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New York City Council Committee on Immigration
October 2, 2019 Hearing re: INT 1706
Testimony of Mizue Aizeki, Deputy Director, Immigrant Defense Project

Int 1706 - In relation to prohibiting a smart chip from being added to New York City identity card.

Thank you to the Committee for holding this public hearing and for allowing the public the opportunity to address our deep concerns and opposition to the De Blasio administration's proposal to integrate multiple functions into the IDNYC. The Immigrant Defense Project (IDP) is a New York-based nonprofit that works to secure fairness and justice for all immigrants by focusing on the rights of those caught at the intersection of the criminal justice system and the immigration system.

IDP is part of the NYC Municipal ID Coalition that worked in 2014 with the New York City Council and the administration for a municipal ID that would ensure equal access to services and protections for all New Yorkers. A central principle of this coalition was protecting the privacy and security of cardholders, and to provide a uniquely protected state-issued ID card for those who were vulnerable as they often faced obstacles in acquiring one—namely the homeless, formerly incarcerated people, gender non-conforming people, youth and undocumented immigrants. This card would provide some protection from being brought into the precinct to those who were subject to frequent interaction with the NYPD and the City committed to not retaining the underlying documents used to acquire a card in 2016.

The administration has stated that the primary features they are exploring to be enabled by a chip is the contactless MTA fare system and to some form of access to financial services. To be clear, striving for equal and efficient access to public transportation and solutions to achieve economic justice are critical and must be explored. Once again, we are here to reiterate that the addition of these functions to the IDNYC is, clearly, not the solution.

In early January, we sent a memo to the administration and a sign on letter outlining our concerns and requesting responses to key privacy, security, and financial questions. In February, we presented testimony to this committee that covered many of the key concerns with the City's "smart chip proposal" and also submitted a narrower set of questions to the City. In April we sent an even narrower set of questions to the administration. These questions remained unanswered. Today we submit a letter signed by 65 organizations—including community, labor, immigrant, civil rights, legal services, and economic justice organizations—expressing "united and unqualified opposition to the administration's plan to add financial technology and a host of integrations to NYC's municipal identification (IDNYC) cards, which are held by more than 1.2 million New Yorkers."

I have attached my prior testimony and the January memo, and summarize some key points below:

- It remains a central principle to our vision for the IDNYC that New Yorkers and their personal information should be kept safe from discriminatory local and federal policing, as well as from surveillance.
- The tools of police and ICE surveillance, as well as the scale of the state's efforts to identify and track people, have grown immensely over the past 15 years. ICE has repeatedly made clear that NYC is a primary target for ICE policing because it has passed laws to protect people from being turned over to immigration.[1] Data collection and analysis is central to ICE's ability to identify and track immigrants. ICE relies on data gathered by a wide array of government and private sources. Increasingly, data collection and analysis is also central to the profit-driven strategy of corporations including the financial technological sector.[2] The increased state interest and investment in surveillance, combined with the corporate drive to collect and share data as a key source of profit, is one of our key concerns about the IDNYC smart chip proposal. ICE currently relies on a data analysis system developed by Palantir that allows the agency to quickly analyze vast quantities of data collected by private and state entities. Health insurance companies deny coverage or increase rates based on gathering "lifestyle" data.[3] Globally, police regularly access smartcard data from transit usage.[4]
- Privacy and security experts that we have consulted with have highlighted a few other key concerns with this proposal: creating multiple datasets tied to the ID, narrowing the pool of IDNYC cardholders by offering and/or requiring services that are most likely to be used by people without other options makes it easier to deanonymize the data, and the" function creep"--the gradual widening of uses beyond its original stated purpose--associated with ID integrations. As stated in my February 11, 2019 testimony, examples have shown that once implemented,

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[1] Beth Fertig ,"ICE Complains About NY's Sanctuary Policies After Making 82 Arrests," *The Gothamist*, September 27, 2019. https://gothamist.com/news/ice-complains-about-nys-sanctuary-city-policies-after-making-82-arrests; Chantal da Silva, "ICE Blames New York's Sanctuary Policies For Crackdown Led to 225 Arrests," *Newsweek*, April 19, 2018. https://www.newsweek.com/ice-blame-new-yorks-sanctuary-policies-crackdown-led-225-arrests-892533

