



FAILING TO DO RIGHT:

THE URGENT NEED FOR PALANTIR TO RESPECT HUMAN RIGHTS

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Palantir Technologies, Inc. is a U.S.-based software company known for its work with various U.S. agencies, though it also contracts with private clients. Given Palantir's increasingly entrenched role in government operations and its multiple contracts across federal agencies, concerns about its human rights record are growing in urgency and deserve scrutiny.

As one example, Palantir's contracts with the U.S. Department of Homeland Security (DHS) for products and services for Immigration and Customs Enforcement (ICE), raise serious questions about the company's actions to uphold its responsibility to respect human rights.

The U.S. government must take responsibility for its role in creating and maintaining a harmful environment for the treatment of migrants and asylum-seekers. However, Palantir also has a responsibility to avoid causing or contributing to human rights abuses, and to address human rights impacts in which they are involved.¹ Under the UN Guiding Principles on Business and Human Rights, companies have a responsibility to respect all internationally recognized human rights wherever in the world they operate.² This entails undertaking human rights due diligence to identify, prevent, mitigate, and account for how

¹ While this briefing focuses on Palantir, all companies have a responsibility to respect human rights throughout their operations. An assessment of a company's actions to uphold its responsibility to protect human rights is a case-by-case determination taking into account the company, the nature of its operations, and the context in which it is operating. Exposing Palantir's high risk of contributing to human rights violations through its contracts with the U.S. Department of Homeland Security (DHS)/Immigration and Customs Enforcement (ICE) and its failure to conduct due diligence should remind all companies to conduct human rights due diligence in their operations with DHS/ICE.

² This responsibility was expressly recognized by the UN Human Rights Council on 16 June 2011, when it endorsed the UN Guiding Principles on Business and Human Rights, and on 25 May 2011, when the 42 governments that had then adhered to the Declaration on International Investment and Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD) unanimously endorsed a revised version of the OECD Guidelines for Multinational Enterprises. See UN Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework* (2011) UN Doc HR/PUB/11/04, Principles 11 and 13 including Commentary, available at www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf (hereafter UNGP); Human Rights Council, *Human Rights and Transnational Corporations and other Business Enterprises*, Resolution 17/4, UN Doc A/HRC/RES/17/4, 6 July 2011; OECD, *OECD Guidelines for Multinational Enterprises*, 2011, OECD Publishing, available at www.oecd.org/corporate/mne.

they address their human rights impacts. This is not a one-off responsibility, but an ongoing and proactive process.³ Transparency is a key component of due diligence.

Through Palantir's contracts with DHS/ICE for products and services for the Homeland Security Investigations (HSI) division of ICE, Amnesty International has determined there is a high risk that Palantir is contributing to serious human rights violations of migrants and asylum-seekers by the U.S. government, which Amnesty International has thoroughly documented for years.⁴ In particular, Palantir's contracts to provide its Integrated Case Management System (ICM) and FALCON analytical platforms to ICE risk contributing to human rights violations of asylum-seekers and migrants who are separated from family members, subject to workplace raids, detained, and face deportation by ICE.⁵

PALANTIR CONTRACTS WITH ICE AND THE RISK TO HUMAN RIGHTS

ICM allows ICE personnel to “create an electronic case file that organizes and links all records and documents associated with a particular investigation so they are easily accessible from a single location. It also enables personnel to link records to multiple investigations in order to draw connections between cases.”⁶ Using ICM, ICE can access a vast range of personal data from U.S. agencies and law enforcement. FALCON has two critical components. FALCON Search and Analysis (FALCON SA) is an information management system to allow ICE and other DHS personnel to “search, analyze and visualize” existing ICE data. FALCON Tipline (FALCON TL) allows ICE and other DHS personnel to link information from tips to existing databases, and create profiles based on

³ UNGP, Principles 11 and 13 including Commentary.

⁴ ICE's Homeland Security Investigations (HSI) “is a critical investigative arm of the Department of Homeland Security and is a vital U.S. asset in combating criminal organizations illegally exploiting America's travel, trade, financial and immigration systems.” U.S. Immigration and Customs Enforcement, *Homeland Security Investigations*, available at www.ice.gov/hsi. The mission of ICE's Enforcement and Removal Operations (ERO) is “to protect the homeland through the arrest and removal of aliens who undermine the safety of our communities and the integrity of our immigration laws.” U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations*, available at www.ice.gov/ero. This briefing considers Palantir's responsibility to identify, prevent, mitigate, and account for the human rights impacts of ICM and FALCON on migrants and asylum-seekers, focusing on several examples of identified harm, and is not a human rights impact assessment of HSI's operations generally.

⁵ ICE contract details for ICM and FALCON are recorded at USASpending.gov. ICM's Award ID is 7OCTD019FR0000268, and FALCON's Award ID is 7OCTD019C00000001. Amnesty International has requested copies of the contracts from Palantir and filed Freedom of Information Act requests for the ICM and FALCON contracts.

