

# P R I V A C Y

## Why do we value privacy?

**The ability to maintain the confidentiality of personal information is the hallmark of an autonomous individual.**

- Others are not entitled to know everything about us.



**Privacy can protect us from scorn and ridicule by others.**

**Privacy, in the sense of being left alone, is valuable in keeping others at a distance and regulating the degree of social interaction we have.**

- Our laws against trespassing reflect this concern.



**The more others really know about us, the less powerful we become in controlling our destiny.**



# Privacy as a legal concept

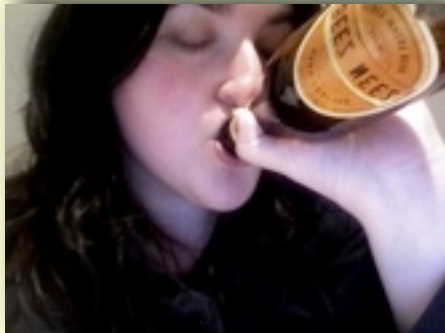
Until the turn of the 20th century there was no legal **right to privacy** in the U.S.

In the last 100 years, the right to privacy has gradually developed into four separate and distinct areas, or torts.

## Intrusion

what many people think of when the subject of invasion of privacy arises.

- The media can be held liable for an unwarranted violation of one's physical solitude.
- A journalist who enters a private home uninvited, even



*Watch what you post on social networking pages. It might be embarrassing, but you can't sue yourself.*

at the invitation of law enforcement authorities, may be sued for intrusion.

- The use of telephoto lenses to capture the private moments of unsuspecting subjects and electronic eavesdropping can also pose legal problems.

**The media can also be held liable for publishing information that places someone in a false light.**

Legal problems can arise when a newspaper, magazine, or broadcast station reports falsehoods or distortions that leave an erroneous impression about someone.

- For example, mismatching stories and pictures.

## Appropriation

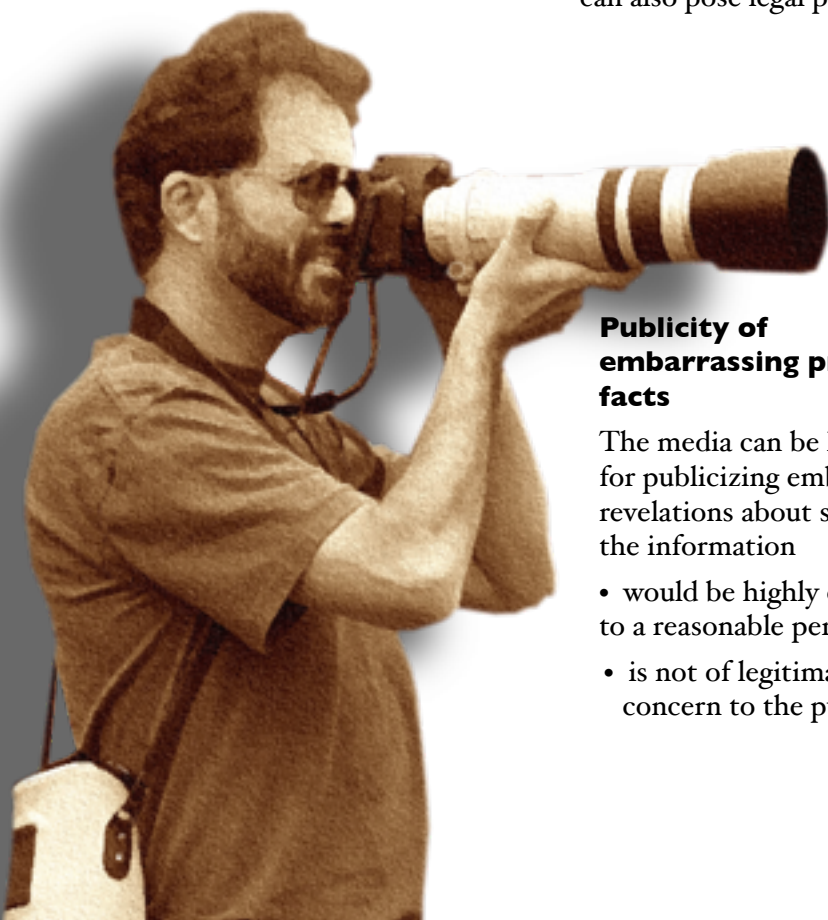
The oldest of the four types of invasion of privacy

- consists of the use of a person's name, picture, or likeness without that person's permission, usually for commercial exploitation.
- However, news coverage is not considered a trade purpose, and those who are featured in news stories cannot collect damages for appropriation.

## Publicity of embarrassing private facts

The media can be held liable for publicizing embarrassing revelations about someone if the information

- would be highly offensive to a reasonable person and
- is not of legitimate concern to the public.



