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18 Regulating the Privacy of Confidentiality

Grasping the Complexities through Communication Privacy Management Theory

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In our current world, we often face the concomitant needs of maintaining privacy and revealing to others to attain medical care, establish friendships, sustain family relationships, open bank accounts, get a passport, and talk to our clergy. In all cases, to achieve these goals, we have to tell others our private information. When we make these disclosures, we create a bond with the recipient. There is an implicit or explicit contract that we establish with the "confidant." We think about the targets of our disclosure as people who are likely to keep our information "confidential." Yet, there are many incidents where the contract of confidentiality is breached in ways that violate our trust, undercut our privacy, and compromise our expectations about the nature of confidentiality. While we see these issues in our everyday life, the instability of faith in maintaining privacy has both personal and societal consequences. As Kenneth Prewitt, former director of the U.S. Census Bureau, points out, it is difficult to have the kind of democracy we enjoy in the United States without access to information. He notes that, "if privacy issues [and the belief in confidentiality] begin to erode the information base of our democracy, there is a high price to pay" (Prewitt, 2005, p. 17). This chapter uses communication privacy management theory (Petronio, 2002) to explore the relationship between privacy and confidentiality to better understand the reasons why people are increasingly finding it difficult to have faith in the notion of confidentiality.

Bok (1982) writes that "the principles of confidentiality postulate a duty to protect confidences against third parties under certain circumstances" (p. 119). In assessing the meaning of this well-respected and often desired state of confidentiality, there are several critical components. When we need or wish to confide, we have to give our private information to others, sometimes in response to a request, to achieve a specific goal, or to honor a relationship, thereby telling private information in good faith. There are several circumstances where confidentiality has received considerable attention. One such example is in medical situations. Physician and health care providers have long realized that part of their professional role is to serve the mission of patient confidentiality (Robinson, 1991). However, confidentiality has not been an easy concept to grasp in general or in specific situations such as

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financial, medical, governmental, social, and relational situations. We find that people are uncertain how to rectify their assumptions about confidentiality and maintaining their privacy with instances where, for example, employers monitor office e-mail (Guernsey, 2000), there is video surveillance of employees (Trevison, 2007), or there is genetic testing that occurs in the workplace (Girion, 2002). As a consequence, the notion of confidentiality has become muddy in our current society. One fundamental concern is the lack of conceptual formulations that give us the apparatus to recognize the underlying paradox of our needs. Given that confidentiality is integral to privacy, one of the more productive ways to grasp the notion of confidentiality regulation is through the lens of communication privacy management (CPM) theory (Petronio, 2002).

Communication Privacy Management

The theory of communication privacy management (Petronio, 2002, 2004, 2007) is a useful framework given understanding the nature of confidentiality requires us to see that (1) privacy and confidentiality work as a tension and (2) the concomitant needs for privacy and granting access function to influence the choices people make to reveal or conceal. Thus, the dialectical push and pull of this tension underpins decision criteria that people use to open up about private issues, thereby establishing a confidant relationship or enabling people to retain their private information. Thus, people often make decisions about revealing based on judging risk-benefits, because of certain motivations to reach a goal, or based on cultural expectations. Further, the decision criteria have the potential to also influence a confidant's judgment about telling or preserving the confidentiality of someone else's information (Petronio, 2000c). Through the use of a boundary metaphor, CPM illustrates the way people manage their privacy both personally and in conjunction with confidants (Petronio, 2000a).

Therefore, this process, where people regulate privacy boundaries as they make choices about the flow of their private information, is guided by six principles: (1) people believe that they own private information, which defines the parameters of what constitutes the meaning of private information; (2) because people believe they own private information, they also believe that they have the right to control that information; (3) to control the flow of their private information, people use privacy rules they develop based on criteria important to them; (4) once they tell others their private information, the nature of that information changes, becoming co-owned by the confidant; (5) once the information is co-owned, ideally the parties negotiate collectively held and agreed-upon privacy rules for third-party dissemination; and (6) because people do not consistently, effectively, or actively negotiate collectively held privacy rules, there is the possibility of "boundary turbulence" which means that there are disruptions in the way that co-owners control and regulate the flow of private information to third

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parties (Caughlin & Petronio, 2004; Petronio, 2002; Petronio & Durham, 2008; Serewicz & Petronio, 2007).

