



The Limits Of Privacy

By Amitai Etzioni

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Privacy is perhaps the most hallowed of American rights—and most people are concerned that new technologies available to governments and corporations threaten to erode this most privileged of rights. But in *The Limits of Privacy*, Amitai Etzioni offers a decidedly different point of view, in which the right to privacy is balanced against concern for public safety and health. Etzioni looks at five flashpoint issues: Megan's Laws, HIV testing of infants, deciphering of encrypted messages, national identification cards, and medical records, and concludes that there are times when Americans' insistence on privacy is not in the best interests of society at large. He offers four clear and concise criteria which, when applied jointly, help us to determine when the right to privacy should be overridden for the greater public good. Almost every week headlines warn us that our cell phones are being monitored, our e-mails read, and our medical records traded on the open market. Public opinion polls show that Americans are dismayed about incursions against personal privacy. Congress and state legislatures are considering laws designed to address their concerns. Focusing on five flashpoint issues—Megan's Law, mandatory HIV testing of infants, encryption of electronic documents, national identification cards and biometric identifiers, and medical records—*The Limits of Privacy* argues counterintuitively that sometimes major public health and safety concerns should outweigh the individual's right to privacy. Presenting four concise criteria to determine when the right to privacy should be preserved and when it should be overridden in the interests of the wider community, Etzioni argues that, in some cases, we would do well to sacrifice the privacy of the individual in the name of the common good.

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Editorial Review

Amazon.com Review

Privacy isn't all it's made out to be, says George Washington University scholar Amitai Etzioni. "Without privacy no society can long remain free," he writes, but our communities also have other goals that sometimes must override the privacy imperative. "Should the FBI be in a position to crack the encrypted messages employed by terrorists before they use them to orchestrate the next Oklahoma City bombing?" he asks. Etzioni's answer is a resounding "yes," and he applies similar logic to a number of areas. He believes, for example, that newborn babies should undergo HIV tests without parental consent because they could benefit from immediate treatment, even though mothers worried about personal revelations might object. He also supports the various sorts of "Megan's laws" that try to protect society against sex offenders.

Etzioni believes the government will use this sort of personal information responsibly; his faith is so complete in this regard that he even supports issuing national ID cards to all Americans. Big business doesn't fare nearly as well in his estimation: he worries that companies will abuse private medical records. Although there is much common sense on these pages, most readers will find areas of disagreement with Etzioni. He nevertheless offers an intelligent challenge to America's libertarian impulses. --*John J. Miller*

From Library Journal

Sociologist Etzioni's latest will stir debate on issues of privacy. As in previous books (e.g., *The New Golden Rule*, Basic Bks., 1997), Etzioni espouses the philosophy of communitarianism, which holds that individual rights must be balanced with concern for the common good. He favors HIV testing of infants, opposes encrypted messages, favors national ID cards, and proposes isolating sex offenders in villages akin to leper colonies. The book carefully dissects each issue, offering detailed statistics and addressing opposing viewpoints. At the conclusion of each chapter, Etzioni shows how a balanced analysis leads to a solution. He criticizes the ACLU for its sole emphasis on individual liberties and argues that the Constitution's Fourth Amendment, the right to be free from unreasonable search and seizure, does not make privacy a privilege. While not everyone will agree with his conclusions, Etzioni has crafted a compelling argument for compromise between the views of libertarians and government. Recommended for all public

libraries.

A Harry Charles, Attorney at Law, St. Louis

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From The New England Journal of Medicine

Everyone knows -- patients as well as doctors -- that the confidentiality of medical records has virtually disappeared. Amitai Etzioni, a well-known social scientist, documents the violation of the privacy of medical records that occurs when unauthorized persons gain access to such information in record rooms or on computers -- what worries most people about the easy accessibility of their records. Of greater concern is that "most violations of the privacy of medical records are the result of [the] legally sanctioned...unconcealed, systematic flow of medical information... to non health-care parties including employers, marketers, and the press... the daily, continuous, and very numerous disclosures and uses that are legal but of highly questionable moral standing." Concern about these intrusions has spurred attempts to make medical records more secure. It is important to take advantage of the convenience of computerized information handling without losing the privacy that goes with illegibly scribbled notes stored in a filing cabinet in a private office.

