Emerging Issues:

Wearables!

David Fraser
CIAJ – Privacy in the age of information
15-17 October 2014, St. John’s
Outline

• What is a wearable?
• What information are we talking about?
• Privacy and policy issues raised by wearables.
What are wearables?

• Electronic devices that you “wear” that are used for communication, data creation/collection or both.

• Often have limited storage capabilities, so often data is stored in another device or with a service provider.
Different form factors – Watches
Different form factors – Watches

Pebble watch
Different form factors - Watches

Garmin GPS runners’ watches
Different form factors – cameras

Looxcie Camera
Different form factors – camera watch

Samsung Galaxy Gear Watch
Fitness bands

FitBit
Fitness bands

Nike Fuel Band
Multi-function fitness wearables

Basis Band
Shoe sensors

Nike + iPod Sport Kit
Smart contacts

Google[X]
Smart contact lens for diabetes management
Platforms

Google Glass
What data do they generate?
What data? – Basis Band

Activity Details

Tuesday 15 Apr

BIOMETRICS

- HEART RATE: 63 avg 72/min
- STEPS: 10706 77 avg 63/min
- CALORIES: 1940.1 13 avg 12 cal/min
- SKIN TEMP: 88.9 avg 17°F
- PERSPIRATION: 1.3e+3 µS/cm 0.98 avg 9 µS/cm

ACTIVITY

- WALKING: 2595 steps
  - 87 avg 63/min
  - 24 min total
- RUNNING: 4281 steps
  - 159 avg 63/min
  - 26 min total
- BIKING: 12 steps
  - 2 avg 63/min
  - 6 min total
What data? – Basis Band

Activity Details

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<th>BIOMETRICS</th>
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<td>HEART RATE</td>
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<td>PERSPIRATION</td>
<td>33.7 µS/cm</td>
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What data? – Basis Band

Asleep at 11:15p Wednesday for 7 hr 9 min

98%
Sleep Score

34 times
Toss & Turn

0 times
Interruptions

REM
Mind Refresh

Light

Deep
Body Refresh

Interruptions

Toss & Turn

REM 26%
1 hr 54 min

Light 64%
4 hr 33 min

Deep 10%
0 hr 42 min

Unknown 0%
0 hr 0 min

12:00a 1:00a 2:00a 3:00a 4:00a 5:00a 6:00a

THU 6:24a
What data? – Google maps **opt-in**
GPS + Heart rate monitor

So, my wife wore a heart rate monitor and GPS watch during Sex. 0.15 miles, new record. (i.imgur.com)
Privacy and policy issues
Why? What’s driving this trend?

- Because you can …
- “Quantified self” –
  - if you can’t measure it, you can’t manage it
  - Self-discovery, self-actualization
- Tendency to record everything in one’s life
Zomg! Panic!

- New technologies that may be disruptive or cause unease often lead to
  - Techno-panic…
  - Worst case scenarios…
  - Calls for law reform …

- Disasters almost never come to pass

“KODAK FIENDS” AT NEWPORT.
Protests Against Their Practices About the Cottage Colony.
Special to The New York Times.

NEWPORT, Aug. 17.—If the laws of this State can reach the “kodak fiends,” some of the married men of the cottage colony will take the cases into the courts, and action will be brought against the aforesaid “fiends” and their employers. All over the avenue the women are constantly brought face to face with a kodak and snapped, and a few days afterward the newspaper sending the kodak operator here, prints the alleged pictures, which, in some cases, have not been flattering. According to common report, one of the cottagers went to his lawyer this morning to ascertain if the laws were so framed that an assault could be charged against those who use a kodak against the will of the people who object to being so photographed.

About the cottage colony there is a decided rebellion against the promiscuous use of photographing machines, and threats are being made against any one who continues to use cameras as freely as has been done in the past few weeks especially. About the Casino entrance kodak fiends have been very numerous during the week, snapping pictures of the ladies coming out from the tennis tournament.
Google Glass Is Banned On These Premises
Recent techno-panic

• Remember the panic about camera phones …
  – In workplaces?
  – In locker rooms and change rooms?
• Did it come to pass?
36 of her provincial and international counterparts
To do

- Calm down, take a deep breath
- Remember, our privacy laws are technology-neutral and are intended to be applied to a diversity of technologies
- Go back to first principles
First principles ...

• What is really different?
• Subtract the new technology and think about
  – What information is being collected?
  – By whom?
  – Under what circumstances?
Privacy analysis

- Technologies are not subject to privacy laws … technologies and tools are neutral.
- Can be used for good or evil.
- Statutes … Collected, used and/or disclosed in the course of commercial activities
- Torts … Intrusion upon seclusion … “highly offensive”? 

Atlantic Canada’s Law Firm
New Brunswick  Newfoundland & Labrador  Nova Scotia  Prince Edward Island  mcinnescooper.com
But …

- Digital data trail – digital exhaust
- If it exists, it can be produced, discovered, etc.