



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



WEBVTT

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00:00:57.804 --> 00:01:06.745

All right John, we're free to go. Good afternoon. On behalf of the American Geographical Society Council, our members, and the staff,

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00:01:07.254 --> 00:01:21.295

it's my pleasure to welcome you to this sixth Location Tech Task Force Blue-Ribbon Panel, Legal Perspectives on Mobile Location Technology. To those of you participating in the conversation on WebEx, and those that are watching our live stream on Facebook, it's

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00:01:21.745 --> 00:01:28.075

great to have you joining us this afternoon. We are proud to partner our EthicalGEO initiative with the Henry Luce Foundation

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00:01:28.439 --> 00:01:31.795

to investigate the societal implications of geospatial technology and

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00:01:32.129 --> 00:01:39.655

location tracking. Mobile location-based applications have become ubiquitous in our society. As all of

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00:01:39.655 --> 00:01:40.224

you know,

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00:01:40.584 --> 00:01:43.974

they have changed the way we live our lives in a very short period of time.

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00:01:44.844 --> 00:01:57.745

There are, however, problematic and unanticipated effects of using this technology. To better understand the ethical implications of its use, we have provided this platform to frame the discussion and to address these issues as

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00:01:57.834 --> 00:02:08.245

they are already impacting our lives on a daily basis. COVID-19 has put a spotlight on the concept of using mobile tracing and surveillance to fight the pandemic.

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00:02:09.264 --> 00:02:23.814

Around the world, the utilization of this technology to fight the coronavirus is being employed to various degrees and already governments and people worldwide are faced with the issue of compromised privacy and what that means as we go forward.

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00:02:24.805 --> 00:02:38.094



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



Over the past several weeks, our first five Blue-Ribbon Panels met and looked at ethical implications of mobile location technology and the impact on vulnerable publics from an international perspective and from the unique American experience.

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00:02:38.995 --> 00:02:46.615

In addition, we had a panel of national security leaders, who focused on mobile tracing technology, and it's used in national security and democracy.

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00:02:47.784 --> 00:03:00.414

We also heard from state and local leaders who shared their invaluable experiences with us, and just a couple of weeks ago, we looked at data quality and building trust, false negatives, false positives and policing / surveillance.

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00:03:01.435 --> 00:03:05.574

In the case of all the panels, the discussions have been fascinating and comprehensive.

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00:03:06.625 --> 00:03:13.555

We also had the opportunity to hear from Ambassador Samantha Power, and she added the human rights aspect of the use of mobile technology.

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00:03:14.544 --> 00:03:23.245

Other leadership spotlights investigated digital contact tracing tools, as well as technology and LGBT+ location privacy during COVID-19.

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00:03:23.245 --> 00:03:34.314

Today, we turn our focus to something that will affect all of the groups we have spoken to over the past few months, and that is the legal issues involved with mobile location technology.

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00:03:35.245 --> 00:03:46.735

All of this testimony that we have collected through the Blue-Ribbon Panels and the Leadership Spotlight testimonies will serve as the basis of information and data that policy makers will use to help guide us in the future.

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00:03:48.324 --> 00:03:54.805

Before we move on, I'd like to explain to those of you on our WebEx platform, the best way to get the most out of today's panel.

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00:03:55.914 --> 00:04:05.215

For those viewing on desktop computers or laptops, we recommend that you customize your viewing by hovering the mouse in the top right of your screen and selecting the icon in the middle.

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00:04:06.414 --> 00:04:15.145

During our Q and A session later, to ask a question, hover your mouse under the arrow and click on the question mark icon in the gear bar at the bottom of your screen.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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00:04:16.375 --> 00:04:25.795

For those of you using a tablet or mobile device, select the icon with the three dots, which will then allow you to select the question mark icon to submit your questions to our panelists.

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00:04:27.204 --> 00:04:36.535

And now, it's my pleasure to introduce Dr. Christopher Tucker, the Chairman of AGS, and our moderator for today's session. Chris, it's a pleasure to welcome you and your panel.

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00:04:37.314 --> 00:04:37.615

Thanks

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00:04:37.615 --> 00:04:48.865

John, and thanks to the team for all the work to get this organized today. AGS has a proud history of 169 years of convening government, industry, academe,

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00:04:48.865 --> 00:04:53.634

and the social sector around the vital issues of the day through a geographic lens.

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00:04:54.055 --> 00:04:54.894

Last year,

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00:04:55.134 --> 00:05:02.725

we began our EthicalGEO initiative looking at the ethical implications of mobile location technologies,

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00:05:02.725 --> 00:05:06.774

geospatial technologies and with the dawn of COVID-19,

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00:05:06.805 --> 00:05:11.334

we built a partnership with the Henry Luce Foundation,

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00:05:11.605 --> 00:05:17.274

which has created this Location Tech Task Force and the Blue-Ribbon Panels

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00:05:17.274 --> 00:05:26.814

that we've convened up until now. We could not be more proud to have these three world experts with us today.

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00:05:27.204 --> 00:05:32.725

And before we begin their presentations, I'd like to give a short introduction of each of them. Ms. Stacey Gray, Senior Counsel at Future of Privacy Forum (FPF), focuses on issues of data collection in online and mobile platforms, ad-tech, and the Internet of Things. At FPF, she worked on FCC and FTC public filings, and publishes extensive work related to cross-device tracking, smart home technologies and federal privacy



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



regulation and enforcement. She also is a certified information privacy professional. Mr. Kevin Pomfret is a partner at Williams Mullen. He represents a wide range of public and privately held companies and counsels companies on technology, joint ventures and software and data licences. Kevin serves as the co-chair of Williams Mullen's unmanned systems and data protection cybersecurity teams. As a former satellite imagery analyst in the intelligence community, Kevin is also a thought leader in geospatial technology with almost 30 years experience in the geospatial community. In addition to his legal representation, Kevin founded and is the Executive Director of the Center for Spatial Law and Policy. And Mr. Jacob Snow is Technology and Civil Liberties Attorney at the ACLU of Northern California where he focuses on consumer privacy, government surveillance,

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00:06:58.584 --> 00:07:11.394

and the preservation of free speech online. Jacob works in the courts and legislature to protect people's privacy from intrusion by both companies and the government. Before joining the ACLU of Northern California,

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00:07:11.394 --> 00:07:18.834

he was staff attorney in the San Francisco Office of the Federal Trade Commission. Thank you to all three of you for joining us today.

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00:07:19.165 --> 00:07:33.774

I know that you all bring very valuable and very different perspectives to the table on the implications of mobile location technologies in an era of COVID-19, and also for their implications beyond COVID-19.

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00:07:33.774 --> 00:07:46.555

One of the themes that we'll have in our panel today is how new technologies, new systems, new laws, new bureaucratic institutions are put in place in response to a particular threat

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00:07:46.735 --> 00:08:01.014

and often stick around as we find ourselves in the face of a new one, and as we often don't have the opportunity to take the time and think through the ethical implications of those beforehand. And with you three here today,

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00:08:01.014 --> 00:08:12.595

I know we'll have plenty of time to reflect on all of that. So, thank you again for joining us, and Stacey, if you're ready, we'll hand over the microphone to you to kick us off.

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00:08:15.475 --> 00:08:23.339

Great. Thank you so much Chris. Wonderful. Yeah, that was an amazing introduction, thank you so much. Thanks to

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00:08:23.634 --> 00:08:36.715



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



EthicalGEO for inviting us. A quick word, before I start off some comments and some presentation for the attendees, on FPF and our background in working on all of this.

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00:08:36.715 --> 00:08:46.105

So, Future of Privacy Forum is a think-tank, we're based in Washington D.C., although now we have offices in Brussels and Seattle, Washington as well.

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00:08:46.615 --> 00:08:57.325

And we focus on the range of issues related to consumer privacy, specifically emerging technology and consumer privacy.

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00:08:57.504 --> 00:09:07.134

So, location data has been on our radar for many, many years since really the entirety of the organization's history, mostly from a consumer perspective,

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00:09:07.134 --> 00:09:14.544

and especially as it relates to things like online marketing and advertising, which is at the crux of a lot of the issues I think we're going to be talking about today.

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00:09:16.620 --> 00:09:20.845

When the pandemic became the focus of our attention

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00:09:20.875 --> 00:09:22.105

a few months ago,

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00:09:23.455 --> 00:09:24.235

more than that now

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00:09:24.235 --> 00:09:31.914

I guess, location data was also at the heart of a lot of the commercial privacy issues that we were talking about with COVID-19,

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00:09:31.914 --> 00:09:34.465

right, so FPF launched a series of privacy

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00:09:34.465 --> 00:09:48.625

and pandemic workshops with global leaders to talk about these issues, and I was honored to be invited to participate in a paper hearing with the Senate Commerce Committee on commercial data privacy issues and unsurprisingly, all of the questions that we received

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00:09:48.960 --> 00:09:53.605

were about location data, right? So this couldn't be more timely and important,

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00:09:53.605 --> 00:10:05.034



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



so, thank you. We're also pragmatists, I would say. We're not consumer privacy advocates like my friend, Jake at ACLU, nor are we a trade association.

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00:10:05.034 --> 00:10:11.065

We try to find the center ground and the practical solution for emerging ethical and legal issues.

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00:10:13.134 --> 00:10:24.445

So all that aside, we can maybe dive into some of the basics. What I thought I'd do today and maybe we'll go ahead and move to the next slide.

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00:10:25.105 --> 00:10:37.855

What I thought I'd do with the next 7 minutes or so is just a little bit first about mobile location data, how it works. I think there's a lot of misconceptions here about what kind of data we're talking about it and who holds it,

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00:10:37.855 --> 00:10:49.945

and how it's collected, so, I thought I would do some level setting that'll hopefully be helpful for the rest of the conversation, and then talk a little bit about the data flows, some of the potential safeguards and active safeguards that are out there,

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00:10:49.945 --> 00:11:03.835

and some of the risks that are out there, and then maybe wind up talking a little bit about all of this in the context of COVID-19, and some of the contact tracing and exposure notification apps that we've seen around the world.

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00:11:03.835 --> 00:11:12.264

So first off, location data. There's so many misconceptions that we've seen out there.

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00:11:12.264 --> 00:11:23.664

So, the first thing that's important to understand about location data is that we're usually talking about it in the context of a mobile device, usually your cell phone, but it's not limited to that.

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00:11:23.970 --> 00:11:24.210

So,

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00:11:24.205 --> 00:11:27.475

as we move to an Internet of Things world,

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00:11:27.475 --> 00:11:30.024

as we all start buying connected vehicles,

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00:11:30.024 --> 00:11:33.294

and connected wearables, and everything else.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:11:33.294 --> 00:11:40.980

What we're really talking about is connected devices and the signals that those connected devices emit and receive.

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00:11:42.115 --> 00:11:54.205

And this is, a little bit to me, at the heart of what makes this such a challenging legal issue too, when it comes to defining what location is and when other types of data become location data. So,

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00:11:55.284 --> 00:12:02.034

in the context of the phone, which I think is the best place to start, some signals that the phone is receiving, have known locations.

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00:12:02.455 --> 00:12:11.695

So that's how GPS works for example. GPS satellites broadcast signals have known locations as they move through space. Cell towers broadcast IDs

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00:12:11.695 --> 00:12:23.544

and cell towers have known locations, so you can use that to triangulate location. WiFi networks have been extensively mapped out through public and private efforts

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00:12:24.475 --> 00:12:27.804

so that the reception of all of the different WiFi

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00:12:27.804 --> 00:12:29.605

networks that are the neighbors,

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00:12:29.605 --> 00:12:30.355

the coffee shop,

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00:12:30.414 --> 00:12:30.865

the gym.

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00:12:31.975 --> 00:12:33.774

Because we know their locations,

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00:12:34.044 --> 00:12:37.434

you can infer from the signal strength of those networks,

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00:12:37.524 --> 00:12:42.445

where devices are located. Other things like Bluetooth beacons, Bluetooth beacons are out there.

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00:12:43.315 --> 00:12:57.955



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



Other signals are unknown, or they're moving, right? So you're getting signals from moving devices, other people's vehicles, IoT, and the signals are not limited to GPS so, increasingly, we're talking about WiFi,

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00:12:57.955 --> 00:13:12.715

but mobile devices are also packed with other sensors. You can use microphones, you can use cameras, you can use near field barometers, magnetometers, all of these different hardware sensors to help infer more and more precise location.

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00:13:14.034 --> 00:13:14.995

So, next slide.

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00:13:19.644 --> 00:13:34.254

Let's see. This is the most common way that commercial entities receive location data sets and it's the focus and gets the most legal attention right now.

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00:13:34.284 --> 00:13:44.575

So it's worth understanding in some detail. The role of the operating system on your phone, if you're using an iPhone, Apple, if you're using an Android, Google, right?

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00:13:44.575 --> 00:13:52.705

The role of the operating system is to interpret all of those ambient signals that we were talking about into a latitude and longitude.

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00:13:53.634 --> 00:14:02.245

And then that latitude and longitude along with usually other information is provided through an application programming interface to app developers.

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00:14:03.115 --> 00:14:03.565

So,

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00:14:04.284 --> 00:14:04.674

you know,

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00:14:04.764 --> 00:14:05.274

for instance,

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00:14:05.274 --> 00:14:07.705

a lot of lawmakers tend to think of location data sets

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00:14:07.705 --> 00:14:10.044

as coming exclusively from cell phone carriers,

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00:14:10.434 --> 00:14:11.215

your AT&T,

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:14:11.215 --> 00:14:11.784

or Horizon,

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00:14:11.784 --> 00:14:12.955

and your other cell phone carriers.

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00:14:13.465 --> 00:14:14.034

In fact,

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00:14:14.034 --> 00:14:19.884

it's much more commonly available in commercial markets to get it from mobile apps through software development kits,

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00:14:20.875 --> 00:14:23.845

and through the advertisements that are served in mobile apps.

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00:14:25.524 --> 00:14:38.965

So this is a little walk-through and we can come back to this if we want. But what we're looking at basically is an app developer that sends a request to the operating system and gets back a latitude-longitude measurement.

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00:14:40.710 --> 00:14:44.485

It is possible in some cases, for the app developers to go around that process,

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00:14:44.995 --> 00:14:59.424

you know, by looking out through Bluetooth access to see if they're beacons nearby, for example. But that's much less common. It violates terms of service usually, it would probably violate some legal regimes that we have here in the United States,

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00:14:59.424 --> 00:15:13.644

but there are some technical workarounds. The most common use-cases, aside from providing the service of course, providing a ride-share alert or geofence alert, the most common use-cases tend to have to do with advertising.

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00:15:14.245 --> 00:15:18.144

So you can think of serving a localized advertisement,

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00:15:18.144 --> 00:15:29.664

I want to send this advertisement only to people in Washington D.C. and therefore I'm willing to pay more for it. But you should also think about location data and advertising in terms of audience creation to do with, like,

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00:15:30.235 --> 00:15:43.764

I'd like a list of people who go to coffee shops, people who go to the gym more, people who have been to this particular store, people who've been to my competitor's store, and also think about it in terms of measurement and attribution.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



102

00:15:43.764 --> 00:15:57.774

So increasingly what advertisers want to know is not just did you see the advertisement, but after you saw the advertisement, did you do something, did you go into the store? Did you go into the competitor's store?

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00:15:58.705 --> 00:16:08.965

Did you do nothing, in which case that advertisement wasn't very useful? There are lots of other use cases too, right? So, it's obviously not just limited to advertising. We've got anti-fraud use-cases that are out there,

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00:16:09.355 --> 00:16:24.325

a lot of analytics, political targeting becomes a major legal issue and there are a lot of use cases, beneficial use cases, I think, out there with State and Federal Departments of Transportation, related to urban planning, how are people moving around?

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00:16:24.325 --> 00:16:34.434

How are they getting to work or commuting? Where do we need to build roads and sidewalks, and bike lanes? So, some of these issues, and Jake, I have a feeling we'll get into these later, but just to tee them up,

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00:16:34.434 --> 00:16:45.054

some of the issues really involve whether people are aware of this kind of data collection. I think it's safe to say most people are not. Bundling of consent,

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00:16:45.054 --> 00:16:54.445

so, when you give consent to an app, are you also giving consent that app's partners, or to onward transfers, and unexpected uses.

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00:16:54.475 --> 00:17:08.454

So we've seen a lot in the news lately that some of this commercial location data ends up in the hands of federal law enforcement agencies for example, who are buying just the same way anyone else buys it because it's available out there in the commercial market. Okay,

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00:17:08.545 --> 00:17:20.904

so I'm already like, going way over time. So I think maybe we'll leave some of the other slides for later Chris, if that works for you, and I'll just go to the next two.

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00:17:24.654 --> 00:17:32.545

So, again, this is just a quick overview of all of the different commercial entities that are out there. This doesn't even include government entities, right,

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00:17:32.845 --> 00:17:43.375

so, because our focus is on the commercial space. Carriers are just, you know, in some sense, the tip of the iceberg. In another sense, they're also regulated more heavily.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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00:17:43.375 --> 00:17:49.015

So we saw a very large FCC find a couple of months ago related to location data that had

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00:17:49.285 --> 00:17:53.964

been improperly shared and disclosed that originated with cell phone carriers.

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00:17:55.704 --> 00:17:56.934

But it's really the apps,

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00:17:56.934 --> 00:17:57.894

the app partners,

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00:17:57.894 --> 00:17:58.615

the data brokers,

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00:17:58.615 --> 00:17:59.484

the aggregators,

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00:17:59.515 --> 00:18:00.954

any other third party out there,

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00:18:01.015 --> 00:18:03.805

getting information from software development kits,

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00:18:03.805 --> 00:18:04.795

and for mobile apps

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00:18:04.825 --> 00:18:07.734

that are the bulk of the commercial location data sets out there,

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00:18:08.125 --> 00:18:16.464

and I'll flag these. Entities are having to comply with generally applicable,

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00:18:16.494 --> 00:18:22.404

so broadly applicable legal regimes. You've got the General Data Protection Regulations in the EU.

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00:18:22.404 --> 00:18:33.055

If it's a global company, for instance, or if they've voluntarily committed to it, you've got the California Consumer Privacy Act now in effect with regulations, and most states have unfair, deceptive practices laws.

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00:18:33.055 --> 00:18:47.275



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



So, no location-specific laws in the commercial space exist to my knowledge yet. And we can talk about whether that's a good idea. But there are, at least there's some legal baselines that these companies have to comply with.

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00:18:48.684 --> 00:18:53.904

And it is a world, in the very bottom row here, of

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00:18:54.329 --> 00:18:59.815

location analytics providers that are not working through the mobile app ecosystem.

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00:19:00.384 --> 00:19:11.845

So what I think a lot of end-users and consumers aren't aren't aware of, is that in addition to all of the data your phone is receiving and sending through mobile apps and through the operating system,

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00:19:12.355 --> 00:19:26.845

just by virtue of it being a connected device, it's sending signals out into the world.

Usually so that it can automatically connect to a network, right? So, when you get home, your phone automatically connects to the home WiFi, you don't have to do it manually

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00:19:27.055 --> 00:19:31.795

because it's emitting signals on a regular basis that identify it.

