Privacy
Topics

• Perspectives on privacy
• Disclosing information
• U.S. legislation regarding privacy
• Public records
Topics

- Government surveillance
- U.S. legislation on wiretapping
- Data mining
- Identity theft
- Communication security ... Encryption
Perspectives on Privacy

- Defining privacy
- Harms and benefits of privacy
- Is there (should there be) a right to privacy?
- Privacy and trust

- Definition?
Defining Privacy

• Privacy -- control of access to a person and their personal information

• Access to a person
  • Physical proximity to a person
  • Information about a person

• Edmund Byrne: Privacy is a “zone of inaccessibility”
Privacy vs Intellectual Property Rights

- How same? -- How different?
  - information
  - stakeholders
Personal -vs- IP

- IP... commercially valuable thought product
  - authors, consumers
- Privacy... low commercial value
  - by-product of living life
- self, family, friends
Personal Information

• Examples/types of personal information
US Bill of Rights

- 3rd Amendment
  protection from quartering of soldiers

- 4th Amendment
  protection from unreasonable search and seizure

- 5th Amendment
  right to due process
  protection from self-incrimination
Privacy

• What is a benefit of privacy?
• What is a cost of privacy?
• Should we recognize a right to privacy?
  • How would we state this right?
Benefits of Privacy

• Individual responsibility and achievement
• Freedom to be yourself
  intellectual and spiritual growth
• Development of trusting, intimate relationships
Costs of Privacy

- Cover for illegal or immoral activities
- Fewer sources of help when needed
- Ignores people on society’s fringes
Is There a Right to Privacy?

- US Bill of Rights: not directly, but elements of
- Morton Levine: Property rights → Privacy rights
- Warren and Brandeis: yes, reaction to press intrusion...
  - “right to be let alone”
- Judith Jarvis Thomson: no, “privacy rights” are derived from other rights
Giving Private Information

• Why do we give out private information?
• Why to governments and companies?
Privacy and Trust

• Modern real-life is relatively private/anonymous
• Challenge: living among strangers
• Remedy: establishing reputations
  • Ordeal - lie detector, drug test, body scan
  • Credential - driver’s license, keys, credit card, ID card
• Establishing reputation → reducing privacy
Information Policies

• Given that we do give private information to government and companies,

• What are some general principles for handling of personal information that respect privacy?

• Fair Information Practices
Fair Information Practices

- No secret databases, those entered should know it
- People have access to personal information in databases
- People should be able to correct or amend errors
- Database owners cannot change how information is used without consent
- Database owners and users responsible for reliability of data and preventing misuse
Privacy Act of 1974

- Encoded the above principles
- Applies only to government databases
- Only covers records indexed by a personal ID
- No federal employee responsible for enforcing Privacy Act provisions
- Allows agencies to share records with other agencies
Examples of US Public Records

- Census records
- Internal Revenue Service records
- FBI National Crime Information Center 2000
Census Records

• Census required to ensure every state has fair representation

• Number of questions had been steadily rising

• Sometimes Census Bureau has broken confidentiality

  • World War I: draft resisters

  • World War II: Japanese-Americans

• Data analysis --- identifiability
Internal Revenue Service Records

- Much personal information on tax forms
- Some IRS employees have misused access to IRS records
- IRS has also misplaced laptops, tapes and diskettes containing records
FBI National Crime Information Center

- NCIC
  - Compilation of databases related to various crimes
- Successes
  - Helps police solve hundreds of thousands of cases
- James Earl Ray, Timothy McVeigh
- Problems???
Criticisms of the NCIC

- Erroneous records have led to false arrests
- Police have arrested innocent people with same name as someone in NCIC database
- FBI has used NCIC to keep records of people not suspected of any crime
- Corrupt law-enforcement employees have sold information and altered records
Government Surveillance

- 4th Amendment to U.S. Constitution
- Wiretaps
Acquisition of Personal Information

• New information technology has created a wide range of ways that personal information can be acquired by others.

