

EDWARD J. MARKEY
MASSACHUSETTS

COMMITTEES:

ENVIRONMENT AND PUBLIC WORKS

FOREIGN RELATIONS

RANKING MEMBER:

SUBCOMMITTEE ON EAST ASIA, THE PACIFIC,
AND INTERNATIONAL CYBERSECURITY POLICY

COMMERCE, SCIENCE, AND TRANSPORTATION

RANKING MEMBER:

SUBCOMMITTEE ON SECURITY

SMALL BUSINESS AND ENTREPRENEURSHIP

CHAIRMAN:

U.S. SENATE CLIMATE CHANGE TASK FORCE

United States Senate

SUITE SD-255
DIRKSEN BUILDING
WASHINGTON, DC 20510-2107
202-224-2742

975 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
617-565-8519

222 MILLIKEN BOULEVARD, SUITE 312
FALL RIVER, MA 02721
508-677-0523

1550 MAIN STREET, 4TH FLOOR
SPRINGFIELD, MA 01103
413-785-4610

April 22, 2020

The Honorable Michael R. Pence
Vice President of the United States
The White House
Office of the Vice President
1600 Pennsylvania Avenue, N.W.
Washington, DC 20500

Dear Vice President Pence:

I write to urge you to design and implement a comprehensive strategy for COVID-19 contact tracing in the United States. In order to effectively combat the ongoing pandemic that is causing devastating human suffering, loss of life, and economic hardship across the country, the federal government must lead a science-based effort to identify and communicate with individuals who have likely come in contact with the coronavirus. In conjunction with testing and isolation systems, contact tracing is an essential component of a sound response to the public health crisis we face today.

As states and private companies propose and implement contact tracing tools and initiatives that involve both human workers and technological innovations,¹ the federal government must provide leadership, coordination, and guidance to ensure that contact tracing efforts are effective and do not infringe upon individuals' civil liberties, including the right to privacy. Therefore, I urge you to consider the principles below as you develop and put into place a national contact tracing initiative:

Integration with Comprehensive Public Health Strategy: All contact tracing efforts should be implemented as components of comprehensive strategies to combat the COVID-19 pandemic. Testing and identifying individuals in the contagious stage of an infection, tracing the contacts of these individuals, and isolating individuals exposed to the disease are the key pillars of controlling disease outbreaks. Thus, tracing efforts need

¹ Tony Romm et al., *Apple, Google debut major effort to help people track if they've come in contact with coronavirus*, Wash. Post (Apr. 10, 2020), <https://www.washingtonpost.com/technology/2020/04/10/apple-google-tracking-coronavirus/>; Ellen Barry, *An Army of Virus Tracers Takes Shape in Massachusetts*, N.Y. Times (Apr. 16, 2020), <https://www.nytimes.com/2020/04/16/us/coronavirus-massachusetts-contact-tracing.html>.

to work alongside testing and isolation efforts. Contact tracing initiatives should be designed to meet specific objectives identified through scientific and medical analysis, in consultation with health experts, and implemented in ways that allow for public health officials to track their effectiveness.

Contact Tracing Workforce Surge: A successful contact tracing effort will require unprecedented investment in a workforce of public health field professionals. With leadership from the Federal Emergency Management Agency (FEMA), a federally coordinated in-person contact tracing program should collaborate with AmeriCorps and evacuated Peace Corps volunteers to aid communities that are most vulnerable to coronavirus. The Undertaking National Initiatives to Tackle Epidemic (“UNITE Act”) would provide the needed resources to expand the national service infrastructure – through AmeriCorps volunteers and through FEMA’s cadre of first-responders – to perform the scope of contact tracing required to tackle COVID-19 pandemic.

Voluntary Participation: Any technology-assisted effort to leverage individuals’ sensitive information for contact tracing purposes should take place on an “opt-in” basis. For example, entities conducting contact tracing should not directly coerce individuals into sharing their sensitive information through a smartphone application. Nor should they indirectly coerce individuals to participate in technology-assisted data sharing by conditioning access to public benefits or services on consent to invasive surveillance.

Transparency: Any entities that collect or process individuals’ information for contact tracing purposes should provide easily accessible, clear, and comprehensive information about their data collection or processing. This disclosure should cover topics including what data is being collected or processed, the purpose of the data collection or processing, and how long the data will be stored. Entities involved in contact tracing should take all reasonable steps to allow Congress, the public, and experts to review and scrutinize their data practices and ensure that all necessary privacy and security measures are in place.

Data Minimization and Retention Limitations: Contact tracing efforts should collect only the information from individuals that is absolutely essential to achieve specific, evidence-based, pre-determined public health objectives. These initiatives should store collected information in forms that preserve individuals’ privacy and ensure that anonymized information cannot be re-linked to an individual. As soon as a contact tracing program’s objectives have been achieved, the program should immediately cease. Termination of these programs should involve responsible data destruction practices that preserve users’ privacy and avoid any future unapproved data use.

Data Use Limitations: Any entities that collect data for contact tracing related to the COVID-19 pandemic should exclusively use that data to achieve specific, evidence-based, pre-determined health objectives related to combatting the current public health crisis. These entities should take special care to avoid data processing that could result in

discriminatory outcomes, and under no circumstances should entities involved in data collection for contact tracing use this information for unrelated purposes, including, especially, commercial purposes.

Data Security: Systems involved in collecting and processing contact tracing information should employ all necessary processes and safeguards to secure the data they maintain. Contact tracing efforts should avoid centralized storage of information and should utilize reliable security methods to prevent unauthorized or inappropriate data access.

Equity: Any contact tracing programs should take measures to ensure that, wherever possible, subpopulations are not systematically excluded. Excluded subpopulations may experience more harm and continued COVID-19 spread, and any data practices must ensure health equity for all.

Accountability and Recourse: Systems deployed for contact tracing purposes should be subject to enforceable legal rules, and entities in charge of these systems should face meaningful penalties for their violation. Additionally, individuals harmed by misuse of these systems should have reasonable means to seek recourse and compensation.

Experts agree that the only way to safely return to normal life in this country is to implement a massive contact tracing and infection control plan. I urge you to take these steps swiftly, effectively, and in a manner that preserves Americans' cherished rights. Thank you for your attention to these important matters. If you have any questions, please contact my office at 202-224-2742.

Sincerely,



Edward J. Markey
United States Senator