

September 18, 2020

Rasha Abdul-Rahim
AMNESTY INTERNATIONAL
INTERNATIONAL SECRETARIAT
Peter Benenson House, 1 Easton Street
London WC1X 0DW, United Kingdom

Re: Amnesty International letter dated 10 September 2020

Dear Ms. Abdul – Rahim:

Thank you for your letter of inquiry regarding Palantir’s contractual relationship with the U.S. Immigration and Customs Enforcement (ICE) division of the Department of Homeland Security (DHS).

I am a great admirer of the work of Amnesty International and have long supported your global focus and substantial dedication to human rights and commitment to addressing violations of such rights across the globe, including within the United States. I know my colleagues at Palantir feel the same admiration.

That is why I am glad to have this opportunity to correct some inaccurate perceptions expressed in your letter and to respond directly to the five questions your letter posed.

I thought it important to provide you first with three facts that unfortunately have not always been accurately reported in various media articles about Palantir. I will expand on each of those facts and then address your questions individually.

First: Palantir – a software platform provider, which does not own or control data but rather enables its customers to analyze their own data – has contracts only with the criminal investigative division of ICE and DHS at large – called Homeland Security Investigations (HSI). Palantir began these contracts with HSI in 2011 under President Barack Obama.

HSI uses Palantir software platforms to assist in analyzing its data to achieve its mission – primarily focused on combatting transnational crime such as money laundering, transnational gang activity, child exploitation, human smuggling, terrorist threats, and more.¹ Palantir provides two software platforms to HSI, which are mentioned in your letter: 1) the case management software (ICM), which HSI personnel in over 200 offices across five continents use to do all of their day-to-day work, from managing cases to filling out timesheets; and 2) FALCON, which is

¹ “HSI has broad legal authority to enforce a diverse array of federal statutes. It uses this authority to investigate all types of cross-border criminal activity, including: Financial crimes, money laundering and bulk cash smuggling; Commercial fraud and intellectual property theft; Cybercrimes; Human rights violations; Human smuggling and trafficking; Immigration, document and benefit fraud; Narcotics and weapons smuggling/trafficking; Transnational gang activity; Export enforcement; and, International art and antiquity theft.” Source: <https://www.ice.gov/hsi>

used by HSI agents and analysts for analysis supporting the criminal investigations managed in ICM.

As one part of its mission, and aside from its primary focus on transnational criminal enforcement, HSI also carries responsibility for conducting workplace law enforcement. HSI sometimes conducts workplace compliance investigations and audits, i.e., confirming employer completion of I-9 forms documenting the legal status of its employees as required under Section 274A (b) of the Immigration and Nationality Act (INA) and codified in 8 U.S.C. § 1324a. In this context, Palantir's ICM software is sometimes used by HSI for logistical and case information management purposes related to these enforcement activities. But to be clear: Palantir's software is not used as part of any detention or deportation activities conducted by ERO as a consequence of worksite operations involving HSI.

Second: Despite misreporting in many places on this subject, it is a fact that Palantir has no contract with the Enforcement and Removal Operations (ERO) unit of ICE. It is ERO, not HSI, that “identifies and apprehends removable aliens, detains these individuals when necessary and removes illegal aliens from the United States” as its primary mission.² Furthermore, Palantir has had no involvement whatsoever in the management or operation of any of ERO's detention centers.

Third: Palantir also has no contracts with U.S. Customs and Border Protection (CBP). CBP was responsible for the Trump Administration's “zero tolerance” family separation policies initiated and ended in 2018. Palantir continues to regard that policy, which resulted in the separation of children from parents and the incarceration or “caging” of children, as abhorrent – violating basic human decency and human rights standards. Palantir has also had no involvement whatsoever in the management or operation of any of CBP's detention centers at the border.

In sum: It is unfortunate that there has been so much misreporting and conflation between Palantir's software being used to assist HSI for its primary criminal transnational enforcement mission, which is true, vs. deportation activities by ICE's ERO and DHS's border protection agency, CBP, which was responsible for the offensive “zero tolerance” family separation activities in 2018 that horrified so many Americans across the political spectrum.

Please note the following: Palantir has purposefully declined to take on contracts with ERO and CBP under the current Administration because we share your organization's concern with the potential serious human rights violations against migrants, refugees, and asylum seekers at the U.S. – Mexico border and risks of disproportionate immigration enforcement inside the U.S. At the same time, and in contrast, after careful review, we have reaffirmed our support of HSI's transnational criminal investigative mission through continuance of our with ICM and FALCON contracts.

