

Convention 108 and Security: perspectives from the UN SR mandate on privacy

Friday, 17 June 2016, Council of Europe, Strasbourg, France

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Human Rights Council

Thirty-first session

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Report of the Special Rapporteur on the right to privacy, Joseph A. Cannataci*

Note by the Secretariat

In the present report, submitted to the Human Rights Council pursuant to Council resolution 28/16, the Special Rapporteur on the right to privacy describes his vision for the mandate, his working methods and provides an insight into the state of privacy at the beginning of 2016 and a work plan for the first three years of the mandate



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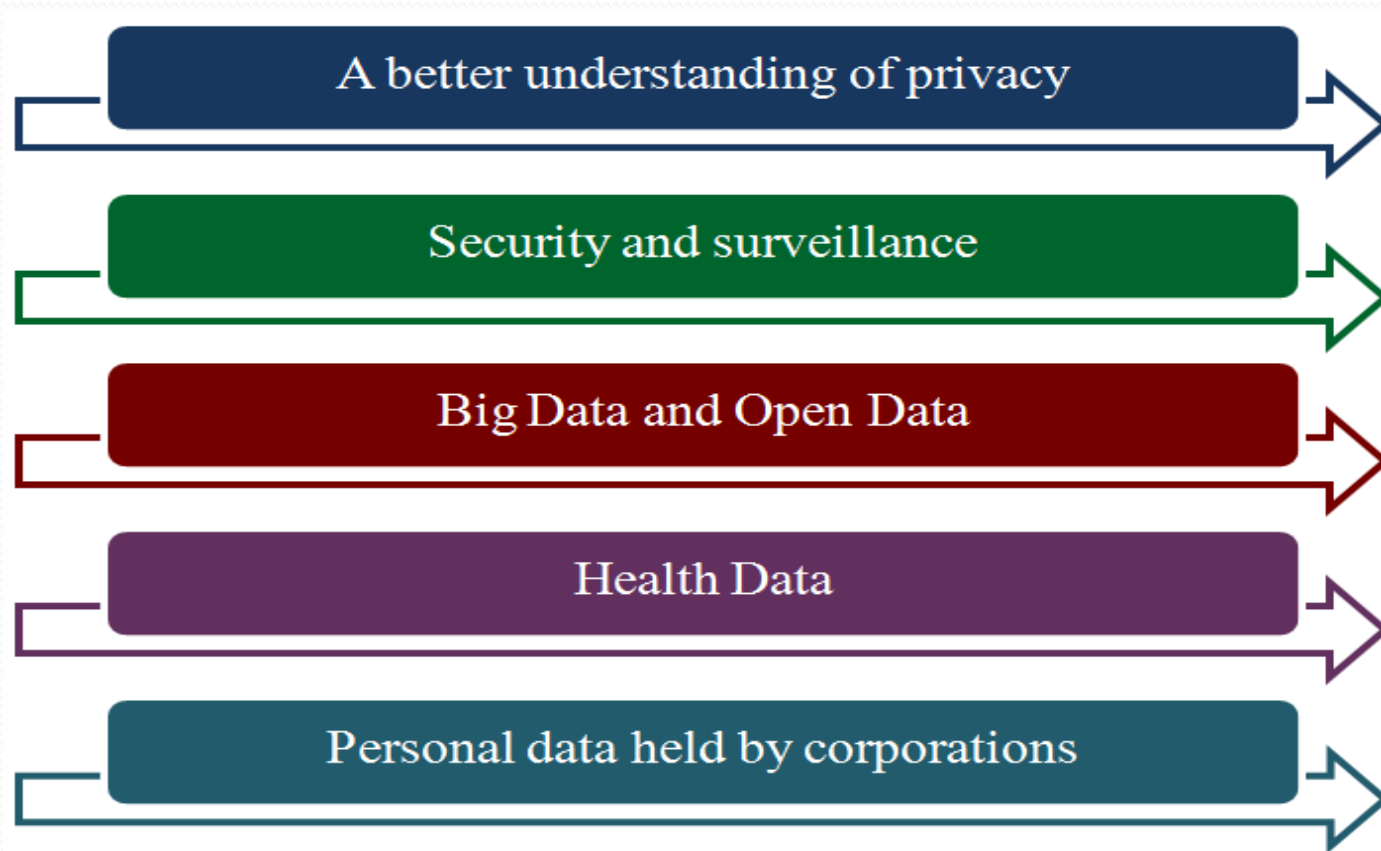
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“Individual citizens have a fundamental right to expect that their personal data and their communications are both private and secure”

– *Special Rapporteur’s report to Human Rights Council, 31st session – A/HRC/31/64*

Parallel streams of action (TAS) for the mandate of the UN Special Rapporteur for Privacy and the first set of priorities

