Nothing to Hide
by D. Solove

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Summary

- The fallacy of the argument “I have nothing to hide”
- How privacy and security are not mutually exclusive
- The dangers of letting privacy slip away, bit by bit, in a slippery slope
- The dangers of deferring the right to judge the reasonableness of a privacy violation to other branches of government
- The problems of protecting privacy when its issues lack “visceral reactions”
- The importance of realizing what is really for security what is really just “security theatre”
- The reasonableness of violations of privacy
- The societal benefit of respecting privacy
Points of Agreement

Class Discussion

- Privacy is more than just hiding things
- Government considers people’s “reasonable expectation of privacy”

Book Quotes

- “The nothing-to-hide argument pervades discussions about privacy [...] the argument stems from certain faulty assumptions about privacy and its value” (p. 21)
- “To fill this void, the Supreme Court [...] articulated a broad test [that] would apply whenever the government violate a person’s ‘reasonable expectation of privacy’ (p. 9)
Points of Agreement

Class Discussion

- *Nineteen Eighty-Four*
- *The Trial*
  - data being used against you (helpless)
- Protection with individual oversight

Book Quotes

- “the *New York Times* revealed that [..] the Bush secretly authorized the National Security Administration (NSA) to engage in warrantless wiretapping” (p. 81)
- “Americans asked: ‘What is the NSA?’” (p. 81)
- “The government wouldn’t even allow the trial judge to examine the documents to evaluate the government’s claim that their disclosure would undermine national security” (p. 69)
- “At a minimum, claims of national security should be examined with great skepticism” (p. 69-70)
Points of Extension

- The fickleness of the Fourth Amendment (p. 3)
- Having the courts defer to the executive or legislative branches is unconstitutional (chapter 4)
- “Security theater” (p. 45)
- “The Pendulum Argument” (chapter 6)
- The importance of privacy as a social value, rather than merely an individual right (chapter 6)
- “Orwellian versus Kafkaesque” violations of privacy (direct surveillance versus information processing) (p. 27)
- The danger of extending executive power during times of war/crisis (chapter 9)

“For example, the Fourth Amendment will protect you when a police officer squeezes the outside of your duffel bag — yet it won’t stop the government from obtaining all your Google search queries or your credit card records.”
Points of Disagreement

Class Discussion

- Fair information practices
  - HEW collection limitation and disclosure
  - FTC notice and access

Book Quotes

- “FISA’s high level of secrecy is appropriate for matters of espionage but not for matters of law enforcement in general. Unlimited secrecy eliminates accountability and prevents the public from being able to understand and evaluate the government’s actions, especially when they affect people’s rights and civil liberties” (p. 77)
We’re sorry we violated your privacy. But we had a really important need to investigate the smuggling of weapons. Stopping this crime can save many lives. Once we discovered you were innocent, we ceased our surveillance of you. We realize you might have been harmed by this, but think of how much good your sacrifice did for society. Sometimes you have to take one for the team. Thank you.

Fondly,
The Government

*Keeping you safe and secure, since 1789*