

SB 1434 (LENO)

SEARCH WARRANTS: LOCATION PRIVACY

SUMMARY

SB 1434 updates California privacy law to reflect the modern mobile world by providing needed protection against warrantless government access to a person's location information that is generated, derived from, or obtained by the operation of an electronic device.

PROBLEM

Most Californians are now carrying tracking devices every day- their mobile phones, tablets, and more. While the location data from these devices can make it easy to get directions or locate the closest coffee shop, that location data also says a lot about you – where you go, what you do, and who you know. Many location-aware technologies can track your location in real time, as well as record this data to create a detailed log of your whereabouts for months or even years.

State public records act requests have revealed that law enforcement is increasingly taking advantage of outdated privacy laws, written before GPS and other location-aware technologies even existed, to access sensitive location information without adequate judicial oversight.

Without strong safeguards for location information, Californians are left to wonder and worry that if they use mobile technology, their personal information will be left unprotected. Creating clear and robust safeguards for location information will be good for consumers and for the adoption of new technology.

In January of this year, the United States Supreme Court in *United States v. Jones* found it unconstitutional for the police to install and use a GPS device to monitor a vehicle's movements for 28 days without a warrant.

Justice Samuel Alito noted that that in a pre-computer age, traditional surveillance for any extended period of time was difficult and costly, which could create a natural check on abusive law enforcement practices. However, advancements in technology have now made it possible for law enforcement to easily and surreptitiously access and aggregate massive amounts of location information that may unjustifiably intrude on an individual's private life.

Justice Alito further noted that in circumstances involving dramatic technological change that the best solution to privacy concerns may be legislative. *"A legislative body is well suited to gauge changing public attitudes, to draw detailed lines, and to balance privacy and public safety in a comprehensive way."*

SOLUTION

SB 1434 heeds the call in *Jones* for the legislature to act to safeguard privacy rights and makes the necessary updates to California law to protect sensitive location information consistent with the express right to privacy in the California Constitution.

Under SB 1434, no government entity shall obtain the location information of an electronic device without a warrant issued by an officer of the court.

SB 1434 also guards against abuses of long-term monitoring of an electronic device by limiting search warrants for location information to a timeframe no longer than is necessary, and not to exceed 30 days.

SB 1434 further provides necessary transparency and oversight regarding government access to location information by instituting reporting requirements.

SUPPORT

American Civil Liberties Union of California
(Co-Sponsor)

Electronic Frontier Foundation
(Co-sponsor)

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