

The negotiations of damages set forth above are fundamental elements of the basis of the bargain between IEI and you. This site and the information would not be provided without such limitations. No advice or information, whether oral or written, obtained by you from IEI through the site shall create any warranty, representation or guarantee not expressly stated in this agreement. IEI's maximum liability to you under all circumstances will be equal to the purchase price you pay for any goods, services or information.

IEI COMMITMENT TO CUSTOMER SERVICE

IEI does hereby guarantee that they will successfully locate data for the search you are seeking within 30 days (Most searches only take 1 - 5 business days). Should IEI fail to provide data for the information you are seeking, IEI will promptly refund payment to my credit card and/or refund payment via first class mail if payment is made to IEI by check. I understand that IEI will not disclose contact data to me until I have paid the applicable fee to IEI. IEI further guarantees that they will refund my fee in full within 30 days based upon the "No Information, No Charge" policy for applicable searches. Although service fees change from time to time, your fee for the requested service is guaranteed upon submission of your request.

CUSTOMER SERVICE FOR INACCURATE DATA

Should a search return data that is later to be found inaccurate, Customer understands that IEI at its sole cost and discretion will recheck the search, however, customer must provide proof to IEI that they have made a diligent attempt to utilize original information provided. This proof must be submitted to IEI within 30 days after data is provided, and must include returned first class mail which was properly mailed to the address(es) provided (for searches where an address was provided), and a written account of what took place during attempts to any and all telephone numbers provided.

I understand that IEI can only seek information based upon the data that I supply. Requests based upon inaccurate, incomplete, false, or erroneous information, or if my search request involves any individual or "missing person" who is believed to be, or suspected to be homeless, institutionalized, incarcerated, deceased, is suspected to have changed their identity, has been known to use or is suspected to be using more than one identity and/or Social Security number or have intentionally fled from an abusive relationship or to avoid possible criminal prosecution, or are fugitives from the law will likely prove difficult or impossible to provide.

I understand that I WILL BE CHARGED if the data I am seeking involves a person or persons with a common name (or is a JR. or Sr.) and I AM NOT able to provide AT LEAST one of the following pieces of information: a) an accurate date of birth; b) an accurate social security number; c) an accurate drivers license number; d) a recent residence address (within the past 10 years); e) vehicle license plate number within the past 10 years or; f) accurate name of spouse.

NEW CUSTOMER VERIFICATION PROCESS

Any Customer who has never done business with IEI prior to placing an order shall be considered a "New Customer." All New Customers expressly agree to provide a phone number where they can be contacted in order for IEI to confirm the order, payment provisions and the identify of the Customer.

CUSTOMER GUARANTEE TO IEI

I do hereby guarantee to IEI, that my request for information does not violate any Federal, State or Local laws including, but not limited to, the privacy rights of private parties and the Fair Credit Reporting Act. I guarantee that visitation to any IEI website or placing of a search request is not for the purpose of entrapment, a sting operation, or pursuit of IEI, its employees, vendors, clients, affiliates nor officers. I further guarantee that I have submitted valid credit card information in order to pay such fee and not that of any other party with or without their knowledge or approval, or will immediately (or as otherwise agreed to in writing) mail such payment in full to the office of IEI if I have been approved for billing terms. I understand that upon receipt of my valid credit card information or a check or money order for the applicable fee, IEI sends the information I provide to a third party in order to fulfill my request and that this third party will conduct the search I request.

CANCELLATION POLICY

I the customer understand that orders are assigned to private investigators immediately upon submission and therefore, I will have no opportunity to cancel, reconsider or otherwise state a reason why this charge should not be processed and my credit card charged immediately.

The only grounds upon which a refund will be granted to the Customer by IEI are if the information requested cannot be found. Customer dissatisfaction with the quality, quantity of accuracy of information provided is not grounds to obtain a refund from IEI or the Customer's Credit Card Provider.

Customer agrees to waive its right to contest the validity of IEI charges based upon any grounds except that IEI provided absolutely no information to Customer. Customer agrees that Customer will not contest charges made by IEI to Customer's

Credit Card which has been authorized by Customer. In the event that Customer violates this agreement and does so contest authorized credit card charges, Customer will be liable to IEI for the full amount owed plus interest compounded daily at a rate of 10%, and all fees and costs associated with collecting payment from Customer.

Buyer understands that returned checks and disputed credit card transactions for valid searches will be charged an additional \$25.00 fee.

Buyer hereby fully acknowledges, agrees and gives consent to all terms and conditions as amended by IEI from time to time.

VALID AND LEGAL PURPOSE

I also do hereby faithfully pledge, that my desire to locate the data or individual described above in no way involves any intention on my part to harm, to cause harm, to harass, to stalk (as described by applicable laws), or to otherwise take any illegal or proscribed action against any person or entity. Should I become suspect to any illegal action against the party whose information I seek, I do hereby give my full consent to **IEI** to disclose any and all information about me, and about this transaction to the proper authorities and hereby expressly waive and right or claim to privacy.