CPM Parameters of Confidentiality Regulation

CPM helps us recognize the dynamics of confidentiality regulation through the concept of co-ownership (Petronio, 2002). When others choose to tell us their private information, they entrust us with information that they feel belongs to them and should continue to be within their control. Yet, they are willing to reveal the information to us because they judge us to be responsible "confidants." That is, they determined that we could fulfill expectations that are derived from a set of decision criteria used to estimate the target's worthiness of access to their private information (Petronio). CPM argues that people depend on criteria to develop privacy rules. For example, privacy rules are developed based on a person's cultural values, their gender, their motivation to retain something as private or to disclose it, the assessment of risk-benefits, and changes in situational or contextual circumstances that work to modify existing rules, like the changes that occur when individuals divorce. When people divorce, they cannot use the same privacy rules they did with their former spouse. Hence, the situation or context calls for changing the privacy rules that guide choices about managing privacy.

When others meet the needed expectations (according to the privacy rules), they are given access to our private information. However, the act of granting access fundamentally changes the dynamics of how that information is viewed. The information moves from within the domain of the original owner into a shared space or boundary that is controlled, and therefore co-owned, by the original owner and the confidant (Petronio & Durham, 2008). In other words, I disclose to a person I think is my best friend; that act makes my best friend responsible for knowing things about me, a type of co-ownership. My best friend shares in knowing something about me I think is private. This process marks the evolution of private information that transitions from residing solely within a personal privacy boundary to a redefined collective privacy boundary. As such, the information is considered shared property and therefore controlled, not only by the original owner, but also by the confidant who becomes a responsible party. Thus, the privacy boundary advances from a personal to a dyadic or collective organism.

With this metamorphosis, a confidant is created. The original owner gives access to the private information either by disclosing or granting permission to it. However, the original owner does not necessarily perceive that he or she has fully given up control over the private information (Petronio, 2002). Instead, the original owner tends to have expectations for how that entrusted information will be treated after the confidant knows it (Petronio, 2000c). The confidant is seen by the original owner as having fiduciary responsibilities. Original owners often assume that their information will be kept confidential in the way that they themselves would regulate access to

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third parties. As CPM argues, when these expectations are discussed, the boundary surrounding the private information is managed by mutually negotiated and agreed-upon privacy rules. In CPM terms, this means that the original owner anticipates the privacy rules will be coordinated with the confidant. Coordination reduces the potential for conflict and unwanted breaches of confidentiality as we find in a study by Golish (2003) with stepfamilies. When stepfamilies are able to establish a clear set of privacy rules for how information should flow from custodial to noncustodial family members, they reduce the incidences of conflict and problems among the members (Golish). To accomplish boundary coordination like this, three operations are necessary: negotiating privacy rules for linkages, permeability, and ownership (Petronio, 2002).

Privacy rules for linkages. Linkages refer to the establishment of mutually agreed-upon privacy rules that are used to choose others who might be privy to the collectively held information. A number of parameters are used to make judgments about linkages with others (Petronio, 2002). For example, owners and co-owners may depend on parameters to link others (giving access) such as the status of the potential confidant (e.g., Brooks, 1974); the type of topic discussed (e.g., Aries & Johnson, 1983); the gender of the target confidant (e.g., Cash, 1975); the attractiveness of the target (e.g., Sote & Good, 1974); certain characteristics of the target, including discretion (e.g., Sollie & Fischer, 1985); level of intimacy the owner and confidant perceive they have with the target (e.g., Hill & Stull, 1987); perceived need for control (e.g., Dinger-Duhon & Brown, 1987); and personality traits that might compromise confidentiality (e.g., Brown & Guy, 1983). Because these parameters are "negotiated," the individuals privy to the information determine who may be defined as a coconfidant based on any combination of criteria that meets the needs of controlling or granting access to that information. Of course, the original owner may carry some weight in setting which parameters are more relevant. However, once the information is known, others "in the know" may have their own interpretation of how the information should be managed. Consequently, the act of negotiation is useful to make the desires of the original owner clear and the agreement about a final set of privacy rules for linkages obvious. For every person granted status of "confidant," there are similar negotiations that theoretically take place. In many cases, a finite number of people are given the status of confidant, likely because the spread of information to many others has the potential to compromise the ability to set parameters for information control (Petronio, 2002).