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00:19:31.795 --> 00:19:32.065

So,

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00:19:32.065 --> 00:19:32.964

hardware signals,

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00:19:32.964 --> 00:19:35.190

including a Mac address,

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00:19:35.184 --> 00:19:39.775

SSID information and that information, I would say,

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00:19:40.140 --> 00:19:42.325

for a long time in the United States,

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00:19:42.325 --> 00:19:48.775

wasn't necessarily considered personally identifiable within industry. That's rapidly changing,

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00:19:50.065 --> 00:20:02.785



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

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FOUNDATION

and one of the reasons is that when those hardware identifiers remain the same overtime, it's pretty straightforward to count and to track how devices are moving and devices are used as a proxy for individuals.

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00:20:04.015 --> 00:20:13.674

So, again, some of those use cases are benign. Most airports and stadiums are using this kind of ambient signal data from devices to track how many people are moving in and out of big spaces.

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00:20:14.634 --> 00:20:22.884

But it can get more privacy invasive when it's used to track repeat-visitors or to track where devices are moving over time, and

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00:20:23.250 --> 00:20:32.845

none of that is subject to notice and choice, because it's not happening, there's no permissions layer, it's just signals that the device is giving out.

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00:20:33.505 --> 00:20:47.875

So, lots of different sources of commercial location data and maybe we'll wrap it there. Was that helpful because there's so much more we can get into? That's great.

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00:20:47.875 --> 00:21:02.244

well, you can reserve the right to bring up more of these if you need us to go back to the slides later. No, no, I really appreciate that though. Yeah, please. Why don't we stop on the resources page for just a moment. So I'll just flag,

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00:21:02.244 --> 00:21:15.654

this is our website, you can find me on Twitter and FPF, and some of the graphics I was pulling from are from a recent infographic that we published for lawmakers on helping understand the world of geo location data., this is from a couple of months ago.

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00:21:17.755 --> 00:21:28.255

Yeah, and we should get into it more. I told you, we could talk about this all day. So it's good that we have so much time. No, that's great. No, I really appreciate that.

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00:21:28.255 --> 00:21:37.974

Yeah, you started talking about the kind of the risks and the safeguards, but unless you actually understand how all of this tech in your pocket works, you know,

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00:21:38.035 --> 00:21:45.204

you can't understand the risks and you struggle with how to safeguard yourself, safeguard your family, your enterprise.

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00:21:46.734 --> 00:21:57.055



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



You know, I appreciate the fact that you talked about the electronic emanations outward, right? Because people are like, I clicked on the terms of service, you know, it's my choice,

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00:21:57.055 --> 00:21:58.194

and at some point,

149

00:21:58.224 --> 00:21:58.404

you know,

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00:21:58.404 --> 00:22:01.734

once you opt-in to owning a cell phone at all, any form

151

00:22:01.734 --> 00:22:02.694

of mobile device,

152

00:22:02.910 --> 00:22:05.095

you're on the grid and,

153

00:22:05.335 --> 00:22:05.724

you know,

154

00:22:05.845 --> 00:22:06.565

typically,

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00:22:06.595 --> 00:22:12.625

unless you're a national security professional or like a prepper or

156

00:22:12.654 --> 00:22:13.045

you know,

157

00:22:13.045 --> 00:22:15.505

somebody who is really trying to prepare themselves,

158

00:22:15.505 --> 00:22:24.835

they don't necessarily know the extent to which they're exposed, and not really by choice other than the choice to participate in modern society with the cell phone,

159

00:22:24.835 --> 00:22:35.755

right? So, no, I think that's great and a great way to kick us off. So, now, I think we'll pass it over to Kevin, hand him the mic and get his perspectives on things, Kevin?

160

00:22:36.684 --> 00:22:50.424

Well, great. Well Chris, thank you. Thank you for giving me a chance to participate. and Stacey, thank you. I really enjoyed that perspective, and I found it very informative and I'm learning stuff everyday myself, in terms of just how this technology is evolving,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



161

00:22:50.815 --> 00:23:05.605

how it's being used, what the ecosystem looks like and I think to the point that you made earlier I mean, it's evolving so quickly that if you had this event six months from now, you'd probably have a couple of other slides you'd need to provide, both from a technology standpoint and a legal standpoint, right?

162

00:23:05.605 --> 00:23:14.694

So it's really interesting and I agree, this is a really viable panel and discussion. From my standpoint,

163

00:23:14.694 --> 00:23:29.545

just to maybe add a little bit to what Chris said. I started out as a satellite imagery analyst before I went to law school, and so my background and interest, if you will, in location data is part of a

164

00:23:29.545 --> 00:23:32.694

larger interest around geospatial data in general, right?

165

00:23:32.694 --> 00:23:42.085

Not just data collected from mobile devices, or some of the other technologies, but talking about drones and satellites, and all the other ways that location data is collected.

166

00:23:42.144 --> 00:23:51.805

And that's important as I go through my remarks, because I think when we start looking at the legal perspectives on mobile location technology, it's important to realize that,

167

00:23:52.255 --> 00:23:52.525

you know,

168

00:23:52.644 --> 00:23:53.005

as

169

00:23:53.184 --> 00:23:57.174

laws and policies develop around this particular use case,

170

00:23:57.174 --> 00:23:57.505

or

171

00:23:57.565 --> 00:24:07.734

this particular aspect of location, it could very well get caught up in the larger geospatial ecosystem and could have some significant impact on some of the things that people are trying to do,

172



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:24:07.734 --> 00:24:08.845

not just here in the United States,
173

00:24:08.845 --> 00:24:10.825

but around the globe to deal with,
174

00:24:10.825 --> 00:24:12.234

not just COVID-19,
175

00:24:12.234 --> 00:24:26.035

but disaster-response and climate change, food security, issues that are also very much
tied to location and require, or not require, better products and services can be
developed

176

00:24:26.065 --> 00:24:39.625

if you have the granularity of the data, that issues that this technology can do. So I'll
walk through that. That's sort of my overarching thought. And then I have, sort of, three
major points. And then I'll sort of get down into the specifics and I apologize,

177

00:24:39.625 --> 00:24:42.894

I don't have slides on this,
178

00:24:42.894 --> 00:24:45.025

I'm just going to talk for a couple minutes,
179

00:24:45.025 --> 00:24:48.505

but when I first, sort of, thesis,
180

00:24:48.505 --> 00:24:54.384

if you will, is that if the United States had a comprehensive privacy,
181

00:24:54.384 --> 00:24:56.035

legal and policy framework,
182

00:24:56.154 --> 00:25:00.654

that balanced the risks and benefits of location technology, if
183

00:25:00.775 --> 00:25:14.454

that was in place prior to COVID-19, then contact tracing would have been more easily
accepted, more easily implemented and, you know, hopefully would have had some
significant impact on the pandemic in the United States.

184

00:25:15.085 --> 00:25:27.174

And as Chris knows, I've been sort of up there for a number of years, trying to sort of talk
about these issues because we're seeing now the value of this technology, and as
Stacey pointed out, the risks associated with it too.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



185

00:25:27.174 --> 00:25:41.515

So, I'm a big fan of the technology, but I understand, you know, because of my work, there's risk associated with it. But the time to do something is now so we can use the value of this technology going forward. I also believe that

186

00:25:41.515 --> 00:25:42.865

the geospatial community,

187

00:25:42.865 --> 00:25:48.444

and I'm not sure what percentage of the folks here are part of this. It's an EthicalGEO program so I assume

188

00:25:48.775 --> 00:26:02.994

it's larger than, sort of, the mobile technology community or the privacy community but there are a number of geospatial experts and professionals, geographers and GIS folks and everything involved. I think they know the benefits and the risks better than anyone else.

189

00:26:03.984 --> 00:26:11.484

They're doing this every day and a lot of folks that are getting involved in using location data have one or two particular use cases in mind,

190

00:26:11.785 --> 00:26:24.174

some of those are good, some of those bad, but the geospatial community has been thinking about this for a number of years. I often say that, you know, the geospatial community was big data before big data was cool. It's been understanding and dealing with these issues.

191

00:26:24.174 --> 00:26:37.494

But, historically, it's tended to look inwards in terms of who it interacts with and how working with solutions, and because of that is not as actively engaged in some of these discussions as I think it should be.

192

00:26:37.920 --> 00:26:49.164

Because, as Stacey pointed out, the laws and policies and regulations, they're being developed, and her organization and many others are participating in it, but you don't see many of the geospatial community doing that.

193

00:26:49.164 --> 00:26:50.424

And I think that's a challenge,

194

00:26:51.265 --> 00:26:52.825

because for some of the reasons I'll describe,

195

00:26:52.825 --> 00:26:59.095



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

EthicalGEO

HENRY
LUCE
FOUNDATION

I think that location data and geospatial information in general are very challenging from a privacy standpoint.

196

00:27:00.444 --> 00:27:01.494

Then the third point, and this

197

00:27:01.494 --> 00:27:02.664

sort of builds on the second is,

198

00:27:02.664 --> 00:27:04.525

I see a number, this is unfortunate from

199

00:27:04.555 --> 00:27:09.505

some of the work that I've been doing, and I see a number of presentations on how geospatial information,

200

00:27:09.505 --> 00:27:17.694

including mobile location technology can be used to really do some important applications around the globe,

201

00:27:18.144 --> 00:27:19.345

transnational issues,

202

00:27:19.345 --> 00:27:20.785

national security issues,

203

00:27:21.924 --> 00:27:22.255

you know,

204

00:27:22.375 --> 00:27:23.605

business issues,

205

00:27:23.605 --> 00:27:35.815

I mean the full gamut. As a lawyer, and looking at this, I always wonder, are you going to be able to do this four or five years from now? Are you going to be able to collect that information and do the things that you want with a law changing?

206

00:27:36.714 --> 00:27:47.724

And I've said on several occasions, you know, I worry that you're going to have, sort of a HIPAA-type framework where it gets really hard to use because you've got to look at the definitions, you've got to look at the applications,

207

00:27:47.724 --> 00:27:57.565

you've got to figure out which of the groups you fit in part of, and if that's the case, you know, a lot of these applications may not develop or may not reach their full potential. And I think that would be a shame.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



208

00:27:58.825 --> 00:28:13.644

So I've mentioned before, and I'll say it again, you know, location privacy, I believe is more challenging than privacy with other types of data. And I'm not saying it's more important or more sensitive, and we could have that discussion, but, you know, healthcare data, financial data,

209

00:28:14.095 --> 00:28:23.335

there's really sensitive types of information out there. But I think location data is more versatile and Stacey gave some examples of different things

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00:28:23.335 --> 00:28:37.494

you can do with data. The example that I give is you can use location data with other types of geospatial information for a business to identify where it wants to put the store. The same information can be used by the local Department of Transportation to figure out where to build the roads to get to the store,

211

00:28:37.859 --> 00:28:50.994

so the people can get to the store. Consumers can use that to find the stores so they can buy, and robbers or criminals can go there to rob the store. It's the same type of data, right? So, if you try to, it's that versatility that's really important.

212

00:28:52.375 --> 00:29:01.224

Also, there are just a number of different types of data that is location-enabled and that includes the mobile devices, and Stacey mentioned the IoT

213

00:29:01.224 --> 00:29:09.744

devices, and a bunch of other devices that are coming down but, you know, you can look at CCTV cameras that are location-enabled and have timestamps on them,

214

00:29:10.075 --> 00:29:23.964

they can be integrated into the sort of products and solutions and raised challenges, and we're seeing that with *ring*, for instance. Drones are something that gets a lot of attention as well. That's something that's sort of come to the forefront over the past couple of years., but also satellites.

215

00:29:24.480 --> 00:29:33.085

People often say that satellites don't have the quality yet to do facial recognition, and that's true. But there's a lat-long that can be geocoded,

216

00:29:33.444 --> 00:29:46.855

there's a timestamp and there's usually other information that can be used pretty, not without too much difficulty, to figure out what's going on at a location, or who's there or who was there if you aggregate it with other data.

217

00:29:46.855 --> 00:29:49.075



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



So, even satellite data is going to do that,

218

00:29:49.164 --> 00:30:02.305

is going to be an issue in the future, I believe, particularly as we move into small sat and if we have video type quality and pervasive satellites, I think it's going to be a really interesting issue in the next couple of years.

219

00:30:03.085 --> 00:30:17.065

You start looking at key access cards, you start looking at credit card transactions, all of them are location-enabled and all contribute to both the solution and the issue. And that just goes to the point that I think this data is versatile.

220

00:30:17.305 --> 00:30:31.224

It can be used in a lot of different ways and then we start looking at all the different sensors that are coming down on lights. You look at Thermal IR, you look at Lidar, you look at radar, the privacy issues around some of these technologies and Thermal IR

221

00:30:31.404 --> 00:30:43.555

is a real strong one, I mean, we're going to spend a number of years trying to figure out how to deal with that because there's some conflicting cases out there. There's going to be, trying to understand what the implications are.

222

00:30:43.555 --> 00:30:49.375

So, again, it's not the mobile location data, but it is location-enabled,

223

00:30:49.799 --> 00:31:04.045

and it does, it is very valuable, particularly when you start using it with other types of location data and then you start looking at AI and machine learning. To do the processing you've got facial recognition technology. Again, all of those are issues in themselves,

224

00:31:04.255 --> 00:31:16.974

but when you start putting the location stamp on them, or a location and a timestamp, they become increasingly more complex. And so, again, to go back to the point, the geospatial community is one of many that's dealing with some of these technologies,

225

00:31:16.974 --> 00:31:25.075

but the aspects of location really, I think, raise the issues associated with location more so, than some of the others. I don't mean to downplay the others

226

00:31:25.075 --> 00:31:26.755

and their importance,

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00:31:26.994 --> 00:31:27.805

but the complexity,

228



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:31:27.805 --> 00:31:28.404

I think,
229

00:31:28.434 --> 00:31:37.285

is there. One of the things that I that I find interesting, and maybe it's not as big of a deal as I think it is for other people,
230

00:31:37.285 --> 00:31:39.684

but we have been giving away our location
231

00:31:39.714 --> 00:31:42.474

every time we go out, and we've been doing that for years.
232

00:31:42.474 --> 00:31:43.734

So, we go out into public place,
233

00:31:43.734 --> 00:31:53.934

we disclose that to people and we've gotten used to it. We go to a stadium and a mall people know we're there, right? And they know if we walk out with a bag, they know we bought something there.
234

00:31:54.535 --> 00:32:09.115

We're fundamentally changing that by putting concern around people's location, and I don't fully understand what that means. I mean, it has some implications around cases, like Carpenter, but understanding what that means and what the implications are going to be going forward and going back,
235

00:32:09.115 --> 00:32:16.974

I think are going to be really important because we never used to worry about it, and now we do and rightfully so, because other people are collecting it.
236

00:32:17.490 --> 00:32:28.434

But, how we deal with that, I think is going to be really, really interesting and is going to have some long-term implications about some of these technologies. To piggyback on that, I believe that the issues associated are more complex,
237

00:32:28.494 --> 00:32:42.474

I think location privacy is less consistent across the globe, and across communities. I think it depends partly on your age, your gender, your religion, whether you grow up in a big town or a small town. I grew up in a small town.
238

00:32:43.105 --> 00:32:55.765

Everyone knew where I was, you know, the teachers knew where I was, everyone knew where everyone was, and what they were doing, because it was a small town. You didn't really have any expectation of privacy or anonymity. So just, an expectation,
239



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:32:55.765 --> 00:33:07.734

I'm not saying it's right or wrong, but it's very different than for instance, financial information or medical records. You know, we sort of inherently don't want to disclose that, but now we're doing others, and I think that's a challenge from a regulatory standpoint.

240

00:33:09.714 --> 00:33:21.744

I think location data is, from a privacy standpoint, incredibly powerful, and I think it was Joseph Jerome from the Center for Democracy and Technology, I think it was about six months ago, he put out a tweet

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00:33:21.744 --> 00:33:30.505

that said that 80% of the privacy issues could be resolved if we get our hands around location privacy. Now, I'm paraphrasing a little bit there,

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00:33:30.505 --> 00:33:41.125

but I think his point is that you have privacy issues, and then you put location on top of it and it gets to be, you have data and you put location on top of it, it gets to be a real issue,

243

00:33:41.125 --> 00:33:54.384

and that's because location is so powerful, you can tag other pieces of data to it, medical information, demographic information, statistics, social media. All of those things make location powerful. No matter how you collect it.

244

00:33:54.714 --> 00:34:05.845

The more, the greater granularity, the greater consistency, the greater timeliness, the better, but you can get privacy issues without all that level of granularity or timeliness,

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00:34:05.845 --> 00:34:18.505

and so, that's the challenge with location information. But on top of that, you know, there's so many different types of platforms that are collecting it and I ran through some of them; sensors, different sensors, different platforms.

246

00:34:19.945 --> 00:34:24.295

The user doesn't care, right? The user doesn't care where it came from. The user wants it to work.

247

00:34:24.864 --> 00:34:39.414

But if they have to start looking at what the platform is, because you've got different regulatory regimes around them that's going to be a challenge, right? So, if drones have certain data collection, mobile phones, the FTC has some, trying to aggregate those in ways that could be valuable,

248

00:34:39.414 --> 00:34:51.565



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



whether it be for COVID-19, whether it be for a disaster, whether it be for a business application, it's going to be a real real challenge, and you're going to spend a whole lot of time with lawyers that you don't want to. I know

249

00:34:51.565 --> 00:35:06.414

some of these may sound trivial, but as a lawyer who, you know, drafts privacy policies, who drafts licensing agreements, tries to think through what the implications are, tries to apply them to the laws that exist today and where the law's going, it's really hard.

250

00:35:07.164 --> 00:35:21.445

It's very, very difficult and it's only going to get harder. And again, as someone who believes this technology can be really valuable, I worry about that because I do think it's going to have some restrictions, and some restrictions are good and are necessary for sure,

251

00:35:21.925 --> 00:35:36.144

but many of them are not, maybe there's a neutral way to figure it out, but that's a discussion that you need to have, informed technical people, operation people and legal people and regulators in the room to discuss, right? Just a couple of other points.

252

00:35:36.144 --> 00:35:50.784

The geospatial community is so large and complex that it makes some real challenges. So I include government, industry, universities, individuals, people of data providers and data collectors, both users and data collectors, both.

253

00:35:50.784 --> 00:35:52.224

I mean, it is an ecosystem.

254

00:35:52.614 --> 00:36:06.385

Often simultaneously, we're both collecting data, but we're giving our data away as well, and I don't mean that in a business way, but just we're sharing data back and forth. If you start to regulate that, you start to sort of say this group can't have it, or this group,

255

00:36:06.414 --> 00:36:14.335

we've got to be careful with, that ecosystem starts to shift a little bit because the data isn't available for others to use it, and maybe that's fine,

256

00:36:14.815 --> 00:36:29.724

maybe the risk is greater, but if you don't have the discussion about, okay, who's using it and how it's being used, and you just say that we're worried about this risk, you run the risk of not properly allocating the risks or understanding the risk in finding a solution that works best for everyone.

257

00:36:30.750 --> 00:36:41.065



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



I think some of the other challenges are, it's much harder to find in my view, location data in terms of what it is, is it where it's collected from, is it how timely it is?