⁶ U.S. Department of Homeland Security, *Privacy Impact Assessment for ICE Investigative Case Management DHS/ICE/PIA-045*, 16 June 2016, available at www.dhs.gov/sites/default/files/publications/privacy-pia-ice-icm-june2016.pdf; see National Immigration Law Center (NILC), *GLOSSARY AT A GLANCE: Immigration Databases, Information Sharing Systems, and Case Management Systems*, January 2018, available at www.nilc.org/wp-content/uploads/2018/01/databases-glossary.pdf.

those tips.⁷ ICM and FALCON are utilized together.⁸ ICM is considered “mission critical” to ICE’s HSI operations, and FALCON is a critical component to help further operationalize ICM.⁹

ICE has previously used ICM and FALCON to execute harmful policies targeting migrants and asylum-seekers. For example, in 2017, ICE utilized ICM technology for a joint operation between HSI and ICE's Enforcement and Removal Operations (ERO) division, arresting more than 400 people in an operation targeting parents and caregivers of unaccompanied children, leading to detentions and harming children’s welfare.¹⁰ Similarly, ICE/HSI used FALCON technology to plan mass workplace raids, as with raids

⁷ U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Search & Analysis System DHS/ICE/PIA-032(b) FALCON-SA*, 11 October 2016, available at www.dhs.gov/sites/default/files/publications/privacy-pia-ice-032-falcons-b-october2016.pdf; U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Tipline DHS/ICE/PIA-033*, 2 November 2012, available at www.dhs.gov/sites/default/files/publications/ice-pia-033-falcon-tipline-2012.pdf; see NILC, *GLOSSARY AT A GLANCE: Immigration Databases, Information Sharing Systems, and Case Management Systems*.

⁸ See George Joseph, “Data Company Directly Powers Immigration Raids in Workplace,” WNYC, 16 July 2019, available at www.wnyc.org/story/palantir-directly-powers-ice-workplace-raids-emails-show/; Spencer Woodman, “Palantir Provides the Engine for Donald Trump’s Deportation Machine,” *The Intercept*, 2 March 2017, available at <https://theintercept.com/2017/03/02/palantir-provides-the-engine-for-donald-trumps-deportation-machine/>; NILC, *How ICE Blurs the Line between Enforcement of Civil Immigration Violations and Enforcement of Criminal Laws*, 27 August 2019, available at www.nilc.org/2019/08/27/ice-blurs-line-between-civil-and-criminal-enforcement/; Mijente, *The War Against Immigrants: Trump’s Tech Tools Powered by Palantir*, August 2019, available at https://mijente.net/wp-content/uploads/2018/10/WHO’S-BEHIND-ICE_-The-Tech-and-Data-Companies-Fueling-Deportations-v1.pdf; Investor Alliance for Human Rights, *Human Rights Risks Briefing: Palantir Technologies*, November 2019, available at https://investorsforhumanrights.org/sites/default/files/attachments/2019-11/FINAL%20Investor%20Alliance_Human%20Rights%20Risk%20Briefing%20-%20Palantir.pdf.

⁹ U.S. Department of Homeland Security/Immigration and Customs Enforcement/Office of Acquisition Management, *Limited-Sources Justification, Orders or BPAs Exceeding the Simplified Acquisition Threshold, Investigative Case Management (ICM) System*, 22 July 2019, available at www.scribd.com/document/422790159/Un-Redacted-ICE-Palantir-contract-for-Fbo; U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Search & Analysis System DHS/ICE/PIA-032(b) FALCON-SA*; U.S. Department of Homeland Security, *Privacy Impact Assessment for ICE Investigative Case Management DHS/ICE/PIA-045*; see NILC, *How ICE Blurs the Line between Enforcement of Civil Immigration Violations and Enforcement of Criminal Laws*.

¹⁰ U.S. Immigrations and Custom Enforcement, *Unaccompanied Alien Children Smuggling Disruption Initiative: Concept of Operations*, 5 May 2017, available at www.documentcloud.org/documents/5980596-Smuggling-Initiative-ConOP.html; see John Burnett, “ICE Has Arrested More Than 400 In Operation Targeting Parents Who Pay Smugglers,” *National Public Radio*, 18 August 2017, available at www.npr.org/2017/08/18/544523231/arrests-of-undocumented-parents-sparks-debate-between-federal-officials-and-immi; Sam Biddle and Ryan Devereaux, “Peter Thiel’s Palantir Was Used to Bust Relatives of Migrant Children, New Documents Show,” *The Intercept*, 2 May 2019, available at <https://theintercept.com/2019/05/02/peter-thiels-palantir-was-used-to-bust-hundreds-of-relatives-of-migrant-children-new-documents-show/>; National Immigrant Justice Center (NIJC) et al, *ICE and CBP Coercive Enforcement Actions against Sponsors of Unaccompanied Children Conducted in Violation of Family Unity, Protection, and Due Process Rights*, 6 December 2017, available at https://immigrantjustice.org/sites/default/files/content-type/press-release/documents/2017-12/Sponsor%20Enforcement-OIG_CRCL_Complaint_Cover_Letter-FINAL_PUBLIC.pdf.

