TRUST
Team for Research in Ubiquitous Secure Technology

I hope you know this will go down on your permanent record

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Carnegie Mellon · Cornell University · MILLS COLLEGE · San José State UNIVERSITY

SMITH COLLEGE · STANFORD UNIVERSITY · Berkeley · VANDERBILT UNIVERSITY

ISD
Sept. 17, 2007

Overview

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- The law of the traditional permanent record
- The public/private divide
- The new permanent record
  - Two info services models
- The law of the new permanent record
- Approaches to addressing this record

Your “Permanent Record”

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- Controlled by the Federal Educational Rights and Privacy Act of 1974 (”FERPA”)
  - Gives students a right to access the record
  - May apply to make corrections
  - Allows students to limit many disclosures of the record
  - However, some information is not a student record
    - “Directory information,” such as basic contact information clubs, sports, academic achievements, require opt out.

Opting out at UC?

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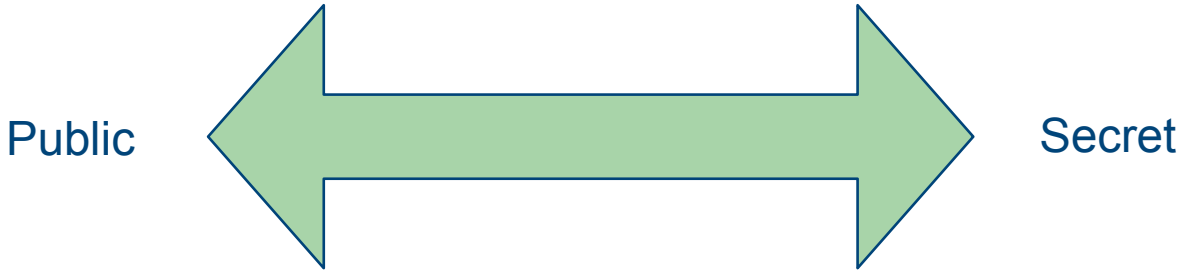
- “The term "directory information"...means information contained in a student record that would not generally be considered harmful or an invasion of privacy if disclosed.”
  - Student's name, Address (local, permanent, billing, e-mail), Telephone number (local, permanent), Date and place of birth, Major field of study, Dates of attendance, Class level, Enrollment status, Number of course units in which enrolled, Degrees and honors received, Most recent previous educational institution attended,Participation in officially recognized activities, including intercollegiate athletics

The Secrecy Paradigm



What is Public?

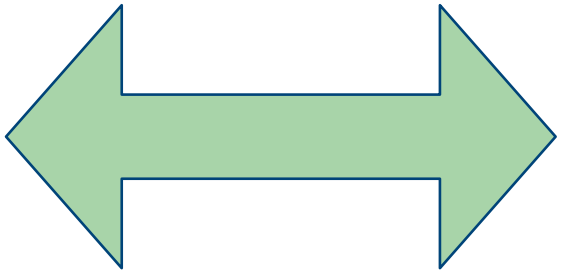
- An individual “assumes the risk” of disclosure of personal information when s/he shares it with others
- Under US v. Miller, individuals do not have a constitutional expectation of privacy in business records
  - But many of our relationships are mediated by business records...
- Even if there is no constitutional protection, a statute may protect data

Sectoral versus General

US
Sectoral

Asia-Pacific Economic Cooperation (2004-5)

Personal information processing should only be limited to prevent harm.



Rest of the World, General Privacy Protection

Organization for Economic Cooperation and Development Fair Information Practices (1980)

Personal information processing implicates human rights.

Sectoral World

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- What information was collected?
  - Social Security number
- By whom?
  - Bank
- For what purpose?
  - Identification

General Privacy Laws

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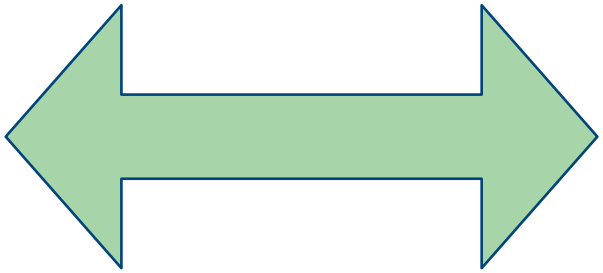
- A gross generalization:
  - Is personal information controlled by an entity?
    - What is “personal information?”
      - Email addresses = yes.
    - What is control?