I do hereby agree that information obtained through **IEI** will only be used for the purpose of: 1) a commonly recognized business use whereby the business for which you seek the information has a preexisting business relationship with the subject of the inquiry; or 2) a use which will clearly cause no emotional, physical or financial harm to any person or company, organization or third party which is subject to the inquiry; or 3) a use that is relevant to the subject matter of a documented civil or criminal action.

INDEMNIFICATION

I agree to indemnify **IEI** and its suppliers, employees, officers and share holders for all damages, claims, or losses suffered by **IEI** as a result of possible claims by third parties relating to use of the data provided by **IEI** and requested by me. I hereby warrant that all my requested searches are legal and proper in my own jurisdiction, as well as that of **IEI**'s jurisdiction, and complies with all applicable laws (local and state) and that, in the event that, any claim is asserted in any way against **IEI** that I will immediately indemnify, defend and hold harmless **IEI** from any and all liability (including actual attorney's fees). Further, I agree that if litigation should arise involving **IEI** in any way that I will indemnify, defend and hold harmless **IEI** from any all actual legal fees.

ACCURACY OF INFORMATION PROVIDED BY CUSTOMER TO IEI AND FROM IEI TO CUSTOMER

No refunds, exchanges, or credit will be given to any customer unless **IEI** fails to provide information on a legal request, in accordance with this agreement. Customer is solely responsible for accurately filling out order form and selecting appropriate search request. **IEI** cannot be held responsible for typos or mistakes given in the ordering information entered by customer. Because all orders are processed immediately, no cancellations allowed or accepted once an order has been submitted.

Customer further understands and agrees that **IEI** cannot and does not guarantee the accuracy of the information provided in response to a Customer request. **IEI**'s commitment to Customer is to provide the information its Third Party contractor's locate. **IEI** will pass along to Customer any and all information received from its Third Party contractors. **IEI** makes no representation that the information provided is current or otherwise accurate. In no event shall **IEI** be obligated to refund all or any portion of a payment received from Customer based upon the any assertion of inaccuracy of the data provided. **IEI** will supply to Customer at the time received and in the same condition it is received. **IEI** will not check the information for accuracy or otherwise endeavor to verify any part of the information provided to it by its Third Party contractors.

REPRESENTATIONS BY CUSTOMER

VENUE

This agreement and its interpretation shall be governed by the laws of the State of California. Should a conflict arise concerning anything related to this contract, I hereby expressly consent to venue in the State of California. **SEVERABILITY & INTEGRATION** This Agreement shall be governed by and construed in accordance with the laws of the State of California, United States of America, as if performed wholly within the state and without giving effect to the principles of conflict of law. If any portion hereof is found to be void or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect. This Agreement constitutes the entire Agreement between the parties with respect to the use of the Software.

ENTIRE AGREEMENT

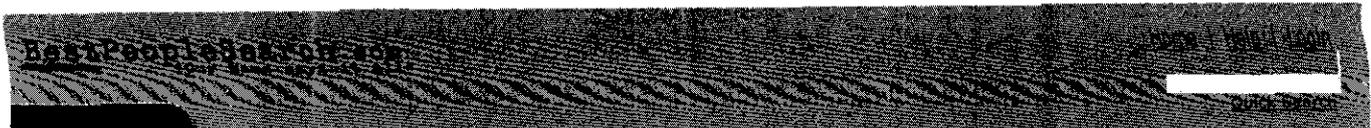
This Agreement, as amended, sets forth the entire understanding and agreement between the parties regarding the subject matter herein and supersedes any prior or contemporaneous oral or written agreements or representations, except that access to and use of Third Party services may be governed by terms and conditions different than or in addition to those herein.

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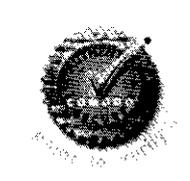
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Cell Phone Package - includes Name, Address and Call Records



Searches carrier records from cell number in order to find & locate the billing address, customer name and up to 100 calls with dates from previous billing period (or up to last 3 periods). Investigator can only go obtain info less than 90 days old with this search.

More info:

Your investigator will obtain up to 100 calls from the last billing period. Call reports vary based on carrier and your subjects calling plan. Some include outgoing calls only; others have incoming calls detailed as well. The investigator will not know and cannot find out what is on the report before he obtains it.

Cell phone reports can begin and end on any day of the month. If you are looking for calls made on a specific day, please indicate that in special instructions. The investigator will do his best to obtain that day, but he cannot guarantee it. If you enter a range of days, it may require more than 100 calls and it may span two billing periods in which case there would be additional charges. If for example your subject's cell phone cycle cuts off on the 14th of the month, the investigators report will include 100 calls from the beginning of the last billing period. In this example, calls would start on the 15th of the previous month. If your subject is a light user, your subject may not even have 100 calls or 100 calls could be several weeks of data. If your subject is a heavy user, your report might only include one or a few days of data. The investigator will obtain as many calls as he/she can. If you only want calls from a previous period, please note that in the special instructions. The investigator can only obtain reports less than 90 days old with this search. If your special instructions to the investigator are not clear, or if he has a question determining exactly what you are requesting, he can contact you via the online messaging system.

