Maximizing the utility of criminal justice information

Essential for effective law enforcement
How?

Thoughtful, comprehensive privacy policies can help

Majority of Americans concerned about the safety of their personal information ...

Zogby/UPI poll, April 2007: 91% of respondents worried about ID theft

Zogby/UPI poll, Feb. 2007: More than 50% concerned about privacy of medical records

When asked in a Fall 2006 MSNBC online poll, “Who do you trust more to protect your privacy, government or private corporations,” 88% of 6,500 respondents said “neither.”
Justice and homeland security initiatives shot down by poor privacy policy planning ...

- MN police chiefs DB
- MATRIX
- Total Information Awareness
- Computer Aided Passenger Prescreening II
- Carnivore
- Yours?

But what exactly is privacy?
WHAT IS PRIVACY?

... the claim of an individual to determine what information about himself or herself should be known to others.

Westin describes four basic states of individual privacy
COMpletely ALONE ...

... out of sight and hearing of anyone else; the most complete and relaxed condition of privacy.

INTIMACY ...

... connections with confidants to share sensitive ideas, receive feedback and deepen bonds of mutual self-revelation and connection.
ANONYMITY …

... going into public places and mingling with people who do not recognize you.

DEFINING WHAT TO SHARE …

... you do not wish certain sensitive personal aspects to be discussed or noticed.
FINANCES

Spending habits, purchases, lenders, debts, creditors ...

HEALTH

Medical conditions, diagnoses, causes, medications, treatments, prognoses,
PERSONALLY IDENTIFIABLE INFORMATION

That which can be used to uniquely identify, contact or locate you ...

CRIMINAL JUSTICE

Intelligence, watch lists, field reports

Arrests, dispositions, corrections, supervision
As privacy concept first emerged, it was perceived as freedom from scrutiny and intrusion while in your home.

Concept takes root in America – 3rd Amendment 4th Amendment
PRIVACY THROUGH THE AGES

The Right to Privacy

Samuel D. Warren & Louis D. Brandeis
Harvard Law Review
December 15, 1890

PRIVACY THROUGH THE AGES

Olmstead v. United States
1928
BRANDEIS DISSENT

The makers of our Constitution ... sought to protect Americans in their beliefs, their thoughts, their emotions and sensations. They conferred, as against the Government, the right to be left alone ... the most comprehensive of rights, and the right most valued by civilized men.

BRANDEIS IMPACT

Griswold v. CT (1965)
Estes v. TX (1965)
Miranda v. AZ (1966)
Eisenstadt v. Baird (1972)
Roe v. Wade (1973)
ABOUT THE SAME TIME ...

Challenging convention, institutions, ‘the establishment’

ABOUT THE SAME TIME ...

Growing computer use in the workplace ... concerns over database-creating capabilities.
H.E.W. REPORT


No secret personal data record system.

Individual must be able to find out what’s in record and how it is used.

Individual can prevent information collected for one purpose from being used for another.

Individual can correct/amend record of identifiable information.

Data-holding agency must ensure data’s reliability and prevent its misuse.

PRIVACT ACT OF 1974

Protects against an invasion of privacy through the misuse of personal information by the federal government.
PRIVACY PROTECTION STUDY COMMISSION

‘The real danger is the gradual erosion of individual liberties through the automation, integration, and interconnection of many small, separate record-keeping systems, each of which alone may seem innocuous, even benevolent, and wholly justifiable’ (1977)

OECD FAIR INFORMATION PRACTICES

Issued in 1980 to support international trade

Based on core H.E.W. principles

Informally known as the “FIPs”
OECD FAIR INFORMATION PRACTICES

Collection limitation

OECD FAIR INFORMATION PRACTICES

Data quality
OECD FAIR INFORMATION PRACTICES

Purpose

Use limitation
OECD FAIR INFORMATION PRACTICES

Security
Safeguards

OECD FAIR INFORMATION PRACTICES

Openness
OECD FAIR INFORMATION PRACTICES

Individual Participation

OECD FAIR INFORMATION PRACTICES

Accountability
CRIMINAL RECORD PRIVACY

Constitution largely neutral. Handful of landmark US Supreme Court decisions ...

- Paul v. Davis (1976)

THE STRUGGLE CONTINUES

Information Brokers
Online public records
Biometrics
Surveillance
Data profiling
Background checks
Radio frequency identification (RFID)
TENSION

PRIVACY

ACCESS

PRIVACY & CRIMINAL JUSTICE INFORMATION

Need help with your privacy policy challenges?
SEARCH has joined BJA, IIR, JMI and other agencies to provide privacy TA, assistance with policy development, other services.

**PRIVACY IMPACT ASSESSMENT**

Analysis of information collected, stored, protected & exchanged in a new or significantly modified IT system.

Examines risks/ramifications of collecting, maintaining and using information in an identifiable form.
PRIVACY IMPACT ASSESSMENT

Identifiable form includes ...

- Name, address, telephone number, fingerprints, blood type, DNA
- Identifying numbers
- Education, medical, psychiatric, psychological, criminal, financial or employment history
- Race, origin, religion, sex, sexual orientation, marital or family status
- Also known as personally identifiable information or PII

PRIVACY IMPACT ASSESSMENT

Should my agency conduct a PIA?

- Designing or upgrading IT system with PII
- IT system using PII for which a PIA has not been conducted
SEARCH PRIVACY ASSISTANCE

For more information on obtaining assistance with privacy policy challenges, contact SEARCH at

QUESTIONS