



Bill would keep Big Brother's mitts off your GPS data

(WIRED) -- The reauthorization of the Patriot Act looks like a forgone conclusion.

But next month, a bipartisan band of legislators will try to mitigate a different kind of damage done to civil liberties: the government's warrantless collection of location data beamed out by your car or mobile phone.

The courts aren't sure whether so-called "geolocation" data taken from GPS devices or cellphones is [covered by the Fourth Amendment](#), as Wired.com's blog Threat Level has extensively reported.

That ambiguity has largely enabled law enforcement to snatch it up without getting a warrant or showing probable cause.

Sen. Ron Wyden, a Democrat, and Rep. Jason Chaffetz, a Republican, want to make things crystal clear: no warrant, no geolocation info.

"GPS devices are everywhere and that's a good thing," Chaffetz tells Wired.com. "We just don't want nefarious characters tracking people without someone knowing, nor do I want law enforcement to be able to just follow everyone all the time."

A bill they've collaborated to draft prevents the government from getting tracking data sent by your smartphone, GPS unit or other device -- including any "successor device," a nod to as-yet-unimagined tech -- without a court order.

It exempts geolocation collection from the Patriot Act's "business records" provision.

The cops also would be barred from taking that information from numbers that call you ("trap and trace" devices) or that you dial ("pen registers"). Its provisions protect both real-time and historic geolocation info.

And the bill doesn't just restrict the government's abilities to get your geolocation data. Telecoms, carriers and businesses would have to get your explicit consent before collecting it. (Sorry, [Apple](#).)

"The last thing these companies want is for people to be afraid of their phones, [so] you'll see people in this space embrace this legislation," said Chaffetz. Those companies wouldn't be allowed to divulge your geolocation data to the government unless the feds show their inquiry is connected to a criminal investigation.

Chaffetz and Wyden plan to introduce the bill the week of June 15. The [bill's existence](#) was first reported by CNet, and Danger Room has acquired a copy, which you can read below.

So far, civil libertarians seem pleased. "It's an excellent start," says Christopher Calabrese, a privacy lobbyist for the ACLU. "It gets at some of the core concerns that people have, that my cellphone is also a portable tracking device that can be used by law enforcement or companies or anybody that wants to know where I am."

(Full disclosure: My fiancée works for the ACLU.)

The bill's requirements for a warrant are extensive, covering "cellular geo-location, GPS tracking devices under cars and triggerfish devices, which enable law enforcement to track a phone without having to go to the phone company," says Christopher Soghoian, a graduate fellow with the Center for Applied Cybersecurity Research.

That's likely to make the bill a "non-starter" for the feds, who he says are "thoroughly addicted to location data."

And how. The FBI [once demanded](#) a 20-year old return a GPS tracker it had attached to the youth's car. The Obama administration [doesn't want](#) judges deciding when the feds can [examine your electronic footprints](#).

Wyden is also warning that the government is [secretly reinterpreting the Patriot Act](#), enabling a surveillance dragnet not envisioned by the law.

That has led some to speculate that the dragnet includes mass amounts of geolocation data. But for what it's worth, Jennifer Hoelzer, Wyden's deputy chief of staff insists that the senator's Patriot Act concerns and the GPS bill "are independent efforts."

Not everyone's convinced, particularly when they read the Chaffetz-Wyden bill.

"It is notable that Sen. Wyden singles out pen registers and [the Patriot Act's] business-records orders as provisions that may not be used to get geolocation data," says Julian Sanchez, a privacy and technology researcher at the libertarian Cato Institute. "It's highly suggestive that the secret 'interpretation' of the Patriot Act that [Wyden has been warning about](#) may involve allowing the use of these broader intelligence tools for some sort of potentially very large-scale location tracking."

"Americans have a reasonable expectation of privacy," Chaffetz says. "Just because you use a device that has a geolocator on it doesn't mean everyone should be able to follow you."

[See the bill here](#)

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