CS 1657
Privacy in the Electronic Society

William Garrison
bill@cs.pitt.edu
6311 Sennott Square
https://bill-computer.science/1657

02: Value of Privacy

Today: Why do we care about privacy?

Is surveillance really a “security vs. privacy” balancing act?

“If you have nothing to hide…” arguments

What are the benefits of privacy?

Often, privacy is equated with hiding wrongdoing

Is this the only value of privacy?

Schneier (see readings) argues that privacy is instead an inherent human right

- Privacy is our defense against abuse of information
- What are the dangers we need to defend against?
  - *Quis custodiet custodes ipsos?* ("Who watches the watchers?")
  - Cardinal Richelieu: "If one would give me six lines written by the hand of the most honest man, I would find something in them to have him hanged."
- How can surveillance harm us, even if we're not engaged in wrongdoing?
- How does privacy benefit us, even in mundane situations?
  - What is the value of privacy in the shower, bedroom, diary, etc.?

Taking comments out of context

In December 2017, the US Justice Department released a series of text messages between an FBI agent and FBI lawyer.

Among them:

- "So look, you say we text on that phone when we talk about Hillary because it can't be traced, you were just venting bc you feel bad that you're gone so much but it can't be helped right now."

Without context: Cover-up of investigative wrongdoing!

Later context: They were having an affair

- (Okay, still covering up wrongdoing, but completely different than it sounds)

Friedrich Durrenmatt: "A crime can always be found"

Julie Cohen points out that privacy is necessary for innovation

"[P]rivacy... shelters the processes of play and experimentation from which innovation emerges."

- How?

Privacy is dynamic, hard to define, and relative to our current society and culture

- How does our modern, connected society change our view of privacy?
  - Makes privacy harder? Changes what "privacy" means?
- Privacy is "an interest in breathing room to engage in socially situated practices of boundary management."

Daniel Solove sets out to define privacy

It is common to define a set of related ideas by finding the necessary and sufficient features

- *per genus et differentiam*
- e.g., What is exercising? Very diverse set of activities
  - Any bodily activity meant to enhance or maintain health
- How can we do this with privacy?

Solove argues that privacy is more like a (human) family

- Related ideas with overlapping features, but no set of features that they all share
- High-level categories of privacy problem:
  - Information collection, information processing, information dissemination, and invasion

Solove's taxonomy

Information collection
- Surveillance
- Interrogation

Information processing
- Aggregation
- Identification
- Insecurity
- Secondary use
- Exclusion

Thoughts?

Information Dissemination
- Breach of confidentiality
- Disclosure
- Exposure
- Increased accessibility
- Blackmail
- Appropriation
- Distortion

Invasion
- Intrusion
- Decisional interference

1984?

While mass surveillance leads to lots of Orwell comparisons, Solove argues Kafka provides a better metaphor

The Trial: Josef is arrested and prosecuted by a remote, inaccessible authority, for a crime that is never revealed

- "*The Trial*… depicts a bureaucracy with inscrutable purposes that uses people's information to make important decisions about them, yet denies the people the ability to participate in how their information is used."
- Different issues than those from surveillance (collection) alone; related to information processing
- What are the issues with these two aspects of surveillance?

Privacy can be seen as anti-society, but is it?

It is easy to imagine privacy as “the right to be free of society’s pressures” in some sense

Amitai Etzioni: Privacy is “a societal license that exempts a category of acts (including thoughts and emotions) from communal, public, and governmental scrutiny.”

- Not absolute, does not trump concerns for common good
- Are individual rights at odds with common good?

John Dewey: “We cannot think of ourselves save as to some extent social beings. Hence we cannot separate the idea of ourselves and our own good from the idea of others and of their good.”

- Value of protecting individual rights emerges from their contribution to society

Moxie Marlinspike says we're all criminals

So what if privacy is hiding wrongdoing? We all do wrong!

The number of laws/crimes in federal law (alone!) is hard to count, even for the Congressional Research Service

- 50 titles, 27,000 pages
- Probably about 10,000 crimes

If the government cannot even count the laws, how can an individual know they're not breaking any?

Supreme Court Justice Breyer: "The complexity of modern federal crime law… make[s] it difficult for anyone to know, in advance, just when a particular set of statements might later appear… to be relevant to some such investigation"

But breaking the law is how we make progress!

Consider same-sex marriage (and LGBTQ rights broadly) in the US

- States gradually legalized, until Supreme Court protected nationwide
- Prior, sodomy laws often made homosexuality illegal
- If law enforcement was perfect, no experience with homosexuality, no context to discuss

Cannabis legalization

- Majority of people in many states favored legalization
- How could they know without the freedom to violate the law?

Marlinspike: Breaking the law is a necessary precondition for these types of progress

When we believe communications are monitored, we self-censor

A 2013 PEN American study showed effect of NSA/Snowden revelations on writers

- Writers disapprove of surveillance to a higher degree than average
- Writers generally assume their communications are monitored
- Many expressed reluctance to write/speak about topics, or research certain issues, or even communicate with friends abroad
  - 28% reduced social media, 24% avoid topics in phone or email
  - 16% avoided writing about a topic that may increase surveillance
- Those writing about the Middle East were most impacted

Some conclusions

Privacy is hard to define

- It is not necessarily anti-social or anti-security
- It is subjective, fluid, and relative to our culture and available technology

Privacy is valuable even in the absence of wrongdoing

- And even wrongdoing can be valuable

Privacy issues can take many forms, and these should not be dismissed with catchy aphorisms

- And hopefully, we all now have better answers to those than responding in kind