Cell Toll Reports are obtained by private investigators for your personal informational purpose only. These reports are NOT valid in a court of law. Clients ordering these reports are hiring a private investigator on there behalf to ferret out information garnished from these reports in order to perform due diligence in an ongoing investigation. Should information be obtained from these reports that require an authenticated copy, you may need an attorney to subpoena the actual records from the cell phone carrier.

You supply:

Cellular Number

Your investigator will search for:

Name, address, and up to 100 calls with dates from last billing period unless you specify otherwise below (up to 3 billing periods).

Price: \$187.00

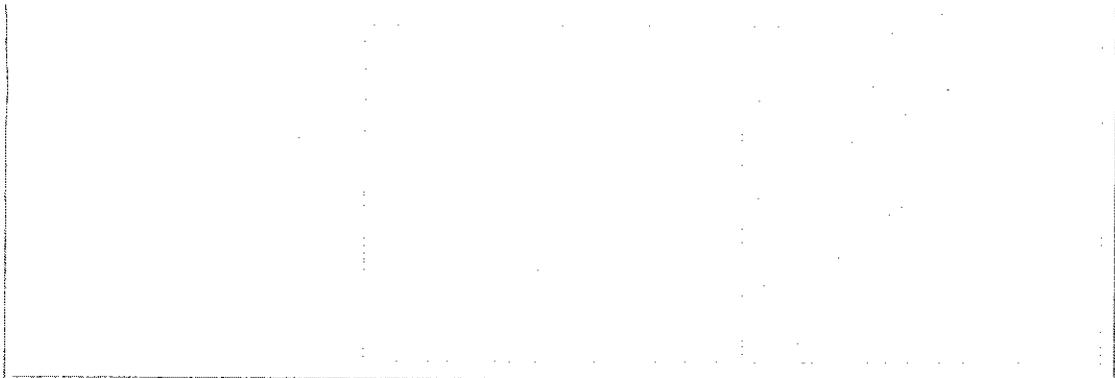
Please allow: This search takes an average of 2 - 5 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Note: This request is for individual cell phone users only (not business cell phones). If you need a list of calls from a business cell phone, [click here](#).

Guarantee: If No-Info, you are eligible for partial refund of \$80.00 if your assigned investigator only returns the Customers Name and Address (CNA). The charges are only based on the CNA report returned to you plus the cost of the SSN "look-up" use only fee. SSNs can not be released.

Begin your search here:

Enter Cellular Number: *	<input type="text"/>
Comments and Special Instructions:	Please tell us anything you may know about the account including account numbers, passwords, cycle cut date, etc. If you need a specific period please tell the investigator "looking for calls made in the month of ___" or "looking for calls from the ___ cycle". Since these are different requests, we urge you to email support if you have questions.



Optional additional services:

Number of previous periods? The last available period is included. If you select 1 or 2 here, the report will include 1 or 2 previous periods in addition to the last available period.
 (additional charge of \$137.00 each)

Obtain duration of each call? Yes

Obtain time of each call? Yes

* required

[Continue >>](#)

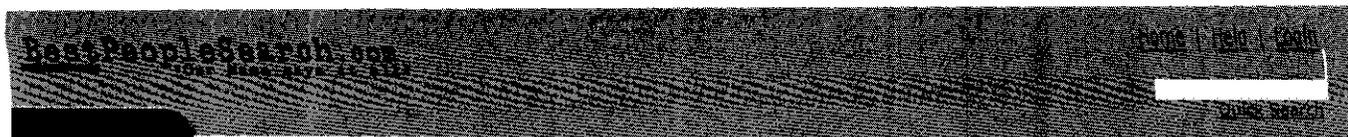
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Residential Local/LATA Phone Records



Searches carrier records from customer name, telephone number, social security number, and address in order to find & locate all local toll calls from last billing period.

More info:

Local Toll Calls (aka LATA) are calls to the same area code or an adjacent area code (typically instate to adjacent cities or counties). The local service provider (not Long Distance carrier) who charges for these types of calls is the same carrier for them. They are not "in-plan" or "in-zone" calls (like if you called your neighbor). They are usually calls to areas 5+ miles (some carriers are more or less) outside the local calling area (depending on the county, city, or carrier zone) but are not long distance calls. If your subject has unlimited local/LATA calling then the carrier would just charge a flat fee for all calls to these area codes or adjacent area codes and would most likely not detail the calls at all and the report would come back with "no toll calls made in last billing period".

You supply:

Telephone Number, Name, Address, (and SSN if available)

Your investigator will search for:

Local toll call numbers from last billing period

Price: \$87.00

Please allow: This search takes an average of 2 - 5 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Note: Some areas have local calling plans and include calls within a certain metro area. If a calling plan exists, it is likely that no toll calls will be available.

This search is for RESEARCH purposes ONLY. If you find information contained in our reports and need them for legal purposes you must subpoena the records from the telephone carrier to use them in a court of law. This is a confidential report between Best People Search and you (our client).

