

Report from the Center for

# PHILOSOPHY & PUBLIC POLICY

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## Privacy in the Computer Age

To make its research readily available to a broad audience, the Center for Philosophy and Public Policy publishes a quarterly newsletter: *QQ—Report from the Center for Philosophy and Public Policy*. Named after the abbreviation for “questions,” *QQ* summarizes and supplements Center books and working papers and features other selected work on public policy questions. Articles in *QQ* are intended to advance philosophically informed debate on current policy choices; the views presented are not necessarily those of the Center or its sponsors.

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A committed feminist perspective is not only compatible with fair, unbiased teaching of philosophy and public policy, but may be one of its central requirements. . . . . p. 6

The company owns the factory, but a whole community can be devastated if it shuts down. Who should have the right to make a decision that affects so many people so deeply? . . . p. 9

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The odds are good that some computer somewhere knows something about you that you would rather it didn't. The databases of the federal government contain 4 billion separate records about American citizens — seventeen items apiece. Recently, different government files have been electronically compared to uncover tell-tale discrepancies: personnel files of federal employees have been matched against state welfare rolls to flag welfare fraud; lists of eighteen-year-old male dependents generated from IRS records have been matched against Selective Service registrations to identify draft evaders. The FBI's National Crime Information Center is a massive computer network linking more than 57,000 federal, state, and local criminal justice agencies and offering instant access to information on stolen property, missing and wanted persons, and criminal histories. This last category is of particular interest to prospective employers, who were responsible for half of the over 200 million inquiries directed to the network last year. It's worth their while to bother checking: one in five Americans will be arrested at some time in their lives.

The federal government is joined in its computerized information gathering by behemoths in the private sector. A giant computerized credit company like TRW makes available to thousands of merchants all over the country a tidy balance sheet on any of almost 90 million Americans in a matter of three or four seconds. AT&T holds precise minute-by-minute records of the 500 million phone calls made daily from the nation's 130 million telephones, information that has been used by government investigators

in a number of cases. Such information, notes David Burnham, author of *The Rise of the Computer State*, "can be extraordinarily revealing. . . investigators can learn what numbers an individual has called, what time of day and day of week the calls were made, the length of each conversation, and the number of times an incorrect number was dialed. Considered as a whole, such information can pinpoint the location of an individual at a particular moment, indicate his daily patterns of work and sleep, and even suggest his state of mind."

In many businesses, computers are used directly and overtly for worker surveillance. A recent nationwide survey of video display terminal operators showed that 35 percent were monitored by computer. Computer monitoring has been used to keep a daily log of the room-tidying speed of maids at Washington's Ritz-Carlton Hotel, to clock the "average work time" of AT&T telephone operators, to see how fast the cashiers at the Giant Food Store process customers, and to tabulate the performance of United Parcel drivers to the hundredth of an hour.

Many charge that these cases amount to a flagrant and frightening invasion of privacy. They ask whether privacy in any recognizable form can survive the computer age. But just what kind of a threat to privacy is posed by the long memory and unblinking eye of the computer? What is privacy and why do we value it personally and as a society? How do we weigh the threatened value of privacy against the manifold marvels the computer promises to unfold before us?

### What Is Privacy?

Privacy has been defined in a number of ways. On one account, it is the measure of *control* a person has over access

to information about herself, or to the most intimate aspects of her life. Privacy is a matter here, not of how much others know about the details of one's life, but of the extent to which the person herself decides what information they are to have. On another account, privacy is the *state* or *condition* of limited access to a person. On this view, someone's privacy is diminished in some measure whenever others come to know more about her.

Ferdinand Schoeman, a professor of philosophy at the University of South Carolina currently in residence at the Center for Philosophy and Public Policy, favors the second account. He argues that "a person who chose to exercise his discretionary control over information about himself by divulging everything cannot be said to have