258

00:36:41.094 --> 00:36:51.025

Is it different you do by how large of an area it's collected, and you see in the in the legal community and the regulatory community,

259

00:36:51.625 --> 00:36:52.465

different topics,

260

00:36:52.494 --> 00:36:56.335

different ways that people are trying to address it. At first, it wasn't addressed at all,

261

00:36:56.335 --> 00:37:05.784

it'd be referenced, just, you looked at the laws, it would just say, location information or geolocation information. Now, people are trying to define it, CCPA 2.0

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00:37:05.905 --> 00:37:20.485

has a definition, the Children's Online Privacy Protection Act has a definition, I think, and there's a couple of other groups that are out there that I haven't had a chance to look at, but it's evolving, but there's no common definition as to,

263

00:37:20.485 --> 00:37:31.974

okay, if you collect data with this granularity, this frequency, this accuracy, then you've got a privacy issue, or if you collect it from this device or this type of thing, it's very much mixed.

264

00:37:31.974 --> 00:37:44.335

And, you know, I tell people, as a lawyer, if the law's unclear, you don't understand the technology, you don't understand how it's going to be used, you're going to say no more often than yeah, than yes. That's how lawyers work, but that's just human nature.

265

00:37:46.014 --> 00:37:56.844

Putting all those together I think it's going to be a really difficult regulatory, difficult to regulate this in a way that balances the risks and the rewards,

266

00:37:58.164 --> 00:38:01.105

without a very,

267

00:38:02.755 --> 00:38:15.295

very active debate, if you will, between the various constituencies and making sure that we understand what that is because it is an area that cuts across a lot of different domains.

268

00:38:15.690 --> 00:38:29.695



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



It touches upon a lot of different legal areas, is inherently international and that raises a whole other spectrum of legal resumes you have to worry about. And so, I think it's important to sort of keep all that in mind when we go forward

269

00:38:29.695 --> 00:38:31.135

and we start talking about these issues.

270

00:38:32.215 --> 00:38:35.815

Hey, Chris. That's it, I'm done. Thank you, Kevin.

271

00:38:37.045 --> 00:38:51.264

I'm not sure if you just coined the term, or if it's old hat to you, but I've always heard of the expectation of privacy, but the notion that the expectation of location privacy is different, right? In different environments, because, you know, people know you're there.

272

00:38:52.405 --> 00:39:03.985

It's a very interesting thing you put out there. I know, you know, you talked about, we've been giving away our location data for years, I know I have. But there was kind of that moment,

273

00:39:04.014 --> 00:39:18.324

I think my friend, Jeff, our friend, Jeff Jonas, he coined the term channel consolidation around location data, where, you know, I knew I was giving my information to those guys when I went there,

274

00:39:18.355 --> 00:39:30.114

and I knew I was giving my information to those guys when I used that toll road or whatever, but at some point it clicked and said, oh my God, you know, it's actually really easy for, kind of, anybody to throw all that stuff together.

275

00:39:30.264 --> 00:39:43.945

Then that fundamentally made you, kind of, rethink how gracious you are handing out your location data to anyone, because it potentially went to everyone. So, anyways, I think you raised a ton of great issues. Before we go to a

276

00:39:43.945 --> 00:39:49.735

Q and A, we'll pass it over to Jacob now, to hear his perspective, and then I look forward to the Q and A with all of you.

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00:39:52.375 --> 00:39:54.985

Thanks. Thanks so much Chris. I really appreciate it.

278

00:39:55.614 --> 00:40:07.795



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



It's great to be here and I appreciate the invitation very much from EthicalGEO, it's a great program, and thanks a lot to Stacey and to Kevin for their fantastic and informative presentations.

279

00:40:07.980 --> 00:40:15.414

I learned a lot and I think there's going to be just a ton of great material for the discussion, so really looking forward to that.

280

00:40:16.585 --> 00:40:28.375

I would like to start off, maybe go to the next slide, by focusing on some of the risks of location information, just to kind of frame the rest of my remarks,

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00:40:28.375 --> 00:40:32.425

and then some of the rest of our discussion. You can go to the next slide please.

282

00:40:33.295 --> 00:40:44.934

And then, because we're talking about location privacy in the context of a global pandemic, I want to talk about two COVID-19-specific issues, contact tracing and population-wide movement tracking.

283

00:40:45.925 --> 00:40:59.304

And those are areas where location data, I think could theoretically be useful, but as Kevin has gestured towards, there are complexities when you look at how that location data plays out in practice.

284

00:41:00.175 --> 00:41:05.094

And then finally, I'll talk about some legal limits on the collection and use of location information.

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00:41:06.295 --> 00:41:18.175

There are a lot of legal limits under privacy law but I will focus primarily on our case with the ACLU challenging the Los Angeles Department of Transportation Selection.

286

00:41:18.894 --> 00:41:26.034

micro-mobility location information, under the Fourth Amendment, the Constitution, and also some state's fashions.

287

00:41:26.844 --> 00:41:30.809

So, if you move to the next slide please. So,

288

00:41:31.074 --> 00:41:32.815

when it comes to risks,

289

00:41:33.864 --> 00:41:38.125

I think there's one kind of overarching concept that I

290



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:41:38.244 --> 00:41:42.235

would love for everyone who attends this to take away. Next slide

291

00:41:42.385 --> 00:41:42.744

please.

292

00:41:43.795 --> 00:41:57.985

And that's when engineers or lawyers, or potentially geographers look at data, it's very easy to think of it as something that is abstract, or that is disconnected from real people.

293

00:41:58.795 --> 00:42:06.565

And I think that's especially true when the identities of the people the data corresponds to, are not apparent or easily accessible.

294

00:42:07.494 --> 00:42:15.054

This is a sample of location information collected from micro-mobility sources in Louisiana, and you'll see that there's no names or addresses in this spreadsheet.

295

00:42:16.440 --> 00:42:27.355

It's very easy to look at rows of the spreadsheet and not have potential human cost involved. Go to the next slide. So, this is a picture of Fernando.

296

00:42:27.925 --> 00:42:33.594

He was deported to Guatemala by the Trump administration, and separated from his daughter, Alison for almost two years.

297

00:42:34.074 --> 00:42:37.405

This is an image when they were reunited at Los Angeles

298

00:42:37.465 --> 00:42:38.275

International Airport in

299

00:42:38.304 --> 00:42:38.755

January

300

00:42:39.119 --> 00:42:39.510

2020,

301

00:42:39.505 --> 00:42:39.775

after

302

00:42:40.224 --> 00:42:44.994

that separation. And we've all seen images like these,

303

00:42:45.300 --> 00:42:54.594



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



and we have observed the human rights abuses that are taking place in our country when it comes to members of the immigrant community.

304

00:42:56.005 --> 00:43:02.605

And I think we should all ask ourselves what enables those human rights abuses to take place. And there are, of course, many answers to that question,

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00:43:02.605 --> 00:43:11.005

but one of them is location information, elected often in the first instance by companies, and eventually sold or produced somehow to the government.

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00:43:11.820 --> 00:43:16.494

Go to the next slide please. And this isn't hypothetical.

307

00:43:17.094 --> 00:43:30.925

Last year in Northern California, the ACLU released the results of an investigation that showed that ICE is using automated license plate reader records to find and target immigrants for deportation. Next slide.

308

00:43:32.034 --> 00:43:42.025

ICE is also buying location data from marketing companies, and those marketing companies get their data from apps that you might use to check the weather or find a gas station.

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00:43:42.775 --> 00:43:51.655

So it's not limited to military contractors who are providing this information to the government. These are consumer apps that we use everyday.

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00:43:53.304 --> 00:44:01.255

And so, the first question, I think we should all ask ourselves is do we need to be using detailed, identifiable location information at all?

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00:44:02.184 --> 00:44:11.784

Is there a way to achieve our goals, some of which, as Kevin points out, are really worthwhile and important. But is there a way to achieve those goals without use of location information.

312

00:44:14.215 --> 00:44:28.644

Next slide please. So, in the context of our current pandemic, you know, we've all seen the event's hardship and the suffering that's caused by COVID-19, and as a result, there are new goals, new public policy goals,

313

00:44:28.824 --> 00:44:41.184

that really couldn't be more vital and important in this time. And some of those goals have been laid at the feet of technology and I'd like to start by talking about the contactors. Next slide.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



314

00:44:44.034 --> 00:44:50.094

So, actually, next slide, and then, the next one after that with the scientific article.

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00:44:53.815 --> 00:45:08.155

So, to me, the possibility of digital contact tracing was most clearly laid out in this really great article from *Science* from May of this year. And the basic idea is that when humans do contact tracing, there's a delay between when a person is diagnosed,

316

00:45:08.155 --> 00:45:14.574

and when other people who are potentially infected are notified, and that's where an app or something like that could be helpful.

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00:45:15.534 --> 00:45:26.304

The question is whether location information from whatever source might be helpful in making contact tracing, or as it's been more precisely called, exposure notification more effective?

318

00:45:27.385 --> 00:45:40.465

So, I'd just like to talk a little bit about that question. How effective is location information in enabling digital contactors. The next slide? Actually, could we just skip to like, three slides forward.

319

00:45:42.599 --> 00:45:44.514

Yeah. That one. Thanks.

320

00:45:46.195 --> 00:46:00.414

So, imagine we're trying to use location information to find out which of the contacts on this train, or in this workplace are potentially infectious. This is a diagram, by the way, from the *Science* article

321

00:46:00.445 --> 00:46:01.434

that I referenced.

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00:46:02.635 --> 00:46:13.135

And we've all heard the guidance that six feet away for fifteen minutes is the threshold to be concerned about, and the ACLU released a white paper on this, and according to experts, the location information,

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00:46:13.195 --> 00:46:13.405

like,

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00:46:13.405 --> 00:46:14.335

GPS,

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00:46:14.335 --> 00:46:14.664



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



WiFi,

326

00:46:15.025 --> 00:46:15.414

location

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00:46:15.414 --> 00:46:19.644

information or even QR codes associated with a particular place

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00:46:19.644 --> 00:46:27.385

where people could go, is not sufficiently accurate and practice to accurately distinguish between infectious and non-infections contact between two people.

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00:46:28.045 --> 00:46:31.224

GPS data, from what we learned, comes closest,

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00:46:31.500 --> 00:46:36.655

but even with a theoretical maximum of one meter for, sort of, modern cell phones,

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00:46:36.925 --> 00:46:43.434

it's more like five meters to twenty meters in practice, when you're talking about the strength,

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00:46:43.465 --> 00:46:50.184

the visibility to the sky and how old the cell phone might be, and other kinds of interference.

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00:46:51.144 --> 00:47:01.885

And so, for location-based tools, like all of these, this, I think he demonstrates that location information isn't likely to be very effective at enabling contactors.

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00:47:02.454 --> 00:47:10.735

And that's why Bluetooth proximity information has been the technological solution that has been offered, for example, by the Apple-Google framework that we've all heard of.

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00:47:12.864 --> 00:47:16.764

But even though the consensus among experts,

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00:47:16.795 --> 00:47:31.465

and even from the technology companies building the contact tracing frameworks, is that location information isn't likely to be useful, contact tracing apps are often seeking location information from their users without a clear purpose for doing so.

337

00:47:31.465 --> 00:47:37.344

I hope at this point that you share my skepticism of those apps, as they seek people's location information.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



338

00:47:39.625 --> 00:47:46.974

And, of course, you also have the problem that no matter what location information you use, people need to decide to install the app.

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00:47:47.905 --> 00:47:54.744

And in this paper it says that 50% to 70% of people need to install that in order for it to be effective.

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00:47:55.675 --> 00:48:03.385

And in my view, there's a great deal of justified mistrust of the government, but also private industry, when it comes to collecting information.

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00:48:04.434 --> 00:48:10.824

And if people don't trust that their information will be private, they won't install the app, then that stands in the way of addressing the problem.

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00:48:11.574 --> 00:48:26.034

I think it's worth putting that, adding that to our list of human costs that should be named. Past failures breed mistrust, and that mistrust undermines our collective ability to solve problems using technology in the future.

343

00:48:28.014 --> 00:48:38.244

Next slide please. So, another place that we've heard location data might be useful is assessing how, kind of, on a population level people's movements are changing,

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00:48:38.244 --> 00:48:45.385

in light of social distancing guidelines and some shelter-in-place orders, and that information is often called anonymized,

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00:48:45.474 --> 00:48:49.105

but in practice, it is anything but anonymized. Next slide.

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00:48:50.724 --> 00:49:00.835

So, The New York Times did this really fantastic piece demonstrating how people can be identified from, so called, anonymized location data. In January of this year,

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00:49:00.835 --> 00:49:15.625

I think it's called *One Nation, TRACKED*, and they actually identified a Secret Service Agent with President Trump, people who attended the women's march and numerous other people in data sets that didn't have names or addresses or anything, that

348

00:49:15.864 --> 00:49:18.114

just had identifiers for people.

349

00:49:19.764 --> 00:49:30.144



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



Next slide. And this identifiable private data comes from consumer apps, or even telecom companies that in many cases, are just selling the information to the government.

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00:49:32.244 --> 00:49:46.644

Next slide. And when the government has immediate access to data that is pulled directly from apps, used by hundreds of millions of people. In my view, that's an end-run around the proper legal limits on government access to people's private information.

351

00:49:50.815 --> 00:50:04.074

Next slide. So, and then, one more. Let's talk now about some of the legal limits. One more slide. Sorry about that. I'm just skipping a few here.

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00:50:05.724 --> 00:50:15.025

Let's talk about some of the legal limits that exists over people's location information and two laws I'd like to highlight specifically are the United States Constitution,

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00:50:15.864 --> 00:50:22.375

the Fourth Amendment and the state's statute in California called the California Electronic Communications Privacy Act.

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00:50:23.364 --> 00:50:37.284

That's a law that is stronger than the federal Electronic Communications Privacy Act and there are also similar state statutes like CalECPA, as we call it, in New Mexico and Utah as well.

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00:50:38.605 --> 00:50:40.434

So, next slide.

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00:50:42.804 --> 00:50:54.985

So, depending on where you live, you might recall that in 2017, many communities in the United States witnessed a, kind of, near overnight profusion of electric scooters on city sidewalks.

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00:50:56.364 --> 00:51:10.494

Those scooters offered a new mode of transportation for smartphone-equipped consumers, but they also resulted in complaints from members of the public and from city governments, over cluttered sidewalks, interference with right-of-ways

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00:51:10.525 --> 00:51:13.344

and other complaints as well.

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00:51:14.304 --> 00:51:21.445

In Los Angeles, the Department of Transportation there, created something called the Mobility Data Specification, the



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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00:51:21.474 --> 00:51:22.014

MDS,

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00:51:22.764 --> 00:51:37.469

which automatically tracks the precise movements of every scooter rider on the street, and in order to get permits to operate in the city, all electric scooter and bike companies had to give the L.A. Department of Transportation access to that

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00:51:37.465 --> 00:51:39.235

information. Next slide please.

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00:51:42.324 --> 00:51:51.864

And even more concerning is the fact that the MDS is planned to be a nationwide standard governing, not just micro-mobility like scooters and bikes, but ride

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00:51:51.864 --> 00:51:57.835

shares like Uber and Lyft, and even flying autonomous vehicles and other modes of transportation as well.

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00:51:58.795 --> 00:52:09.054

So, in March of this year, along with the Co-counsel of the Electronic Frontier Foundation and Greenberg Glusker, we filed a lawsuit challenging the MDS and Fourth Amendment in a state statute CalECPA

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00:52:11.514 --> 00:52:20.485

And CalECPA requires the government gets a warrant before they access location information, or other information about people held by service providers.

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00:52:21.985 --> 00:52:25.525

And given the importance of location information to privacy,

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00:52:25.735 --> 00:52:27.175

as articulated in cases,

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00:52:27.175 --> 00:52:27.775

like Carpenter,

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00:52:27.775 --> 00:52:30.505

and also in CalECPA itself,

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00:52:31.315 --> 00:52:32.574

this is a case that,

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00:52:32.605 --> 00:52:44.125



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



I think, really shows how government access to information is problematic and doesn't and isn't fully taking into account the legal limits that exist.

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00:52:45.864 --> 00:52:58.224

In addition to the purchase of location information, using permit processes, like LADoT is doing here, also represents an end-run around legal limits.

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00:52:58.405 --> 00:53:01.494

But in this case, they don't, in my view, pass muster.

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00:53:02.880 --> 00:53:03.329

So,

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00:53:03.355 --> 00:53:07.074

the solution here, in my view, is for government entities,

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00:53:07.135 --> 00:53:18.264

and I think this applies to the private sector as well, to specify in advance, the policy goals that need to be achieved before collecting intensely private data about people.

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00:53:19.195 --> 00:53:30.925

And the approach we've seen here with respect to the L.A. Department of Transportation, and in other cities as well, is to collect all the information in a detailed identifiable form, and then figure out what to use it for

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00:53:30.985 --> 00:53:45.804

after the facts. I would offer that that model has a pretty poor history when it comes to the private sector, and it's not going to work out well for the government. I'll stop there and thanks very much,

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00:53:45.835 --> 00:53:47.335

and I'm looking forward to the discussion.

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00:53:49.284 --> 00:53:50.784

Wonderful. Thanks so much Jake. You know I think, and I appreciate this, kind of, swirl of issues where different parts of the government are trying to do different things, and their hearts might be in the right place but they're, kind of, stomping on each other in ways that they probably didn't anticipate until an ACLU lawsuit comes up at them and they're like, okay, what are we going to do about that. But I was taken by your comment that, in the world of COVID-19, WiFi and GPS may be insufficient to actually determine contact, right? So if that's the specific reason the app is being put out, and yet it determines that that goal can't be met, then why are you doing it? And I think, you know, it came up in one of our international panels that the country of Norway has just decided that the efficacy met with the downside of the data breaches is sufficiently bad that they just scraped the whole thing. Now, that's a small country, Norway, it's probably like the small town that Kevin grew up in, you know, there's other ways to go



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



about it, you may not need location tracking there, but it kind of makes me realize, you know, this is a complex set of issues, so, thank you for that. And I think I'll just
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00:55:13.105 --> 00:55:24.114

roll into some questions. I do want to encourage all of you to feel free to not answer the questions and answer a question of your own imagination,

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00:55:24.114 --> 00:55:37.945

because I think you guys have a lot of useful world views that would inform the questions we should be asking. So, I'll start with these questions, but feel free to deviate a bit from the program.

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00:55:39.204 --> 00:55:53.545

So, different nations are grappling with location privacy issues in their various COVID-19 contact tracing implementations in different ways. As American lawyers, or I'll say it this way as American lawyers,

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00:55:54.804 --> 00:56:07.644

can you give us any simple models for how to think about how and why these other countries are using and thinking about location privacy? Do you have any experience,

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00:56:07.644 --> 00:56:21.925

do you go well, of course it's going to work in that country because they think about it this way and we don't think about it that way, or, you know, of course, it will work in that country, it functions like a small town that Kevin grew up in?

387

00:56:22.195 --> 00:56:36.085

Does anybody want to take a bite at maybe, maybe you're not international experts on this stuff, but just things you've seen out there in the world? Stacey, you have a furrowed brow, but I think that's because you have

388

00:56:36.420 --> 00:56:45.864

an experience you want to relay. Well,

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00:56:48.204 --> 00:57:00.534

yeah. I don't know that I'll be much of an expert on the specific question you're asking. Just help me with Canada? So, there are a couple of different ways to think about this.

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00:57:00.534 --> 00:57:08.304

There are countries that are adopting location-based models and countries that are adopting proximity-based models.

