
**STATEMENT ON BEHALF OF THE
CENTER ON PRIVACY & TECHNOLOGY AT GEORGETOWN LAW
before MARYLAND HOUSE JUDICIARY COMMITTEE
HEARING on SB 977 (Maryland Data Privacy Act)
by *Emerald Tse, Associate*
Submitted March 24, 2025**

Dear Chair Clippinger, Vice Chair Bartlett, and Members of the Committee,

On behalf of the Center on Privacy & Technology at Georgetown Law (“Privacy Center”), I write **in support of SB 977**, or the Maryland Data Privacy Act (“MDPA”).

The Privacy Center is a university-based research organization focused on privacy law and policy, and the impact of digital era surveillance on individuals and communities.¹ Our work includes empirical research, legal and policy analysis, and advocacy in partnership with community leaders and grassroots organizations.² Our investigations have revealed how federal immigration authorities rely heavily on data collected by state agencies, often obtaining indirect access via contracts with private companies that compile state data along with other information for resale.³

The MDPA would create important legal safeguards to protect the privacy and constitutional rights of Marylanders in the face of immigration authorities’ dragnet surveillance practices. This legislation is urgently needed for the following reasons:

¹ Ctr. on Privacy & Tech. at Georgetown Law, *About Us*, <https://www.law.georgetown.edu/privacy-technology-center/about-us/>.

² Ctr. on Privacy & Tech. at Georgetown Law, *Our Work*, <https://www.law.georgetown.edu/privacy-technology-center/our-work/>.

³ Nina Wang, Allison McDonald, Daniel Bateyko & Emily Tucker, *American Dragnet: Data-Driven Deportation in the 21st Century*, Ctr. on Privacy & Tech. at Georgetown Law (May 2022), <https://www.americandragnet.org> (herein “American Dragnet”).

1. Giving immigration authorities unrestricted access to the data entrusted to Maryland's state and local government agencies erodes trust in public institutions.

Maryland residents are frequently required to share personal information with state and local agencies in order to take advantage of basic government services and to access benefits to which they are legally entitled. People must share their names and addresses to enroll in school, obtain driver's licenses, and apply for public benefits such as food assistance and medical assistance. The Comptroller's Office maintains tax filing data, which includes social security numbers ("SSNs") and individual taxpayer identification numbers that can be used to identify non-citizen residents. The Department of Housing and Community Development collects demographic information, such as names, dates of birth, SSNs, and location data.

If immigration authorities have unrestricted access to the data held by these important agencies, people will be much less likely to trust their government. Fear that personal information shared with a state agency may end up in the hands of federal immigration authorities deters people from taking advantage of benefits and services which are crucial for the health and safety of not only individuals but of entire communities. If people are too afraid to sign up for utilities, to seek healthcare, or to take advantage of food assistance programs, that ultimately reduces the economic and social well being of all Marylanders. Fear of surveillance makes people more likely to avoid not just government agencies, but all institutions that maintain formal records, such as medical, financial, labor market, and educational institutions.⁴ And it is not only immigrants who will experience these chilling effects. Those who have mixed-status families, live in immigrant communities, or work or go to school with immigrants may also avoid institutions for fear of exposing a friend, colleague, neighbor, or loved one.

⁴ Sarah Brayne, *Surveillance and System Avoidance: Criminal Justice Contact and Institutional Attachment*, 73(3) Amer. Soc. Rev. 367, <https://doi.org/10.1177/0003122414530398>.



2. Immigration authorities have been using dragnet surveillance practices to exploit gaps in the law, raising constitutional due process concerns.

