Privacy

CS 340

PRIVACY SET 6: GOVERNMENT RECORDKEEPING, SURVEILLANCE, NSA AND EDWARD SNOWDEN
NO BOOK PAGES FOR CS 340:001-004

Public records

Disclosure in the day to day living. Records kept for legitimate governmental purposes.
- In the past, this information was buried in paper; cyber-technology makes accessing these records simple

Varies by state but often includes:
- Marriage, birth, death, divorce, wills
- Arrest, convictions
- Census, property tax
- Some states, 911 calls become part of the public record
  - Urban Meyer’s wife’s call after the SEC game [http://www.youtube.com/watch?v=HfMFeQYDznY](http://www.youtube.com/watch?v=HfMFeQYDznY)
  - Compare & Contrast this with HIPAA, dr. & patient confidentiality, hospital policies
1974 Privacy Act

Codified 5 principles related to government handling of information:

1. Notice/Awareness
2. Choice/Consent
3. Access Participation
4. Integrity/Security
5. Enforcement/Redress

http://www.ftc.gov/reports/privacy3/fairinfo.shtm

Limitations of the Privacy Act

From William Petrocelli Low Profile: How to avoid the Privacy Invaders:

1. Applies only to government databases not private ones
2. Applies only to records that use a personal identifier (name, number)
3. No agency is in charge of enforcement, individual agencies choose what is exempt
4. Inter-agency sharing of info for “routine use”
Does the Privacy Act establish mandatory data handling practices for businesses?

A. Yes, it sets rules for all large databases.

B. No, the privacy act only applies to government databases.

The Patriot Act

Provided:
- More monitoring authority for law enforcement and intelligence agencies
  - Surveillance of Internet use and email
  - Created nationwide system for search warrants and wire tapping
  - Allowed for roving surveillance
  - Expanded search warrant exceptions
- Sec. of Treasury was given greater powers related to banks to prevent foreign money laundry
- Admission to US harder for citizens of certain countries.
- Codified new crimes and punishments
Government Surveillance

Edward Snowden
- Leaked details of the inter-workings of NSA’s surveillance infrastructure.

Describe your opinion of Edward Snowden?

A. Very positive
B. Positive
C. Somewhat positive
D. Neutral
E. Somewhat negative
F. Negative
G. Strongly negative
Edward Snowden

http://www.theguardian.com/world/the-nsa-files


June 14, 2013 charges:
- Theft of governmental property
- Espionage Act charges
  - Unauthorized communications of national defense information
  - Willful communication of classified intelligence to unauthorized persons

Leaks

PRISM slides:

Details of MAINWAY:

BOUNDLESS INFORMANT

TEMPORA

BULLRUN

STELLARWIND
- Ten year program 2001-2011, collecting metadata on Americans' Internet
- IP addresses, email addresses, Bcc: addresses
Interview with Snowden


&

http://www.theguardian.com/world/video/2013/jul/08/edward-snowden-video-interview

June 6, 2013 in Hong Kong

NSA

The NSA is the National Security Agency
By law, NSA may not “spy on” Americans

Exception:
- If the American is connected to the terror suspect by no more than two other people
  - What does this mean?
- Check out this article? Separating You and Me? 4.74 Degrees
Another Exception: phone call metadata

Phone call metadata is not considered private information.

The Snowden disclosures detail the collection of phone call metadata on calls made by Americans:

- Phone numbers of participants, serial # of phone, time/duration, geo location
- Analogy to the outside of an envelope; not personal, no need to show probable cause
  - [http://www.theguardian.com/world/2013/jun/06/phone-call-metadata-information-authorities](http://www.theguardian.com/world/2013/jun/06/phone-call-metadata-information-authorities)

Support for this practice comes from the Third Party doctrine.

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Smith v. Maryland, US S. Ct 1979

4th amendment: Reasonable, legitimate expectation of privacy Katz

“Since the pen register was installed on telephone company property at the telephone company’s central offices, petitioner obviously cannot claim that his "property" was invaded or that police intruded into a "constitutionally protected area."

b/c users “convey” phone # to the phone company, no expectation of privacy in #s you dial.

“This Court consistently has held that a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties” : third party doctrine
“NSA Able to Foil Basic Safeguards of Privacy on Web”

New York Times article, Sept. 5 2013:


* If this link does not work for you use this link:

NY Times article: “NSA Able to Foil Basic Safeguards of Privacy on the Web”

Claims NSA has been waging a “secret war” coded named BULLRUN on encryption:

1. Use of supercomputers to break codes
2. “collaboration” with tech companies to build “entry points” into their products
   a) Created weaknesses, backdoors
   b) Shared keys
3. Targeted computers to snare messages before encryption took place, or at destination after messages decrypted.
Internet Technology companies

Claimed tactics against Internet companies by NSA:

- Voluntary cooperation
- Stealing their encryption keys
- Altering their software/hardware
- Forcing their cooperation through court orders in the United States Foreign Intelligence Surveillance Court.