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00:57:08.755 --> 00:57:19.764

There are also countries that are adopting centralized models versus decentralized models and those two things don't always line up, right?

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:57:21.175 --> 00:57:21.625

So,
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00:57:21.625 --> 00:57:23.485

on a couple of the points that Jacob made.

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00:57:23.485 --> 00:57:25.014

So first,

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00:57:25.284 --> 00:57:32.724

whether or not location data has the effectiveness to properly do either contact tracing or exposure notification,

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00:57:35.275 --> 00:57:41.394

I'm not sure that it's as ineffective as some of the earlier reports that we saw around cell-site location data,

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00:57:41.635 --> 00:57:41.875

so,

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00:57:41.875 --> 00:57:42.414

for instance,

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00:57:42.414 --> 00:57:44.155

location data from cell towers,

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00:57:44.155 --> 00:57:59.034

the kind of location data that your cell phone carrier holds already, and that governments started early on requesting access to. That kind of data is certainly not precise enough within that six foot level

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00:57:59.034 --> 00:58:00.414

that you need for contact tracing

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00:58:00.414 --> 00:58:06.534

and exposure notification. But app-based location data, if it's

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00:58:09.385 --> 00:58:20.335

a phone that's requiring precise location data, and that person has Bluetooth and WiFi on, which most phones do, right? That data does tend to be very, very precise.

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00:58:20.335 --> 00:58:32.155

The only thing that it might not give you is, you know, if you have two people within the same latitude-longitude, but there's a wall between them, you know, maybe that's not an exposure risk. But, other than that, I think you can get, sort of, the six feet parameter.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



00:58:33.385 --> 00:58:48.085

That's not to say that a lot of the commercial data sets that are out there are any good necessarily as they stand, because there's a lot of market incentive, particularly in the advertising space to use

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00:58:48.505 --> 00:59:03.025

inaccurate data, because it doesn't really matter as much, for marketing use cases for example, that the data be really accurate and really precise. So, you see a lot of market puffery around companies that are like, yeah, it's super

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00:59:03.025 --> 00:59:17.755

accurate and precise, and maybe the data really isn't. But designing an app from scratch, designing it in collaboration with private experts can provide really precise and accurate location data.

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00:59:17.994 --> 00:59:32.844

So I just don't want to discount it right away. I still don't think it's the right thing to necessarily be using because you have this immediate trade off of trust. People don't want to share their location data, right?

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00:59:32.844 --> 00:59:41.454

And if you can do it through other means, such as decentralized Bluetooth-based exposure notification, then you're going to get a much higher adoption rate.

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00:59:42.744 --> 00:59:55.614

I think some of the studies around whether you need 70% or 60% adoption rate, in order for an app to be effective, or been debunked a little bit. It's more like there is an increasing amount of effectiveness the more adoption that you have.

411

00:59:55.974 --> 01:00:02.605

So, at low levels of adoption, you're going to have low levels of effectiveness, but maybe a little bit, right? And so, and then the more adoption, the more effective it's going to be.

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01:00:04.284 --> 01:00:12.925

So, collecting location data might work, it might work for things other than exposure notification like identifying hotspots.

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01:00:15.025 --> 01:00:27.625

And so a lot of public health authorities are interested in this for all of those other reasons, right? And then the counter is, you'll have much higher adoption rates for exposure notification apps that are based on Bluetooth.

414

01:00:28.614 --> 01:00:37.284



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



The downside being, the public health authority doesn't have that information, it's not centralized, but the upside being maybe you'd save more lives because more people are adopting it and downloading it.

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01:00:39.204 --> 01:00:51.684

So, yeah, I agree with almost everything that Jacob and Kevin have been talking about. I think it's inevitable for those who are, sort of, in the audience thinking about this from a technical perspective.

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01:00:52.675 --> 01:01:03.204

The law is coming, it's inevitable that location data in my mind is going to be regulated, even more so than it's already regulated. There's regulation by law,

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01:01:03.835 --> 01:01:18.204

Jacob pointed a lot of these out, there's regulation by code too. So, operating systems, regulating location data, more and more through things like Mac address randomization, changes to the advertising identifiers

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01:01:18.204 --> 01:01:22.945

that developers can access, changes to the permissions, making them more and more and more granular, right?

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01:01:23.965 --> 01:01:37.824

So, regulation by law, regulation by code, regulation by social norms and the challenge, I think for lawyers is, as we see more and more political momentum towards greater consumer regulation in the space, the challenge for lawyers is going to be, how do you do it right? So, how do you write the definitions correctly, how do you write a location privacy law in a way that isn't underinclusive or overinclusive, and that's what we're focussing on. But it doesn't need to be updated in six months or a year from now, right, because of different technicalities or applications? Right, so I think the GDPR is a good model. I'm not sure it's being enforced as much as some advocates would like or how would envisage it being enforced, but I think the GDPR legal regime is a good model because it doesn't actually have any restriction for location data, the same as the GDPR doesn't have any restrictions around "facial recognition", but those things are both heavily reciprocated because they fall under the category of personal information and it falls under the category of tracking people's private lives. So, similarly, I'm not sure we need a location privacy law in the United States, what we need is a baseline consumer comprehensive law that established protections for personal information, whether it's collected through your mega drive sorts, or an app developer, or through facial recognition, or whatever the method is of

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01:02:58.530 --> 01:03:06.025

tracking people in their personal lives and using that information for unexpected purposes, that should be regulated. And that's, yeah, exactly

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01:03:06.025 --> 01:03:20.994



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

EthicalGEO

HENRY
LUCE
FOUNDATION

Kevin, that's how you keep it from having to be updated every six months, even though updates probably will be needed over time through things like rule making. Anyway, just some stuff off the cuff. Yeah, great. Thanks for starting us off Stacey. Kevin, go ahead.

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01:03:21.474 --> 01:03:21.684

Yeah,

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01:03:21.684 --> 01:03:35.994

so I have talked on this issue in a number of international settings and I think a couple of things that impact this issue is one,

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01:03:36.474 --> 01:03:37.974

as I talked about in my remarks,

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01:03:37.974 --> 01:03:51.985

I mean, different countries, different cultures have a different sense of location privacy than others, right? So on some, it's a much higher concern, in some it's much lower. And some are concerned that they don't want the government to have it. And some are concerned that

426

01:03:51.985 --> 01:04:03.985

they don't want industry to have it, right? So, there's this cultural aspect to it. And then to Stacey's point, there are parts of the world, and Europe being one, that have an overarching privacy law,

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01:04:04.465 --> 01:04:17.125

that, at least at a very general level, covers some of this. So, you can, one, you've got a whole bunch of people who are educated in this, and are thinking about this both lawyers, operational, technical folks.

428

01:04:17.574 --> 01:04:23.934

But also, people who are, you know, you've got an enforcement mechanism if someone goes to far.

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01:04:24.389 --> 01:04:35.005

And, you know, it's not perfect, clearly, but there is that there and we don't, you know, the United States doesn't have that and it has a lot of different,

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01:04:35.215 --> 01:04:49.795

it has a sense of, as we're finding out, a sense of individualism that adds to the complexity. So I do think we have some unique challenges here, which is why we are where we are, right? For good or for bad, right?

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01:04:50.489 --> 01:04:53.425

Jacob. Thanks, Kevin.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



432

01:04:54.570 --> 01:05:08.994

Good. Yeah, it's such an interesting issue, and I think the, I'd like to pick up on one theme in both Stacey's and Kevin's remarks, which is this notion that there's cultural differences with respect to location privacy.

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01:05:09.954 --> 01:05:19.105

And, you know, I think we talk about this in terms of comparing the United States with other countries, or other continents.

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01:05:19.494 --> 01:05:25.675

But, you know, the United States is not a model and they are going to be deep cultural differences in the United States.

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01:05:25.949 --> 01:05:26.460

And,

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01:05:26.454 --> 01:05:26.664

you know,

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01:05:26.664 --> 01:05:29.664

with respect, specifically to something like contact tracing,

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01:05:29.724 --> 01:05:30.054

I think,

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01:05:30.054 --> 01:05:34.135

one of the reasons that I laid out with respect to the risks to immigrant communities,

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01:05:34.855 --> 01:05:39.775

or the experience that Black people have with police violence and over-policing in their communities,

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01:05:40.375 --> 01:05:46.135

those are going to give rise to different levels of willingness to share information from those communities,

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01:05:46.135 --> 01:05:48.085

and I think with very good reason.

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01:05:49.585 --> 01:05:54.355

And that has implications both for the sort of efficacy of contact tracing as a general matter,

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01:05:54.534 --> 01:05:54.954

but also,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



445

01:05:54.954 --> 01:05:56.844

for the equity of contact tracing.

446

01:05:57.474 --> 01:06:01.434

If white people in the United States, on this panel we're all,

447

01:06:01.554 --> 01:06:02.965

it appears, white people.

448

01:06:03.684 --> 01:06:11.724

We don't necessarily have the experience of being concerned about our communities,
our families, ourselves,

449

01:06:11.724 --> 01:06:12.775

our bodies being harmed

450

01:06:12.775 --> 01:06:18.264

as a result of information about us being held by law enforcement. And that,

451

01:06:18.324 --> 01:06:29.755

I think, means that something like contact tracing could benefit white people or people
without that history of over-policing, but would not benefit Black and Brown
communities,

452

01:06:30.054 --> 01:06:36.295

and that's something that I think needs to be a really just sort of explicit part of the
conversation.

453

01:06:40.375 --> 01:06:50.065

And I think that, kind of, leads into the notion that that has to be taken into
consideration with respect to manual contact tracing as well.

454

01:06:50.094 --> 01:06:52.974

And we're just talking about people.

455

01:06:53.875 --> 01:06:54.204

One

456

01:06:54.204 --> 01:07:00.385

detail about this from a recent discussion that they've had in the California legislature.

457

01:07:01.344 --> 01:07:02.784

The California legislature recently

458

01:07:02.784 --> 01:07:07.045



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



considered a few contact tracing-specific privacy bills.

459

01:07:07.405 --> 01:07:16.735

And one of the provisions that, at the beginning, was in those privacy bills, they said that contact tracing information that was collected cannot be used by law enforcement.

460

01:07:17.605 --> 01:07:29.815

And the reason for that, I think, was that some people might think that if law enforcement had access to information about them, they'd be targeted by law enforcement, their communities could be subject to further policing,

461

01:07:30.894 --> 01:07:39.355

and that would put them in danger. And so they wouldn't consent to the contact tracing. And the fact is that government interest, law enforcement interest, pushed back on it.

462

01:07:40.614 --> 01:07:43.105

And I think that, to me,

463

01:07:43.105 --> 01:07:47.184

that's an indication that we do have a, kind of, deep,

464

01:07:47.184 --> 01:07:54.054

substantive difference of opinion with respect to whether or not certain kinds of things that should adhere

465

01:07:54.054 --> 01:07:54.985

to the public benefit,

466

01:07:55.315 --> 01:07:59.605

also can be used by the government to harm you.

467

01:08:00.835 --> 01:08:12.985

And I think that's a difficult conversation to have, but a vital one. No, I think that's a great point. I mean, the cultural references all of you are mentioning. But we have, as we've been putting together these panels,

468

01:08:12.985 --> 01:08:25.675

we've had a lot of interaction with international colleagues, and, you know, like, we talked with our friends in Taiwan and, you know, they framed all of this COVID-19 as another natural disaster,

469

01:08:25.675 --> 01:08:39.505



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



the same way a tsunami or a typhoon, or anything else is a natural disaster. And there was a kind of cultural comfort with the government, knowing where everybody was because it's the government that's going to send the alert that says,

470

01:08:39.720 --> 01:08:50.994

'a tsunami is coming, run from the beach', and in the same case, they were sending out alerts saying, 'there's too many people in this public park, you couldn't possibly be, you know, socially distanced enough'.

471

01:08:51.295 --> 01:08:58.045

But, you know, there aren't the same social divisions, or at least they don't appear to be. I'm sure there are that

472

01:08:58.045 --> 01:09:12.564

I'm unaware of, but there doesn't appear to be the same social divisions as if they went into a Black neighborhood and started slicing the data and handing it out to law enforcement around enforcement. So, I appreciate those comments for sure.

473

01:09:12.810 --> 01:09:18.414

Does anybody else want to chime in on this topic before I move back into some other questions? I see two hot mics.

474

01:09:20.244 --> 01:09:30.175

No? Okay. So, thank you for that. That was a great discussion. To talk a little more on the international side, I guess I call it more transnational.

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01:09:30.324 --> 01:09:31.104

So now,

476

01:09:31.104 --> 01:09:31.914

with all of the COVID-19

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01:09:31.914 --> 01:09:34.765

related travel bans that we

478

01:09:34.765 --> 01:09:36.145

as Americans are subject to,

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01:09:36.145 --> 01:09:50.965

but so are many others, it's hard imagining the world reopening to international travel without some sort of, I think the term is health passporting. Given the international travel between different sovereign nations is more of a privilege than a

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01:09:50.965 --> 01:09:51.895

right, I mean,

481



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

EthicalGEO

HENRY
LUCE
FOUNDATION

01:09:51.925 --> 01:09:54.024

I guess a citizen has a right to go home maybe,
482

01:09:54.024 --> 01:09:58.104

but the rest of us don't have a right to enter somebody else's country.
483

01:09:59.064 --> 01:10:08.244

All of us will have to disclose much more about our previous travel and health status.
What location privacy issues will this force us to deal with?

484

01:10:08.579 --> 01:10:17.845

And I'm sure all of you have thought about, you know, this mobile location tech. When I
just move from America to Canada on a regular day, right? I'm changing jurisdictions,
there's changing issues.

485

01:10:18.625 --> 01:10:28.975

Maybe, how should we think about this, as we clearly are going to wade into some kind
of health passporting? Kevin, your mic's hot. I don't know if that means you're
volunteering.

486

01:10:31.135 --> 01:10:38.064

No, I just, it's easier for me to have it on because I couldn't operate it with my mouse,
but that's fine.

487

01:10:39.175 --> 01:10:39.864

It seems to me,

488

01:10:39.864 --> 01:10:40.225

there's a,

489

01:10:40.284 --> 01:10:41.784

in a lot of these things,

490

01:10:41.784 --> 01:10:45.175

there's a lot of layers to it, right? And,

491

01:10:45.204 --> 01:10:45.414

you know,

492

01:10:45.414 --> 01:10:45.564

I

493

01:10:45.564 --> 01:10:50.604

worry about if you start making it acceptable to not let someone come in

494

01:10:50.635 --> 01:10:55.704



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



because they were potentially exposed to a COVID-19 issue then you'd not let them in
495

01:10:55.704 --> 01:10:56.875

because they were potentially,
496

01:10:57.085 --> 01:10:58.824

when in an area where there was polio,
497

01:10:58.854 --> 01:10:59.904

or where there was something else,
498

01:10:59.904 --> 01:11:09.265

right? But that's a higher level policy issue. But we do it for foot and mouth, right? Have
you visited a farm? No, no.

499

01:11:09.265 --> 01:11:15.805

But, yeah, I mean, there are things. It's a complex issue and a lot of it doesn't have to do
with location.

500

01:11:16.524 --> 01:11:24.055

I do think and I think this is going on now and probably was better than I but,
501

01:11:24.449 --> 01:11:24.595

you know,

502

01:11:24.595 --> 01:11:27.774

I wonder if you stop it, if you have to turn your phone in as you

503

01:11:27.774 --> 01:11:31.885

enter the United States and they have the ability to find out where you've been with,
504

01:11:31.885 --> 01:11:32.635

where you've traveled,

505

01:11:32.635 --> 01:11:33.685

why have you gone there?

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01:11:33.925 --> 01:11:48.805

Who'd you meet with? I mean, that's going on now, right? And having traveled and
been to places that probably, I've been worried that they're going to do that. And, you
know, in some ways you sort of prepare for that, right?

507

01:11:48.805 --> 01:12:01.52

In terms of what device you take or what you disclose. But I do think that's going to be
part of where we move to, right? I mea, people are going to be like, where have you
been, who have you been with? There's going to be a database



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



508

01:12:01.524 --> 01:12:04.524

that's going to be able to tell what activities were taken on there and,

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01:12:05.310 --> 01:12:18.774

you know, hopefully, it's a privilege for sure, but it's certainly one a lot of people have taken advantage of over the past ten years or so. And I would argue that it's made the world a better place, not a worse place.

510

01:12:18.774 --> 01:12:27.774

And I would hate to see, again, because of the trade off between balance and benefits and risks, you know, certain sites saying, the risks are to great,

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01:12:27.774 --> 01:12:41.994

we can't let him or her in, because they went to someplace A. Particularly, and you mentioned this earlier, you know, the data quality issues, you know, the ability of the, you know, if we look, we're using artificial intelligence and machine learning to make those decisions. I mean,

512

01:12:44.064 --> 01:12:58.885

there's a lot of potential issues, which, you know, everyone on this call probably is aware of, but I do see some countries implementing that. Some are doing it within their own countries, right? Right. Passports, but they're doing it in their own country. So I do think it's something we'll need to worry about in the future.

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01:12:59.430 --> 01:13:11.064

Great. Jacob, I see your mic. So, Kevin, it's a great issue, just to spot and I can talk a little bit about device search at the border,

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01:13:11.064 --> 01:13:22.885

and I think it'll be really interesting to see how this issue of device searches at the border plays out when the potential risk of people coming in from other countries where there are elevated coronavirus cases,

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01:13:22.885 --> 01:13:35.694

although, right now, wherever they come from is going to be better than here. So there's that. So, and I'm summarizing this law based on memory, so no promises on correct.

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01:13:37.255 --> 01:13:48.234

So, when somebody comes to the United States, there is an ability for the government to search their belongings, and that includes their devices to some extent.

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01:13:48.925 --> 01:13:52.585

There's a distinction in the law between what they call a forensic search,

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:13:52.614 --> 01:13:55.885

or what they call, or a non-forensic search,
519

01:13:55.914 --> 01:14:00.024

and that's just whether something is plugged into the device and information is
extracted off of it,
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01:14:00.685 --> 01:14:05.154

that would constitute a forensic search. And in the night circuit right now,
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01:14:05.364 --> 01:14:07.975

you actually need a reasonable suspicion to my recollection,
522

01:14:11.335 --> 01:14:22.435

to do a forensic search, and I think that's what you would need in order to rigorously
assess whether or not somebody has been in a place where there was heightened
coronavirus risk.

523

01:14:23.305 --> 01:14:23.875

And so,

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01:14:24.475 --> 01:14:24.925

I think

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01:14:24.925 --> 01:14:25.074

that

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01:14:25.194 --> 01:14:38.875

that reasonable suspicion is the thing that I think is going to be questioned when it
comes to assessing whether or not this kind of search is permissible under the law
when it comes to looking at people

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01:14:38.965 --> 01:14:45.984

coming into the country and thinking about coronavirus as a potential risk. I think it's a
fascinating area,

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01:14:45.984 --> 01:14:49.585

and it's going to be an interesting thing to watch as the law develops.

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01:14:50.609 --> 01:15:05.484

Yeah. Great. Stacey, did you want to chime in on this one at all? Yeah, it's a tricky set of
issues, right? I think the jury is still out on immunity passports just with the science not
there yet on whether we can actually establish that kind of thing.

