



OPEN DATA:

ADDRESSING PRIVACY, SECURITY,
& CIVIL RIGHTS CHALLENGES

— FRIDAY, APRIL 17, 2015 —

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WELCOME

Welcome to the 19th Annual BCLT/BTLJ Symposium!

We are thrilled to host the Symposium this year on Open Data, a topic that is both ripe for discussion and relevant to many aspects of law and life. Open Data describes large datasets that governments at all levels release online and free of charge for analysis by anyone for any purpose. Entrepreneurs may use Open Data to create new products and services, and citizens may use it to gain insight into the government. A plethora of time saving and other useful applications have emerged from Open Data feeds, including more accurate traffic information, real-time arrival of public transportation, and information about crimes in neighborhoods. But data held by the government is implicitly or explicitly about individuals. While open government is often presented as an unqualified good, sometimes Open Data can identify individuals or groups, leading to invasions of privacy and disparate impact on vulnerable populations. We are privileged to host our research teams, commentators, and keynote speaker today as they present their findings and views on Open Data.

As members of the Berkeley Law community, we take particular pride in this year's BCLT/BTLJ Symposium. The university as a whole and the law school in particular have a strong history as leaders for social justice. We believe it is our responsibility to use our substantial intellectual capital to help solve real-world problems and to create a more just society, and today's Symposium is our opportunity to do exactly that. So we ask each of you to embrace the spirit of practical legal scholarship and join us and our distinguished speakers in addressing the privacy, security, and civil rights challenges of Open Data. Remember, attendees range from law students to practicing attorneys to members of government to data scientists to members of private entities interested in Open Data. Much of the richness in a Symposium comes from interactions between panelists and attendees, so please approach today ready and willing to meet new people and discuss new ideas.



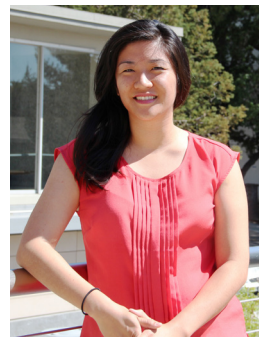
Chris Hoofnagle
Director, Information Privacy Programs
UC Berkeley School of Law, BCLT

A handwritten signature of Chris Hoofnagle in black ink.



Ginny Scholtes '16
BTLJ Symposium Editor
UC Berkeley School of Law

A handwritten signature of Ginny Scholtes in black ink.



Emmie Tran '16
BTLJ Symposium Editor
UC Berkeley School of Law

A handwritten signature of Emmie Tran in black ink.

KEYNOTE

DAVID FLAHERTY



David Flaherty is a specialist in the management of privacy and information policy issues. He served a six-year, non-renewable term as the first Information and Privacy Commissioner for the Province of British Columbia (1993-99). He wrote 320 Orders under the B.C. Freedom of Information and Protection of Privacy Act and also pioneered the development of Privacy Impact Assessments and site visits as forms of privacy compliance auditing.

As a consultant since 1999, Flaherty's services for clients have included strategic advice on the management of privacy issues and of relationships with privacy authorities, privacy advocates, and the general public; conducting overall assessments of privacy compliance (privacy reviews, audits, site visits, knowledge transfer); preparing Privacy Impact Assessments; helping to manage and prevent privacy breaches; and developing on-line privacy training and other privacy risk management tools.

Flaherty is a co-author of the Personal Information Protection and Electronic Documents Act: An Annotated Guide (2001). In 2012 he prepared an independent report in the aftermath of a data breach at the University of Victoria, which is available at bit.ly/dflaherty.

David has been a member of both the External Advisory Committee to the Privacy Commissioner of Canada (from the Committee's inception in 2004 until his resignation in early June, 2014) and the expert external advisory board for the BC Office of the Information and Privacy Commissioner since its inception in January 2011. He wrote for the federal office 'Reflections on Reform of the Privacy Act' (2008). Since 2000, he has been the Chief Privacy Advisor to the Canadian Institute for Health Information (CIHI). He has also been a Director of MAXIMUS BC Health Inc. since its inception in 2005 as a service provider to the BC Ministry of Health Services through Health Information B.C.

Flaherty began his involvement with privacy issues as an assistant to Alan F. Westin at Columbia University in 1964. Flaherty's first book was 'Privacy in Colonial New England' (1972). In 1974 he started comparative public policy work in Europe and North America that led to a series of books, including Protecting Privacy in Surveillance Societies: The Federal Republic of Germany, Sweden, France, Canada, and the United States (1989). Flaherty has written or edited fourteen books.