that ICE carried out in Mississippi in August 2019, which led to the arrest of nearly 700 people and the separation of children from their parents and caregivers, causing irreparable harm to families and communities.¹¹ These raids also led to cases of prolonged detention and deportations, some of which in turn may have occurred without procedural safeguards such as access to legal counsel and adequate interpretation services.¹² Palantir's ICM and FALCON technology facilitated these operations by enabling ICE to identify, share information about, investigate, and track migrants and asylum-seekers to effect arrests and workplace raids. There is a high risk that Palantir contributed to human rights harms through the ways the company's technology facilitated the ICE operations.¹³

¹¹ U.S. Immigration and Customs Enforcement, Homeland Security Investigations, *Application for a Search Warrant, Case 3:19-mj-00205-LRA*, U.S. District Court for the Southern District of Mississippi, 5 August 2019, available at www.ice.gov/sites/default/files/documents/Document/2019/kochfoods-319mj.pdf; U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Tipline DHS/ICE/PIA-033*; see Tim Craig, Scott Wilson, and Nick Miroff, "U.S. defends secretive Mississippi ICE raids as local, state officials decry effect on children," *The Washington Post*, 8 August 2019, available at www.washingtonpost.com/national/us-defends-secretive-miss-ice-raids-as-local-state-officials-decry-effect-on-children/2019/08/08/485d6240-ba21-11e9-b3b4-2bb69e8c4e39_story.html; Maria Domingo Garcia, "I'm a Mother of Four. Palantir's Tech Helped Put Me in an ICE Detention Center," *VICE*, 20 December 2019, available at www.vice.com/en_us/article/k7eqwe/im-a-mother-of-four-palantirs-tech-helped-put-me-in-an-ice-detention-center; Nicole Chavez, Dianne Gallagher, and Maria Cartaya, "A girl who begged for her dad's release after the Mississippi ICE raids reunited with her father," *CNN*, 7 November 2020, available at www.cnn.com/2019/11/07/us/mississippi-ice-raids-family-reunited/index.html; Camilo Montoya-Galvez, "Lawmakers grill ICE official on family separations after Mississippi immigration raids," *CBS NEWS*, 7 November 2019, available at www.cbsnews.com/news/ice-raids-lawmakers-grill-ice-official-on-family-separations-after-mississippi-immigration-raids; see also George Joseph, "Data Company Directly Powers Immigration Raids in Workplace," *WNYC*, 16 July 2019, available at www.wnyc.org/story/palantir-directly-powers-ice-workplace-raids-emails-show/.

¹² U.S. House of Representatives, Committee on Homeland Security, Field Hearing: Immigration Raids: Impacts and Aftermath on Mississippi Communities, 7 November 2019, pp. 17-20, 23-25, 75-78, 82-85, 95-96, available at www.hsd.org/?view&did=844070; see Mississippi Center for Justice, *Mississippi ICE Raids One Year Later: Deepening Crisis And Worsening Injustice*, August 2020, available at <https://mscenterforjustice.org/wp-content/uploads/2020/08/Updated-raids-advocacy-report.docx.pdf>; CLASP, *The Day That ICE Came: How Worksite Raids Are Once Again Harming Children and Families*; Douglas MacMillan and Elizabeth Dvoskin, "The war inside Palantir: Data-mining firm's ties to ICE under attack by employees," *The Washington Post*, 22 August 2019, available at www.washingtonpost.com/business/2019/08/22/war-inside-palantir-data-mining-firms-ties-ice-under-attack-by-employees/; Rachel Zohn, "Recent ICE Raids Overload Mississippi Legal System," *US News*, 18 October 2019, available at www.usnews.com/news/best-states/articles/2019-10-18/recent-ice-raids-by-us-immigration-and-customs-enforcement-overload-mississippi-legal-system; William Pittman, "Families Fearful Amid COVID-19 Outbreaks in Louisiana, Mississippi ICE Prisons; Two Guards Die," *Deep South Voice*, 30 April 2020, available at www.deepsouthvoice.com/index.php/2020/04/30/families-fearful-amid-covid-19-outbreaks-in-louisiana-mississippi-ice-prisons-two-guards-die; Hadley Hitson, "Law students defend ICE detainees six months after mass-arrest," *The Daily Mississippian*, 9 February 2020, available at <https://thedmonline.com/law-students-defend-ice-detainees-six-months-after-mass-arrest/>.

¹³ According to OECD guidance, "an enterprise 'contributes to' an impact if its activities, in combination with the activities of other entities cause the impact, or if the activities of the enterprise cause, facilitate or incentivise another entity to cause an adverse impact. Contribution must be substantial, meaning that it does not include minor or trivial contributions." See OECD, *Due Diligence Guidance for Responsible Business Conduct*, Annex Q29.