Info Services Models



Info Services: Public Records

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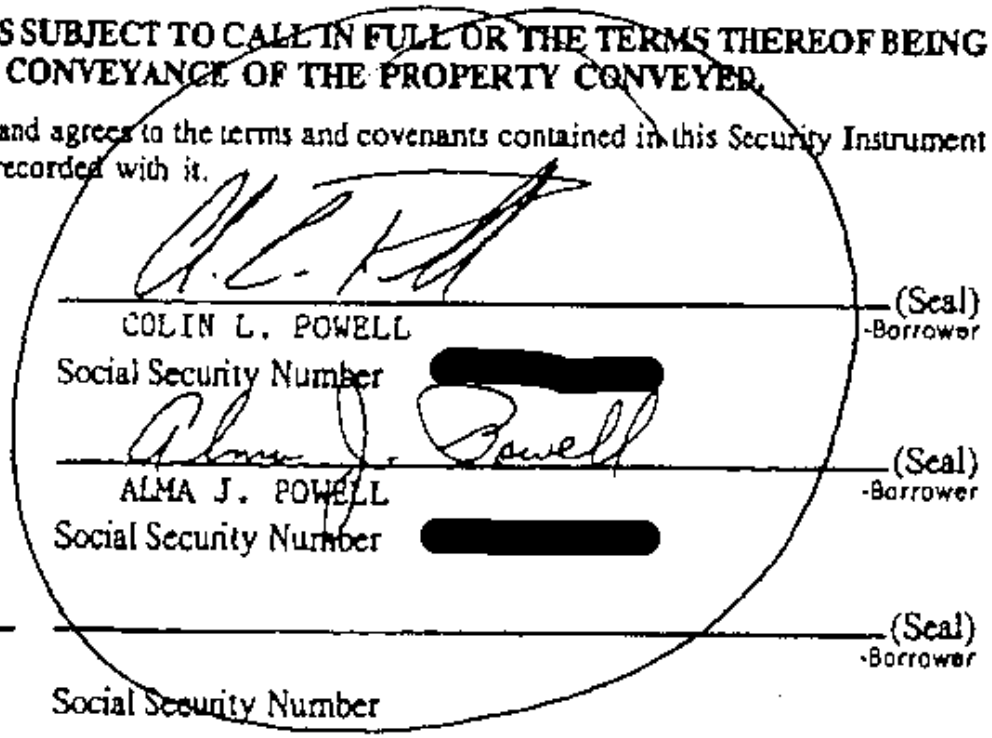
NOTICE: THE DEBT SECURED HEREBY IS SUBJECT TO CALL IN FULL OR THE TERMS THEREOF BEING MODIFIED IN THE EVENT OF SALE OR CONVEYANCE OF THE PROPERTY CONVEYED.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any rider(s) executed by Borrower and recorded with it.

Witnesses:



COLIN L. POWELL (Seal) -Borrower
Social Security Number [redacted]

ALMA J. POWELL (Seal) -Borrower
Social Security Number [redacted]