Now, I will turn to the specific questions that you posed in your letter.

Answers to Questions

² Source: <https://www.ice.gov/ero>.

1. *Please provide evidence of human rights due diligence measures that Palantir has taken in relation to its contracts with DHS to provide ICM and FALCON for ICE, including action the company has taken to address the human rights risks associated with these contracts.*

As explained above, Palantir's ICM software assists HSI personnel in performing their day-to-day work, from managing cases to filling out timesheets. Palantir's FALCON software is an analysis tool that assists HSI in the use of its own data in its transnational criminal investigative activities.

Palantir's software, however, is not used by ERO, which is the agency responsible for deportations, nor by CBP, which was involved in enforcing the current Administration's "zero tolerance" policies. Nevertheless, Palantir remains committed, as a high priority, to continually evaluate the use of its software in cooperation with appropriate oversight and regulatory authorities for potential violations of human rights, privacy rights, or civil liberties. In fact, Palantir has a team of dedicated privacy and civil liberties experts who both train and enable our field engineers to help ensure contracts that carry specific sensitivities or risks, including those with HSI, are able to identify and flag potential human rights, civil liberties, and general ethics concerns.

2. *Was Palantir aware of the DHS Privacy Impact Assessments for ICM and FALCON, and if so, why has it continued to maintain that its products and services did not facilitate ERO operations?*

Yes – Palantir is aware of the DHS's Privacy Impact Assessments (PIA). We have also been aware for some time that these PIAs have been at best imprecise and sometimes inaccurate in suggesting that Palantir's software was being used by ERO for its core activities. Palantir's Privacy and Civil Liberties Group has been working with HSI and with ICE's Privacy Office to change the PIA language to ensure it reflects the actual, and limited reality of system use by clearly stating that ICM and FALCON are tools for the exclusive use of HSI personnel and are not available for querying or use by ERO personnel carrying out ERO functions. We will continue to suggest that this incorrect and misleading language be rewritten and appreciate your concern when you read this language in the PIA suggesting to the contrary.

- a. *Why did Palantir change its public position between December 2019 and January 2020 on whether its products and services have been used to facilitate ERO operations?*

Palantir did not change its position on whether Palantir's software is used by ERO during your stated time period or ever. As stated in the answer above to question number 2, the PIAs describing or inferring that Palantir software is used by ERO are simply wrong and misleading. As stated, our company's Privacy and Civil Liberties Group remains committed to correcting them now and in the future.

There have also been misleading media reports that have taken quotes from our CEO from his January 2020 interview with *CNBC* out of context to suggest that Palantir's software is used in

deportations by ERO, neither of which are true. We appreciate the opportunity you have given us by your letter to correct the record. We will continue to try to do so in the media.

- b. Has Palantir received any new information since December 2019 about how its products have been used by ICE?*

No. The facts remain the same – Palantir software is not involved in any deportation or other activities by ERO. HSI’s use of the Palantir ICM software for logistical/management functions needs to be clearly distinguished in the DHS’s PIAs and elsewhere vs. the ERO’s detention and deportation activities, which do not use Palantir’s software. We are actively engaging to obtain clarifications and corrections in these PIAs.

- 3. Does Palantir maintain that its products and services as contracted with DHS for ICE do not facilitate ERO civil immigration enforcement generally but also including detention and deportation?*

That is correct, to repeat: Palantir’s software does not facilitate ERO’s civil immigration enforcement generally and, thus, also does not facilitate ERO’s detention and deportation functions.

- 4. Does Palantir maintain that its products and services as contracted with DHS for ICE do not facilitate ERO civil immigration enforcement based on HSI activities? For example, but not limited to, family separations and workplace raids?*

As stated above, it is a fact that Palantir has no contract with the Enforcement and Removal Operations (ERO) unit of ICE, and it is ERO, not HSI, that is responsible for detaining and deporting undocumented immigrants in the U.S. Palantir has also had no involvement whatsoever in the management or operation of any of ERO’s detention centers.

To be clear: Palantir’s software is not used as part of any deportation activities conducted by ERO that may result as a consequence of worksite operations involving HSI. As stated above, Palantir provides two software platforms to HSI: 1) the ICM case management software, which HSI personnel use to do all of their day-to-day work, from managing cases to filling out timesheets; and 2) FALCON, which is used by HSI agents and analysts for analysis supporting the criminal investigations managed in ICM. As previously stated, this began under the Obama Administration.