Etzioni acknowledges the need for solutions to the problem of the virtual transparency of medical records. But when our concern with privacy -- our obsession, according to Etzioni -- prevents the use of the results of

testing for the human immunodeficiency virus for public health purposes, allows sex offenders to return to the community, prevents law-enforcement agencies (even those with warrants) from deciphering encrypted messages, and denies us the benefits of universal identification cards, then things have gone too far, damaging the common good. Etzioni identifies himself as a communitarian. Communitarianism has arisen in politics, ethics, and philosophy in response to what is seen as the excesses of the increasing individualism that marks this century, especially since World War II. (The entire October 17, 1999, issue of the New York Times Magazine, entitled "The Me Millennium," was devoted to the subject.)

Nobody looking at the contemporary United States (and Europe) can fail to see evidence of the widespread concern with the self that is everywhere (for example, the overemphasis on the autonomy of patients in medicine). For some, it is a selfish "me, myself, and I-ism" that destroys the enduring values of community, whereas for others it is the blossoming of rational, self-determining, highly evolved individuals that is necessary for the progress of democracy. Like all major social changes, this recent surge of individualism takes many forms, produces excesses as well as benefits, and engenders countervailing forces. It cannot be otherwise.

The extreme concern with privacy seems to be one byproduct of this return to individualism. This is not so odd a reaction, since the private life as a respected and hidden domain disappeared in the 1960s. (Remember the slogan of that era announcing its demise: "The personal is the political.") The ease with which private or personal information is made accessible through the universal use of computers feeds people's worry.

Etzioni does a service by raising well-researched questions about privacy on both sides of the problem -- that is, too little privacy as well as too much. It is the solutions he offers that are the issue. For example, no one is happy at the thought that sexual offenders who return anonymously to their communities after completing their sentences may strike again -- the basis of so-called Megan's laws. But I'm not sure many will subscribe to Etzioni's solution: transferring these people after they have completed their prison terms to guarded villages "where they are allowed to lead normal lives aside from the requirement that they stay put." Unfortunately, the author is not even-handed. Unhappy with what he believes is their faulty thinking, he dismisses some who disagree with his positions, particularly liberals and the American Civil Liberties Union, as being merely self-serving and wrong-headed, instead of being clear-thinking, right-minded communitarians of his stripe. He brushes aside, not too politely (quoting, for example, a comment that Justice William O. Douglas's reasoning provoked "not only giggles but guffaws" from Justice Arthur Goldberg's clerks), the constitutional basis for privacy that characterized the famous rulings by the Supreme Court on reproductive choices in *Griswold v. Connecticut* (1965), *Eisenstadt v. Baird* (1972), and *Roe v. Wade* (1973).

For Etzioni, privacy is not a right, but "a societal license that exempts a category of acts from... communal, public, and government scrutiny." Privacy also encompasses behavior that is expected, even required, to remain private -- for example, activities that take place in the bathroom or bedroom. Here, also, society defines situations in which privacy is required and when it may be invaded, and such definitions may vary from community to community.

The definition of privacy he advances reflects the thinking of "responsive (or new) communitarianism... [which] seeks to balance individual rights with social responsibility, and individuality with community." Who doesn't seek such a balance? The problem lies in the question of who will define the proper balance. No one likes social excess, whether it comes from radical individualism or an imperious community. In times of social change, it is the very definition of excess that is up for grabs. Why stop at privacy? Why not, for example, curtail freedom of speech because pornography has gone too far in the media and on the Internet and threatens the community's children? There is widespread feeling that social responsibility has been impoverished -- not only by individualism, but also by forces of the marketplace -- and that a sense of

common cause is lacking in many contemporary human enterprises, not the least of which is medicine. Is the solution a new, legislating communitarianism? At the end of this book, I remained unconvinced. Or, as I believe, is Etzioni's book itself evidence of the inevitable countervailing forces that always arise when social change has gone too far?

As for restoring the confidentiality of medical records, it is not rampant individualism that requires restraint but, rather, the power of commercially driven interests that prevent adequate protective legislation from being enacted.

Reviewed by Eric J. Cassell, M.D.

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Users Review

From reader reviews:

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