Guarantee: The initial fee is **non-refundable** once the Investigator locates the carrier. Optional Service Fees including Date & Time are refundable if the carrier reports no toll call details (No detailed calls can be due to unlimited calling plans, bulk minute purchases, or several other factors at the carriers discretion). Please email your questions prior to ordering this search if you do not understand this guarantee.

Begin your search here:

Enter Phone Number: *

Enter Full Name: *

Enter Address: *

Enter City: *

Select State: *

Enter Zip Code: *

Enter Social Security Number:

Comments and Special Instructions:**Optional additional services:**

Number of previous periods?

The last available period is included. If you select 1 or 2 here, the report will include 1 or 2 previous periods in addition to the last available period.

 (additional charge of \$87.00 each)

Obtain date of each call?

 Yes (additional charge of \$35.00)

Obtain time of each call?

 Yes (additional charge of \$35.00)

* required

[Continue >>](#)

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PO Box Search (Reverse P.O. Box Lookup)



Your assigned private investigator will work with the post office to obtain the address on record using the P.O. Box number, name and zip code you provide.

More info:

Investigators work with postmasters all over the USA. It is up to the individual Postmaster whether they want work with the investigator. The investigator can only obtain the information the postmasters have on file. This is not an outdated database search. You are hiring a private investigator to obtain real-time data.

You supply:

Any PO Box number with Name & Zip Code

Your investigator will search for:

The Address on Record at Post Office for PO Box

Price: \$77.00

Please allow: This search takes an average of 3 - 7 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Guarantee: If No Information is available, you are eligible for a Full Refund.

Begin your search here:

Enter PO Box: *

Enter Full Name: *

Enter Zip Code: *

Comments and Special Instructions:

* required

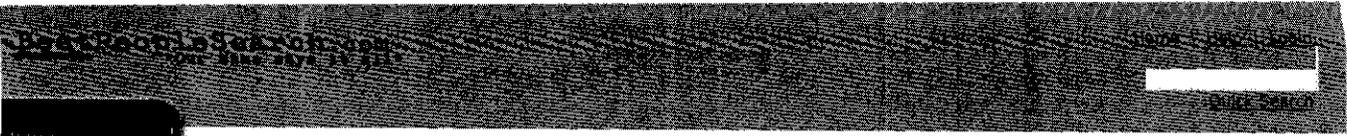
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Have a Phone Number?
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Reverse Private Mail Box Lookup (PMB)



Your assigned private investigator will search the personal mail box address and name you provide to find the address on file with the personal mail box company.

More info:

Investigators work with personal mail box companies to obtain your requested information. It is up to the individual mail box retail center whether they want work with the investigator. The investigator can only obtain the information they are willing to provide from there records. This is not an outdated database search. You are hiring a private investigator to obtain real-time data.

You supply:

Any Mail Box Address, with Name, City & State (ie. Mail Boxes Etc.)

Your investigator will search for:

The Address on file with the PMB center.

Price: \$97.00

Please allow: This search takes an average of 3 - 10 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Guarantee: If No Information is available, you are eligible for a Full Refund.



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Begin your search here:

Enter Address: *

Enter Full Name: *

Enter City: *

Select State: *

Enter Zip Code: *

Comments and Special Instructions:

* required

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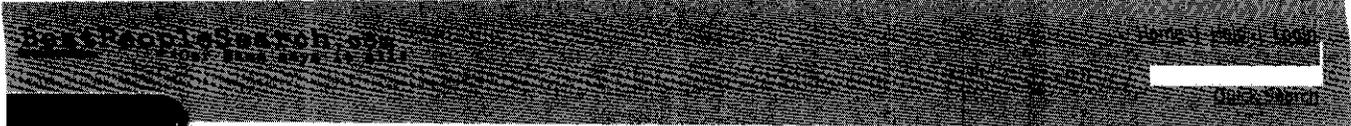
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Name & Motor Vehicle Records from Drivers License Number



Searches DMV records from drivers license number and state in order to find & locate name and associated motor vehicle information on file (including but not limited to Violations, miscellaneous info, Restrictions, truncated SSN, DOB, Tickets and Accidents). Addresses in some states are available, but most states do not providing address information with driver's license searches.



You supply:

The Driver's License Number and State

Your investigator will search for:

Name and Driving Record info on file at the DMV

Price: \$87.00

Please allow: This search takes an average of 3 - 5 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Guarantee: If No-Info, you are eligible for a refund less a \$5.00 no-hit fee.

Begin your search here:

Drivers License Number: *

Select State: * States not listed may or may not be currently available, please [click here](#) to Inquire.

Comments and Special Instructions:

* required

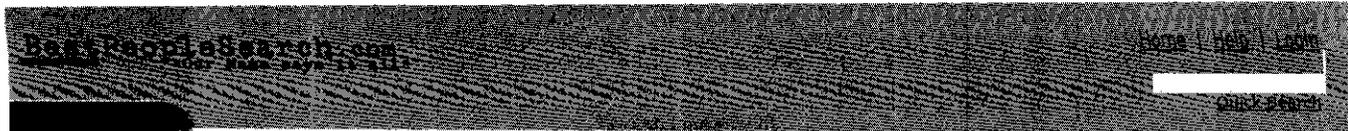
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Need a Name and Address?



