

THREE PILLARS OF PRIVACY

Spatialist Workshop

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Balancing of Privacy Interests

- Determining whether a privacy interest exists usually involves balancing perceived privacy interest with perceived value of collection/use.
- Fundamental questions
 - What is being balanced?
 - Public vs private good?
 - Social networking vs. tracking?
 - Who is making the determination?
 - Courts?
 - Legislators?
 - Industry?

Three Pillars of Privacy in U.S.

- What government can do with data it collects in normal course.
- What businesses can do with personal data that it collects.
- What government (i.e. law enforcement) can do with data it “proactively” collects.
 - Fourth Amendment search and seizure
 - Increasingly requests for data that businesses collect

With Respect to Spatial Data More Questions Than Answers



Government Data

- Privacy Act of 1974
 - Requires government agencies to show an individual any records kept on him or her.
 - Requires agencies to follow certain principles, called "fair information practices," when gathering and handling personal data.
 - Places restrictions on how agencies can share an individual's data with other people and agencies.
 - Allows individuals sue the government for violating its provisions.

Information Security and Privacy Advisory Board

- “Technologies of today do not fit into the definitions coined in 1974”
- “Current government privacy laws do not provide sufficient limits on how location information can be used” once it is collected by a government agency.
- “OMB should issue privacy guidelines on agency use of location information”

Location Questions

- At what point does aggregation of spatially-enabled data encroach upon privacy interests?
 - Multi-Media Ag. v Dep't of Agriculture
- Who decides?
 - e.g. Homeland Security Infrastructure Program (HSIP)
 - Department of Homeland Security
 - National security vs. privacy

Businesses

- A number of different privacy regimes exist in U.S. that businesses must address
 - HIPAA (medical records)
 - Gramm-Leach-Bliley (financial records)
 - Fair Credit Reporting Act
- But nothing addressing location privacy
 - Location Privacy Protection Act (2001) - proposed

However issue is now being addressed on a number of different fronts

- Congressional Hearings
 - Chairman Boucher quoted that we can expect legislation on this matter
- Numerous discussions in Tech Journals
 - South-by-Southwest
- Companies are addressing issues
 - Microsoft – removal of IP addresses from 18 to 6 months
- Courts are getting involved
 - Boring lawsuit

Location Questions

- What is privacy from a location stand-point?
 - What are we trying to protect?
 - Collection versus distribution?
- What trade-offs are consumers willing to make with respect to location privacy?
- Is there a generational component to be considered?
 - Are we worrying too much?
- Are existing privacy regimes applicable models?
 - Is location data the same as medical records?

Fourth Amendment Search and Seizure

- Government trying to collect location data as part of law enforcement
 - Tracking devices
- Increasingly turning to businesses for data
 - Today – wireless companies; social networking sites
 - Tomorrow – LBS providers;???

Wireless carriers

- A number of cases working through US court system.
- Sprint executive claims 8 million requests
- What must government show?
 - Prospective data
 - Third Circuit case
 - Historical data

Location Questions

- What is a “reasonable expectation of privacy” in a Google Earth?
 - When does government need to get a warrant?
 - Existing laws are outdated
 - Technology is creating new types of businesses
- What obligation does a business have to protect its customers’ privacy?
 - Telecommunication companies and the FISA renewal.

Conclusions

- A good deal of work needs to be done
 - Legal and policy community is falling further and further behind technology
- Concept of “location privacy” in the U.S. is still undeveloped
- Privacy issues are often raised as a catch-all for other concerns
 - NYC taxi-drivers

Questions??

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