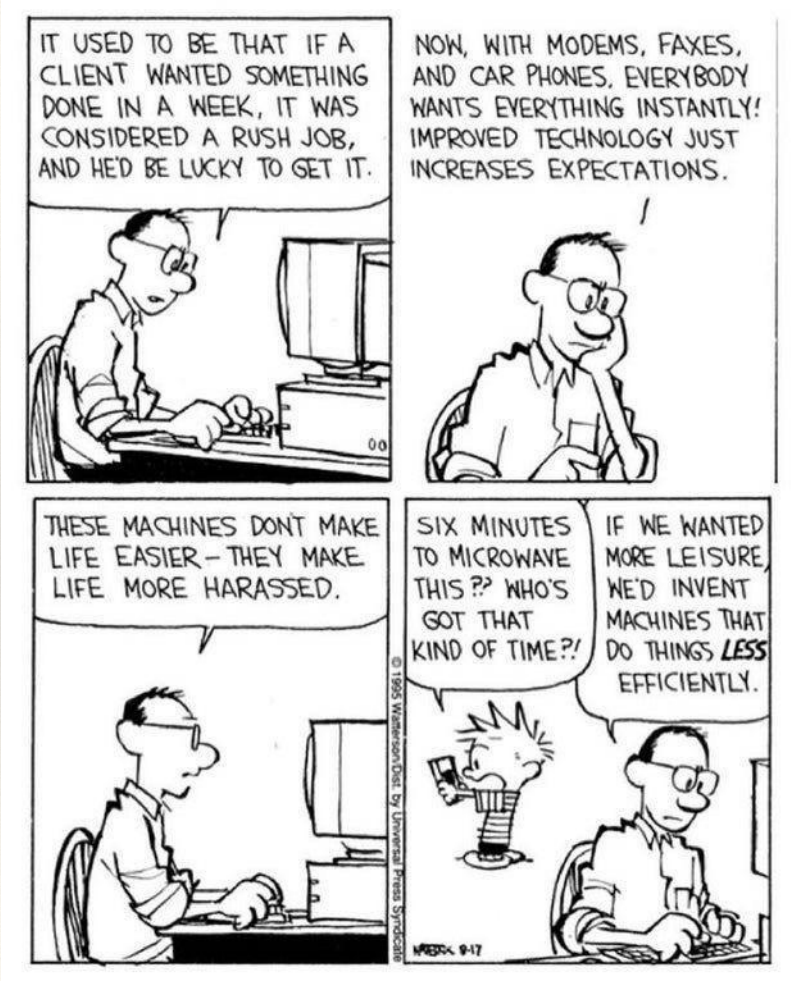
Privacy: the NSA and Ed Snowden

The Calvin and Hobbes of the day



Privacy

Our concept of "privacy" combines three things:

- First is **secrecy**, or our ability to keep the content of our messages known only to those we intend to receive them.
- Second is **anonymity**, or secrecy about who is sending and receiving messages, where the content of the messages may not be secret at all. It is very important that anonymity is an interest we can have both in our publishing and in our reading.
- Third is **autonomy**, or our ability to make our own life decisions free from any force that has violated our secrecy or our anonymity.

These three – secrecy, anonymity and autonomy – are the principal components of a mixture we call "privacy".

Eben Moglen, Columbia Law school

Privacy

We face two claims – you meet them everywhere you turn – that summarize the politics against which we are working.

One argument says: **"It's hopeless, privacy is gone, why struggle?"**

The other says: **"I'm not doing anything wrong, why should I care?"**

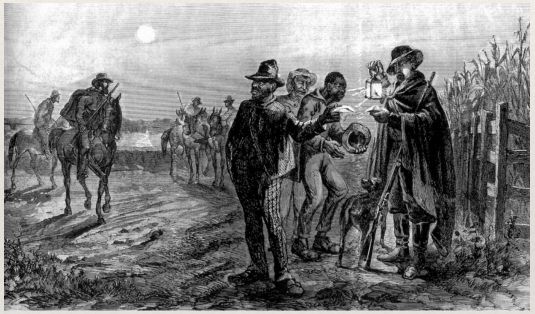
When we decide to give away our personal information, we are also undermining the privacy of other people. Privacy is therefore always a relation among many people.

Eben Moglen, Columbia Law school

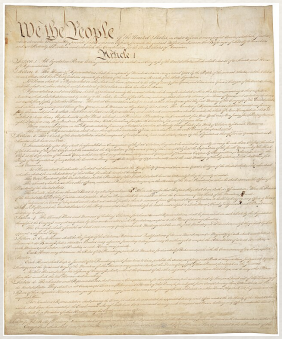
A history of surveillance in the US

1700s

1789



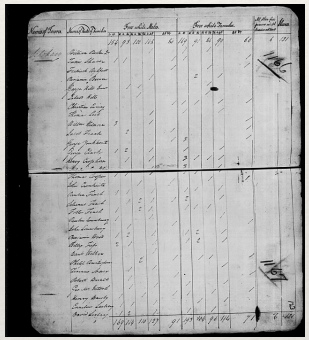
Lantern Laws *in New York City in the 1700s require Black, mixed-race, and Indigenous enslaved people to carry lit lanterns when in the city after sundown and unaccompanied by a white person.*