Drivers License / Motorist ID Search

Searches DMV records from subject name, address, and date of birth in order to find & locate drivers license or Motorist ID number and related DMV information on file. State regulations vary.



You supply:

The contact name, address & DOB

Your investigator will search for:

Drivers License or Motorist ID Number & related information on file. State regulations vary.

Price: \$67.00

Please allow: This search takes an average of 3 - 5 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Guarantee: If No-Info, you are eligible for a refund less a \$8.00 no-hit fee (exception: California searches; no refund is available).

Begin your search here:

Enter Full Name: *

Enter Address: *

Enter City: *

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Searches carrier records from customer name, telephone number, social security number, and address in order to find & locate all long distance toll calls from last billing period.



You supply:

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Your investigator will search for:

All long distance toll call numbers from last billing period

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Please allow: This search takes an average of 1 - 4 business days to complete. Some circumstances may cause your search to take longer. Additional information described in [terms of service](#).

Note: This search is for RESEARCH purposes ONLY. If you find information contained in our reports and need them for legal purposes you must subpoena the records from the telephone carrier to use them in a court of law. This is a confidential report between Best People Search and you (our client).

Guarantee: The initial fee is **non-refundable** once the investigator locates the carrier. Optional Service Fees including Date & Time are refundable if the carrier reports no toll call details (No detailed calls can be due to unlimited calling plans, bulk minute purchases, or several other factors at the carriers discretion). Please email your questions prior to ordering this search if you do not understand this guarantee.

Begin your search here:

Enter Phone Number: *

Enter Full Name: *

Enter Address: *

Enter City: *

Select State: *

Enter Zip Code: *

Enter Social Security Number:

Comments and Special Instructions:

Optional additional services:

Number of previous periods? The last available period is included. If you select 1 or 2 here, the report will include 1 or 2 previous periods in addition to the last available period.
 (additional charge of \$87.00 each)

Obtain date of each call? Yes (additional charge of \$35.00)

Obtain time of each call? Yes (additional charge of \$35.00)

* required

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ELECTRONIC PRIVACY INFORMATION CENTER

August 30, 2005

Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580

Re: Online Data Brokers / Request for Industry-Wide Investigation

Dear Commissioners,

On July 7, 2005, EPIC urged the Commission to initiate an industry-wide investigation of data brokers that operate online and sell personal information to the general public. We detailed the activities of one such company, Intelligent E-Commerce Inc., which hosts bestpeoplesearch.com. On that site, the company offers for sale to the general public the telephone records of other people and the actual identities of individuals who use Postal Service or private mailboxes. These types of records are protected by federal statute or regulation. The EPIC complaint argues that IEI misrepresented its ability to obtain these records in a lawful way, and that substantial harm occurs to those whose information is obtained and sold.

We wish to supplement the July 7, 2005 filing to update the Commission on four matters:

First, IEI responded publicly to the EPIC complaint with a press release on July 14, 2005.¹ We reply below to the company's response.

Second, as part of our research into online data brokers, we found many examples of companies that offer to sell telephone billing records or other confidential information to the general public. We have attached a list of an additional 40 companies to demonstrate that the sale of this information is widespread.²

Third, in light of the prevalence of these advertisements for telephone billing records online, EPIC is petitioning the Federal Communications Commission to investigate whether communications carriers are adequately protecting individuals' data.³ The cost of building the infrastructure to offer call record data is substantial. One must maintain a web site, have contacts with investigators in many states, and process transactions quickly. There is a risk that there will be no "hit," resulting in the online data broker performing services without compensation. Many sites offer this service through "sponsored links" on popular search engines, further adding to the cost of offering the data. Combined, these factors and the large number of entities offering call records online suggests that many individuals' phone records are being illegally accessed and

¹ Intelligent eCommerce Responds to Allegations Filed By EPIC, Jul. 14, 2005, available at <http://biz.yahoo.com/bw/050714/145245.html?v=1>.

² See Attachment A. As part of our investigation, we became aware of many other companies that obtain telephone records of others, but these companies are savvy enough not to advertise their services on the Internet.

³ See Attachment B.

sold every day to simply cover the cost of doing business. Communications carriers should be the first line of defense against these practices. Accordingly, we are petitioning the FCC to initiate a new rulemaking to establish higher safeguards for telephone records information.

Finally, we wish to reemphasize the risk to privacy that online data brokers pose. These businesses are operating online, suggesting that they do not actually meet their client and assess the client's intent. Some data brokers apparently understand the risks inherent in selling information to strangers, and try to disclaim liability for the sale of personal information by including "anti-stalker" provisions in their terms of service.