Privacy rules for permeability. Boundary permeability represents rule coordination about the extent to which collectively held privacy boundaries are opened or closed once they are formed. Again, the confidant and the original owner negotiate how much control over the information there should be to restrict or grant access to third parties. These rules regulate the depth, breadth, and amount of private information that is given access.

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Depending on the degree of access, the flow of information can be visualized in terms of the thickness or thinness of a boundary wall that allows information to be known. The thicker the boundary, with dense and impenetrable walls, less access is given, and, therefore, less is known about the private information. CPM argues that this condition defines the case where people treat their private information as secrets (Petronio, 2002). However, on the other side of the continuum, the thinner the boundary walls, the more that is known to others. When people define their personal information as less private, the walls are more permeable, making the information easily accessible and open. For the most part, people treat their private information in variable ways, adjusting the level of permeability according to rules that protect and rules that grant access. For example, Greene and Serovich (1996) show that, for people living with HIV/AIDS, their privacy rules for access to testing results reflect a hierarchy of access ranging from who they desire to have the most access to testing information (i.e., their immediate family) to the least desired category of individuals representing nonfamily members (e.g., employers). While this initial set of decisions is predicated on the original owner's protection and access rules, once that information is shared, the original owner expects that confidants understand the fiduciary responsibilities for the information. This translates into the belief that confidants willingly negotiate collectively held privacy rules and abide by the decisions made about third-party disclosures or permission for further access.

Access rules that the confidant and original owner develop to restrict or grant outside others access to the private information function on two levels. On an internal level, when *boundary insiders* are free to discuss the collectively held private information among the coconfidants, it is defined by open access to insiders, all of whom are privileged confidants within a boundary sphere. However, there is also the possibility that, while all confidants within a boundary sphere know certain aspects of the information, they may not be granted the right to openly discuss it with all the members inside the sphere. A curious point about the internal workings of collectively held privacy boundaries is the extent to which confidants linked into a boundary donate their own private information to the existing information.

People who are already privy to someone's private information may, in turn, reveal something equally private about themselves. There are many reasons confidants might contribute their own information to the collective privacy boundary once it has been formed. For example, research has shown that confidants sometimes reveal their own private information as an act of reciprocity. The confidant may reciprocate to put the discloser at ease so he or she tells something about a related experience (Omarzu, 2000). Actions like these may provide social support for the discloser but can also make the confidant feel positive about being called upon to help. Sometimes people decide to reciprocate because they view the act as empathic; they may also gage the likelihood of reciprocation based on perceptions of why they were

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selected as a confidant (Derlega, Winstead, Wong, & Greenspan, 2004). Perhaps the confidant wants to illustrate competency and, therefore, reveals a way that he or she addressed a similar issue. In addition, a comfort level may be an issue, in that, having the sense of being part of a confidential cocoon, the confidant may feel more at ease talking about a related private matter of his or her own.

For the confidants, contributing their own private information to the collective boundary may differ in depth and breadth (Petronio & Kovach, 1997). That is, the disclosure contributions may not necessarily be of equal weight, intensity, or level of privacy as the original owner's revelation. In particular, the kind of private information the confidant contributes may be disproportionate to the depth and breadth of a disclosure the original owner made to create the privacy boundary. For example, in a nursing home study, research indicated that, while the nursing home residents were expected to give up privacy in many different spheres, the nursing staff did not define their role as necessarily having to contribute to that sphere (Petronio & Kovach). Consequently, little or no contributions were made to the resident's privacy boundary even though the nurses were fully privileged to know all about private matters of the residents. Interestingly, the residents reported feeling disturbed by this disparity and often sought to equalize the incongruity by asking personal, probing questions of the nurses (Petronio & Kovach).

There are a number of dynamics that disproportionate contributions of private information can prompt. Nevertheless, once a contribution is made, the nature of the coordination process shifts to incorporate the expectations of all the co-owners. Each contributor believes that he or she retains ownership rights; however, there is a sense that there may be more trust among the collective because a number of different owners have contributed to the collective whole. However, that level of trust may vary depending on the amount of access the others in the collective find appropriate and whether the trust is breached by either telling insiders forbidden from knowing certain information or by compromising internal information through telling outsiders. For example, in a study on parents' disclosure of medical information about their children, one of the findings indicated that other family members were the most likely to disclose the child's medical condition to other family members not in the know or to individuals outside the family without permission from the parents (Johnson, Kass, & Natowicz, 2005). This is a kind of "unauthorized disclosure," where the rules seemed to be clear about restricted access, yet members of the collective boundary around the medical information determined that they felt it was acceptable for them to disclose but doing so had the potential to compromise the level of trust felt by the parents.

