



**HUMAN RIGHTS RISKS BRIEFING:
PALANTIR TECHNOLOGIES**



**INVESTOR ALLIANCE
FOR HUMAN RIGHTS**
AN INITIATIVE OF ICCR

**PALANTIR'S EXPOSURE TO HUMAN
RIGHTS RISKS AND ENGAGEMENT
GUIDANCE FOR INVESTORS**

HUMAN RIGHTS RISKS BRIEFING: PALANTIR TECHNOLOGIES

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This briefing was authored by Paloma Muñoz Quick, Director of the Investor Alliance for Human Rights, with valuable input from Mary Beth Gallagher, Executive Director of Investor Advocates for Social Justice, and Michael Connor and Hannah Lucal of Open Mic.

Design by Molly Conley.

ABOUT THE INVESTOR ALLIANCE FOR HUMAN RIGHTS

The **Investor Alliance for Human Rights** is a collective action platform for responsible investment that is grounded in respect for people's fundamental rights. We are a membership-based, non-profit initiative focusing on the **investor responsibility** to respect human rights, **corporate engagements** that drive responsible business conduct, and **standard setting activities** that push for robust business and human rights policies.

Our **membership** is currently comprised of over 150 institutional investors, including asset management firms, trade union funds, public pension funds, foundations, endowments, faith-based organizations, and family funds. Our members currently represent a total of nearly US\$4 trillion in assets under management and 18 countries.

Visit our website [here](#) and follow us on [Twitter](#). The Investor Alliance for Human Rights is an initiative of the **Interfaith Center on Corporate Responsibility**.

DISCLAIMER

The Human Rights Risks Briefing: Palantir Technologies is intended as a basis for constructive engagement to promote respect for human rights throughout business activities. All research and analysis contained herein is based on publicly available information and is not represented as original research. The briefing does not claim to represent a comprehensive assessment of corporate policies or practices.

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I. INTRODUCTION

- The Investor Alliance is issuing this Human Rights Risk Briefing for investors in Palantir Technologies, a privately-owned U.S. data mining and software company that is reportedly seeking to raise “**significant funding**” from private investors.

Today’s political climate of escalating hostility toward marginalized groups, including as a result of “zero tolerance” immigration policies and law enforcement practices that **disproportionately** target communities of color, companies and their investors are exposed to heightened human rights and material risks. In this environment, **companies of different sectors** and sizes—from information and communication technology companies to food services to healthcare firms—may cause, contribute to, or be linked to human rights harms, including by enabling the surveillance, detention, and over-policing of individuals and groups. As a developer of big data software with multiple government contracts related to immigrant detention and law enforcement, Palantir is therefore highly exposed to a range of human rights risks.

This has notable implications for investors. Effectively identifying and addressing environmental, social, and governance (ESG) risks, including human rights risks, may help achieve higher risk-adjusted returns and increase the comprehensiveness of risk management. In contrast, the failure of companies to act with due diligence to address ESG risks may impose significant costs on companies and, as a result, on their investors.

In addition to making good business sense, managing human rights risks is key for companies and investors in fulfilling their human rights responsibilities in line with the **United Nations Guiding Principles on Business and Human Rights** (hereafter UN Guiding Principles). Unanimously adopted by the UN Human Rights Council in 2011, the UN Guiding Principles constitute the authoritative global framework on the roles and responsibilities of governments and companies with respect to human rights. While governments have a duty to protect human rights, companies have a responsibility to respect human rights by exercising human rights due diligence to identify, prevent, mitigate, and account for adverse human rights impacts.²

I. INTRODUCTION

The scope of human rights covered by the UN Guiding Principles are all internationally recognized human rights—understood, at a minimum, as those expressed in the **International Bill of Human Rights** and the **International Labour Organization’s (ILO) Core Conventions**.³

Companies have long engaged with the concept of due diligence to identify financial risks associated with business transactions. Human rights due diligence is a continuation of those risk management systems that takes the lens of risk to people, recognizing that where the risks to human rights are most severe (i.e. **salient**), there are risks to business, including reputational harm, financial loss, and legal liabilities.

In order to support investor efforts to promote corporate respect for human rights on immigration-related topics, the Investor Alliance published **Guidance on Corporate Human Rights Due Diligence Related to Immigration Detention and Family Separation** in 2018, detailing specific human rights risks associated with family separation and indefinite immigration detention in the United States. In particular, the guidance helps companies and investors identify, assess, and address real and potential human rights impacts associated with U.S. government contracts linked to immigration detention and family separation.

