A Fresh Look at Privacy-Why Does It Matter, Who Cares, and What Should Librarians Do about It?

By Trina J. Magi

Think back to the last time you took a commercial flight, and picture yourself standing in the airport security line. You show your boarding pass and photo ID to the TSA agent. Perhaps you struggle a bit with your laptop or backpack or purse while you remove your shoes and jacket and place them in the plastic bin. At the last minute, you remember to pull out the quart-size, zip-top baggie that's holding your miniature deodorant, shaving cream, and toothpaste. Then you wait for the signal that it's OK to proceed through the metal detector.

How did you act and speak in that airport security line? Did you behave differently than you normally do? Whether I ask these questions of librarians, community groups, or college students, the answers are strikingly similar: "I answer the agents' questions politely." "I don't question any instructions or policies." "I don't make any jokes." "I try to seem relaxed and calm." "I wear tighter fitting clothes so it doesn't look like I'm hiding something." "I don't discuss anything political or controversial."

There's nothing wrong with asking questions, making jokes, wearing loose pants, or discussing politics. But when you're under surveillance, you might avoid doing those things because you don't want to stand out. Now imagine that your whole life is like the airport security line. That's what life is like in surveillance societies. People practice "anticipatory conformity" in an effort to blend in and not attract attention—even if they're doing nothing wrong. A great deal is lost—or rendered invisible—in such societies. Vigorous dialogue, humor, authenticity, personal expression, and spontaneity are replaced by a stifling sameness.

Why does privacy matter?

In the same way that privacy—and lack of surveillance—are important for vitality in society, privacy is important if the library is to remain a vibrant marketplace of ideas. We must avoid the self-censoring chilling effect that may be created by revealing users' activities. That's why the American Library Association (ALA) *Code of Ethics* expresses a commitment to protecting the confidentiality of library users (*Code of Ethics*, 2008).

Through my study and work advocating for privacy and reform of the USA PATRIOT Act, I've come to learn that there are many reasons, in addition to avoiding the chilling effect, that privacy matters to us as human beings. Recently I reviewed scholarly literature on privacy from fields outside library science, including psychology, sociology, law, political science, anthropology, philosophy, and public affairs. I read books and essays and articles by 37 scholars and identified 14 reasons privacy matters to us as individuals, to the development and maintenance of interpersonal relationships, and to our health as a society (Magi, 2011). Most of the 14 reasons have nothing to do with a desire to hide wrongdoing. Here are a few examples:

Example 1: Privacy provides the chance for relaxation and concentration—reducing the "friction" of relationships and society (Gavison, 1980; Solove, 2008). After a long day of meetings, does it ever feel good to you to come home to an empty house or apartment, close the door, and savor the chance to be alone for a while? That's why privacy matters.

Example 2: Privacy provides space for disagreement and allows more tolerance. For example, people's views about consensual sexual behavior are highly and legitimately varied, and reasonable people can disagree. Privacy means those views do not have to undergo public scrutiny and people are not forced to justify their choices (Rosen, 2000). That's why privacy matters.

Example 3: Privacy gives you a place to try out rough-draft ideas (Gavison, 1980). Have you ever confided in a friend about a problem, and appreciated the opportunity to "think out loud" and vent about possible solutions, including some solutions that you would never really pursue and wouldn't dream of sharing with a mere acquaintance? That's why privacy matters.

Example 4: Privacy preserves the chance to make a fresh start. Through most of human history, it's been easier to forget things than to remember. In the digital age, the opposite is becoming true. Now information about individuals may be kept permanently, keeping people tied to an increasingly irrelevant past (Mayer-Schonberger, 2009). So if you want a society that can forgive and allow for the possibility of individual change, that's why privacy matters.

Does anyone still care about privacy?

Scholars in many fields have identified a host of reasons privacy matters. But do people—including the people that use your library--really care about privacy? There are powerful voices urging us to believe they don't. For example, Scott McNealy, CEO of Sun Microsystems, said we have no privacy and we

should "get over it" (Sprenger, 1999). Facebook founder Mark Zuckerberg claimed, "People have really gotten comfortable not only sharing more information and different kinds, but more openly and with more people. That social norm is just something that has evolved over time" (Matyszcyk, 2010). It is important to note that these kinds of statements often come from corporate interests—from people who stand to make a lot of money by gathering personal data, packaging it, and selling it. Ironically, Zuckerberg last year sought a restraining order against a fan who sent him e-mail messages, flowers, and a hand-written note ("Facebook founder stalked," 2011). It seems that while some people in power wish to maintain *their* privacy, they want us to believe that privacy is lost or irrelevant for everyone else.