Both the targeting of parents and caregivers of unaccompanied children as well as the family separation arising from the targeting of parents and caregivers violate multiple human rights, including the right to family unity, the right to liberty, and the requirement to prioritize the best interests of the child.¹⁴ Family separation is traumatic and causes long-term physical and emotional harm.¹⁵ It also undermines due process for children and parents seeking asylum and subverts the family members' respective asylum claims – contrary to the best interests of the child.¹⁶ The targeting of parents and caregivers of unaccompanied children for arrest also undermines the right to seek asylum by functioning to deter unaccompanied children from coming to the U.S. border to seek safety.¹⁷ It creates conditions for the prolonged detention of children because they cannot be released to sponsoring parents or caregivers who were arrested, and because it creates a chilling effect for future sponsors to come forward, for fear of immigration enforcement tactics being used against them.¹⁸

Workplace raids also result in family separation, which as noted above, violates human rights.¹⁹ Raids can rely on racial profiling and violate human rights obligations and due process.²⁰ They penalize migrant workers, affecting workers' rights and their security in the

¹⁴ For discussion of the human rights standards, see Amnesty International, *'You Don't Have Any Rights Here': Illegal Pushbacks, Arbitrary Detention & Ill-treatment of Asylum-seekers in the United States*, 11 October 2018 (Index: AMR 51/9101/2018), at p. 27, available at www.amnestyusa.org/wp-content/uploads/2018/10/You-Dont-Have-Any-Rights-Here.pdf; see Kids in Need of Defense (KIND), *Targeting Families: How ICE Enforcement against Parents and Family Members Endangers Children*, December 2017, available at <https://supportkind.org/wp-content/uploads/2017/12/Targeting-Families-December-2017.pdf>; NIJC et al, *ICE and CBP Coercive Enforcement Actions against Sponsors of Unaccompanied Children Conducted in Violation of Family Unity, Protection, and Due Process Rights*.

¹⁵ See Wendy Cervantes, Rebecca Ullrich, and Vanessa Meraz, *The Day That ICE Came: How Worksite Raids Are Once Again Harming Children and Families*, The Center for Law and Social Policy (CLASP), 13 July 2020, available at www.clasp.org/publications/report/brief/day-ice-came-how-worksite-raids-are-once-again-harming-children-and; American Immigration Council (AIC), *U.S. Citizen Children Impacted by Immigration Enforcement*, 22 November 2019, available at www.americanimmigrationcouncil.org/research/us-citizen-children-impacted-immigration-enforcement.

¹⁶ Amnesty International, *'You Don't Have Any Rights Here': Illegal pushbacks, arbitrary detention and ill-treatment of asylum seekers in the United States*.

¹⁷ See KIND, *Targeting Families: How ICE Enforcement against Parents and Family Members Endangers Children*; NIJC et al, *ICE and CBP Coercive Enforcement Actions against Sponsors of Unaccompanied Children Conducted in Violation of Family Unity, Protection, and Due Process Rights*.

¹⁸ See Amnesty International USA, *No Home for Children: End the Contract to Operate the Homestead 'Temporary Emergency' Facility*, 18 October 2019, available at www.amnestyusa.org/wp-content/uploads/2019/10/No-Home-For-Children.pdf; NIJC et al, *ICE and CBP Coercive Enforcement Actions against Sponsors of Unaccompanied Children Conducted in Violation of Family Unity, Protection, and Due Process Rights*.

¹⁹ See Tim Craig, Scott Wilson, and Nick Miroff, "U.S. defends secretive Mississippi ICE raids as local, state officials decry effect on children," *The Washington Post*, 8 August 2019, available at www.washingtonpost.com/national/us-defends-secretive-miss-ice-raids-as-local-state-officials-decry-effect-on-children/2019/08/08/485d6240-ba21-11e9-b3b4-2bb69e8c4e39_story.html.

²⁰ See Kavitha Surana, "How Racial Profiling Goes Unchecked in Immigration Enforcement," *ProPublica*, 8 June 2018, available at www.propublica.org/article/racial-profiling-ice-immigration-enforcement-pennsylvania; *Zelaya, et al. v. Hammer*, No.: 3:19-cv-00062-PLR-HBG, U.S. District Court for Eastern

U.S. as they are often charged with civil immigration violations and put into removal proceedings, while employers, let alone owners, are frequently not criminally charged, let alone prosecuted.²¹

The targeting of parents and caregivers of children, family separation, and workplace raids also result in additional human rights violations by sending people into arbitrary and prolonged immigration detention, and during the Coronavirus Disease 2019 (COVID-19) pandemic, putting them at risk of contracting the virus in facilities with inadequate protective measures, violating both their right from arbitrary detention and their right to health. People placed in removal proceedings and subject to deportation also face additional human rights concerns about fair and efficient access to asylum and other humanitarian protection – concerns acutely heightened under the current U.S. government’s harsh and unlawful policies and practices on asylum and immigration, including its obligation not to return people to countries where they face serious human rights violations (the principle of *non-refoulement*). People subject to deportation are entitled to procedural safeguards including the ability to challenge the decision to deport; access to legal counsel; access to interpretation services; and access to a review of a negative decision.²²

Amnesty International has documented the human rights violations against migrant and asylum-seekers under the current U.S. government through punitive restrictions on access to asylum procedures; unlawful family separations; prolonged and indefinite detention of children; mandatory and indefinite detention of people, frequently without parole, for the duration of their asylum claims, constituting arbitrary detention and cruel, inhuman or degrading treatment or punishment (ill-treatment), which is absolutely prohibited in international law; detention during COVID-19, for which the current U.S. government is failing to adequately protect migrants and asylum-seekers whom ICE is detaining across

District, available at www.nilc.org/wp-content/uploads/2019/10/Zelaya-v-Hammer-3d-amended-complaint-2019-08-13.pdf.