THIS HUMAN RIGHTS RISK BRIEFING:

- **Examines the human rights risks associated with Palantir’s “mission critical” relationship with Immigration and Customs Enforcement (ICE)**, an agency with a track record of human rights abuses;
- **Identifies the material, legal, reputational, and human capital management risks** posed by Palantir’s known business activities, governance practices, and business relationships; and
- **Provides guidance for investors** to use when engaging Palantir to implement stronger governance mechanisms, policies, and practices to avoid these risks.

II. PALANTIR TECHNOLOGIES

- Palantir has received over \$200 million in **contracts** to design and run two software systems for ICE: Investigative Case Management (ICM) and FALCON Search and Analysis. Both **contracts** are with HSI, the division of ICE responsible for workplace raids.⁴ In August 2019, Palantir's ICM contract was renewed for \$49.9 million over five years. Its FALCON contract is up for **renewal** on November 27, 2019.⁵

Palantir was founded in 2004 by Peter Thiel, Nathan Gettings, Joe Lonsdale, Stephen Cohen, and Alex Karp and is headquartered in Palo Alto, California. During the company's last private fundraising round in 2015, Palantir was valued at **\$20 billion** and had approximately 2,000 employees. In 2018, Palantir's revenue was reported to be approximately **\$880 million**. The company's **customer base** includes a range of U.S. agencies—including defense and intelligence, public health, regulatory enforcement, law enforcement, and prosecution—as well as governments around the world and other companies.

Contracts that enable immigration enforcement and detention are important to technology companies, including Palantir. In the United States, the Department of Homeland Security (DHS) and other government and law enforcement agencies spend billions of dollars per year on procuring and maintaining mass databases, computer programs, tech employees to analyze big data, and shareable cloud-based storage to surveil, detain, and deport immigrant communities. In 2018, DHS spent an estimated 10 percent of its \$44 billion budget on data management.⁶

Playing a central role in implementation of the Trump administration's immigration policies, Palantir, as of July 2019, had at least 29 active U.S. government contracts worth **\$1.5 billion** in total, including with the Federal Bureau of Investigation (FBI), the Army, the Navy, and Special Operations Command. Human rights groups have heavily criticized Palantir's relationship with ICE and use of **Palantir software** to gather, store, and search for data on undocumented immigrants and facilitate workplace raids.

CONTRACTS WITH IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

Over time, U.S. immigration matters have been housed at different government agencies, such as the Departments of Labor, Commerce, and Justice. As such, the scope, scale, and visibility of immigration-related activities reflects the political climate toward immigrants at any given time. As part of a wave of policy changes in the aftermath of September 11, 2001, DHS

II. PALANTIR TECHNOLOGIES

was established under the Homeland Security Act of 2003. DHS restructured and expanded immigration enforcement activities and created three new agencies: Customs and Border Protection, Citizenship and Immigration Services, and ICE.

ICE currently has a \$6 billion annual budget, 20,000 law enforcement and support personnel, and 400 offices worldwide. The agency is primarily dedicated to three operational directorates:

- Homeland Security Investigations (HSI): As the principal investigative component of DHS, HSI has broad legal authority to investigate a wide range of cross-border criminal activities, including financial crimes, human and drug trafficking, and transnational gang activity.
- Enforcement and Removal Operations (ERO): ERO enforces U.S. immigration law and manages all immigration enforcement processes, including identification, arrest, and removal of aliens.
- Office of the Principal Legal Advisor (OPLA): OPLA represents DHS in immigration removal proceedings at the Executive Office for Immigration Review, litigates all removal cases, and provides legal advice to ICE personnel on their customs, criminal, and law enforcement authorities. mechanisms, policies, and practices to avoid these risks.

III. ICE INFRINGEMENTS ON HUMAN RIGHTS

- Over the past decade, numerous international human rights bodies, media reports, and civil society organizations have documented human rights abuses perpetrated by ICE in the course of carrying out its mandate.

In recent years, ICE has detained and deported a record number of people from the United States in an effort to fast-track the government's "zero tolerance" immigration policies, which stipulate that every migrant—including asylum seekers—attempting to cross the U.S. border anywhere other than at an official port of entry is to be detained and criminally prosecuted. To help enforce these policies, the administration granted **additional powers** to ICE agents to unilaterally question, arrest, detain and deport undocumented immigrants who have been in the country for less than two years.

The human rights impacts of these policies have been profound. According to the UN High Commissioner for Human Rights, the practice of separating children from their families, as enforced by ICE, constitutes "**arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child.**" Similarly, children separated from their parents as a result of worksite enforcement actions have "**experienced feelings of abandonment and showed symptoms of emotional trauma, psychological duress, and mental health problems.**" In July, the UN High Commissioner added that, "**conditions in which migrants and refugees are being held in the United States are appalling,**" noting that conditions for detained families may constitute cruel, inhuman, and degrading treatment. ICE also infringes upon a range of other human rights in the course of its efforts to identify, detain and deport individuals, including on the right to **fair trial**, to **seek asylum**, **non-discrimination** and **privacy**.

