

“Security, Privacy, and GIS: Changing Perspectives in a Changing World?”

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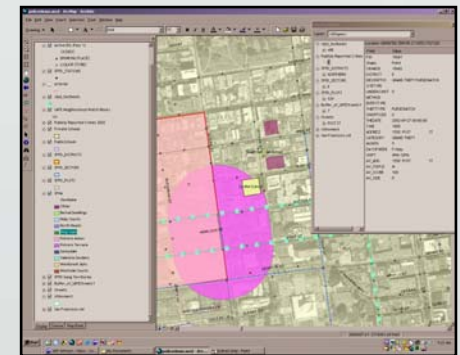
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- Changing views of public records, security, and technology – then and now [5 min](#)
- Enter stage left: GIS [5 min](#)
- Focused case reviews [10 min](#)
 - *GIS public data access: CT vs. FOI Commission 2004*
 - *CA public records act and GIS – recent activities*
 - *Terrorism/Security: Rand Geospatial Report 2004*
- Practical views on GIS and access rights [10 min](#)
 - *State public records acts, FOIA 1996, GIS*
 - *Asset recoverability, trade secrets*
 - *Classified data confidentiality vs. public access rights*
- Wrap-up/Discussion

Presentation Overview



Historical perspectives on public records access

- Most state and federal law do not preclude access to public information due to its format

See also *Babigian v. Evans*, 427 N.Y.S.2d 688, 691 (N.Y. Sup. Ct.1980); *New York Public Interest Research Group v. Cohen*, 729 N.Y.S. 2d 379 (N.Y. Sup. Ct. 2001)

- Varied views on perspective that governments can/cannot claim 'trade secret' status

Several courts have ruled that distribution of GIS information "...will not reveal any exempt trade secrets because (govts) are not engaged in a trade and are not protecting secrets of such a trade."

- Recent concerns around terrorism have escalated discussions on access rights to all types of information

Historical Perspectives (con'd)

“The right to inspect public records should carry with it the benefits arising from improved methods and techniques of recording and utilizing information contained in those records.” *Ortiz v. Jaramillo*, 483 P.2d 500 (N.M. 1971).



Focused Case Reviews

Public data access case example

- CT vs. FOI Commission 2004
 - GIS data FOI request made to City of Greenwich CT 2001
 - Greenwich CT denied request based on three legal accounts:
 - Trade secret Conn. Gen. Stat. 1-210(b)(5)(A)
 - Homeland Security concerns Conn. Gen. Stat. 1-210(b)(19)
 - IT system security concerns Conn. Gen. Stat. 1-210(b)(20)
- FOI Commission ruled against Greenwich, who appealed (eventually) to CT Supreme Court.

CT Supreme Court quote from summary conclusions

In assessing whether this testimony was sufficient to establish the existence of a legitimate public safety risk, the trial court observed that “[t]here is no nexus between [Robbins’] opinion and the ultimate conclusion. More importantly, [the] plaintiff fails to provide through [Robbins’] testimony any specific statistical data that correlates criminal activity or potential terrorist type activity with disclosure of GIS data. Additionally, no specific evidence was provided to demonstrate how disclosure of the requested data would compromise the security or integrity of the GIS.”

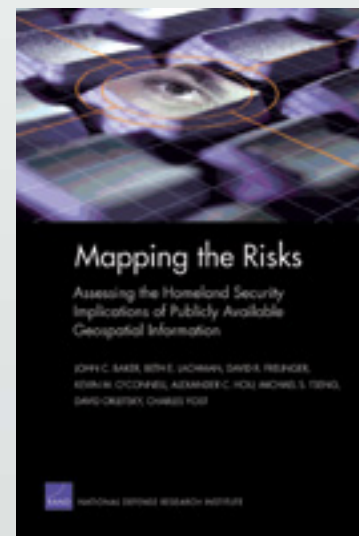
CA Public Records Act - 6254.9

- (a) Computer software developed by a state or local agency is not itself a public record under this chapter. The agency may sell, lease, or license the software for commercial or noncommercial use.
- (b) As used in this section, "computer software" includes computer mapping systems, computer programs, and computer graphics systems.
- (c) This section shall not be construed to create an implied warranty on the part of the State of California or any local agency for errors, omissions, or other defects in any computer software as provided pursuant to this section.
- (d) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer. Public records stored in a computer shall be disclosed as required by this chapter.
- (e) Nothing in this section is intended to limit any copyright protections.

RAND Geospatial Report 2004

“Mapping the Risks”

- Contracted by NGA to develop report
- Results indicate that a large majority of federal geospatial data, if publically accessible – would pose a minimal risk in terms of HS/terrorism
- Report did not address local/state/private sector data
- Conclusions state that the value of public access to federal GIS information outweighs the general risk with regards to terrorism – for a large percentage of federal geospatial information (not all)





Practical Discussions on GIS informational access

Practical discussions on GIS data access

- State public records laws
 - Some have specific stipulations allowing the sale of GIS information (KY) – but most do not
 - Many have vague sections pertaining to mapping systems – most make clear that there is no difference between electronic and paper formats
- Perspectives regarding limited use and licensing
 - Liability
 - Commercial use/redistribution

Practical Discussions (con'd)

- GIS cost recoverability
 - Approach that org has the ability to recover investment costs for 'system' thru GIS data charges
 - Difficult to legally support, depending upon local laws
 - Approach creates 'duplicate cost' paradigm for taxpayer
- Value of freely accessible information
 - Economic growth for community
 - Job creation, information awareness

Practical Discussions (con'd)

- Guides for local government officials
 - Review local/state public access law
 - Understand legal analogies to geospatial systems/data – so as to better communicate to counsel/politician
- Understand political realities
- Listen to public input

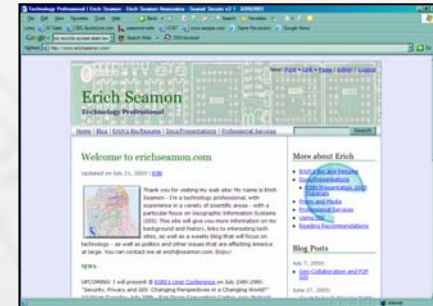
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Wrap-up/Discussion

