



**Statement of the Center for Democracy & Technology
Regarding Use of Data to Fight COVID-19**

April 30, 2020

The spread of the novel coronavirus and COVID-19 has prompted many approaches to the use of data to help stop the pandemic and save lives. The Center for Democracy & Technology (CDT) has been consulting with a group of individuals from companies and civil society organizations, lawyers, academics, health professionals, and technologists who have come together as the Coronavirus: Data for Life and Liberty Task Force*, to explore how data should and should not be used to fight the pandemic while avoiding unnecessary and disproportionate loss of privacy and civil liberties. The data at issue includes location and proximity information generated by the operation of mobile computing devices such as smartphones. We are engaged in ongoing conversations about what works, what doesn't work, and what should be further explored considering both efficacy and privacy and civil liberties impact.

These conversations are occurring in a dynamic environment. New facts emerge quickly and can influence judgments about the best course of conduct. As our discussions progress, CDT offers some preliminary observations about approaches to the use of data in the fight against the coronavirus:

Efficacy: Governmental decisions about whether to collect or seek disclosure of data should be informed by health professionals in consultation with technologists familiar with the nature of the data at issue. Some data is simply not useful to establish risk of contagion or evidence of quarantine violations. For example, data that is not precise or accurate enough to generate actionable information about whether an individual has had epidemiologically significant contact with a person who has contracted COVID-19 is a poor measure of contagion risk.

Volition: Governments should strongly favor voluntary uses of data to which individuals have specifically and explicitly consented. Measures that are based on user consent are more likely to gain public acceptance. Consent should not be coerced. Requests for consent to the use of data should be accompanied by the information needed to make an informed decision, presented in a way that is easily understandable.

Aggregation: Health professionals can draw useful inferences from aggregated data. Some companies are publishing mobility and other data from which inferences can be drawn at the national, state, and in some places, county-level about whether people are altering their travel patterns in conformance with stay-at-home orders and requests.

Consequences: Data that may provide useful insights for some purposes, such as, for example, suggesting that a person consult with a healthcare provider or be tested for COVID-19, may not be reliable enough for other purposes, such as compelling a person to stay quarantined on pain of fine or imprisonment.

Transparency: To build trust in measures taken to protect the public through the use of location or proximity information, government officials should be transparent about the data upon which they rely and how that data is collected, used and shared. Companies that provide data, or inferences from data, should likewise be transparent about how the data is collected, shared, and used, and how and the extent to which users can control such collection, use, and sharing.

Fairness: Data collection, disclosure, and use can have a disparate impact even when engaged in for the most compelling purposes. Companies that provide data or inferences from data, and governments and employers that act on that information, should analyze its impact in order to eliminate discriminatory effects.

Duration: Measures taken today to stop the spread of the coronavirus may not be necessary or appropriate in the future. They may also be insufficient. Accordingly, it would be wise to make such measures time-bound, so they automatically cease after a set period unless specifically re-authorized based on informed judgments of health officials. Detailed records about the efficacy of particular measures should be maintained so as to inform response to any recurrence of COVID-19 or another pandemic. Personal information that is obtained for the purpose of stopping the spread of COVID-19 should be used or shared only for that purpose and should be deleted when it is no longer necessary for responding to the pandemic or conducting public health research.

These are CDT's preliminary views as informed by consultations with the Coronavirus: Data for Life and Liberty Task Force. Our discussions continue as the threat of the novel coronavirus changes and new proposals and approaches emerge to respond to that threat.

This document contains the views of the Center for Democracy & Technology, after consultation with the Coronavirus: Data for Life and Liberty Task Force. **Statements in this document are attributable to CDT and not to individual members of the Task Force or their affiliated entities, which are listed below for purposes of identification only:*

Members of the Coronavirus: Data for Life and Liberty Task Force with Whom CDT Consulted:

Jeff Brueggeman	AT&T
Andrew Crawford, Mallory Knodel, & Greg Nojeim	Center for Democracy & Technology
Andrew Crocker & Adam Schwartz	Electronic Frontier Foundation
Dr. Terry Cullen	Regenstrief Institute
James X. Dempsey	Berkeley Center for Law & Technology
Al Gidari	Stanford Center for Internet & Society
Robyn Greene	Facebook
Susan Landau	Tufts University
David Lieber	Google
Candace Martin and Jeff Ratner	Apple
Ashkan Soltani	Independent
Uttara Sivaram	Uber
Yael Weinman and David Young	Verizon
Daniel Weitzner	MIT
Marc Zwillinger	ZwillGen