For a detailed analysis of how ICE has caused and contributed to abuses of the human rights enumerated in the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant Economic, Social and Cultural Rights (ICESCR), see the table in **annex** to this briefing.

IV. PALANTIR'S HUMAN RIGHTS RISKS AND IMPACTS

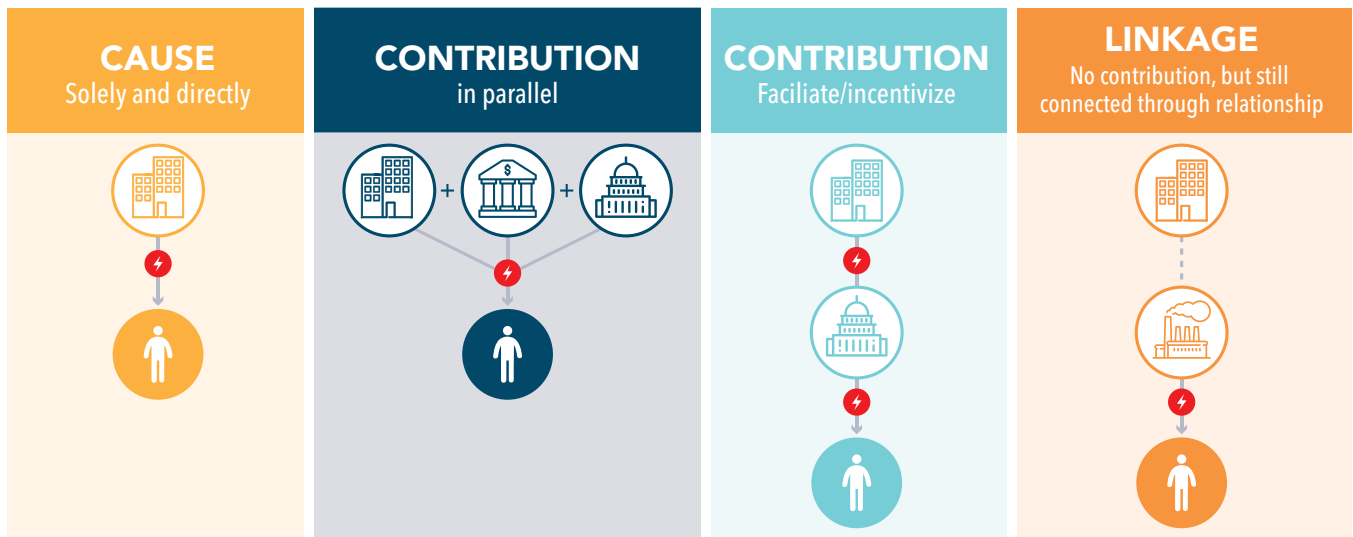
- Through its multi-million dollar U.S. government contracts, Palantir has played a **mission critical role** in enabling ICE to carry out its activities, including surveillance, mass raids, detentions, as well as de facto family separations and deportations. Coupled with inadequate corporate policies and processes to prevent or mitigate these harms, the company is failing to fulfill its human rights responsibilities.

HOW DO COMPANIES IMPACT HUMAN RIGHTS THROUGH THEIR BUSINESS RELATIONSHIPS?

The UN Guiding Principles outline three ways that a company can be involved in human rights harms:⁷

- **Causing** an adverse human rights impact through its own actions or failure to act.
- **Contributing** to an adverse human rights impact through its own activities, either alongside other entities or through external entities, such as clients or customers.
- Being **directly linked** to an adverse human rights impact through the company's products, services, or operations via a business relationship, such as a government entity.

CAUSE, CONTRIBUTION, LINKAGE



Graphic adapted from one produced by Shift Project, Ltd.

IV. PALANTIR'S HUMAN RIGHTS RISKS AND IMPACTS

According to the **Danish Institute for Human Rights**, a company may **cause** adverse human rights impacts if it discriminates in its hiring practices. It may **contribute** to one if it changes its product requirements at short notice without adjusting production deadlines, thereby pressuring suppliers to breach labor standards to meet deadlines. And it may be **directly linked** to the impact if it provides a financial loan to a company that breaches agreed upon standards of business conduct and causes environmental harm, which impacts the health of local communities.

