it on Black and Brown individuals than they are on white individuals.[9] Additionally, past law enforcement use of this technology reportedly targeted Black Lives Matter activists.[10]

Use of increasingly powerful technologies like Clearview AI's have the concerning potential to violate Americans' privacy rights and exacerbate existing injustices. Therefore, as the authors of the *Facial Recognition and Biometric Technology Moratorium Act* (S. 2052/H.R. 3907) — which would halt a federal agency or official from using these technologies[11] — we urge you to stop use of facial recognition tools, including Clearview AI's products.

Thank you for your attention to this important matter.

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Sincerely,

Edward J. Markey
United States Senator

Pramila Jayapal
United States Representative

Jeffrey A. Merkley
United States Senator

Ayanna Pressley
United States Representative

cc: The Honorable Frank Kendall, Secretary, U.S. Air Force

Congress of the United States
Washington, DC 20515

February 9, 2022

The Honorable Xavier Becerra
Secretary
Department of Health and Human Services
200 Independence Avenue
Washington, DC 20201

Dear Secretary Becerra:

We write regarding the Department of Health and Human Services' use of Clearview AI's facial recognition technology. In August 2021, the Government Accountability Office (GAO) published a report identifying the Office of Inspector General for the United States Department of Health and Human Services, as a federal entity that has used Clearview AI's technology.[1] Facial recognition tools pose a serious threat to the public's civil liberties and privacy rights, and Clearview AI's product is particularly dangerous. We urge you to immediately stop the Department's use of facial recognition technology, including Clearview AI's tools.

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Additionally, this technology poses unique threats to Black communities, other communities of color, and immigrant communities. An analysis of facial recognition tools conducted by the National Institute of Standards and Technology (NIST) found that Black, Brown, and Asian individuals were up to 100 times more likely to be misidentified than white male faces.[5] Consistent with this research, at least three Black men have already been wrongfully arrested based on a false facial recognition match.[6]

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Thank you for your attention to this important matter.

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Sincerely,

Edward J. Markey
United States Senator

Pramila Jayapal
United States Representative

Jeffrey A. Merkley
United States Senator

Ayanna Pressley
United States Representative

cc: The Honorable Christi Grimm, Principal Deputy Inspector, Office of the Inspector
General U.S. Department of Health and Human Services

February 9, 2022

The Honorable Deb Haaland
Secretary of the Interior
U.S. Department of Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Haaland:

We write regarding the Interior Department's use of Clearview AI's facial recognition technology. In August 2021, the Government Accountability Office (GAO) published a report identifying the U.S. Park Police and the U.S. Fish and Wildlife Services, as federal entities that have used Clearview AI's technology.[1] Facial recognition tools pose a serious threat to the public's civil liberties and privacy rights, and Clearview AI's product is particularly dangerous. We urge you to immediately stop the Department's use of facial recognition technology, including Clearview AI's tools.

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[5] National Institute of Standards and Technology, *NIST Study Evaluates Effects of Race, Age, Sex on Face Recognition Software* (Dec. 19, 2019), https://www.nist.gov/news-events/news/2019/12/nist-study-evaluates-effects-race-age-sex-face-recognition-software.

[6] Kashmir Hill, *Another Arrest, and Jail Time, Due to a Bad Facial Recognition Match*, N.Y. Times (Dec. 29, 2020), https://www.nytimes.com/2020/12/29/technology/facial-recognition-misidentify-jail.html.

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Thank you for your attention to this important matter.

Sincerely,

Edward J. Markey
United States Senator

Pramila Jayapal
United States Representative

Jeffrey A. Merkley
United States Senator

Ayanna Pressley
United States Representative

cc: The Honorable. Pamela A. Smith, Chief, U.S. Park Police
The Honorable Martha Williams, Acting Director, U.S. Fish and Wildlife Service