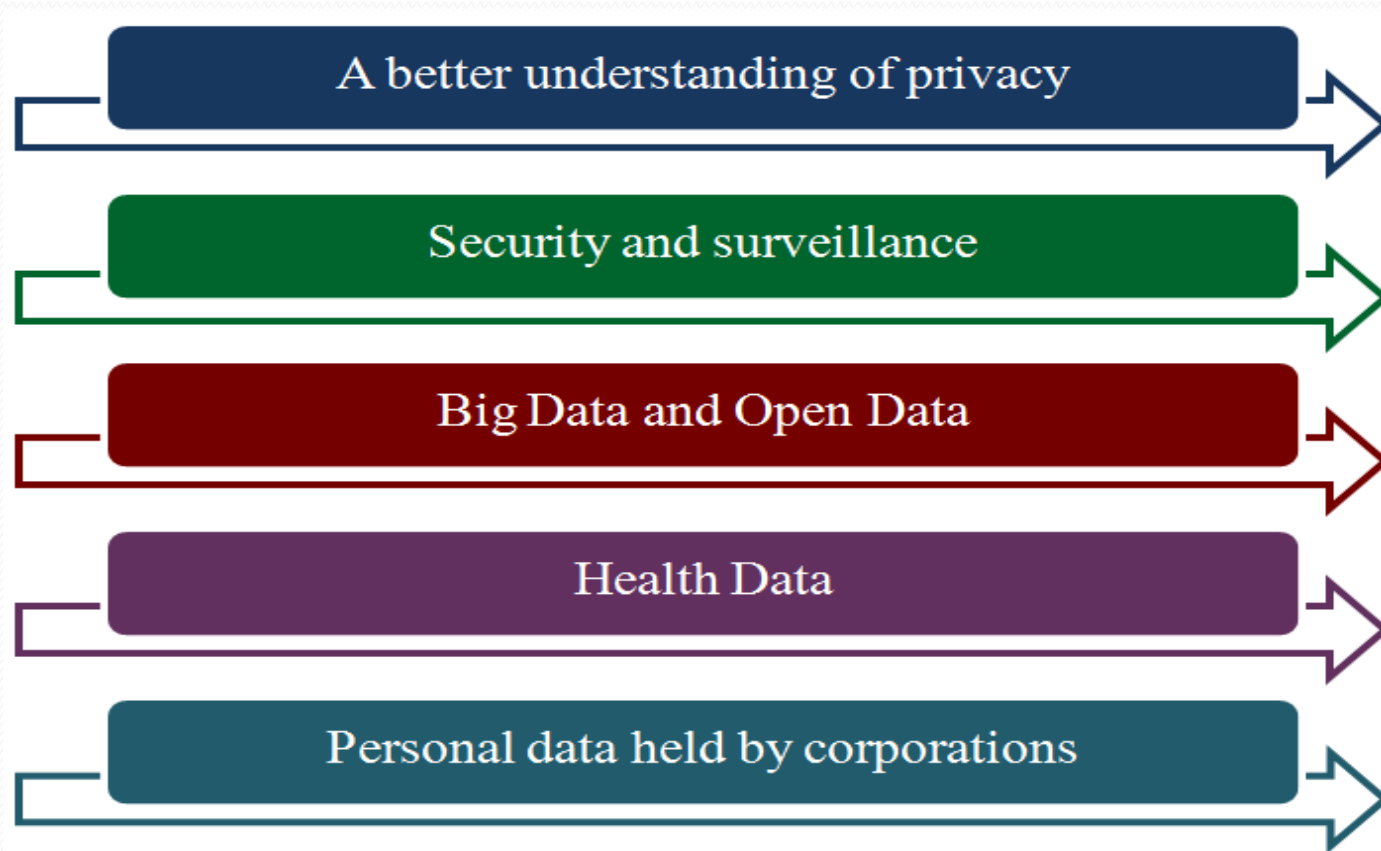
By [Joe Cannataci](#) / 3 June 2016 at 23:24

Today Friday 03 June is precisely 11 months since I was honoured by my appointment to the role of UN Special Rapporteur for Privacy (SRP). Over these past eleven months I have been engaged in a process of on-going consultation with all types of stakeholders: governments, Privacy & Data Protection Commissioners, Law Enforcement Agencies (LEAs), Security & Intelligence Services (SIS), corporations and last but perhaps most of all in terms of the absolute number of entities met with, civil society. These consultations have taken place in open meetings or in closed-door meetings as may have been appropriate in a variety of countries including Australia,

https://www.privacyandpersonality.org/event/fundamental-rights-forum-in-austria-vienna-european-union-agency-for-fundamental-rights/?instance_id=30 Netherlands,



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“Individual citizens have a fundamental right to expect that their personal data and their communications are both private and secure”

– *Special Rapporteur's report to Human Rights Council, 31st session – A/HRC/31/64*

