

PEEPING



“To Peep”

1. “Look through a narrow opening into a larger space” (such as into a large database?)
2. “Look furtively, slyly, or pryingly”

Oxford English Dictionary

Peeping: An Insider Data Breach

Overview

- Recent peeping incidents
- Mythology & psychology of peeping
 - The Gaze
 - The Gossip
 - The Grab
- Why now?
- What to do?

Recent Peeps

**UCLA fires workers for
snooping in Spears
files**

**'It's very disappointing,'
says hospital's human
resources director**

**L.A. Times, March 16,
2008**



In New Jersey ...

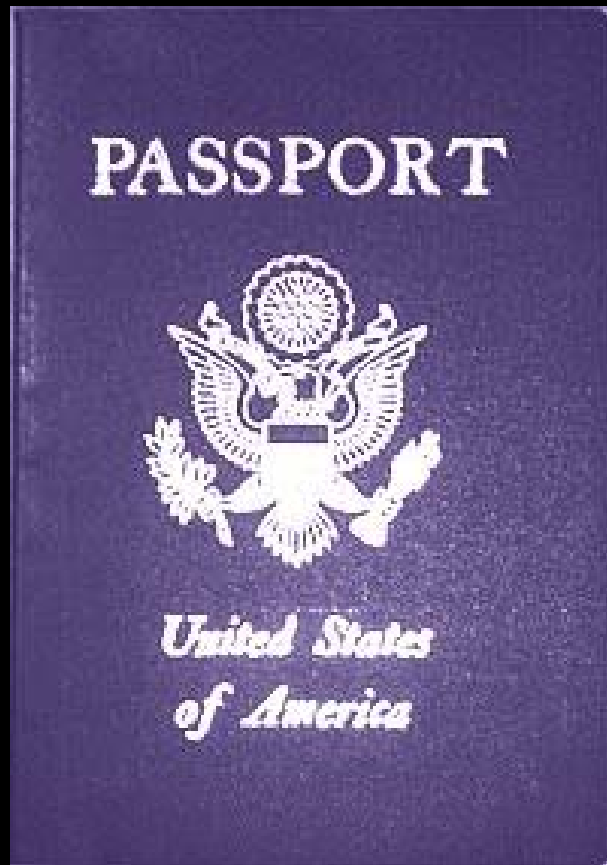
- “Turns out a lot more people than George Clooney and his girlfriend were hurt by the Hollywood hunk's motorcycle accident last month.”
- N.Y. Daily News, Oct. 10, 2007



The Clooney Files

“As many as 40 doctors and other employees at the Palisades Medical Center in North Bergen, N.J., got suspensions for allegedly leaking confidential medical information about the couple”

“Passport Peeping – more than just curiosity?” (SF Gate, 3.12.08)



Passports

- Sec. of State Rice apologized
 - 2 contractors fired and others punished
- "At least they actually had the systems in place to catch it and they took it seriously."
"It's sending a signal to every data clerk in the country that you shouldn't browse."
 - Swire in WSJ, Mar. 31, 2008

Joe the Plumber

- Peeping by the day after the debate
- Child support payments
- Unemployment taxes
- Whether receiving welfare
- Motor vehicle records



Peeping as a Big Deal

- Fired or resigned
 - Director & Dep'y Director for Ohio Dept. of Job & Family Services
 - A more junior official who helped with the searches and lied to cover them up
- Oppo research? McCain campaign alleged, and Obama campaign denied
- "The agency's actions drew outrage from across the nation" Columbus Dispatch

II. Gaze, Gossip, Grab

- Progression from
 - Merely looking (the gaze)
 - Telling your friends (the gossip)
 - Stealing the data, to harm the individual or give to others (the grab)

The Gaze: Tiresias & Athena

“And all her golden armor on the grass,
And from her virgin breast, and virgin eyes
Remaining fixt on mine, till mine grew dark
For ever, and I heard a voice that said
“Henceforth be blind, for thou hast seen
too much,
And speak the truth that no man may
believe.”