[2] https://www.theverge.com/2018/8/30/17801880/google-mastercard-data-online-ads-offline-purchase-history-privacy

[3] Marshall Allen, "Health care insurers are vacuuming up details about you -- and it could raise your rates," *ProPublica,* April 17, 2018. https://www.propublica.org/article/health-insurers-are-vacuuming-up-details-about-you-and-it-could-raise-your-rates?utm_campaign=sprout&utm_medium=social&utm_source=facebook&utm_content=1531834045

[4] http://www.ttf.org.au/wp-content/uploads/2016/06/TTF-Smartcard-Ticketing-On-Public-Transport-2010.pdf; "Personal data disclosure to police and other law enforcement agencies," March 14, 2017, http://content.tfl.gov.uk/aac-20170314-part-1-item15-personal-data-disclosure.pdf; https://www.theguardian.com/government-computing-network/2012/feb/09/met-police-oyster-card-data-requests-tfl

the ID begins to be used in an increasing range of functions which not only makes the ID a source of more and more data for both the public and private sector but also potentially forces residents to get an ID in order to access services.

We have had numerous meetings, submitted memos, presented our research that we've gathered from consulting with numerous experts, yet many of the questions we have raised with the administration about privacy, data collection, police access to this data, and how the financial inclusion will work remain unanswered. For many of these questions, we have been given no clear answer because 'this' is still in the exploratory phase, or because of procurement rules. We have received no clear answer about whether or not data will be collected. We have received no clear answer whether or not data will be collected. We have received no clear answer as to whether or not NYPD or ICE or other state or private interests would be able to access data collected by a third party vendor. We have not received a clear explanation of how any of this will work to alleviate poverty and protect privacy and security nor the role of outside vendors in shaping it.

The addition of a chip towards "financial inclusion" has repeatedly been framed by the administration as a proposal that comes out of the community, with a singular purpose of improving the lives of New Yorkers. Yet it is no secret that financial corporations like MasterCard have an interest in this proposal. Mastercard has named "financial inclusion" as a fundamental component of its strategic plan for increasing profits. A centerpiece of this includes moving towards a cashless society—with a key tactic being the integration of their services with mass transit systems, pushing their financial services into the hands of low-income people. In fact, shortly after joining the De Blasio Administration, the former CTO of New York City launched NYCx, which issued the IDNYC RFEI. Today, he works for Mastercard as the Executive Vice President of Global Cities.[5] There he is to play a lead role "in scaling of urban tech solutions pioneered by Mastercard."[6]

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[5] https://www.govtech.com/people/New-York-City-CTO-Miguel-Gamino-Departs-for-Private-Sector.html; https://www.linkedin.com/pulse/idnyc-gateway-financial-inclusion-all-new-yorkers-youssef-kalad

[6] https://newsroom.mastercard.com/press-releases/miguel-gamino-jr-joins-mastercard-as-executive-vice-president-for-global-cities/; Cesar Espinoza, VP for Government and Development in Latin America, MasterCard: "It is MasterCard's global vision to go after cash. Cash is actually our biggest competitor in Latin America, cause it is like 85% of transactions that people make, at least in Latin America are cash-based...What we want is more MasterCard cards in the market, that is what we want. We are going to bring more cards into the market, using transportation as an excuse...So what we are getting in return, for the more the card is used, if it's used in the restaurant, pharmacy, at the supermarket, that is our business model. We make money out of that transaction.""Cesar Espinoza, VP, Business Development at Mastercard, Ali Withers, "Mastercard Targets Mexico City Where Cash is King," Bloomberg Businessweek, August 16, 2017; https://www.bloomberg.com/news/articles/2017-08-16/mastercard-targets-mexico-city-where-cash-is-king

Launched in 2017, a Mexico MasterCard financial inclusion initiative linked to transit has been riddled with problems. The Mastercard licensee that issues the card, Broxel, is very poorly regulated and has disastrous customer service. It freezes cash balances on the metro card above 15,000 pesos (less than 1,000 USD) and doesn't allow cardholders to transfer money until they sign a contract with the company for a "premium" account. The metro card can be used as a credit card, for which Broxel charges a real interest rate (CAT, a standardized Mex. gov't measurement) of 97%.[7]

While companies like Mastercard insist that they value privacy and financial solutions for the most economically marginalized people, a growing part of their business model is not only expanding the use of credit cards but also the collection and sharing of data.[8] The Electronic Privacy Information Center (EPIC) filed a complaint with the U.S. Federal Trade Commission over Mastercard's data sharing agreement with Google.[9] A MasterCard led collaboration between Microsoft, called City Possible, outlined in a white paper the key elements of an initiative that, contrary to the stated objectives of the IDNYC program, looks to integrate staggeringly large sets of consumer data compiled from MasterCard's "more than 160 million transactions every hour all over the world" to "take the byproduct of those transactions" and, "by combining insights from how consumers shop, travel, and interact with services," help governments become more "efficient and productive."[10] Is this where we are leading the IDNYC program?

