

November 17, 2021

Gina M. Raimondo
Secretary of Commerce
1401 Constitution Avenue NW
Washington, DC 20230

Dear Madam Secretary,

We, the undersigned civil rights, civil liberties, technology research and advocacy groups, write to urge you to appoint qualified individuals with experience in civil rights and civil liberties law and advocacy to the National Artificial Intelligence Advisory Committee (NAIAC) and the Subcommittee on Artificial Intelligence and Law Enforcement (Subcommittee), which are charged with providing recommendations on a range of topics related to ensuring that artificial intelligence development and use does not exacerbate—and indeed helps ameliorate—bias, discrimination, and inequity in American society.

There have been major advances in the design, development, and use of AI in recent years and it has begun to be widely used by public and private actors to inform or make consequential decisions that impact individual freedom as well as social and economic opportunity. However, significant problems in the design, use, and testing of these technologies persist, often reproducing or worsening discriminatory outcomes or creating serious privacy harms. There is already clear evidence of the discriminatory harm that AI tools can cause to people of color, women, and other marginalized groups, including in the criminal enforcement system, housing, the workplace, our schools, and our financial systems.¹

Given the breadth of issues upon which the NAIAC and the Subcommittee will advise, and the impacts AI is already having in our daily lives, it is crucial that the Secretary of Commerce choose members of the NAIAC and the Subcommittee with significant experience in ensuring racial equity, addressing privacy harms, and combatting algorithmic bias and discriminatory practices. To successfully inform national policy to prevent further entrenching and worsening bias and discrimination, it is crucial that NAIAC and the Subcommittee include a diverse slate of individuals with experience in applying civil rights and civil liberties principles to AI design, development, implementation, and use. This is

¹ Michelle Bao et al., It's COMPASlicated: The Messy Relationship between RAI Datasets and Algorithmic Fairness Benchmarks (June 10, 2021), <https://arxiv.org/abs/2106.05498> [https://perma.cc/H44H-QBAG]; Letter from ACLU et al. on Addressing Technology's Role in Housing Discrimination to U.S. Dep't of Hous. & Urb. Dev. et al. (July 13, 2021), <https://www.aclu.org/letter/coalition-memo-re-addressing-technologys-role-housing-discrimination> [https://perma.cc/52RV-PNBF]; Patrick Sisson, Housing Discrimination Goes High Tech, Curbed (Dec. 17, 2019), <https://archive.curbed.com/2019/12/17/21026311/mortgage-apartment-housing-algorithm-discrimination> [https://perma.cc/M3XH-B3PD]; Letter from ACLU et al. on Addressing Technology's Role in Hiring Discrimination to U.S. Equal Emp. Opportunity Comm'n et al. (July 13, 2021), <https://www.aclu.org/letter/coalition-memo-addressing-technologys-role-hiring-discrimination> [https://perma.cc/W39Q-SQKT]; Ctr. for Democracy & Tech., Algorithm-driven Hiring Tools: Innovative Recruitment or Expedited Disability Discrimination? (2020), <https://cdt.org/wp-content/uploads/2020/12/Full-Text-Algorithm-driven-Hiring-Tools-Innovative-Recruitment-or-Expedited-Disability-Discrimination.pdf> [https://perma.cc/9A74-WCCF]; Letter from ACLU et al. on Addressing Technology's Role in Financial Services Discrimination to Consumer Fin. Prot. Bureau et al. (July 13, 2021), <https://www.aclu.org/letter/2020-07-13-coalition-memo-technology-and-financial-services-discrimination> [https://perma.cc/58YA-4YSQ]; Letter from Nat'l Fair Hous. All. on Request for Information and Comment on Financial Institutions' Use of Artificial Intelligence, including Machine Learning to Fed. Rsrv. Sys. et al. (July 1, 2021), <https://nationalfairhousing.org/wp-content/uploads/2021/07/Federal-Banking-Regulator-RFI-re-AI-Advocate-Letter-FINAL-2021-07-01.pdf> [https://perma.cc/H529-V84L]; Ctr. for Democracy & Tech., Algorithmic Systems in Education: Incorporating Equity and Fairness When Using Student Data (Aug. 12, 2019), <https://cdt.org/insights/algorithmic-systems-in-education-incorporating-equity-and-fairness-when-using-student-data/> [https://perma.cc/PKY6-K6DR].

particularly important given the severe underrepresentation of women, people of color and other marginalized groups in the tech industry.

Some of our groups, as a matter of organizational policy, do not take positions on particular nominees for office, and this letter should not be considered an endorsement of any particular nominee. However, we strongly agree that, to ensure the NAIAC and the Subcommittee are able to fully complete their important functions, it is critical that individuals are appointed who appreciate the larger societal implications of AI, have experience in the mitigation of bias in all stages of the lifecycle of an automated decision making system, and have expertise in civil rights and civil liberties laws and principles.

In a world already defined by so much systemic discrimination, NAIAC and the Subcommittee have a real opportunity to shape development and use of AI to prevent unfair, discriminatory, and abusive outcomes. NAIAC and the Subcommittee must include the necessary civil rights and civil liberties perspectives in order to do so. Thank you for considering our request. Please reach out to Kate Ruane, kruane@aclu.org, with any questions.

Sincerely,

Algorithmic Justice League
American Civil Liberties Union
Center for Democracy and Technology
Color of Change
Data & Society Research Institute
Lawyers Committee for Civil Rights Under Law
The Leadership Conference on Civil and Human Rights
Upturn

CC:

Eric Lander, Director, Office of Science and Technology Policy
Lloyd Austin, Secretary of Defense
Jennifer Granholm, Secretary of Energy
Antony Blinken, Secretary of State
Merrick Garland, Attorney General
Avril Haines, Director of National Intelligence