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01:15:05.484 --> 01:15:20.305



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

EthicalGEO

LCF HENRY
LUCE
FOUNDATION

I think there are issues with scale. It takes a long time to roll out these sorts of things. And by the time that there was an effective system in place, the whole question might be moved. The thing that would be,

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01:15:20.305 --> 01:15:27.595

I think, arguably, easier is what Jacob's describing? So travel restrictions based on detailed location history and

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01:15:29.125 --> 01:15:43.104

I haven't seen that at a sort of technical level of searching a phone, to determine the location history and I think it would raise a lot of concerns, right? So, it's challenging to distinguish between that use case

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01:15:43.104 --> 01:15:55.555

and a use case involving, checking anyone who comes in at a border for suspicious-looking location histories, right? So, the question is always about balance.

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01:15:55.585 --> 01:16:06.510

Can you achieve the same goals through less invasive means? And if so, that's certainly going to be the right answer. Great. Jacob,.

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01:16:06.505 --> 01:16:19.314

did you want to chime back in? I want to make one point about immunity passports. I completely agree with Stacey that there's just the sort of, like, technical issues to whether it's possible to do that. But I think there's also the question and incentive.

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01:16:19.614 --> 01:16:32.244

I mean, you know, we don't want people to be taking the risk and infecting themselves in order to get a job or to be able to travel. And, you know, the epidemiological

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01:16:32.244 --> 01:16:42.505

and also the disease characteristics of COVID-19, I think are kind of really, really problematic or complicate this and make it very difficult.

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01:16:42.869 --> 01:16:51.925

Because, you know, a lot of people are asymptomatic when they get COVID-19. Obviously, like, older people are more at risk.

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01:16:52.404 --> 01:16:58.045

And so we really wouldn't want to put a regime in place, either a practical regime or a legal regime

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01:16:58.350 --> 01:17:11.604

that encourages people, maybe younger people, to infect themselves, recover and then be able to get an immunity passport so that they can get a job in the midst of the economic crisis.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



541

01:17:11.784 --> 01:17:21.744

And, you know, of course, those incentives are going to be felt most acutely by people who have lost their jobs, or who are economically struggling.

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01:17:22.704 --> 01:17:34.854

And so, you know, we've already seen vulnerable communities already experiencing the harm of COVID-19 disproportionately. And I have serious concerns that any health passport would make that worse. Great. So, I've got another question, it's international-transnational in nature, I'm always struck, you know, when I land in another country, open up my phone, I get that text that tells me what my data rates are going to cost and things like that, which I assume, I don't know if that's just my carrier or if it's a legal thing, but, you know, we don't have a similar thing for location tech, kind of, location privacy policy. Given the transnational nature of location tech and data, and the national and even sub-national nature of location privacy law, how do you think of the responsibility of public sector jurisdictions and even private sector service providers to informing users, consumers, citizens, of their rights and the risks as they move around the world? Like, should I get the text when I land that says, here's the summary of our location law by the way, here's the agency that tracks you, or, you know, it's illegal for anyone to track you by the way. How should that work or how might that work in the future?

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01:18:51.715 --> 01:18:55.944

Ah Kevin? There you go. It's like a game show, who hit the buzzer first. Go ahead Kevin.

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01:18:56.875 --> 01:19:06.000

So I'm going to answer a little bit differently, I think, although I think it's in the same realm. Okay.

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01:19:07.734 --> 01:19:18.024

I think it's really hard because of the nature of location information to come up with a one-size-fit-all privacy policy,

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01:19:18.024 --> 01:19:19.404

privacy statement,

547

01:19:20.604 --> 01:19:21.385

legal

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01:19:22.074 --> 01:19:33.085

summary of something in any way because it cuts across so many domains and so many technologies and so many regulatory sectors,

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01:19:33.085 --> 01:19:42.654

that, you know, even trying to do that, would lose its effectiveness. Unless you basically said, you know,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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01:19:43.914 --> 01:19:54.744

it's the Wild, Wild West here, everyone's collecting your location. Good luck. I mean, unless it's something that simple or something like that, I just think it's really hard. And that goes back to the discussion

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01:19:54.744 --> 01:20:01.645

I had about, you know, why this is so different because of that right? And so that's my only point.

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01:20:04.854 --> 01:20:09.774

Does anyone else want to pick up on that? I mean, I agree. It's complicated. That's kind of why I put the question out there.

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01:20:10.795 --> 01:20:23.095

Jacob? Yeah, so I think it would be remiss not to talk a little bit about the assurance to decision and response to this question.

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01:20:24.234 --> 01:20:26.005

So,

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01:20:27.055 --> 01:20:28.465

just recently

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01:20:29.545 --> 01:20:37.675

the EU's highest court issued a decision invalidating a data transfer agreement between the European Union and the

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01:20:37.914 --> 01:20:40.614

United States known as the Privacy Shield.

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01:20:41.784 --> 01:20:42.744

And the privacy shield,

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01:20:42.744 --> 01:20:50.305

just generally speaking allowed companies to transfer data and not be out of compliance with the GDPR.

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01:20:52.585 --> 01:20:52.854

But,

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01:20:52.854 --> 01:21:01.885

in this case, the EU Court of Justice said that because of national surveillance law in the United States,

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01:21:01.885 --> 01:21:11.364



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



and because of the ability for the government in the United States to access communications that enter the United States, that Privacy Shield was invalid.

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01:21:11.604 --> 01:21:12.085

And so,

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01:21:12.145 --> 01:21:12.354

you know,

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01:21:12.354 --> 01:21:16.074

there's a lot of concern that the fact that

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01:21:16.979 --> 01:21:26.664

the federal government in the United States has access to the private communications and even just the data flows that are happening within companies in the cloud,

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01:21:26.664 --> 01:21:27.295

for example,

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01:21:27.715 --> 01:21:31.074

could be put in question by,

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01:21:31.104 --> 01:21:33.055

by the GDPR because

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01:21:33.744 --> 01:21:36.024

they can't take advantage of the Privacy Shield anymore.

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01:21:36.354 --> 01:21:49.824

And so, your question was about what sort of public sector responsibility is and, you know, there, I think there's a difficult discussion to be had between the private sector companies

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01:21:49.824 --> 01:22:04.795

and also the government about how the United States government's access to private information is actually really standing in the way of effective and efficient

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01:22:04.885 --> 01:22:07.494

transfers of data by businesses.

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01:22:08.454 --> 01:22:22.795

And, you know, this, to me, is sort of, the chicken's coming home to the roost, by the surveillance state, but I think that's something that should be part of the conversation as well. Yeah, great. You anticipated my next question, but I'm going to ask it anyways.

Stacey?

575



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:22:22.795 --> 01:22:23.904

Did you want to chime in at all?

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01:22:27.324 --> 01:22:36.055

It's a really good point. I think it highlights the main challenges with having that kind of notification, even if you wanted one

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01:22:36.055 --> 01:22:45.114

because it's really, sometimes it's less about the geographic location that you're in, and more about who's holding the data, who's getting the data, which is usually across state and international lines, right?

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01:22:46.319 --> 01:22:59.994

Yeah, it could be physically located in the United States using ads that collect location data and sending it to another country or another state. An app from a European country that's reselling the data to an American government? Yeah.

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01:23:00.055 --> 01:23:07.435

Chris, can I take a question? Yeah, please do. About Schrems II,

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01:23:08.935 --> 01:23:15.475

I mean arguably there are European countries that have significant access to personal information as well,

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01:23:15.685 --> 01:23:18.475

or can get personal information as well,

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01:23:19.109 --> 01:23:22.284

but they are subject to GDPR,

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01:23:22.824 --> 01:23:23.064

so,

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01:23:24.175 --> 01:23:24.864

it's not,

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01:23:25.255 --> 01:23:25.465

you know,

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01:23:25.465 --> 01:23:29.215

you don't have to worry about external transfers,

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01:23:29.215 --> 01:23:42.744

right? So is the issue as much about,, you know, the U.S. government's access, or that we don't have a federal privacy policy in place that would deal with some of these issues?



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020

EthicalGEO

HE
LUCE
FOUNDATION

588

01:23:44.279 --> 01:23:55.435

Well, so, I mean, in reading the European Court of Justice's decision, I mean, I thought that the main focus of that analysis was the U.S.

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01:23:55.435 --> 01:24:06.744

government access to information helping the United States. I think it's possible that a federal privacy law might do something to ameliorate those concerns.

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01:24:06.744 --> 01:24:10.585

But I don't see how you can not,

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01:24:11.550 --> 01:24:24.534

how you can get to a different result, if you look at the Schrems II decision without having, you know, reform of some of the surveillance laws that emanate the concerns of the European Court of Justice.

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01:24:24.715 --> 01:24:31.074

I say that, being an interloper in transnational data flows and the GDPR,

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01:24:31.074 --> 01:24:42.265

so defer to others expertise there, but reading the decision, it does seem like the surveillance law was the main concern, and that you can't get around it without reform there.

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01:24:43.439 --> 01:24:47.005

Okay. Anybody else want to chime in on that?

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01:24:48.180 --> 01:24:58.944

So, okay. This has come up at least twice, but I want to ask it in a pointed way and see if it changes the answers or if it gets us to a solution.

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01:24:58.944 --> 01:25:11.814

So, for a long time, privacy discussions have been about a citizen's rights, more recently a lot of new privacy laws have focussed on consumer rights, companies and their use of your data. With governments

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01:25:11.814 --> 01:25:24.805

increasingly purchasing and consuming mobile location telemetry data, collected by commercial platforms, we now face a complicated collision between these two worlds. How do you see this

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01:25:24.805 --> 01:25:29.244

shaking out over the next arbitrary time horizon?

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01:25:37.314 --> 01:25:50.604



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



I'm going to give it to Jacob. It was a close one. So, I mean, I think the short answer is not well.

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01:25:51.654 --> 01:26:06.534

But to give us kind of a hint of what I think is a regulatory framework that I think would make sense. I like to highlight some of the work that the ACLU of Northern California has done,

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01:26:06.534 --> 01:26:09.805

and also the ACLU of Massachusetts has done surrounding facial recognition.

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01:26:10.795 --> 01:26:23.395

So, I think it's a huge concern that governments are now buying information from the corporate sector and using that information as essentially a replacement for what would've required a process in the past.

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01:26:24.779 --> 01:26:37.885

And I think it's a difficult issue, and that acquisition has fairly few limits in terms of actual legal prohibitions.

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01:26:38.604 --> 01:26:44.935

The sort of good news is that in many cases, the federal government, and also state governments have sunshine laws

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01:26:44.935 --> 01:26:53.845

that actually gives people access to the facts of that information, that those contracts exist and that information is being collected in something about what information is actually being searched,

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01:26:53.845 --> 01:27:06.805

and that's how we got access to the fact that ICE was purchasing automated license plate reader data, and using it to find immigrants and deport them. So, sunshine laws are a big part of the response.

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01:27:07.914 --> 01:27:09.414

So, for facial recognition,

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01:27:11.515 --> 01:27:15.685

our team has works on bans of facial recognition,

609

01:27:15.685 --> 01:27:26.185

used by government in San Francisco, in Berkeley and then ACLU of Massachusetts has done it in Boston and Cambridge and Brookline,

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01:27:27.085 --> 01:27:31.404

and those plans, generally speaking, include a prohibition on acquisition of services,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



611

01:27:31.914 --> 01:27:35.185

or acquisition of data from private entities

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01:27:35.335 --> 01:27:40.404

that are doing the special recognition themselves. And so, I think

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01:27:40.404 --> 01:27:43.675

that's something that needs to be thought about in privacy laws,

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01:27:44.154 --> 01:27:46.914

whether it's privacy laws for government conduct or for also,

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01:27:46.914 --> 01:27:51.895

private industry, is thinking about really problematic and harmful acquisitions for data,

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01:27:52.104 --> 01:27:54.744

and then putting in place prohibitions where it's appropriate.

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01:27:56.904 --> 01:28:11.515

Great. Does anybody else want to pick up on that? So, it's a couple of different things that I think Jacob raised, right? One is, the government's purchasing location data and other types of data as an end

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01:28:11.875 --> 01:28:21.114

on getting a warrant based on probable cause approved by a judge, right? That seems to clearly be a violation. I think there's a lot of consensus.

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01:28:21.114 --> 01:28:27.234

We could introduce a law that I think would get a lot of support and possibly there will be one coming up in the next few months

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01:28:28.734 --> 01:28:42.354

that would cut off that kind of access, but local governments, in particular, and you see this with a lot of the smart city efforts are interested in acquiring data

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01:28:42.840 --> 01:28:53.125

for other purposes. They have, I think, a healthy skepticism of tech companies who want to run these things for them, and they typically commit budgets, right?

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01:28:54.114 --> 01:29:07.734

But they're interested in using data for the same reasons, for the same sort of good beneficial reasons as anyone else, is any of the smart city tech companies, which involve things like improving urban planning, improving transportation.

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01:29:10.104 --> 01:29:22.164



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



The problem, I think, is, they typically don't have the data governance laws, norms, establish standards, resources as private companies.

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01:29:22.164 --> 01:29:28.255

So they want to get into the data game, so to speak, but don't have the right data governance restrictions.

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01:29:28.704 --> 01:29:38.784

And so that data ends up getting collected for one purpose and then potentially reused, or sort of sent across the hallway to a law enforcement agency.

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01:29:42.505 --> 01:29:56.994

And then there's law enforcement agencies, or other agencies, Departments of Transportation, for instance, that are interested in purchasing data, rather than collecting it directly, like DoT, but just purchasing the data for their own sorts of analysis.

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01:29:56.994 --> 01:30:02.965

And when the data is out there and commercially available in commercial markets widely,

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01:30:03.805 --> 01:30:04.194

they,

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01:30:04.194 --> 01:30:04.494

I think,

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01:30:04.494 --> 01:30:09.744

understandably think that it's a strange outcome for it to be widely commercially available,

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01:30:09.744 --> 01:30:14.845

but not available for a government or non-law enforcement non-immigration,

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01:30:14.845 --> 01:30:15.145

right,

633

01:30:16.465 --> 01:30:30.265

non-enforcement purposes. So, yeah, we're absolutely seeing this direct collision of public and private concerns, and public and private legal regimes that's going to be really challenging to sort out, right?

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01:30:30.265 --> 01:30:44.364

So we've been in support of a fine consumer privacy law for a long time. I think a lot of people don't realize that the 1974 Privacy Act originally applied to the private sector and public sector, and then got limited and now only applies to the public sector.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



635

01:30:46.465 --> 01:30:59.064

Other regimes don't do that. So, the GDPR, for instance, applies to both public and private entities, and we can take an approach in the United States, but we have such a complicated technical regime already in place that just the political momentum is challenging.

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01:30:59.064 --> 01:31:10.375

But that's probably ultimately where it needs to turn out. That's fascinating. I did not know that that was that's how it started in 1970 and then it bifurcated from there. That's interesting.

637

01:31:11.125 --> 01:31:22.045

You know, we've got a couple. The GDPR? I mean, yeah, before, I mean, you can make a really solid argument that the GDPR is based on the 1974 Privacy Act, certainly based on the FIPPs, right?

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01:31:22.404 --> 01:31:28.314

Even though we're, sort of, looking to the EU as being this gold standard

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01:31:28.314 --> 01:31:28.795

right now,

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01:31:29.454 --> 01:31:32.755

all of the fair information privacy practices in the United States, and of

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01:31:33.055 --> 01:31:38.814

United States origin to both privacy and data protection and we're kind of, in a lot of ways, forty years,

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01:31:38.935 --> 01:31:40.704

fifty years later, coming back to our roots.

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01:31:41.574 --> 01:31:41.875

Right.

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01:31:41.875 --> 01:31:53.664

They've been eroded as it relates to private sector data collection. You know, it's interesting, you know, we've had some other folks on previous panels. We had Jeanne Holm from L. A.,

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01:31:54.295 --> 01:32:08.545

their Chief Data Officer, but also Kate Garman from Cityfi, and, you know, Kate talked quite a bit about the surveillance, or, I don't know, not really anti-surveillance acts that she helped put in place

646



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:32:08.545 --> 01:32:12.715

in, I want to say, Seattle, and also some work, maybe in Kansas City,
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01:32:14.244 --> 01:32:14.845

where,

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01:32:15.085 --> 01:32:15.354

you know,

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01:32:15.354 --> 01:32:16.375

they're,

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01:32:16.404 --> 01:32:17.154

looking at

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01:32:17.185 --> 01:32:31.015

which individual pieces of technology and data will we allow and for what purposes and
a new one isn't allowed to be deployed until it's gone through an entire process where
they look at social impact and whatever and,

652

01:32:31.255 --> 01:32:31.675

you know,

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01:32:31.854 --> 01:32:33.835

it may be an onerous process,

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01:32:33.835 --> 01:32:42.354

but it's a deliberate process with, kind of, clear open use. And as somebody that's
deployed a lot of technology into,

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01:32:42.385 --> 01:32:42.835

you know,

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01:32:42.835 --> 01:32:43.465

federal, state, and

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01:32:43.465 --> 01:32:44.454

local environments,

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01:32:44.699 --> 01:32:47.935

it doesn't actually happen as fast as you think it does anyways, that process.

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01:32:47.935 --> 01:33:02.425

may not actually slow anything down, but, you know, I mentioned it a little bit in those
surveillance laws at the city level because it, you know, Jacob, you brought up facial
recognition and that's happening at the city level, and



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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01:33:02.425 --> 01:33:16.914

Kevin's brought up all these Internet of Things, and Stacey's worked all this smart city tech, you know, we talk about, not federal regulation, but what role does state and local, putting together in our jurisdiction,

661

01:33:16.914 --> 01:33:31.614

here is what's allowable, what's not allowable. Here's what is disclosed. Here's what's knowable, every citizen can know what, you know, what we're doing, etc, in terms of, you know, what might broadly be rolled into surveillance, because that impacts COVID-19,

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01:33:31.645 --> 01:33:35.185

right? We're rolling things out for COVID-19 surveillance,

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01:33:35.369 --> 01:33:49.404

but then when COVID-19's done, do we just leave that there? Do we sunset it? How should we think about this stuff at a state and local level, given some of the precedents that have been set with surveillance laws? Jacob, you opened your mouth. Yeah, that's right.

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01:33:49.404 --> 01:33:51.505

So, thanks for noticing.

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01:33:53.305 --> 01:33:53.515

Yeah,

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01:33:53.515 --> 01:33:58.765

so I think the state level and local level surveillance laws

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01:33:58.765 --> 01:33:58.914

like

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01:33:58.914 --> 01:34:03.625

this are really critical. In the facial recognition bands that have been

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01:34:03.685 --> 01:34:06.895

put in place in San Francisco, and Oakland, and Berkley,

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01:34:07.194 --> 01:34:07.885

are actually,

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01:34:08.305 --> 01:34:09.414

either include,

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01:34:09.414 --> 01:34:10.104



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



or are on

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01:34:10.135 --> 01:34:12.864

top of existing surveillance rules,

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01:34:13.045 --> 01:34:16.164

like the ones that you described in Seattle and in Kansas City.

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01:34:16.645 --> 01:34:17.994

And, just generally speaking,

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01:34:17.994 --> 01:34:18.444

those

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01:34:18.984 --> 01:34:20.395

laws, and

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01:34:20.965 --> 01:34:24.505

it's called community control over police surveillance,

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01:34:25.375 --> 01:34:27.414

and ACLU has a page about it,

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01:34:27.414 --> 01:34:28.194

we have a model,

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01:34:28.795 --> 01:34:30.295

a model city ordinance,

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01:34:31.104 --> 01:34:40.944

and a whole bunch of information about all the different places where ordinances like that have been passed. A basic idea to bring some democratic accountability to the acquisition of surveillance technology.