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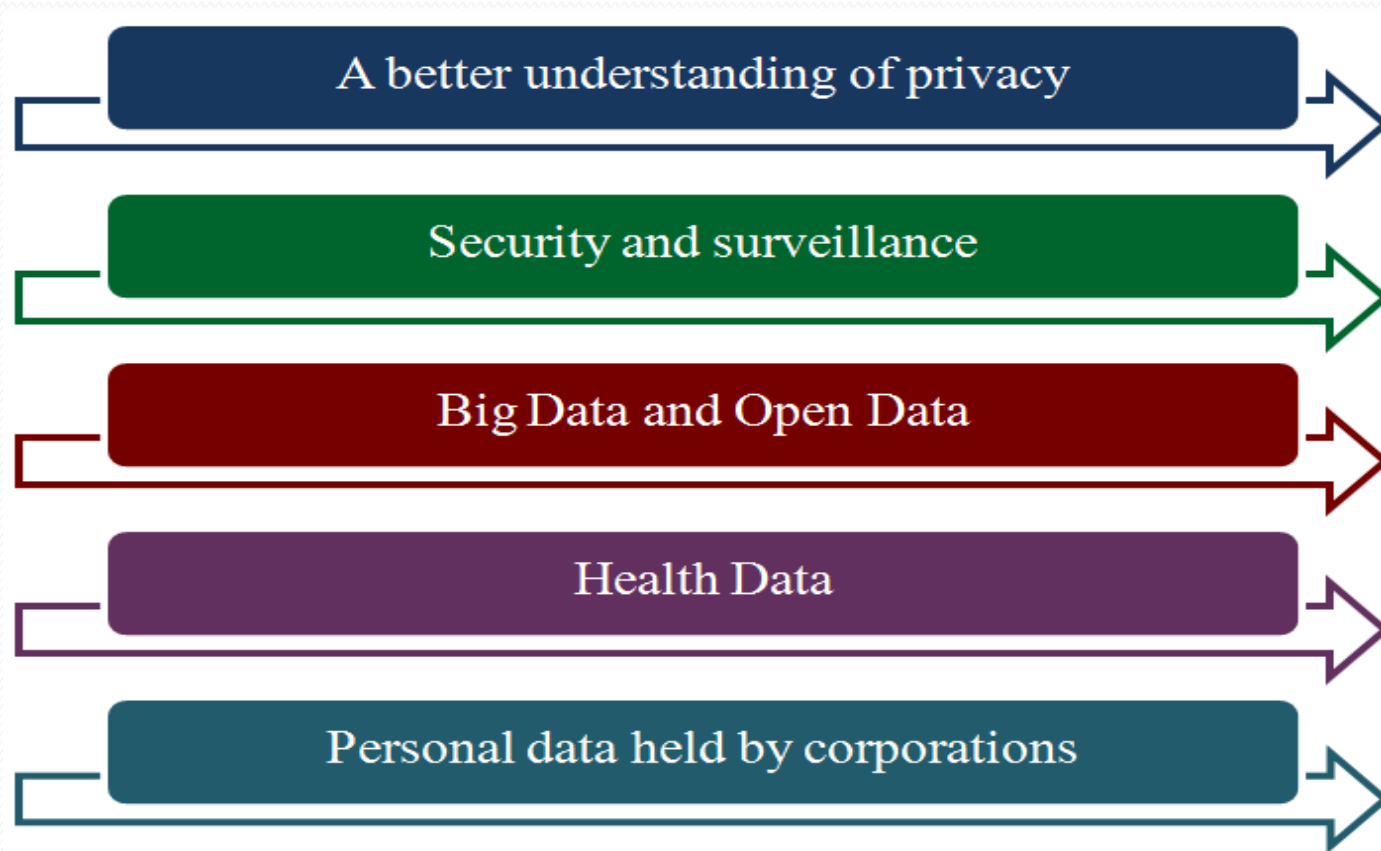
Privacy, personality and flows of information – An open invitation

By [Joe Cannataci](#) / 9 June 2016 at 16:28

Personal invitations have started being sent out to a number of stakeholders who were sent a “save the date” e-mail several months ago but just in case, for some reason or another you have not received one and you would like to participate in a workshop conference about Privacy, personality and flows of information then please respond to this informal open invitation.

This workshop conference will be co-organised in New York (USA) on 19-20 July 2016 by the mandate of the UN Special Rapporteur for Privacy (SRP) together with Human Rights Watch, Global Freedom of Expression Columbia University, the Brennan Center for Justice at New York University Law Center, The Department of Information Policy & Governance at the University of Malta and STeP, the Security, Technology & e-Privacy Research Group at the

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17 Jun 2016

2:02:05 PM

“Privacy is an enabling right as opposed to being an end in itself”

– *Special Rapporteur's report to Human Rights Council, 31st session – A/HRC/31/64*

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Privacy, personality and flows of information – An open invitation

9 June 2016

Getting things done in privacy

Getting things done in privacy protection Part 1: Blended Methodologies and some lessons from Europe about “learning and defining by doing”

