

New York Must Ban Geofence Warrants

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New York’s police and prosecutors are using alarming new legal tactics to gain unprecedented access to New Yorkers’ location history. “Geofence warrants” allow police to compel Google and other tech companies to identify every person in a specified place during a specified period. This geographic area could be as small as an apartment or as large as a city, allowing police track nearly limitless numbers of people with a single court order. Unlike normal search warrants, which require proof that an individual is suspected of particular crime, these search warrants are issued when the police don’t even know how many people’s information will be provided, let alone having probable cause that they each have a connection to a crime.

A.84 and S.296 would ban both geofence warrants and keyword warrants, a related practice that allows police to compel Google and other search engines to reveal everyone who searched for a specific name, event, or address. Both of these general warrants violate the Constitution and could easily be weaponized to track political protest, religious services, and other sensitive sites.

A 2019 example: the [Manhattan District Attorney’s office](#) obtained a reverse location warrant for the site of a fight involving the pro-Trump group the “Proud Boys.” Notably, they did not seek information on the Proud Boy attackers, but rather the counter protesters they assaulted.

A.84 and S.296 would also ban police purchases of similar data from tech companies and data brokers. Increasingly, police are able to buy the information that they can’t force companies to hand over in court. Even if a company like Google were to refuse such a request, countless other data brokers would readily sell our information to any bidder, including the police. We can’t put a price on the Fourth Amendment, but police departments routinely do, and it’s shockingly low.

- **Geofence warrants are growing quickly.** Between 2017 and 2019, google saw a 7,500% increase in requests. Recently, they reported that Geofence warrants now account for a quarter of all U.S. warrants. One federal magistrate wrote that “[t]he government’s undisciplined and overuse of this investigative technique in run-of-the-mill cases that present no urgency or imminent danger poses concerns to our collective sense of privacy and trust in law enforcement officials.”¹
- **Opting out is impossible for many.** Many delivery companies demand their drivers and bicyclists must be trackable. There are countless other ways that New Yorkers are coerced to provide their location data as the cost of modern life. Whether it’s ordering a package, taking a car, making a payment, or even connecting with friends, countless apps our tracking our location every day. More frighteningly, [Google has actively misled some users](#), who had their location history tracked even once the user had opted out.

¹ *In re Search of Info. Stored At Premises Controlled By Google*, No. 20 M 392 (N.D. Ill. Aug. 24, 2020).

- **Geofence and keyword searches threaten First Amendment rights.** The NYPD cannot be trusted with tools that can so easily be weaponized against protesters, religious communities, and other longstanding targets of the Department. For years, the NYPD has targeted protesters and political activists with the highest levels of surveillance, a pattern repeated during 2020's historic Black Lives Matter protests.