The Constitution and the Bill of Rights *restrict invasive information gathering and seek to protect the rights of the individual, limit the role of government in American society, and reinforce the importance of private property*

A history of surveillance in the US

1790



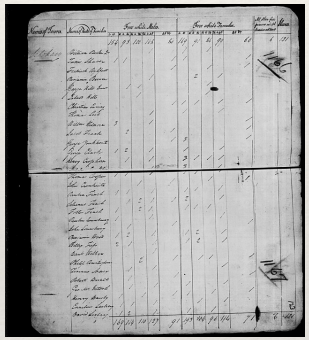
Census: *First attempt by the U.S. government to conduct systematic and universal gathering of information about its citizens through a census.*

1819

The South Carolina General Assembly enacts a law requiring all white men over the age of 18 to participate in ***slave patrols****. These organized groups of armed men were tasked with regulating the activity of slaves*

A history of surveillance in the US

1861



California Wiretapping law: *California creates a statute prohibiting wiretapping telegraphs shortly after the Pacific Telegraph Company reaches the West Coast.*

1895

Police Wiretapping: *First wiretapping by police is recorded in New York when a former telephone worker who had joined the city police suggests listening in on wires used by criminals.*

A history of surveillance in the US

1897

National Bureau of Identification: *The National Chiefs of Police Union founded the National Bureau of Identification, a government agency dedicated to recording identifying information on criminals for use by law enforcement.*

1908

Bureau of Investigation: *In 1908 Attorney General Charles Bonaparte established a force of agents to conduct investigations for the Department of Justice. The force was known as the Bureau of Investigation and in 1935 was renamed to the Federal Bureau of Investigation (FBI)*

A history of surveillance in the US

1917

1924

The espionage act: *In June 1917, the United States Congress passed the* Espionage Act. *The main goal was to stop wartime activities that were considered dangerous or disloyal.*

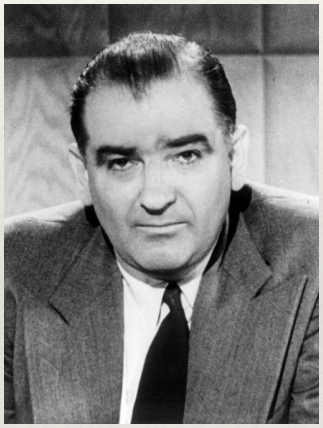
National Fingerprint Database: *The Federal Bureau of Investigation (FBI) receives a legislative mandate to manage a national fingerprint card database, which contained 100 million records by 1946.*

A history of surveillance in the US

1925

Panopticon in the US: *The Statesville Correctional Center in Crest Hill, IL, opens in 1925. The center's "F-House" cellhouse, commonly known as a "roundhouse", has a panopticon layout, allowing guards to observe any of the inmates without them knowing if and when they are being watched.*

1938



Un-American Activities Committee: *The House Un-American Activities Committee (HUAC) was created in 1938 to investigate disloyalty and rebellion amongst private citizens as well as public employees and organizations suspected of having ties to Communism..*

A history of surveillance in the US

1947

National Security Act: *The National Security Act of 1947 led to the creation of the National Security Council (NSC) and the Central Intelligence Agency (CIA), which still serves as the primary intelligence gathering organization in the United States government.*

1952

National Security Agency: *The United States National Security Agency (NSA) is established by the Secretary of Defense acting under specific intructions from the President and the National Security Council.*

