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Private Lives: Assertions Of A "Right To Privacy" Underpin Much Settled--And Unsettled--Law

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Private Lives

ASSERTIONS OF A "RIGHT TO PRIVACY"
UNDERPIN MUCH SETTLED—
AND UNSETTLED—LAW.

Kevin Keenan '95, *Invasion of Privacy: A Reference Handbook*, ABC-CLIO Contemporary World Issues Series, 2005

The meaning of privacy does not stand still. As a concept in the United States, privacy has evolved from the time Samuel Warren and Louis Brandeis published their famous *Harvard Law Review* essay "The Right to Privacy" (1890) to the time it became the rallying cry for those seeking access to contraceptives in *Griswold v. Connecticut* and abortion in *Roe v. Wade*. Not mentioned by name in the Constitution, legal recognition of a right to privacy is a relatively recent phenomenon, and it has never been considered absolute. Nor has the notion of privacy expanded in a steady or linear fashion; who or what is deserving of privacy has changed since the Progressive Era. Kevin Keenan, recently named executive director of the American Civil Liberties Union (ACLU) of San Diego and Imperial Counties and graduate of Yale Law School, finds that "[a]lthough the tide of history since World War II has brought greater recognition and protection of human rights, including the right to privacy, it has also brought waves of abuses."

The very possibility of privacy is being transformed in and by the electronic era. Boundaries between public and private seem increasingly permeable. The public gets used to living more public lives. Some of the most intimate cell phone conversations take place in front of strangers; Web cams transmit round-the-clock coverage of the lives of people who want others to view their sleep habits and sex lives. Reality TV feeds the voyeur in us. Surveillance makes it easier to solve crimes (look at the speed with which the London subway bombers were identified), track the activities of philandering partners, and follow the footsteps of anyone living in the postindustrial world. Human genome mapping may bring health and other benefits but generate civil liberties threats. Credit card, social security, and phone numbers along with medical information easily get into databases, where they are shared, hacked into, or mishandled. Not only the state but also the "private sector" poses a threat to privacy.

Today, many governmental, corporate, and criminal invasions of privacy may remain unknown to the persons affected. This is especially true in the case of surveillance and databasing. Without mechanisms that generate accountability and transparency, Keenan argues, it will be extremely difficult for the public to discover privacy invasions. This book will make readers aware of some of these invasions and potential invasions.

In the past few years, the war on terror that provided the USA Patriot Act, fortification of schools in response to shootings, and now preparations for quarantine in case of a global pandemic have all focused attention on security, often at the expense of privacy and other rights. The American public seems prepared to trade some privacy for security, leaving Keenan's organization, the ACLU—our Bill of Rights bulldog—on the front lines in defense of rights. Keenan is



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aware that privacy is not an absolute and that there are tensions between privacy and security, while clearly regarding privacy as an important value to be protected. Although not resolving these conflicts, the book suggests ways in which changes in technology and law can better protect privacy.

These ABC-CLIO volumes are designed to be current, accessible, authoritative, and objective; they are primarily aimed at students, legislators, activists, and general readers. *Invasion of Privacy* follows the format of other volumes in this series. An introductory chapter examines the background and history of privacy in the United States and abroad and includes a discussion of the law of privacy, the various kinds of benefits from privacy, and arguments made against privacy (among the potentially progressive critiques: Should privacy be preferred to other rights with which it may conflict? Does privacy abandon women to physical abuse and violence by men because a private sphere excludes the state?). Another chapter explores two of the most intrusive and important contemporary means for invading privacy: surveillance and databasing around the world. Following these substantive treatments, a chapter contains a short chronology of privacy, focusing chiefly on the United States and Western Europe; the author points out that privacy, historically, has not been a unified concept but exists "in a variety of social norms and laws." A chapter provides biographical sketches of 21 important figures shaping 20th-century privacy, all Anglo-American. Another itemizes relevant sections from important privacy documents from the Hippocratic Oath and sacred texts in Judaism, Islam, and Christianity to constitutional and legal protections for privacy found in the United States, other nations, and in United Nations declarations. There is a short directory and annotated guide to organizations and government agencies, including relevant Web sites and phone numbers. The final chapter contains descriptions of a few selected movies and books dealing with privacy issues. Additional references are appended to most chapters. A print resource on invasion of privacy faces a problem in the rapidity with which technologies alter the realm of the possible—and thinkable. This book includes useful news Web sites in different privacy arenas.

Kevin Keenan is working on and writing about vital issues in law, politics, and policy. His intelligence, energy, and leadership—all in evidence when he was at Swarthmore—are sure to bring him to further notice in the coming years.

—Carol Nackenoff
Professor of Political Science