25. Ethics and Privacy

Blase Ur and David Cash
March 6\textsuperscript{th}, 2020
CMSC 23200 / 33250
CVEs

Common Vulnerabilities and Exposures (CVEs): Common identifiers explaining infosec vulnerabilities in released software
Responsible Disclosure

One should notify impacted vendors/manufacturers of security flaws before notifying the public to permit the creation of patches

For example, Google Project Zero has a 90-day embargo period on disclosing vulnerabilities

Spectre and Meltdown waited 7 months to disclose (and had a coordinated release date… though some journalists jumped the gun)
Bug Bounty

Company offers money for disclosing previously unknown vulnerability
   Amounts from hundreds of $ to tens of thousands of $+

Participating companies include Google, Facebook, Mozilla, Reddit, Microsoft, and many others

Compare to the Computer Fraud and Abuse Act (CFAA) of 1986, making unauthorized access to a computer illegal
   Went after Robert Morris, Aaron Swartz, Anonymous, etc.

Compare to Digital Millennium Copyright Act (DMCA) of 1998, which prohibits reverse-engineering devices
   Went after Geohot and others
Conceptualizing & Measuring Privacy
Privacy is Hard to Define

“Privacy is a value so complex, so entangled in competing and contradictory dimensions, so engorged with various and distinct meanings, that I sometimes despair whether it can be usefully addressed at all.”

Michael Wolf- The Transparent City
“Chicago has recently undergone a surge of new construction... In early 2007, the Museum of Contemporary Photography... invited Michael Wolf as an artist-in-residence.... Wolf chose to photograph the central downtown area, focusing on issues of voyeurism and the contemporary urban landscape.... His details are fragments of life—digitally distorted and hyper-enlarged—snatched surreptitiously via telephoto lenses.

http://aperture.org/shop/the-transparent-city/
Michael Wolf- The Transparent City
Michael Wolf- The Transparent City
Michael Wolf- The Transparent City
Warren and Brandeis (1890)

HARVARD LAW REVIEW.

VOL. IV. DECEMBER 15, 1890. NO. 5.

THE RIGHT TO PRIVACY.

"It could be done only on principles of private justice, moral fitness, and public convenience, which, when applied to a new subject, make common law without a precedent; much more when received and approved by usage."


THAT the individual shall have full protection in person and in property is a principle as old as the common law; but it has been found necessary from time to time to define anew the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the demands of society. Thus, in very early times, the law gave a remedy only
Warren and Brandeis’s Inspiration
Warren and Brandeis’s Argument

• “The individual shall have full protection in person and in property”

• The legal basis for fear
  – Battery → assault
  – Tangible property → intangible property

• Gossip pages about high society
Warren and Brandeis’s Argument

• Libel and slander are insufficient in considering only damage to reputation
• Considers property rights
• The right to prevent, rather than profit from, publication
• “The right to be let alone”
• Excludes topics of general interest
# Photography Laws

## Consent required for action related to a picture of a person in a public place (by country)

<table>
<thead>
<tr>
<th>Country</th>
<th>Take a picture</th>
<th>Publish a picture</th>
<th>Commercially(^1) use a published picture</th>
</tr>
</thead>
<tbody>
<tr>
<td>Afghanistan</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Argentina</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Australia</td>
<td>No (with exceptions)</td>
<td>No (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Austria</td>
<td>No</td>
<td>No (with exceptions)</td>
<td>Yes</td>
</tr>
<tr>
<td>Belgium</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes</td>
</tr>
<tr>
<td>Brazil</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Canada</td>
<td>Depends on province</td>
<td>Yes (with exceptions)</td>
<td>Yes</td>
</tr>
<tr>
<td>China</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Denmark</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Ethiopia</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes</td>
</tr>
<tr>
<td>Finland</td>
<td>No</td>
<td>Yes (with exceptions)</td>
<td>Yes</td>
</tr>
<tr>
<td>France</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)(^3)</td>
<td>Yes</td>
</tr>
<tr>
<td>Germany</td>
<td>No (with exceptions)</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Greece</td>
<td>No</td>
<td>No</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>Hong Kong</td>
<td>Depends on circumstances</td>
<td>Depends on circumstances</td>
<td>Depends on circumstances</td>
</tr>
<tr>
<td>Hungary</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
<td>Yes (with exceptions)</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Depends on circumstances</td>
<td>Depends on circumstances</td>
<td>Depends on circumstances</td>
</tr>
<tr>
<td>United States</td>
<td>Depends on circumstances</td>
<td>Depends on circumstances</td>
<td>Usually (although laws differ by state)</td>
</tr>
</tbody>
</table>

https://commons.wikimedia.org/wiki/Commons:Photographs_of_identifiable_people#The_right_of_publicity
Is Being “Let Alone” Sufficient?

