

Lecture 2: Privacy Philosophy, Legislation, and Regulation

CMSC 25910

Winter 2026

The University of Chicago



**THE UNIVERSITY OF
CHICAGO**

Is Privacy Dead?

The  Register®

Privacy died last century, the only way to go is off-grid

From smartphones to surveillance cameras to security snafus, there's no escape

 [Steven J. Vaughan-Nichols](#)

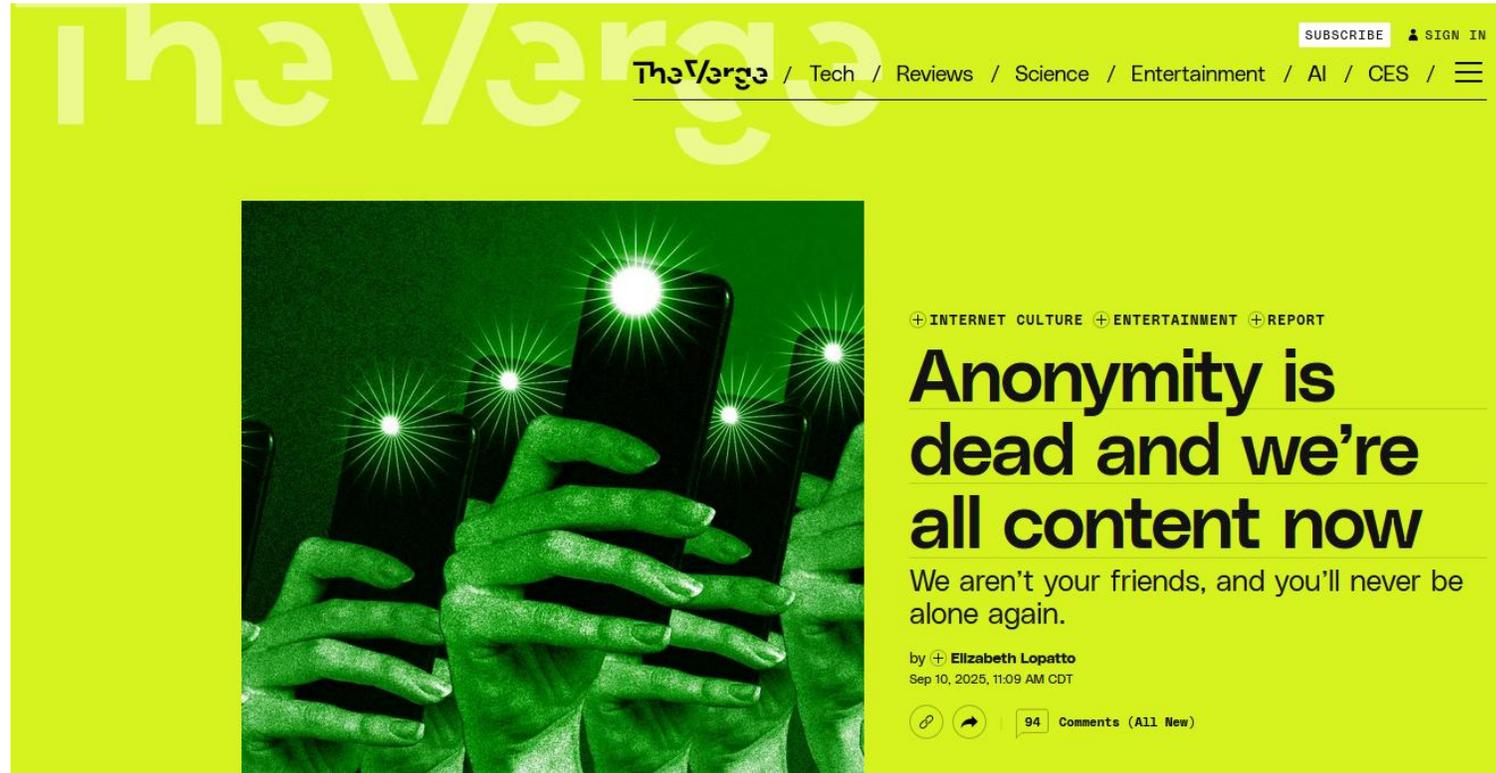
Mon 31 Mar 2025 // 12:15 UTC

OPINION I was going to write a story about how Amazon is no longer even pretending to respect your privacy. But, really, why bother?

What do I mean by that? Well, take, for example, that recently, [Amazon announced a significant change in its Alexa device privacy policy](#). Starting March 28, 2025, Amazon will remove the option to process Alexa voice requests locally on specific Echo devices. Instead, all voice recordings will be sent to the cloud for processing, a move intended to support Amazon's new generative AI features in Alexa Plus.

https://www.theregister.com/2025/03/31/privacy_dead_opinion/

Is Privacy Dead?



<https://www.theverge.com/internet-culture/775740/anonymity-privacy-filming-viral-tiktok>

Is Privacy Dead?

Facebook's Zuckerberg Says The Age of Privacy Is Over

By MARSHALL KIRKPATRICK of  **ReadWriteWeb**
Published: January 10, 2010

 PRINT

Facebook founder Mark Zuckerberg told a live audience yesterday that if he were to create Facebook again today, user information would by default be public, not private as it was for years until the company changed dramatically in December.

<https://archive.nytimes.com/www.nytimes.com/external/readwriteweb/2010/01/10/10readwriteweb-facebooks-zuckerberg-says-the-age-of-privac-82963.html>

Is Privacy Dead?

“You have zero privacy anyway. Get over it.”

Scott McNealy, Former CEO of Sun Microsystems (1999)

<https://www.wired.com/1999/01/sun-on-privacy-get-over-it/>

Is Privacy Dead?



The image is a screenshot of a Forbes article. At the top, the word "Forbes" is written in white on a black background. Below that, the word "LEADERSHIP" is written in a small, grey font. The main title of the article is "Privacy Is Completely And Utterly Dead, And We Killed It" in a large, bold, black font. Below the title, the author's name "Jacob Morgan" is listed as a "Contributor" with a small circular icon. A bio line reads "I write about and explore the future of work!". To the right of the bio is a blue button with the word "Follow" in white. Below the bio is a horizontal line, and then the date and time "Aug 19, 2014, 12:04am EDT" is displayed. The main body of the article begins with the text: "Privacy...everyone keeps talking about it and apparently everyone is concerned with it, but going forward does it even matter? I recently watched the documentary, 'Terms and Conditions may Apply,' which provides a fascinating look at how organizations such as Facebook, Google, Apple, and others have changed the way they look at and approach privacy. After watching the movie it had me wondering, 'does privacy even matter anymore?'"

<https://www.forbes.com/sites/jacobmorgan/2014/08/19/privacy-is-completely-and-utterly-dead-and-we-killed-it/>

Is Privacy Dead?