Because of the conflicting information that we have received, the lack of transparency surrounding this proposal, and the evident corporate motivation for this pathway, and the broad community concern, it is not possible to have confidence that the privacy, security and economic justice of New Yorkers is at the core of this proposed integration.

As I mentioned in my previous testimony, "No other municipal ID program in the U.S. has implemented the kind of technology and integration that NYC is now considering. Chicago opted for minimal data retention with their municipal ID card—in addition to not retaining any supporting documents, the system does not retain names or addresses. The transit card function to Chicago's municipal ID is completely optional, as the City

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[7] "The average, that is to say, the approximate real cost that the client will end up paying for a credit or a credit card, including interests and commissions, is 97.1% without tax. For example, if you solicit a credit of 10,000 pesos with Broxel, what the client will end up paying, in addition to the 10,000 pesos, are 9,700 extra pesos." https://www.rindecuentas.org/reportajes/2019/05/15/creditos-vales-comerciales-y-multinivel-la-red-detras-de-las-tarjetas-del-metro/#sdfootnote4sym

[8] MasterCard, "City Possible: Using Data to Create New Opportunities," white paper downloadable at: https://partners.mastercard.com/en-us/welcome-to-the-city-possible/?Channel=Quartz&Marketer=MasterCard&TestControl=0&AdCreative=Bulletin2

[9] Mark Bergen and Jennifer Surane, "Google and Mastercard cut a secret ad deal to track retail sales," Bloomberg, August 30, 2018, https://www.bloomberg.com/news/articles/2018-08-30/google-and-mastercard-cut-a-secret-addeal-to-track-retail-sales.

[10] MasterCard, "City Possible: Using Data to Create New Opportunities," white paper downloadable at: https://partners.mastercard.com/en-us/welcome-to-the-city-possible/?Channel=Quartz&Marketer=MasterCard&TestControl=0&AdCreative=Bulletin2.

offers metro cards that are not linked to the ID. Also, Chicago decided against including a financial services function to their municipal ID due to concerns about data collection, as well as the exorbitant fees typically charged by the financial services providers." Chicago took these steps to provide maximum protection to the rights of those for whom their municipal ID was intended for--similar to the IDNYC, some of the most vulnerable residents of their City.

What we have repeatedly urged the administration to consider and stated quite clearly in a meeting earlier this week, is that we need to preserve the IDNYC as is. There is no other government-issued ID that offers the same level of protection for undocumented immigrants from potential intrusion from police, ICE or other entities. It is time to close the chapter on this proposed modification of the IDNYC to allow the space for the necessary stakeholders to fully engage the City's goal of maximizing financial inclusion.

I will leave it to the financial equity and economic justice experts to explore those possibilities with the administration. But from the position of an organization whose goal is to provide maximum protection for immigrants during a time of increasing hostility and the constantly growing engagement of the tech industry in the surveillance and policing state, it is clear that the correct path is not to give financial corporations more power and information on us than they already have.[11] In conversations with economic justice advocates, it is clear that a positive step towards financial inclusion must include fighting for banking options that are invested in the public good--and are transparent with their business strategies and handling of our data. We need an equitable consumer banking system: we need publicly-owned banks that are democratically controlled and regulated like a public utility. We need financial cooperatives that are driven by mission rather than the profit motive, and we must ensure that underbanked populations in our communities can access the services they need without fear of their data being collected to be used against them or monetized.

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[11] Mijente, Immigrant Defense Project, and the National Immigration Project of the National Lawyers' Guild. *Who's Behind ICE: The Tech and Data Corporations Fueling Deportation*. October 2018 https://mijente.net/2018/10/23/whos-behind-ice-the-tech-companies-fueling-deportations/