

January 18, 2023

The Honorable Michael E. Horowitz
Inspector General
Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Inspector General Horowitz:

I write to request that the Department of Justice (DOJ) Office of Inspector General (OIG) investigate the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration's (DEA) relationship with the Transaction Record Analysis Center (TRAC), a clearinghouse that provides federal, state and local law enforcement agencies with unrestricted access to millions of records related to Americans' domestic and international money transfers. My oversight activities over the past year have uncovered troubling information, revealing that the scale of this government surveillance program is far greater than was previously reported.

TRAC is an Arizona-based non-profit organization closely linked to the Arizona Attorney General's (AG) office that has, for years, and without a legislative mandate, enabled law enforcement agencies to access and search Americans' money transfer records. My office first learned of TRAC in late 2021. After a briefing from Western Union, which revealed it had for several years been sending bulk records to TRAC in response to legal demands from Homeland Security Investigations (HSI), a law enforcement component of the Department of Homeland Security (DHS), my office requested a full briefing from DHS.

In a February 18, 2022, briefing, senior HSI personnel informed my office that HSI had issued customs summonses, starting in July 2019, to Western Union and, later, Maxitransfers Corporation, directing those companies to transmit customer records in bulk to TRAC. During that briefing, HSI officials told my office that the requested records targeted transactions over \$500, to or from Arizona, California, New Mexico, Texas and Mexico. The officials stated that the customs summonses had been issued by the HSI field office in Phoenix, Arizona, without the approval of the DHS Office of General Counsel. Moreover, because the DHS Office of Privacy had also not been alerted to the program or HSI's role, the agency's privacy experts had not prepared a Privacy Impact Assessment. HSI officials further told my office that after receiving the briefing request from my office, HSI had alerted the DHS Privacy Office, withdrawn the customs summonses and promptly terminated the agency's data contributions to TRAC.

Based upon the information that HSI had provided my office, on March 8, 2022, I wrote to the DHS OIG to ask that it investigate the matter. However, in the months since requesting the DHS OIG investigation and making the TRAC program public, I have learned that the scope of this surveillance program and federal agencies' role is far greater than initially revealed by HSI in its February 2022 briefing.

Between October and December of 2022, my office received information from three other money transfer companies — Euronet (RIA Envía), MoneyGram and Viamericas — which confirmed that they also delivered customer data in bulk to TRAC, in response to legal demands from HSI and other government agencies. My staff was informed by Euronet and Viamericas that the HSI San Juan, Puerto Rico office had also issued customs summonses seeking bulk data involving transactions from anywhere in the United States to the Dominican Republic, Ukraine, Tortola (British Virgin Islands), Bolivia, the U.S. Virgin Islands, Peru, Columbia, Ecuador, Venezuela, Hong Kong, St. Martin/St. Maarten, Curaçao, China, Argentina, Canada, Spain, Panama, France, Malaysia, Costa Rica, Thailand, Bahamas and Barbados. MoneyGram revealed that it received a legal demand from HSI San Juan demanding it deliver bulk data to TRAC about transactions from 21 U.S. states to Colombia, the U.S. Virgin Islands, the Dominican Republic and Venezuela.

The HSI San Juan-issued customs summonses were withdrawn on February 28, 2022, according to Euronet's outside counsel, who spoke with my staff on October 18, 2022. This was just 10 days after HSI had briefed my staff on its issuance and withdrawal of the HSI Arizona-issued customs summonses. At no point after this February 2022 Congressional briefing did officials from HSI or DHS contact my office to reveal the existence of these additional customs summonses or that the geographic scope of the transactions sought by HSI was far larger than HSI had revealed in its briefing. My office contacted HSI in October 2022 to alert them to these new facts and seek an additional briefing. HSI has yet to schedule that follow-up briefing.

In addition, the money transfer companies informed my office that the TRAC-related surveillance did not just involve HSI. MoneyGram informed my office that it also received legal demands from the Arizona AG and the DEA directing the company to send customer data to TRAC. The DEA demanded bulk data involving transactions from Colorado, Florida, New York and Nevada, MoneyGram revealed in a video conference with my office on November 7, 2022, and follow-up email on November 11. Outside counsel for Viamericas informed my office that, in addition to the requests from HSI San Juan, the company also received legal demands from the Arizona AG, the DEA, and the FBI. The Viamericas counsel, who provided answers via email on December 9, 2022, did not identify the transactions requested by each agency, but did reveal that it had received a demand for data about transactions originating in North Carolina and going to any other country.

This unorthodox arrangement between state law enforcement, DHS and DOJ agencies to collect bulk money-transfer data raises a number of concerns about surveillance disproportionately affecting low-income, minority and immigrant communities. Members of these communities are more likely to use money transfer services because they are more likely to be unbanked, and therefore unable to send money using electronic checking or international bank wire transfers, which are often cheaper. Moreover, money transfer businesses are not subject to the same protections as bank-based transactions under the Right to Financial Privacy Act.

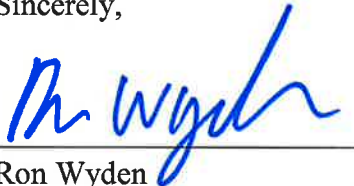
I have long supported legitimate efforts by federal law enforcement to crack down on illegal imports of fentanyl and other opioids, and to close the loopholes used to launder illegal income and avoid federal taxes, and I have led Congressional efforts on both fronts. Law enforcement agencies have ample authority to subpoena financial information about individual or specific

transactions they believe are related to illicit activity. Instead of squandering resources collecting millions of transactions through this bulk surveillance program, the government should focus its resources on individuals actually suspected of breaking the law.

As the DHS OIG's jurisdiction is limited to the activities of DHS components, I request that you open your own investigation into the DOJ-related aspects of this program, in coordination with the Council of the Inspectors General on Integrity and Efficiency. I request that you examine the role that DOJ component agencies, including the FBI and DEA, have played in forcing companies to turn over customer data to TRAC and the querying and use of TRAC data by DOJ component agencies. In particular, I request that you determine whether DOJ components' issuance of subpoenas requiring private companies to turn over bulk customer data—prospectively and directly to a non-governmental entity—is consistent with DOJ policy, federal law and the Constitution. I also request that you determine if DOJ components are properly notifying courts and criminal defendants when DOJ investigators and prosecutors use data from TRAC. Finally, I request that you examine whether these activities are consistent with the commitments that the U.S. Government has made in signing the Organization for Economic Cooperation and Development's Declaration on Government Access to Personal Data held by Private Sector Entities.

Thank you for your attention to this important matter. If you have any questions about this request, please contact Chris Soghoian in my office.

Sincerely,



Ron Wyden
United States Senator

CC: The Honorable Joseph V. Cuffari, Inspector General, Department of Homeland Security.