“Have you read the terms and conditions to use Facebook? Your smart phone? Most people have not, and probably with good reason... each of us knows that we’re signing away our privacy rights to use these platforms and devices. So why do we do it? We don’t truly value privacy as much as we like to believe we do.”



<https://www.forbes.com/sites/neilsahota/2020/10/14/privacy-is-dead-and-most-people-really-dont-care/>

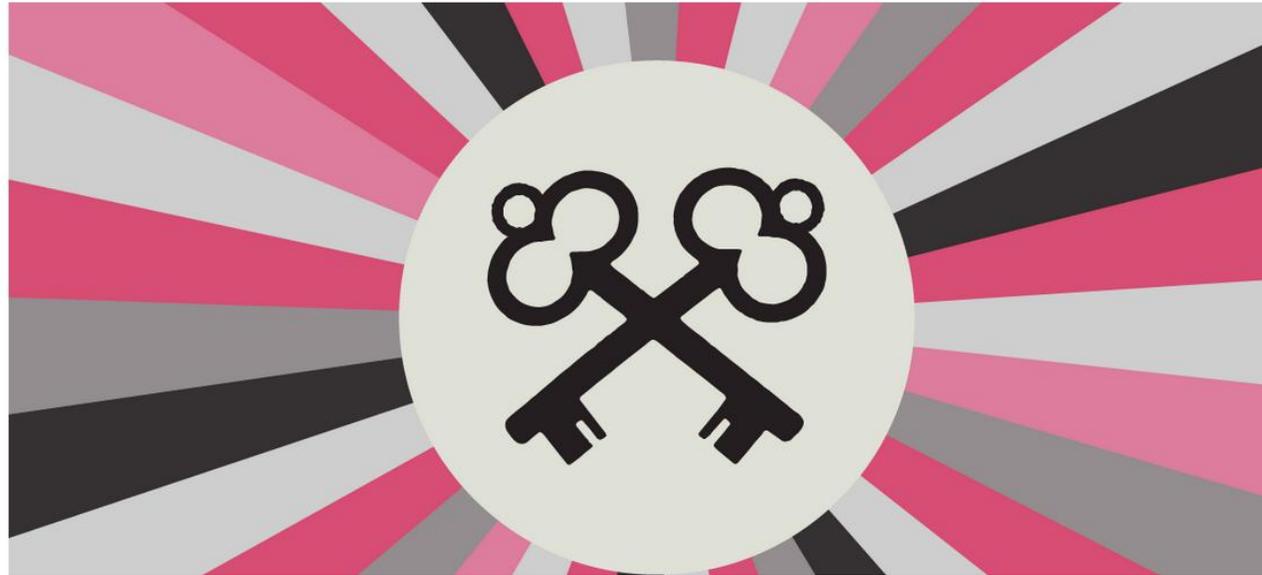
Is Privacy Dead?



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Privacy Isn't Dead. Far From It.

BY JASON KELLEY | FEBRUARY 13, 2024



<https://www.eff.org/deeplinks/2024/02/privacy-isnt-dead-far-it>

Privacy Hot Takes

“If you have something that you don’t want anyone to know, maybe you shouldn’t be doing it in the first place, but if you really need that kind of privacy, the reality is that search engines including Google do retain this information for some time... that information could be made available to the authorities.”

Eric Schmidt, Former CEO of Google (2009)

https://www.pcworld.com/article/515472/googles_schmidt_roasted_for_privacy_comments.html

Privacy

“Some might say ‘I don't care if they violate my privacy; I've got nothing to hide.’ Help them understand that they are misunderstanding the fundamental nature of human rights. Nobody needs to justify why they ‘need’ a right: the burden of justification falls on the one seeking to infringe upon the right.”

“Arguing that you don't care about the right to privacy because you have nothing to hide is no different than saying you don't care about free speech because you have nothing to say.”

Edward Snowden (2015)

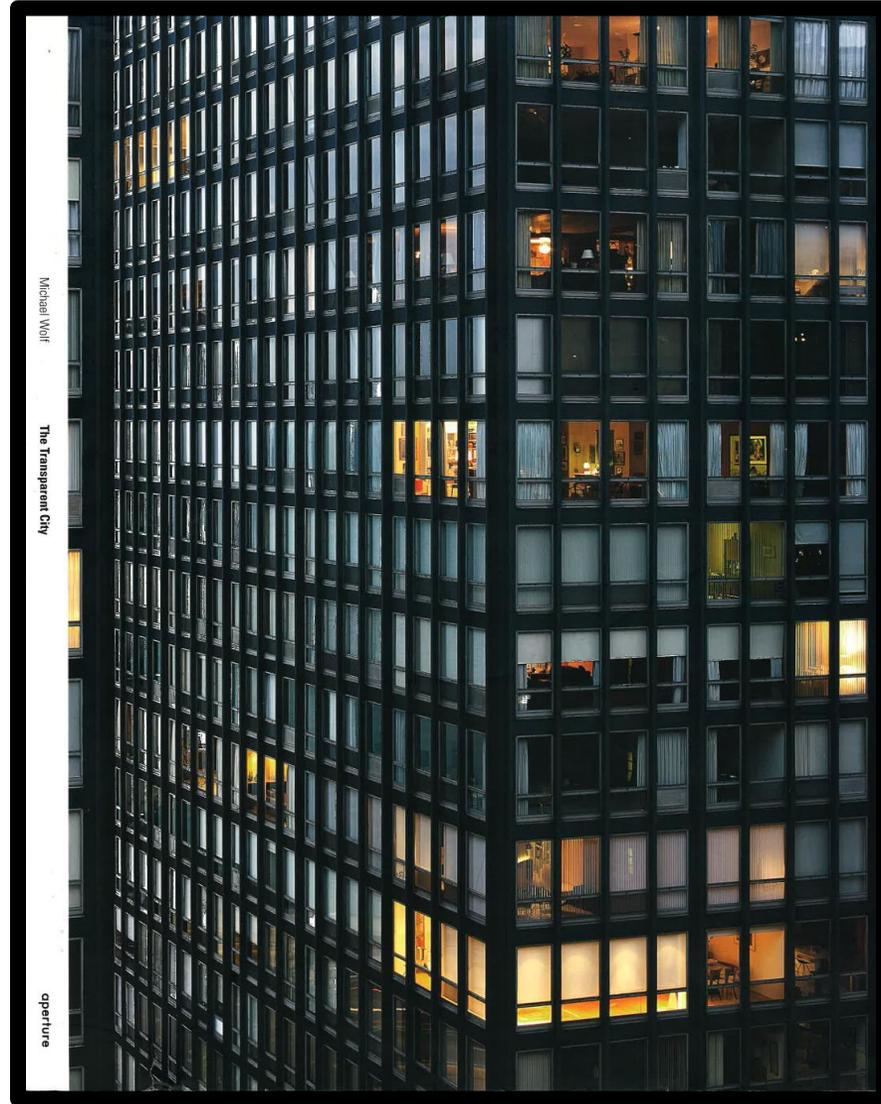
https://www.reddit.com/r/IAmA/comments/36ru89/just_days_left_to_kill_mass_surveillance_under/crqlgh2/