There is, however, evidence that people do care about privacy. First, all states have laws or attorney general opinions protecting the privacy of library records (Chmara, 2009). Second, at the federal level, there is discussion about creating a consumer privacy bill of rights, with proposals coming from Congress and the White House (McCullagh, 2011; Valentino-Devries & Steel, 2011). Third, over the last five years, Facebook users have repeatedly expressed outrage over Facebook features and policies that violated user privacy. When Facebook introduced NewsFeed in 2006, 700,000 users signed a petition opposing it (Romano, 2006). When it introduced Beacon in 2007, 50,000 users joined an opposition group and a class-action law suit was filed (Klaassen, 2007). In 2009, Facebook announced it would own user content even if users deleted their accounts, and 86,000 joined a group opposing that policy (Vascellaro, 2009). Finally, a growing number of scholarly studies show that people are concerned about privacy. A few are highlighted below.

Report from Annenberg Public Policy Center at University of Pennsylvania. Twenty-minute telephone interviews with a nationally representative sample of 1,200 adults 18 and older showed that a clear majority express worry about their personal information on the Web. Almost all respondents (95%) agreed or strongly agreed they should have the legal right to know everything Web sites know about them (Turow, 2003).

Consumer Reports Poll. A telephone survey of a nationally representative sample of more than 2,000 adults 18 and older found that 93% think Internet companies should always ask for permission before using personal information; 72% want the right to opt out when companies track online behavior; and 61% are confident that what they do online is private and not shared without their permission (Consumers Union, 2008).

Harris Poll. In a nationwide online survey of 2,513 adults, a 60% majority was not comfortable when Websites use information about a person's online activity to tailor advertisements of content based on a person's hobbies or interests (Harris Interactive, 2008).

Studies show that teens and young adults care about privacy, too

Hoofnagle, King, Li, and Turow. A telephone survey of a nationally representative sample of 1,000 Americans found that privacy attitudes expressed by young adults ages 18-24 are not much different than older adults, except that a higher proportion of 18-24 year olds mistakenly believe that the law protects their privacy more than it actually does (Hoofnagle, King, Li, & Turow, 2010).

Johns and Lawson. This survey of 444 undergraduates at Iowa State University found that 85% said online privacy is important or very important, and 91% said the university or library should never disseminate students' information to outside agencies (Johns & Lawson, 2005).

Pew Internet and American Life Project. In a survey of 935 teens ages 12-17, plus six focus groups with middle and high school students, Pew learned that most teenagers do take deliberate steps to protect their privacy online and manage their personal information. They do this in a variety of ways, such as keeping information vague, using first name only rather than a full name, deliberately claiming to be a younger age to achieve the restricted access built into the social network they use, and posting fake or false information. Only 2% posted their cell phone number (Lenhart & Madden, 2007).

boyd and Hargittai. A survey of 1,115 18- and 19-year-olds at University of Illinois, Chicago, found that "far from being nonchalant and unconcerned about privacy matters, the majority of young adult users of Facebook are engaged with managing their privacy settings on the site at least to some extent. . .most report modifying their settings" (boyd & Hargittai, 2010, p. 17).

boyd and Marwick. During 163 90-minute interviews with teens in 20 states, boyd and Marwick learned that participation in networked publics does not imply that today's teens have rejected privacy as a value. All teens have a sense of privacy, although their definitions of privacy vary widely. To illustrate, the researchers quote one teen:

> *Every teenager wants privacy. Every single last one of them, whether they tell you or not, wants privacy. Just because an adult thinks they know the person doesn't mean they know the person. And just because teenagers use internet sites to connect to other people doesn't mean they don't care about privacy. . .So to go ahead and say that teenagers don't like privacy is pretty ignorant and inconsiderate honestly, I believe, on the adult's part (boyd & Marwick, 2011, p. 1).*

But if people care about online privacy, why do they give away personal information?

The above studies are clear that people, including young people, are concerned about privacy. It's also true, however, that people often behave in ways that suggest otherwise. Some have called this the "privacy paradox" (Barnes, 2006), and it may result in part from people's lack of understanding. The Annenberg Public Policy Center was among the first to show that the majority of U.S. adults who use the internet "have no clue about data flows—the invisible, cutting edge techniques whereby online organizations extract, manipulate, append, profile and share information about them" (Turow, 2003, p. 3). Several of the above-mentioned studies also indicate that people do not understand what's really going on behind the scenes, or they naively believe that if a Web site has something called a "privacy policy," that means that their privacy is protected. They don't understand that most of those privacy policies are really disclaimers indicating all the ways their personal data can be used.

