

Say No To Village Roadshow

Mobile phone location is the most pervasive type of metadata retained by telcos. Its importance in counter terrorism has been promoted frequently in the name of national security. The AFP's 2015 powerpoint presentation to Tony Abbott shows how metadata can be used in serious crime investigations.¹

The recent Ben Grubb vs Telstra case highlights some of the types of metadata that exist: phone location metadata when a mobile phone is making an outgoing call, SMS or internet sessions are considered accessible, while other mobile phone location metadata is excluded - but note these still exist for potential access. This constant physical trail of phone metadata has been illustrated famously by journalists such as the ABC's Will Ockenden.²

The usefulness of other retained metadata - such as internet sessions and locally-based ISP emails (Bigpond/Optusnet) - is becoming eroded with the development of new internet protocols and services such as encrypted messaging. The concept of websites visited, as Mr Brandis has struggled to describe, is already outdated. In contrast, mobile phone location metadata is likely to remain a key avenue for policing.

I suggest any further access to retained metadata, for civil proceedings or otherwise, starts to jeopardise law enforcement. It would only take one high profile civil case to have irreversible repercussions. The shift in communication behaviour of Australians in performing non-criminal activities would become mainstream, which is exactly what police do not want.

Access to Australians' metadata by international corporations is a significant threat, especially while groups such as Village Roadshow continue to show interest in this matter. This is of great concern given the recent removal of the section on copyright cases from the Attorney-General's Department FAQ on Data Retention.³

Please reject any change to access to retained telco metadata for civil proceedings.

Sincerely,

Name Withheld

1: How the AFP sold Abbott on mandatory data retention Inside the Australian Federal Police's lobbying of Prime Minister Tony Abbott to pass mandatory data-retention legislation. By Josh Taylor <http://www.zdnet.com/article/how-the-afp-sold-abbott-on-data-retention/>

2: How your phone tracks your every move By Will Ockenden <http://www.abc.net.au/news/2015-08-16/metadata-retention-privacy-phone-will-ockenden/6694152>

3: Will data retention be used for copyright enforcement? The Telecommunications (Interception and Access) Act 1979 only allows access for limited purposes, such as criminal law enforcement matters. Breach of copyright is generally a civil law wrong. The Act will preclude access to telecommunications data retained solely for the purpose of complying with the mandatory data retention scheme for the purposes of civil litigation. <https://web.archive.org/web/20160428205854/https://www.ag.gov.au/NationalSecurity/DataRetention/Pages/Frequentlyaskedquestions.aspx>