Privacy is Hard to Define

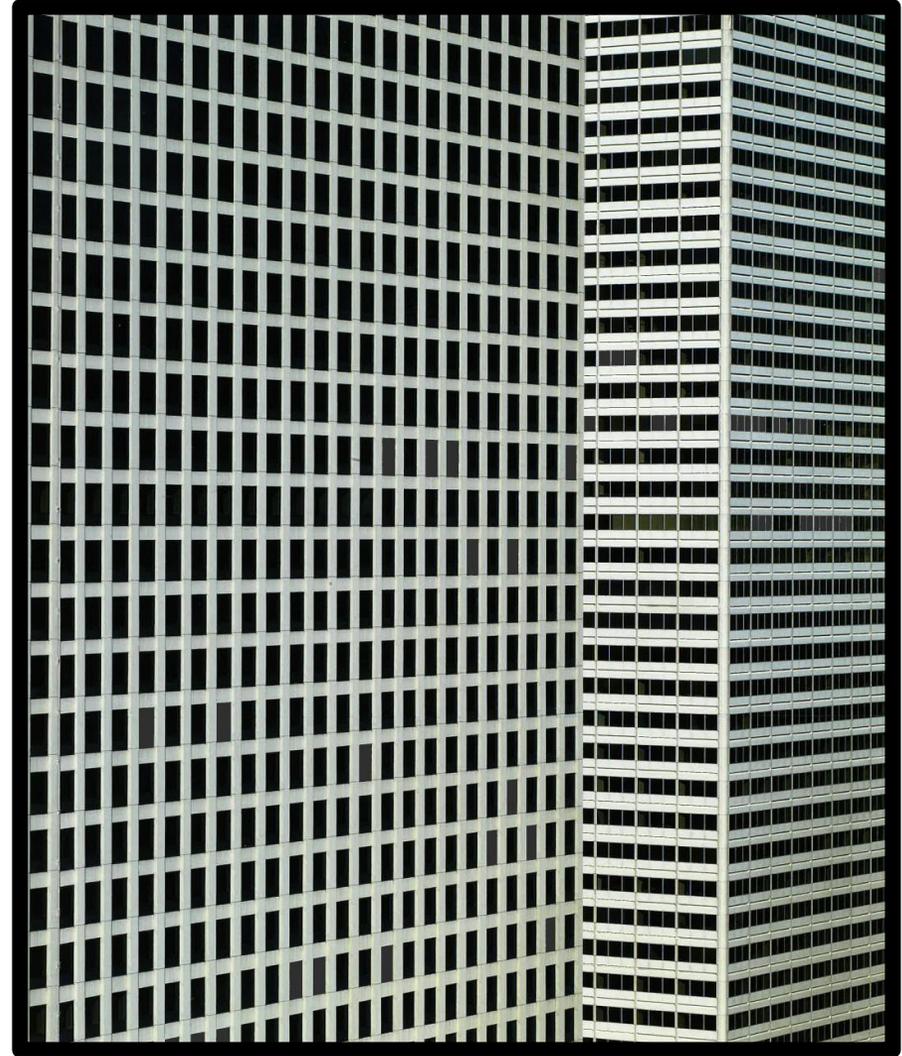
“Privacy is a value so complex, so entangled in competing and contradictory dimensions, so engorged with various and distinct meanings, that I sometimes despair whether it can be usefully addressed at all.”

Robert C. Post, *Three Concepts of Privacy*,
89 *Geo. L.J.* 2087 (2001).

Michael Wolf- The Transparent City



Michael Wolf- The Transparent City



Michael Wolf- The Transparent City

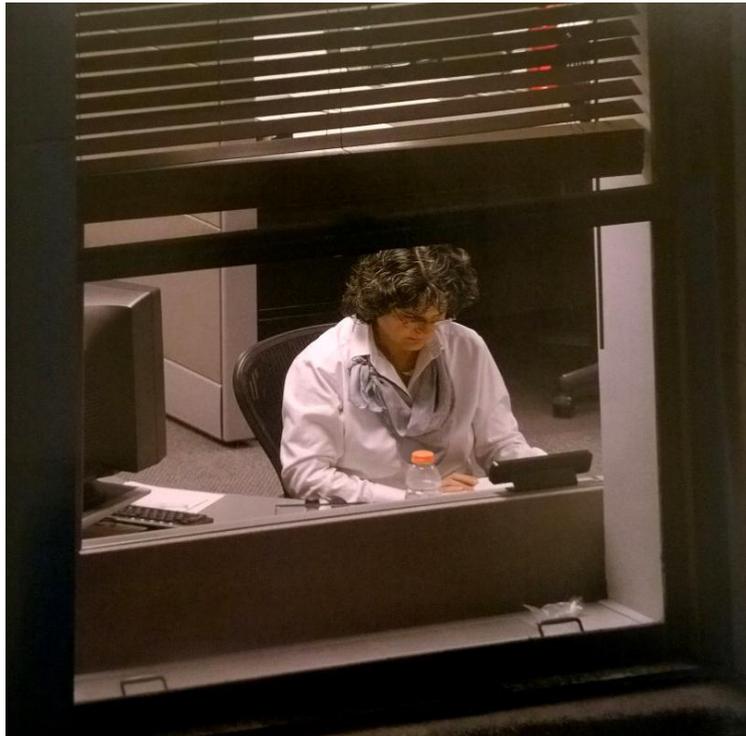


Michael Wolf- The Transparent City



“Then one evening I was looking at a photograph I had shot and I saw in it a man giving me the middle finger [...] It set off a chain reaction in me, and I began to look through every file at 200% magnification to see what else was going on in those windows. I saw hands on computer mice and family photographs on the desks of CEOs; I saw people watching flat-screen TVs in the evening.”