(Seal) -Borrower
Social Security Number

Info Brokers: Zabasearch

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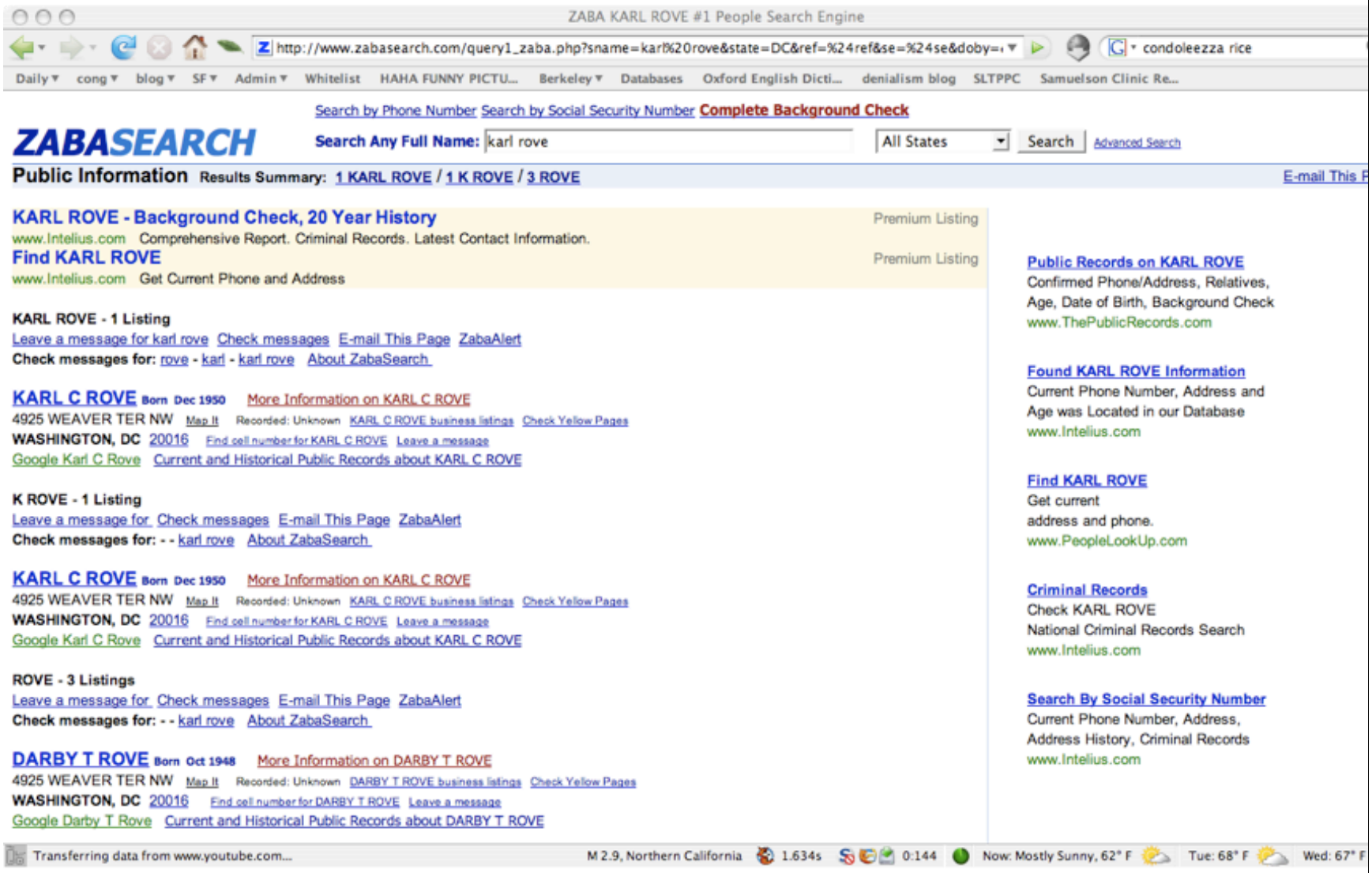