By [Joe Cannataci](#) / 4 June 2016 at 23:57

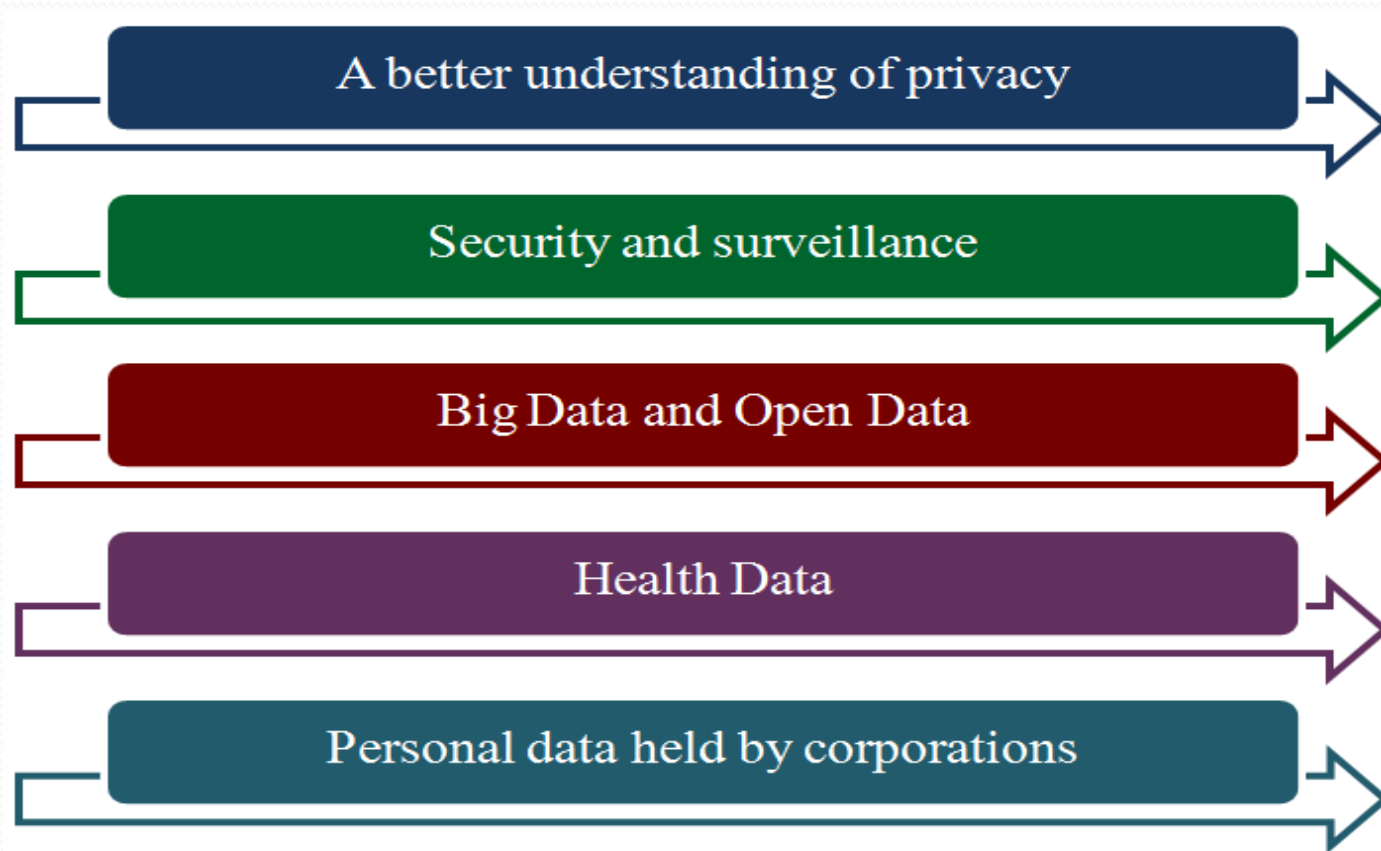
How do you strengthen a fundamental human right without diluting the basic principle and understanding of that right? How do you reinforce the right to privacy through a constant process of evolution and self-evaluation which does not threaten to undermine the right but yet enables the legal framework to keep up with developments in society and especially changes wrought by technology? This is not an unusual problem. This is a problem which every single policy expert and advisor faces in the privacy sector and it is one which I have lived with constantly since I first ventured onto the international arena and especially the intergovernmental sector in 1984.