²¹ See Rebecca Smith, Ana Ana Avendaño, and Julie Martínez Ortega, *Iced out: How immigration enforcement has interfered with workers’ rights*, 2009, available at <http://digitalcommons.ilr.cornell.edu/laborunions/29/>; Renae Merle, “As workplace raids multiply, Trump administration charges few companies,” *The Washington Post*, 9 August 2019, available at www.washingtonpost.com/business/2019/08/09/workplace-raids-multiply-trump-administration-charges-few-companies/; Luke Ramseth, “Undocumented workers busted. Employers often not. What we learned from 6 ICE raids in U.S.,” *Clarion Ledger*, 17 October 2019, available at www.clarionledger.com/story/news/2019/10/17/ice-illegal-immigration-raids-cases-show-employers-seldom-face-charges/2365740001/. Nearly one year after the raids and reflecting an uncommon action, ICE announced on 5 August 2020 it was filing criminal charges against four managers – but none against the owners of the companies or the facilities. In contrast, some people arrested during the raids are still in immigration detention. Alissa Zhu and Maria Clark, “A year after Mississippi ICE raids, chicken plants face few penalties as families suffer,” *Clarion Ledger*, 7 August 2020, available at www.clarionledger.com/in-depth/news/2020/08/07/mississippi-ice-raids-immigrants-struggle-few-penalties-chicken-plants/5407320002/.

²² Amnesty International USA, *In Hostile Terrain: Human Rights Violations in Immigration Enforcement in the US Southwest*, 2012 (Index: AMR 51/018/2012), available at www.amnestyusa.org/files/ai_inhostileterrain_final031412.pdf

the U.S.; the return of people to countries where they face serious human rights violations (in violation of the U.S. obligation of non-*refoulement*); and unlawful policies authorizing deportations, including the deportation of people while diagnosed with COVID-19.²³

Amnesty International's reporting is not alone in covering this ongoing catastrophic harm. Other independent NGOs as well as media have consistently and widely reported on the current U.S. government's policies and practices harming and violating the human rights of migrants and asylum-seekers, including the use of Palantir technology in potentially

²³ Amnesty International, *Facing Walls: USA and Mexico's Violations of the Rights of Asylum-Seekers*, 2017 (Index: AMR 01/6426/2017), available at www.amnestyusa.org/wp-content/uploads/2017/06/USA-Mexico-Facing-Walls-REPORT-ENG.pdf; Amnesty International, *'You Don't Have Any Rights Here': Illegal pushbacks, arbitrary detention and ill-treatment of asylum seekers in the United States*; Amnesty International, *Americas: Stuck at the Door: The Urgent Need for Protection of Central American Refugees, Asylum Seekers and Migrants in the Caravans*, November 2018 (Index: AMR 01/9447/2018), available at www.amnestyusa.org/wp-content/uploads/2018/11/STUCK-AT-THE-DOOR-en.pdf; Amnesty International USA, *No Home for Children: The Homestead 'Temporary Emergency' Facility*, 17 July 2019, available at www.amnestyusa.org/wp-content/uploads/2019/07/Homestead-Report_1072019_AB_compressed.pdf; Amnesty International USA, *No Home for Children: End the Contract to Operate the Homestead 'Temporary Emergency' Facility*, 18 October 2019, available at www.amnestyusa.org/wp-content/uploads/2019/10/No-Home-For-Children.pdf; Amnesty International, *'We Are Adrift, About to Sink': The Looming Covid-19 Disaster In United States Immigration Detention Facilities*, April 2020 (Index: AMR 51/2095/2020), available at www.amnestyusa.org/wp-content/uploads/2020/03/WeAreAdrift.pdf; Amnesty International USA, *Amnesty International USA Calls on DHS to Temporarily Halt Deportations*, 6 May 2020, available at www.amnestyusa.org/amnesty-international-usa-calls-on-dhs-to-temporarily-halt-deportations; Amnesty International USA, *Family Separation 2.0: 'You aren't going to separate me from my only child,'* 21 May 2020, available at www.amnestyusa.org/wp-content/uploads/2020/04/Amnesty-International-USA-Family-Separation-2.0_May-21-2020-.pdf; Amnesty International USA, *Comments in Opposition to 'Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review,'* 15 July 2020, available at www.amnestyusa.org/wp-content/uploads/2020/07/7.15.2020-Amnesty-International-Comment-Opposing-June-10-Asylum-Reg.pdf; Amnesty International, *Update to Amnesty International Report on COVID-19 in US Immigration Detention*, 31 August 2020, available at www.amnestyusa.org/wp-content/uploads/2020/09/Covid-in-Detention-Campaign-Update-31-August-2020.pdf.

facilitating some of those harms.²⁴ Indeed, Palantir's own employees have protested the company's contracts with ICE/HSI.²⁵ Yet Palantir has persisted in its course.