• How is personal information acquired?
Ways Personal Information is Acquired

- Email monitoring
- Digital video surveillance recorders
- Enhanced 911 service, GPS in phones
- RFID, implanted chips track movements
- Cookies, spyware
Body Scanners

- Is the use of full-body scanners at airports ethical?
- How can it be done in an ethical manner?
The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.
Wiretaps and Bugs

- *Omstead v. United States* — wiretapping OK

- Federal Communications Act 1934

- *Nardone v. United States* — warrantless wiretapping not OK

- FBI continues secret wiretapping after WWII

- *Katz v. United States* 1967 — bugs not OK
Operation Shamrock

- World War II interception of international telegrams
- National Security Agency (1952)
  - Expanded to telephone calls
- Kennedy
  - Organized crime figures, Cuba-related individuals
- Johnson and Nixon
  - Vietnam war protesters, War on Drugs
U.S. Legislation Authorizing Wiretapping

- Title III ---- court order for wiretapping (1968)
- Electronic Communications Privacy Act (1986)
  - pen register and traps... order without cause
- Communications Assistance for Law Enforcement Act
  - equipment must enable wiretapping, internet tapping
- VoIP --- law enforcement able to wiretap (2005)
VOIP Wiretapping

- Yahoo, AOL open register, but encrypted
- Skype has claimed, due to encryption and internet architecture, that it can not comply with wiretapping requests
- Fall, 2011 Microsoft is given a patent on a method to wiretap VoIP, including Skype (forces routing through a listening post)
USA PATRIOT Act

• Following 9/11...

• Provisions
  • Greater authority to monitor communications
  • Greater powers to regulate banks
  • Greater border controls
  • New crimes and penalties for terrorist activity
USA Patriot Act

- Pen registers on email and Web browsers without cause
- Roving surveillance
- Searches and seizures of equipment without warrants
- Warrants issued without showing probable cause
- Access to business, religious, library records
Patriot Act Successes

• Charges brought against over 400 individuals
• Guilty pleas or convictions for 191 people
• More than 500 people removed from United States
• Terrorist cells broken up in Buffalo, Seattle, Tampa, and Portland (“the Portland Seven”)

Thursday, May 10, 2012
Patriot Act Failure

- March 11, 2004 bombings in Madrid Spain
- FBI makes Brandon Mayfield a suspect
  - Claim partial fingerprint match
  - Conduct electronic surveillance
  - Enter home without revealing search warrant
- Spanish authorities match fingerprint with an Algerian
  - Judge orders Mayfield released
  - FBI apologizes
Patriot Act Renewal

- 2011 renewed
- no changes made
  - roving wiretaps
  - library and business records can be inspected
- lone-wolf surveillance
Commercial Surveillance and Data Management

- Collecting consumer behaviors
  - browsing
  - purchasing
  - credit
  - social network
Commercial Databases

- Fair Credit Reporting Act
- The Family Education Rights and Privacy Act
- Video Privacy Protection Act
- Financial Services Modernization Act
- Children’s Online Privacy Protection Act
- Health Insurance Portability and Accountability Act
Fair Credit Reporting Act

- Promotes accuracy and privacy of information used by credit bureaus
- Ability to request and correct credit report
- Negative information kept only 7 years
- Exceptions
  - Bankruptcies: 10 years
  - Criminal convictions: indefinitely
Family Education Rights and Privacy Act (FERPA)

• Rights given to
  • Students 18 years, parents of younger students

• Rights include
  • Reviewing educational records
  • Requesting changes to erroneous records
  • Preventing release of records without permission
Video Privacy Protection Act

- Videotape service providers cannot disclose rental records without consumer’s written consent
- Rental stores must destroy personal information related to rentals within a year
Financial Services Modernization Act

• Creates “financial supermarkets” offering banking, insurance, and brokerage services

• Privacy-related provisions
  • Privacy policies must be disclosed to customers
  • Notices must provide an opt-out clause
  • Companies must develop procedures to protect customers’ confidential information
Children’s Online Privacy Protection Act

- Reduces amount of personal information gathered from children
- Online services must gain parental consent before collecting information from children 12 and under
Health Insurance Portability and Accountability Act

- Limits how doctors, hospitals, pharmacies, and insurance companies can use medical information
- Health care providers need signed authorization to release information
- Health care providers must provide patients with notice describing how they use medical information
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