What if people do understand all that? If librarians see people willingly share personal information, are they then absolved of their obligation to protect user privacy? My answer is "no." Our judgment about whether other people are protecting their own privacy is not an adequate ethical basis for jeopardizing their privacy. Consider the following analogy: If someone says they value a long life but smokes cigarettes, we don't take that to mean that we may put toxins in the drinking water. It's not our place to turn observations of some people's behavior into a policy of no privacy for all.

What should librarians do?

Librarians can take many steps to protect user privacy:

•   Adopt the American Library Association *Code of Ethics* and *Library Bill of Rights* as policy at your library—and promote the fact that you've done so. Post the documents prominently in your library, and be proud of the fact that libraries are different from commercial information providers. (The text is available at http://www.ala.org/ala/issuesadvocacy/intfreedom/librarybill/index.cfm and http://www.ala.org/ala/issuesadvocacy/proethics/codeofethics/codeethics.cfm.)

•   Write and adopt a library privacy policy that states your commitment to protecting users and complying with your state law. (Guidance for doing this is available from the American Library Association at http://www.ala.org/ala/aboutala/offices/oif/iftoolkits/toolkitsprivacy/default.cfm.)

•   If you implement a self-service "hold" system, be sure that you're not putting on public display the names of your users and the materials they want. (For a recently adopted ALA Council resolution on self-service hold practices, see pages 5-6 of the *ALA Intellectual Freedom Committee Report to Council* at http://www.ala.org/ala/aboutala/governance/council/council_documents/2011_annual_docus/cd_19_2_19_4_ifc.pdf)

•   Continue to advocate for reform to the USA PATRIOT Act.

•   Continue to be wary of government and law enforcement intrusion at your library.

New privacy threats from commercial vendors

It's important to understand that it's not just the government that wants library user data. With the continuing emergence of new technologies, librarians also must become more careful and critical with regard to commercial interests, for whom personal data is a valuable commodity to be bought and sold. Many vendors of online products have begun to incorporate personalization features into their search-and-retrieval interfaces, inviting users to create personal profiles and online repositories where they can record their research interests, search strategies, and favorite articles. Concerned about the privacy implications of this trend, I studied the privacy policies of 27 major vendors of online library databases, and compared them to standards of the library profession and the Federal Trade Commission's *Fair Information Practices* (Magi, 2010).

In general, vendors fail to offer adequate privacy protection. Several vendors had no privacy policy at all, and almost none of the existing policies reflected the ALA *Code of Ethics*. Most vendors do little to let users control what happens to their personal information, are unspecific in saying how they protect information from unauthorized access, and indicate they will share personal information with other parties for a variety of reasons (some as vague as "to protect the well-being of the company"). In light of this, librarians should educate their users, giving people the information they need to make informed choices that are right for them. Don't assume users know anything about how a third-party database works and puts their privacy at risk; tell them, and let them decide what they want to do.

In addition to online databases, librarians should carefully evaluate other services provided by third-party vendors to ensure that the handling of user data is legal and ethical. For example, does your library's chat or text reference service route user names and questions through a third party? Is your e-Book vendor capturing data about your users? Is your automated library system storing circulation data in the cloud or on remote servers outside the library?

To protect user privacy, it's best to keep all such transactions and data within the library, but if you want to use a third party, be sure your state law and your library policy allows you to share user information. At University of Vermont, we asked the company that facilitates our text reference service to sign

a patron data confidentiality agreement stipulating that 1) the user data remains the property of the university, 2) the company will not share, sell or rent this data (including in the event of a company sale or merger), 3) the company will not make the data available to any agency of state, federal, or local government before contacting the library, and 4) the company will use appropriate measures to ensure security of the data.

Is protecting privacy worth the trouble?

It is becoming increasingly difficult to protect user privacy. Sometimes, it involves extra work and greater expense. Having studied privacy issues for a number of years now, I am convinced that privacy matters a great deal to our health as individuals, in our relationships, and as a democratic society. I am also convinced that holding firm to our commitment to protect privacy matters to the survival of libraries. Frequently, librarians talk and write about how to keep libraries relevant. As a former marketing professional, I know the importance of occupying a unique position in the marketplace—of finding something that sets your organization apart. More than ever, libraries hold a unique and critically important place in the information landscape. I can think of few other information providers that do what libraries do: provide a broad range of information, make it accessible to everyone regardless of means, while embracing the ethical principle that our users' personal information is not a commodity to be traded or sold. Our commitment to user confidentiality is rare and special, and it's a characteristic that research tells us is important to people. That means it's a competitive advantage, in the same way that reliability of its cars has been a competitive advantage for Toyota. I believe it's essential that we work to preserve that competitive advantage, both because it's the ethical thing to do, and because it's a practical way to stay relevant.

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