United States Foreign Intelligence Surveillance Court

Interview about the court:

- [http://www.uscourts.gov/News/TheThirdBranch/02-06-01/An_Interview_with_Judge_Royce_C_Lamberth.aspx](http://www.uscourts.gov/News/TheThirdBranch/02-06-01/An_Interview_with_Judge_Royce_C_Lamberth.aspx)

See Wikipedia entry on [http://en.wikipedia.org/wiki/United_States_Foreign_Intelligence_Surveillance_Court](http://en.wikipedia.org/wiki/United_States_Foreign_Intelligence_Surveillance_Court)

- Snowden’s leak of the Verizon order
- Look at stats of approval, is it “rubber stamping?”
- See especially SECRET LAW section, policies on collecting data, extension of special needs exception to warrants
Examining the “special need” exception

Amendment IV

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.

Special need case: City of Ontario v. Quon

Fallout of the leak


Changes & impact:

Requests for reform:
  ◦ http://www.msnbc.com/msnbc/nsa-sensenbrenner-leahy-reform

In January 2014, President Obama issued a policy change, allowing tech companies to disclose government requests for customer data.

Poll Data on support for Snowden

2014 poll data:
- 45% of respondents say Snowden’s leaks have served the public interest
- 43% of respondents say Snowden’s leaks have harmed it.
- 56% want criminal case against Snowden pursued
- 32% are opposed to the charges


2015 poll data focused on Millennials:

http://mashable.com/2015/04/21/millennials-edward-snowden/#vz5u2St4Biq5

Other 2015 data: 64% negative opinion, 36% positive opinion (8% very positive opinion)


http://www.usatoday.com/story/cybertruth/2014/01/16/most-americans-oppose-nsa-surveillance/4516291/

2015 USA Freedom Act

This summer, Congress passes and President Obama signed the Freedom Act into law.
- This ends some of the Patriot Act provisions, specifically it bans the bulk collection of phone meta data.

Now record collection must focus on a specific target and a specific target’s contacts with an “aim” of limiting collection, and destroying collected data.

The government has to “apply for records”
- One hop collection requires reasonable grounds, with an articulable suspicion
- Two hop collection requires a statement of a specific session (phone call)

Pen registers and tap and trace devices have to be applied for and a specific session has to be requested.

Expansion of targeted surveillance of non-US citizens in US.


Where is Snowden now?

Snowden lives in Moscow and works in “tech.”

He was nominated for a Nobel Prize last year but he did not win.
Is your current opinion of WikiLeaks positive or negative?

A. Positive
B. Mostly Positive
C. Negative
D. Mostly Negative
E. I don’t know enough yet to have an opinion
Is your current opinion of Julian Assange positive or negative?

A. Positive
B. Mostly Positive
C. Negative
D. Mostly Negative
E. I don’t know enough yet to have an opinion.

WikiLeaks

Online publisher/ repository of secret information, news leaks and classified material.

Launched in 2006

Founder Julian Assange

Donations


Expenses

- [http://www.wired.com/threatlevel/2013/05/wikileaks-donations-down/](http://www.wired.com/threatlevel/2013/05/wikileaks-donations-down/)

Julian Assange

Self-described hacker/journalist

- [http://www.youtube.com/watch?v=E5nrTRHSck&feature=player_embedded](http://www.youtube.com/watch?v=E5nrTRHSck&feature=player_embedded)

Interview on Colbert Report

- [http://thecolbertreport.cc.com/videos/q1yz2t/julian-assange](http://thecolbertreport.cc.com/videos/q1yz2t/julian-assange)

Assange’s Current Legal Problem

Currently fighting extradition from UK to Sweden for prosecution of possible sex crimes

- “holed up” at Ecuador’s Embassy in London since June 2012
- That is 1,234 days and counting...
- Some charges have expired but the statute of limitations on rape runs out August 2020
- In March 2015, Swedish officials have agreed to interview him at Ecuador’s London embassy. A meeting was set up in September, but it appears to have been blocked by UK authorities.
- Likely to remain at embassy because of WikiLeaks investigation.
  - [http://www.reuters.com/article/2015/03/19/us-usa-assange-investigation-idUSKBN0MF2H20150319](http://www.reuters.com/article/2015/03/19/us-usa-assange-investigation-idUSKBN0MF2H2)

In 2013, ran for a seat in the Australian senate.

- Lost as earned about 1% of the vote.
Bradley Manning: the Charges

Aiding the enemy
Making information accessible to the enemy
Failure to obey a lawful order/regulation (computer system mods, improper storage)
Violating the Espionage Act
Computer Fraud and Abuse Act
Embezzlement/Theft

Pretrial Incarceration & treatment
1,294 days

Harsh treatment
- Was argued by his team that the charges should be dropped because of torture [nudity, isolation, harassment, sleep-deprivation, conditions]

Trial, Verdict & Sentencing

Manning requested judge trial (he wanted to NOT have a jury.) Why?

At trial, he plead guilty to some charges.
- He was convicted under Espionage Act, disseminating classified field reports, State Dept cables, assessments of detainees at Guantanamo
- Acquitted of most serious charge: aiding the enemy

See table: http://www.washingtonpost.com/wp-srv/special/national/manning-verdict/?hpid=z1
“I was Bradley Manning”

Daniel Ellsberg


http://www.huffingtonpost.com/2012/12/04/bradley-manning-daniel-ellsberg-pentagon-papers_n_2240016.html

Do you agree with the verdict and sentencing?

A. No, Manning should not have been charged or prosecuted in the way he was
B. Yes, it all seems appropriate
C. Unsure