# The Need for an Ethics of Privacy

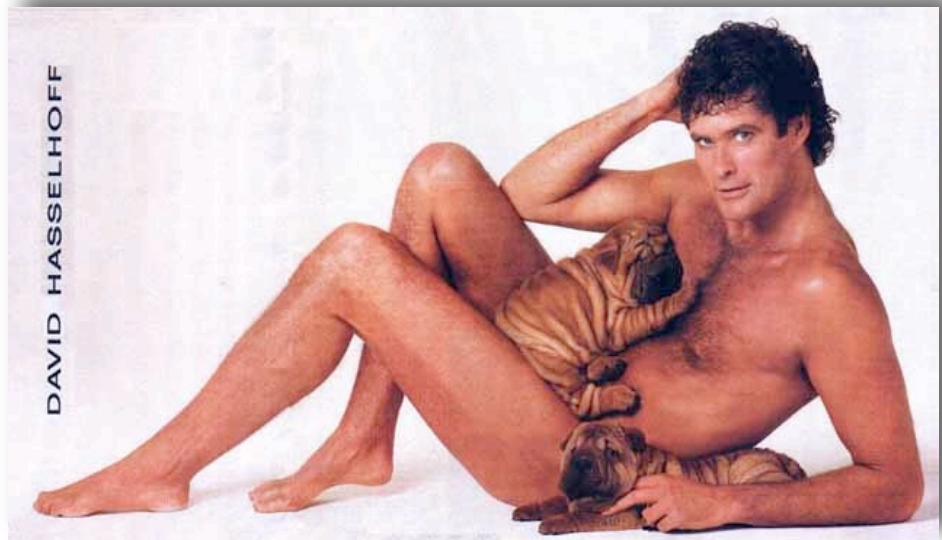
**Legal principles are not a worthy foundation for making ethical judgments concerning the lives of others.**

- The courts have gone out of their way to ensure a minimum of interference with reporting and news-gathering.

**1. The law of privacy has virtually stripped away protection from public officials and public figures.**

The fact that they have chosen to inject themselves into the public arena suggests a willingness to undergo rigorous scrutiny and to suffer the consequences of embarrassing revelations.

- From a legal standpoint, the argument has some merit:
- From an ethical perspective, it is suspect.
- Public figures must expect some fallout from the glare of publicity, and their “zone of privacy” is more narrow than that of the average citizen.
- But this is not to say that they must sacrifice all privacy and relinquish all autonomy over their personal affairs.
- From the standpoint of ethics a key question should be to what extent the public information relates to the individual’s public performance or image.



**2. The second reason why an ethics of privacy is needed revolves around one of the primary legal defenses for the publishing of embarrassing private information: newsworthiness.**

The courts have taken a very liberal approach in allowing the media to define what they consider to be news or matters of public interest.

- But from an ethical standpoint more precise criteria are needed.
- More attention should be paid to what the public needs to know rather than merely to what it has a curiosity about.
- An ethics of privacy should be concerned with the real public interest value of information rather than how much appeal to mere curiosity can be tolerated under the law.

**3. The law of privacy has accorded substantial latitude for news-gathering in public places.**

The general rule is that anything that takes place in public view can be reported on.

- The idea is that activities that transpire in public are, by definition, not private.
- But even in public we sometimes covet some degree of solitude.
- A sense of ethics would suggest that media people obtain permission from people they photograph in public, for two reasons:
- common decency requires permission before intruding into a private moment, and
- minor inconvenience to some may be acute embarrassment for others
- There are also times when good taste and simple

compassion for the victims of unfortunate circumstances require a heightened degree of moral sensitivity on the part of media practitioners.

- This is particularly true in situations involving [accident victims or victims of other tragedies](#).



SMILE!



## Journalistic Guidelines

At least three moral values should provide the foundation for an ethics of privacy for media practitioners.

### Self-respect for persons as an end in itself.

- As autonomous individuals we are all entitled to a certain amount of dignity, which should not be arbitrarily compromised for the sake of some slogan such as "the people's right to know."
- When invasions of privacy are inevitable, as when someone involuntarily becomes a subject of public interest, the goal should be to minimize the harm.

### Social utility.

- The moral agent must decide what information is essential or at least useful to the audience in understanding the message being communicated.
- This principle eliminates appeals to sensationalism, morbid curiosity, ridicule, and

voyeurism as a justification for invasion of privacy.

### Justice

- Moral agents are obliged to render judgments based on how much privacy their subjects really deserve under the circumstances.
- Public officials who are accused of violating their oath of office would, under most circumstances, deserve less privacy than victims of human tragedy.
- Certainly, the degree of "voluntariness," or purposeful behavior, is a consideration in deciding what kind of treatment an actor really deserves.

### In short:

If you respect a person's privacy, you also respect the person.

Public men get ample credit for all the sins they commit, and for a multitude of other sins they were never guilty of. A private citizen escapes public scrutiny, and fares all the better for it.

– *Mark Twain*