Professional, licensed investigators recognize these risks, and do not sell personal information to strangers:

[A]n Oakland, Calif. private investigator said it's a dangerous practice for PIs to take clients over the Internet. "Any time you provide information to another individual, you need to know who they are," said Francie Koehler, a member of the California Association of Licensed Investigators. "That's the part people working over the Internet miss. They don't know their client."⁴

Others who understand the risk of selling data to strangers engage in unreliable methods to determine the intent of their client. In a sworn deposition given in the course of litigation following Amy Boyer's death, Docusearch.com's Kenneth Zeiss claimed that he vetted clients by calling them and abruptly asking them about their intentions with the data. Those who hesitated or couldn't explain how they were going to use the data were denied access to personal information:

Q. What would you have talked to the person [the client] about for up to two minutes in such a conversation?

A. I don't know that I didn't just leave a message and that he didn't call me back in that two minutes.

What I would talk to a - - any person normally is, I flat out ask why they're ordering what they're ordering. I also ask for their guarantee that they're not going to do anything harmful or hassle the person that they're getting the information on should we be able to provide it to them. But like I said, that could have been a message that I left and he called me back. I really don't know. I don't remember specifically speaking to him.

Q. If you left a message, would you leave this message about, listen, don't hassle this person or bother this person?

A. No.

⁴ Susan Kuchinskas, *EPIC Fighting Online Phone Record Sales*, InternetNews, July 8, 2005, available at <http://www.internetnews.com/ent-news/article.php/3518851>

Q. If you talked to the person, is it your normal custom to say, look, we're going to give you this information, don't hassle this person or bother this person?

A. No. What is say is, should we be able to provide you with this information we want your guarantee that you're not going to harm or harass this person in any way.

Q. And what do they say on the other end?

A. Well, normally they say, no no, it's not for that reason at all. Then I would ask them why and, you know, what the purpose of their search was. Sometimes people hesitate to answer me and we decline those orders. Sometimes they get offended, you know.

Q. You don't have any recollection what happened here [in the transaction with Liam Youens] though?

A. No.

In addition to stalking and murder, online data brokers pose identity theft risks. In reporting on the Amy Boyer case, Daniel Cohn of Docusearch told the *Washington Post* that identity thieves use online data broker services:

Cohn said Docusearch called Youens [Amy Boyer's killer] twice, though mainly to confirm that he was the person buying the information because information brokers are often the victims of identity thieves. Telephone records show the calls each lasted two minutes or less. "We are probably more susceptible because we are used as a tool by identity thieves," he said. "Sometimes it's very difficult to check out someone. . . . Does one slip by occasionally? Obviously, this one was a nut." "There is nothing we could have done to totally prevent this from happening," he said, adding that it's not clear what brokers need to do. "That's going to be the issue. What is enough? Are we supposed to give every client a personalities-disorder exam?"⁵

Risk of privacy invasion and personal harm is heightened by the fact that these businesses provide raw data to their clients. This further demonstrates the lack of vetting and relationship between an online data broker and a client. A professional, licensed investigator actually meets with a client and determines the client's intent. When an investigator understands the client's intent, providing raw data is rarely necessary. Providing raw data raises risks, and further demonstrates the attenuated relationship between online data brokers and their clients.

Additionally, these businesses usually offer fast "turn around times." These turn around times can be as short as one hour to obtain telephone calling records. This suggests that no official process is being employed to obtain records legally.

⁵ Robert O'Harrow Jr., *A Deadly Collection of Information Killer Paid Online Data Broker for Material Obtained Through Trickery*, *Washington Post*, Jan. 4, 2002 at E01.

Other representations suggest that unofficial methods are being employed to obtain personal information. These businesses typically represent that information provided is "confidential" and not admissible in courts. In some cases, the sites specify that the client must employ legal method, such as a subpoena, for obtaining the data if the client wants to use the information in court.

Ethical investigators do not engage in these practices. However, the operation of online data brokers threaten legitimate investigators who both have permissible purposes and use legal means to obtain personal information. The market for illegal data is thriving, and without enforcement efforts by the government, the cost of doing business legally and ethically will continue to give economic advantage to companies with illegal business practices.

Reply to the IEI Response

We wish to reply to IEI, which in a press release responded to our July complaint. Much of the IEI press release supports our allegations, in that it acknowledges the company's role in selling call record information. This press release should be useful to the Commission in its investigation. The press release makes several assertions:

Law enforcement, private investigators, attorneys and many industry experts contend that cell phone and landline based call records help parents locate missing and runaway children; help solve crimes; bail bondsman locate fugitives; insurance companies refute fraudulent claims; collection agencies track down deadbeats; financial institutions locate people and collateral; and yes, spouses find out if their significant other is being faithful or cheating. Call record retrieval does not cause identity theft or heinous crimes. It is a necessary product that has been aiding the investigation industry for decades. IEI does not know of any specific law that prevents private investigators from obtaining and selling call records. When pretexting for financial records became illegal all of the private investigators used by IEI stopped offering them. Had they not stopped offering any service that was deemed "illegal," IEI would not offer such services.

This paragraph makes several arguments that are legally irrelevant. First, whether call records are useful to investigators does not speak to the issue of whether it is *legal* to access such records. Many different forms of personal information, including the content of telephone conversations, are useful to investigators. But law protects this information from disclosure without legal justification and process.

