

March 26, 2020

The Honorable Muriel Bowser
Mayor of the District of Columbia
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Washington, DC 20004
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Director Jeff Marootian
District Department of Transportation
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Washington, DC 20003
Jeff.marootian@dc.gov

Dear Mayor Bowser & Director Marootian:

The undersigned organizations, a coalition of national and local District of Columbia civil liberties advocates, write to express our grave concerns regarding the privacy impact of the District of Columbia Department of Transportation's (DDOT) new data-sharing requirements for dockless mobility permit holders, and the process through which they are being implemented.

On February 24, 2020, without notice or the opportunity for public comment, DDOT amended the 2020 Dockless Vehicle Terms and Conditions to require operators to provide vehicle location data during trips "as close to real-time as possible, but with no more than a 3 minute delay" and the full route a person took on a vehicle "no more than 2 hours after the completion of a trip" via the Mobility Data Specification (MDS).¹ The MDS is a tool that cities including the District of Columbia use to interface with mobility providers, and defines what data they must share with the city. The District's new requirement for dockless mobility providers raises serious threats to individual privacy and is being adopted without any meaningful accountability to the public.

Privacy. Government collection of granular, real-time trip data is extremely problematic as it poses a significant threat to dockless vehicle users' privacy. Location data is sensitive personal data, because it can be incredibly revealing. The Supreme Court recognized this in *Carpenter v. United States*, stating that time-stamped location data "provides an intimate window into a person's life, revealing not only his particular movements, but through them his 'familial, political, professional, religious, and sexual associations.'"² Due to the sensitive nature of location data, the Supreme Court held in *Carpenter* that law enforcement would be required to

¹ District Department of Transportation, Data and Reporting Standards (Jan. 1, 2020), updated February 24, 2020. https://ddot.dc.gov/sites/default/files/dc/sites/ddot/page_content/attachments/2019.11.6%20Dockless%20Permit%20TC%20Attachments.pdf.

² *Carpenter v. United States*, 138 S. Ct. 2206, 2217 (2018) (quoting *United States v. Jones*, 132 S.Ct. 945, 955 (2012) (Sotomayor, J., concurring)).

obtain a warrant in order to gain access to historical location data.³ The data the DDOT would collect under through the MDS, without a warrant, could reveal much about an individual's private life, including attendance at a political protest, a visit to a doctor or Planned Parenthood, and preferred place of worship. Collected over time, location data likely shows patterns that could reveal social relationships, personal habits, and much more. For these reasons, it is easy to use location data to re-identify individuals, and it is especially concerning that the District has made no commitment to avoid using the data to re-identify or track individuals.

Public Accountability. In spite of the serious threat to District dockless vehicle users' privacy, DDOT has provided no opportunity for public input ahead of the adoption of these requirements. To maintain public accountability and trust, it is imperative that DDOT engage stakeholders in this process, and that any new data-sharing measures with such severe privacy implications should only be adopted through a public and transparent process. DDOT must allow opportunities for feedback and endeavor to incorporate robust safeguards to protect individual rights. This should include working to engage organizations and community members, especially those traditionally underrepresented in transportation policy making, and those marginalized communities whose privacy may be at the highest risk. DDOT has also failed to provide a sufficient justification as to *why* it needs this sensitive personal data, and specifically why it needs data "as close to real-time as possible". Further, DDOT has not put forth clearly articulated policies as to how it will use the data, how long it will retain the data, when it will delete the data, and the conditions upon which it will share the data with third parties. DDOT must outline and limit the specific purposes for which it plans to use geolocation data collected via the MDS, prohibit the sharing of this data with other government or private entities, and spell out procedures it will use to minimize collection of personal information (including trip data) to data necessary to achieve those objectives.

We are also attaching a detailed letter sent last year by New America's Open Technology Institute (OTI) and Electronic Frontier Foundation (EFF) to the Los Angeles Department of Transportation, which provides further background into our privacy concerns surrounding location data. While the letter is tailored to Los Angeles, most of the analysis also applies to DDOT, which is adopting the same flawed MDS. (Please note that we are including this letter merely as a more detailed discussion of the privacy issues surrounding the MDS; the undersigned organizations were not parties to that letter.)

Given these serious privacy and accountability concerns, we urge you to halt DDOT's plans to proceed with its new data sharing requirements, currently scheduled for enforcement on March 27, 2020.

At a minimum, DDOT must delay moving forward with its plans to collect this real-time geolocation data for every dockless mobility trip until at least it has justified such collection, allowed for public input, and set forth adequate policies detailing how it will protect users' sensitive location data. But further, we urge DDOT to modify its 2020 Dockless Data Standards, which require that shared mobility operators provide granular data on individual trips in "as close to real-time as possible," taking into account the serious privacy and civil liberties issues

³ See Carpenter, 138 S. Ct. at 2221.

implicated. In doing so, we strongly urge DDOT to commit to allowing real opportunities for stakeholder engagement and community awareness and input before moving forward.

We thank you for your attention to our concerns. Should you have any questions, please contact Lauren Sarkesian at New America's Open Technology Institute at sarkesian@opentechinstitute.org.

Sincerely,

ACLU of the District of Columbia



Center for Democracy & Technology



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New America's Open Technology Institute



cc: The Honorable Karl A. Racine
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