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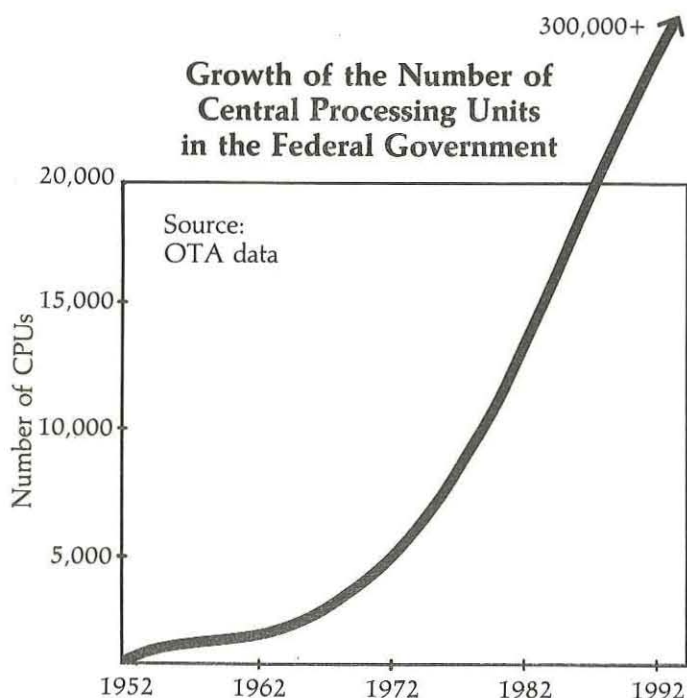
lost control, although he surely cannot be said to have any privacy." And an individual can lose some control over access to personal information (if, for instance, a national security agency is authorized to monitor international phone conversations) without losing any privacy at all (if his conversations are not among those monitored). The *right* to privacy, according to Schoeman, has to do with the question of the individual's control; privacy itself concerns what the individual has control of.

Thus either privacy itself or certainly the right to privacy is diminished when huge databases stock vast quantities of information about us (and particularly when computerized matching programs reveal to one agency, without our authorization, information disclosed to another). Access to personal information about us is increased, and our control over who has access to this information, and what kind of access, is decreased.

Why does this matter? Why is it important that access to information about our lives remain limited, or that we control such access?

### Why Privacy Matters

One reason why we might value privacy is that it carves out a space within which we can do bad things without being found out. Those with criminal intentions have good reason to ward off too-close scrutiny of their affairs. But this reason for valuing privacy will not carry much weight with the rest of us, who have nothing criminal to hide. We would rather eliminate welfare fraud than shield the defrauder from a computerized matching program that would uncover his double identity.



Privacy also allows the convicted miscreant the hope that in time her past misdeeds will fade from public attention and be forgotten. The FBI's master file of computerized histories ensures, on the contrary, that memory will be steadfast and long. Legal theorist and now federal judge Richard Posner argues that this is all to the good, that people should be thwarted in concealing disadvantageous information about themselves. Such concealment, he thinks, amounts to fraud in "selling" oneself to prospective employers and friends. But Richard Wasserstrom, professor of philosophy at the University of California at Santa Cruz, suggests that "there are important gains that come from living in a society in which certain kinds of derogatory information about an individual are permitted to disappear from view after a certain amount of time. What is involved is the creation of a kind of social environment that holds out to the members of the society the possibility of self-renewal and change . . . of genuine individual redemption."

Those who would have nothing to fear from the disclosure of complete and accurate information about themselves might, of course, have a good deal to fear from the disclosure of partial and false information. Unfortunately partial and false information are just what most databases have an abundance of. Burnham reports the results of one study that found that only 45.9 percent of the records in the FBI's computerized criminal history file were "complete, accurate, and unambiguous." Anyone who has tangled with a computer over a simple billing error knows how difficult it can be to erase a faulty bit of information from the computer's elephantine memory. Furthermore, even accurate information can be subject to misinterpretation; Burnham also points to sociological experiments indicating that employers are reluctant to hire workers with arrest records, even where charges were later dropped, or where a court trial resulted in acquittal. Once arrested, one is presumed guilty even after being proved innocent! While privacy per se is not at issue in the disclosure of *false* information about ourselves, it at least reduces the sheer volume of personal information stored, thus minimizing the danger of error.

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*By enhancing and fostering a clear sphere of the private, privacy helps to rein in the sphere of the public, to mark out a clear boundary that we prohibit the state from crossing.*

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People differ in how approvingly they regard the current government, but no one has much trouble imagining some possible future government that would be far worse. It seems wise, then, to curb the power of the state over its citizens, to make sure that the state doesn't come to know too much. By enhancing and fostering a clear sphere of the private, privacy helps to rein in the sphere of the public, to mark out a clear boundary that we prohibit the state from crossing. It is the crossing of this boundary that is feared

Photo courtesy of International Business Machines Corporation



*The FBI's National Crime Information Center offers instant access to information on stolen property, missing and wanted persons, and criminal histories.*

when computerized databanks are likened to an Orwellian Big Brother.