When I was first appointed UN Special Rapporteur for Privacy in July 2015, I

<p>Recommendation No.R(2002) 9 on the protection of personal data collected and processed for insurance purposes (18 September 2002)</p>	<p>Explanatory memorandum</p>
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<p>Recommendation No.R(91) 10 on the communication to third parties of personal data held by public bodies (9 September 1991)</p>	<p>Explanatory memorandum</p>
<p>Recommendation No.R(90) 19 on the protection of personal data used for payment and other operations (13 September 1990)</p>	
<p>Recommendation No.R(87) 15 regulating the use of personal data in the police sector (17 September 1987)</p>	<p>Report (2013) Evaluation reports First report</p>

3. International legal instruments can start off small scale at the regional level with only five countries or so around which others can coalesce. That's the way Convention 108 started off and now close to 50 countries have ratified it and are therefore putting it into practice. If similar regional legal instruments are drawn up around analogous principles these could provide a ground-swell of harmonisation world-wide.
4. For those regions of the world where a regional equivalent is unlikely for the time being , aspiring countries can also join Convention 108. For example, membership of Convention 108 would not be incompatible for APAC member states. Indeed, not only European countries have acceded to Convention 108. At the last count, out of 48 ratifications one is from Uruguay and another four non-European states are already being considered for ratification. It is too early to tell whether this is a trend but the EU's latest legal instrument, the GDPR may actually make Convention 108 more attractive to those countries with ambitions to trade extensively with and within Europe. If and when a regional or indeed global legal instrument becomes available there is nothing which would stop them from being a party to that too. The 28 EU member states have all proved that they are capable of being fully paid-up members to two different Privacy clubs: the EU one and the CoE Convention 108 one. All other countries can do that too if it suits them...and I have not seen any convincing arguments which persuade me that it does not suit them. A good idea is a good idea is a good idea wherever it comes from... even if occasionally it comes from Europe.

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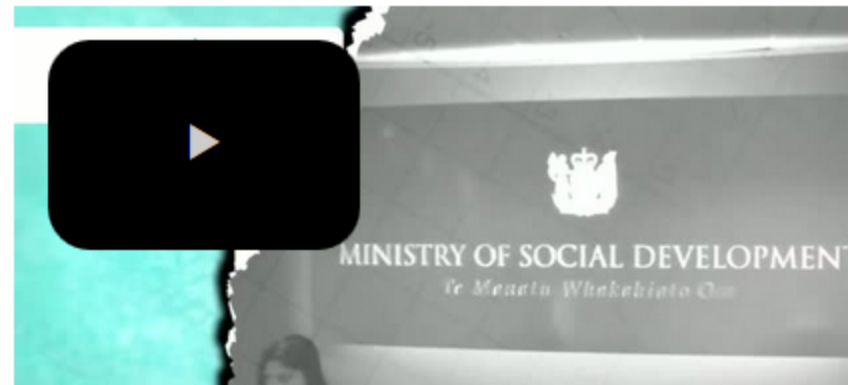


Transforming social welfare with analytics

New Zealand Ministry of Social Development uses big data to profoundly improve the lives of citizens

Social welfare accounts for nearly a quarter of New Zealand's gross domestic product. Tasked with improving services while spending these funds responsibly, the Ministry of Social Development (MSD) is transforming its welfare system with the help of SAS® Analytics.

MSD is New Zealand's largest government agency. It spends \$22 billion a year providing child protection and youth, family and employment services to more than a million New Zealanders in need. But with data showing that a startling 13 percent of the working population is on an adult benefit – many of whom had been on benefit for a decade – the agency knew a change was needed. "The welfare system was not providing people with the support





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Blog: Data and analytics can transform social services

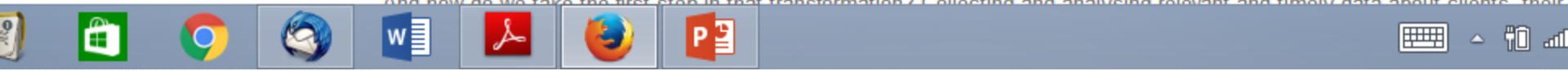
Date: 21/05/2015

Last week I attended the conference "[Empowering communities in the information age](#)", which discussed how not-for-profits could make better use of technology, whether to promote their goals, fundraise, or improve their operations. One aspect I was particularly interested in was how to improve the delivery of social services, through better use of data.

Recent developments in technology and analytics have already transformed many service industries – think of banking, music and retail. These same developments could support new ways of doing things in social services, to improve the lives of the people who need those services and deliver better value from taxpayers' dollars.

Social services are provided in a dizzying array of ways, and we often don't know what initiatives have the most impact on the people they are designed to help. One place we can start is to evaluate the current services to find out what works and what doesn't. Another is to try a variety of new ways of doing things, and then take the most effective services and apply them in more places and to more clients, as well as withdrawing ineffective services. Social services as a whole needs to become a learning system.

And how do we take the first step in that transformation? Collecting and analysing relevant and timely data about clients, their



In the world of Big Data, privacy invasion is the business model

Apps snooping on your address book, sneaky ad cookies, and social networking are bad. But the real privacy demon is the shadowy data brokers slurping up every last byte about you.

by [Molly Wood](#) | February 29, 2012 5:17 PM PST



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You've Seen The Commercials... Now Try It Yourself



Background
Check



Property
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Social
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Reverse
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Trust me: this is a much bigger privacy threat than Facebook.