Second, whether call record retrieval causes identity theft or heinous crimes is also irrelevant. Privacy law protects individuals from many affronts to their dignity that do not arise to heinousness. Furthermore, IEI provides no evidence to show that provision of these records does not contribute to identity theft or heinous crimes. Other similar investigative techniques, such as access to motor vehicle records and pretext calling have resulted in the death of individuals.

After the killing of Amy Boyer, who was located with the help of Docusearch.com and Michelle Gambino.⁶

Third, IEI's ignorance of a "specific law that prevents private investigators from obtaining and selling call records" is legally irrelevant for obvious reasons. As we noted in our complaint, 47 U.S.C. §222 protects the confidentiality of call records.

Contrary to the company's representations, we know of no legal way to reliably and quickly obtain call detail and mailbox owner information.⁷ Additionally, two professional licensed investigators were quoted agreeing with EPIC's assessment in media reports:

[Francie] Koehler, who was part of a project to research online private investigation services, said, "I know that many of them claim to get the information legally, I don't understand how that happens." When she's tried to get someone's phone records via subpoena, she said, "Every time you try, they send the telephone company lawyer in to quash the subpoena."⁸

Reporting on the EPIC complaint, Washington Post journalist Jonathan Krim quoted Robert Townsend, an advocate of investigator licensure and best practices:

"I do not know of any legal way to obtain a person's telephonic history," Robert Townsend, head of the National Association of Legal Investigators, said in an interview. Townsend added that he thinks only a small minority of licensed investigators engage in the practice of acquiring and selling the data.⁹

Finally, IEI represents that "[w]hen pretexting for financial records became illegal all of the privacy investigators used by IEI stopped offering them." We assume that this means that upon passage of the Gramm-Leach-Bliley Act (GLBA), IEI screened its investigators to see whether they were still engaging in pretexting. However, pretexting for financial records was considered unfair by the Commission prior to Congress taking action. Pretexting for financial records prior to GLBA would still have been illegal. Furthermore, this paragraph suggests that IEI's investigators pretext for other records, a practice that would be unfair or deceptive under Commission precedent.

Conclusion

The sale of call record information is illegal, but many companies continue to make offers to sell this information openly on the Internet. The number of businesses offering call record information, in light of advertising and other business expenses, suggests that the sale of this

⁶ Both of these online data brokers are still operating. See <http://www.docusearch.com> and <http://www.4privateinvestigators.com/>.

⁷ Searching individuals' trash has been suggested as an option for legally obtaining records, however, this method obviously is not reliable enough to guarantee quick "turn around times" for the data.

⁸ Susan Kuchinskas, *EPIC Fighting Online Phone Record Sales*, InternetNews, July 8, 2005, available at <http://www.internetnews.com/ent-news/article.php/3518851>

⁹ Jonathan Krim, *Online Data Gets Personal: Cell Phone Records for Sale*, Washington Post, Jul. 8, 2005, available at http://www.washingtonpost.com/wp-dyn/content/article/2005/07/07/AR2005070701862_pf.html.

information is widespread. We therefore again urge the Commission to investigate these business practices on an industry-wide basis.

Respectfully submitted,

Chris Jay Hoofnagle
Director, EPIC West

Attachment C
40 Websites Offering Telephone Calling Records and
Other Confidential Information

1. Aaaskiptrace.com offers wireless, landline phone, and business phone records.
2. Abika.com offers call records and the actual identity of people who use screen names on AOL, Match.com, Kiss.com, Lavalife, and Friendfinder.com.
3. Aaronspi.com offers landline and wireless call records.
4. Anderson-pi.com offers wireless call records, and contains a representation reading "Former United States Federal Agents."
5. Bail-bond.org offers landline and wireless call records.
6. Cellulartrace.com offers wireless call records. In a "FAQ" section of the site, the company states that the records obtained cannot be used as evidence in a court:
"[Question] Our company requires cellular research for legal reasons. Can the results Cellulartrace.com provides be used in a court of law? [Answer] No. The data we provide is for information purposes only. Any records for legal use must be obtained from the provider via subpoena."
7. Through Cheatingspousepi.com, Advanced Surveillance Group offers a suite of telephone research, including billing records. The site claims that the investigators performing the searches are licensed.
8. Completeskiptrace.com offers wireless phone records.
9. Csiofamerica.com offers "Phone Breaks," "Cellular C.N.A.," "Non-Pub Retrieval and Break," "Tolls on accounts," "P.O. Box Breaks," and "Utility Searches."
10. Datafind.org advertises "Cell Report of Calls with Dates from last billing cycle." The site claims, "This report is for informational purposes only. This is not for use in court. If you need the records for court, you will need to subpoena the records directly from the carrier." Additionally, the site attempts to disclaim knowledge of illegal activities in obtaining records: "Non-Internet phone searches are provided by third party, independent search experts. These experts are independent researchers and Data Find Solutions Inc does not know how they do the research or what databases they access. Data Find Solutions Inc notifies researchers who provide non-database research to only fulfill the search request if they can conduct the search in compliance with Federal, State or Local Laws. Results may include a search of the internet, public records and media for any information that may be found, specific to your search request." The site also has an anti-stalking disclaimer: "I also do hereby faithfully pledge, that my desire to locate the data or individual described above in no way involves any intention on my part to harm, to cause harm, to harass, to stalk (as described by applicable laws), or to otherwise take any

illegal action against them. Should I become suspect to any illegal action against the party described above, I do hereby give my full consent to DFS to disclose any and all information about me, and about this transaction to the proper authorities."

