

Privacy and Google Voice

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I had originally intended to follow up on my previous column concerning ways we can get crosswise with the law using our computers, but I decided to postpone that discussion when I saw the announcement that Google is making available a service that will expand our ability to manage our phone service, but, at the same time, will vastly increase Google's ability to know more about us.

Basically, if I choose to use all of the capabilities of Google Voice, Google can obtain a complete record of all of my phone calls, not merely who called me or whom I called, but a recording of each and every one of those calls. Some would say that Google's collecting this much information about me goes far beyond merely recording my Google searches or my clicking on banner ads or on links to other sites. Google might be seriously infringing my "privacy."

Of course, if I choose to use Google Voice, presumably I know what I am getting into. I can voluntarily give up some of my privacy in the interests of convenience. I am under no obligation whatsoever to use Google Voice. But what is privacy, and how much of it have I already lost in this technological age?

Most people, I think, would be surprised to know that the Constitution of the United States does not give anyone a right to privacy. The right to privacy was created by the courts, most particularly the United States Supreme Court, in such cases as *Roe v. Wade*, which gave a woman a limited right to an abortion based on her right to privacy. Privacy has several meanings, but, basically, it refers to a person's right to control his private property, including his own body, and the information publicly available about him. Immediately, then, we see that the right to privacy is not absolute. My car is my private property, but I am not free to use it however I choose. I am not even free to use my body however I choose; for example, when my body is in the front seat of a car, I am obligated by law to restrain my body with a seatbelt.

The balance to be struck between my right to restrict the information publicly available about me and the government's and the public's reasonable "need to know" is often controversial. If I am a public figure, such as a candidate for high office, I am expected to reveal more about myself so the public can better decide whether to vote for me. But even if I am the humblest of private citizens, if I use a charge card, a record is made not only of my purchase, but of the time and place where I made the purchase. If I make a

phone call, the phone company has a record of the number I called in its logs. If I sign on to a website, there is a presumption that I visited that site at the time and from the IP address indicated on the site's log.

Moreover, cell phones are easily tapped, and there is no expectation on privacy when using a cell phone. Even computers that are not properly shielded emit electromagnetic waves that can be picked up with the proper equipment and the computer's activity duplicated exactly on another computer. There are, of course, other means of spying on my computer activity, such as packet sniffing for one. And though such sophisticated mechanisms to invade my "privacy" would hardly be justified in the case of an ordinary citizen, the mechanisms are out there. The only secure computer is one that is shielded against emitting radio waves and is totally isolated from the outside world. And, of course, those who truly want to know more about me, for reasons good or bad, are developing increasingly powerful means to do so.

Just as the notion of intellectual property has had to be rethought in the light of modern technology, so, too, does the notion of privacy. Just as there is the balance to be struck between my right to control what is mine, including information about me and the limitations on my control based on the legitimate needs of society, I can often decide what personal balance I am willing to strike. I can pay cash for all my purchases so there will be no records from my charge cards. I can use a pay phone, if I can find one, so I cannot be traced to the numbers I called. I can forego use of the Internet so that not even cookies will find their way to my hard drive. And I can refuse to use Google Voice. Where I draw the line concerning my privacy is one of the choices left to me, or is it? Access to the Internet is almost a necessity for much of our work and leisure. Cell phones are beginning to replace land lines, and many people already use VOIP for their phone service. Perhaps Google Voice is a bridge too far, or maybe it is simply just another milestone on a road we have been traveling for decades. Are we still controlling technology, or is technology controlling us?

The Rev. Dr. Michael Gemignani, an attorney and Episcopal priest, is also a former professor of computer science who has written extensively on legal issues related to computers. Although he is now retired, he enjoys writing and speaking about computer law and security. Contact him with any questions or comments about this topic.