

July 18, 2023

**Re: Vote “Yes” on H.R. 4639, the Fourth Amendment is Not For Sale Act**

Dear Representative:

The American Civil Liberties Union strongly urges you to support H.R. 4639, the Fourth Amendment is Not For Sale Act. This legislation would prevent government agencies from circumventing core constitutional protections by purchasing access to data that they would otherwise need a warrant to obtain, including location and internet records. We urge you to vote yes on this legislation.



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Advocacy Department**  
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Law enforcement and intelligence agencies that have purchased cellphone location data include the FBI, the Drug Enforcement Administration, Immigration and Customs Enforcement, Customs and Border Protection, the Secret Service, the Department of Homeland Security, and the Department of Defense. *The Wall Street Journal* has also reported that the Internal Revenue Service “attempted to identify and track potential criminal suspects by purchasing access to a commercial database that records the locations of millions of American cellphones.”<sup>1</sup>

More recently, the Office of the Director of National Intelligence released a partially declassified report that details the intelligence community’s purchase of commercially available information. The report found that the intelligence community is collecting increasing amounts of commercially available information, but does not know how much it is collecting, what types, or what it is doing with the data. Indeed, there is no formal intelligence community position on the issue.

Current law prohibits email, social media and internet service providers from disclosing this sensitive data to law enforcement without a court order. But currently, the Electronic Communications Privacy Act does not address situations in which law enforcement obtain the same data without a court order from data brokers and other entities that do not have a direct relationship with consumers. The Fourth Amendment is Not For Sale Act would address this issue by preventing law enforcement and intelligence agencies from purchasing location information and internet browsing and search history by specifying that probable cause-based court orders are the “exclusive means” by which government agencies may obtain this information about people in the United States.

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<sup>1</sup> Byron Tau, *IRS Used Cell Phone Location Data to Try to Find Suspects*, WALL ST. J. (Jun. 19, 2020) <https://www.wsj.com/articles/irs-used-cellphone-location-data-to-try-to-find-suspects-11592587815>

The Fourth Amendment is Not For Sale Act would prevent law enforcement and intelligence agencies from making an end run around the Fourth Amendment and skirting our constitutional rights by purchasing access to data that they would otherwise need a warrant to obtain. This legislation is critical to protecting our privacy and the ACLU urges you to vote yes when it comes before the House Judiciary Committee. If you have questions, please contact Senior Federal Policy Counsel Kia Hamadanchy at [khamadanchy@aclu.org](mailto:khamadanchy@aclu.org) or (734)-649-2929.

Sincerely,



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Federal Policy Director



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Senior Federal Policy Counsel



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