American Privacy
Can a 19th Century Right Survive 21st Century Technology?
Frederick S. Lane
eCampus 2010, Dartmouth College
19-21 July 2010

Introduction
• Attorney, Educational Consultant & Lecturer

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• Author of 5 Books
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The 4th Amendment

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.
The Inventor of the Hanging Chad

“You Press the Button, We Do the Rest”

“The Right to Privacy”
The “Right to Privacy” Is Not Absolute

• Contractual agreements
• Convenience
• Commercial reasons
• Security and safety concerns
• Self-inflicted wounds
  – (“digital dumbness is distressingly durable”)

THINK ... and Remember

The Warren Court & Privacy

• Mapp v. Ohio, 367 U.S. 643 (1961) – exclusionary rule
• Griswold v. Connecticut, 381 U.S. 479 (1965) – establishing a “right to privacy”
• Miranda v. Arizona, 384 U.S. 436 (1966) – right to remain silent
• Katz v. United States, 389 U.S. 347 (1967) – warrantless wiretapping is illegal
We Are All Branded Now

How Trustworthy Are Your Friends?

The Cost of Bad Publicity
- Stacy Snyder denied teaching license for MySpace photo labeled “Drunken Pirate”
- Others have lost college admissions, scholarships, fellowships, even jobs
- At least half of employers cite drinking or provocative photos as red flags
Nothing to Hide, Nothing to Fear?

GeoLocation & Granularity

New Frontiers of Surveillance
Privacy R.I.P.?

• What Is It We're Trying to Protect?
• No Single Definition of Privacy
• Fundamental Concept is Control
• Switch to “Opt-In” Model
• Federal Privacy Protection Agency?
• Education and Self-Control
• A Transparent Society?

Brandeis or Warren?

But no matter how intense curiosity about public figures can be, there is an important and deep principle at stake which is the right to some simple, human measure of privacy. I realize there are some who don’t share my view on that. But for me, the virtue of privacy is one that must be protected in matters that are intimate and within one's own family.”

Nope ... Tiger Woods (12/2/2009)

Uncharted Waters
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