- *“The SRP is also very concerned that entire nations or trading blocs including major nations or regional federations such as China, the European Union and the United States have adopted or are adopting Open Data and Big Data policies the far-reaching consequences of which may not as yet be properly understood and which may unintentionally put in peril long-standing social values as well as the fundamental rights to privacy, dignity and free development of one’s personality. Some studies on posthumous privacy suggest that in 2016 the citizens of some countries may be better off dead from a privacy point of view since their rights to privacy are better protected by law if they are dead than if they are alive in a world where Open data and big data analytics are a way of life endorsed by the information policies of the countries concerned.”*



Thematic Action Stream: Big Data and Open Data

- Task Force on Big Data and Open Data
- To be launched in July 2016
- Led by an Australian Privacy Commissioner
- Many participants from around the world:
 - Australia
 - EU LIBE Committee Rapporteur (TBC)
 - USA
- More members being recruited
- Probing and testing team



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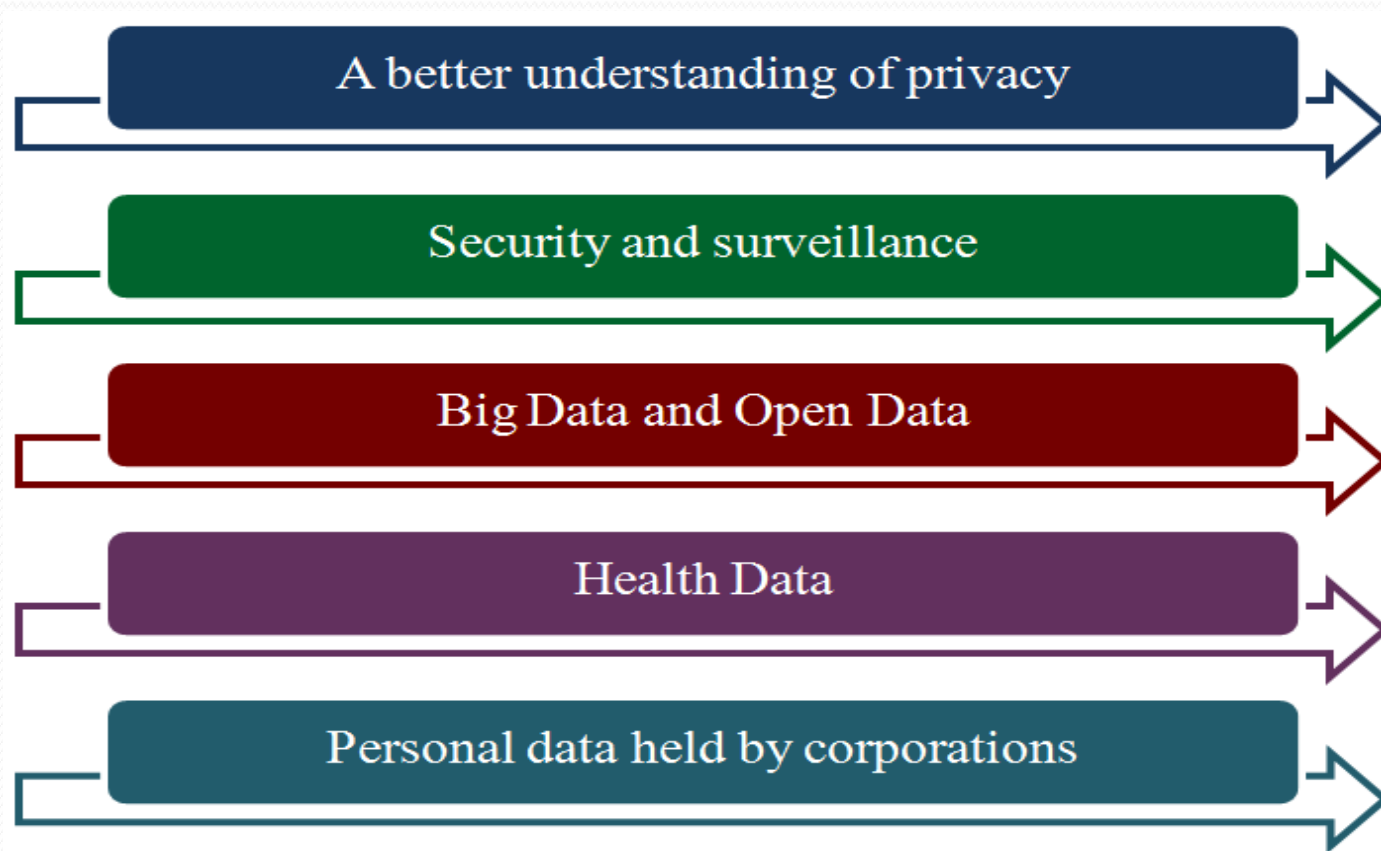
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A startup owned by Google wants to radically improve the way patients are diagnosed – but is doing something controversial to achieve that goal

Sam Shead 

🕒 May 5, 2016, 5:19 PM 🔥 2,045

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A panel comprised of government tech leaders and healthcare experts is set to scrutinize the work of Google DeepMind's healthcare team at an upcoming



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DAILY NEWS 13 May 2016, updated 25 May 2016

Did Google's NHS patient data deal need ethical approval?

