

**Opening Statement of Chairman Franken on
“The Location Privacy Protection Act of 2014”**

This hearing will be called to order. Welcome to the Senate Judiciary Subcommittee on Privacy, Technology and the Law. This is a hearing on my bill to protect sensitive location information, the Location Privacy Protection Act of 2014.

Three years ago, I held a hearing to look at how our laws were protecting the location information generated by smartphones, cellphones and tablets. The first group I heard from was the Minnesota Coalition for Battered Women. They told me that across Minnesota, victims were being followed through so-called “stalking apps” specifically designed to help stalkers secretly track their victims.

I started investigating these stalking apps. Let me read you from some of their websites.

Here’s one called SPYERA – quote: “Most of the time if you think your spouse is being unfaithful, you are right.” “[SPYERA] will be your spy in their pocket.” “[Y]ou will need to sneak your spouse’s phone and download it to their phone.” “After the software is downloaded... you will be able to see where they are geographically. If your husband is in two counties over from where you live, SPYERA will tell you that.”

Here’s another - quote: “FlexiSPY gives you total control of your partner’s phone without them knowing it... See exactly where they are, or were, at any given date and time.” Unquote.

And here’s another quote that’s since been taken down – quote: “Worried about your spouse cheating?” “Track EVERY text, EVERY call and EVERY Move They make Using our EASY Cell Phone Spy Software.”

These apps can be found online in minutes. And abusers find them and use them to stalk thousands of women around the country.

The Minnesota Coalition for Battered Women submitted testimony about a northern Minnesota woman who was the victim of domestic violence – and the victim of one of these stalking apps. This victim had decided to get help. And so she went to a domestic violence program located in a county building. She got to the building, and within five minutes, she got a text from her abuser asking her why she was in the county building. The woman was terrified. And so an advocate took her to the courthouse to get a restraining order. As soon as she filed for the order, she got a second text from her abuser asking her why she was at the courthouse, and whether she was getting a restraining order against him.

They later figured out that she was being tracked through a stalking app installed on her phone.

This doesn't just happen in Minnesota. A national study conducted by the National Network to End Domestic Violence found that 72 percent of victim services programs across the country had seen victims who were tracked through a stalking app or a stand-alone GPS device. Without objection, I'll add to the record the accounts of a few other victims.

Here's one from a victim in Illinois. She was living in Kansas with her abuser. She fled to Elgin, Illinois, a town 3 states away. She didn't know that the whole time, her cellphone was transmitting her precise location to her abuser. He drove 700 miles to Elgin. He tracked her to a shelter and then to the home of her friend, where he assaulted her and tried to strangle her.

Here's one from a victim in Scottsdale, Arizona. Her husband and she were going through a divorce. Her husband tracked her for over a month through her cellphone. Eventually, he murdered their two children in a rage.

In most of these cases, the perpetrator was arrested – because it's illegal to stalk someone. But it's not clearly illegal to make and market and sell a stalking app. And so nothing happened to the companies making money off of stalking. Nothing happened to the stalking apps.

My bill would shut down these apps once and for all. It would clearly prohibit making, running, and selling apps and other devices that are designed to help stalkers track their victims. It would let police seize the money these companies make and use that money to actually prevent stalking. My bill will prioritize grants to the organizations that train and raise awareness around GPS stalking. And it would make the Department of Justice get up-to-date statistics on GPS stalking. That's a big deal, because the latest statistics we have from DOJ are from 2006 – and at that point they estimated over 25,000 people were being GPS stalked annually.

But my bill doesn't protect just victims of stalking. It protects everyone who uses a smartphone, an in-car navigation device, or any mobile device connected to the Internet. My bill makes sure that if a company wants to get your location or give it out to others, they need to get your permission first.

I think that we all have a fundamental right to privacy: a right to control who gets your sensitive information, and with whom they share it. Someone who has a record of your location doesn't just know where you live. They know where you work and where you drop your kids off at school. They know church you attend, and the doctors you visit.

Location information is extremely sensitive. But it's not being protected the way it should be. In 2010, the *Wall Street Journal* found that half of the most popular apps were collecting their users' location information and then sending it to third parties, usually without permission.

Since then, some of the most popular apps in the country have been found disclosing their users' precise location to third parties without their permission. And it's not just apps. The Nissan Leaf's on-board computer was found sending drivers' locations to third party websites. OnStar threatened to track its users even after they cancelled their service; they only stopped when I and other Senators called them out on this. And a whole new industry has grown up

around tracking the movements of people going shopping – without their permission, and sometimes when they don't even enter a store.

The fact is most of this is totally legal. With only a few exceptions, if a company gets your location information over the Internet, they are free to give it to almost anyone they want.

My bill closes these loopholes. If a company wants to collect or share your location, it has to get your permission first and put up a post online saying what the company is doing with your data. Once a company is tracking you, it has to be transparent – or else it has to send you a reminder that you're being tracked.

Those requirements apply only to the first company getting location information from your device. For any other company getting large amounts of location data, all they have to do us put up a post online explaining what they're doing with that data.

That's it. These rules are built on existing industry best practices, and they have exceptions for emergencies, theft prevention, and parents tracking their kids. The bill is backed by the leading anti-domestic violence and consumer groups. Without objection, I'll add letters to the record from the Minnesota Coalition for Battered Women, the National Center for Victims of Crime, the National Women's Law Center, the Online Trust Alliance, and Consumers Union – all in support of my bill.

This is bill is just common sense.

Before I turn it over to my friend the Ranking Member, I want to make one thing clear. Location-based services are terrific. I use them all the time when I drive across Minnesota. They save time and money, and they save lives. Ninety-nine percent of companies that get your location information are good, legitimate companies.

And so I've already taken into account many of the industry concerns that I heard when we debated this bill last Congress: I've capped liability, I've made compliance easier. But if folks still have issues with the bill, then I want to address them.

With that, I'll turn it over to Senator Flake.