In summary, the human rights violations arising from DHS/ICE's policies and practices targeting migrants and asylum-seekers are well documented and publicly known. Moreover, as outlined above there have already been specific instances where ICE executed some of these harmful policies by utilizing Palantir's technology to identify, share information about, investigate, and track migrants and asylum-seekers to effect arrests and workplace raids. There is therefore a high risk that Palantir, through its contracts with ICE/HSI, is contributing to ICE's violations of the rights of migrants and asylum-seekers.

PALANTIR'S FAILURE TO CARRY OUT HUMAN RIGHTS DUE DILIGENCE

Amnesty International contacted Palantir on 10 September 2020 giving the company the opportunity to respond to these concerns. The letter requested evidence of human rights due diligence that Palantir has carried out with respect to its contracts to provide ICM and FALCON to ICE, and what actions the company has taken to address the risk of Palantir

²⁴ See American Civil Liberties Union, Human Rights Watch, and National Immigrant Justice Center, *Justice-Free Zones: U.S. Immigration Detention Under the Trump Administration*, April 2020, available at www.hrw.org/news/2020/04/30/us-new-report-shines-spotlight-abuses-and-growth-immigrant-detention-under-trump; Physicians for Human Rights, 'You Will Never See Your Child Again': The Persistent Psychological Effects of Family Separation, February 2020, available at <https://phr.org/our-work/resources/you-will-never-see-your-child-again-the-persistent-psychological-effects-of-family-separation/>; Nicole Narea, "The demise of America's asylum system under Trump, explained," *Vox*, 5 November 2019, available at www.vox.com/2019/11/5/20947938/asylum-system-trump-demise-mexico-el-salvador-honduras-guatemala-immigration-court-border-ice-cbp; Claire Hansen, "Trump Administration's Immigration Policies Violate Civil Rights, Government Agency Says," *US News*, 24 October 2019, available at www.usnews.com/news/national-news/articles/2019-10-24/trump-administrations-immigration-policies-violate-civil-rights-government-agency-says; USA Today, "Deaths in custody. Sexual violence. Hunger strikes. What we uncovered inside ICE facilities across the US," 22 December 2019, available at www.usatoday.com/in-depth/news/nation/2019/12/19/ice-asylum-under-trump-exclusive-look-us-immigration-detention/4381404002/; George Joseph, "Data Company Directly Powers Immigration Raids in Workplace"; Spencer Woodman, "Palantir Provides the Engine for Donald Trump's Deportation Machine"; NILC, *How ICE Blurs the Line between Enforcement of Civil Immigration Violations and Enforcement of Criminal Laws*; Mijente, *The War Against Immigrants: Trump's Tech Tools Powered by Palantir*; Investor Alliance for Human Rights, *Human Rights Risks Briefing: Palantir Technologies*; National Immigration Project, Mijente, and the Immigrant Defense Project, *Who's Behind ICE? The Tech Companies Fueling Deportations*, 2018, available at www.nationalimmigrationproject.org/PDFs/community/2018_23Oct_whos-behind-ice.pdf.

²⁵ See Rosalie Chan, "Palantir workers are split over the company's work with ICE, but CEO Alex Karp won't budge despite concerned employees' petitions," *Business Insider*, 22 August 2019, available at www.businessinsider.com/palantir-employees-ice-petition-alex-karp-2019-8; Douglas MacMillan and Elizabeth Dwoskin, "The war inside Palantir: Data-mining firm's ties to ICE under attack by employees."

contributing to the U.S. government's human rights violations. Palantir's letter in response, dated 18 September 2020, is provided in full in the annex below.

While Palantir supplied answers to Amnesty International's questions, it failed to provide details of human rights due diligence on its contracts for ICM and FALCON. Palantir does have "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."²⁶ It also states that it "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."²⁷ Nonetheless, through these general statements the company did not provide sufficient information to give stakeholders, including affected people and communities, an accurate picture of the risks the company has identified in relation to these contracts, the measures taken to mitigate those risks, and the actual impact of the company's operations.

Palantir asserts that its products and services are used for "cross-border criminal investigation" under ICE/HSI and not for civil immigration enforcement under ICE's ERO, stating that "Palantir's software does not facilitate ERO's civil immigration enforcement generally and, thus, also does not facilitate ERO's detention and deportation functions."²⁸ However, there is a discrepancy between this claim and evidence from other sources. Government documents indicate Palantir's products and services for HSI have been used for ERO civil immigration enforcement; for example, DHS's own Privacy Impact Assessments (PIAs) in 2016 state that "ERO also uses ICM data to inform its civil cases" and that "ICE developed FALCON-SA to enhance ICE's ability to identify, apprehend, and prosecute individuals who violate criminal, civil, and administrative laws enforced by ICE".²⁹ As set out above, there are also specific cases where Palantir's products and services have been used by ICE in the arrest of parents and caregivers of unaccompanied

²⁶ Palantir Letter to Amnesty International, 18 September 2020, p. 3, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

²⁷ Palantir Letter to Amnesty International, 18 September 2020, p. 3, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

²⁸ Palantir Letter to Amnesty International, 18 September 2020, p. 3, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf; see "DealBook Briefing: Investors May Be Overlooking Their Own Discrimination," *The New York Times*, 11 December 2018, available at www.nytimes.com/2018/12/11/business/dealbook/investor-bias-discrimination.html.