Alfred, Lord Tennyson



The Gaze: Peeping Tom & Lady Godiva

- “Then she rode back, clothed on with chastity; And one low churl, compact of thankless earth, The fatal byword of all years to come, Boring a little auger-hole in fear, Peep'd -- but his eyes, before they had their will, Were shrivel'd into darkness in his head”
- The churl was Tom, who peeped
- What is it about Tennyson and this story?



The Gaze

- Intricate mythology of peeping
 - Comparative literature experts on this
 - The allure, fascination of the object
 - “They can’t help themselves” -- Tom
 - Severe punishment
 - Blinding
 - Use that as the punishment today?

The Gossip

- A step beyond the Gaze – you tell your friends
- Why do people gossip?
 - Look deep within your own soul – ever done it?
 - Status -- “I saw Obama’s files”
 - Curiosity – you and your friends share tidbits
 - Community – we gossip about the people we care about
- Not just celebrities – neighbors, co-workers, etc.

The Grab

- Unauthorized access to the files by the employee, often to give to an outsider
 - FTC Novastar case – exceeding authorized access may be “unauthorized access” & “unreasonable security” & violate Sec. 5
 - Computer Fraud & Abuse Act
 - Blackmail

The Grab: Breach of Duty

- Employee violates duties to the employer
- Employee may violate duty to the person peeped against – the “peepee”?

Worse Than Just Losing Your Job

Lawanda Jackson
indicted for criminal
HIPAA violations, for
allegedly receiving
\$4600 from the
National Enquirer for
33 disclosures in 2006-
07; checks were written
to her husband

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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
1000 AVENUE

FILED

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
February 2008 Grand Jury

UNITED STATES OF AMERICA,) CR 08-08-00430
Plaintiff,)
v.)
LAWANDA JACKSON,)
Defendant.)

I N D I C T M E N T
{42 U.S.C. § 1320d-6(a) (2),
b(3): Wrongful Obtaining of
Individually Identifiable
Health Information for
Commercial Advantage; 18 U.S.C.
§ 2(b): Causing an Act to be
Done}

[FILED UNDER SEAL]

The Grand Jury charges:
At all times relevant to this Indictment:
INTRODUCTORY ALLEGATIONS
1. UCLA Health System was comprised of the following
medical facilities: UCLA Medical Center, Santa Monica-UCLA
Medical Center and Orthopaedic Hospital, Resnick
Neuropsychiatric Hospital at UCLA, Mattel Children's Hospital
UCLA, and the UCLA Medical Group. The individuals working at
these various medical facilities were employed by UCLA
Healthcare. Both UCLA Healthcare and UCLA Health System were

ARM:arm

III. Why Now?

- More databases – more chances to peep
 - Paper files – a burglar sneaking into the room
 - Electronic files – a click of the mouse
 - The lure of the forbidden, the impulse to see the forbidden

Why Now?

- Ways that peepers get caught
 - Paper files – safe once the burglar gets away
 - Electronic files
 - Data breach & obligation to report
 - Role-based access and audit trails, so systems exist to catch after-the-fact
 - The peeper sends by email or blog
 - Ease of peeping means that “good” people may do the “bad” act – allure, impulse

IV. What to Do?

- This talk – raise the issue
 - Not a cost/benefit essay on all possible remedies
- Gaze & gossip not a “harm” as used in many privacy debates
 - Not ID theft
 - No financial loss to the victim
 - But people take it seriously: “The agency’s actions drew outrage from across the nation”

What to Do?

- Better IT systems as part of the solution
 - Role-based access
 - Audit trails
 - Training: Obama passport photos an “Anita Hill moment” to say that our society does not permit this behavior
 - These steps can deter & detect peeps, and create evidence for enforcement

Conclusion: What Remedies?

- Tiresias & Tom were blinded
 - I'm not recommending that today, at least in most cases
- Employment sanctions
 - Censure, probation, or loss of job
- Disclosure of peeps?
 - To employment supervisor
 - To the victim?
- When compared to blinding, those sanctions may seem more doable

The Speaker

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Presented at "Security Breach Notification 6
Years Later"

Berkeley Center for Law & Technology

March 6, 2009