

Open Access, Privacy, and Ethics

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SJSU

DR. MARTIN LUTHER KING, JR. LIBRARY

Outline

- 1) The right to privacy and its contextual nature
- 2) Journalism in a networked world
- 3) *The Spartan Daily*, SJSU's student newspaper
- 4) Requests for takedowns
- 5) University Library response
- 6) Conclusions



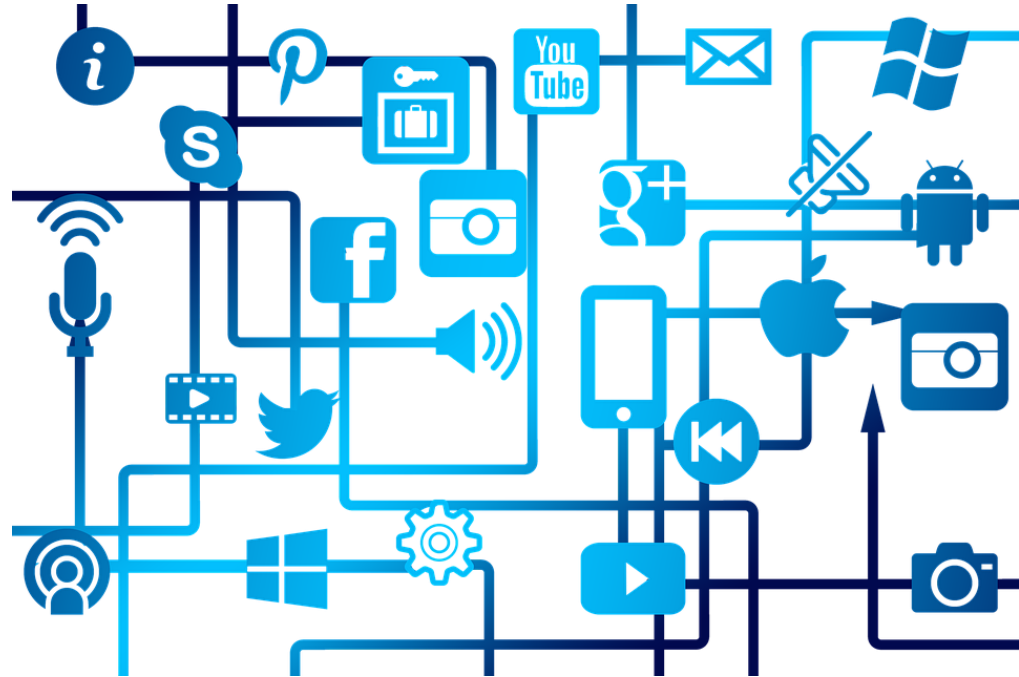
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The Right to Privacy Across Various Cultures

- United States
 - No federal law or definition of privacy
 - Case law has interpreted the Fourth Amendment to include a "right to privacy" or the "right to be left alone"
- United Kingdom
 - No cause for action with issues of "invasion of privacy"
- European Union
 - Data Protection Directive (officially Directive 95/46/EC) provides a legal base on how private information may be used on the Internet

Journalism and Publishing in a Networked World

- Delays between creation and production and production and publication have been eliminated
- Universal accessibility, which makes formerly private information public
- Work is formalized and archived, adding to dissemination and permanence



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The Spartan Daily in SJSU ScholarWorks

- Student newspaper with coverage from 1934-present
- Spring 2016 - backfiles were digitized & uploaded to SJSU ScholarWorks, the campus IR



http://scholarworks.sjsu.edu/spartan_daily/

Requests for Take Down

- Reporting from *The Spartan Daily*
 - Arrests
 - Activities that led to suspension or expulsion

**member
expelled; one
suspended**

racial incidents

students getting involved with politics

Racial slurs

*Nazi Signs
Hit Campus*

student deaths

stolen donations

Hate crimes

**'It was just
a joke'**

University Library Position

- SJSU ScholarWorks is hosting the content
- Editorial purview rests with *The Spartan Daily*
- Corrections should be made at the level of the paper
- Campus newspaper = University history
- Alteration of the record would be rewriting history

SJSU ScholarWorks



Right to Privacy Versus the Right to Inform

- Society of American Archivists (SAA) - Confidentiality of Private Information held in Public Records Brief
 - Personal privacy ends at death
 - Death is presumed 100 years after an individual's DOB or 72 years after the date found on an individual record that includes personal information
- First Amendment
 - Freedom of the press (and the right to be informed)

Right to Be Forgotten, Or the Right to Grow and Develop (and Not Be Judged By a Former Self)

- Reputation management
 - Representation of former self
 - Real impact on livelihoods and relationships (career prospects, having to explain these actions to loved ones)
- Crime
 - Rehabilitation and “debt to society” paid
 - Criminal convictions are “spent”

Importance of Privacy, Particularly in the Context of Student Life

Privacy allows us to experiment, make mistakes, and start afresh if we mess up. It allows us to reinvent ourselves, or at least maintains the valuable illusion that reinvention is possible. It is this potential for rehabilitation, for second chances, that is under assault.

Eric Posner

Conclusions & Future Directions

- With open access and increasing number of digitized campus publications, libraries will have to deal with alumni who feel that these materials infringe on their privacy
- Formulate policies with your partners as to what should be the proper response (e.g., unpublishing, redacting, metadata alteration, no action, etc.)
- Educate the student body about the longevity of the materials that are deposited into the campus repository, ways to optimize other activities via search engine indexing, and how to manage one's online identity

Questions?

Thank you!

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