


# International Municipal Lawyers Association

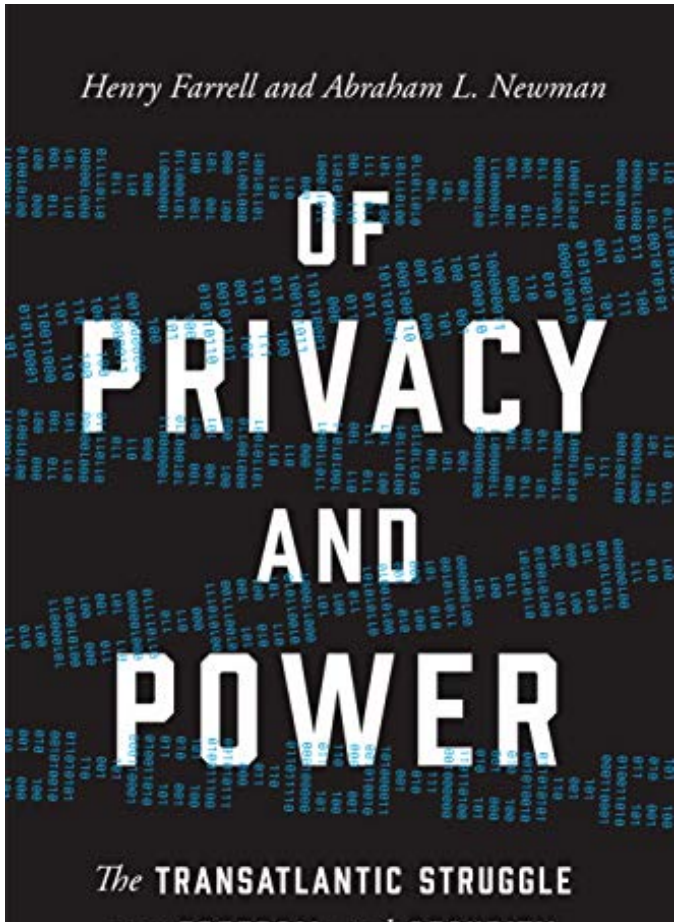
# 2020 Virtual Annual Conference

## Data Protection, Privacy & Cybersecurity for Local Government

September 29, 2020

Benjamin E. Griffith and Sven Kohlmeier

# Of Privacy & Power

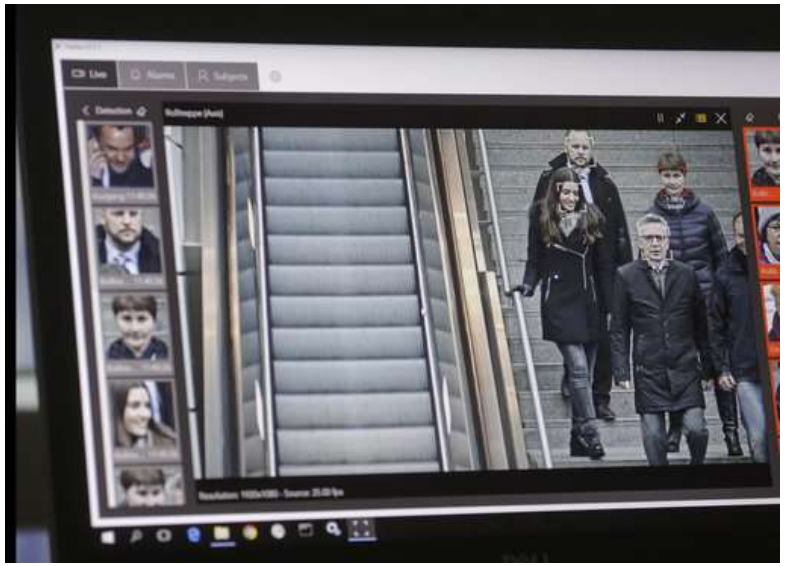


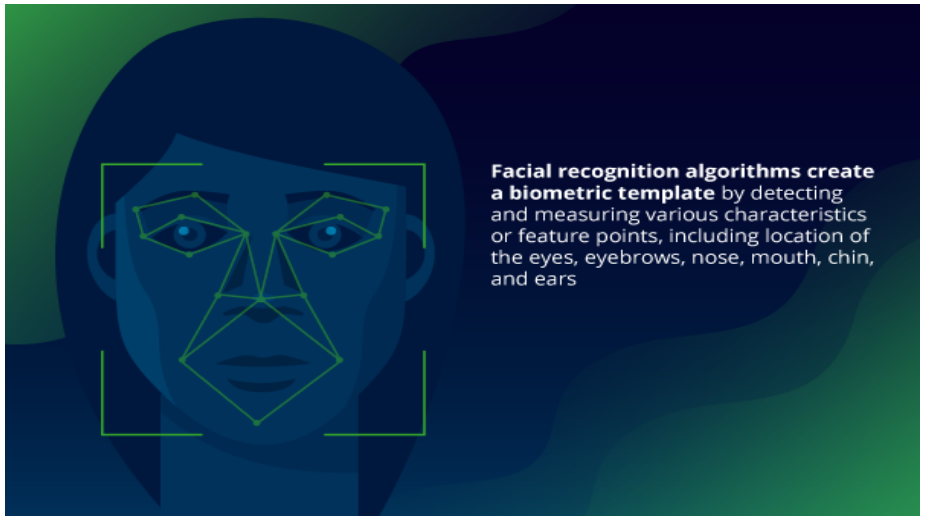
# GDPR Implementation



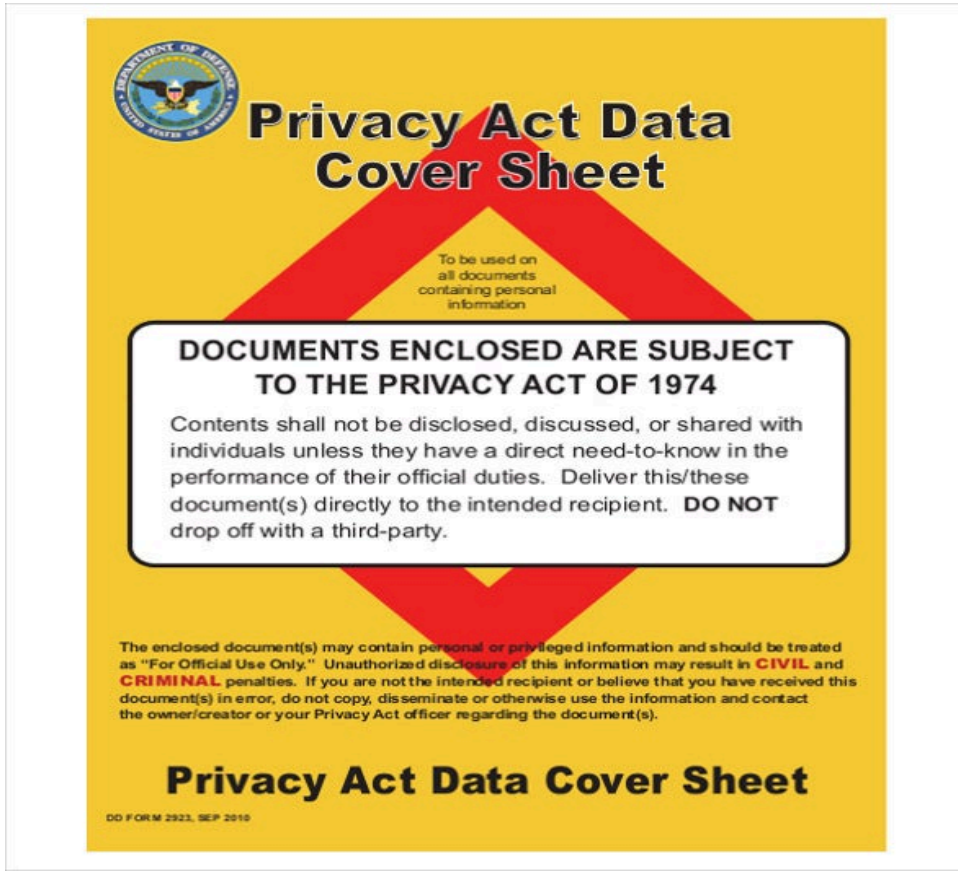
# Facial Recognition Technology

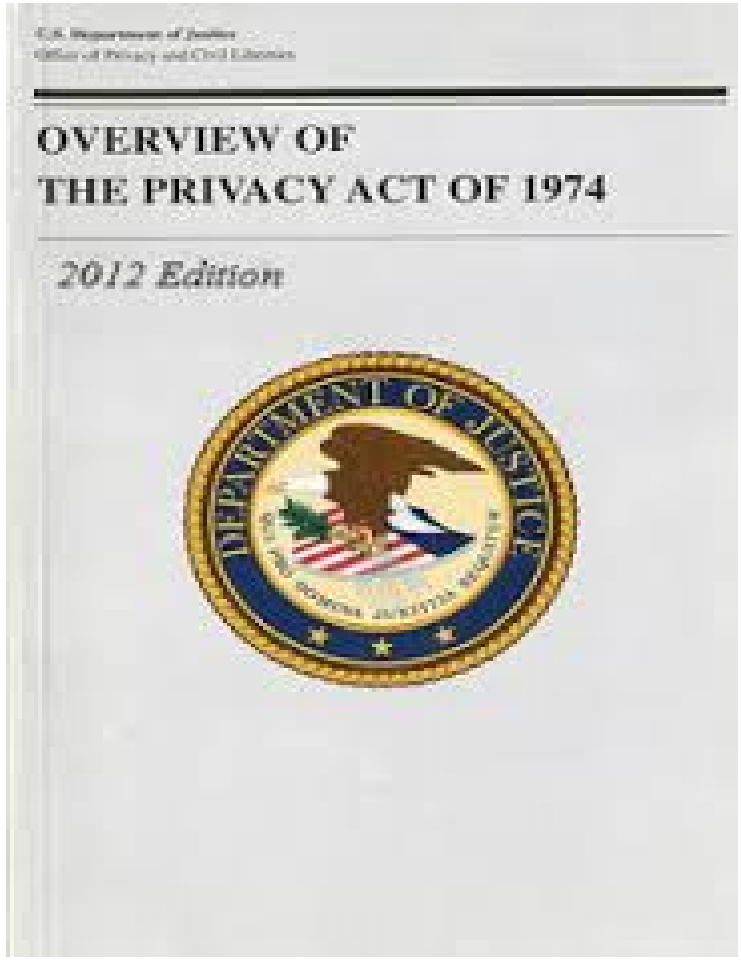






# Privacy Act of 1974



# E-Government Act of 2002

**PUBLIC LAW 107–347—DEC. 17 2002**
**116 STAT. 2899 Public Law 107–347**
**107th Congress**

An Act To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