He is an honors history graduate of McGill University (1962) and has an MA and Ph.D. from Columbia University. His teaching career, from 1965 to 1993, included Princeton University, the University of Virginia, and the University of Western Ontario, where he was professor of history and law from 1972 to 1999 and is now professor emeritus. He was the first director (1984-89) of its Centre for American Studies. He has held fellowships and scholarships at Harvard, Oxford, Stanford, and Georgetown Universities. In 1992-93 Flaherty was a Fellow of the Woodrow Wilson International Center for Scholars in Washington, DC and a Canada-US. Fulbright Scholar in Law. Flaherty was an adjunct professor in political science at the University of Victoria from 1999 to 2006.

Flaherty has been president of Pacific Opera Victoria since 2010. He is also an Honorary Life Member of the Art Gallery of Greater Victoria. In June, 2013 the Awards Dinner of the Electronic Privacy Information Centre (EPIC) in Washington, DC honored Flaherty with a Lifetime Achievement Award for his work on privacy protection. On National Philanthropy Day in 2012, the Association of Fundraising Professionals of Vancouver Island honored him with a "Generosity of Spirit Award" in recognition of his outstanding commitment to philanthropy.

PROGRAM

MORNING PRESIDING OFFICER

GINNY SCHOLTES '16

BTLJ SYMPOSIUM EDITOR, UC BERKELEY SCHOOL OF LAW

8:15 AM | REGISTRATION & BREAKFAST

Registration: Centennial Lobby (1st Floor, Boalt Hall)
Breakfast: Donor Lobby (2nd Floor, Boalt Hall)

9:00 AM

WELCOMING REMARKS

DEAN SUJIT CHOUDHRY

UC BERKELEY SCHOOL OF LAW

9:15 AM

0.75 HR

TUTORIAL: DOING DATA SCIENCE

In this tutorial, Doing Data Science textbook author Cathy O'Neil will explain what data science is, its relevant techniques, and important aspects of data science for lawyers and regulators to understand. O'Neil will also discuss ex ante and ex post legal controls on releases of data, and what impact they have on open data investigations.

CATHY O'NEIL

MATHBABE.ORG

9:55 AM

1.50 HR

PANEL 1: UNDERSTANDING THE IMPLICATIONS OF OPEN DATA

Public entities collect and maintain databases that include personally identifiable, and sometimes sensitive data, about the people within their jurisdiction, and releases of data without proper safeguards could lead to an invasion of privacy. Similarly, release of datasets that categorize individuals into groups can raise concerns for social equity. Panelists will present their empirical data on (1) Seattle's past and present releases of data and (2) North Carolina Supreme Court records to ground their discussion of how to adapt privacy law and First Amendment doctrines to deal with the flood of public records going online. Panelists will consider the legal measures, such as information privacy protections and administrative law remedies, to prevent discrimination and invasions of privacy.

MODERATOR:

LINDSEY TONSAGER

COVINGTON & BURLING LLP

PANELISTS:

JAN WHITTINGTON

UNIVERSITY OF WASHINGTON

RYAN CALO

UNIVERSITY OF WASHINGTON SCHOOL OF LAW

DAVID ARDIA

UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW

ANNE KLINEFELTER

UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW

COMMENTATORS:

SOPHIE HOOD

KEKER & VAN NEST LLP

KIRSTEN MARTIN

GEORGE WASHINGTON UNIVERSITY SCHOOL OF BUSINESS

11:25 PM | LUNCH

Walk to the Bancroft Hotel (2680 Bancroft Way), located across the street from Boalt Hall, for Lunch and the David Nelson Memorial Keynote Lecture.

NOON PRESIDING OFFICER

JOSEPH MORNIN '15

BTLJ EDITOR IN CHIEF, UC BERKELEY SCHOOL OF LAW

11:40 AM

0.75 HR

DAVID NELSON MEMORIAL KEYNOTE LECTURE

In 1979, Professor David H. Flaherty published Privacy and Government Banks: An International Perspective. The book was the first serious treatment of how governments were handling access to microdata: "comprehensive sets of individual records of personal data collected by government agencies from individuals and households in censuses, surveys, administrative activities, and vital statistics." In the book, Flaherty developed case studies of how microdata were treated in the United Kingdom, Sweden, Federal Republic of Germany, Canada, and United States. In his keynote talk, Flaherty will reflect on the ways in which governments have established policy, rules, and regulations for data protection, confidentiality, and dissemination of data.