A New Scientist investigation raises questions about the basis under which an NHS Trust is sharing patient data with Google's AI firm



Google's DeepMind tried to justify why it has access to millions of NHS patient records

Sam Shead

May 27, 2016, 3:36 AM 2,342 1

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DeepMind, an artificial intelligence company owned by Google, has attempted to justify why it needs access to millions of NHS patient records for a kidney monitoring app, after a new investigation from New Scientist



Thematic Action Stream: health

- Task force members being recruited
- Task force composition to be announced by or before October 2016
- All member states of the Council of Europe
- All participants in this conference
- All member states of the UN
- Invited to contribute Task force members
- Resources



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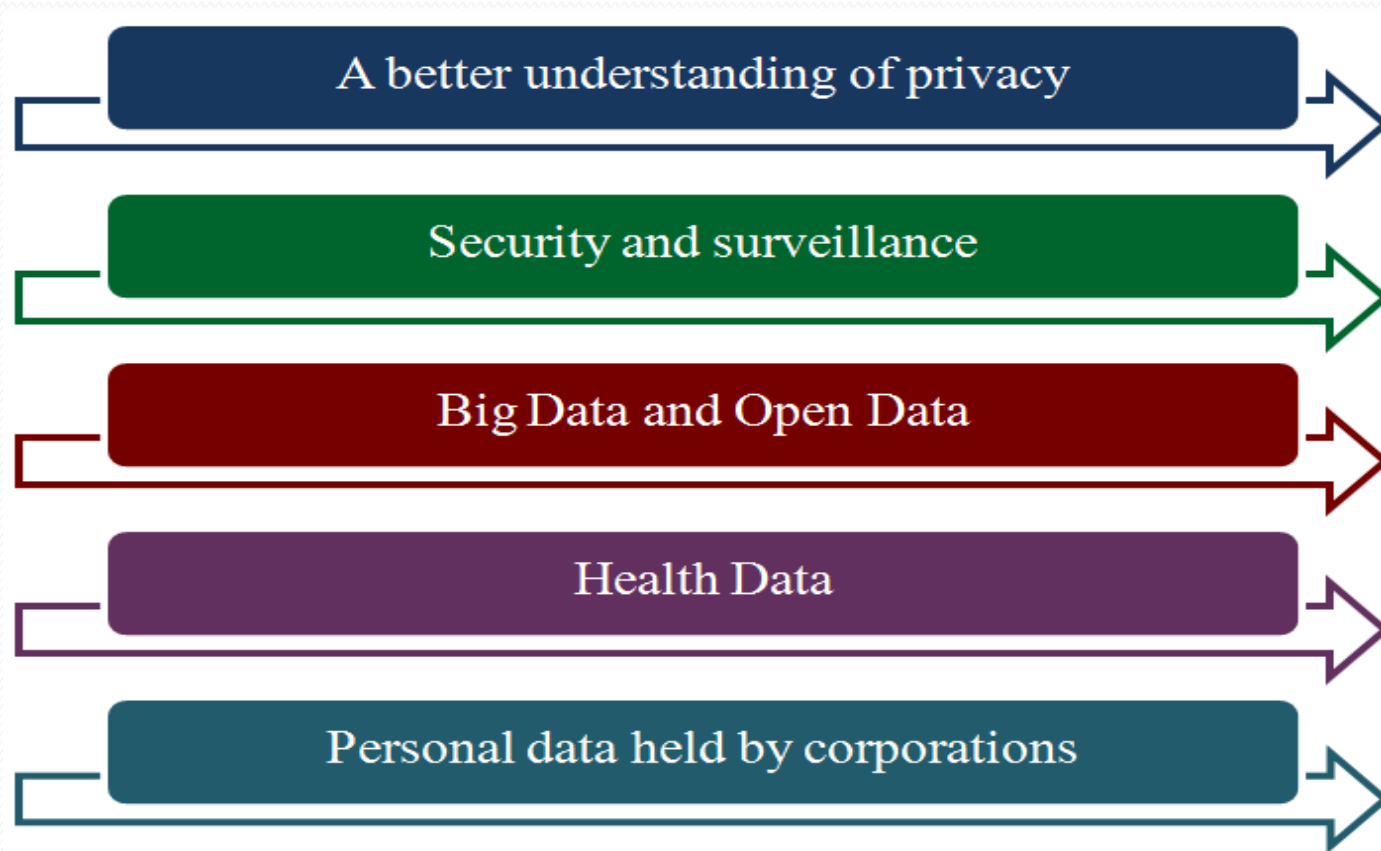
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FROM SLATE, NEW AMERICA, AND ASU

The Golden Age of Surveillance

The government doesn't need to weaken encryption—it already has the tools it needs to catch criminals.