As the aforementioned example suggests, just as there are internal access rules regulating permeability for confidants privy to the information, there are also external privacy rules that control how much *boundary outsiders*

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can know. For example, in higher education, the Family Educational Rights and Privacy Act (FERPA) regulates the amount and type of information that professors and instructors know about a student's accomplishments and are allowed to share with parents if the child is an emancipated adult (Gilley & Gilley, 2006). Although parents are often invested in their child's performance in classes, the boundary between instructor and student is regulated by privacy rules that evolved into a law (FERPA) governing ways to maintain student privacy (Bernstein, 2007). However, these rules sever parts of an existing boundary in which parents perceive a continuation of control over all matters having to do with their child's welfare. Because they are defined as *boundary outsiders* according to the FERPA regulation, the faculty and university administrators are mandated to deny parental or guardian access to grade or performance information. The conundrum for the parents is that, by the parameters of this legal regulation, other university administrators or personnel may be privy to their child's performance information as grades are entered or financial aid continuance is considered. Although students have the right and may bring their parents into the boundary sphere that is safeguarding performance information, even then the instructor is regulated by external rules of FERPA such that they cannot function by the same privacy rule as the student (Bernstein, 2007).

In addition, the coordination of privacy rules for access often depends on the nature and state of a relationship (e.g., Afifi, 2003). For instance, when relationships are in the process of termination, as decreases in intimacy occur, so too is there a decrease in the breadth of disclosure about private matters (Tolstedt & Stokes, 1984). When the boundaries are more permeable, confidants may know more information, both in depth and breadth, and the permeability may be influenced by the nature and status of the relationship.

On the other hand, protection rules, as opposed to access rules, for collectively held private information reflect many strategies people use to safeguard access to the information. Because there are at least two people represented in collectively held privacy boundaries, the need for negotiation and mutually agreed-upon privacy rules is necessary to achieve a functional level of coordination. While the goal is to limit how much others know, the level of protection achieved often varies with the type of strategy used. CPM argues that there are several different types of protection rules (Petronio & Durham, 2008). For example, topic avoidance tends to be one type of privacy rule that is used to regulate how much information others know (e.g., Afifi & Olson, 2005). There are numerous reasons why people avoid talking about certain topics. Afifi and Guerrero (2000) point out that avoiding revealing information may serve as a safeguard to preserve one's identity. Therefore, telling a confidant information that risks vulnerability is reason enough to assess the likelihood of unresponsiveness or reactions that somehow compromise a sense of self. Consequently, if there is a belief that the confidant might not meet expectations for a particular response, avoiding the

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disclosure is a viable way to preserve one's identity (Afifi & Guerrero, 1998; Guerrero & Afifi, 1995).

As Afifi and Guerrero (2000) note, topic avoidance also functions both as a means of protecting relationships and as a way to signal the de-escalation of a relationship. In the research on child sexual abuse using CPM, it was clear that topic avoidance was used as a way to shield adults, such as a grandmother, who might have had a relationship with the perpetrator (Petronio, Reeder, Hecht, & Mon't Ros-Mendoza, 1996). However, the children also used incremental disclosure that regulated the information flow to test the confidant's response, measuring whether more information should be told to this person (Petronio et al., 1996). Using topic avoidance with confidants who are relational partners can potentially lead to dissatisfaction with the relationship. However, Caughlin and Afifi (2004) point out that research shows the individual's motivation for avoiding disclosure and the way the partners define the nature of privacy management influences whether a partner might become dissatisfied with a relationship. When people form collective privacy boundaries that include at least one other person, there is a possibility that the type of information being considered is so volatile that the co-owners decide to sustain a thick boundary wall with rigid protection rules by declaring the topic taboo (Petronio, 2002).