These concerns, however potent, still do not seem to capture all there is that matters to us about preserving our privacy from computerized intrusions. If these doubts could be met in other ways — by strictly enforcing a periodical review of stored records for completeness and accuracy, say, or erecting other barriers against official abuse — we would still feel that there was some deeper worry left untouched. Privacy is important not only for what it saves us from, but for what it has been argued to make possible: freedom and dignity, on the one hand, and intimate human relationships, on the other.

### Freedom and Dignity

Privacy protects freedom: not only the freedom, as noted earlier, to misbehave, but the freedom to do anything that we would be inhibited in doing by the presence of external observation. Think how many actions we would feel less free to perform if there were someone — anyone — intently watching us every minute of the day, taking account of every movement we made, every syllable we uttered. Such relentless scrutiny would make one reluctant to do anything commonly perceived, for whatever reason, as foolish or embarrassing; it would curtail groping, experimentation, risk taking, trial and error. Imagine trying to write a paper, a poem, a love letter, with every preliminary scribble inspected by an uninvited third party. We are less free to act, to speak, to dream in public

than in private, and practices of privacy maintain the barrier between the two realms.

Do current uses of computer technology undermine privacy in a way that poses a threat to freedom? The minute-by-minute computerized surveillance of workers that is increasingly relied upon as a management technique seems clearly to make workers less free. When, as in some workplaces, every keystroke is tallied electronically, every momentary respite recorded — every nose-blowing, every stretch, every bathroom break — the state of observation is too total, and too totalitarian.

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*Privacy is a social ritual by means of which an individual's moral title to his existence is conferred. Privacy is an essential part of the complex social practice by means of which the social group recognizes — and communicates to the individual — that his existence is his own.*

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To a much lesser degree, projected levels of centralized data collection and storage could also take a toll on freedom and spontaneity. With the routine storage of enormous quantities of information, Wasserstrom speculates, “every transaction in which one engages would . . . take on an additional significance. In such a society one would be both buying a tank of gas and leaving a part of a systematic record of where one was on that particular date. . . . An inevitable consequence of such a practice of data collection is that persons would think more carefully before they did things that would become part of the record. . . . we would go through life encumbered by a wariness and deliberateness that would make it less easy to live what we take to be the life of a free person.”

Privacy is critical as well to the affirmation of human dignity. Jeffrey Reiman, a philosopher at American University, suggests that the cluster of behaviors that makes up the social practice of privacy has as its purpose a resonant societal declaration of respect for the dignity of the individual: “Privacy is a social ritual by means of which an individual's moral title to his existence is conferred. Privacy is an essential part of the complex social practice by means of which the social group recognizes — and communicates to the individual — that his existence is his own.”

The right to privacy, on Reiman's view, “is the right to the existence of a social practice which makes it possible for me to think of this existence as *mine*.” The specific nature and form of this practice may differ from society to society and may change over time. This means that the growth of computerized databanks need not undermine privacy in our society if other practices in the complex privacy ritual receive compensatory emphasis or new practices develop. But there is a danger that the weakening of one strand in the cluster will weaken others as well. Wasserstrom warns, “If it became routine to record and have readily accessible vast quantities of information

about every individual, we might come to hold the belief that the detailed inspection of any individual's behavior is a perfectly appropriate societal undertaking. We might become insensitive to the legitimate claims of an individual to a sphere of life in which the individual is at present autonomous and around which he or she can erect whatever shield is wished.”

### Privacy and Intimate Relationships

In one sense, privacy builds fences around persons through which others are not permitted to peer and beyond which they may not trespass. The right to privacy has been categorized as the right to be let alone. Yet here, too, it has been argued that “good fences make good neighbors” — that privacy not only protects individual freedom and dignity but is itself a necessary precondition of our entering into a wide range of diverse human relationships.