For decades, immigration authorities have sought access to every conceivable type of personal information, from a wide range of public and private sources.⁵ Their efforts to obtain state and local government data, in particular, have repeatedly made the news. For example, U.S. Immigration and Customs Enforcement (“ICE”) has tried to access an extensive unemployment database in New Mexico⁶ and student records from an elementary school in Tennessee.⁷

There are a variety of ways that immigration authorities obtain access to state agency data. In some cases, they exploit existing information sharing networks to directly log in to state databases. In other cases, they present documents they call “administrative warrants” or “administrative subpoenas” to state agencies to demand access to information.⁸ These administrative documents are not authorized or reviewed by any independent agency or magistrate. Instead, these documents are generated internally at the requestor’s own discretion. Using this method, ICE has attempted to access student health information from a public university in California⁹ and millions of voter registration records in North Carolina.¹⁰

⁵ American Dragnet, *supra* note 3, at 2 (“ICE [has accessed] Department of Motor Vehicle (DMV) records and utility customer information, as well as call records, child welfare records, credit headers, employment records, geolocation information, health care records, housing records, and social media posts.”). See also Dhruv Mehrotra, *ICE Is Grabbing Data From Schools and Abortion Clinics*, WIRED (Apr. 3, 2023), <https://www.wired.com/story/ice-1509-custom-summons/>.

⁶ Morgan Lee, *New Mexico denies ICE request for access to workforce data*, Associated Press (Aug. 8, 2019), <https://apnews.com/general-news-393c3e48907b40d88f3313d7ff34184b>.

⁷ Steven Hale, *ICE sought student records from a Nashville elementary school*, Nashville Scene (Oct. 10, 2019), https://www.nashvillescene.com/news/pithinthewind/ice-sought-student-records-from-a-nashville-elementary-school/article_c787f8bd-c011-5ab5-bce9-f859bd6dc966.html.

⁸ Mehrotra, *supra* note 5.

⁹ Jakob McWhinney & Jesse Marx, *ICE Used Controversial Tool to Request Student Medical Records and More*, Voice of San Diego (June 12, 2023), <https://voiceofsandiego.org/2023/06/12/ice-used-controversial-tool-to-request-student-medical-records-and-more/>.

¹⁰ Jane C. Timm, *ICE’s move to seize millions of voter records stalled after N. Carolina officials balk*, NBC News (Sept. 6, 2018),



Immigration authorities also obtain access to state and local government data by contracting with data brokers. Data brokers gather state agency data, combine it with information from other sources, and resell it. The buyers of this information, which include immigration authorities, decide how they wish to use it. A recent report focusing on New Mexico details how ICE's contract with one data broker gives the agency access to extensive public agency records, including motor vehicle records, business registration data, property records, and voter records.¹¹

These dragnet surveillance practices violate the privacy of everyone, regardless of immigration status. As detailed in the Privacy Center's 2022 report, *American Dragnet*, these practices have allowed ICE to access datasets containing detailed personal records on the vast majority of people in the U.S.¹² Every time ICE asks a state DMV to run face recognition searches on their drivers' license photo databases, *all* driver photos are scanned, not just those of the people ICE is investigating.¹³ In response to ICE's attempts to obtain North Carolina voting records, state officials highlighted that the search was not an isolated investigation of voter fraud but rather a sweeping and open-ended fishing expedition.¹⁴

Immigration authorities' digital surveillance practices are possible due to a broad failure to properly regulate our datafied world. In the absence of federal action, the State of Maryland has been a leader in data privacy.¹⁵ When this legislature discovered that ICE was accessing the data from the state's Motor Vehicle Administration ("MVA") and running face recognition searches on drivers license photos, it acted decisively to pass the Maryland Driver Privacy Act.¹⁶

<https://www.nbcnews.com/politics/politics-news/doj-agrees-delay-turnover-north-carolina-voter-records-sought-ice-n907256>.

¹¹ See *Subjected to Surveillance: ICE Access to New Mexico Residents' Personal Data*, Somos Un Pueblo Unido, Just Futures Law & mijente (Feb. 2025)

<https://files.constantcontact.com/b6dfe469001/3326abb4-4580-48be-89dd-1e006a202e09.pdf>, at 3.

