

Testimony of David L. Carter
Assistant Chief of Police, Austin Texas

Before the
House Energy and Commerce
Subcommittee on Oversight and Investigations

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Chairman Whitfield, Ranking Member Stupak and Members of the Subcommittee:

I am David L. Carter, Assistant Police Chief for the City of Austin, Texas and I am pleased to appear before you today to discuss the issue of Internet Data Brokers and “Pre-Texting”.

The members of the Austin Police Department are committed to providing excellent law enforcement to the nearly 700,000 citizens of Austin, Texas. The Austin Police Department has nearly 300 detectives and investigators who work on roughly 80,000 cases per year. Like other police departments around the country, we often utilize modern technology to enhance our ability to fight crime.

Technology, when used appropriately and effectively, not only helps us make the most of limited police resources, but also provides us with crime-fighting tools that are not otherwise available. When conducting investigations, law enforcement officers will use many sources of information that run the gamut from confidential informants to personal interviews to public data sources and the internet. As technology evolves, prudent police forces would be remiss in not

availing themselves of powerful search engines and public data sources, when using such sources would help solve crimes.

Commercially available databases of public records are a powerful investigative tool for local police forces. These databases typically contain information that is readily available in the public domain from various sources. The utility of these internet databases is that they consolidate such public information into one database that can be quickly and easily searched by an investigator. As such, these commercially available databases provide local police departments with critical information in a manner that not only saves time and money but also alerts us to other potential leads that help us achieve successful prosecution of criminal offenses.

Of course, our police officers recognize that we are bound in such matters by the protections afforded under the Constitution, various statutes and case law, and we scrupulously strive to gather information by legal means with the ultimate goal of achieving successful prosecution of criminals. Failing to do so would not only undermine the public trust in this police department, but would also risk having evidence excluded at trial. To that end, I commend the members of the Subcommittee for their efforts on this issue and am pleased to provide them with an overview of the measures undertaken by the Austin Police Department to ensure that we meet that standard.

- First, in light of the recent media focus on the issue of illegitimate data brokers who obtain personal information using false pretexts, the Department has recently initiated an internal review of its officers' use of data brokers.

Although the investigation is still on-going, we have found no evidence to date that our detectives have engaged in illegal investigatory practices. In addition, we have found no evidence to date that the Department has paid for any services by data brokers or that individual call records were received from data brokers.¹ Given the on-going nature of the review, I will respectfully refrain from disclosing more detailed information until the investigation is completed so that I do not convey inaccurate or incomplete information. Our Department is comprised of officers committed to carrying out their duties with the utmost integrity and I would be very surprised if any of my detectives intentionally and knowingly purchased phone records from data brokers who gained such records through pre-texting.

- Second, because of the ambiguity that exist on the internet and the sometimes misleading claims that are made by illicit online data brokers, I have issued a directive that makes clear that Austin Police Department employees shall not purchase or access telephone records or personal information from data-brokers unless they have been vetted by the Department. We currently have contracts

¹ Call records contain such information as dates calls were made, numbers called and the duration of such calls. This type of information is provided to law enforcement by telephone companies upon service of a subpoena. This type of information should not be available in the public realm, unlike names, matched with telephone numbers and addresses.

with five data providers that we believe are committed to protecting individuals' privacy by following all relevant laws in this area.

Of course, our officers will continue the practice of acquiring investigatory information from multiple sources and when appropriate obtain the proper legal authority (court orders, subpoenas or warrants) to do so. Finally, we will continue to present all discovered information to the appropriate criminal courts which vet the information and ultimately advise us on its admissibility as evidence.

Mr. Chairman, information and technology are powerful tools for good, and as noted in the Committee Report that accompanied Chairman Barton's legislation, they can also be powerful tools for those who also wish to commit harm. I commend the efforts of this committee and the efforts by the House to address the issue of pre-texting by cracking down on those who illegally obtain citizens' personal information and then try to profit from it. It is important that as Congress focuses on the problems associated with those profiting from illegally obtained information, that it set clear guidelines to govern the ability of law enforcement to utilize technologies in an appropriate and lawful manner in order to aid our ability to fight crime.

In closing, the Austin Police Department shares the concerns of the members of this Subcommittee with respect to pre-texting, and I thank the Subcommittee for providing me with the opportunity to testify before it today.