Determining the relationship of a company to its human rights harm is essential for identifying an appropriate response. Where a company causes or may cause an adverse human rights impact, it should take steps to stop or prevent the impact, and remedy impacts that have already occurred. Companies that contribute to human rights abuses should cease or prevent their contributions and use their leverage to mitigate any remaining impact to the greatest extent possible. In both cases, companies should ensure victims have access to effective remedy.⁸ In cases of linkage, companies should exercise and maximize their leverage to mitigate the harm. Where companies lack leverage to prevent or mitigate human rights abuses in their business relationships, they should build leverage or consider ending the relationship.

In practice, there is a continuum between whether a company is contributing to or is merely linked to a human rights abuse. Former UN Secretary-General's Special Representative for Business and Human Rights John Ruggie highlights a number of **factors that determine where on the continuum an action lies**:

- The extent to which a business enabled, encouraged, or motivated human rights harm by another;
- The extent to which it could or should have known about such harm; and
- The quality of any mitigating steps it has taken to address it.

PALANTIR'S ROLE IN HUMAN RIGHTS HARMS

The following section provides an overview of Palantir's role in enabling ICE's human rights violations and a high-level assessment of the company's publicly disclosed human rights risk management systems.

EXTENT TO WHICH PALANTIR ENABLED HUMAN RIGHTS HARMS

Reports indicate that ICE would not be able to **properly function** without Palantir.

Palantir's **ICM system** allows ICE agents to access a vast amount of invasive and unauthorized personal data to facilitate discovering targets and creating and administering cases against them. Palantir's **FALCON mobile app** is used by ICE agents during workplace and other mass raids, for which Palantir provides real-time technical support at ICE facilities in Northern Virginia. For example,

IV. PALANTIR'S HUMAN RIGHTS RISKS AND IMPACTS

- Palantir's 2011 test run with ICE was meant to target "**transnational criminal networks and terrorist organizations**", but of the 1,416 resulting arrests, 634 were for non-criminal immigration violations.
- In 2017, the ICM system was used to track down and arrest **443** family members of migrant children who crossed the border alone, a precursor to the current family separation policy.
- In 2017, ICE agents used FALCON software⁹ in mass raids, including **Operation Cross Check VII - MEGA**, which targeted "all aliens who are present in the United States in violation of the Immigration and Nationality Act", often resulting in the detention of as many 'collaterals' as 'targets'.
- In 2018, ICE **arrested** 1,525 people for administrative worksite-related civil immigration violations in workplace raids (including almost 800 criminal arrests of majority undocumented workers), up from just 172 the previous year.
- In August of 2019, a workplace raid in Mississippi that similarly relied on Palantir systems resulted in the **arrest** of 680 migrant workers.

In these and other cases, Palantir's products and services significantly enhance the capacity of ICE to identify, detain and deport individuals and families, which, in turn, increases the number of people who have been subject to human rights harms perpetrated by ICE.

PALANTIR'S KNOWLEDGE OF ICE ABUSES

The amount of publicly available information concerning the human rights violations committed by ICE over the past decade is extensive, as outlined previously and in annex to this briefing, and more broadly in the media. Palantir's own **employees** have also started raising concerns over what they consider to be violations of the civil liberties of undocumented immigrants.

In other instances, Palantir has shown an ability to identify and act on risks associated with the use of its products by business relationships. In 2016, Palantir's CEO revealed a **company decision** not to partner with a tobacco company, citing fears that the company would then be able to harness data to identify vulnerable communities to which it might sell cigarettes.

MITIGATING STEPS TO ADDRESS HARMS

A review of publicly available information indicates that Palantir has not taken meaningful steps to respect human rights and mitigate the harms associated with use of its products and services by ICE. For example:

IV. PALANTIR'S HUMAN RIGHTS RISKS AND IMPACTS

UN Guiding Principle 16: Human rights policy commitments

Palantir has not adopted a comprehensive policy commitment to respect internationally recognized human rights in line with international standards. As a result, significant gaps in Palantir's policies and practices remain, exposing people within Palantir's own operations and value chain to human rights risks.

Also, while Palantir refers to certain human rights issues (e.g., in its **privacy and security statement** and **modern slavery statement**, as mandated by law), and Palantir's privacy and civil liberties **statement** acknowledges a responsibility to "develop and implement technology with a full understanding of its potential effects on fundamental rights", it is unclear which standards the company uses to define these terms, and therefore, if they reflect internationally recognized human rights.

UN Guiding Principle 16: Human rights governance and embedding

In describing Palantir's continued relationship with ICE, Palantir's CEO recently **expressed** that "immigration policy is not a software challenge; it's a political one. The solution lies with our political and judiciary system, not with Silicon Valley's C-suite."