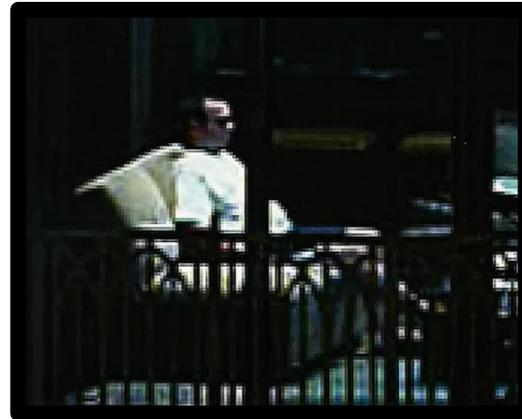
Michael Wolf- The Transparent City



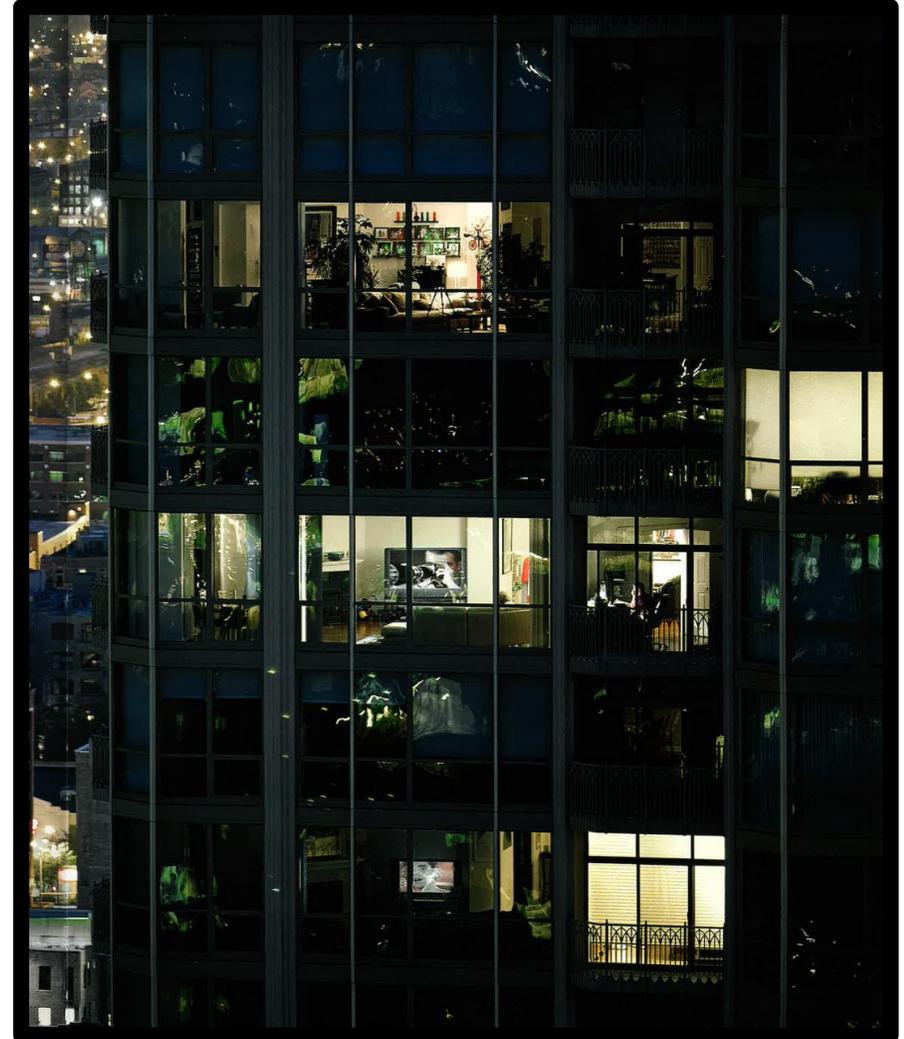
“Chicago has recently undergone a surge of new construction...In early 2007, the Museum of Contemporary Photography...invited Michael Wolf as an artist-in-residence....Wolf chose to photograph the central downtown area, focusing on issues of voyeurism and the contemporary urban landscape....his details are fragments of life—digitally distorted and hyper-enlarged—snatched surreptitiously via telephoto lenses”

<http://aperture.org/shop/the-transparent-city/>

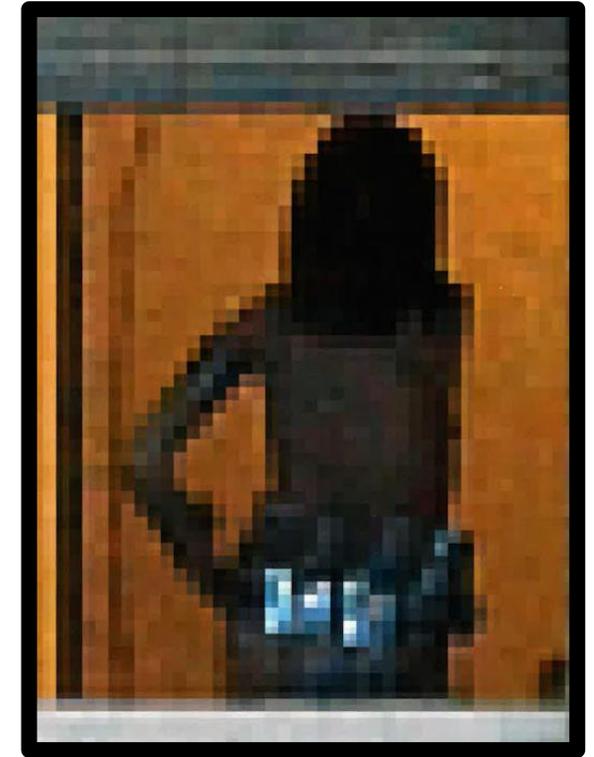
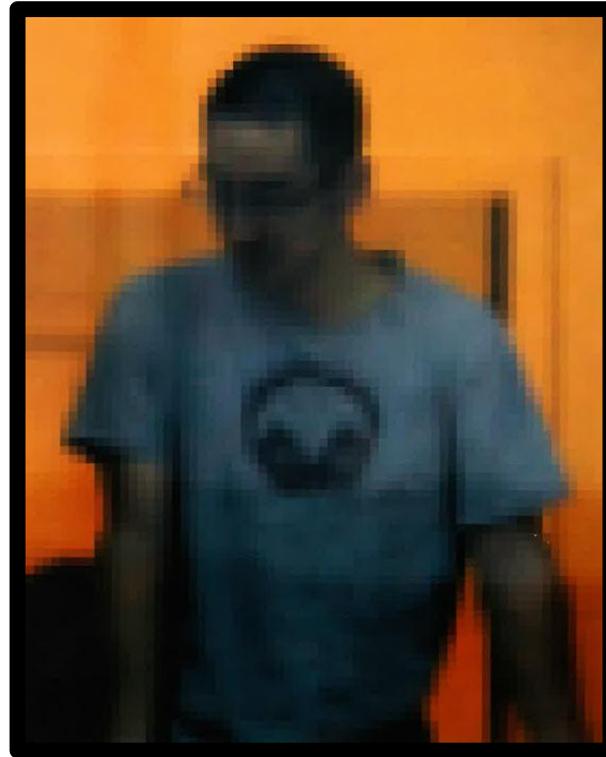
Michael Wolf- The Transparent City