# AMAZON

# Marketing of Facial Recognition Software



# *Amazon Pauses Police Use of Its Facial Recognition Software*

The company said it hoped the moratorium "might give Congress enough time to put in place appropriate rules" for the technology. The one-year pause on letting the police use its facial recognition tool reflected growing concerns that the technology may lead to unfair treatment of African-Americans.
NYT June 10, 2020

# Facebook & FTC

FTC Chairman Joe Simons' statement regarding the Federal Court's approval of the Facebook 2019 Settlement:

"We are pleased with the D.C. District Court's [April 23, 2020 decision in which it entered a stipulated Order for civil penalties, Monetary Judgment and Injunctive Relief resolving the 2019 complaint]. The historic $5 billion settlement is 'by far' the largest monetary penalty ever obtained by the United States on behalf of the FTC and the 'second largest in any context.' The Court highlights that the conduct relief included in this settlement will require Facebook 'to consider privacy at every stage of its operations and provide substantially more transparency and accountability for its executives' privacy-related decisions."

**Facebook & Cambridge Analytica** 10-13-19 NPR

Facebook agreed to pay a $643,000 fine to the U.K.'s Information Commissioner's Office for its role in the Cambridge Analytica scandal. The fine was part of the ICO's investigation into the use of social media data for political purposes. Facebook breached data protection laws by failing to keep users' personal information secure, allowing Cambridge Analytica to harvest the data of up to 87 million people without their consent worldwide.