This view contradicts the standards laid out by the UN Guiding Principles, which stipulate that respect for human rights "should be embedded from the top of the business enterprise through all its functions",¹⁰ to among other things, prevent or mitigate adverse human rights impacts that are directly linked to its operations, products or services by its business relationships, including State entities.¹¹ The commitment to respect human rights should be "communicated actively to entities with which the enterprise has contractual relationships; [and] others directly linked to its operations, which may include State security forces".¹²

Moreover, while Palantir states that the company employs an interdisciplinary team of engineers, lawyers, and philosophers to comprise its **Privacy and Civil Liberties Engineering team** to integrate and build capacity on privacy and civil rights, the team does not include international human rights and business experts.

UN Guiding Principle 18: Assessing real and potential human rights impacts

While in 2012 the company created a **Council of Advisors on Privacy and Civil Liberties** comprised of independent privacy law, policy, and ethics experts to help it understand and address privacy and civil liberties issues, the group only operates in an advisory capacity. In addition, its mandate does not include assessing the real and potential human rights impacts of the company's operations, products, and services. A review of publicly available information indicates that Palantir has not conducted an assessment of the human rights risks connected to its business relationships, including ICE. While DHS has conducted a **Privacy Impact Assessment**, this assessment did not include human right standards as the benchmark to assess against, nor involve meaningful consultation with human rights experts.

IV. PALANTIR'S HUMAN RIGHTS RISKS AND IMPACTS

UN Guiding Principle 19: Integrating and acting on assessment findings

While Palantir discloses its measures to promote respect for privacy rights, it does not disclose any meaningful efforts to ensure respect for human rights among its business relationships, including ICE. Integrating human rights considerations at the contracting stage represents a unique opportunity for Palantir to use its commercial leverage with clients to encourage the responsible use of its products and services. The UN Guiding Principles are clear:

*If the business enterprise has leverage to prevent or mitigate the adverse impact, it should exercise it. And if it lacks leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors. There are situations in which the enterprise lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage. Here, the enterprise should consider ending the relationship, taking into account credible assessments of potential adverse human rights impacts of doing so.
(UN Guiding Principle 19)*

Palantir has chosen to continue its business relationship with ICE. In August of 2019, following thousands of family separations and immigration raids, ICE and Palantir **renewed** their ICM contract through 2022.¹³

V. PALANTIR'S MATERIAL RISKS

- Failure to conduct proper due diligence has been shown to impose significant **material costs** on companies and investors alike. Palantir is currently facing public pressure to break off its contracts with ICE, which has contracted approximately \$200 million for the company's ICM and FALCON applications:¹⁴

- Palantir was dropped as a sponsor of the University of California at Berkeley's Privacy Law Scholars Conference in June 2019 in response to a **letter** signed by over 140 academics citing the company's "technologies that support federal immigration enforcement policies to profile and deport immigrants, detain children, prosecute families, and conduct surveillance on low-income communities that suffer disparate impacts of policing".
- The Grace Hopper Celebration, the world's largest conference for women in tech, **dropped Palantir** as a sponsor in August 2019 over its work with ICE. Lesbians Who Tech, a major LGBTQ tech group, **also dropped** the company as a sponsor of its 2019 job fair over its work with ICE.
- Protests have taken place at Palantir's **Palo Alto, New York,** and **Washington** offices in 2018 and 2019, and **coordinated actions** by tech workers online have denounced its ICE contracts.
- In August 2019, Palantir employees said they want the company's contracts with ICE to end, expressing distrust and frustration with Palantir's leadership over increasing news about families being separated at the border. Over 60 employees signed a **petition** asking management to redirect profits from ICE contracts to a nonprofit charity.
- Sharespost identified criticism of the company's relationship with ICE as a **risk factor in its 2019** company report.
- In September 2019, over 1200 university students from 17 schools **pledged not to work at Palantir** until the company terminates its relationship with ICE.

An overview of other material risks is outlined below.

IPO cancellation: In 2019, Palantir shareholders and the business press speculated that the company is planning an initial public offering of its shares by 2020.¹⁵ However, in June 2019, Palantir co-founder Joe Lonsdale questioned the timing of the IPO, saying that it may be "**years away**". In September 2019, Bloomberg **reported** that Palantir will delay its IPO at least three years. Palantir's institutional capacity for an IPO has been one of the **biggest concerns** surrounding its IPO plans.

V. PALANTIR'S MATERIAL RISKS

Government contracting in a politically charged environment: Palantir Chairman Peter Thiel's influence in the Trump administration exposes the company to questions about insider political influence as the company wins major federal defense contracts. For example, U.S. Chief Technology Officer (CTO) Michael Kratsios left his position as Principal and Chief of Staff at Thiel Capital to join the Trump administration in 2017. He is overseeing federal artificial intelligence (AI) initiatives as Palantir receives contracts at the Department of Defense in excess of \$1 billion for projects with major AI components, like the U.S. Army's Distributed Common Ground System (DCGS-A).¹⁶

Data usage: Palantir faces **legal risks** from its use of personal data. Palantir's FALCON analytical platform for ICE ingests commercial license plate reader data shared by local law enforcement in at least 80 jurisdictions with federal immigration authorities via data broker Thomson Reuters.¹⁷ Local law enforcement sharing of license plate data with federal authorities violates California state law, according to the **ACLU**.