Unfortunately, in a number of situations, taboo topic protection rules often are used to shelter harmful information. For example, the perpetrator of incest or sexual abuse typically relies on successfully imposing rules that sustain thick boundaries around the incidents (Ray, 1996; Schultz, 2000). These thick boundaries may be used as protection from social disgrace or legal punishment for the perpetrator, but also function as a means of isolation for the abused. For instance, the proverbial "wall of silence" is successful with sexual abuse of children because the effectiveness of taboo topic protection rules often means that silence lasts for years or even a lifetime. Clearly, many well-kept "family secrets" are such due to pressures imposed by a family member who defines the information to be taboo and off-limits to other members (Afifi & Olson, 2005).

However, for a wall of silence to be effective, those who are members of the boundary must follow the privacy rules that dictate the topic is off-limits for discussion or sharing. While not all privacy boundaries regulated by taboo topic protection rules are as sinister as child sexual abuse, the category of taboo topic protection rules reflects the intensity and volatile nature of information within privacy boundaries. In addition, the motivations for keeping secrets may be to not only protect those in the know within the privacy boundary, but also protect those who do not know (Afifi & Weiner, 2006; Derlega et al., 2004; Greene, Derlega, Yep, & Petronio, 2003).

Thus, these rules can guard such information as diagnosis or prognosis concerning an illness (see Pérez-Cárceles, Pereñiguez, Osuna, & Luna, 2005). To maintain thick boundaries around such information, families, couples, or parents may create a protection rule that excludes the illness as

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a topic of discussion with targeted others (Duggan & Petronio, in press). Sometimes, these rules are meant to shield children, protect families, or safeguard the employment of the ill person. Although erecting boundary walls and establishing rules to defend the information functions to limit the possibility of others knowing it, sometimes the level of secrecy that prevails also serves to discourage families or those within the privacy boundary from dealing productively with the information. In some situations, avoidance of such topics may be harmful. Infidelity may become taboo between those within the privacy boundary. Individuals that are privy to knowledge of the act may decide not to discuss the topic of infidelity because of the potential for intense repercussions or emotional response. These kinds of issues also have an impact on the privacy rules that are established regarding ownership of the information.

Privacy rules for ownership. The last type of management process that co-owners negotiate is the degree and kind of ownership. Concomitant with ownership is the sense of ownership rights that each of the co-owners assume. People face several issues when it comes to ownership. First, because we live in a world where we manage multiple privacy boundaries, sometimes people find it difficult to know when one boundary ends and another begins (Petronio, 2002). If a brother tells a sister that he was fired from a job, the sister may assume that it is within her purview to have the right to tell their mother. But, it is often difficult to make a decision because there are interconnecting boundary spheres at work given the brother and sister live within a family privacy boundary, each have their own personal privacy boundary, and now they have created a shared sibling privacy boundary around the disclosed information.

The question arises, therefore, about rights of ownership to make dependent decisions concerning who else *can* know the information. The underlying issue is the degree of assumed control over choices about the information. Original owners and confidants (co-owners) ideally negotiate the parameters for rules guiding ownership rights and concurrent obligations. When they do not, potential for conflict arises and this may happen even if a co-owner believes making an independent decision about the collective information is in the best interest of the original owner. For example, if a younger sister tells her older sister that she is pregnant and the older sister feels it is necessary to tell their parents. It is possible that the younger sister would feel betrayed, especially if she explicitly told her older sister not to tell their parents.

Second, ownership may be defined in a number of ways. Confidants are co-owners, yet the level and type of ownership may vary. Confidants may be *shareholders* who have knowledge of private information because they have been given permission to know it. From the perspective of the original owners (the people to whom the information belonged to before being given access), this type of confidant is often viewed as being fully vested in keeping the information according to the original owner's privacy rules. Shareholder confidants are evaluated to be worthy of co-ownership because

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they are judged to meet the criteria that the original owner used to give access. Besides the benefit of knowing the information, they also share in the cost of knowing through the added responsibility for the information.

Stakeholders are confidants who are perceived as worthy of some level of access because they serve a functional role, providing the original owner a needed outcome. For example, people may be willing to disclose financial information to their banks because they see them as stakeholders. The original owners do not expect their bank to give their "confidential" financial information to uninvited others because doing so compromises the bank's ability to function in a trusted way. Yet the stakes are limited to financial issues and do not extend to other domains. Physicians and health care personnel also represent this category of co-ownership.

