



April 30, 2025

To: Representative Lori Trahan
2233 Rayburn House Office Building
Washington, DC 20515

Re: Request for Information on Effort to Reform Privacy Act of 1974, Protect Americans' Data from Government Abuse

The Center for Democracy & Technology (CDT) respectfully submits these comments in response to Representative Lori Trahan's request for information (RFI) regarding efforts to reform the Privacy Act of 1974 to address advances in technology and emerging threats to federal government data privacy. CDT is a nonpartisan, nonprofit 501(c)(3) organization that works to advance civil rights and civil liberties in the digital age. CDT's work includes advocating for responsible government use of data to ensure that government services and benefits are delivered efficiently while protecting people's privacy and civil rights.

The Privacy Act was enacted in recognition of the extreme care that is needed when the federal government collects, processes, and uses sensitive data, including personally identifiable information (PII). The federal government holds a tremendous amount of sensitive information about nearly every person in the U.S., and individuals are often *required* to share such information with government agencies in the first place. As a result, fulfilling its legal obligations to treat such information responsibly has never been more critical. When federal agencies ignore their legal and ethical privacy obligations, that can not only compromise the safety and security of our country, but also puts every individual at increased risk of phishing attacks, fraud, data leaks, and other privacy harms.¹

Given the alarming actions that DOGE has taken to access, use, and centralize data held by government agencies at a speed and scale never before seen, ensuring that our laws sufficiently protect individuals' data is more important now than ever.² CDT has advocated for Privacy Act reforms for nearly two decades, recognizing both the importance of and longstanding need to update specific and limited aspects of the protections established under the law. As the technology and information landscape has evolved dramatically since the mid-1970s, CDT has highlighted how the Privacy Act needs updating to

¹ For example, the House Oversight Committee found that the 2015 data breach at the Office of Personnel Management compromised sensitive personal information and undermined national security. See e.g.: Committee on Oversight and Government Reform, U.S. House of Representatives, *The OPM Data Breach: How the Government Jeopardized Our National Security for More than a Generation* (Sept. 7, 2016), <https://oversight.house.gov/wp-content/uploads/2016/09/The-OPM-Data-Breach-How-the-Government-Jeopardized-Our-National-Security-for-More-than-a-Generation.pdf>.

² Elizabeth Laird et al, *CDT and The Leadership Conference Release New Analysis of DOGE, Government Data, and Privacy Trends*, Center for Democracy & Technology (Mar. 19, 2025), <https://cdt.org/insights/cdt-and-the-leadership-conference-release-new-analysis-of-doge-government-data-and-privacy-trends/>.

keep pace with new data practices. Our past work on the Privacy Act explores these issues, including gaps in coverage and potential violations related to national security and federal law enforcement activities:

- [Coalition Letter to DHS Opposing Surveillance of Activists, Journalists, and Lawyers](#) (2019)
- [5 Takeaways from the New DHS Privacy Guidance](#) (2017)
- [Massive FBI Biometric Database Must Be Subject to Appropriate Public Scrutiny](#) (2016)
- [Comments on FBI's Proposed Exemption from the Privacy Act for Next Generation Identification System](#) (2016)
- [Privacy Act Reforms Would Promote US Respect for Human Rights](#) (2014)
- [A Remedy for Every Wrong? Why We Need a Consistent Privacy Act](#) (2009)
- [Updating the Privacy Act of 1974](#) (2009)
- [Retro is a "No Go" When Privacy Rights Are Involved](#) (2009)
- [CDT Proposes New Federal Privacy Framework for the Digital Age](#) (2009)
- [Recommended Principles for Updating Privacy Laws](#) (2008)
- [CDT: Commission Needed to Explore Revamping Privacy Act](#) (2008)

Across this work, CDT has called for and reinforces the importance of the following reforms:

- **Updating the definition of "system of records":** Presently, the definition of "system of records" is overly narrow because it only includes systems that are retrieved by an individual's name or unique identifier. For example, if information is retrieved from a database based on non-identifying information, such as a zip code, the database would not qualify as a "system of records," even if the database contains PII like social security numbers. This definition should be expanded to clarify that all groups of records held by agencies fall under the definition;
- **Limiting the "routine use" exemption:** Agencies are allowed to disclose personal information if the disclosure is a "routine use," which is defined as a use that "is *compatible* with the purpose for which it was collected." Because "compatible" is relatively broad, this has created a loophole that agencies frequently exploit to avoid their obligations under the Privacy Act. To rectify this gap, the definition of "routine use" should be narrowed to only encompass uses consistent with the original purpose;
- **Expanding the Privacy Act to cover non-U.S. persons:** The definition of "individual" should be expanded to apply to all persons within the U.S., and not just citizens or legally permanent residents. Applying weaker privacy standards to non-U.S. persons jeopardizes the privacy of U.S. persons. Because it is often difficult for federal agencies to determine an individual's current citizenship or immigration status, which can change over time, a U.S. person's sensitive

information may inadvertently be disclosed or otherwise handled in violation of the Privacy Act. As such, these reforms are critical for establishing robust protections for everyone;

- **Strengthening privacy notices:** Agencies' current system of record notices, as required under the Privacy Act, currently are difficult to find and understand for everyday people and therefore fail to meet their intended purpose of informing the public about their privacy rights and how their information will be used. The Privacy Act should be updated to require that privacy notices are collated on a centralized website and include clear, easy-to-understand information about the purposes for which data is used, which entities the data may be shared with, and the authority for these uses of data.

Senators Ron Wyden and Ed Markey recently introduced the Privacy Act Modernization Act, which amends the Privacy Act of 1974 to increase protections for personal data held by the federal government.³ This bill includes many of the reforms that CDT has called for, including narrowing the "routine use" exemption, expanding the definition of "system of record," updating the definition of "record" to cover all PII, and including all persons within the U.S. in the definition of "individual." We encourage Rep. Trahan and other members of Congress to look at this proposal as a valuable starting point for potential reforms to the Privacy Act.

As the legality of DOGE's continued abuse of Americans' privacy is challenged in court, we urge Congress to take steps to uphold and strengthen our existing federal privacy laws. We are grateful for Rep. Trahan's ongoing leadership on these issues, and look forward to continuing to work with Congress on reforming the Privacy Act.

Questions about these comments may be directed to CDT's Director of Equity in Civic Technology Elizabeth Laird at elaird@cdt.org or Quinn Anex-Ries at ganex-ries@cdt.org.

³ Privacy Act Modernization Act of 2025, S.1208, 119th Cong. (2025), <https://www.congress.gov/bill/119th-congress/senate-bill/1208>.