²⁹ U.S. Department of Homeland Security, *Privacy Impact Assessment for ICE Investigative Case Management DHS/ICE/PIA-045*; U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Search & Analysis System DHS/ICE/PIA-032(b) FALCON-SA*. Palantir disputes the accuracy of the documents. See Palantir Letter to Amnesty International, 18 September 2020, p. 3, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

children and workplace raids, leading to family separations, detentions, and deportations.³⁰ Finally, in January 2020, Palantir's CEO admitted that its technology was in fact used to identify immigrants who are "undocumented" as part of immigration enforcement.³¹ Although Palantir disputes the accuracy of the DHS PIAs and media reporting, other documents demonstrate that ICE's use of its technology facilitated operations leading to human rights violations.³²

Furthermore, Palantir has not accounted for how it addresses the risk of adverse human rights impacts linked to HSI's workplace enforcement operations themselves. In its response, the company acknowledged the role of HSI in carrying out arrests of undocumented workers, but states this is "limited" and amounts to only a small percentage of HSI's operations.³³ However, a company can still have a severe human rights impact regardless of the number of individuals impacted.³⁴

Regarding raids themselves, Palantir has not acknowledged negative impacts of the resulting family separation, common to raids, or how people were put into detention and removal proceedings and face deportation, also common to raids. The company's response addresses only family separations conducted by DHS's Customs and Border (CBP) agency – and not those resulting from ICE operations – in order to dismiss any responsibility for family separations enabled by its technology.³⁵ Nor did it address how, at a time when the current U.S. government has repeatedly emphasized through policy, practice, and rhetoric the intent to target migrants, asylum-seekers, and refugees with punitive measures, the

³⁰ U.S. Immigrations and Custom Enforcement, "Unaccompanied Alien Children Smuggling Disruption Initiative: Concept of Operations; Investor Alliance for Human Rights, *Human Rights Risks Briefing: Palantir Technologies*; National Immigration Project et al, *Who's Behind ICE? The Tech Companies Fueling Deportations*; Spencer Woodman, "Palantir Provides the Engine for Donald Trump's Deportation Machine"; Douglas MacMillan and Elizabeth Dvoskin, "The war inside Palantir: Data-mining firm's ties to ICE under attack by employees."

³¹ Will Feuer, "Palantir CEO Alex Karp defends his company's relationship with government agencies," CNBC, 23 January 2020, available at www.cnn.com/2020/01/23/palantir-ceo-alex-karp-defends-his-companys-work-for-the-government.html. In its response, Palantir stated that its CEO's quotes were taken out of context. Palantir Letter to Amnesty International, 18 September 2020, pp. 3-4, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

³² U.S. Immigrations and Custom Enforcement, "Unaccompanied Alien Children Smuggling Disruption Initiative: Concept of Operations"; U.S. Immigration and Customs Enforcement, Homeland Security Investigations, *Application for a Search Warrant, Case 3:19-mj-00205-LRA*; U.S. Department of Homeland Security, *Privacy Impact Assessment Update for the FALCON Tipline DHS/ICE/PIA-033*; see also George Joseph, "Data Company Directly Powers Immigration Raids in Workplace."

³³ Palantir Letter to Amnesty International, 18 September 2020, p. 4, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

³⁴ "Severity of impacts will be judged by their scale, scope and irremediable character," OECD Due Diligence Guidance for Responsible Business Conduct, Annex Q3.

³⁵ Palantir Letter to Amnesty International, 18 September 2020, pp. 2,5, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

steady spike in workplace raids fits this profile – and contravenes Palantir’s stated aim to avoid the “risks of disproportionate immigration enforcement inside the U.S.”³⁶ It dismissed the impact of the Mississippi raids by noting that nearly half of the people had been released from detention on humanitarian parole, but did not acknowledge that people were still in detention, a year later and during COVID-19, and that people were deported.³⁷

Lastly, Palantir states it has "purposefully declined to take on contracts with ERO and CBP" because of these concerns and “the risks of disproportionate immigration enforcement inside the U.S.”³⁸ That decision only reinforces that Palantir is aware of the human rights impact its technology can have on migrant and asylum-seekers. Stating that it does not contract with ICE ERO and CBP does not absolve Palantir from its responsibility to respect human rights in relation to its existing contracts.