VI. WHAT CAN INVESTORS DO?

- According to PitchBook data, Palantir has over 100 investors that have reported their investment voluntarily or to comply with SEC reporting requirements. These investors include funds owned by publicly traded entities such as **BlackRock**, **Allianz**, **Sutter Rock Capital**, **Alger Capital** and **Hercules Capital**. Excluding secondary market transactions, there have been 14 main funding rounds¹⁸ with a total raised of approximately \$2.75 billion.

HUMAN RIGHTS GUIDANCE FOR INVESTORS

We encourage investors with holdings in Palantir or in private equity firms with investments in Palantir to consider taking the following measures in order to address the above-mentioned risks:¹⁹

1. **Review holdings** to identify exposure to directly owned shares of Palantir or shares in publicly traded firms with holdings in Palantir.
2. **Engage Palantir or encourage intermediaries with holdings in Palantir to engage the company to assess the company's policies and risk management systems.** The following questions are a starting point for investors to embark on this assessment:
 - Does Palantir have plans to adopt a comprehensive policy commitment to respect human rights, including those found in the International Bill of Human Rights, the labor rights contained in the ILO's Declaration on Fundamental Principles and Rights at Work, and the rights outlined in the Convention on the Rights of the Child and the Convention on the Rights of Refugees?
 - Has the company's Board of Directors and/or executive leadership taken steps to understand the company's salient human rights risks and how it manages or mitigates those risks? Who in senior management is responsible for assessing and addressing human rights risks?
 - How does Palantir consider the human rights and material risks associated with executing contracts with high-risk business relationships, as defined by those clients at the greatest risk of adversely impacting human rights, before bidding or accepting them?
 - Once a contract with a high-risk business relationship has been entered into, how does Palantir seek to assess, on an ongoing basis, the human rights risks associated with the use of its products and services?

VI. WHAT CAN INVESTORS DO?

- How does Palantir seek to prevent or mitigate human rights harms connected to its products and services? Has the company taken any steps to prevent or mitigate adverse impacts stemming from ICE activities?
- Once adverse human rights impacts are identified, how does Palantir respond (e.g., Palantir's response to media reports documenting the human rights abuses associated with the use of its products and services by U.S. government agencies, including ICE)?
- How does the company implement its stated commitment to respect privacy and civil liberties? What benchmarks does the company use to define these terms?
- Does the company have effective grievance mechanisms to ensure that victims of adverse impacts have access to remedy?

3. Exercise leverage, for example, through shareholder dialogue or an investor letter, to call on Palantir to prevent, mitigate, and account for adverse impacts, including by:

- Adopting the UN Guiding Principles and conducting ongoing human rights due diligence of activities, products, services, and business relationships; and
- Ending its business relationships with clients, such as ICE, who systematically fail to take steps to prevent human rights harms connected with use of Palantir products and services.

VII. CONCLUSION

- As this *Human Rights Risk Briefing* illustrates, the human rights risks posed by Palantir’s business relationship with the U.S. government and ICE are significant. By undertaking meaningful and ongoing human rights due diligence, investors can fulfill their own human rights responsibilities and help protect their investments against costly litigation processes, reputational risks, high employee discontent, high turnover rates, and other business risks.

The Investor Alliance for Human Rights seeks to equip the investment community, including investors in Palantir, with expertise and opportunities to promote the implementation of responsible business standards, including by supporting **corporate engagement** on human rights and engaging in **standard setting** activities to create level playing fields for responsible business. For further information on tools and strategies to support **responsible investment** grounded in respect for human rights, visit our **website**.