Info Broker Integration

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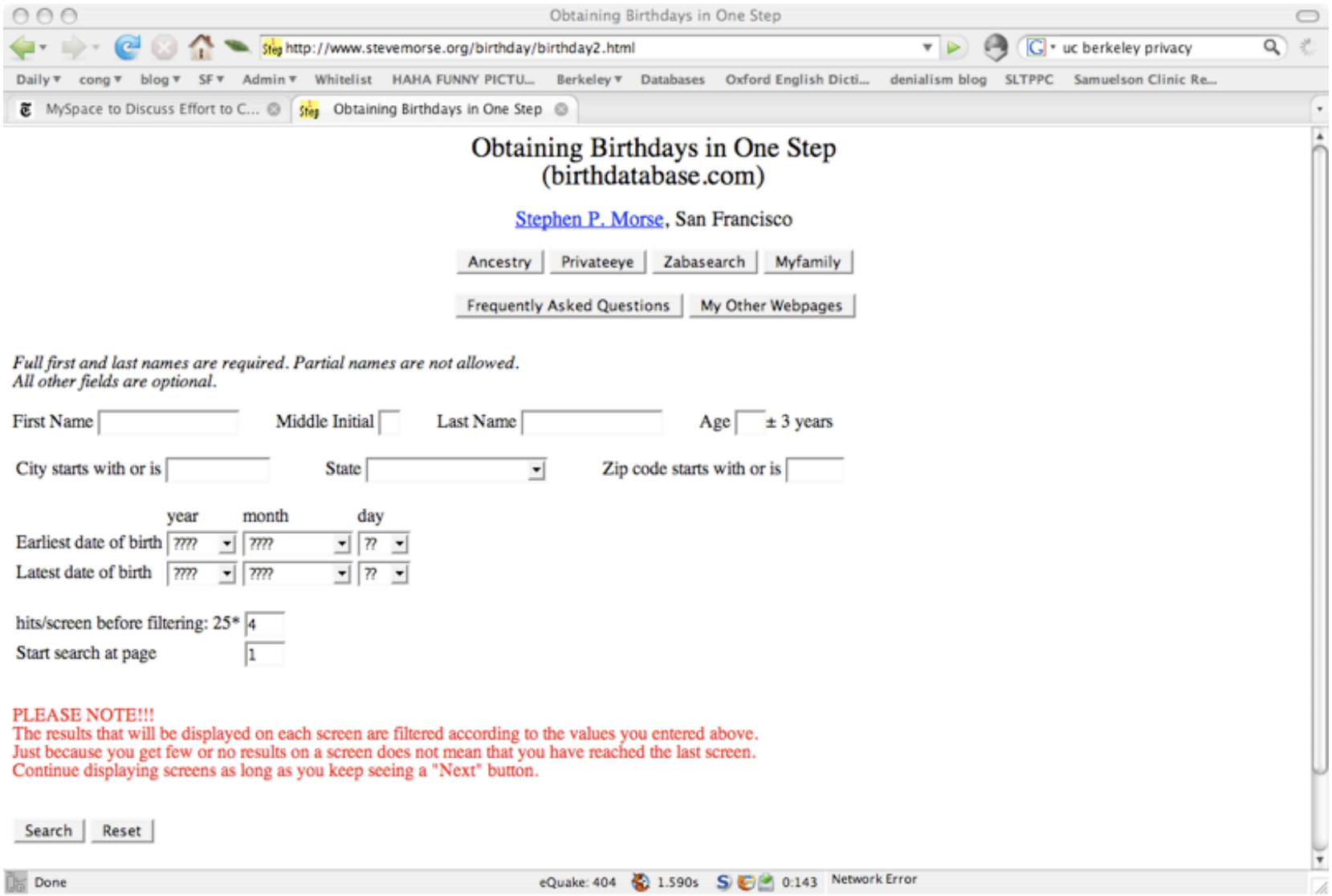
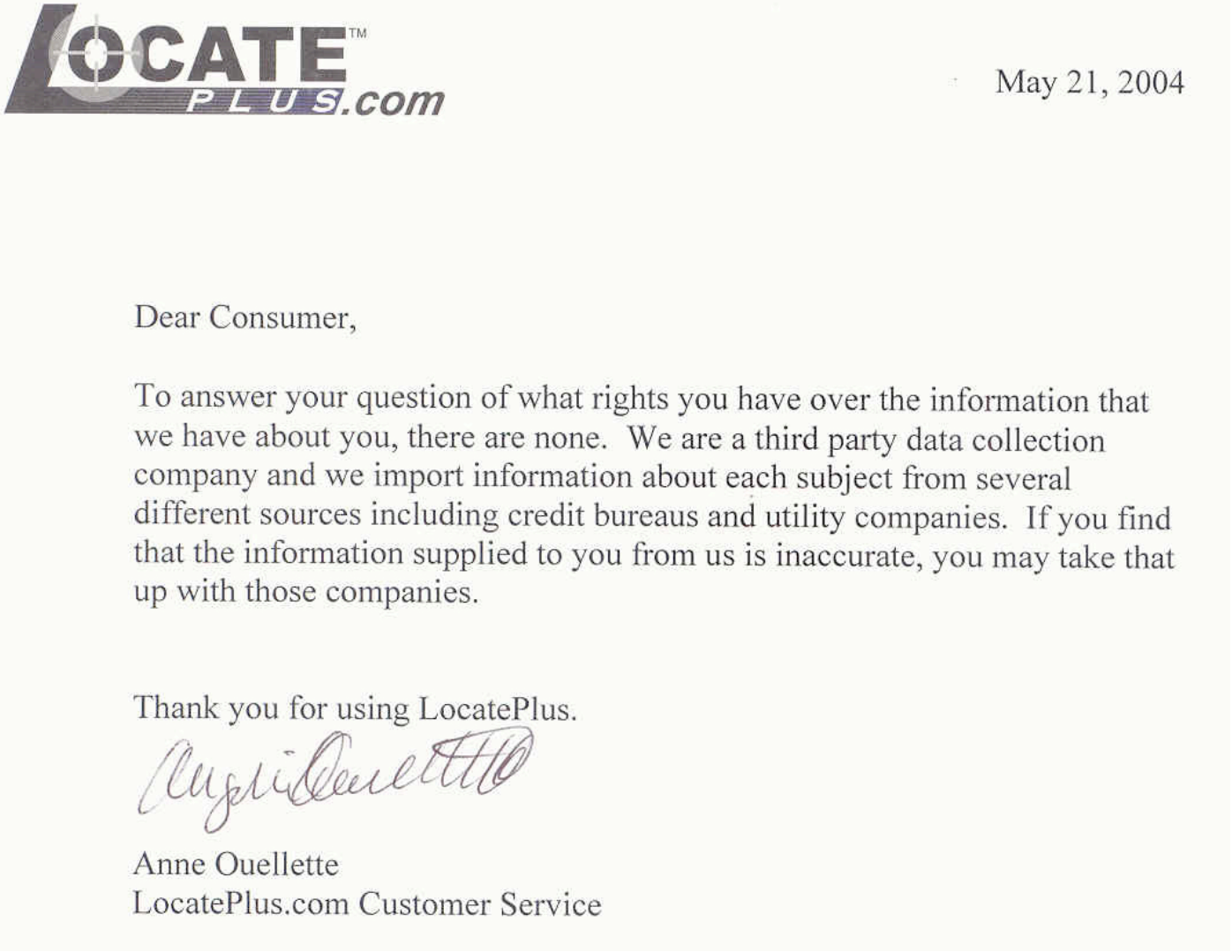


