AN INTERDISCIPLINARY CONFERENCE

PRIVACY
RIGHTS AND WRONGS:
BALANCING MORAL PRIORITIES
FOR THE 21ST CENTURY

TUESDAY, 21 APRIL 2009
9 A.M. TO 4 P.M.
MCNALLY AMPHITHEATRE
FORDHAM UNIVERSITY AT LINCOLN CENTER
140 W. 62ND ST. | NEW YORK CITY

CO-SPONSOR: CENTER ON LAW AND INFORMATION POLICY
**ANITA L. ALLEN**

Anita L. Allen is a leading expert on privacy law and contemporary ethics. A graduate of Harvard Law School, she earned her doctoral degree in philosophy at the University of Michigan. She is the author of *Unpopular Privacy, Privacy Law and Society, Why Privacy Isn’t Everything: Feminist Reflections on Personal Accountability, Uneasy Access: Privacy for Women in a Free Society* and *The New Ethics: A Guided Tour of the 21st Century Moral Landscape*. Allen has been a visiting Professor at Harvard, Yale, Princeton and Waseda University in Tokyo. Allen serves as a consultant to law firms, businesses, and government, and has lectured at major colleges and universities throughout the world. She has appeared on numerous nationally broadcast television and radio programs, and frequently contributes to popular magazines, newspapers and websites. She currently sits on the boards of organizations that include the Electronic Privacy Information Center, the Hastings Center, and the Association of Practical and Professional Philosophy.

**BARBARA HILKERT ANDOLSEN**

The James and Nancy Buckman Chair in Applied Christian Ethics in the Theology Department at Fordham University. Prior to coming to Fordham, Andolsen was previously the Helen Bennett McMurray Chair in Social Ethics at Monmouth University. She is the author of three books, and numerous journal articles and book chapters. She has served on the board of the Society of Christian Ethics and, in 2008, received the Ann O’Hara Graff Memorial Award for contributions to feminist theology at the Catholic Theological Society of America conference.

**JENNIFER STISA GRANICK**

Jennifer Granick is the civil liberties director at the Electronic Frontier Foundation. Before EFF, Granick was a lecturer in law and the executive director of the Center for Internet and Society at Stanford Law School, where she taught cyberlaw and computer crime law. She practices in the full spectrum of Internet law issues, including computer crime and security, national security, constitutional rights and electronic surveillance, areas in which her expertise is recognized nationally. Before teaching at Stanford, Stisa Granick spent almost a decade practicing criminal defense law in California. She was selected by *Information Security* magazine in 2003 as one of its 20 “Women of Vision” in the computer security field. She earned her law degree from University of California, Hastings College of the Law and her bachelor’s degree from the New College of the University of South Florida.

**HELEN NISSENBAUM**

Helen Nissenbaum is a professor of media, culture and communication, and computer science at New York University, where she is also a senior faculty fellow of the Information Law Institute. Her areas of expertise span social, ethical and political implications of information technology and digital media. Nissenbaum’s research publications have appeared in journals of philosophy, politics, law, media studies, information studies and computer science. She has written and edited three books and, a fourth, *Privacy in Context: Technology, Policy, and the Integrity of Social Life*, will be published later this year. The National Science Foundation, Air Force Office of Scientific Research, Ford Foundation and U.S. Department of Homeland Security have supported her work on privacy, trust online, and security, as well as several studies of values embodied in computer system design, including search engines, digital games, and facial recognition technology. Nissenbaum earned her bachelor’s degree at the University of Witwatersrand and her doctoral degree in philosophy from Stanford University. Before joining the faculty at NYU, she served as the associate director of the Center for Human Values at Princeton University.
JOEL R. REIDENBERG
Joel R. Reidenberg is the associate vice president for Academic Affairs and the associate chief academic officer at Fordham University. A professor of law, he is also the founding director of the Fordham Center on Law and Information Policy. His published books and articles explore both information privacy and information technology law and policy. He has served as an expert adviser to the U.S. Congress, the Federal Trade Commission and the European Commission on data privacy matters, and has chaired the Association of American Law Schools’ Section on Defamation and Privacy, and the Section on Law and Computers. He earned his bachelor’s and juris doctoral degrees at Dartmouth College and Columbia University, respectively, and his doctoral degree and D.E.A. droit international économique in law from the University Paris-Sorbonne. He is admitted to the Bars of New York and the District of Columbia.