A history of surveillance in the US

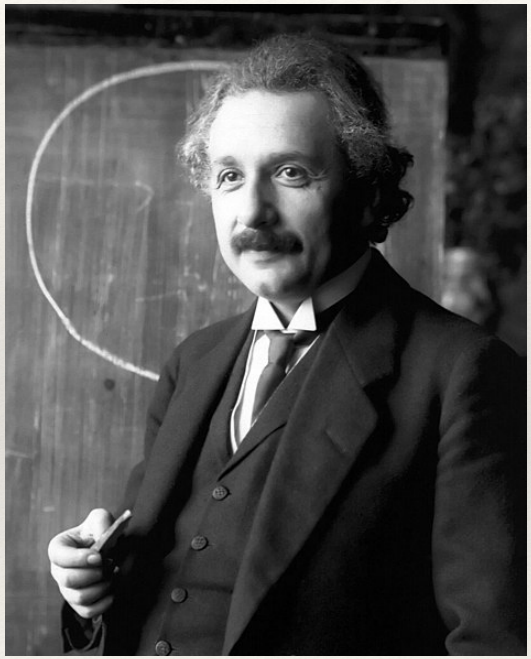
1993

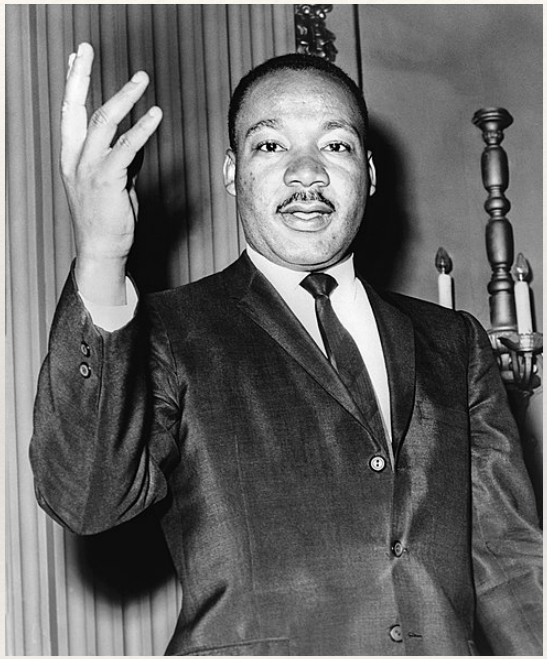
Clipper chip: *The Clipper chip was a chipset that was developed and promoted by the United States National Security Agency (NSA) as an encryption device that secured "voice and data messages" with a built-in backdoor that was intended to "allow Federal, State, and local law enforcement officials the ability to decode intercepted voice and data transmissions.".*

1994

CALEA: *The Communication Assistance for Law Enforcement Act (CALEA) requires telephone companies to redesign their network architectures to make it easier for law enforcement to wiretap digital telephone calls. In 2005, CALEA was expanded by the Federal Communications Commission (FCC) to include Internet service providers (ISPs) and some VoIP services.*

Surveillance





Under FBI surveillance: Einstein, Martin Luther King Jr…

9/11 and its consequences

9/11 and its consequences

The USA PATRIOT Act, or Patriot Act, is a law passed in 2001 to strengthen the United States' national security and counter-terrorism efforts:

- **Surveillance**
  The Patriot Act expanded the surveillance capabilities of law enforcement, including the ability to wiretap domestic and international phones, access electronic communications, and conduct secret searches.

  Information sharing
  The Patriot Act removed barriers to information sharing between law enforcement and intelligence agencies.

- **Penalties**
  The Patriot Act increased penalties for terrorism crimes and expanded the list of activities that could be charged as terrorism.

  Investigative tools
  The Patriot Act updated investigative tools to reflect new technologies and threats.

The San Bernardino shooting: FBI vs Apple

- On December 2nd 2015, 2 terrorists were involved in a mass shooting that resulted in 14 people dead and 22 seriously injured.
- The 2 terrorists were killed 4 hours after the mass shooting, in a shootout
- The FBI recovered the work phone of one of the terrorists, an iPhone 5C
- The phone was password protected and the FBI and NSA could not break it
- The FBI asked Apples for help; Apple refused, mentioning its policy to guarantee security of their devices
- The FBI managed to get a California court order that mandated Apple to comply. The court order listed the All Writs Act of 1789 to support the case
- Apple said it would not comply
- Finally, the FBI said they found a 3rd party (in 2021, it was found that it was an Australian company) that helps them unlock the phone

The San Bernardino shooting: FBI vs Apple

Marketing slogan used by Apple in 2019 at a convention in Last Vegas

Edward Snowden: the facts

- Formed NSA contractor
- In 2013, leaked highly classified information about the NSA
- Was indicted for espionage under the Espionage Act of 1917, and theft of government property.
- In 2013 the department of state revoked his passport
- In 2013, he flew to Moscow. After a month being restricted in the airport terminal, he was granted asylum
- In 2020, he was granted permanent residency
- In 2022, he was granted Russian citizenship

Edward Snowden: the facts

- In 2013, released documents and gave interviews with Glen Greenwald, from the Guardian, after fleeing to Hawaii

- He released documents to a lot of media (the Guardian (England), Der Spiegel (Germany), the Washington Post (US), the New York Times (US), O Globe (Brazil), Le Monde (France)…

- It is unclear how many documents he had taken.. some put the number in millions…

Edward Snowden: Reactions

"Snowden may have violated a secrecy agreement, which is not a loyalty oath but a contract, and a less important one than the social contract a democracy has with its citizenry."

Jesselyn Radack, the Government Accountability Project

"He broke the law. He caused harm to our national security and I think that he has to be held accountable for his actions."

Eric Holder, Attorney General of the US

Edward Snowden

- 1. What values are in conflict in this case? What harm did Snowden cause? What benefits did his actions bring?
- 2. Do you agree that Snowden's actions were ethically justified even if legally prohibited?
- 3. If you were in Snowden's position, what would you have done and why?
- 4. Would you change your position if you knew that Snowden's leak would lead to a loss of life among CIA operatives? What about if it would save lives?
- 5. Is there a circumstance in which you think whistleblowing would be ethically ideal? How about ethically prohibited?

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National security and information privacy

A 2015 New York Times article reported that the Islamic State group had studied Snowden's revelations about how the United States gathered information on militants. As a result, the group's top leaders used couriers or encrypted channels to avoid being tracked or monitored by Western analysts.

On September 2, 2020, a U.S. federal court ruled in United States v. Moalin that the U.S. intelligence's mass surveillance program exposed by Snowden was illegal and possibly unconstitutional.

Edward Snowden

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