In summary, when requested, Palantir did not provide sufficient evidence to show it has carried out human rights due diligence in relation to its contracts with ICE. Palantir returned to its default argument that it did not contract with ERO (or CBP), while arguing away or ignoring the risk of adverse impacts of the ICM and FALCON technology on the rights of migrants and asylum-seekers. It denied that the technology benefits ERO, despite evidence to the contrary, and did not account for the risk of human rights impacts of HSI’s “worksite operations” or subsequent human rights impacts following from these HSI raids, such as family separation, detention, and deportation.

As transparency is a key component of due diligence, Palantir should have communicated not only the due diligence steps it has taken to become aware of and address risks posed by the contracts for ICM and FALCON for ICE/HSI, but also the effectiveness of the implementation of these steps and the extent to which the due diligence process has resulted in respect for human rights. Palantir should have reported on identified risks and actual mitigation action, as well as on specific incidents where negative impacts have occurred. Instead, in its response to Amnesty International Palantir stated that it "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" without laying out the specific due diligence measures that it has taken in relation to its contracts with DHS to provide ICM and FALCON for ICE. Conversely, if Palantir had in place adequate due diligence processes around ICM

³⁶ Palantir Letter to Amnesty International, 18 September 2020, p. 2, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

³⁷ Palantir Letter to Amnesty International, 18 September 2020, p. 5, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

³⁸ Palantir Letter to Amnesty International, 18 September 2020, p. 2, available at www.amnestyusa.org/wp-content/uploads/2020/09/Palantir-Technologies-Response-to-Amnesty-International-Letter.pdf.

and FALCON, it would have identified the serious risk of contributing to DHS/ICE's violation of the human rights of migrants and asylum-seekers.³⁹

Given Palantir's failure to provide evidence of its human rights due diligence and adequately address Amnesty International's concerns and questions, it appears Palantir has failed to put an adequate due diligence process in place with respect to its contracts to provide ICE/HSI with ICM and FALCON and is therefore failing to meet its responsibility to respect human rights.

CONCLUSION AND RECOMMENDATIONS

Instead of substantively addressing the human rights risks of its contracts with ICE, Palantir has sought to deflect and minimize its responsibility to protect human rights. In repeatedly pointing to the fact that it does not have a contract with ERO or CBP the company suggests that there are no risks linked to its ongoing ICE/HSI contracts, when there is significant evidence to indicate that this is far from the case.

As discussed above, because Palantir has failed to put an adequate due diligence process in place with respect to ICM and FALCON, it is failing to meet its responsibility to respect human rights. Furthermore, through Palantir's contracts with DHS/ICE for provision of ICM and FALCON for HSI, there is a high risk that Palantir is contributing to serious human rights violations of migrants and asylum-seekers.

Amnesty International therefore calls on Palantir to immediately carry out human rights due diligence and take effective steps to ensure that its technology is not contributing to abuses against migrants and asylum-seekers by the U.S. government. As part of this due diligence, Palantir must publish details of the technology it has provided to ICE through its contracts, and the human rights safeguards it has put in place. Until Palantir can demonstrate that its technology is not contributing to abuses against migrants and asylum-seekers and can ensure its technology will not be used for these purposes, it must urgently consider suspending all activities to provide DHS/ICE with products and services that facilitate civil immigration enforcement operations.

³⁹ In contrast, Palantir has acted when it assessed potential harm from its products and services. In 2016, Palantir CEO Alex Karp admitted that the company did not contract with a tobacco company because the company could use the data to identify vulnerable communities to which to sell cigarettes. See Matt Weinberger, "Silicon Valley's most secretive startup won't sell to tobacco companies," *Business Insider*, 12 March 2016, available at www.businessinsider.com.au/palantir-revenue-and-bookings-2016-3. Palantir's action regarding the tobacco company, as opposed to failure to act regarding its contacts with DHS/ICE for provision of ICM and FALCON for HSI, which facilitate ICE executing practices well-documented to be harmful, suggests that either Palantir failed to conduct due diligence around ICM and FALCON or that it has not acted on any due diligence it might have conducted.

Amnesty International also calls on the U.S. Congress to conduct robust oversight into Palantir's contracts with various federal agencies and its increasing entrenchment in government operations, in particular its contracts with DHS/ICE.

Recommendations:

To Palantir

- Immediately carry out human rights due diligence and take effective steps to ensure that its technology is not contributing to abuses against migrants and asylum-seekers by the U.S. government. As part of this due diligence, Palantir must publish details of the technology it has provided to ICE through its contracts, and the human rights safeguards it has put in place.
- Until Palantir can demonstrate that its technology is not contributing to abuses against migrants and asylum-seekers and can ensure its technology will not be used for these purposes, it must urgently consider suspending all activities to provide DHS/ICE with products and services that facilitate civil immigration enforcement operations.

To the U.S. Congress

- Conduct oversight into all aspects of Palantir's contracting with federal government agencies, including contracts with DHS/ICE for technologies that risk facilitating human rights abuses.

ANNEX - Palantir Response to Amnesty International

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](#) that have been frequently cited, of the 680 individuals arrested, 300 were promptly [released on humanitarian grounds](#). 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