¹² *American Dragnet*, *supra* note 3.

¹³ *Id.* at 32.

¹⁴ Timm, *supra* note 10.

¹⁵ *Maryland enacts one of the strongest data privacy laws in the nation*, U.S. PIRG Ed. Fund (May 9, 2024), <https://pirg.org/edfund/updates/maryland-enacts-one-of-the-strongest-data-privacy-laws-in-the-nation/>.

¹⁶ Maryland Driver Privacy Act, H.B. 23, Md. Gen. Assemb., 2021 Sess. (Md. 2021), <https://mgaleg.maryland.gov/mgaweb/Legislation/Details/HB0023?ys=2021RS>; Clara Garcia, *Maryland*



Although state law protects MVA data, the data collected by other state agencies are left vulnerable. Most state and local agencies do not have established policies on what to do when immigration authorities seek access to their data. In the absence of standardized rules, state employees must use their discretion to determine how to respond to requests. This creates a lack of consistency amongst state and local agencies,¹⁷ which may lead immigration authorities to turn away from agencies less willing to share information and toward those that are more cooperative.

3. The MDPA will close gaps in the law, and protect the privacy and constitutional rights of all Marylanders.

Maryland has recently seen an escalation in immigration enforcement activities, and residents are already living in fear. Recognizing that informational privacy is essential to protecting immigrant communities, states and localities have passed data privacy laws to that effect.¹⁸ With the MDPA, Maryland would reaffirm its commitments to ensuring data privacy and to protecting immigrant communities.

General Assembly Overrides Hogan's Vetoes Of Immigration Bills, NBC Wash. (Dec. 8, 2021), <https://www.nbcwashington.com/news/local/maryland-general-assembly-overrides-hogans-vetoes-of-immigration-bills/2904771/>.

¹⁷ See e.g., Piper McDaniel, *ICE subpoenas: Washington County complies, Hillsboro refuses*, Oregonian (Mar. 10, 2020), <https://www.oregonlive.com/coronavirus/2020/03/ice-subpoenas-washington-county-complies-hillsboro-refuses.html>.

¹⁸ See e.g., Faith Miller, *Data privacy protections for undocumented immigrants sought with proposed Colorado bill*, Colorado Newslines (Feb. 19, 2021), <https://coloradonewslines.com/2021/02/19/data-privacy-protections-for-undocumented-immigrants-sought-with-proposed-colorado-bill/>; John Donegan, *Long Beach strengthens its sanctuary city laws ahead of second Trump term*, Long Beach Post (Jan. 8, 2025), <https://lbpost.com/news/immigration/long-beach-strengthens-its-sanctuary-city-laws-ahead-of-second-trump-term/>; Nadia Carolina Hernandez, *Welcoming City changes pass unanimously as Evanston braces for Trump immigration action*, Evanston Roundtable (Jan. 14, 2025), <https://evanstonroundtable.com/2025/01/14/welcoming-city-amendments-pass-unanimously-as-evanston-braces-for-trump-immigration-actions/>.



A. The MDPA would protect all Marylanders from unwarranted access to their information for immigration enforcement purposes.

The MDPA would require a judicial warrant before the disclosure of Marylanders' information for the purposes of immigration enforcement. This requirement would apply statewide, clarifying for public employees the state's policies on responding to information requests.