NOAH SHACHTMAN

DANIEL SOLOVE
Daniel J. Solove is a professor of law at the George Washington University Law School. An internationally known expert in privacy law, Solove is the author of several books, including Understanding Privacy, The Future of Reputation: Gossip and Rumor in the Information Age (winner of the 2007 McGannon Award) and The Digital Person: Technology and Privacy in the Information Age. Solove is also the co-author of a textbook, Information Privacy Law, which is now in its third edition, and has published more than 30 articles and essays, which have appeared in leading law reviews such as the Yale Law Journal, Stanford Law Review, California Law Review, Michigan Law Review, NYU Law Review, University of Pennsylvania Law Review and Duke Law Journal. Solove has testified before Congress and has been interviewed and featured in several hundred media broadcasts and articles, including the New York Times, Wall Street Journal, Washington Post, Chicago Tribune, USA Today, Associated Press, Time, Newsweek, ABC, CBS, NBC, CNN and NPR. A graduate of Yale Law School, he clerked for the Honorable Stanley Sporkin, U.S. District Court for the District of Columbia and the Honorable Pamela Ann Rymer, U.S. Court of Appeals for the 9th Circuit. He also worked at the law firm Arnold & Porter in Washington, D.C., and teaches information privacy law, criminal procedure, criminal law, and law and literature. He blogs at www.concurringopinions.com, which in 2007 and 2008 was selected by the ABA Journal as among the 100 best law blogs.

VALERIE STEEVES
Valerie Steeves is an assistant professor in the Department of Criminology at the University of Ottawa. Her main area of research is human rights and technology issues. Steeves has written and spoken extensively on privacy from a human rights perspective, and is currently a researcher with the Social Sciences and Humanities Research Council of the New Transparency project at Queen’s University, which is examining surveillance as a technology of governance in late modern societies. Steeves is also an active participant in the privacy policy making process and a frequent intervenor before Canadian parliamentary committees on technology and human rights issues. She is a member of the Committee on Scientific Freedom and Responsibility of the American Association for the Advancement of Science and the Technical Committee on Privacy of the Canadian Standards Association, and chair of the National Privacy Coalition. In 2004, she was awarded the Labelle Lectureship at McMaster University, a juried prize that recognizes scholars engaged in cutting-edge multi-disciplinary research who are challenging existing methods or accepted ideas.
AMITAI ETZIONI
University Professor of International Affairs and Director
Institute for Communitarian Policy Studies
The George Washington University

After earning her doctoral degree in sociology at the University of California, Berkeley in 1958, Amitai Etzioni served as a professor of sociology at Columbia University for 20 years, part of that time as the chair of the department. He was a guest scholar at the Brookings Institution in 1978, before serving as a senior advisor to the White House. In 1980, Dr. Etzioni was named the first University Professor at The George Washington University, where he is the director of the Institute for Communitarian Policy Studies. He served as the Thomas Henry Carroll Ford Foundation Professor at the Harvard Business School for two years, from 1987 to 1989.

Etzioni served as the president of the American Sociological Association, and was the founding president of the Society for the Advancement of Socio-Economics, an international organization designed to advance the understanding of economic behavior across a broad range of academic disciplines. In 1990, he founded the Communitarian Network, a nonprofit, nonpartisan organization dedicated to shoring up the moral, social and political foundations of society. Known as the guru of the communitarian movement, he was the editor of *The Responsive Community: Rights and Responsibilities*, the organization’s quarterly journal for 13 years, from 1991 to 2004.


Outside of academia, Etzioni’s voice is frequently heard in the media. In 2001, he was named among the top 100 intellectuals as measured by academic citations in Richard Posner’s book, *Public Intellectuals: A Study of Decline*.