Third Parties = No Rights



LOCATE PLUS.com™

May 21, 2004

Dear Consumer,

To answer your question of what rights you have over the information that we have about you, there are none. We are a third party data collection company and we import information about each subject from several different sources including credit bureaus and utility companies. If you find that the information supplied to you from us is inaccurate, you may take that up with those companies.

Thank you for using LocatePlus.

Anne Ouellette
LocatePlus.com Customer Service

Racial, Identification Data

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Asian selects

	Price
Asian	$10/M
Specific ethnicity (Chinese, Japanese, Korean, Vietnamese)	$20/M

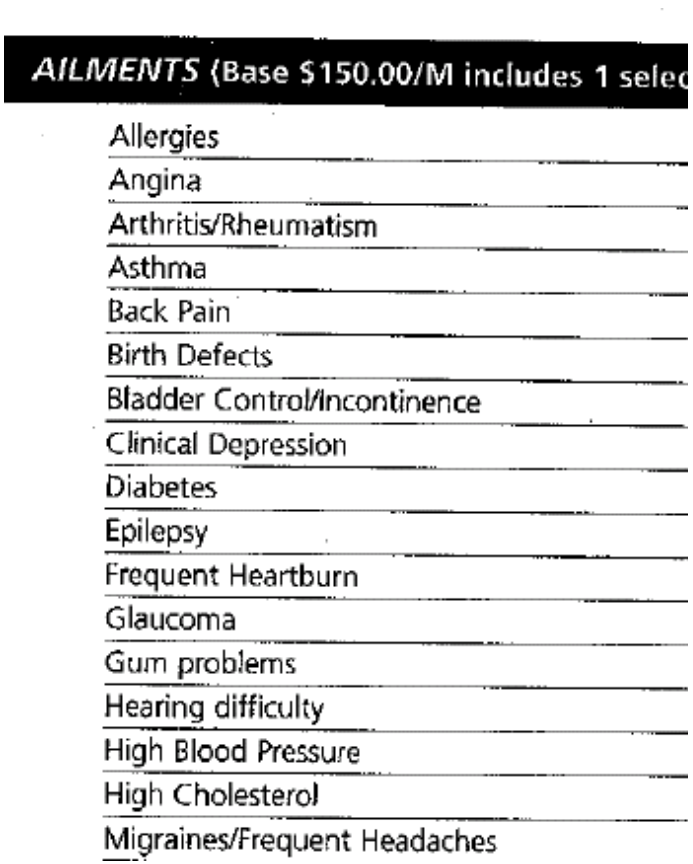
Other Ethnic selects

N/C

Arabian (Saudi Arabia)	Irish (Ireland)
Armenian (Armenia)	Italian (Italy)
Belgian (Belgium)	Latvian (Latvia)
Bulgarian (Bulgaria)	Lithuanian (Lithuania)
Czech	Norwegian (Norway)
Czecho-Slovakian	Persian (Iran)
Danish (Denmark)	Polish (Poland)
Dutch (Netherlands)	Portuguese (Portugal)
English (Great Britain)	Romanian (Romania)
Estonian (Estonia)	Russian (Russia)
Finnish (Finland)	Scottish (Scotland)
French (France)	Slovakian
German (Germany)	Swedish (Sweden)
Greek (Greece)	Swiss (Switzerland)
Jewish (Israel)	Syrian (Syria)
Hindi (India)	Turkish (Turkey)
Hispanic	Ukrainian (Ukraine)
Hungarian (Hungary)	Welsh (Island of Wales)
Icelandic (Iceland)	Yugoslavian (Yugoslavia)

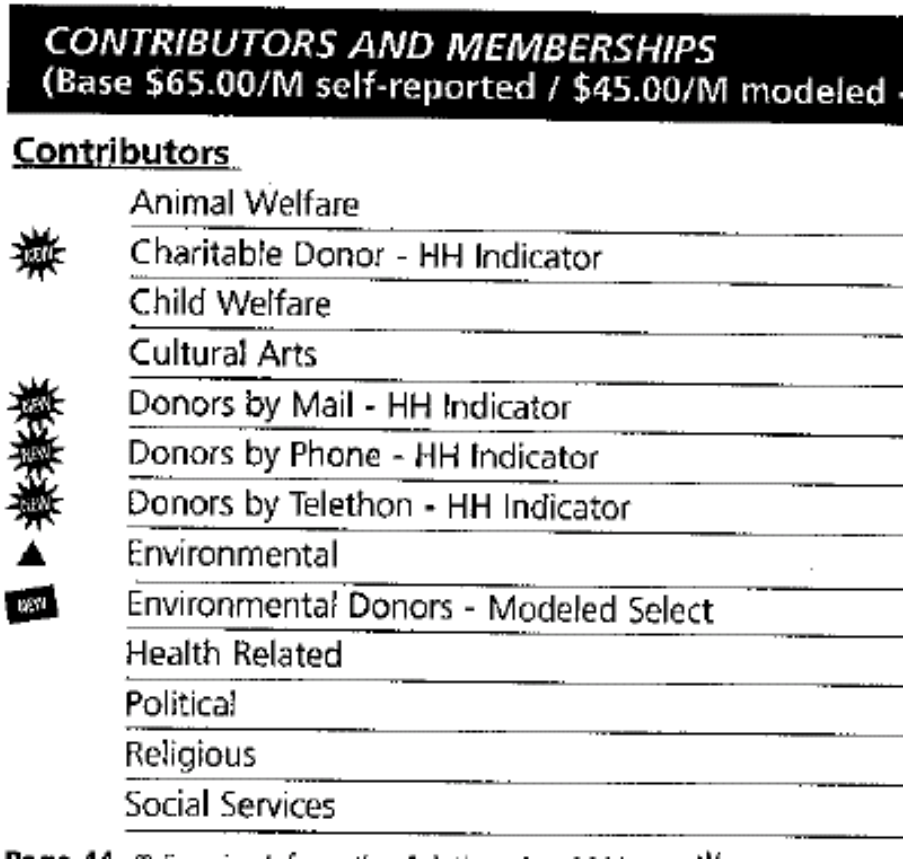
100*	Date of Birth (DOB)
101*	Estimated Year of Birth
102*	Inferred Age Ranges
103*	Gender Code
104*	Experian Estimated Household Income
106*	Given Name
107*	Marital Status
108A*	Ethnic Markets Code
108B	Asian Markets
110	Individual Household Status Code
211*	Geographic Income Percentile-County
212*	Geographic Income Percentile-National
224*	Home Business Indicator
225*	Business Owner Indicator
180	Height, Weight, Vision Code
181	Social Security Number
182	Drivers License Number
111	Address Verification
112	Deceased Indicator (with date of death, where available)
219	Industry Mail Preference Indicator