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01:34:41.399 --> 01:34:56.154

And so, to be super clear, like, if a city wants to buy a drone and, you know, take a whole bunch of pictures of really granular pictures of people's movements. Under the surveillance ordinances, they could do that.

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01:34:56.399 --> 01:35:07.435

They just have to have a proposal, they have to have a use-policy, they have to have, you know, a city council meeting or something along those lines, where they give people the opportunity to comment. And then they have to have trainings,

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01:35:07.435 --> 01:35:19.585



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



and then they have to have annual assessments to determine whether or not the rules are being followed and to have, kind of, ongoing accountability within the community with respect to the use of that technology.

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01:35:20.454 --> 01:35:33.954

I think that's, kind of, a model that I think is effective for the kind of surveillance technology that maybe isn't as problematic as something like facial recognition.

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01:35:33.954 --> 01:35:48.145

And so, I think that there's a pragmatic distinction being drawn, for example, in places like San Francisco, looking at surveillance technology as a general category, in saying

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01:35:48.354 --> 01:36:00.895

cities can buy it, but there needs to be democratic accountability and oversight and transparency. And then facial recognition, which is such a kind of problematic, dangerous, toxic technology that the city can't purchase it at all,

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01:36:01.645 --> 01:36:08.125

and sort of saying, for some things, there should be a ban, for most things, there should be democratic accountability and transparency.

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01:36:13.225 --> 01:36:17.274

Stacey, you have some experience in this. What are your thoughts?

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01:36:22.104 --> 01:36:26.635

The question is around the role that local cities and local city regulations claim, right?

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01:36:28.284 --> 01:36:39.175

Yeah, I mean, a huge role, right? Because nothing's happening at the federal level.

Ideally we need a federal baseline for at least the commercial side of this.

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01:36:40.795 --> 01:36:50.215

And I think there's a good argument that that necessarily has to preempt some of the city level ordinances and some of the state level laws,

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01:36:50.694 --> 01:36:56.664

but not all are clearly some issues that are inherently local in my mind.

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01:36:57.715 --> 01:37:02.725

But if you end up with different private sector regulation,

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01:37:03.564 --> 01:37:04.524

in different places,

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01:37:04.524 --> 01:37:06.805

as you go state to state and city to city,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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01:37:07.375 --> 01:37:09.145

if you're a company that operates

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01:37:09.145 --> 01:37:10.494

in all of those places,

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01:37:10.555 --> 01:37:11.064

you end up,

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01:37:11.064 --> 01:37:16.585

not being able to build an internal compliance regime, right?

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01:37:16.585 --> 01:37:27.324

To be able to comply with all of those laws. Bans are a little bit different, right? Because a moratorium or a total ban on the use of the technology in a particular geographic area is pretty straightforward, right?

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01:37:27.840 --> 01:37:34.885

Just don't do that thing. Where it becomes challenging is when you have different regulations around things,

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01:37:34.885 --> 01:37:35.034

like,

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01:37:35.034 --> 01:37:37.074

whether people need to consent or whether they,

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01:37:37.074 --> 01:37:45.085

it's okay for them to just be able to opt-out or what kind of access to information do you have to provide to the residents of this city versus the residence of that city,

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01:37:45.085 --> 01:37:46.734

versus the residents of this state.

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01:37:48.625 --> 01:38:01.795

We're, sort of, at the very beginning of that. There really isn't very much regulation out there. You can, kind of, count it on maybe one or two hands, but as things progress over the next five years, it'll be really important to have

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01:38:03.744 --> 01:38:08.274

at least a baseline of a uniform set of both rights and obligations for companies.

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01:38:12.595 --> 01:38:19.194

Chris, can I just go into a couple of points? Please.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:38:21.595 --> 01:38:25.135

Understanding the risk, I worry that the,
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01:38:26.694 --> 01:38:28.255

I worry that
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01:38:28.734 --> 01:38:40.494

a balkanized, legal, regulatory framework on these technologies by city, by state is
going to make
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01:38:40.914 --> 01:38:43.284

the ability to do some of the things,
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01:38:43.645 --> 01:38:43.885

you know,
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01:38:43.885 --> 01:38:50.185

that the geospatial community more broadly wants to do, or even within communities.
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01:38:50.185 --> 01:38:50.454

I mean,
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01:38:50.484 --> 01:38:54.055

a lot of larger issues involve data from,
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01:38:54.564 --> 01:38:54.805

you know,
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01:38:54.805 --> 01:39:01.585

across the state or across all urban communities or across different communities and
yeah,
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01:39:01.585 --> 01:39:13.284

it requires data, and increasingly it requires data with more granularity. And if you've
got these, to Stacey's point, if you've got a ban, then you don't have it.
722

01:39:13.284 --> 01:39:28.015

If you've got to try to figure out consent and notification requirements to go through
public policy, you know, public forms on these things. I think it gets really difficult. And
I'm not saying that there aren't risks associated with this, there's risks associated with
all of them.

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01:39:28.614 --> 01:39:39.145

But it seems to me it's harder at the local level in particular, to have a meaningful
discussion around the risks and rewards a federal and international level.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:39:39.265 --> 01:39:47.034

And that's partly because of just the way local politics works, is also partly because just what their particular interest is.

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01:39:48.534 --> 01:39:53.305

So, I just throw that out there. I think both Stacey and Jacob are right,

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01:39:53.305 --> 01:40:06.774

I mean, that's the way we're going, because we don't have, you know, whether it be dysfunction in Washington, or whether it just be, we're not adult enough yet to have this discussion.

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01:40:07.225 --> 01:40:19.885

But that's where we're going and I worry if it isn't fixed sooner, rather than later what that's going mean for a lot of types of geolocation and geospatial information. Great.

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01:40:20.189 --> 01:40:26.875

Yeah, just so. Ah, you're fighting for the mic. This is great. I'm going to go to Stacey, then Jacob. Go ahead, Stacey.

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01:40:27.595 --> 01:40:41.814

I agree with that. I want to add the added wrinkle that a lot of private sector companies that are dealing with location data sets are for purposes of their own risk minimization, keeping it as anonymous as possible.

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01:40:43.140 --> 01:40:49.734

It's clear that that data is not anonymous in most cases. I mean, Jacob, you've made a really compelling point, I think the evidence is clear on this, right?

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01:40:50.515 --> 01:40:53.694

Once you have a persistent identifier following someone around,

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01:40:53.694 --> 01:40:55.435

you can

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01:40:55.435 --> 01:40:57.715

re-identify them fairly easily,

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01:40:57.715 --> 01:40:59.274

given enough time and precision.

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01:41:00.774 --> 01:41:02.125

But companies,

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01:41:02.784 --> 01:41:04.614

most of the commercial location



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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01:41:04.614 --> 01:41:07.045

intelligence firms are not tying it to name,

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01:41:07.045 --> 01:41:14.095

they're not tying it to any other ID, they're doing their best to try to keep it as anonymized as they can.

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01:41:16.135 --> 01:41:30.534

So, the challenge that that creates for different privacy regimes with different access and choice requirements, is that, sometimes, in order to comply with those, you end up making people re-identify their own data, when they otherwise wouldn't.

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01:41:31.614 --> 01:41:35.635

So, if, for instance, you have a practice of redacting,

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01:41:36.715 --> 01:41:49.944

dwelt time overnight, which shows you where a person lives, or you redact sensitive locations, like schools and churches and things like that. And then you are faced with a local law that says this data is personal information,

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01:41:52.765 --> 01:42:04.494

how do you respond to that? How do you know whether the data you hold is a resident of the state, somebody passing through, or in some way triggers your legal obligations without taking additional steps to

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01:42:05.520 --> 01:42:17.095

figure that out. So it's challenging. Jacob, you wanted to chime in? Yeah, I think there's a really interesting discussion

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01:42:17.095 --> 01:42:28.135

to be had about, kind of, what the right level of, I, sort of, as a policy matter, where we want policy innovation to happen and how that balances against,

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01:42:28.314 --> 01:42:28.524

you know,

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01:42:28.524 --> 01:42:34.465

so putting pretty protections in place that protect people today versus waiting, and,

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01:42:34.465 --> 01:42:34.675

you know,

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01:42:34.795 --> 01:42:35.965

in my view,

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:42:36.984 --> 01:42:37.284

well,
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01:42:38.274 --> 01:42:43.255

the larger you get, as you get from the local, to the county, into the state, to the national level,

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01:42:44.034 --> 01:42:47.185

the political lift in order to pass a law

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01:42:47.185 --> 01:42:59.965

there is heavier and heavier and heavier. And I think probably, at the national level, the political lift in the recent past, and the immediate future is infinite, right?

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01:42:59.965 --> 01:43:05.125

Like, there's no possibility that would happen. And given that,

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01:43:05.125 --> 01:43:17.005

I think that we all need to be thinking about the fact that putting in place laws that protect people is kind of, like, is necessary and, you know, that we should, as a result, expect

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01:43:17.364 --> 01:43:29.784

and accept some balkanization of the regulatory environment for companies as a result of the fact that the national government isn't likely to act on a lot of these issues.

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01:43:30.234 --> 01:43:43.944

Even state governments are unlikely to act, I think for similar reasons, relating to corporate influence, over state legislatures. And so increasingly, the place where policy making can happen, and I think it's actually quite sophisticated,

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01:43:43.944 --> 01:43:46.555

thoughtful policy making, is the local level.

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01:43:47.784 --> 01:43:54.204

So, I don't disagree with anything that you've said. I would say, though, that at a local level,

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01:43:54.204 --> 01:44:08.545

my guess is that people, there are technologies and applications for data, particularly on that, and putting aside industry, just on the government side. There are things that civil servants could do with data

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01:44:08.545 --> 01:44:16.164

that would make transportation better, that would make the streets safer, that would make smart cities better. I mean, good, good useful uses,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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01:44:16.164 --> 01:44:29.845

right? But if they're prohibited to do so because there was a very, you know, for whatever reason, something bad happened or someone gets concerned, they don't have the big budgets,

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01:44:29.845 --> 01:44:43.225

they don't have, they often don't have people who are out there pushing for them and those are the people that's going to get hurt, and I think that's probably happening, and so I understand what you're saying, and you're right,

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01:44:43.225 --> 01:44:52.645

it's partly, as Stacey has said, a number of times, we need something at a national level to sort of have those discussions and to think those through and give everyone an opportunity to play.

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01:44:52.645 --> 01:45:00.895

But at the local level, I don't think those discussions are taking place with the same level of vigor and education and understanding. That's my sense.

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01:45:05.005 --> 01:45:06.145

I also agree with that,

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01:45:06.505 --> 01:45:06.805

you know,

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01:45:07.345 --> 01:45:09.114

there are some things I think,

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01:45:09.505 --> 01:45:11.395

which might be prohibited at the local level,

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01:45:11.395 --> 01:45:16.284

but I also don't want to discount the things that are possible at the local level without using,

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01:45:18.085 --> 01:45:18.475

you know,

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01:45:18.505 --> 01:45:22.585

really identifiable granular location information,

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01:45:22.585 --> 01:45:25.404

or other kinds of information that it corresponds to individuals.

773

01:45:26.579 --> 01:45:27.595



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



And just to sort of,

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01:45:27.595 --> 01:45:27.744

like,

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01:45:27.744 --> 01:45:28.614

lay out a few of those,

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01:45:28.614 --> 01:45:29.244

because I think

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01:45:29.274 --> 01:45:34.854

it's worth being specific. With respect to micro-mobility, like scooters and bikes,

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01:45:34.854 --> 01:45:37.345

there's a huge important policy goal,

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01:45:37.345 --> 01:45:41.215

and making sure that those modes of transportation are available

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01:45:41.215 --> 01:45:52.585

equitably across the city and not that scooters and bikes are just located in rich neighborhoods and not in poor neighborhoods because those represent in some instances a low cost, a lower cost way of getting to work,

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01:45:52.585 --> 01:45:53.244

for example,

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01:45:53.664 --> 01:46:08.215

that those communities might not otherwise have. There's also a really important goal of making sure that public rights of way are free from obstruction, to make sure that disabled people can use sidewalks and crosswalks and such, and that those aren't

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01:46:08.244 --> 01:46:11.965

interfered with by scooters and bikes. And then there's of course

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01:46:11.965 --> 01:46:12.175

the,

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01:46:12.204 --> 01:46:12.444

the,

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01:46:12.595 --> 01:46:14.725

something that's been mentioned a few times,

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01:46:14.725 --> 01:46:15.685



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



which is where you put roads,

788

01:46:15.685 --> 01:46:18.024

where do you put bypasses, and things like that?

789

01:46:19.015 --> 01:46:31.435

Where do you put stores? All of those goals, I think can be achieved without having highly granular maximum precision location data about individual trips.

790

01:46:32.125 --> 01:46:33.024

If you're building a bike path,

791

01:46:33.024 --> 01:46:33.534

for example,

792

01:46:33.534 --> 01:46:48.414

you can aggregate a whole bunch of trips together and not have any individual be identifiable and you can do a pretty robust aggregation, and you can still find out where populations are moving and you're not identifying people. With respect to

793

01:46:48.414 --> 01:47:02.154

things like disability, or with respect to equitable distribution of micro-mobility, that can be done without knowing anything about any individual trip, but just where scooters are left when no person is on them.

794

01:47:02.670 --> 01:47:15.265

And so, I think that the solution here is to think about the goal at the outset, and then design a process, including access to information, which minimizes the privacy harms.

795

01:47:15.324 --> 01:47:27.715

And I think a lot of public policy goals are possible if you do that. It does take more thought and more time, but I think you can get both the sort of praise-worthy policy goals and also the privacy,

796

01:47:28.465 --> 01:47:41.935

if you do the process right. That was a great discussion back and forth. I don't want to cut it off. Does anybody else want to chime in on that? No, I totally agree with everything

797

01:47:41.935 --> 01:47:45.505

Jacob just said. I'm interested in, sort of, the challenge

798

01:47:45.505 --> 01:47:49.614

when you have multiple different private companies that are all, sort of, collecting similar data.

799



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Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:47:49.614 --> 01:47:52.074

I think what

800

01:47:52.074 --> 01:47:54.085

you can use aggregate information,

801

01:47:54.114 --> 01:48:05.064

you can use more limited types of information to serve the policy goals without requiring that those companies transmit precise geolocation data to a central government entity.

802

01:48:06.175 --> 01:48:12.114

But, if you start having aggregated analysis from three or four different private entities,

803

01:48:12.564 --> 01:48:15.954

how do you make comparisons between those within a city,

804

01:48:16.015 --> 01:48:23.814

right? And how do you ensure that it's all accurate, right? So, one interesting solution and we're seeing more and more data trusts.

805

01:48:24.055 --> 01:48:37.375

You know, companies that are formed specifically to sort of correlate individually identifiable data from different sources and aggregate it together and then provide analysis to the government entity. That might be a potential solution here.

806

01:48:37.375 --> 01:48:47.935

But without that, I mean, this is what L.A. DoT or others in the same sort of situation would probably say, right? We want to be able to make comparisons between all of these different companies.

807

01:48:47.935 --> 01:48:56.965

We want to be able to check our work and not have to rely on the tech companies, who after all have that individually identifiable raw data to begin with.

808

01:48:57.744 --> 01:49:10.829

So it's just a question of which entity you trust. People don't trust my character. I totally agree, yeah. Maybe I'm just not characterizing that correctly. I don't know. No, no, I think you did actually, very well. Okay.

809

01:49:12.114 --> 01:49:20.395

So, a couple other questions, and I know we're revisiting, you guys have gotten, I think you've touched a lot of the big issues,

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01:49:20.395 --> 01:49:32.005



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



so I feel like I'm just asking you to go a little deeper on this de-anonymization here. Given what we know about the ability to de-anonymize, right, mobile location data with relative ease,

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01:49:32.034 --> 01:49:44.965

what are the legal responsibilities, or maybe ethical responsibilities, I don't know, responsibilities of location data resellers, you know, is that well defined in the law? Does it need to be well defined in the law?

812

01:49:44.994 --> 01:49:49.944

Do we need to have a list of them that have a green check on Angie's list,

813

01:49:49.944 --> 01:49:51.414

and the other ones don't? Like,

814

01:49:52.675 --> 01:49:52.854

you know,

815

01:49:52.854 --> 01:49:53.154

because,

816

01:49:53.185 --> 01:49:53.454

I mean,

817

01:49:53.454 --> 01:49:54.295

I'm a tech guy,

818

01:49:54.295 --> 01:49:57.295

and I know if you throw enough geo-nerds at something,

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01:49:57.295 --> 01:50:00.145

they're going to solve the problem, and if you give them the,

820

01:50:00.385 --> 01:50:00.984

you know,

821

01:50:01.194 --> 01:50:04.885

the task of enriching the data so that,

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01:50:04.914 --> 01:50:05.244

you know,

823

01:50:05.244 --> 01:50:06.055

it's de-anonymized,

824

01:50:06.055 --> 01:50:06.744



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



they just do it,

825

01:50:06.774 --> 01:50:07.164

you know,

826

01:50:07.164 --> 01:50:09.534

and they're just doing what the boss tells them to do.

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01:50:09.840 --> 01:50:10.260

So,

828

01:50:11.215 --> 01:50:11.425

you know,

829

01:50:11.425 --> 01:50:12.204

we're also,

830

01:50:12.595 --> 01:50:12.954

you know,

831

01:50:12.954 --> 01:50:17.904

work in AGS, EthicalGEO initiative is working with

832

01:50:17.965 --> 01:50:20.875

our friends at the Geovation Center in London,

833

01:50:22.194 --> 01:50:23.784

their Benchmark Initiative

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01:50:23.814 --> 01:50:26.845

on an international location Charter and this is a big issue,

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01:50:26.845 --> 01:50:27.175

right?

836

01:50:27.420 --> 01:50:37.194

You know, what are the best practices? What are the principles? What are the guidelines that we should be asking all companies to live by? And are they just ethical guidelines or should they be in the law?

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01:50:40.050 --> 01:50:49.824

So I've asked like 12 questions in there, and that's more of a manifesto and a ramp than a question but does anybody want to chime in on that? Stacey, go ahead. It's a great question and

838

01:50:49.854 --> 01:50:55.284



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



I'm seeing some of the Q and A chat, which I don't know if all the attendees can see that

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01:50:55.375 --> 01:50:55.704

Chris

840

01:50:55.704 --> 01:50:57.564

but I can. No, but there's some, yes.

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01:50:57.840 --> 01:51:01.104

There's some questions being thrown in around

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01:51:01.104 --> 01:51:07.194

whether we anticipate anonymized or aggregated data to be exempted from a forthcoming privacy law,

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01:51:07.734 --> 01:51:08.154

location

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01:51:08.154 --> 01:51:08.335

data

845

01:51:08.335 --> 01:51:12.595

law or other privacy law, and yeah,

846

01:51:12.805 --> 01:51:20.994

probably, probably not anonymous location data in the way that industry has been using that term for the last ten or

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01:51:20.994 --> 01:51:21.534

fifteen years

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01:51:21.895 --> 01:51:22.885

But truly

849

01:51:22.885 --> 01:51:26.154

de-identified, truly aggregated data analysis

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01:51:26.154 --> 01:51:35.215

is typically not considered to have privacy risks. But it is worth broadening the scope of the question a little bit beyond identifiability

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01:51:35.215 --> 01:51:46.765

because there's also sensitivity, and there are ways that location data can be used that doesn't necessarily identify someone, but can still be unexpected or potentially harmful.