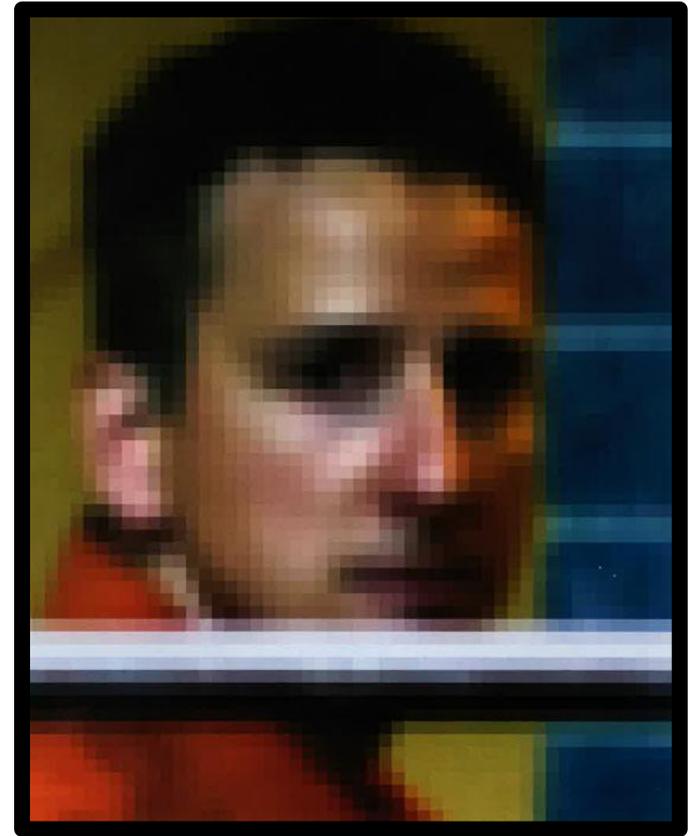
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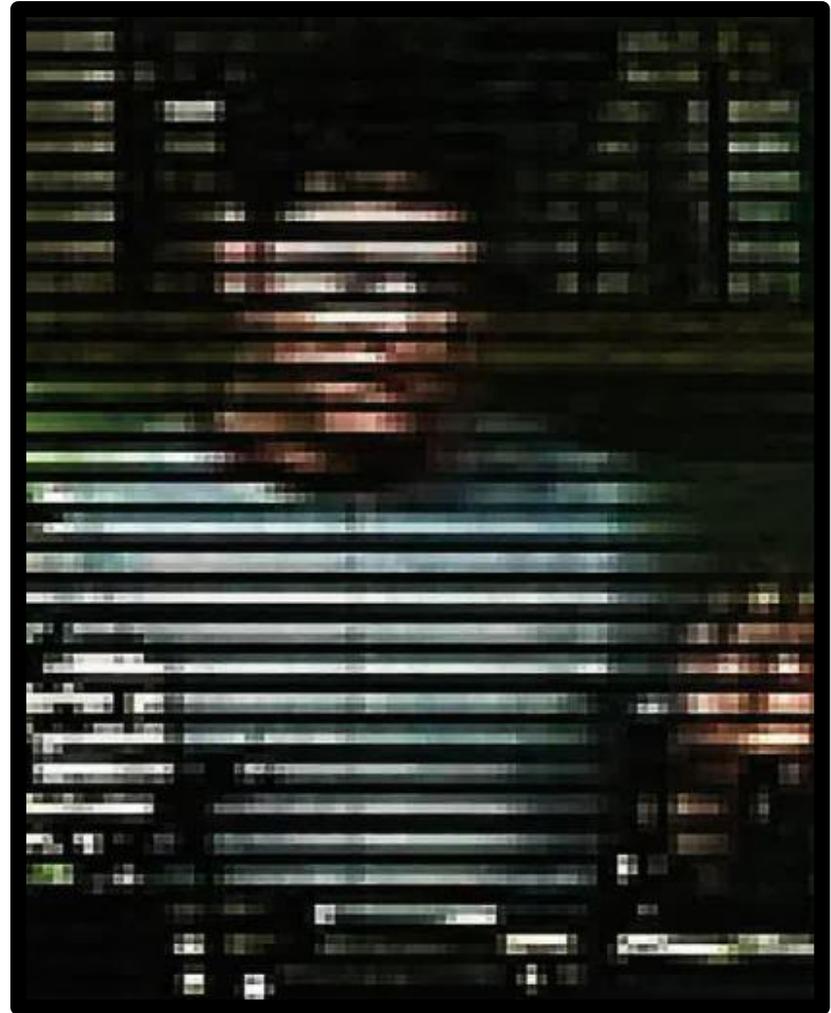
Michael Wolf- The Transparent City



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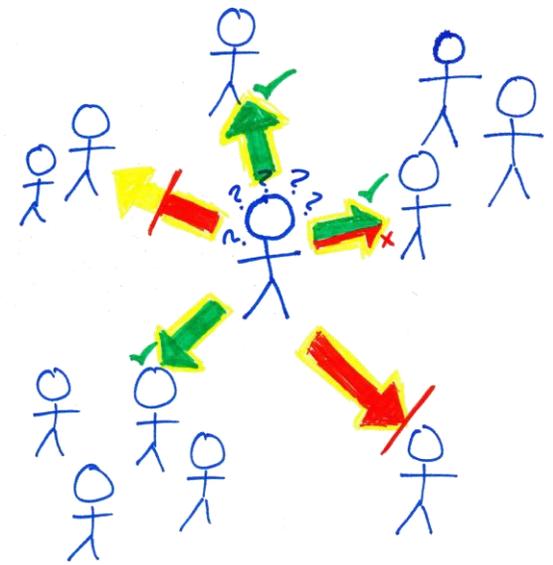


Michael Wolf- The Transparent City





Conceptualizing Privacy



Warren and Brandeis (1890)



HARVARD
LAW REVIEW.

VOL. IV. DECEMBER 15, 1890. NO. 5.

THE RIGHT TO PRIVACY.

“ It could be done only on principles of private justice, moral fitness, and public convenience, which, when applied to a new subject, make common law without a precedent ; much more when received and approved by usage.”

WILLES, J., in *Millar v. Taylor*, 4 Burr. 2303, 2312.

THAT the individual shall have full protection in person and in property is a principle as old as the common law ; but it has been found necessary from time to time to define anew the exact nature and extent of such protection. Political, social, and economic changes entail the recognition of new rights, and the common law, in its eternal youth, grows to meet the demands of society. Thus, in very early times, the law gave a remedy only

Warren and Brandeis's Inspiration



“Have you seen the Kodak fiend? Well, he has seen you. He caught your expression yesterday while you were recently talking at the Post Office. He has taken you at a disadvantage and transfixed your uncouth position and passed it on to be laughed at by friend and foe alike. His click is heard on every hand. He is merciless and omnipresent.”