For both types, there is a fiduciary responsibility on the part of the co-owner to fulfill the needs of the original owner. However, there may be benefits for the co-owner serving in the role of confidant. For example, the co-owner may become a more trusted friend. There are embedded obligations that theoretically should be negotiated so that a principle of stakeholder fairness is accomplished. In other words, synchronizing the privacy rules for ownership hypothetically allows each party to know the parameters of what is ethically or morally duty bound as a function of serving in a confidant role and they also learn what they must refrain from doing (Phillips, 2003).

Becoming a confidant. There are at least two ways that people become confidants (Petronio, 2002). First, serving as a confidant may result from soliciting private information belonging to someone else. Second, people may find they are recipients of private information, although reluctantly so (Petronio, 2000b, 2000c, 2002; Petronio & Jones, 2006; Petronio, Jones, & Morr, 2003). Deliberate confidants request private information from others either directly, indirectly, or gain permission from them to know the information. The common thread for deliberate confidants is that they purposely seek to know someone else's private information. There are many examples of ways people function as deliberate confidants. For instance, throughout the long history of therapy, the clinician's role is to solicit private thoughts and feelings from clients. Clergy also perform this function. Likewise, physicians depend on learning private medical information either through directly receiving descriptions about the medical symptoms from the patient or through the results of medical tests for which they have been given permission to know. Though the confidant seeks out information, the target does not always willingly give the information (Petronio, 2000c). Instead, there are situations when the discloser tries to thwart the attempts. Nevertheless, confidants pursue the information because they believe they have the right to know.

For reluctant confidants, receiving uninvited private information often is a burden (Petronio et al., 2003). The dilemma is underscored when we remember that reluctant confidants not only may receive information they

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do not want, but there is also the embedded suggestion of obligation attached to the disclosure (Petronio & Jones, 2007). Learning unwanted private information affects the perceived obligations on the part of the confidant, especially if the messages communicated are directly relevant to the recipient. Petronio and Jones argue that these types of circumstances are often defined as privacy breaches for the reluctant recipient. In studying pregnant couples having their first child, Petronio and Jones learned there were a number of ways these pregnant couples repaired a privacy boundary that was infringed upon when they were told information they did not want but was relevant to their pregnancy. For instance, when pregnant couples defined the unsolicited information as invasive, such as the pregnant woman who was told that she needed to immediately seek medical help because she was carrying the baby low and that meant the baby had the umbilical cord wrapped around its neck, they coped by talking to other people about it, ignoring the uninvited information, and verifying the information with an authority.

Even when the information received by reluctant confidants is not directly pertinent to them, they may still find it necessary to maneuver around expectations that suggest moral obligations to respond in a particular way. For example, bartenders, nursing home care staff, and even airplane passengers can hear confessions, stories, or unwanted information from patrons, residents, or neighboring passengers that they would rather have not heard (Petronio, 2002; Petronio & Kovach, 1997). In many cases, the information leaves the recipient feeling uncertain about privacy obligations or an appropriate response. Confidants may feel pressure to reciprocate the disclosure or help the discloser work through a problem. The recipient may leave the interaction feeling uncomfortably responsible for someone else's private information that he or she did not wish to hear in the first place.

Although the probability is higher that reluctant confidants might be in a position to learn more than they want to know, it is true that there are situations where confidants who solicit may receive private information for which they are not prepared. For example, new partners who solicit information about each other's past relationships might also learn surprising information about multiple partners, STDs, previous abortions, or other promiscuous acts (Afifi & Weiner, 2006). Even physicians' family members soliciting information about their workday may become privy to unexpected medical information about a case (Petronio, 2006). For example, if a physician explains a difficult case to his wife and in the course of the discussion reveals he is worried he made a mistake regarding the course of treatment.

When confidants are able to negotiate the privacy rule parameters with the original owner, reach an agreement about the obligations of knowing, and come to terms with the way they came to be a confidant, it is possible that the nature of the confidant relationship can be productively regulated. However, because negotiations do not consistently or effectively take place,

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boundary turbulence can occur. As a result, disruptions to the way that confidant and original owner co-create a functional relationship become challenged. Hence, this turbulence may be the product of intentional or unintentional breaches; nevertheless, the nature of the confidant relationship is compromised, requiring repair work to take place (Petronio, 1991, 2002).