According to University of Alabama philosopher James Rachels, “There is a close connection between our ability to control who has access to us and to information about us, and our ability to create and maintain different sorts of social relationships with different people.” An essential part of what distinguishes one sort of relationship from another is “a conception of the kind and degree of knowledge concerning one another which it is appropriate for [the parties] to have.” Thus we disclose different amounts of information about different aspects of our lives to our doctor, employer, neighbors, children, casual acquaintances, close friends, spouse. If we could not control the level of disclosure and choose to be selective in our revelations, Rachels argues, we could not maintain an array of diverse personal and professional relationships.

Indeed, Charles Fried insists that without privacy our most intimate relationships “are simply inconceivable. . . . To be friends or lovers persons must be intimate to some

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degree with each other. But intimacy is the sharing of information about one's actions, beliefs, or emotions which one does not share with all, and which one has the right not to share with anyone. By conferring this right, privacy creates the moral capital which we spend in friendship and love. . . . Privacy grants the control over information which enables us to maintain degrees of intimacy.”

Is the possibility of genuine sharing within an intimate relationship precluded by the proliferation of centralized databanks in which the secrets that would be confided to the loved one are handily stored with billions of other tid-



*The very impersonality of the computer's storage of intimate information can give rise to a feeling of violation.*

bits of information on a magnetic tape? The answer would seem to depend in part on how many people in what capacity have access to the database. The Rachels-Fried view provides one argument for limiting access as far as possible — for not, for example, passing files about from one government agency to another.

Reiman argues, however, that Fried and Rachels are wrong to think that intimacy is bound up with privacy in the way they propose. Their view, he feels, "suggests a market conception of personal intimacy. The value and substance of intimacy — like the value and substance of my income — lies not merely in what I have but essentially in what other do *not* have." Intimacy, on this view, is constituted by its unavailability to others — in economic terms, by its scarcity. Reiman suggests instead that "what constitutes intimacy is not merely the sharing of otherwise withheld information, but the context of caring which makes the sharing of personal information significant." He goes on to say, "It is of little importance who has access to personal information about me. What matters is who cares about it and to whom I care to reveal it. Even if all those to whom I am indifferent and who return the compliment were to know the intimate details of my personal history, my capacity to enter into an intimate relationship would remain unhindered." Computers are no threat to intimacy on this view. What matters for intimacy is not how much some computer knows, but how much some human being cares.

Computers don't care, of course, and likely the human beings who input intimate information into a database at so many keystrokes a minute don't care, either. This in itself can give rise to a feeling of violation — Schoeman observes that we feel defiled when information that matters deeply to ourselves is handled without recognition of its specialness. He compares intimate information, information that is of the greatest importance to our conception of ourselves, to a holy object — "something that is appropriately revealed only in special circumstances. To use

such an object, even though it is a humble object when seen out of context, without the idea of its character in mind is to deprive the object of its sacredness. . . . Such an abuse is regarded as an affront."

None of this is to say that records of intimate information should not be committed to the computer. There are in many cases weighty societal reasons for collecting and storing the information that we do. But it is a good thing for us to remember periodically that the data we collect and analyze and scrutinize are at bottom a record of people's lives. We have a charge to treat them carefully, and with respect.

## Conclusion

It is common to assume that technological changes inevitably pose a threat to privacy. But Schoeman notes that the industrial revolution brought in its wake a major increase in privacy, as the resultant urbanization led to heightened anonymity — "the privacy that results from the indifference of others." Generally, Schoeman suggests, "the degree to which privacy is threatened is a function of design rather than of mere consequence." The technology of the computer gives us new capabilities that would allow us to restrict the privacy of individuals in new ways, but it does not dictate how we will choose to use them. That choice depends on how important we, as a society, take privacy to be.

*The views of Ferdinand Schoeman, Richard Posner, Richard Wasserstrom, Jeffrey Reiman, James Rachels, and Charles Fried are taken from their articles in Philosophical Dimensions of Privacy: An Anthology, edited by Ferdinand Schoeman (Cambridge: Cambridge University Press, 1984). The factual information in the article was drawn from The Rise of the Computer State, by David Burnham (New York: Vintage Books, 1984) and two articles that appeared in the Washington Post: "The Computer That Can Send You to Jail," by Bob Brown, September 23, 1984; and "Monitoring by Computers Sparks Employee Concerns," by Peter Perl, September 2, 1984.*

## PRIVATE FILES



*C. Barsotti*

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