INTRODUCTION BY: DEREK FORAN

MORRISON & FOERSTER LLP

DAVID FLAHERTY

UNIVERSITY OF WESTERN ONTARIO

AFTERNOON PRESIDING OFFICER

EMMIE TRAN '16

BTJL SYMPOSIUM EDITOR, UC BERKELEY SCHOOL OF LAW

12:45 PM

1.50 HR

PANEL 2: POLICY APPROACHES TO MANAGING OPEN DATA RISKS

Panelists will discuss differing approaches to preserving privacy in government releases of information. Special attention will be paid to the advantages and disadvantages of certain disclosure limitation methods and how recent advances in data privacy from the fields of law and computation could improve upon real-world models currently used by governments to make data available to the public. Panelists will discuss the inferential possibilities of open data, the limits of inference, and whether risk assessment or legal conditions on data release can best address these problems.

MODERATOR:

MITCHELL ZIMMERMAN

FENWICK & WEST LLP

PANELISTS:

OLON BAROCAS

PRINCETON UNIVERSITY

DAVID O'BRIEN

*BERKMAN CENTER FOR INTERNET & SOCIETY,
HARVARD UNIVERSITY*

MICAH ALTMAN

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

ALEXANDRA WOOD

*BERKMAN CENTER FOR INTERNET & SOCIETY,
HARVARD UNIVERSITY*

COMMENTATOR:

AMANDA CONLEY

COBALT LLP

2:15 PM | BREAK

Refreshments available in Donor Lobby. (2nd Floor, Boalt Hall)

2:40 PM

1.75 HR

PANEL 3: COMPARATIVE APPROACHES: PRIVACY LAW AND PUBLIC HEALTH LAW

Panelists will examine the tension between open data policy and privacy interests across governments around the world, with the goal of understanding the most pressing legal issues and public policy debates in the area of open data. One group of panelists will examine open data approaches through the lens of Fair Information Principles (FIPs), a body of norms that are reflected in most information privacy law. A second group will focus on whether the rules governing public health disclosures provide insight into releases of government data.

MODERATOR:

SUE GLUECK

MICROSOFT CORPORATION

PANELISTS:

MIREILLE VAN EECHOU

*IVIR INSTITUTE FOR INFORMATION LAW,
UNIVERSITY OF AMSTERDAM*

JONATHAN GRAY

*OPEN KNOWLEDGE, UNIVERSITY OF AMSTERDAM,
UNIVERSITY OF LONDON*

FREDERIK ZUIDERVEEN BORGESIU

*IVIR INSTITUTE FOR INFORMATION LAW,
UNIVERSITY OF AMSTERDAM*

ELAINE SEDENBERG

UC BERKELEY SCHOOL OF INFORMATION

DEIRDRE MULLIGAN

*UC BERKELEY SCHOOL OF INFORMATION,
BERKELEY CENTER FOR LAW & TECHNOLOGY (BCLT)*

SHARONA HOFFMAN

CASE WESTERN RESERVE UNIVERSITY SCHOOL OF LAW

COMMENTATORS:

DAVID FLAHERTY

UNIVERSITY OF WESTERN ONTARIO

CATHY O'NEIL

MATHBABE.ORG

4:30 PM | BREAK

Refreshments available in Donor Lobby. (2nd Floor, Boalt Hall)

4:45 PM

0.75 HR

CONCLUDING THOUGHTS: SUBJECT MATTER EXPERTS

CHRIS JAY HOOFNAGLE

*UC BERKELEY SCHOOL OF LAW,
BERKELEY CENTER FOR LAW & TECHNOLOGY (BCLT)*

CHRIS CALABRESE

CENTER FOR DEMOCRACY & TECHNOLOGY

TOM SLEE

INDEPENDENT WRITER

5:35 PM

RECEPTION

STEINHART COURTYARD (2ND FLOOR, BOALT HALL)

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The Issues	
Competition Policy and Antitrust	<h2>Privacy and Security</h2> <p>Information technology lets people learn about one another on a scale previously unimaginable. Information in the wrong hands can be harmful. Scholars on this site consider problems of privacy, fraud, identity, and security posed by the digital age.</p>
Innovation and Economic Growth	
Intellectual Property	
Interoperability	
Networks, the Internet, and Cloud Computing	
Privacy and Security	
	<h3>Research and Academics</h3> <p> Read the latest research and connect with 35 experts on this issue.</p>

TAP provides research and expertise from leading technology scholars across the country to spark constructive dialogue about U.S. public policy issues involving technology and innovation. Read what thought leaders are debating on issues such as: big data and civil rights; the challenge to balance privacy against the growing demand for cybersecurity; whether current intellectual property rights are an incentive or disincentive to innovate; and the optimal method for regulating net neutrality to ensure equal access for all users and empower innovation.

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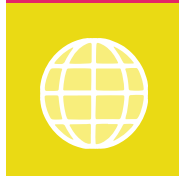
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BCLT Privacy Law Forum

SILICON VALLEY

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