Background for Concepts of Privacy Exercise

**CCC Privacy by Design**
**February 5 & 6, 2015**

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Is that the right privacy?

What do individuals mean when they talk about privacy?

- How does it relate to regulatory definitions and aims?
- How does it relate to theory?
- How does it translate into design?
The Morass of Privacy
Privacy in disarray

“Few values so fundamental to society as privacy have been left so undefined in social theory or have been the subject of such vague and confused writing by social scientists.” (Westin 1967)

“the most striking thing about the right to privacy is that nobody seems to have any very clear idea what it is.” (Thomson 1975)

“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.” (Post 2001)

“…a concept in disarray.” (Solove 2008)
Pluralism + Pragmatics

Family Resemblance
“A set of related dimensions of practices”
Solove, Understanding Privacy (2010)

Informational Norms
Governing flow of information based on actors, information types, and transmission principles.
Nissenbaum, Privacy in Context (2010)
Privacy: Essentially contested concept

concepts the proper use of which inevitably involves endless disputes about their proper uses on the part of their users and these disputes "cannot be settled by appeal to empirical evidence, linguistic usage, or the canons of logic alone" (Gallie 1956)
Working with and Understanding Privacy

• Embrace Privacy’s Plurality

• Leverage power of Essentially Contested Concept

• Empower Designers with tools to work with multiple concepts
Taxonomy of Privacy (Solove)

INFORMATION COLLECTION
- Surveillance
- Interrogation

DATA SUBJECT

INVASIONS
- Intrusion
- Decisional Interference

DATA HOLDERS

INFORMATION PROCESSING
- Aggregation
- Identification
- Insecurity
- Secondary Use
- Exclusion

INFORMATION DISSEMINATION
- Breach of Confidentiality
- Disclosure
- Exposure
- Increased Accessibility
- Blackmail
- Appropriation
- Distortion
Contextual Integrity holds when context-relative informational norms are respected; it is violated when they are breached.

~ When people complain privacy is violated, look for violations of CI!
~ Surveillance is NOT always problematic
~ Privacy is NOT control over information about oneself
~ Privacy is NOT secrecy; it is appropriate flow
~ Many of our privacy laws reach for CI
~ The U.S. sectoral approach is NOT a bad thing

** Nissenbaum, School of Information, UC Berkeley April 2, 2008**
A Theory of Privacy as Contextual Integrity

1. Privacy means appropriate information flow
2. Appropriateness means compliance with social expectations of privacy
3. Expectations of privacy are modeled by context-specific informational norms
4. Ideal informational norms are those that promote ethical and political principles and contextual ends, purposes, and values
In a context, the flow of information of a certain type (attributes) about a subject (acting in a particular capacity/role) from a sender (possibly the subject, acting in a particular capacity/role) to a recipient (acting in a particular capacity/role) is governed by a particular transmission principle.

Key parameters: attributes, actors, transmission principles

In designing for privacy, ALL THREE PARAMETERs must be addressed!!!

** Nissenbaum, School of Information, UC Berkeley April 2, 2008**
Multi-dimensional Privacy Analytic

- thick description of privacy
- reveal connection/divergence across theories
- enables descriptive and prescriptive work
  - understand problems
  - design solutions (technical, policy)
<table>
<thead>
<tr>
<th>Privacy Dimension</th>
<th>Description of Dimension</th>
<th>Example of Dimension</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Dimensions of Theory</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Object</td>
<td>That which privacy provides to those protected, i.e. <em>privacy provides protected agents with X.</em></td>
<td>Dignity Control over Personal Information</td>
</tr>
<tr>
<td>Justification</td>
<td>That which justifies privacy, i.e. <em>privacy is justified because of X.</em></td>
<td>Individual Liberty Social Welfare</td>
</tr>
<tr>
<td>Contrast Concept</td>
<td>That which contrasts to privacy, i.e. <em>that which is private is mutually exclusive with that which is X.</em></td>
<td>Public Open Transparent</td>
</tr>
<tr>
<td>Exemplar</td>
<td>The prototype of privacy, i.e. <em>privacy is best illustrated by X.</em></td>
<td>Personal Identity Theft Intrusive Surveillance Gossiping Neighbors</td>
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<td><strong>Dimensions of Protection</strong></td>
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<td></td>
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<tr>
<td>Target</td>
<td>That which privacy protects, i.e. <em>privacy protects things of type X.</em></td>
<td>Personal Information Body or Likeness</td>
</tr>
<tr>
<td>Subject</td>
<td>Actor(s) or Entity(ies) protected by privacy, i.e. <em>privacy protects agent X.</em></td>
<td>Myself, My Child Social Groups (e.g., teens) Roles (e.g., students)</td>
</tr>
<tr>
<td><strong>Dimensions of Harm</strong></td>
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<td></td>
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<tr>
<td>Action</td>
<td>That which initiates or constitutes a privacy harm, i.e. <em>privacy protects against harmful action of type X.</em></td>
<td>Solove’s 4 meta-harms (Collection, Processing, Dissemination, Invasion) Xxx Kasper’s three harms (extraction, observation, and intrusion)</td>
</tr>
<tr>
<td>Offender</td>
<td>Actor(s) violating privacy, i.e. <em>privacy violated by agent X.</em></td>
<td>Government Business Entity Peeping Tom</td>
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<td>From-Whom</td>
<td>Actor(s) against-whom privacy is a protection, i.e. <em>privacy protects against agent X.</em></td>
<td>Everyone Government ‘Friends of Friends’</td>
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<td><strong>Dimensions of Provision</strong></td>
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<tr>
<td>Mechanism</td>
<td>That which instrumentally secures privacy, i.e. <em>privacy is secured through means X.</em></td>
<td>Legal Regulations Technical Design Social Norms</td>
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<td>Provider</td>
<td>Actor(s) charged with securing privacy, i.e. <em>privacy ought to be provided by actor X.</em></td>
<td>Government Business Entity Technology Offenderxx</td>
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<td>Expert</td>
<td>Actor(s) charged with determining privacy, i.e. <em>the determination that privacy should be provided should be made by X.</em></td>
<td>Policymakers Chief Privacy Officers Any Concerned Citizen</td>
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<td><strong>Dimensions of Context</strong></td>
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<td>Social Practice</td>
<td>That wherein privacy applies, i.e. <em>privacy applies in situation, field, or site X.</em></td>
<td>Hospital or University Nation-State or Globally</td>
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<td>Scope</td>
<td>Extent of application of privacy, i.e. <em>privacy should be applied with a scope of X.</em></td>
<td>Universally as strict rule Casuistically as per-case</td>
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# Privacy Analytic: Select Elements

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