Etzioni was awarded, in 2001, the John P. McGovern Award in Behavioral Sciences as well as the Officer’s Cross of the Order of Merit of the Federal Republic of Germany. He was also the recipient of the Seventh James Wilbur Award for Extraordinary Contributions to the Appreciation and Advancement of Human Values by the Conference on Value Inquiry, as well as the Sociological Practice Association’s Outstanding Contribution Award.

WE WELCOME YOUR INTEREST AND SUPPORT
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CONFERENCE AGENDA

8:30 A.M.  REGISTRATION

9 A.M.  WELCOME ADDRESS
Joseph M. McShane, S.J.
President
Fordham University

9:15 A.M.  PANEL I:
WHAT IS PRIVACY IN THE 21ST CENTURY?
Moderator: Jessi Tamayo
Assistant Director, Louis Stein Center for Law and Ethics, Fordham University

A FAIR BALANCE:
The Right to Privacy, the Common Good and Catholic Social Thought
Barbara Hilkert Andolsen
James and Nancy Buckman Chair in Applied Christian Ethics
Professor, Department of Theology, Fordham University

In the second half of the 20th century, Catholic social thought began to support human rights—including the right to privacy—as key safeguards for the fundamental dignity of the human person. Ever mindful of the social nature of the person, Catholic social thinkers emphasize as a primary duty of governments the protection and promotion of the common good. The challenge before societies in the 21st century is to establish a fair balance between the privacy rights of individuals and the “common weal.”

UNDERSTANDING PRIVACY
Daniel Solove
Professor of Law, The George Washington University Law School

Privacy, as many have lamented, is currently a concept in disarray. Solove proposes a new theory for understanding privacy that draws from a broad array of interdisciplinary sources and provides clear practical guidance for engaging with privacy issues.

NO PLACE TO HIDE:
HOW 9/11 (AND GOOGLE) WRECKED PRIVACY
Noah Shachtman
Contributing Editor, Wired magazine

The government and businesses used to have to work hard to find out your secrets. Not any more. The growth in digital networks made it elementary to track every e-mail, phone call, Web search, and purchase you make. The post-9/11 security scare gave the government the license to do so. A new generation of Internet youth has embraced this death of privacy, and is now living radically open lives online.

PANEL DISCUSSION AND AUDIENCE QUESTIONS

10:30 A.M.  BREAK
PRIVACY RIGHTS AND WRONGS

10:40 A.M. PANEL II:
PRIVACY IN THE AGE OF TERRORISM:
WIRETAPPING AND THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (FISA)
Moderator: Damian Lyons
Associate Professor and Chair, Department of Computer and Information Science
Fordham University

THE PHILOSOPHY OF SURVEILLANCE: A CONTRACTARIAN READING
Anita L. Allen
Henry R. Silverman Professor of Law and Professor of Philosophy,
University of Pennsylvania
Spying, monitoring and other forms of surveillance are not only ethically permissible, they can be ethically mandatory. Yet, respect for privacy is a serious ethical constraint on government surveillance. What restrictions on government surveillance are required to comply with respect for privacy? How well do existing surveillance practices conform to ethical ideals of privacy?

A BRIEF MORAL HISTORY OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT
Jennifer Stisa Granick
Civil Liberties Director, Electronic Frontier Foundation
I will discuss the evolution of the laws regulating government surveillance of foreign enemies, identifying tools the law has historically imposed to accommodate national security and privacy concerns, and ways in which modern technology, the Bush Administration interpretation of the law and modern security threats have upended traditional safeguards. I will then discuss proposed solutions that could strike balance anew.

DEMOCRACY VERSION 2.1:
HOW CANADIAN JUDGES TALK ABOUT PRIVACY, CITIZENSHIP AND DEMOCRACY IN THE CONTEXT OF ANTI-TERRORISM LEGISLATION
Valerie Steeves
Assistant Professor, Department of Criminology, University of Ottawa
This talk examines judicial decisions dealing with anti-terrorism legislation in Canada, and analyzes the ways in which judges talk about and construct the meaning of citizenship, privacy and democracy in a post-9/11 context.