The *Hawaiian Gazette*, 1890

<https://wirewheel.io/privacy-is-dead/>

Warren and Brandeis's Argument

- “The individual shall have full protection in person and in property”
- The legal basis for fear
- Gossip pages about high society

Warren and Brandeis's Argument

- Libel and slander are insufficient in considering only damage to reputation
- Considers property rights
- The right to prevent, rather than profit from, publication
- **“The right to be let alone”**
- Excludes topics of general interest

Photography Laws

Consent required for action related to a picture of a person in a public place (by country)			
Country	Take a picture	Publish a picture	Commercially ¹ use a published picture
Afghanistan	No	Yes (with exceptions)	Yes (with exceptions)
Argentina	No	Yes (with exceptions)	Yes (with exceptions)
Australia	No (with exceptions)	No (with exceptions)	Yes
Austria	No	No (with exceptions)	Yes
Belgium	No	Yes (with exceptions)	Yes
Brazil	Yes	Yes	Yes
Bulgaria	No	No	Yes
Canada	Depends on province	Yes (with exceptions)	Yes
China	No	No	Yes
Czech Republic	Yes (with exceptions)	Yes (with exceptions)	Yes (with exceptions)
Denmark	No	Yes (with exceptions)	Yes (with exceptions)
Ethiopia	No	Yes (with exceptions)	Yes
Finland	No	Yes (with exceptions)	Yes (with exceptions)
France	Yes (with exceptions)	Yes (with exceptions) ^[3]	Yes
Germany	No (with exceptions)	Yes (with exceptions)	Yes (with exceptions)
Greece	No	No	Yes (with exceptions)
Hong Kong	Depends on circumstances	Depends on circumstances	Depends on circumstances
Hungary	Yes (with exceptions)	Yes (with exceptions)	Yes (with exceptions)
United Kingdom	Depends on circumstances	Depends on circumstances	Depends on circumstances
United States	No	No	Usually (although laws differ by state)

Is Being “Let Alone” Sufficient?

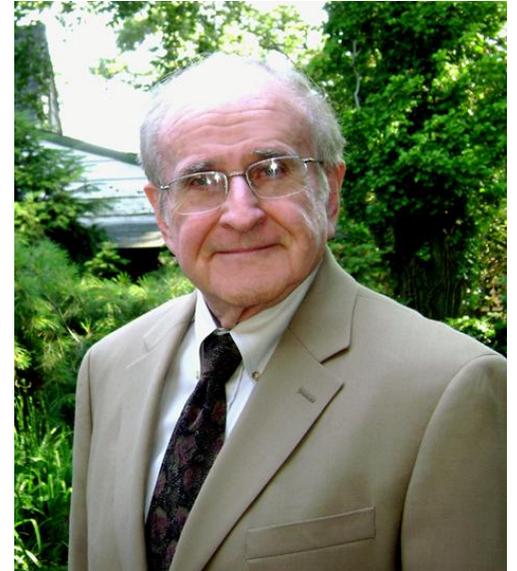


Privacy as Control / Secrecy (1967)

“Privacy is the claim of individuals, groups or institutions to determine for themselves when, how, and to what extent information about them is communicated to others.”

“...each individual is continually engaged in a personal adjustment process in which he balances the desire for privacy with the desire for disclosure and communication....”

Alan Westin, *Privacy and Freedom*, 1967



Is Limiting Access Sufficient?

- Individuals sometimes prefer to be let alone, yet sometimes want to be social
 - Privacy was traditionally “social withdrawal”

Privacy Regulation Theory (1975)

- Irwin Altman (social psychology)
 - Preceded by Altman and Taylor's Social Penetration Theory (1973) about intimacy in relationships
- Dialectic and dynamic process of boundary regulation
 - Continuous movement on a continuum
- Goal: optimum balance of privacy and social interaction



CPM Theory (1991)

- Sandra Petronio (communications)
 - Communication Privacy Management Theory
- Regulate boundaries based on perceived costs and benefits
 - Movement on a continuum
- Expect rule-based management
- Boundary turbulence related to clashing expectations



Purpose Matters



Privacy as Contextual Integrity (2004)

- Helen Nissenbaum (philosophy)
- “Contextual integrity ties adequate protection for privacy to norms of specific contexts, demanding that information gathering and dissemination be appropriate to that context.”



Privacy as Contextual Integrity (2004)

- Appropriate flows of information
- Appropriate flows conform to contextual information norms
- Norms refer to the data subject, sender, recipient, information type, and transmission principle
- Ideas of privacy evolve over time and are based in ethics

Dan Solove's Pluralistic Conceptions

- Some data isn't "sensitive," but its collection and use impact privacy
 - Impact power relationships
 - Kafka-esque
- Solove's privacy taxonomy
 - Information collection
 - Information processing
 - Information dissemination
 - Invasion



Privacy Law and Regulation

How Privacy is Protected

- Laws, self regulation, technology
 - Notice and access
 - Control over collection, use, deletion, sharing
 - Collection limitation
 - Use limitation
 - Security and accountability

OECD Fair Information Principles

- Collection limitation
- Data quality
- Purpose specification
- Use limitation
- Security safeguards
- Openness
- Individual participation
- Accountability
- <http://www.privacyrights.org/ar/fairinfo.htm>

US FTC's Fair Information Practice Principles (FIPPs)

- Notice / Awareness
- Choice / Consent
- Access / Participation
- Integrity / Security
- Enforcement / Redress
- https://en.wikipedia.org/wiki/FTC_Fair_Information_Practice



Privacy on the Books / on the Ground

- Data Protection Directive (1995, since superseded by GDPR) - EU countries must adopt similar comprehensive laws, recognize privacy as fundamental human right
 - Privacy commissions in each country
- US has sector-specific laws, minimal protections, “patchwork quilt”
 - No explicit constitutional right to privacy or general privacy law
 - Some privacy rights inferred from constitution
 - Narrow regulations for health (HIPAA, 1996), credit (FCRA, 1970), education (FERPA, 1974), video rental records (VPPA, 1998), children (COPPA, 1998)
 - FTC investigates **unfair & deceptive** practices
 - FCC regulates telecommunications
 - Some state and local laws
- See Bamberger and Mulligan, “Privacy on the Books and on the Ground,” <https://www.jstor.org/stable/41105400>

General Data Protection Regulation (2016)

- **GDPR** came into effect May 25, 2018 and applies to the EU
- Distinguishes between data subjects, controllers (people who direct analysis), and processors (those who do the analysis)
- Data controller informs the 'data subject in a concise, **transparent**, intelligible and easily accessible form, using **clear and plain language**'
- **Right of access** for data subjects
- **Right of erasure** (with some exceptions)
- **Right to object** to processing for some purposes
- **Privacy by design** (Article 25)

General Data Protection Regulation (2016)

- Pseudonymization required for stored personal data
- Data breach notification to authorities within 72 hours
- Possible fines of up to 4% of worldwide turnover
- Can only process data based on six lawful bases:
 - Consent
 - Contract
 - Public task
 - Vital interest
 - Legitimate interest
 - Legal requirement

US Approach is Centered on States



“[privacy advocates are] hoping to enact state-level privacy proposals that align closely with what Congress attempted to pass with the American Data and Privacy Protection Act: regulations that would limit what data companies can collect and share, create a data broker registry and establish new rights for Americans to delete data about themselves.”

