

Invasive Technology/ Consumer Privacy Work Plan
October 15, 2013

I. Near-term goals:

Develop the following package of bills for introduction and enactment this session:

1. Government Surveillance: "Technology-neutral" government surveillance bill

- Requiring court supervision of the government use of certain surveillance technologies equipped with "extraordinary sensing devices".

2. Regulating Certain Nongovernmental Uses of Unmanned Aerial Vehicles: Licensing the use of Unmanned Aerial Vehicles (UAVs) in air space unregulated by the federal government and identifying approaches to future state regulation:

- Establishing a licensing and registration scheme to ensure safe and responsible operation of small, recreational UAVs currently exempt from federal regulation .
- Establishing a "center of excellence" in the Department of Commerce to identify approaches for state regulation of commercial use of UAVs, operator licensing, and privacy.

3. Consumers' Right to Remove Info Posted Online:

- Build on California legislation enacted this summer, SB 568, that gave minors a right to remove or request takedown of information that the minor posted online
- Expand this right to all individuals in the state of Washington.

4. Consumer Protection/Commercial Privacy Bill of Rights Act (draft under development):

- Establishing duties of consumer notice and consent for business that collect personal information in the state of Washington.
- Restricting businesses from sharing such information with third parties except pursuant to a contract that establishes clear expectations for how such information may be used.
- Violations are unfair and deceptive practices under the Consumer Protection Act.
- Some concepts will be borrowed from the government surveillance bill.

5. Expand protections from intrusive surreptitious or otherwise imperceptible surveillance by private parties:

- Create or expand statutory privacy invasion torts, facilitating citizens' access to the courts and making damages more easily proven.

6. Mandate Development of a Technology Privacy checklist for state and local agencies to consult to ensure best practices

II. Mid-term goals:

- 1. Working Group/ interim plan project:** Establish a working group or other interim plan project to conduct a comprehensive review of current consumer privacy laws and regulations, to ensure these laws are updated to keep up with technological developments, including but not limited to:

- a. Spyware definition may be drafted too narrowly to apply to mobile apps and other technologies that are increasingly widespread.
 - b. End Use Licensing Agreements (EULAs) by which consumers sign away rights on Mobile Apps may require new approaches to ensure notice and consent
 - c. RFID law too narrowly drafted to address use of biometrics/Pay by Face technologies.
 - d. Spam/texting/faxing etc.
- 2. Expand consumer's right to remove info posted online to include creative content reposted by third parties.**
- 3. Consider enhanced criminal penalties for use of technology in committing crimes:**
i.e. Harassment, stalking, voyeurism, assault, privacy invasions
- 4. Support creation of an IT committee to consider data security issues in addition to procurement.**

III. Long-term goals:

1. Enact work group's recommendations.
2. Address behavioral surveillance.
3. Address data aggregation and mining.
4. Develop a strategy for increased enforcement of invasive technology laws, whether through the Attorney General's Office or other means.