Medical, Political Data



AILMENTS (Base $150.00/M includes 1 selec

- Allergies
- Angina
- Arthritis/Rheumatism
- Asthma
- Back Pain
- Birth Defects
- Bladder Control/Incontinence
- Clinical Depression
- Diabetes
- Epilepsy
- Frequent Heartburn
- Glaucoma
- Gum problems
- Hearing difficulty
- High Blood Pressure
- High Cholesterol
- Migraines/Frequent Headaches



CONTRIBUTORS AND MEMBERSHIPS
(Base $65.00/M self-reported / $45.00/M modeled

Contributors

- Animal Welfare
- NEW Charitable Donor - HH Indicator
- Child Welfare
- Cultural Arts
- NEW Donors by Mail - HH Indicator
- NEW Donors by Phone - HH Indicator
- NEW Donors by Telethon - HH Indicator
- ▲ Environmental
- NEW Environmental Donors - Modeled Select
- Health Related
- Political
- Religious
- Social Services

FLORIDA MOTORCYCLISTS

Data Verified: Dec 26, 2002.

Location ID: 10 DCLS 508 Mid 732214-000

SmarTTarget Marketing, 725 Broad Street, Augusta, GA 30901. Toll Free 800-329-5478. Fax 706-823-3471.
E-mail: contact@smarttarget.com

1. PERSONNEL
Gen Mgr—Tim Killebrew
Natl Sales Mgr—Arthur bud Henderson
Operations Manager—Debby Goolsby

2. SUMMARY DESCRIPTION
Motorcycles registered to individuals in the state of Florida.

3. LIST SOURCE
Compiled government records.

4. SELECTIONS WITH COUNTS
Updated: Dec 16, 2002.

	Total Number	Price per/M
Total list	181,139	65.00

Minimum order 5,000.

4A. OTHER SELECTIONS
SCF, Zip, MSA, country, 5.00/M extra; age, 10.00/M extra; ethnicity, 15.00/M extra; manufacturer, 25.00/M extra; marital status, gender of owner, income, key coding, 5.00/M extra.

5. COMMISSION, CREDIT POLICY
Cancel charges: Cancellation fee: 25% of total after receipt of purchase order up to shipping date, full fee is due after shipping date. Prepayment required for new customers. Credit terms may be arranged for subsequent orders upon approval of finance department.

6. METHOD OF ADDRESSING
Cheshire labels, 4-up; diskette, 5.00 fee; e-mail, 30.00 fee; FTP or bulletin board, 30.00 fee; zip disk or cd, 25.00 fee; mag tape, data cartridge, 55.00 fee; pressure sensitive labels, 10.00/M extra; clear labels, 25.00/M extra; galley listing, 25.00 fee; 8 1/2 x 11 sheets laser printed, 50.00/M extra.