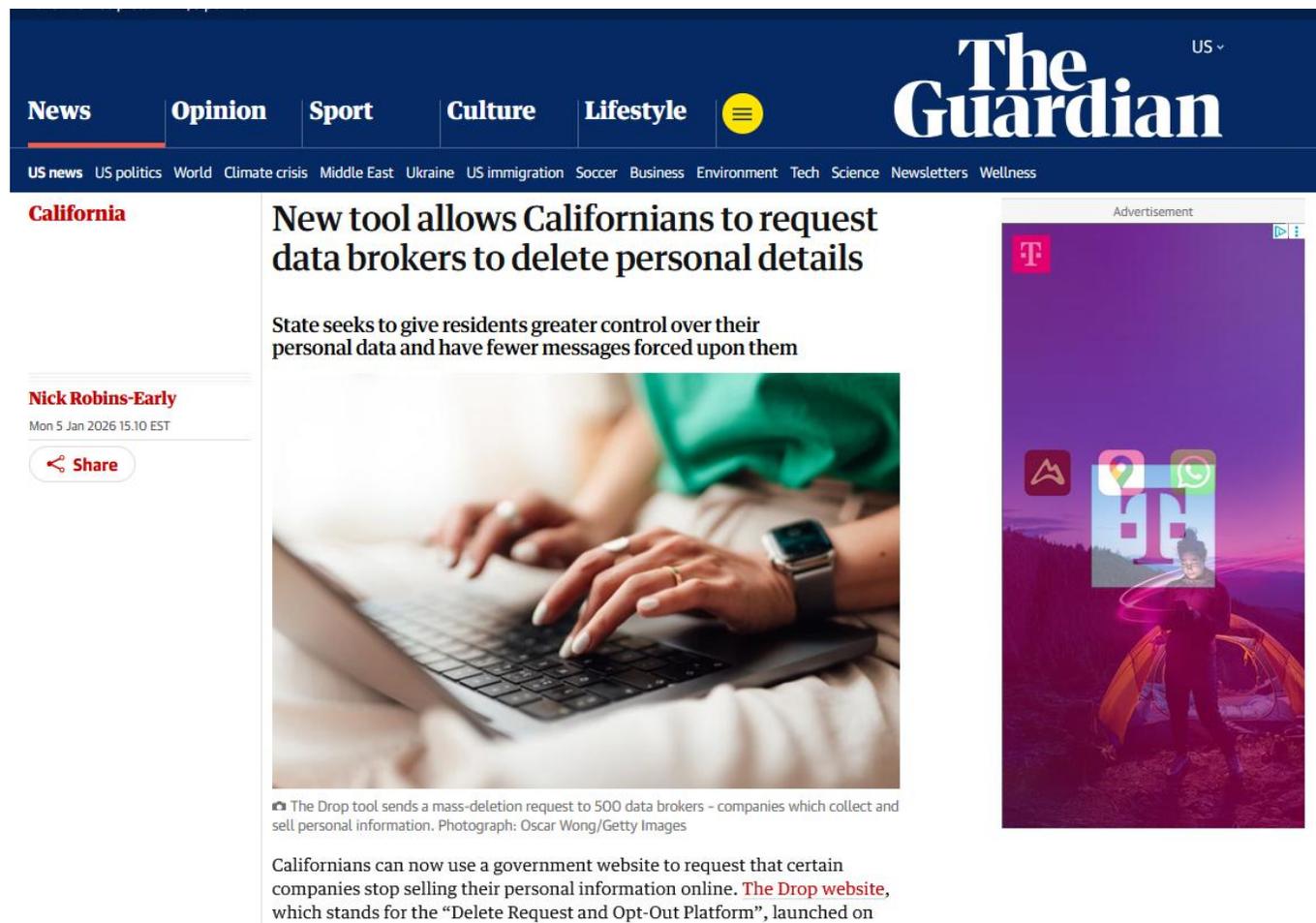
<https://www.politico.com/news/2023/02/22/statehouses-privacy-law-cybersecurity-00083775>

California: CCPA and CPRA

- California Consumer Privacy Act (**CCPA**) went into effect 1/1/2020
- Residents of California have rights to:
 - Know what personal data is collected
 - Know whether that data is sold
 - Refuse the sale of personal data
 - Access their data
 - Request erasure of their personal data
 - Not be discriminated against for exercising these privacy rights
- Fine of \$7,500 for intentional and \$2,500 for unintentional violations
- California Privacy Rights Act (**CPRA**) is a ballot measure that expands CCPA; most parts came into effect in 2023

California: Delete Act (2023)

- <https://privacy.ca.gov/drop/about-drop-and-the-delete-act/>



The screenshot shows a news article on The Guardian website. The header includes the site's logo, navigation tabs for News, Opinion, Sport, Culture, and Lifestyle, and a US location selector. The article is titled "New tool allows Californians to request data brokers to delete personal details" and is categorized under "California". The author is Nick Robins-Early, and the date is Mon 5 Jan 2026 15:10 EST. The article text states that the state seeks to give residents greater control over their personal data and has fewer messages forced upon them. A photograph shows hands typing on a laptop. An advertisement on the right features a person in a tent with social media icons overlaid.

