

The Washington Times

Reliable Reporting. The Right Opinion.

Government tracking of citizens using coronavirus-related data alarms civil liberty advocates

Alex Swoyer

April 9, 2020

Lawmakers are suggesting legislation to combat and track the coronavirus with the help of technology, allowing the collection of surveillance data to track where crowds are gathering and pinpoint potential areas of COVID-19 outbreaks — and raising red flags.

Civil liberty advocates are raising concerns about transparency and misuse of personal information, and it's an open question whether the government's use of the tech companies' data would be legal.

The Supreme Court hasn't addressed conflicts with the Fourth Amendment and digital tracking during a public health emergency such as the coronavirus pandemic, but the justices did hand down a ruling in 2018 that requires the government to get a warrant to collect more than a week of an individual's movements between cell-site locations.

“But the telecoms may voluntarily provide it, thus eliminating the need for the government to go to court,” said Josh Blackman, a professor at South Texas College of Law.

That possibility causes civil liberty advocates to raise red flags, saying it could lead to widespread abuse.

“My concern flows from the government's ability to get this kind of data and aggregate it,” said Patrick Eddington, a research fellow at the Cato Institute.

He also noted companies using that type of information could open the door to the government being able to obtain the personal data through national security laws such as the Patriot Act.

Location data tracked through digital companies, though, could help notify people who were in a store or area where someone later tested positive for COVID-19, the disease caused by the coronavirus.

The data also helps researchers track and monitor the spread of the virus, including where social distancing efforts are necessary.

Large tech companies, such as Google, are using consumer location information to run reports showing how much travel is occurring in given communities.

Ryan Calo, a law professor at the University of Washington, told the Senate Commerce, Science and Transportation Committee in written testimony Thursday that data is generally aggregated, so risks to individual privacy concerns are weakened.

“The data is useful to policymakers in determining where additional social distancing measures might be needed and to health officials in assessing the correlation between social distancing and rates of viral transmission,” Mr. Calo said.

But a problem arises when the tracking becomes more personalized, experts warn.

South Korea, Singapore and Israel used technology-based contact tracing to monitor the movements of those infected or exposed to COVID-19, but whether the collection of that data helped slow the speed of the virus is unproven.

Julian Sanchez, a senior fellow at the Cato Institute, said on a large scale, the cellphone location data could include hundreds of people near a supermarket or department store where an infected person is known to have been, making it unreliable in pinpointing the people who were close enough to contract the virus.

“It’s far from clear contact tracing via location tracking would really give you all that much marginal benefit beyond what you’d get from simply asking people where they’ve been and who they’ve had contact with,” he told The Washington Times.

Lawmakers also are interested in the use of technology to monitor areas where a COVID-19 outbreak is occurring versus the quantity of equipment on hand at nearby medical facilities.

Media reports emerged this week that White House senior adviser Jared Kushner had contacted health technology companies about working on a national system for sharing information about COVID-19 patients and treatment.

President Trump was quizzed about the efforts Wednesday, but he said he was unaware of his son-in-law’s plans.

“I have never heard about it. Doesn’t sound like a bad idea actually,” the president said. “It sounds very scientific. It sounds like it could be good based on tracking, but it also has to do with rights and lots of constitutional questions.”