

United States Senate

WASHINGTON, DC 20510

September 24, 2020

The Honorable J. Russell George
Treasury Inspector General for Tax Administration
1401 H Street, NW
Suite 469
Washington, DC 20005

Dear Mr. George:

We write to ask you to investigate the warrantless tracking of Americans' phones by the Internal Revenue Service's Criminal Investigation unit (IRS-CI).

Between 2017 and 2018, IRS-CI paid for a subscription to a commercial database provided by a government contractor named Venntel, containing location data collected from millions of Americans' mobile phones. In a June 2020 oversight call, IRS-CI officials confirmed their purchase of a Venntel subscription and their use of the product, without a court order, in order to track and identify Americans.

In 2018, the Supreme Court held in *Carpenter v. United States* that the collection of significant quantities of historical location data from Americans' cell phones is a search under the Fourth Amendment and therefore requires a warrant. In the decade prior to the *Carpenter* decision, lower courts had been divided on the question of the type of court order necessary for the government to obtain location data from Americans' phones. The Department of Justice (DOJ) argued that a lesser court order, based upon a reasonable suspicion standard, was sufficient, while privacy advocates argued, and some courts held, that surveillance of historical location data required a probable cause warrant. However, even DOJ did not attempt to argue that government officials could have unfettered access to location data without any kind of court order.

In contrast, IRS-CI officials confirmed that they searched Venntel's location database for information collected from Americans' phones without any kind of court order and that this practice had been approved by IRS lawyers. In the months since the briefing, the IRS has ignored multiple follow-up requests for documentation detailing the legal analysis that supported the IRS' outrageous interpretation of the Fourth Amendment.

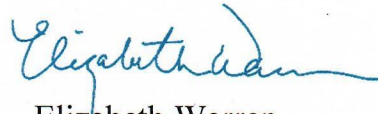
The IRS is not above the law and the agency's lawyers should never provide IRS-CI investigators with permission to bypass the courts and engage in warrantless surveillance of Americans. Accordingly, we urge you to investigate IRS-CI's use of commercial databases containing Americans' information, including but not limited to Venntel's location database. We also urge you to examine the legal analysis that IRS lawyers performed in order to determine how such an obvious violation of Americans' privacy rights was approved.

Thank you for your attention to this important matter

Sincerely,



Ron Wyden
United States Senator



Elizabeth Warren
United States Senator