# Amazon

# Children's Online Privacy Protection Act

***Amazon's kid-friendly Echo Dot is under scrutiny for alleged child privacy violations***
***Amazon says it upholds the privacy rules***
***May 9, 2019***

# The California Consumer Privacy Act of 2018 (CCPA)

►gives consumers more control over the personal information that businesses collect about them.
►secures new privacy rights for California consumers, including:
1. right to know about the personal information a business collects about them and how it is used and shared;
2. right to delete personal information collected from them (with some exceptions);
3. right to opt-out of the sale of their personal information; and
4. right to non-discrimination for exercising their CCPA rights.
5. Businesses are required to give consumers certain notices explaining their privacy practices. The CCPA applies to many businesses, including data brokers.

# Russia's Use of Social Media

COMMITTEE SENSITIVE - RUSSIA INVESTIGATION
116TH CONGRESS 1st Session
SENATE SELECT COMMITTEE ON INTELLIGENCE
UNITED STATES SENATE ON RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION
VOLUME 2: RUSSIA'S USE OF SOCIAL MEDIA WITH ADDITIONAL VIEWS

Moeller Report

# Fake News

# The Computational Propaganda Project

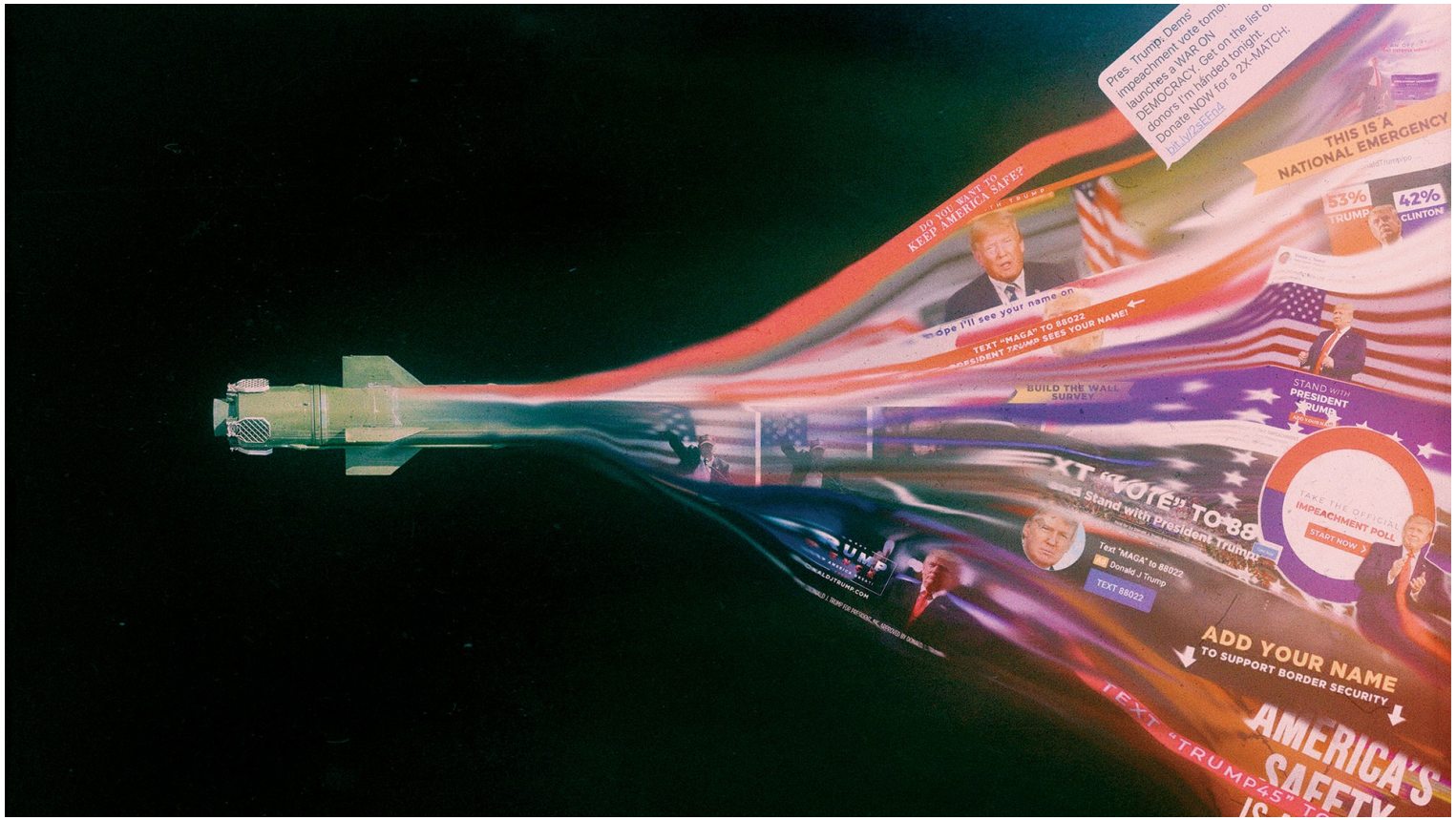
Fake News: A Technological Approach to Proving the Origins of Content, Using Blockchains