VIII. ANNEX

HUMAN RIGHTS AT RISK	ICE ACTIVITY
<p>Children’s rights (Article 24 and 25, UDHR; Convention on the Rights of the Child)</p>	<p>The Trump administration began separating families, including families who crossed the border legally, in October 2017, before the “zero-tolerance” policy was in place. By August 2018, ICE had played a central role in the separation of nearly 3,000 children from their parents. In 2019, reports indicated that immigration policies and fears of mass raids and deportations conducted by ICE also contributed to children being taken out of school and families not seeking medical care, impacting children’s rights to education and health.</p> <p>The practice of separating children from migrant families entering violates international human rights law. In 2018, the UN High Commissioner for Human Rights called the practice of separating children from their families, as enforced by ICE, “arbitrary and unlawful interference in family life, and is a serious violation of the rights of the child.” The separation of parents and children and accompanying uncertainty can impact children’s health and safety, causing “toxic stress in children, disrupting brain development and leading to irreversible mental, emotional, and physical damage”, experts say.</p>
<p>The right to seek asylum (Article 14, UDHR)</p> <p>The right to a fair trial (Article 10, UDHR)</p>	<p>Asylum seekers coming to the United States face increasingly restrictive environments that bar them from obtaining protection. Risks include summary removal procedures that frequently result in asylum seekers being denied the chance to seek asylum because of quick proceedings that lack due process, as well as prolonged detention that contributes to post-traumatic stress. According to the National Immigrant Justice Center, “ICE’s detention system is operated on a correctional model, in direct conflict with the civil nature of immigration detention.”</p> <p>In practice, the U.S. government policy of deterrence and refusal of entry for those seeking asylum forces at-risk individuals to remain in danger instead of crossing to safety. In 2019, Vice reported that asylum seekers were appearing before judges without access to lawyers or interpreters, while Foreign Policy reported that asylum seekers were forcibly returned to countries where they face torture.²⁰ Reports show that in 2016, ICE released 75 percent of eligible asylum seekers in Deep South detention centers on parole. By 2018, that figure had dropped to 1.5 percent. As of September 2019, it was zero.</p> <p>The detention of asylum seekers is prohibited by international law except as a last resort and only for reasons such as concerns about danger to the public. Moreover, the U.S. Constitution guarantees due process, equal treatment, and humane treatment for all people in the country, not just citizens, and even for those lawfully detained for committing a crime or posing a security threat.</p>

<p>The right to life (Article 3, UDHR)</p> <p>The right to adequate health (Article 25, UDHR; Article 12, ICESCR)</p> <p>The right to be free from torture or cruel, inhuman, or degrading treatment or punishment (Article 5, UDHR)</p> <p>The right to humane treatment when in detention (Article 10, ICCPR)</p>	<p>In July 2019, the United Nations High Commissioner for Human Rights stated that the “conditions in which migrants and refugees are being held in the United States are appalling”, noting that conditions for detained families may constitute cruel, inhuman, and degrading treatment, with poor sanitation and inadequate food threatening detainees’ health and development. For example:</p> <ul style="list-style-type: none"> → 2012: Human Rights Watch stated that 129 detainees had died in ICE custody since 2003, citing “credible evidence that poor medical care in detention contributed to a number of those deaths”. → 2015: ICE facilities reportedly failed to meet standards in medical care and suicide prevention, causing suffering and trauma among detainees. Inspections also found that centers failed to meet standards for sexual assault prevention. → 2016: A worker at a family detention center was convicted of institutional sexual assault. The ACLU and the National Immigrant Justice Center also found “egregious violations of medical standards by ICE that played a significant role in the deaths of people in detention centers across the country”. → 2019: The Office of Inspector General of DHS found that immigrants in U.S. detention centers were punished with solitary confinement for unproven disciplinary violations, and then kept locked in isolation for 24 hours a day, with little access to outdoor recreation or showers. As of June 2019, twenty-four immigrants were known to have died in ICE custody during the Trump administration. At least four others died shortly after being released from ICE custody.
<p>The right to equal treatment (Article 1, UDHR)</p> <p>The right to non-discrimination (Article 2, UDHR)</p>	<p>Reports indicate that certain minorities held in ICE detention are disproportionately subject to abuse and harassment. Between 2017 and 2018, at least 800 complaints of abuse in 34 immigration detention jails and prisons were reportedly “motivated by hate or bias” on the basis of race, ethnicity, nationality, religion, sexual orientation, gender identity, and disability.</p> <ul style="list-style-type: none"> → 2017: Muslim Advocates and Americans for Immigrant Justice reported ICE “hindering individuals from observing the holy month of Ramadan by denying them access to the Ramadan list and...providing inedible and insufficient quantities of food to those who fast”. → 2018: A report by Texas A&M University, RAICES, and the University of Texas documented human rights abuses against 80 Africans detained by ICE in a facility in Texas, including physical and sexual assault as well as verbal insults and racial slurs. A class action lawsuit against an ICE detention center in Florida alleged racial slurs and excessive force against 92 Somali detainees.