A judicial warrant requirement would help ensure that when a party seeks access to the personal information that the state has about its residents, that request is subject to review by an independent magistrate who can determine whether disclosure complies with the Fourth Amendment of the U.S. Constitution. This provision is crucial given that, in the absence of judicial review, immigration authorities have repeatedly violated civil rights laws¹⁹ and even ignored their own internal agency standards and policies when carrying out enforcement operations.²⁰ The lack of oversight has even resulted in the wrongful arrest and deportation of U.S. citizens.²¹

¹⁹ See e.g., Victor Guillén Febres & Karen Fierro Ruiz, *The US Government Buys Data for Surveillance. For Immigrants, It's a Matter of Survival*, Tech Pol'y Press (Apr. 18, 2024), <https://www.techpolicy.press/the-us-government-buys-data-for-surveillance-for-immigrants-its-a-matter-of-survival/>; Emily Tucker & Hinako Sugiyama, *Does ICE Data Surveillance Violate Human Rights Law? The Answer is Yes, and It's Not Even Close*, Tech Pol'y Press (Nov. 14, 2023), <https://www.techpolicy.press/does-ice-data-surveillance-violate-human-rights-law-the-answer-is-yes-and-its-not-even-close/>; Ahmed Alrawi, *Immigrants are not Felons: A Legal Analysis of Immigrants' Civil Rights Chilling Effect Issues Caused by ICE's SmartLINK App Surveillance*, 13 J. of Info. Pol'y 85 (2023), <https://doi.org/10.5325/jinfopoli.13.2023.0007>; Rachel Levinson-Waldman, Harsha Panduranga & Faiza Patel, *Social Media Surveillance by the U.S. Government*, Brennan Ctr. for Justice (Jan. 7, 2022), <https://www.brennancenter.org/our-work/research-reports/social-media-surveillance-us-government>.

²⁰ See Tucker & Sugiyama, *supra* note 9; Rebecca Heilweil, *140+ groups flag DHS's AI use cases in new letter to Mayorkas*, FedScoop (Sept. 4, 2024), <https://fedscoop.com/dhs-ai-use-cases-letter-mayorkas/>.

²¹ See generally Jacqueline Stevens, *U.S. Government Unlawfully Detaining and Deporting U.S. Citizens as Aliens*, 18 Va. J. Soc. Pol'y & L. 606 (2011) (presenting original research on the detention and deportation of U.S. citizens by ICE). See also, e.g., Fiona Harrigan, *This U.S. Citizen Was Detained by ICE for Over a Month. Now He's Getting a \$150,000 Settlement*, Reason (Dec. 15, 2022), <https://reason.com/2022/12/15/this-u-s-citizen-was-detained-by-ice-for-over-a-month-now-hes-getting-a-150000-settlement/> [<https://perma.cc/6KAL-UEK6>]; Emanuella Grinberg, Konstantin Toropin & Jason Morris, *A US-Born Citizen Who Was in Immigration Detention for Three Weeks Has Been Released*, CNN (July



B. The MDPA would limit some third parties that provide immigration authorities indirect access to Marylanders' personal information.

The MDPA would block those who receive personal information from the state from selling that information, limiting the ability of data brokers to unfairly profit from the personal information of Marylanders. The MDPA would also prevent entities that enter into contracts and other agreements with the state to carry out government business from selling personal information they receive as part of those contracts, and from sharing Marylanders' personal information for the purpose of immigration enforcement absent a judicial warrant. Together, these provisions prevent the circumventing of the MDPA's core provisions through the use of data brokers. They do not restrict the state's ability to fulfill legitimate public records requests under the Public Information Act.

C. The MDPA would increase transparency about the state's data practices.

Currently, little is known about the extent to which immigration authorities seek and obtain information from Marylanders' state and local agencies. The MDPA would create transparency by requiring state and local agencies to annually report how many requests they receive, whether those requests were accompanied by judicial warrants, and whether those requests resulted in the disclosure of information.

Conclusion

The MDPA is crucial to ensuring that when Marylanders seek the services they need, they can trust that the information they share with the government to get those services will not be used against them. For the reasons stated above, the Privacy Center urges the committee to provide a **favorable** report on this bill.

Thank you for the opportunity to submit this testimony. We greatly appreciate your attention to this important issue.

25, 2019), <https://www.cnn.com/2019/07/23/us/us-citizen-detained-texas/index.html> [https://perma.cc/VLG5-VH3X].