852



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Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



01:51:46.765 --> 01:51:52.045

And I think a good example of that is this case out of Massachusetts from a few
853

01:51:52.045 --> 01:51:54.595

years ago around geofencing
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01:51:54.595 --> 01:52:05.095

abortion clinics so that the advertising intermediary could send content to people
whose phones had been detected to be in those locations.

855

01:52:06.539 --> 01:52:20.814

You know, encouraging them not to get an abortion, or whatever it is, just send content
to the phones that have been in a place. That can be done with that re-identifying
anyone or knowing the identity of anyone, or even using that data that doesn't, that
isn't persistent

856

01:52:20.814 --> 01:52:31.314

overtime, because you can send a geofence alert at a point in time, without even
necessarily collecting the location data, right? But it's clearly a harmful use case, right?

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01:52:31.314 --> 01:52:39.145

It got banned by the attorney general in that state, and I don't know of any company
that would do something like that,

858

01:52:39.145 --> 01:52:49.015

right? But I do know that most companies are thinking through similar types of
situations around how they should deal with data around schools clinics, right,

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01:52:50.244 --> 01:53:03.779

dispensaries and other sorts of political events in ways that don't necessarily identify
the person, but have to do with the use of that data for further things.

860

01:53:03.774 --> 01:53:15.085

Do we want to receive politically targeted ads on our phones based on the fact that we
went to a rally the week before, right? So these are issues that I think are still being
sorted out.

861

01:53:18.385 --> 01:53:20.545

And on the anonymization question,

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01:53:23.064 --> 01:53:32.125

the question is whether this is going to be addressed by a law, Chris? Sorry I went off on
one. If you think one's coming in or who's working on it?

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01:53:32.154 --> 01:53:40.375



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



Yeah, there are some methods to legitimately, from what I understand at a technical level,

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01:53:40.375 --> 01:53:41.395

and I'm not a technologist,

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01:53:41.395 --> 01:53:51.085

right, there are some methods that can adequately de-identify or anonymize data to within an acceptable level of risk.

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01:53:53.064 --> 01:53:55.314

or to eliminate..

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01:53:55.435 --> 01:53:56.784

Differential

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01:53:56.784 --> 01:53:57.715

privacy, statistical methods.

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01:53:57.954 --> 01:53:59.604

..adding statistical noise,

870

01:53:59.845 --> 01:54:07.314

redacting the dwell locations where a device is located at night, redacting sensitivity,

871

01:54:07.975 --> 01:54:09.654

making the data less precise,

872

01:54:09.685 --> 01:54:13.914

you can toggle the precision to make it less precise to a city level,

873

01:54:13.944 --> 01:54:16.614

rather than a street corner level.

874

01:54:17.814 --> 01:54:31.135

You can take a look at the persistence, right? Maybe you don't need the, every ten seconds for, you know, a developer app to be pinging for location data, maybe it's enough every day or every half hour, or whatever it is, right?

875

01:54:31.135 --> 01:54:36.444

So, there's all these different ways that you, kind of, reduce risk, including through administrative safeguards, right?

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01:54:36.444 --> 01:54:49.225



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



We saw problems with ride-share companies in recent years where there was access to a God node in one of them famously right where people could see where all of the devices were going in real-time.

877

01:54:50.399 --> 01:55:03.055

That's, I can't imagine a situation where that's going to be necessary, right? So you need administrative access controls within a company so that people can't look people up. All of these things go into identifiability and risk management.

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01:55:06.564 --> 01:55:19.255

All right, Chris? Go ahead, Kevin. I see that you want to chime in. Yeah, a couple of thoughts. In terms of the, you know, data broker, if you will, for lack of a better word.

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01:55:19.255 --> 01:55:31.704

I mean, I do, I believe it was the Vermont data broker law that referenced location information in the recitals but didn't actually included in the definition in the law itself, which I thought was interesting.

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01:55:33.145 --> 01:55:48.024

I do think though, that, we will see more of that and the challenge will be as we've talked about, how do you define that, right? I mean, companies have so much location information and they're using it in so many different ways,

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01:55:48.024 --> 01:55:57.984

how do you define that someone is? In Vermont there is a requirement to register, but there could be other requirements that you impose on that. So I do think there's a real challenge with that.

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01:55:59.454 --> 01:56:11.725

I'm not a technologist either, and I don't fully understand, I read different reports about how easy or difficult it is to anonymize certain data sets and identify a particular person, and I don't,

883

01:56:12.925 --> 01:56:26.064

you know, I think that's going to be a really tough question, and I do think it's going to take an enhanced combination of law and policy and technical folks and operational folks to come up with a solution that addresses the risks, because it really varies,

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01:56:26.064 --> 01:56:31.734

and that's one of the other aspects of location privacy. You know, it covers so many different risks, right?

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01:56:31.734 --> 01:56:42.715

I mean, it can be used in so many different ways, whether it be someone stalking you, whether it's someone making decisions about your insurance, or in the geofencing case that Stacey mentioned.



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



886

01:56:42.715 --> 01:56:53.604

I mean, there's so many different aspects to that. As you and I have talked about, you know, around ethics versus the law, I think this community is so large.

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01:56:53.604 --> 01:57:07.164

I think it involved so many different groups and professions and industries and technologies that, who does the ethical guidelines apply to? And how do you, not enforce them,

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01:57:07.164 --> 01:57:12.805

but how do you even get any, sort of, you know, buy-in to all these different groups?

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01:57:12.805 --> 01:57:24.984

And I know the open-source community is dealing with that on software and licenses and how to enforce a license that may require someone to use their software for an unethical use or not to use it for things that are unethical.

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01:57:25.314 --> 01:57:39.954

I mean, the challenge is very significant. So, for me, you know, you need just to start and think with the law and then build ethics around it. Maybe around, particularly segments of the group, the geospatial community or particular applications. But,

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01:57:40.289 --> 01:57:47.305

a broader set of practices, I just find really, really problematic, particularly when you try to do it on an international scale.

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01:57:52.404 --> 01:57:52.944

So,

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01:57:57.324 --> 01:57:59.305

what are the prospects of a new U.S.

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01:57:59.305 --> 01:58:00.354

federal location

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01:58:00.354 --> 01:58:01.225

privacy law,

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01:58:01.255 --> 01:58:05.185

that may be the wrong question, and who's thinking about it, like,

897

01:58:05.185 --> 01:58:07.524

who has a draft sitting on their hard drive

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01:58:07.555 --> 01:58:20.994



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



because that's what they do at night when they're watching Netflix, like, you know, who's thinking about this sort of thing? Stacey, you lit up your mic, you're the first one. You win. Are you the one?

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01:58:23.335 --> 01:58:31.074

I wish. I would copy and paste half of the GDPR into this. No, people are definitely thinking about it, okay.

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01:58:31.074 --> 01:58:33.475

So, Senator Cantwell and

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01:58:33.475 --> 01:58:40.614

Senator Wicker on the Senate Congress Committee, Chair and Ranking Minority Member are thinking very hard about this, and have location

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01:58:40.614 --> 01:58:47.305

baked into their comprehensive privacy bills from way back in 2019 before COVID

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01:58:47.305 --> 01:58:48.114

changed everything.

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01:58:49.375 --> 01:58:59.125

Those are still on the table. I mean, really where a lot of the political will, I guess, fell apart were around non-privacy issues.

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01:58:59.125 --> 01:59:12.564

It was really about preemption and how the law would be enforced, which impacts the business community in a big way. But it's not really, there was consensus on a lot of the underlying privacy restrictions that ought to exist.

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01:59:13.975 --> 01:59:16.314

Senator Wyden is certainly thinking about this,

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01:59:16.314 --> 01:59:31.284

so it's been reported that Senator Wyden and his staff are drafting a bill that would restrict law enforcement agencies from purchasing location data as an end-run around getting

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01:59:31.284 --> 01:59:31.854

a warrant,

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01:59:32.185 --> 01:59:34.284

which should,

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01:59:34.314 --> 01:59:36.385

I would expect, get bipartisan support,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



911

01:59:36.385 --> 01:59:46.404

right? That's a very clear thing that there isn't much disagreement amongst, even amongst ad tech companies that are in some cases, providing that data, they agree.

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01:59:46.465 --> 01:59:52.854

So, yeah, it's definitely being thought about. I don't know that I anticipate a location privacy law.

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01:59:54.864 --> 02:00:02.694

It could happen, but the sectoral laws that I see more momentum around at the federal level are around biometrics and health data.

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02:00:03.774 --> 02:00:12.654

I'd be surprised to see location privacy law because it just gets into this, kind of, rabbit hole of a question of how do you define

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02:00:12.654 --> 02:00:13.404

location?

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02:00:13.404 --> 02:00:28.135

How do you make principal distinctions between location and other types of privacy intrusions into private life when they're not based on latitude-longitude or GPS, right? And how do you enable all of the good things while restricting

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02:00:28.164 --> 02:00:28.645

others?

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02:00:30.444 --> 02:00:32.574

And whether notice and choices is even doing.

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02:00:35.005 --> 02:00:47.125

So, lots of people are thinking about it, but I would expect it to become part of a baseline consumer privacy law in the next 4 years, rather than a stand alone. Great.

Kevin, I saw you lean forward.

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02:00:49.765 --> 02:00:53.904

Yeah, I mean, I agree with what Stacey was saying.

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02:00:53.904 --> 02:01:05.454

I mean, there's been location-type, location has been included in privacy law drafts for federal privacy legislation for probably 8 or 9 years now, right?

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02:01:05.694 --> 02:01:18.145



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



Wyden's been pushing it and others have as well, Markey I think had something a number of years ago. I mean, it's been, it's been around. I will tell you the one thing I say, and I agree,

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02:01:18.145 --> 02:01:32.845

I don't think there's going to be a location privacy law at the federal level, and that's probably going to be a problem, because I don't think a lot of aspects of the geospatial community who are collecting and using data are, they're not following it, right?

924

02:01:32.845 --> 02:01:46.164

They see it as a federal privacy law so they don't they don't focus on that. And so, the discussions being taking place around some of the other issues, and location is either not being adequately discussed or defined and it's sort of moving through the system.

Now

925

02:01:46.164 --> 02:01:59.814

maybe because of COVID-19 and some of the other things we're talking about, that'll change, but that's been something I've observed. If it doesn't say geospatial information, we're going to stop this privacy law then people aren't part of that discussion.

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02:01:59.814 --> 02:02:12.954

And that's an issue. Stacey, I did want to ask you though, because I think it's a fair point that it's really hard to have something like location privacy, like you do with facial recognition or biometrics.

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02:02:13.350 --> 02:02:28.194

But don't you still have those same challenges that you described even if you embed it into a federal privacy law? Don't you still have to define it, you still have to deal with those, not just stand alone? Absolutely.

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02:02:28.194 --> 02:02:39.414

I mean, the most common way that I see location being incorporated into both proposals and the bills that have been introduced is by sticking it into a section on sensitive data.

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02:02:39.895 --> 02:02:40.585

So,

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02:02:41.215 --> 02:02:43.284

there's not a 100%,

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02:02:43.284 --> 02:02:51.715

but fairly good consensus that most privacy laws should include some form of heightened restrictions around sensitive types of data,

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Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



02:02:51.715 --> 02:02:52.885

which is usually political,
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02:02:53.814 --> 02:02:55.074

sexual orientation,
934

02:02:55.375 --> 02:02:55.944

race,
935

02:02:55.944 --> 02:02:56.515

ethnicity,
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02:02:56.515 --> 02:02:57.234

religion,
937

02:02:59.215 --> 02:03:04.854

and by heightened restrictions, that usually looks like opt-in, affirmative consent.
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02:03:04.854 --> 02:03:11.635

And then some combination of other restrictions, data protection, impact assessments,
for example.

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02:03:14.034 --> 02:03:27.085

Most of the time I see location data just sort of stuck into that list as a sensitive category
of information. And it makes a certain amount of sense because the Federal Trade
Commission, for example, has said that location data is a sensitive category of
940

02:03:27.114 --> 02:03:32.034

information. Location can certainly reveal a lot of sensitive information, right?
941

02:03:32.154 --> 02:03:44.935

If you have persistent location then you can infer someone's religious affiliation or their
political affiliation based on where they're going and their characteristics and their
habits. So it makes a certain amount of sense,
942

942

02:03:44.994 --> 02:03:59.515

but I think one of the challenges is that it isn't always amenable to affirmative consent.
Right. Nor is affirmative consent always good enough, frankly, from an advocacy point
of view, right?
943

943

02:03:59.875 --> 02:04:10.555

Do we want to live in a world where you just have to check 'yes' to everything, right? So
if you do it wrong, consent can be this unwieldy, insufficient safeguard to begin with.
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944

02:04:10.555 --> 02:04:16.824



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



But aside from the problems with that, it's not practically possible in a lot of situations with location data.

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02:04:17.814 --> 02:04:32.364

So, it's possible in the mobile app space, and you could get to a really good legal regime for mobile app and mobile app developers and their partners. But what about location collected from wearables, location selected from IoT devices that

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02:04:33.270 --> 02:04:39.085

don't have screens, location based on the identifiers emitted from connected vehicles.

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02:04:40.944 --> 02:04:55.135

What do you do with license plates and facial recognition and everything else? One solution, you just ban all of that, right? But that's maybe more of a reasonable approach in facial recognition

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02:04:55.135 --> 02:05:06.085

for the reasons Jacob talked about, but for everything else maps, addresses, license plates, everything where there isn't a screen, and you really can't give affirmative consent or maybe it's a family device, right?

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02:05:08.095 --> 02:05:10.675

Then, an affirmative consent role is just going to

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02:05:12.204 --> 02:05:15.055

make all of those use cases practically impossible.

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02:05:15.654 --> 02:05:28.704

So, what we see in the E.U. around location data is, it's been kind of bifurcated, so some location data under E.U. law requires affirmative opt-in consent

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02:05:28.704 --> 02:05:30.835

usually when it's done through mobile apps right?

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02:05:31.645 --> 02:05:34.074

And they're sort of developing on that,

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02:05:34.074 --> 02:05:37.375

but they've taken a couple of actions against location marketing companies,

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02:05:38.694 --> 02:05:45.595

the French DPA, the CNIL has taken a lot of action here. But there's another subset of location data,

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02:05:45.625 --> 02:05:51.085

which is data sets based off of the mobile identifiers that are emitted from phones,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



957

02:05:51.085 --> 02:05:51.925

so Mac addresses.

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02:05:53.935 --> 02:06:02.095

This is companies like JCDecaux and Bumble Labs in Sweden. The Dutch DPA has been very involved in this.

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02:06:02.095 --> 02:06:02.244

So,

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02:06:02.244 --> 02:06:08.185

when you're talking about airports, stadiums, and retailers who are sweeping via their WiFi

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02:06:08.185 --> 02:06:08.784

networks,

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02:06:08.784 --> 02:06:12.685

usually for the identifiers coming from phones,

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02:06:14.005 --> 02:06:15.984

you can either not do that at all,

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02:06:16.920 --> 02:06:18.204

which is one approach,

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02:06:18.204 --> 02:06:18.534

right?

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02:06:19.045 --> 02:06:21.085

If you are going to do it to a certain extent

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02:06:21.085 --> 02:06:34.614

because you believe that there's value in physical spaces, being able to know how people are moving, you can't base it on consent, because it's not technically possible, we're going through a screen, right?

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02:06:34.614 --> 02:06:37.585

You're the identifiers that are being given off and you're collecting them.

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02:06:39.564 --> 02:06:49.104

So, what's the right approach there? And under the E.U. it's been, those companies have used a legitimate interest-lawful basis, rather than a consent-lawful basis.

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02:06:49.494 --> 02:07:02.484



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



And what that means is, they do a complex balancing test where they say, okay, there is value to doing this, you do have a business interest in knowing how people are moving around in a space. But there's an intrusion-upon-privacy because these are persistent identifiers.

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02:07:02.484 --> 02:07:12.715

So, if you're going to do it, and if it's going to be legal, you have to immediately anonymize, delete the data after 24 hours, and you can't track people over time.

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02:07:13.614 --> 02:07:24.354

You can track them within a day and maybe one day, maybe two day, maybe, it's all sort of a little arbitrary, the time frame, but short-term, okay. Aggregate analysis, okay.

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02:07:25.015 --> 02:07:35.935

But you can't keep the identifiers and you can't track people over time, and that's a judicially created balancing outcome, not based on consent. I think it's a good outcome,

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02:07:37.465 --> 02:07:46.045

and I think we'll see more of that for things like that, like connected vehicles or any other context where you can't get consent. So, very long answer, sorry.

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02:07:47.604 --> 02:07:56.994

No, it highlights the point that one, people are looking at location as being sensitive in many instances, and there's a heightened scrutiny.

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02:07:57.414 --> 02:08:11.965

And as you said, applying, you know, some of the fair information practice principles, even more, strictly, even though they may not apply to location information for lots of different reasons, or they may not be the best way for location information,

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02:08:11.965 --> 02:08:26.814

right? So, there's that challenge. And then it gets to understanding the technology and the applications at a granular enough level so that you can apply them differently, whether it be through regulation, or legislation, or the courts or whomever.

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02:08:27.385 --> 02:08:37.284

And that's that's the type of discussion that, you know, we're not having here now, I don't think and Stacey knows better than me, but, you know, we're not having that type of discussion here now.

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02:08:37.914 --> 02:08:49.104

But, you know, things are working through the system, whether it be court cases, whether they be legislation or bans or whatever it is. And that's yeah that's what we're facing.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



02:08:50.515 --> 02:08:58.975

Yeah, I mean, I totally agree the level of discourse in the U.S. is dramatically higher than where it was a year ago.

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02:08:59.484 --> 02:09:10.585

But I think it's still not not high enough that people who are really technical experts and geospatial scientists, who should feel comfortable that we're not going to end up with a law that

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02:09:12.654 --> 02:09:27.354

unintentionally hinders a lot of really good legitimate use cases, or it doesn't impact the bad use cases, right? Yeah. I just wanted to jump in about the issue.

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02:09:30.925 --> 02:09:42.145

I think they're like, at the ACLU of Northern California, we've long resisted drawing distinctions and privacy laws including sensitive information, not personal information.

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02:09:43.164 --> 02:09:55.375

There's two reasons for that. One, is that that distinction is, in many cases, a justification for reducing the privacy protection associated with quote unquote, non sensitive, personal information.

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02:09:55.854 --> 02:10:07.164

And so, it's a sort of a distinction created in order to reduce protections for certain kinds of information. So that's one thing. The question that we would ask is, like, why not protect everything with strong protections.

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02:10:07.314 --> 02:10:20.635

But at a substantive level, I think it's worth, kind of, being clear minded about what information is collected about all of us is actually non-sensitive.

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02:10:20.635 --> 02:10:31.465

I mean, the categories of sensitive information that are often specified are health information, financial information, you know, sometimes geolocation information, things like that.