	<p>→ 2019: Two advocacy groups filed a lawsuit against ICE for denying Muslim detainees' ability to freely practice their faith. A class action lawsuit against ICE, DHS, and other agencies alleged failure protect detained immigrants with disabilities from discrimination.</p>
<p>The right to effective remedy (Article 8, UDHR)</p>	<p>In 2017, the Office of the Inspector General of Homeland Security found that people detained in ICE facilities have faced difficulties resolving issues through the available grievance mechanisms, with some detainees reporting that staff obstructed or delayed their grievances or intimidated them through fear of retaliation into not complaining. In some facilities, inconsistent and insufficiently documented grievance resolution processes were also identified.</p>
<p>The right to privacy (Article 12, UDHR)</p> <p>The right to free opinion and expression (Article 19, UDHR)</p>	<p>ICE accesses vast amounts of personal data to identify, track, and surveil individuals and families via Facebook, WhatsApp, and Twitter, as well as through geolocation tracking and monitoring of telephone calls, SMS, web surfing activity, and web account login information.</p> <p>A 2016 ICE pilot program reportedly sought to monitor foreign students by accessing social media and other sources of data. In 2019, ICE reportedly used Facebook to keep tabs on "anti-Trump" protests. According to the Brennan Center for Justice, "[s]uch sweeping collection and analysis is likely to scoop up swaths of irrelevant and unreliable information and risks misinterpreting innocuous connections and patterns as illicit activity."</p> <p>While social media provides an extensive amount of information on an individual's personal preferences, political and religious views, and physical and mental health, such information is susceptible to misinterpretation and creates serious risks to privacy and freedom of opinion and expression.</p> <p>In addition, according to the ACLU, ICE receives license plate location information from over 80 local law enforcement departments, violating local law and ICE policies. According to the ACLU, "ICE can sweep up to 'five years' of driver information when searching for an immigrant to deport...ICE's privacy rules fail to adequately protect First Amendment-protected speech and activity."</p>

ENDNOTES

¹ There is an increasingly wide range of research documenting the correlation between corporate attention to ESG and corporate financial performance. A good understanding of ESG risks facing portfolio companies helps manage potential financial impact on investment portfolios and avoid potential contribution to unlawful or unsustainable activities. Ruggie, John G. and Middleton, Emily K. Money, Millennials and Human Rights — Sustaining “Sustainable Investing. 2018; Cracking the ESG Code, Nordea Equity Research 2017.

² Human rights due diligence includes four key steps: assessing actual and potential human rights impacts; integrating and acting on the findings; tracking responses; and communicating about how impacts are addressed.

³ According to the specific circumstances and context, companies are expected to consider additional standards. For example, if the company has activities that affect women or children, rights such as those outlined in the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Convention of the Rights of the Child (CRC) should be considered.

⁴ Current ICE contracts for these two systems are Award IDs 70CTD019FR0000268 and 70CTD019C00000001.

⁵ Award ID 70CTD019C00000001.

⁶ Mijente, the National Immigration Project, and the Immigrant Defense Project, *Who’s Behind Ice? The Tech and Data Companies Fueling Deportation*, October 2018.

⁷ UN Guiding Principle 13 and UN Guiding Principle 19(b)

⁸ UN Guiding Principle 29

⁹ The first period of performance for the ICE FALCON contract ends in November 2019.

¹⁰ UN Guiding Principle 16.

¹¹ UN Guiding Principle 13.

¹² UN Guiding Principle 16.

¹³ Award ID 70CTD019FR0000268.

¹⁴ Federal contracting documents accessible at USASpending.gov and fbo.gov.

¹⁵ See: Sharespost, “**Palantir: Ready for an IPO?**,” February 6, 2019, <https://sharespost.com/insights/research-reports/palantir-ready-for-an-ipo-preview>; and Lizette Chapman, “**Palantir’s Hotly Anticipated IPO Set to Slide to 2020**,” Bloomberg, May 24, 2019.

¹⁶ Federal contracting documents accessible at USASpending.gov.

¹⁷ Thomson Reuters CLEAR services for ICE are required to be compatible with the analytics program that Palantir developed for ICE: “The Government’s requirement is that the database must be able to interface with FALCON Palantir systems. [Thomson Reuters subsidiary] West Publishing Corporation’s CLEAR program offers a system to system (S2S) connection that merges CLEAR public and proprietary data with Palantir analytical information to narrow in and locate persons and assets of interest.” Source: Limited Source Justification for General Services Administration Contract Award ID GS-02F-0405D, awarded to West Publishing Corporation and active from 10/1/2015 to 9/30/2020.

¹⁸ Incubator, Seed, A, B, C, D, E, F, G, H, H1, I, J, K

¹⁹ Recent **legal developments** in the United Kingdom suggest that private equity funds are increasingly sensitive to environmental, social and governance issues, including human rights risks and the associated risks to limited partners.

²⁰ In violation of the **Refugee Convention** and the **Convention Against Torture**.