

# CONTENTS

Acknowledgements	ix
Preface	xi
Introduction	xvii
How the Heck Did We Get Here?	xxiii
Technological Complexities in Data Collection: Out of Sight, Out of Reach	xxvii
Appealing to Consumers' Lowest Common Denominators: It's All Good?	xxxii
Supporting Economic Interests of Business and Industry: Doubling Down on Data	xxxiii
Unwillingness of Government to Protect Its Citizenry from Itself: Corporations Are Our Most Valued People	xxxvi
Concerns over Terrorism and Security Risks: A Darned (In)Convenient War on Terror	xxxvii
Family Observations: A Personal Anecdote	xxxvii
Chapter Previews	xxxix

Chapter 1: The Harms	1
Loss of Control over Personal Data	2
<i>Hacking as Lawlessness</i>	2
<i>Leaks and Sponges: We Were Not Supposed to Collect It or Lose It</i>	4
<i>Costs and Harms of Data Breaches</i>	7
Undermining Constitutional Protections	8
<i>Encroaching on First Amendment Protections</i>	8
<i>Encroaching on Third Amendment Protections</i>	13
<i>Encroaching on Fourth Amendment Protections</i>	15
<i>Encroaching on Fifth Amendment Protections</i>	17
<i>Encroaching on Fourteenth Amendment Protections</i>	18
<i>Article III: No Harm No Foul? Perhaps Not So Much</i>	22
Personal Data and the Value Equation	23
Chapter 2: Centerings	29
Theoretical Orientations	29
<i>Interrogating New Media</i>	32
<i>The Framework of Contextual Integrity</i>	34
<i>Identifying Loci of Control</i>	36
<i>Ideological Powers in Platforms</i>	38
Chapter 3: FIP 1: No Secret Data Collection	41
When Is a Contract Just Barely, or Not, a Contract?	43
Data Anonymity via Aggregation as Oxymoron	49
Even the Most Private Datum Isn't	51
Knowing about the Unknowable	55
Quick Reminder: The Constitution Is Supposed to Protect Our Privacy	57
Chapter 4: FIPs 2 and 4: Discovery and Repair	65
You Can't Fix It If You Don't Know About—And Can't Access—It	67
Online Privacy and the European Union	74
The Right to Be Forgotten	76
Ownership of Social Media Accounts in the Enterprise: "Unhand My Stuff!"	77
Toward Chapter 5 and the Third FIP	79
Chapter 5: FIP 3: One Use Should Not Bind Them All	81
Data Collection and Security: Commercial Entities	
Sharing with the Government	86

<i>Battles over Encryption and Cryptography</i>	86
<i>Encryption and Export Controls</i>	93
<i>The Snowden Revelations</i>	96
Data Collection and Insecurity: The Government	
Sharing with Commercial Entities	99
Crossing Government and Commercial Streams	
within the Data Marketplace	104
We Claim to Know Better but Do Not Act Like It	109
Chapter 6: FIP 5: If You Don't Protect It, You Should Not Have It	113
Improved Data Reliability via the Marketplace	114
<i>Big Data Can Aid Problem Solving</i>	114
<i>Recommendations Can Help</i>	118
<i>Improved Targeting Can Be Good for Both Sides</i>	121
<i>The Usability and Functionality Lies</i>	124
Unreliability via the Marketplace	129
Data Abuse via the Marketplace	133
You Can Touch This Because I Can't Protect It	137
Chapter 7: Recommendations	141
Action Proposals for Government	146
<i>Executive Leadership</i>	146
<i>Federal Agencies</i>	150
<i>Congressional Legislation</i>	154
<i>Congressional Legislative Action on</i>	
<i>Commercial Activities</i>	154
<i>Congressional Legislative Action on</i>	
<i>Intelligence Activities</i>	158
<i>Intelligence Community and Law Enforcement</i>	159
<i>Judges and Courts</i>	163
<i>State-Level Actions</i>	167
<i>States and the FIPs: Constraint of</i>	
<i>Government Agencies and Law Enforcement</i>	
<i>from Predatory Practices</i>	168
<i>State-Based Actions in the Commercial</i>	
<i>Privacy Environment</i>	171
Action Proposals for Commercial Entities	173
<i>Industry Leadership</i>	173
<i>Executive Leadership</i>	176
<i>Worker Behaviors</i>	179

<i>Protocol Changes</i>	181
<i>Privacy Policies and Terms of Service</i>	181
<i>Flip the Defaults</i>	182
<i>Offer Multiple Versions</i>	183
<i>Reconsider Data as Revenue Streams</i>	184
<i>Reengineer Data Anonymity</i>	184
<i>Nonprofits: Great Responsibilities</i>	185
WE, the People	191
Notes	203
Works Cited	205
About the Author	231
About the Front Cover	233
Index	235