Comment from Public Member Jennifer Dickey on *Using Algorithmic Tools in Regulatory Enforcement*
October 3, 2024

First, this is minor, but there are a couple references to "civil rights, civil liberties, privacy, equal opportunities, and access to critical government resources or services." I would propose deleting the word "civil" before "rights," as I think some people think of "civil rights" as guarantees of social opportunity and equal protection, etc., but perhaps excluding property, which can be affected during regulatory enforcement proceedings. By broadening rights, we make sure to capture property and potentially other rights (First Amendment?) that some might not think of as civil rights. I also would propose deleting "critical" before government resources or services because I'm not really sure how to draw the line between which government resources or services are critical and which are not. I would think that agencies could consider access to government resources or services more generally.

Second, I would like to have some discussion amongst the Committee on recommendations 4 and 5 and specifically when we should be recommending that the use of algorithmic tools be made available to targets of enforcement. My instinct is that these recommendations may not be strong enough in requiring disclosure of the use of such tools, which would serve important notice and due process norms. I'm not opposed to some exceptions, but I think it would be helpful to ensure that any exceptions to disclosure are not too malleable.