11. Datatraceusa.com offers call records.
12. Discountphonebust.com offers "Cell Monthly Report with Name & Address."
13. Discreetresearch.com offers call records.
14. Efindoutthetruth.com offers wireless and landline calling records.
15. Freelancesecurity.com hosts advertisements posted by individuals seeking investigative services. Some of these advertisements seek phone call record information.
16. Gum-shoes.com offers wireless, landline, and business phone records.
17. Iinfosearch.com offers "Cellular Toll Calls Report." This site appears to be operated by Intelligent E-Commerce.
18. Infonowusa.com offers "Detailed Cell Phone Call Records" and advertises a 1-3 hour turnaround time. This company appears to be operating a mirror of this service at intelnow.com.
19. Information-search.com offers wireless and landline phone records. This company was previously sued by the Federal Trade Commission for engaging in asset search pretexting.¹
20. Intelisearch.net offers wireless and landline phone records, guarantees a 1-4 hour turn around time, and represents, "This report is for informational purposes only. This is not for use in court. If you need records for court, you will need to subpoena them from the carrier."
21. Investigator-sandiego.com offers "Cell Phone Records."
22. Isis2020.us offers wireless, landline, and business phone records.
23. Locatecell.com offers wireless call detail records. Its site claims, "This report is for informational purposes only. If you need phone records for court, you will need to subpoena them from the carrier." Additionally, the site attempts to disclaim knowledge of illegal activities in obtaining call detail records: "Non-Internet phone searches are provided by third party, independent search experts. These experts are independent researchers and Data Find Solutions Inc does not know how they do the research or what databases they access. Data Find Solutions Inc notifies researchers who provide non-

¹ *FTC v. Information Search, Inc., and David Kacala*, Civil Action No. AMD-01-1121 (District of Maryland, Northern Division).

database research to only fulfill the search request if they can conduct the search in compliance with Federal, State or Local Laws. Results may include a search of the internet, public records and media for any information that may be found, specific to your search request."

24. Matecheckpi.com offers "Cell Phone Record, Residence Toll Calls, Unlisted Phone Number Identification, Obtaining a 'Hidden/Secret' Cell Phone Number, Finding who owns a particular Phone Number, & Obtaining the billing name for any Voice Mail Box called..."
25. Mrandmrsdetective.com offers a "Cell Phone Record" option.
26. Onlinepi.com offers cell phone location information.²
27. Peoplesearchamerica.com offers call records and P.O. Box records.
28. Peoplesearchers.com offers "Cellular Phone Trace," and represents that "This search will enable you to trace a cell phone number back to the owners name and address listed on his/her billing statement. By providing us with a cellular telephone number we can run this number through a large national database used by law enforcement, and government agencies to bring back current information about the owner. A detective at our firm will research your order and send the results to your email address after your order is placed. Results available within 1-10 days sent to your email address."
29. Personsearch.us offers wireless phone records.
30. Phonebust.com offers wireless phone records.
31. Pibluemoon.com offers "Calling Card Tolls."
32. Piedmontpi.com offers wireless phone records.
33. Piguyonline.com offers a "Cellular and Long Distance Call Records" service. This site advertises itself as "Member National Association of Investigative Specialists."
34. On Pimall.com, Stealth Services, Inc. advertises both landline and wireless records.
35. Pjdservices.com offers wireless phone records.
36. Publicpeoplefinder.com offers wireless phone records.
37. Records.com offers a "Search Cell Phone Records" option.
38. Secret-info.com offers both landline and wireless cell phone records.

² See <http://www.onlinepi.com/searches/PS/ps15.htm> (visited June 22, 2005).

39. Usaskiptrace.com offers landline and wireless cell phone records, and specifies that if one wants to use the information for "legal purpose," she should obtain a subpoena: "This search is for RESEARCH purposes ONLY. If you find information contained in our reports and need them for legal purposes you must subpoena the records from the telephone carrier to use them in a court of law."
40. Webinvestigator.org advertises a wide variety of personal information, and claims, "you can find out if someone has ever declared bankruptcy, gotten married, filed for divorce, been arrested, or filed a lawsuit. You can even find out about their home or auto loans, the kind of credit card debts they have, and even get a printout of their monthly cell phone bill, itemizing all their incoming and outgoing calls." This site has terms of service language to disclaim liability for harmful uses, and to prohibit law enforcement officers from visiting the site: " In summary: You agree to hold harmless WebInvestigator.org, its officers, directors, employees, shareholders, server maintainers, and contributors from any and all claims of any kind arising out of your accessing this site. You will indemnify and hold WebInvestigator.org, its officers, directors, employees, shareholders, server maintainers, and contributors harmless from all liability, cost and expense, including legal fees, that may arise directly or indirectly from any of the services provided by WebInvestigator.org."

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Submitted August 25, 2005