PANEL DISCUSSION AND AUDIENCE QUESTIONS

NOON LUNCH

1 P.M. KEYNOTE ADDRESS
THE KEY TO LIMITING PRIVACY IS OVERSIGHT
Amitai Etzioni
University Professor of International Affairs
Director, Institute for Communitarian Policy Studies, The George Washington University
Asking whether or not the public interest and the moral order justify trumping privacy in several major areas is only half the issue. The other half concerns whether these legitimate intrusions are effectively supervised, and that those who do them are subject to proper oversight.

Introduction by Stephen Freedman
Senior Vice President and Chief Academic Officer, Fordham University

1:50 P.M. BREAK
PRIVACY, TECHNOLOGY AND THE FLOW
OF PERSONAL INFORMATION

2 P.M.

PANEL III:
OUR PUBLIC AND PRIVATE SELVES IN THE INTERNET AGE
Moderator: Philip Napoli
Associate Professor of Communications and Media Management
Director, Donald McGannon Communication Research Center, Fordham University

PRIVACY AND THE INTEGRITY OF SOCIAL LIFE
Helen Nissenbaum
Professor, Media, Culture and Communication, New York University
I will speak about my framework for understanding the nature of privacy, called the framework of “contextual integrity.” This is an account of privacy in terms of systems of context—relative informational norms which are social norms that prescribe the flow of information in specific contexts. The framework helps to explain why people object to certain technology-based practices that increase the flows of personal information in society (e.g. through monitoring) while they accept and even welcome others. Cynics sometimes conclude that people don’t really care about privacy; this framework predicts such variability and offers it as evidence of our finely honed commitment to privacy.

TRANSPARRENCY OF PERSONAL INFORMATION AND THE RULE OF LAW
Joel R. Reidenberg
Associate Vice President for Academic Affairs
Associate Chief Academic Officer, and Professor of Law
Founding Director of the Center on Law and Information Policy, Fordham University
This presentation will explore the erosion of the boundary between public and private information on the Internet. The thesis is that the transparency of personal information available online erodes the rule of law in two ways. First, the transparency of personal information that is created by private sector activities enables government to collect and use personal information purchased from the private sector in ways that sidestep political and legal checks and balances. Second, technical self-help in the development of network infrastructure that seeks to assure complete anonymity online may be used by individuals and groups to evade legal responsibility and the rule of law. The presentation will conclude with a discussion of governance implications and norms.

PANEL DISCUSSION AND AUDIENCE QUESTIONS

3 P.M.

CONCLUDING PLENARY SESSION:
QUESTIONS AND ANSWERS
Moderator: Celia Fisher
Marie Ward Doty Professor of Psychology
Director, Center for Ethics Education
Fordham University
Interactive discussion including conference participants and all conference speakers.
This conference is proudly co-sponsored by Fordham University's Center for Ethics Education and the Center on Law and Information Policy. This is the first cooperative effort between these two centers.

The Fordham University Center for Ethics Education was created in 1999 to contribute to Fordham’s commitment to cultivating life-long habits of critical thinking, moral reflection and articulate expression. Drawing upon the Jesuit traditions of wisdom and Learning and men and women for others and the rich human diversity of New York City, the Center sponsors activities that provide students, faculty, professionals and the public with knowledge and skills to study, inform and shape a just society that nurtures the full-flourishing of peoples of diverse faiths and cultures. Affirming the complementary roles of faith and reason, the Center draws upon theology, philosophy, social and physical science, legal and other areas to provide the multidisciplinary education necessary to advance the common good.

The Center on Law and Information Policy (CLIP) was founded to make significant contributions to the development of law and policy for the information economy and to teach the next generation of leaders. CLIP brings together scholars, the bar, the business community, technology experts, the policy community, students, and the public to address and assess policies and solutions for cutting-edge issues that affect the evolution of the information economy. In pursuing this mission, CLIP pursues work in five related areas:

- Law and policy relating to the regulation of information and public values
- Law and policy for innovation and knowledge creation
- Technology, privacy and security
- Technology and governance
- The protection of intellectual property and information assets