

Integrating Privacy to the Future of Public Transit

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The future of public transit is predicated upon the use of personal information.

Consequently, it calls for integration of privacy considerations.

What is personal information ?

- “personal information” means recorded information about an identifiable individual
- “record” means any form of record, for any amount of time
- Personal information does not include
 - information about an individual who has been dead for more than thirty years.
 - Business contact information

Municipal Freedom of Information and Protection of Privacy Act (MFIPPA)

- Anonymized, aggregate information is not personal and not subject to privacy restrictions
- Information is anonymized when the chances of identification are remote

Privacy Risks of Public Transit Trends

What is the issue?

- Public transport service is improving through digital solutions
- Digital solutions often work with personal information
 - User-centered services
 - Pre-paid transit cards
 - Digital payments
 - Individualized interface
 - Social fare

*“My smartphone is my preferred mode
of transportation”*

*Right Hon. Patrick McLoughlin
UK Secretary of State for Transport*



Risk : Collection and use without valid consent

- The case of *Moreno v. Bay Area Rapid Transit* (BART) on use of International Mobile Equipment Identifiers (IMEI)
- The allegation: collection and use of IMEIs without proper consent
- Settlement (August 2018): BART committed to stop collection and use of IMEIs



Risk : Surveillance

- The 2007 Special Report of the OIPC on Privacy International's Complaint
 - Privacy International's allegations against TTC's CCTVs
 - Lack of necessity as there is no evidence of increased safety on public transit systems
 - Insufficient privacy protocols, including on law enforcement access
 - Absence of public consultation and establishment of public interest
 - OIPC findings:
 - Reasonable expectation of privacy exists in public spaces
 - This entails demonstration of necessity to collect, public notice and safeguards
 - CCTVs in Toronto transit system are compliant because
 - TTC is responsible for public safety
 - Some evidence shows benefits of CCTVs in public transit
 - Collection of personal information is proportionate to necessity



Risk : Inconsistent use

- The case of Presto and Compass cards (Toronto and Vancouver)
- 2017 concerns that law enforcement authorities access transit data without lawful authorization.
- The law:
 - a public institution can disclose personal information without consent to law enforcement authorities to aid an investigation, or in exigent circumstances or compassionate circumstances
 - Law enforcement authorities cannot access information of reasonable need



Risk : Retention beyond necessity

- The case of the OV-Chipkaart
- Dutch Minister of Finance request: 7 years
- Dutch Data Protection Authority audit recommendation: 18 months with 7 years only for tax authorities



Risk : Breaches

- Security concerns around Presto and Compass:
 - Historical transit data is sensitive information because unauthorized disclosure can cause harm
- The only legislated definition of harm in Canada includes body, reputation, financial and psychological harm.
- Mere violation of privacy constitutes harm.



Risk : P3s

- The Procurement of digital infrastructure
- Challenges:
 - Personal information shared with private service providers
 - Sensing applications directly send personal information to service providers
 - Accountability is shared between public and private partners
 - Public partner remains primarily accountable
- The OIPC's Report on OLG breach



Decision-making guideposts for privacy in future public transit

1. Manage Complexity with Method: PIAs

- Address necessity test
- Identify privacy risks
- Identify corresponding privacy safeguards
- Provide privacy framework:
 - Accountability structure for internal compliance
 - Clear purposes for consistency of use
 - Appropriate modalities of consent
 - Integrated limits for minimization
 - Transparency with policies
 - Safeguards according to sensitivity
 - Mechanisms for access and complaints



2. Adapt Transparency for Digital Solutions

- Adapt notices to context: small screens, rapid interface, technological complexity, autonomous collection (BART)
- Post annual transparency reports (METROLINX)
- Update and align privacy policies with technological developments (TTC)
- Engage in public consultations (METROLINX)
- Use public signage (TTC)
- Engage all agency levels (METROLINX)
- Increase transparency according to sensitivity (OVB)
- Make privacy notices “layered” (OVB)



3. Deploy Video-Surveillance on an Evidence-Basis

- Only deploy to address a real, pressing and substantial problem
- Establish absence of a less privacy-invasive alternative.
- Conduct PIA
- Engage in public consultation beforehand.
- Tailor to minimize privacy impact
- Advise users of video surveillance
- Provide detailed privacy policies with contact info
- Implement safeguards
- Provide for individual access
- Apply regular independent audit and evaluation.



4. Heighten Privacy Focus for Digital

- Recognize inherent sensitivity of personal information
 - Not just collected but created (e.g. transit history)
 - Revealing patterns (e.g. itinerary and schedule)
 - Converging multiple elements (e.g. ID+address+DoB+disability+Transit)
- Address meaningful consent challenge in quick interface (e.g. apps)
- Make “Opt-out” as easy as “I agree”
- Apply privacy to procurement contracts
- Regularly review practices
- Sensitize and monitor staff



5. Integrate privacy as a human right

- Public transit comes under the *Canadian Charter of Rights and Freedoms*
- *Charter* protects privacy
“subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society.”



Thank you



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