

Nothing to Hide – The trade of between Privacy and Security

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The 4th amendment and the secrecy paradigm

- Originally created to regulate federal government which had only minimal role in law enforcement.
- Even today it is used to decide when and how government can gather information about citizens.
- Government needs to justify to a court why it has a reason to be interested in person's information.

The 4th amendment and the secrecy paradigm (cont.)

- Problem: Amendment applies only when there is a “reasonable expectation of privacy”. Nowadays this means almost total secrecy.
- Outside of the 4th amendment there are hardly any limitations to what government can do to gather information.



The 4th amendment and the secrecy paradigm (cont.)

- What the reasonable expectation of privacy means today?
- Is it wise to legislate technology based on laws that were written centuries ago? Is there an alternative option?

The 3rd party doctrine

- U.S. Supreme Court: If your data is in hands of 3rd parties you don't have a reasonable expectation of privacy and no 4th amendment protection.
 - Government can gather huge amounts of data without restrictions or oversight.
- ISP records, cloud data, credit card and banking records, possibly medical records...

The 3rd party doctrine (cont.)

- Stems from assumption-of-risk-doctrine: if you tell a secret to someone, you assume a risk that he can choose to betray you.
 - Faulty reasoning because doctrine is used to *force* 3rd parties to reveal secrets.
- Doctrine limits the benefits that technology gives to criminals but at the same time it gives immense powers to the government.

The 3rd party doctrine (cont.)

- How to evaluate the privacy of information that is shared with 3rd parties?