The Guardian US

News Opinion Sport Culture Lifestyle

US news US politics World Climate crisis Middle East Ukraine US immigration Soccer Business Environment Tech Science Newsletters Wellness

California

New tool allows Californians to request data brokers to delete personal details

State seeks to give residents greater control over their personal data and have fewer messages forced upon them

Nick Robins-Early
Mon 5 Jan 2026 15:10 EST

Share



The Drop tool sends a mass-deletion request to 500 data brokers - companies which collect and sell personal information. Photograph: Oscar Wong/Getty Images

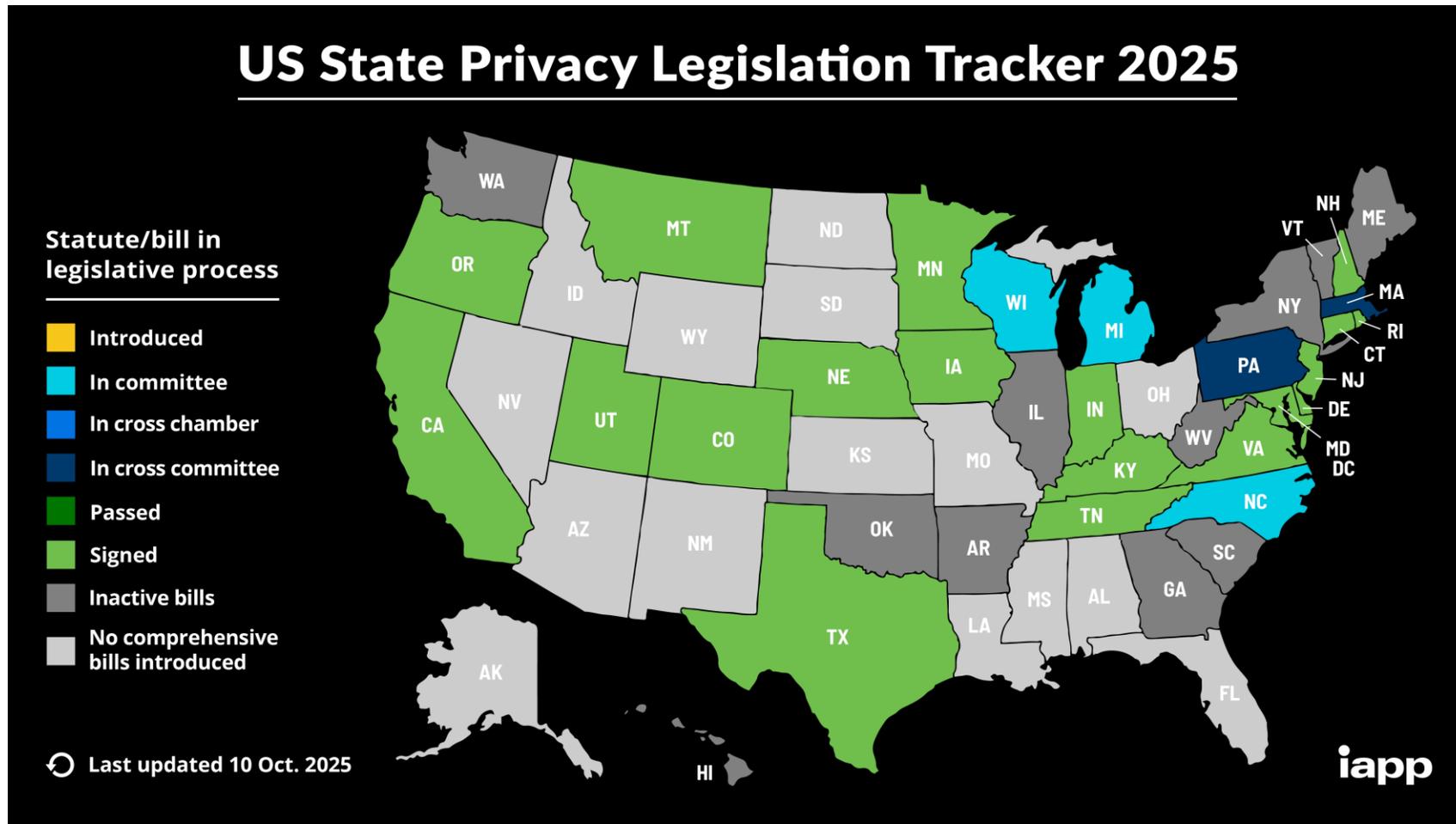
Californians can now use a government website to request that certain companies stop selling their personal information online. **The Drop website**, which stands for the "Delete Request and Opt-Out Platform", launched on

Advertisement



Current State of Affairs

- <https://iapp.org/resources/article/us-state-privacy-legislation-tracker/>



Biometric Information Privacy Act (BIPA)

- Illinois has the most stringent biometric privacy law
- Passed October 3, 2008
- \$1,000 per violation (\$5,000 if intentional or reckless)
- Requires consent from individuals if the company will collect or disclose an individual's biometric identifiers
- Must erase biometrics in a timely manner and store them securely

Federal Trade Commission (FTC) Tools

- Unfair practices
 - Injure consumer
 - Violate established policy
 - Unethical
- Deceptive practices
 - Mislead consumer
 - Differ from reasonable consumer expectations



Federal Trade Commission (FTC) Tools



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For Release

FTC Imposes \$5 Billion Penalty and Sweeping New Privacy Restrictions on Facebook

FTC settlement imposes historic penalty, and significant requirements to boost accountability and transparency

July 24, 2019 | [f](#) [X](#) [in](#)

Federal Trade Commission (FTC) Tools

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Inside Privacy

Updates on Developments in Data Privacy and Cybersecurity

FTC Announces 10-Year Information Security Consent Orders with Illuminate Education and Illusory Systems

By [Ashden Fein](#), [Caleb Skeath](#), [Laura Kim](#), [Emily Pehrsson](#) & [Analese Bridges](#) on January 2, 2026

POSTED IN [FEDERAL TRADE COMMISSION](#)

The Federal Trade Commission (FTC) recently announced that it agreed to proposed consent orders with two companies that experienced recent cybersecurity incidents, Illuminate Education (“Illuminate”) and Illusory Systems, which does business as Nomad (“Illusory”), to resolve allegations that both companies’ information security practices had violated Section 5 of the FTC Act. Both consent orders include information security-focused elements that have frequently been included in prior settlement settlements, such as requirements to establish an information security program and conduct periodic third-party assessments. However, both consent orders are set to expire after ten years, as opposed to the twenty years set by longstanding FTC policy for administrative orders.

Federal Trade Commission (FTC) Tools



FTC Announces Multiple Settlements with Data Brokers for Unlawfully Selling Sensitive Location Data

by Practical Law Data Privacy & Cybersecurity

Published on 04 Dec 2024 • USA (National/Federal)



[Related Content](#)

The FTC has announced proposed consent orders with Mobilewalla, Inc., Gravy Analytics Inc., and Venntel Inc., over allegations that their collection, use, and sale of consumers' sensitive location data violated the FTC Act's prohibition against unfair and deceptive practices. The proposed orders prohibit the companies from licensing or selling location data and from selling products or services targeting consumers based on their location data. They must also implement and maintain sensitive location data programs.

The (Supposed) Privacy Paradox

- When asked, we say we want privacy...
- ...but behaviors make it seem like we don't care about privacy
- This is a highly disputed notion!
 - Gerber, Nina, Paul Gerber, and Melanie Volkamer. "Explaining the privacy paradox: A systematic review of literature investigating privacy attitude and behavior." *Computers & security* 77 (2018): 226-261.
 - Solove, Daniel J. "The myth of the privacy paradox." *Geo. Wash. L. Rev.* 89 (2021): 1.