Computational propaganda distributes large amounts of misinformation about politics and public policy over social media platforms. Computational propaganda distributes large amounts of misinformation about politics and public policy over social media platforms.
In an era of fake news, when someone shows us a video or picture of some event, how can we trust its authenticity?

# Junk News

# 2017 German Federal Presidency Election

# U.S. Presidential Election 2020



# CLOUD ACT

## Promoting Public Safety, Privacy, and the Rule of Law Around the World: The Purpose and Impact of the CLOUD Act
White Paper April 2019



# Data Privacy

## U.S. CLOUD Act & Int'l Privacy

**On March 23, 2018, U.S. Congress enacted the Clarifying Lawful Overseas Use of Data Act, with the immediate effect of mooting the ongoing *U.S. v. Microsoft* litigation, where a central issue of the case was whether a web-based or cloud-based telecommunications or data service provider, subject to U.S. jurisdiction, could avoid being required to provide stored electronic communications for which a search-and-seizure warrant had been served, when such stored electronic communications were stored on servers outside of the U.S.**

# E.U. and U.S. Collaboration

# Safe Harbor Privacy Principles

►Developed between 1998 and 2000 to prevent private organizations within the European Union or United States which store customer data from accidentally disclosing or losing personal information.

►The decision in *Maximillian Schrems (I) v Data Protection Commissioner* invalidated the Safe Harbor with immediate effect.

►From 6 October 2015, the Safe Harbor regime ceased to provide a valid legal basis for EEA-US transfers of all types of personal data.

# Schrems I

# EU-US Privacy Shield

## Schrems II and the Privacy Shield - EU ruling on EU-US data transfers

The Court of Justice of the European Union (CJEU) ruling on the 16th July 2020 invalidated the EU-US Privacy Shield.

# Schrems II

# Network Enforcement Act & Free Speech

The German parliament on 30 June 2017 enacted a law that subjects social media companies and other providers that host third-party content to fines of up to €50 million if they fail to remove "obviously illegal" speech within 24 hours of it being reported.

The law applies to social media companies, but it defines that term very broadly, to include all profit-making internet platforms that are intended to allow users to share content with other users or make it publicly available.

# Political Suppression of Free Speech?

## Executive Order on Preventing Online Censorship

## 5-28-20

"Online platforms are engaging in selective censorship that is harming our national discourse. Tens of thousands of Americans have reported, among other troubling behaviors, online platforms "flagging" content as inappropriate, even though it does not violate any stated terms of service; making unannounced and unexplained changes to company policies that have the effect of disfavoring certain viewpoints; and deleting content and entire accounts with no warning, no rationale, and no recourse.

Twitter now selectively decides to place a warning label on certain tweets in a manner that clearly reflects political bias. As has been reported, Twitter seems never to have placed such a label on another politician's tweet. … Unsurprisingly, its officer in charge of so-called 'Site Integrity' has flaunted his political bias in his own tweets."

# Right to be Forgotten

# European Privacy Standard of 2014

# Google v. CNIL (CJEU)

# Eva Glawischnigh-Piesczek v. Facebook Ireland Limited

# Right to be Forgotten

# Federal Constitutional Court Decisions

# Federal Data Protection Act

American Bar Association
https://www.americanbar.org/

# 2020 Disinformation Resolution

# Threats to Voting in U.S. Elections

# Malign Foreign Influence Operations

# Cybersecurity Report: Berlin Water Company and attack on Berlin Court of Appeal

# Cybersecurity as a Professional Responsibility