

March 10, 2022

Via Email

Katie Conner
Public Information Officer
State of Arizona Attorney General
2005 North Central Ave.
Phoenix, AZ 85004
PublicRecords@azag.gov

**RE: Public Records Request Concerning Collection of Bulk Records
of Wire Transfers To and From Arizona and Other Southwestern
States**

Dear Public Information Officer:

This is a request under the Arizona Public Records Law § 39.121 et seq., on behalf of the American Civil Liberties Union of Arizona, the American Civil Liberties Foundation of Arizona, the American Civil Liberties Union, and the American Civil Liberties Union Foundation (together “ACLU”)¹ to examine and copy, or be furnished with copies of, certain public records in the possession of the State of Arizona Attorney General. The requestors seek records related to the bulk collection of information from Western Union and other wire transfer companies about money transfers to or from individuals in Arizona, California, New Mexico, and Texas.

I. Background

On March 8, 2022, U.S. Senator Ron Wyden sent a letter to the Department of Homeland Security (“DHS”) Inspector General revealing that DHS, through the Phoenix Field Office of Immigration and Customs Enforcement, Homeland Security Investigations (“HSI”) (the “Phoenix Field Office”) has been misusing a federal customs summons statute to request bulk records of money transfers made or received by people in four southwestern states.²

¹ The American Civil Liberties Union Foundation of Arizona and the American Civil Liberties Union Foundation are 26 U.S.C. § 501(c)(3) organizations that provide legal representation free of charge to individuals and organizations in civil rights and civil liberties cases, and educate the public about civil rights and civil liberties issues in Arizona and across the country. The American Civil Liberties Union of Arizona and the American Civil Liberties Union are separate non-profit, 26 U.S.C. § 501(c)(4) membership organizations that educate the public about the civil liberties implications of pending and proposed state and federal legislation, provide analysis of pending and proposed legislation, directly lobby legislators, and mobilize their members to lobby their legislators.

² Senator Ron Wyden, Letter to the Honorable Joseph V. Cuffari, Inspector General of the Department Homeland Security (“Wyden Letter”) 1 (Mar. 8, 2022), available at



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Using summonses issued under the purported authority of 19 U.S.C. § 1509, the Phoenix Field Office directed two wire transfer companies, Western Union and Maxitransfers Corporation (“Maxi”), to turn over all records of wire transfers exceeding \$500 made to or from the states of Arizona, California, New Mexico and Texas. Western Union and Maxi were reportedly directed to provide the records to the Transaction Record Analysis Center (“TRAC”), a nonprofit organization established by the Arizona Attorney General in connection with the now-expired legal settlement in *State of Arizona v. Western Union Financial Services, Inc.*, No. CV 2010-00507 (Maricopa County Superior Court). TRAC has provided access to its stored data to “hundreds of federal, state, and local law enforcement agencies, who are able to query and use this data without any kind of court supervision.”³ TRAC’s database also reportedly includes millions of records provided by other wire transfer companies without any legal process whatsoever.



The collection of bulk records reflecting people’s financial transactions in the TRAC database, pursuant to faulty legal process or no legal process at all, raises serious questions about legal compliance, and the collection of these records disproportionately impacts members of poor, minority, and immigrant communities who often do not have access to banking services and therefore rely on wire transfer companies to send and receive money. The public currently lacks information on the role of the Attorney General’s office in establishing and managing TRAC, what other agencies have access to the data in TRAC and under what circumstances, and how TRAC has continued to ingest records following the expiration of the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*

This Request seeks records to provide the public with critical information that will inform debate by lawmakers and members of the public over this controversial program.

II. Requested Records

For the purposes of this Request, “Records” are collectively defined to include all records preserved in electronic or written form, but are not limited to: text communications between phones or other electronic devices (including, but

https://www.wyden.senate.gov/imo/media/doc/DHS%20IG%20ICE_HSI%20data%20complaint%20final.pdf; see also Michelle Hackman & Dustin Volz, *Secret Surveillance Program Collects Americans’ Money-Transfer Data, Senator Says*, The Wall Street Journal (Mar. 8, 2022), <https://www.wsj.com/articles/secret-surveillance-program-collects-americans-money-transfer-data-senator-says-11646737201>; Hamed Aleaziz, *ICE Conducted Sweeping Surveillance Of Money Transfers Sent To And From The US, A Senator Says*, BuzzFeed News (Mar. 8, 2022), <https://www.buzzfeednews.com/article/hamedaleaziz/ice-western-union-records-wyden>

³ Wyden Letter at 2.

not limited to, communications sent via SMS or other text, Blackberry Messenger, iMessage, WhatsApp, Signal, Gchat, or Twitter direct message); e-mails; images, video, and audio recorded on cell phones; voicemail messages; social-media posts; instructions; directives; guidance documents; formal and informal presentations; training documents; bulletins; alerts; updates; advisories; reports; legal and policy memoranda; contracts or agreements; minutes or notes of meetings and phone calls; and memoranda of understanding. The ACLU seeks release of the following:

1. From June 1, 2018 to the present, all communications with Western Union concerning:
 - a. The expiration of the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*, No. CV 2010-00507 (Maricopa County Superior Court); and
 - b. The provision of records regarding all wire or money transfers to or from Arizona, California, New Mexico, Texas, or Mexico (the “bulk records”) to the office of the Arizona Attorney General, the Phoenix Field Office of Homeland Security Investigations, or the Transaction Record Analysis Center (“TRAC”), including Western Union’s refusal to continue providing such records in the absence of legal process;
2. From January 1, 2020 to the present, all communications with Maxitransfers Corporation (“Maxi”) concerning the provision of bulk records regarding wire or money transfers to the office of the Arizona Attorney General, the Phoenix Field Office of Homeland Security Investigations, or TRAC, including Maxi’s refusal to provide or continue providing such records in the absence of legal process;
3. From January 1, 2014 to the present, all communications with money transfer or wire transfer companies other than Western Union concerning the provision of bulk records regarding wire or money transfers to the office of the Arizona Attorney General or to TRAC. Such companies may include, but are not limited to:
 - a. Euronet Worldwide, Inc., and its subsidiary Ria Money Transfer d/b/a Ria;
 - b. Vigo Remittance Corp. d/b/a Vigo (a subsidiary of Western Union);
 - c. Paypal Holdings Inc. d/b/a Paypal, and its subsidiary Xoom;
 - d. TransferMate;
 - e. Wise U.S. Inc., d/b/a Wise;
 - f. Remitly, Inc. d/b/a Remitly;
 - g. OFX Group, Ltd. and its subsidiary USForex;
 - h. WorldRemit Corp. d/b/a WorldRemit;
 - i. moneycorp US Inc. d/b/a moneycorp;





- j. Payoneer, Inc. d/b/a Payoneer;
 - k. Stripe, Inc. d/b/a Stripe;
 - l. MoneyGram International, Inc. d/b/a MoneyGram;
 - m. NIUM Inc. d/b/a Instarem;
 - n. CurrencyFair;
 - o. Azimo;
 - p. Viamericas Corporation (a.k.a Vianex) d/b/a Viamericas; and
 - q. DolEx Dollar Express, Inc. d/b/a DolEx;
4. From June 1, 2018 to the present, all communications with any employee or agent of the Phoenix Field Office of Immigration and Customs Enforcement, Homeland Security Investigations concerning:
 - a. TRAC;
 - b. Summonses issued to, other requests made to, or data received from Western Union or Maxi;
 - c. Requests to or data received from other wire transfer or money transfer companies; and
 - d. The expiration of the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*, No. CV 2010-00507 (Maricopa County Superior Court), in early 2019;
 5. The following communications with employees or agents of TRAC:
 - a. All communications from September 1, 2018 through March 1, 2019 concerning the expiration of the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*, No. CV 2010-00507 (Maricopa County Superior Court), in early 2019, and concerning any efforts to ensure that Western Union continued sending records to TRAC after the expiration of the settlement agreement; and
 - b. All communications from January 1, 2021 to the present;
 6. All records concerning the relationship between the office of the Arizona Attorney General and TRAC, including the office of the Attorney General's role or responsibility in creating, funding, supervising, managing, or advising TRAC;
 7. Records sufficient to identify other federal, state, and local agencies that have had access to data held by TRAC, including bulk records regarding wire or money transfer records; and
 8. All records containing discussion or analysis of the legality of the Attorney General, Homeland Security Investigations, or TRAC requesting or obtaining bulk records regarding wire or money transfers:

- a. From Western Union following the expiration of the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*, No. CV 2010-00507 (Maricopa County Superior Court), in early 2019; and
- b. From companies not subject to the settlement agreement in *State of Arizona v. Western Union Financial Services, Inc.*


III. Application for Prompt Processing


Please comply with this request on or before March 24, 2022, or we will deem the request denied. See A.R.S. § 39-121(D)(1) and (E) (public records must be furnished “promptly”); see also, e.g., *Phoenix New Times L.L.C. v. Arpaio*, 217 Ariz. 533, 538, 177 P.3d 275, 280 (Ct. App. 2008) (“[T]o the extent the party does not receive a prompt response, [a]ccess to a public record is deemed denied”). We will accept documents on a rolling basis as reasonable. If there are ways we can expedite processing, let us know. If this request is denied in whole or in part, please justify any redactions or withholdings by referencing the specific grounds on which the information is withheld under Arizona’s public records law. All divisible portions of otherwise exempt material must be produced. We reserve the right to challenge your decision to withhold any information.

We prefer to receive records in electronic format if possible. Please let us know before you incur costs if the costs will exceed \$100.

The requested documents can be emailed to jkeenan@acluaz.org or mailed to ACLU of Arizona, Attn. Jared G. Keenan, P.O. Box 17148, Phoenix, Arizona 85011. If you have any questions regarding the processing of this request, please contact the ACLU of Arizona at jkeenan@acluaz.org. Thank you for your consideration.

Very truly yours,


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