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02:10:31.739 --> 02:10:40.614

And if you think about all of the information that is gathered as we use mobile devices, you know, our laptops, computers, et cetera.

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02:10:42.539 --> 02:10:51.505

Sensitive information is often inferable from a lot of that information and, you know, there's some aspects of these kinds of claims, which are pseudoscience.

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02:10:52.765 --> 02:11:07.404



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



You know, there's a lot of claims being made that people's emotional states or their mental illnesses, or like, emotional or psychological vulnerabilities can be inferred from the details on how they interact with the website or something.

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02:11:07.765 --> 02:11:19.704

Whether or not they have COVID-19. Exactly, that too. Some of that is pseudoscience, or at least not justified yet, but I think some of it is real, and just to sort of be specific,

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02:11:20.545 --> 02:11:32.215

you know, Stacey talked a lot about how location information, if you go to a clinic or a place of worship can reveal sensitive, personal information. That's certainly true of our browsing activity, right?

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02:11:32.215 --> 02:11:33.114

I think probably,

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02:11:33.114 --> 02:11:33.805

all of us

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02:11:34.050 --> 02:11:36.715

have searched for a medical condition,

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02:11:36.715 --> 02:11:38.635

that we were concerned, that we

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02:11:38.635 --> 02:11:47.755

or family member potentially had, or searched for symptoms that we have looking for some kind of hint that is the diagnosis. Search history,

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02:11:47.755 --> 02:11:48.654

browsing activity,

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02:11:48.984 --> 02:12:01.255

certainly private communications, like messages, emails, or even the metadata associated with those communications, I think could reflect sensitive personal information as defined.

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02:12:02.005 --> 02:12:07.614

And then, one example that I found sort of terrifying is there's a, Uber

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02:12:09.145 --> 02:12:18.204

actually has a patent application based on detecting whether somebody's intoxicated based on their use of a mobile app.

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02:12:18.265 --> 02:12:29.095



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



And I think it's not crazy to think that somebody who is intoxicated is going to use a mobile application differently and that difference is going to be detectable by the application itself.

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02:12:29.875 --> 02:12:40.765

But if you do that, and that is possible, then the sort of like, how someone scrolls or how someone taps on their mobile phone could actually be an indicator of alcoholism or other kinds of health conditions.

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02:12:40.944 --> 02:12:49.074

And so, I think the distinction between sensitive and non-sensitive, personal information is, kind of like, blurry and porous at best.

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02:12:50.064 --> 02:13:04.345

And so, I haven't seen a distinction between those two categories that takes that porousness seriously. And for that reason, I think it's better to have a single category of strong protection for personal information. Yeah,

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02:13:04.345 --> 02:13:18.895

I mean, I appreciate what you're saying. We've had so many references to help. We haven't really discussed how specifically, one of our EthicalGEO fellows, Father

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02:13:18.925 --> 02:13:22.614

Michael Rozier, from St. Louis University, I guess he's also a professor.

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02:13:22.859 --> 02:13:30.114

Michael Rozier, you know, he always gave the example of HIPAA, where all of your health data is protected by HIPAA.

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02:13:30.295 --> 02:13:32.335

But the mobile location data

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02:13:32.335 --> 02:13:36.475

that shows that you walked into an AIDS clinic at 10a.m. on Tuesday,

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02:13:36.475 --> 02:13:36.835

isn't

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02:13:37.164 --> 02:13:42.895

protected by HIPAA at all and could be picked up by any ad tech company and

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02:13:42.895 --> 02:13:48.145

re-sold to whoever. So that's kind of an interesting issue. We do have a question

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02:13:48.145 --> 02:13:51.654

that came in from the audience about specifically,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



1015

02:13:51.930 --> 02:13:52.314

you know,

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02:13:52.314 --> 02:13:53.125

health data.

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02:13:53.185 --> 02:14:05.064

I think their concern is, you know, what are the effects of government reliance on private contractors and companies to manage geolocation and health data, but you can twist that question two or three other ways,

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02:14:05.064 --> 02:14:18.234

you know, when there's a big marketplace of that location data, from it, could be inferred your health status, or your concerns about your health status or whatever, you know, what are the public or private access issues around that?

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02:14:18.774 --> 02:14:30.835

And you just covered that Jacob? Does anybody else want to chime in on health, maybe the health dimension of this or is it just good enough that we noted it for the audience because it is not protected by HIPAA?

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02:14:34.734 --> 02:14:41.994

I'll leave Stacey's thoughtful nod. Well, that's a good question. It's a great question.

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02:14:41.994 --> 02:14:53.364

I mean, Jacob's example around the patent for whether you're intoxicated kind of gets you into also thinking about behavioral biometrics, which is kind of a fascinating thing.

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02:14:53.364 --> 02:15:08.125

I think it turns out that the way that we use our phone, and the way that we're standing and the way that you type can also be used as an identifier, at least in the short term, a method of biometric identification, which is really, really interesting.

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02:15:13.645 --> 02:15:19.465

I'm going to do a couple more questions as we bring this to the end. I think you guys have helped us uncover so many issues.

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02:15:20.095 --> 02:15:31.704

There's a great question that came in from the Facebook live audience. When lawyers and policy makers are writing policies and regulations to ensure citizens and consumer privacy is big tech at the table,

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02:15:31.704 --> 02:15:32.454

or I guess I'd say,

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



02:15:32.454 --> 02:15:37.045

I'm sure they are but, in what ways is big tech at the table to help
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02:15:37.045 --> 02:15:39.654

explain the technology to the policy makers and
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02:15:39.954 --> 02:15:40.555

the lawyers?
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02:15:40.829 --> 02:15:49.314

And what incentives do big tech have in providing that information if it's really going to
just make it harder for them to use the data, or sell that location data?
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02:15:49.494 --> 02:15:57.744

Do you have an invested interest in not educating policy makers and lawyers or do you
see them being pretty forthcoming,
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02:15:57.744 --> 02:16:04.704

and, you know, some might say on the offensive, but being proactive in helping
educate people?
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02:16:04.795 --> 02:16:18.625

And I do want to broaden that beyond Apple and Google, you know, people that sell
phones, you know, there's people who sell drones and their satellite companies, and,
you know, which parts of the landscape, tech landscape are being proactive and helpful
and which ones aren't.
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02:16:21.654 --> 02:16:31.675

Good one. So, first of all, no, I don't think that there's a vested interest in not educating
policy makers. Definitely not.
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02:16:33.834 --> 02:16:39.924

It's in everyone's best interests that policy makers and lawmakers, particularly, are well
informed and know what they're doing.
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02:16:40.405 --> 02:16:54.209

I think one of the challenges that I've seen is companies, especially larger companies
just tend to have a divide between their technical experts and their product experts,
their product
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02:16:54.204 --> 02:16:58.614

engineers and their lobbyists or public policy experts,
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02:16:58.614 --> 02:17:03.774

or the people that are willing or able or designated to go in and talk to policy makers.
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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



02:17:05.395 --> 02:17:06.805

Sometimes that's just bureaucratic.

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02:17:06.805 --> 02:17:13.674

Sometimes it's self-interest. I know a lot of companies, for instance, are very hesitant to go talk to the FTC

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02:17:13.854 --> 02:17:28.645

for example, even though they could probably do a lot of good, because they're sitting in a room with a regulator, and if they say the wrong thing, or if they feel like they say the wrong thing, they're going to bring scrutiny and attention down on them. So, you know, same with going into and talking to policy makers.

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02:17:28.645 --> 02:17:37.555

And so you often get things that are just talking points and then you also get things that sound like talking points,

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02:17:37.915 --> 02:17:44.034

even though there's real legitimate technical expertise behind it to justify that point,

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02:17:44.784 --> 02:17:52.465

but ends up sounding like a talking point to a policy maker, because the person that they're talking to doesn't have the technical background, right? So, my advice to companies is usually to make sure there's as much cross-pollination and discussion internally within the company as possible. So that the policy experts are as well informed as they absolutely can be, so they can inform law makers. Yeah. Yeah, just to jump in. I agree with that and I think that there is a lot of helpful information that comes from technology companies with respect to how the laws will affect the technology and then, sort of, what's happening on the ground. I think it's really important that product expertise, the market expertise, and the technical expertise be brought to bear on the policy making process. I will add that in my experience, there's often this notion that there's a privilege of people with deep technical expertise in these conversations that I think is a little, has not been born out of my experience. At the ACLU, we have technologists who work on the speech, privacy and technology team at ACLU National. EFF has technologists, their own staff, that build tools and also advise on policy questions, and there can be fairly widespread agreement with respect to the deeper technical details, and then vast disagreement about what the right policy answer is, and I think that is often a result of the fact that while technical expertise is important, it actually, it is sort of underdeterminative in the sense that having technical understanding does not answer the policy question for you. What you need to answer the policy question is policy judgment and to decide which communities to protect, whose interests are favored and there you get into a much more murky area where the incentives of the particular legislator or policy maker etc. come into play, and you know, the priorities of the regulator if you're talking about FTC. And so, yeah, technical expertise doesn't answer policy questions as a general manner but it is a very important input to those policy questions. I agree with that and I'll say, a potentially bigger



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



problem is less having the technical expertise and more having the knowledge of business models and the data flows involved in the modern ecosystem, internet transactions for example, how they work, how social media platforms work and what those data flows really look like because most lawmakers are considering not just the privacy implications of the laws they might right, but the economic implications. In my mind, it's very challenging to write any kind of privacy law that isn't going to impact some private sector industries, some public sector industries, some business models and not other business models. So if you're concerned about anti-trust or if you're just concerned that you're going to just accidentally wipe out the ad-supported internet, and force us all to pay-walls or cookie banners, those are legitimate concerns. You have to understand the business models in order to make policy judgements about which ones you're okay impacting or eliminating and what that process is going to look like and whether it's going to be supplemented by more privacy innovation and new and different types of business models that are going to be more privacy protected. And this is just coming from my advertising background, right. This is at the crux of most privacy law proposals we see. Kevin, go ahead. And yeah, so to follow up on that because I think Stacey made a couple of excellent points. I think with location in general, the issue is that most of it is still wrapped up in the advertising discussion and many of the big companies at the table are looking at it from an advertising standpoint and their trade-offs, their understanding, their business models are different than many others that are using location technology. But because for a lot of those businesses, one, they're smaller or they consider themselves in different sectors, they aren't necessarily part of the same trade associations, or going to the same meetings, or going, even, before the same committees, right, because that's an important part. Their voice isn't being heard or they're not contributing to the discussion. And so, a lot of the folks, Chris, that you and I know that are big players, if you will, in the geospatial community, they're looking at other matters that are more important to them and they're not focussing on privacy, and so, they're not part of the discussion, they're not, as a question said, at the table helping them explain the technology, and as Stacey said, this is what's going to happen, if you do X, this is what's going to do us, and maybe you want to do that, maybe from a policy standpoint that's fine, but

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02:23:17.934 --> 02:23:26.034

the unintended consequences are X, Y, and Z. And that discussion, I'm not sure, is taking place as well as it could, around location privacy in general.

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02:23:28.495 --> 02:23:42.444

Yeah, I agree. And companies have to be more forthright about it too. I mean, from most company representatives or trade association representatives. that we speak to are not willing to say, you know, here's the slice of business practices

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02:23:42.444 --> 02:23:56.665

that are more risky and more privacy invasive and here are the ones that are less, and here's how we can make some principle distinctions about what how a privacy law might impact because it's not in their self interest, they'd rather just say no. Right.

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Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



02:23:56.694 --> 02:24:00.264

But that's not going to create practical ways forward. Right

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02:24:01.735 --> 02:24:02.155

So,

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02:24:02.184 --> 02:24:05.034

as we wind down toward the top of the hour,

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02:24:06.149 --> 02:24:06.534

you know,

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02:24:06.834 --> 02:24:11.094

it's a confusing landscape and I've got three,

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02:24:11.784 --> 02:24:12.084

you know,

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02:24:12.084 --> 02:24:17.694

experienced lawyers here, who have come from different parts of the space.

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02:24:17.934 --> 02:24:30.895

If I'm a lawyer and I'm interested in this stuff, where should I get involved? I mean, other than FPF, The Center for Spatial Law and Policy, and the ACLU, right?

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02:24:30.895 --> 02:24:44.754

I mean, obviously, they should be members of all three. But if I'm a lawyer, an active lawyer out there, or maybe a law student coming up through the ranks, and I think this is the future. Where should I be involved?

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02:24:44.754 --> 02:24:54.354

What should I be tuned into? Who should I be following, other than you three? What kind of guidance can you give folks in the legal community?

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02:24:58.075 --> 02:25:12.295

Yeah, join up. Yeah, for sure we have law firm members that are part of our community and our advisory board. If you're starting out, I think, in your career, you're a new lawyer, I think that the IAPP can be a great resource and membership community. What's the IAPP?

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02:25:13.944 --> 02:25:26.665

The International Association of Privacy Professionals. This is mostly in-house, general councils and practicing privacy professionals at companies, and law firm members, and a lot of

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02:25:28.135 --> 02:25:29.665



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



it's been professionalized,

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02:25:29.665 --> 02:25:42.834

right? So, there's a certification test and all of these things that's, I think, a very different world than the advocacy world, where you're looking at organizations, like EPIC and ACLU which are, which also have a lot of activity that they're doing.

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02:25:43.284 --> 02:25:45.415

Any number of these things are great ways to get involved.

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02:25:47.844 --> 02:25:57.805

Oh, yeah, go ahead. Kevin. I agree, IAPP is a good resource. I think the legal community is,

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02:25:59.245 --> 02:26:00.204

I'd say,

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02:26:00.204 --> 02:26:08.784

woefully unaware of the legal and policy issues around data in general, and I include privacy as certainly part of that data protection,

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02:26:08.784 --> 02:26:09.895

but intellectual property

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02:26:09.895 --> 02:26:10.254

rights,

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02:26:10.254 --> 02:26:10.524

data,

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02:26:10.524 --> 02:26:12.264

quality and liability issues,

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02:26:12.684 --> 02:26:14.274

the national security issues.

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02:26:14.575 --> 02:26:28.944

I think there's a whole set of laws, and you and I have talked about them before. I mean, I think that's where, you know, more lawyers need to be paying attention to and that's involved some product liability, some intellectual property,

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02:26:28.944 --> 02:26:29.995

certainly privacy,

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02:26:29.995 --> 02:26:31.764

but those set of issues,



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



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02:26:31.764 --> 02:26:33.354

and to Stacey's point

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02:26:33.354 --> 02:26:37.614

and Jacob's point, understanding how data goes into an organization, how it's used,

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02:26:38.004 --> 02:26:39.174

what the ecosystem,

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02:26:39.174 --> 02:26:40.075

how it comes out,

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02:26:40.194 --> 02:26:41.514

whether it be location,

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02:26:41.514 --> 02:26:45.805

or whether it be medical or health is going to be increasingly important

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02:26:46.524 --> 02:26:53.545

both for the public and private sector. So, and, you know, there are different, there's no
sort of course of study,

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02:26:53.545 --> 02:26:54.985

I don't think you can go to do that now,

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02:26:55.434 --> 02:26:59.934

But within the ABA or IAPP or International Bar Association, or

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02:26:59.934 --> 02:27:00.264

others,

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02:27:00.715 --> 02:27:01.524

there are folks,

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02:27:01.524 --> 02:27:05.965

you can take, you can go to classes and take things on the legal side in addition to sort
of,

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02:27:06.415 --> 02:27:07.465

outside of that,

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02:27:07.495 --> 02:27:07.674

you know,

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02:27:07.674 --> 02:27:08.604



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



with industry groups

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02:27:08.604 --> 02:27:13.704

and things to really learn how those industries are collecting, using, sharing, and storing data.

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02:27:16.674 --> 02:27:31.465

Yeah, those are all really great suggestions and I completely agree with them. I would add, you know, thinking about pursuing opportunities inside of regulators. I spent almost five years as an attorney at the FTC.

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02:27:31.735 --> 02:27:44.604

I actually did a little bit of privacy, but not very much. I focused largely on consumer protection, false advertising cases, and interest mergers, but just being in FTC and seeing how the agency operates,

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02:27:44.604 --> 02:27:55.614

even if you're not doing work inside the division, the division of privacy and identity protection, that is the sort of core privacy regulator within the FTC, you're going to see those cases, you can see how the agency works.

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02:27:55.795 --> 02:28:04.465

And I think it's really helpful to understand how the privacy regulation works inside that agency. State agencies I think are also a really great place.

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02:28:04.495 --> 02:28:17.485

Obviously, the California AG is currently enforcing the CCPA, but there are other state AGs that do privacy law enforcement, either through their unfair deceptive practice statutes or potentially through new state level privacy laws.

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02:28:17.514 --> 02:28:27.805

Even if those state level privacy laws are more sectoral than, like, the CCPA might be. Kevin mentioned the Vermont Data Broker Law, or the Maine ISP Privacy Law.

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02:28:28.645 --> 02:28:40.975

There are a lot of state level privacy laws that are enforced by state AGs, which are a little bit narrower than a broad based consumer privacy law, but I think are also really great places to get experience with privacy law.

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02:28:41.905 --> 02:28:56.725

And then, finally, in-house is, I think, a really great place for people who were early in their careers, and later in their careers as well to gain deep market knowledge and product knowledge,

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02:28:57.114 --> 02:29:08.125



Location Tech Task Force

Blue-Ribbon Panel



Legal Perspectives on Mobile Location
Technology during COVID-19

August 28, 2020



and then also legal expertise around what rules are in place. And I think that's one where the sort of the market for lawyers is very good.

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02:29:08.459 --> 02:29:17.545

There are a lot of in-house opportunities for privacy lawyers and trust and safety lawyers. And so I think that's a place to keep in mind as well for people who are earlier in their careers. Thank you very much. You know, we started with COVID-19, and contact tracing, and we've covered far afield from that. I mean clearly the implications for what happened before COVID-19 is shaping how we respond to COVID-19, and what we put in place during COVID-19 will shape our response to whatever the next exigency is. I really want to thank you for giving us your time today. I know your time is probably your most precious resource so thanks for sharing it with us and the community. AGS isn't normally where lawyers come and hang out but maybe we need to start a Law and Geo drinking club, well I guess it would all be virtual happy hours right now, but I certainly feel after time with you, I could play a lawyer on TV, at least as like a bit-part on Law and Order for a few minutes. So thank you for your time and expertise. I'd like to thank you, I'd like to thank our audience for taking a couple of hours out of their time to join with Ms. Stacey Gray, Mr. Kevin Pomfret, and Jacob Snow, and I would be remiss if I didn't thank our sponsor, Henry Luce Foundation. Without their support, none of this would be possible and their support has enabled very important dialogue in educating all of us.

1099

02:30:47.760 --> 02:31:00.805

Before I leave you to your weekend, I just want to point out, not only have we had many sessions in the past that if you go to ethicalgeo.org and click on Location Tech Task Force, you can view all of those recorded sessions.

1100

02:31:01.045 --> 02:31:12.174

But we have another session coming up on September 8th; Tracking Movement through Space during COVID-19 and Beyond.

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02:31:12.415 --> 02:31:22.645

So, we'd love to have you tune in and stay with us on all of our future events. So, thank you very much for joining us and have a wonderful weekend. Take care.

1102

02:31:24.059 --> 02:31:25.344

Thanks Chris. Thanks.