Breaches of Confidentiality

Breaching confidentiality is an example of privacy boundary turbulence. The reason this kind of boundary turbulence occurs is because the expectations an original owner had for the way his or her private information would be treated becomes compromised. In these instances, co-owners ignore, disregard, or mistake the kind of responsibility the original owners thought they had toward the security of their information. Violating confidentiality has the potential to disrupt relationships and compromise a sense of trust. In considering the ways that confidentiality is breached or predicted, there appears to be at least three categories that represent these violations; they include *discrepancy breaches of privacy*, *privacy ownership violations*, and times when privacy breaches are predicted or presumed so individuals use *preemptive privacy control* strategies.

Discrepancy breaches of privacy. In general, this breach occurs when anticipated expectations belonging to an original owner about his or her privacy do not match the actual way co-owners regulate third-party access or the way others gain access to become intentional or unintentional co-owners. An example of expectation discrepancies between anticipated and actual privacy regulation is seen in this health care case. Gloria had a biopsy to determine whether she had breast cancer. She was told that she would hear the results from her physician once the tests were completed. She assumed that she would be called at home or called to see the physician in person at his office.

One day, Gloria received a phone call at work. She was a receptionist at a busy organization and this call came during a point when she was registering people for a workshop one of the bosses was conducting. The caller identified herself as a nurse in her physician's office and wanted to let her know that the biopsy tests had just been received. The nurse said, "Gloria, I regret to inform you that the tests were positive, you have stage-four cancer; you need to make arrangements immediately for aggressive treatment. I am very sorry to tell you this. You need to get your affairs in order." She asked if Gloria understood. Gloria said yes. However, Gloria was in shock and could not remember anything the nurse said other than she had to get her affairs in order. She did not expect to receive her confidential medical information in this way.

This example of a discrepancy breach reflects an inconsistency in the expectations that Gloria had for how her private information might be handled by the medical team and the way that it was communicated. She

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did not expect that the nurse would be the source of the test results. While she understood that the nurse was privy to the information, she did not define the nurse as a primary stakeholder of the information. Instead, she defined the physician playing the primary stakeholder role because, in her estimation, he was managing the case and she put her faith in his hands regarding these tests. The nurse, on the other hand, was considered an auxiliary member of the team and, therefore, the expectation was that she played a supporting role, and not the primary role, when it came to handling the private information.

Privacy ownership violations. In this case, people's ability to exercise ownership and control according to their assumptions about rules for regulating their private information is violated. For example, in this case, a patient explains how she believed her privacy was violated. She states:

> I am a patient in a special unit where the staff has a meeting every week. They discuss the test results and whatever they want to discuss. You sort of find out along the way. They don't tell you what goes on, but you get second-hand information. The nurse will come back and say, "At the meeting the doctor said this . . ." I don't like them discussing me behind my back.
>
> (Braunack-Mayer & Mulligan, 2003, p. 278)

This patient felt violated because she assumed the physician would directly discuss treatment options with her. From her perspective, the integrity of her privacy boundary was compromised because the physician did not negotiate how he should handle talking about private medical information and decision making about her case. The patient defined the lack of direct communication as a breach in confidentiality. This same condition is witnessed in the next example. Another patient from the same study notes:

> I changed to a new GP and he was able to access the results of tests that my previous doctor had done via the computer. I was very surprised that information that one doctor has was available on the computer for another doctor. He did not ask me if that was okay; he did not explain to me; he just said, "I'll check what the tests were . . ." and I was just really surprised and wondered what else was freely available for everyone to read.
>
> (Braunack-Mayer & Mulligan, 2003, p. 278)

As with the first example, the way control over the information is enacted by the physician is contrary to the expectations of the patient. The patient feels violated because she did not have the option of talking about how the medical files and the information would be handled. Her point about not being asked permission illustrates the predicament the patient found herself in regarding the ease of access. Though we do not have information about this, it seems likely that the physician in this case would be perplexed about

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the patient's statement. Often in these circumstances, the stakeholders are not cognizant of the expectations patients have regarding the care of their private medical information (Rogers, 2006). This example reinforces the usefulness of the original owner and confidant talking about privacy management rules of information.