8. RESTRICTIONS
Two sample mailing pieces required. One time use only. Unless prior arrangement has been made.

New Listing

SUV OWNERS OF FLORIDA

Data Verified: Jan 17, 2003.

Location ID: 10 DCLS 508 Mid 770431-000

Member: D.M.A.
SmarTTarget Marketing, 725 Broad Street, Augusta, GA 30901. Toll Free 800-329-5478. Fax 706-823-3471.
E-mail: contact@smarttarget.com

1. PERSONNEL
Operations Manager—Debby Goolsby

2. SUMMARY DESCRIPTION
Owners of SUVs registered in the State of Florida.

3. LIST SOURCE
Compiled public records.

4. SELECTIONS WITH COUNTS
Updated: Dec 1, 2002.

	Total Number	Price per/M
Total list	900,183	75.00

Minimum order 5,000.

4A. OTHER SELECTIONS
Gender, state, SCF, Zip, MSA, county, income, marital status, run charge, 5.00/M extra; Vehicle selections:; lender-financier , vehicle-leased, vehicle-manufacturer, vehicle-model, vehicle-type, vehicle-model year, vehicle-year purchased, 5.00/M extra; carrier route/mailstream sort, 8.00/M extra; age, 10.00/M extra; ethnicity, 15.00/M extra; telephone number, 25.00/M extra.

5. COMMISSION, CREDIT POLICY
Cancel charges: Cancellation fee: 25% of total after receipt of purchase order up to shipping date. Full fee is due after ship date. Prepayment required for new customers. Credit terms may be arranged for subsequent orders upon approval of our Financial Department.

6. METHOD OF ADDRESSING
Cheshire labels, 4-up; pressure sensitive labels, 10.00/M extra; mag tape, 55.00 fee; diskette, 5.00 fee; e-mail, 30.00 fee; CD, 10.00 fee; data cartridge, 25.00/M extra; Zip disk, 25.00/M extra; galley listing, 25.00/M extra; FTP, 30.00 fee; bulletin board, 30.00 fee; electronic delivery, 30.00 fee; 81/2 x 11 laser printed sheets, 0.85 fee.

8. RESTRICTIONS
Sample mailing piece required. One time use only.

Advertising

Law of the New Permanent Rec.

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- No general online privacy rules
- No data-broker specific privacy rules
  - But, there are rules for use of data in employment, tenant, and credit contexts
- Therefore, must look to caselaw (Federal Trade Commission decisions)
  - Is the practice unfair or deceptive?
    - Unfair = substantial, unavoidable consumer injury
      - E.g. A company promises not to sell personal data, and later changes its policy without notice or consent
    - Deceptive = misrepresentation that causes consumer detriment
      - ~ Notice = fair game

Privacy notice of Facebook

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- “You post User Content (as defined in the Facebook Terms of Use) on the Site at your own risk.”
- “Facebook may also collect information about you from other sources...”
- If the ownership of...Facebook...were to change, your user information may be transferred to the new owner...your user information would remain subject to the...pre-existing Privacy Policy.
- “We reserve the right to change our Privacy Policy and our Terms of Use at any time.”

Why should we care?

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- Identity Theft and Stalking
- Social Forgiveness
  - Society's "right to hope for tolerant forgiveness or overlooking of past foolishnesses, errors, humiliations, or minor sins--in short, the Christian notion of the possibility of redemption."
    - Vance Packard, The Naked Society (1964)
- Predatory Exploitation of Personal Information
  - e.g. targeting elderly, vulnerable
- Government Use of Personal Information
  - Privacy Act loophole
- Third-Party Interests

Why...con't

- Use of Courts/Voluntary Cooperation.
  - In Greidinger v. Davis, the 4th Circuit held that public disclosure of the SSN for voting registration —even with use restrictions on the information—
- Errors Have A Greater Effect
  - Paul v. Davis, police circulated flyers with an individual's picture and erroneous conviction for theft.
- Sophistication of Litigants

Perm. Record Proposals

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- Treat paper, electronic records differently
- Limit bulk release of data
- Minimization
- Use Limitations
- Redact unique identifiers
  - SSN, DOB