HSI does support a limited number of worksite enforcement operations, activities which we believe should be considered in the context of HSI’s broader mandate. In 2018, HSI made 44,069 arrests³ under its mandate of combatting transnational crime, such as human trafficking and money laundering. Of those arrests, 1,525, or only 3.5%, were worksite enforcement-related arrests of undocumented workers for administrative/civil violations. And these did not

³Arrest numbers as official reported by ICE Acting Director Matthew T. Albence to the U.S. House of Representatives Homeland Security Committee on May 9, 2019. Source: <https://www.ice.gov/sites/default/files/documents/Testimony/2019/190509albence.pdf>.

necessarily result in subsequent deportations by ERO.⁴ By comparison, in that same period, HSI special agents arrested 3,191 child predators while rescuing or identifying 859 underage victims.⁵

Regarding family separations, as we noted above, Palantir has no contracts and would decline to take on any with CBP, the agency responsible for the Trump Administration’s “zero tolerance” family separation policies, which Palantir regards as violating basic human decency and human rights standards.

5. *As per its responsibilities under the UN General Principles on Business and Human Rights, does Palantir intend to provide any remedy to people harmed through the use of its products?*

Palantir as a company remains extremely concerned about protecting human rights, privacy rights, and civil liberties in general. As we have demonstrated above, our work has been intentionally scoped to a specific division of ICE – Homeland Security Investigations – with a distinct transnational criminal investigative mission set.

We nevertheless appreciate that HSI’s mandate includes areas of law enforcement, such as worksite activities, that have been directed under the current Administration to include an expanded focus of both criminal and civil enforcement. While these changes are limited in scope, they are nevertheless cause for concern for many Palantir employees (myself included) who believe that HSI’s efforts and resources are better reserved and applied exclusively for addressing violent crimes and the criminal organizations that present a clear and direct threat to national security, undermine the integrity of our essential institutions, and exploit the most vulnerable.

Given that we provide HSI with case management and analytics software, we accept that there are moral implications for how our technology may be used in immigration enforcement. HSI's broad law enforcement authorities and organizational proximity to civil immigration enforcement conducted by ERO under the current Administration raises legitimate and important questions for us about our complicity in activities that, while lawful, may nonetheless conflict with norms and values that many of us hold. This is not a tension that we regard lightly and is something that we continuously evaluate against the entirety of the mission set that our software supports for HSI.

We have continued to support HSI because we understand the totality of their work and its importance to protecting the security of our nation and its bedrock institutions. We are a company that serves the core institutional missions of our partners, not any political or ideological agenda or individual elected official.

There is one other point worth repeating to clear up prior misimpressions of the nature of Palantir and its software product – i.e., what we do and do not do. Despite misimpressions to the

⁴ For example, in the [Mississippi food processing plant operations](https://www.npr.org/2019/08/09/749638655/some-300-arrested-in-mississippi-immigration-raids-have-been-released-officials) that have been frequently cited, of the 680 individuals arrested, 300 were promptly [released on humanitarian grounds](https://www.npr.org/2019/08/09/749638655/some-300-arrested-in-mississippi-immigration-raids-have-been-released-officials). Source: <https://www.npr.org/2019/08/09/749638655/some-300-arrested-in-mississippi-immigration-raids-have-been-released-officials>.

⁵ Source: <https://www.ice.gov/news/releases/ice-el-paso-special-agents-arrest-local-man-child-pornography-charges>

contrary, Palantir is not a data broker or retailer and we do not own or aggregate any data – as a company we build and deploy software products for our customers to use. This clarification is not intended as an abnegation of responsibility, as we recognize that even our limited role in selecting the customers with whom we work and in supporting our customers’ use of our software products carries with it earnest and real moral obligations. This is why, from the earliest days of our company, we have invested so heavily in building privacy and civil liberties protections into the core of our products and business practices.

As one tangible and significant extension of that foundational commitment, our company’s Privacy and Civil Liberties Group is committed to working with Amnesty International and other similar groups to do our best to avoid allowing our software to be used in violation of human and privacy rights and civil liberties. We will not allow our software to be used for immoral or illegal purposes. The line on “morality” of course could be subjective – but we remain very sensitive that there must be lines that we will not cross concerning the misuse of our software platform. We also acknowledge that there are inherent risks in working with our societies’ most critical institutions and that while we always endeavor to be as diligent, thoughtful, and conscientious as possible in our work, we may not always get everything right. Those are risks of working in the world which we soberly accept.

I would gladly respond to any further questions you or any member of Amnesty International may have.

Sincerely,

Courtney Bowman
Director of Privacy & Civil Liberties, Palantir Technologies