

Lydia X. Z. Brown's Statement to the Federal Trade Commission during the Commercial Surveillance and Data Security Public Forum

My name is Lydia Brown, and I am a policy counsel for privacy and data at the Center for Democracy and Technology.

My work focuses on algorithmic discrimination and bias that harms disabled people, many of whom belong to other marginalized communities such as the LGBTQ community. We are disproportionately impacted by algorithm driven decision-making systems in every aspect of life.

Students are increasingly subjected to unproven, unreliable surveillance tech like aggression-detection microphones, automated student monitoring, and automated test proctoring that rely on algorithms to assess whether students are engaging in violent conduct, making threats, or cheating on tests. Students with disabilities ranging from ADD and bipolar to autism, blindness, and absent limbs already experience increased profiling, discipline, and exponentially higher likelihood of being flagged by programs that evaluate how much they conform to an arbitrarily defined norm.

Automated software can screen out disabled and LGBTQ job seekers whose resumes reflect the impact of past discrimination and denial of access to equal opportunity in school and at work. Gamified assessments, personality tests, sentiment analysis software, and other AI hiring tools may likewise fail to accurately or fairly interpret or assess disabled and gender non-conforming people.

Disabled people are currently at extraordinary risk of compounded discriminatory effects of rapidly expanding surveillance tech too. Disabled and LGBTQ people are more likely to be arrested and incarcerated, with the Department of Justice recording up to 85% of incarcerated youth as disabled. Use of tenant screening software, employment background checks, and predictive policing tools that inappropriately and sometimes illegally use arrest or conviction records thus has an outsized impact on disabled and LGBTQ people, creating further inequities down the line.

I would urge the Commission to consider explicitly addressing discriminatory and disproportionate risks of harm for disabled and LGBTQ people in developing any proposed rules on data practices and algorithmic systems.