“Every secret of a writer's soul, every experience of his life, every quality of his mind, is written large in his works.”

~Virginia Woolf
Apple employee detained by U.S. customs agents after declining to unlock phone, laptop

When Andreas Gal returned from a business trip in Sweden last fall, he was carrying two company-owned devices: an iPhone XS that flashed “Confidential and Proprietary” on its lock screen and a MacBook Pro bearing a sticker that read “PROPERTY OF APPLE. PROPRIETARY.”
CHICAGO IS TRACKING KIDS WITH GPS MONITORS THAT CAN CALL AND RECORD THEM WITHOUT CONSENT

Cook County has a new contract for juvenile ankle monitors that critics say are an invasion of privacy.

This story was co-published with Citylab.

On March 29, court officials in Chicago strapped an ankle monitor onto Shawn, a 15-year-old awaiting trial on charges of armed robbery. They explained that the device would need to be charged for two hours a day and that it would track his movements using GPS technology. He was told he would have to be given permission to leave his house, even to go to school.
“Privacy is the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others.”

“...each individual is continually engaged in a personal adjustment process in which he balances the desire for privacy with the desire for disclosure and communication....”

Alan Westin, Privacy and Freedom, 1967
Is Limiting Access Sufficient?

• Individuals sometimes prefer to be let alone, yet sometimes want to be social
  – Privacy was traditionally “social withdrawal”
Privacy Regulation Theory (1975)

• Irwin Altman (social psychology)
  – Preceded by Altman and Taylor’s Social Penetration Theory (1973) about intimacy in relationships

• Dialectic and dynamic process of boundary regulation
  – Continuous movement on a continuum

• Goal: optimum balance of privacy and social interaction
CPM Theory (1991)

• Sandra Petronio (communications)
  – Communication Privacy Management Theory

• Regulate boundaries based on perceived costs and benefits
  – Movement on a continuum

• Expect rule-based management

• Boundary turbulence related to clashing expectations
Is Regulating Disclosure Enough?
Local

Patients trusted Johns Hopkins gynecologist who allegedly videotaped them

By Brigid Schulte and Peter Hermann  February 19, 2013  Email the author

For more than two decades, women came to see Johns Hopkins gynecologist Nikita Levy and trusted him with not only the most private parts of their bodies but also with their innermost secrets. Listening to problems with husbands and boyfriends, the joys and frustrations of motherhood, Levy was a caring confidant, said patients and co-workers.

On Tuesday, they were reeling from the news that their doctor had committed suicide after being accused of surreptitiously videotaping and photographing many of his patients. Police said they have removed nearly 10 image-filled computer hard drives from Levy’s home in Towson, Md.
“For 25 years, Dr. Nikita Levy ran an obstetrics and gynecology practice out of the East Baltimore Medical Center, a community clinic run by the Johns Hopkins Hospital and Health System. Last February, Johns Hopkins authorities discovered that Levy had been secretly filming his patients in the examination room, using cameras embedded into pens that he wore around his neck and key fobs he carried in his pockets. At his home, police found hard drives and servers stocked with thousands of videos and photographs of his patient’s naked bodies, snapped under the auspices of performing routine pelvic examinations.”

http://www.slate.com/blogs/xx_factor/2014/07/22/johns_hopkins_190_million_ob_gyn_settlement_it_won_t_buy_closure_for_nikita.html
Purpose Matters (?)
Privacy as Contextual Integrity (2004)

- Helen Nissenbaum (philosophy)
- “Contextual integrity ties adequate protection for privacy to norms of specific contexts, demanding that information gathering and dissemination be appropriate to that context.”
Privacy as Contextual Integrity

• Appropriate flows of information

• Appropriate flows conform to contextual information norms

• Norms refer to the data subject, sender, recipient, information type, and transmission principle

• Conceptions of privacy evolve over time and are grounded in ethics