

Congress of the United States
Washington, DC 20515

August 16, 2022

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

The Honorable Tae D. Johnson
Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

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

The Honorable Anne Milgram
Administrator
U.S. Drug Enforcement Administration
8701 Morrisette Drive
Springfield, VA 22152

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Avenue NW
Washington, DC 20535

The Honorable Steven Dettelbach
Director
Bureau of Alcohol, Tobacco, Firearms and
Explosives
99 New York Avenue NE
Washington, DC 20226

The Honorable Chris Magnus
Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Avenue NW
Washington, DC 20229

Dear Attorney General Garland, Secretary Mayorkas, Director Wray, Commissioner Magnus, Acting Director Johnson, Administrator Milgram, and Director Dettelbach:

We write to request information regarding the purchase and use of Americans' personal data by your agencies. Companies participating in the data market acquire user information for package and sale through social media, mobile applications, web hosts, and other sources. Their products, which are available for purchase, can include precise details on individuals' location history, internet activity, and utilities information, to name a few. While law enforcement investigations necessitate some searches, improper government acquisition of this data can thwart statutory and constitutional protections designed to protect Americans' due process rights.

In a recent hearing before the House Judiciary Committee, a witness stated that materials provided by data brokers "turn policing from a suspect-focused search into a constant, intrusive surveillance system that surveils all of us. Rather than focusing on particular suspects, data policing tools are dragnets, sifting through all of our data."¹ Recent investigative reports indicate that many law enforcement agencies—including yours—have purchased data or licenses through relationships with data brokers, instead of obtaining it through statutory authorities, court order,

¹ Sarah Lamdan, Testimony Before the House Judiciary Committee, HOUSE CMTE. ON THE JUDICIARY (July 19, 2022).

or legal process.² For example, just one data broker, LexisNexis, contracts with over 1,300 local and state law enforcement agencies across the country.³

While comprehensive information on the widespread use of this practice is unavailable, the evidence indicates it is pervasive and that your agencies have contracts with numerous data brokers, who provide detailed information on millions of Americans.⁴ This includes the Department of Justice (DOJ), which has utilized commercially aggregated datasets in investigations and prosecutions and has at least one contract with a large data broker known for its ability to assemble “data dossiers” on individuals.⁵ The Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE), among other agencies, have allegedly contracted with data broker Thomson Reuters for licenses to use the CLEAR database, giving their agents access to billions of data points on hundreds of millions of Americans.⁶ Similarly, through its contracts with Vigilant Solutions, Babel Street, and Venntel, ICE also purchased access to billions of data points on vehicle locations, speeding violations, and even phone location data in specific homes and businesses.⁷ Contracts between Customs and Border Protection (CBP) and surveillance companies, including Babel Street and Venntel, have given the agency access to billions of location data points for such uses as immigration enforcement, human trafficking investigations, and narcotics operations.⁸

Despite some public reporting about the government’s use of personal electronic information, specifics on the government’s access to and use of Americans’ digital data are limited. We request a joint briefing and copies of the following by August 30, 2022:

1. Documents and communications related to contracts with companies that aggregate and provide personal data on Americans, including internal documents and communications.
2. Documents and communications related to any legal analysis of the acquisition and/or use of brokered data in investigations, prosecutions, and other agency/department work.

² Sharon Bradford Franklin, Greg Nojeim & Dhanaraj Thakur, *Legal Loopholes and Data for Dollars: How Law Enforcement and Intelligence Agencies Are Buying Your Data from Brokers*, CTR. FOR DEMOCRACY & TECH. (Dec. 9, 2021)

³ Sarah Lamdan, Testimony Before the House Judiciary Committee, HOUSE CMTE. ON THE JUDICIARY (July 19, 2022).

⁴ Sharon Bradford Franklin, Greg Nojeim & Dhanaraj Thakur, *Legal Loopholes and Data for Dollars: How Law Enforcement and Intelligence Agencies Are Buying Your Data from Brokers*, CTR. FOR DEMOCRACY & TECH. (Dec. 9, 2021).

⁵ Sharon Bradford Franklin, Greg Nojeim & Dhanaraj Thakur, *Legal Loopholes and Data for Dollars: How Law Enforcement and Intelligence Agencies Are Buying Your Data from Brokers*, CTR. FOR DEMOCRACY & TECH. (Dec. 9, 2021); Sarah Lamdan, Testimony Before the House Judiciary Committee, HOUSE CMTE. ON THE JUDICIARY (July 19, 2022).

⁶ Drew Harwell, *ICE investigators used a private utility database covering millions to pursue immigration violations*, WASH. POST (Feb. 26, 2021).

⁷ Drew Harwell & Tony Rohm, *ICE Is Tapping into a Huge License-Plate Database, ACLU Says, Raising New Privacy Concerns about Surveillance*, WASH. POST (Mar. 13, 2019); Cent. on Priv. & Tech., *American Dragnet*, GEORGETOWN LAW (May 10, 2022); Byron Tau & Michelle Hackman, *Federal Agencies Use Cellphone Location Data for Immigration Enforcement*, WALL ST. J. (Feb. 7, 2020).

⁸ Alfred Ng, *Homeland Security records show ‘shocking’ use of phone data, ACLU says*, POLITICO (July 18, 2022).

3. Documents and communications related to the consideration of contracts for access to brokered data, including but not limited to funding, requests for proposals, or assessment of data provided.
4. Documents and communications related to stipulating the parameters of and limitations to use of brokered data materials and databases by agency/department personnel.

Thank you for your prompt consideration of this request. We look forward to hearing from you soon.

Sincerely,



Jerrold Nadler
Chairman
Committee on the Judiciary



Bennie Thompson
Chairman
Committee on Homeland Security

cc: The Honorable Jim Jordan, Ranking Member, Committee on the Judiciary
The Honorable John Katko, Ranking Member, Committee on Homeland Security