38



174



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By *Peter Swire*



In an Internet without borders

- We need:
 - *Safeguards without borders*
 - *Remedies across borders*



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JULIA GREENBERG BUSINESS 08.27.15 5:08 PM

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1 BILLION PEOPLE USED FACEBOOK ON MONDAY

A million users visiting the same Internet service on the same day. This isn't all that cool. You know what's cool? A billion people using the same service on the same day.

And now it's been done. So says Facebook founder and CEO Mark Zuckerberg.

Zuckerberg says one billion—yes, **ONE BILLION**—users used Facebook on Monday. While that's a record for any

Nearly everyone now using Facebook on their phones: 90% on mobile

POSTED 6:12 PM, NOVEMBER 4, 2015, BY [CNN WIRE SERVICE](#)

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MILWAUKEE — Facebook has been criticized for not having a good mobile strategy, but those days seem to be long gone.

The vast majority of people are now using Facebook on their phones, the company said Wednesday.



Facebook on mobile

ring data from s0.2mdn.net...



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CNET > Tech Industry > Snapchat closes in on Facebook as it hits 6 billion daily video views

Snapchat closes in on Facebook as it hits 6 billion daily video views

The US-based photo and video messaging service is closing the gap with Facebook, which reports 8 billion views per

Tech Industry

9 November 2015

6:59 am GMT



by Daniel Van Boom



It was reported back in 2013 that Snapchat **rejected a \$3 billion bid** from Facebook to buy the photo and video social media company. Now, two years later, that decision is looking increasingly justified, as Snapchat has reached



We ALL leave a digital footprint

Once it's on-line it's
virtually impossible
to scrub out

.. and the data
on you will follow
you around for life



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Thirty-first session

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**Promotion and protection of all human rights, civil,
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Report of the Special Rapporteur on the right to privacy, Joseph A. Cannataci*

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Thematic Action Stream: Security and Surveillance

- Safeguards & Remedies
- IIOF – International Intelligence Oversight Forum
- First meeting 11-12 October 2016
- The good, the bad and the ugly: best practices
- All member states of Council of Europe invited to send representatives of their Intelligence Oversight Authorities as well as their Security & Intelligence Agencies (SIS)
- Rec(87)15 for Intelligence services?
- More initiatives will be announced later



No Privacy – By Design?

- The antithesis of privacy by design – countries
- EU - An open question
- USA – Data brokers....but others?
- Buzz word: Big data ... but open data?
- Health Data
- Security and Surveillance
- Can the Council of Europe continue to provide a lead?
- Or are we about to learn the hard way?



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Web: <http://www.ohchr.org/EN/Issues/Privacy/SR/Pages/SRPrivacyIndex.aspx>

www.um.edu.mt/maks/ipg/lexconverge

www.smartsurveillance.eu www.respectproject.eu



Special Rapporteur on the right to privacy



A Special Rapporteur is an independent expert appointed by the Human Rights Council to examine and report back on a country situation or a specific human rights theme. This position is honorary and the expert is not United Nations staff nor paid for his/her work. The Special Rapporteurs are part of the [Special Procedures](#) of the Human Rights Council.

Introduction

In July 2015, the Human Rights Council appointed Prof. Joseph Cannataci of Malta as the first-ever Special Rapporteur on the right to privacy. The appointment is for three years.

Mandate

The Special Rapporteur is mandated by Human Rights Council Resolution 28/16:

(a) To gather relevant information, including on international and national frameworks, national practices and experience, to study trends, developments and challenges in relation to the right to privacy and to make recommendations to ensure its promotion and protection, including in connection with the challenges arising from new technologies;

(b) To seek, receive and respond to information, while avoiding duplication, from States, the United Nations and its agencies, programmes and funds, regional human rights

mechanisms, national human rights institutions, civil society organizations, the private sector, including business enterprises, and any other relevant stakeholders or parties;

(c) To identify possible obstacles to the promotion and protection of the right to privacy, to identify, exchange and promote principles and best practices at the national, regional and international levels, and to submit proposals and recommendations to the Human Rights Council in that regard, including with a view to particular challenges arising in the digital age;

(d) To participate in and contribute to relevant international conferences and events with the aim of promoting a systematic and coherent approach on issues pertaining to the mandate;

(e) To raise awareness concerning the importance of promoting and protecting the right to privacy, including with a view to particu-

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Special Rapporteur

[Prof. Joe Cannataci](#)
(Malta)
July 2015 - present

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