Preemptive privacy control. We also find cases where individuals have difficulty in confidently predicting the extent to which they will be able to negotiate privacy rules for access and protection to reach the level of confidentiality they desire. This condition may occur because of previous experiences with privacy breaches or a lack of certainty about levels of trust. Consequently, there are instances where people use a strategy of preemptive privacy control to thwart anticipated privacy violations. In this circumstance, people retain control over their information by setting up thick boundary walls preventing disclosure or permission for access. Or else, these individuals develop a test to assess to what degree they might give access. For example, the woman in this case explains why she did not tell a new doctor she previously had gonorrhea that was successfully treated. She stated that "it paints a picture. They don't ask how long ago. They just say, did you have it? It puts something there in their minds that would be negative about you and doesn't necessarily need to be, especially when it's so old" (Jenkins, Merz, & Sankar, 2005, p. 502). Clearly, the patient feels that revealing this medical information from her past directly puts her at risk in terms of the way she predicts her physician will perceive her (Pérez-Cárceles et al., 2005). She determined that given the illness occurred some time ago that it was not directly pertinent to her current case. Thus, in CPM terms, the patient erected thick boundaries around the information and, in a preemptive way, cut off communication about her past medical history.

This type of preemptive control strategy to seek protection from situations that are defined as potentially risking privacy violations also may occur in degrees of control. For instance, in the study on child sexual abuse, we found that children who had been abused tested the potential of harm by incrementally revealing information about the abusive situation to determine the extent of support. In situations where the confidant acted positively to an initial statement, the children were willing to progress to the next stage of revelations (Petronio et al., 1996). In circumstances where the confidant made fun of the child, ignored the child, or ridiculed the child, he or she would regain control over the information and refuse to disclose further. In fact, it is likely that these negative experiences with opening a privacy boundary might reinforce the need to remain silent with others (Petronio, 2002). As such, this type of protection against breaches may be an outgrowth of experiencing negative reactions to disclosures. For example, in a *Los Angeles Times* article, in order to preempt disclosures about their private lives by nannies or other service personnel who would have intimate knowledge of their private lives, celebrities are requiring, as a condition of employment, the signature of a "nondisclosure agreement" to

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curtail the revelation of potentially private information to unwanted others (Davidow, 2007). In this way, the parameters of confidentiality, or in CPM terms privacy rules, are clearly identified without ambiguity to hinder the possibility of a violation. Of course, actions such as these may not completely hamper the dissemination of private information, yet the fiduciary responsibilities of the co-owners are clearly identified and agreed upon up front. Although there are, no doubt, other types of confidentiality breaches, the three presented serve as the initial step in identifying the way that breaches take place or are thwarted.

Conclusion

Communication Privacy Management theory provides a rich canvas from which to understand the complexities of confidentiality regulation. This chapter illustrates two significant contributions to our understanding of confidentiality. First, unlike other attempts that focus primarily on context, this approach shifts the conceptual landscape to considering confidentiality as a partnership, between original owners and co-owners, where the enterprise of managing private information is built on mutual responsibilities and establishing rules for regulating the flow to others. As a result, it gives a more concrete way to see the *process* of confidentiality. Second, this CPM confidentiality regulation process identifies three kinds of violations individuals encounter, including *discrepancy breaches*, *privacy ownership violations*, and *preemptive privacy control*. Thus, having a better understanding of the process involved in developing, regulating, and violating confidentiality opens new lines of investigation that help us more clearly comprehend the dynamics of confidentiality regulation.

Future Directions

New directions for research that stem from this discussion include both the expansion of CPM theory and applications that address new research areas within this conceptualization of confidentiality. For instance, within this framework of *confidentiality regulation*, we can better recognize the "dance of establishing confidentiality." Take, for example, patients visiting a doctor for the first time. Undoubtedly, a confidential relationship is necessary, but patients may test the physicians to see whether their reactions to disclosed information yield the kind of response that assures they are being considered credible sources and that they can trust the doctors to protect information. We can also examine the impact of "decision criteria consistency" between the discloser and confidant when regulating confidentiality. For example, there are many situations where disclosers have one set of motivations (decision criteria) for telling or keeping information and confidants have a different set of motivations that influences the rules for third-party disclosure of mutually held information.

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We see many examples from genetic counseling that show us the variant motives that have a probability of leading to breaches or conflict. A sister learns that she is a carrier of a disease-causing gene, tells her husband so, but is motivated to keep the information confidential and does not want him to tell her sibling. The husband agrees but has second thoughts because he believes the sister should be tested too. As a result, he violates the confidential agreement by telling her sister. While this husband told the information to protect the sibling, people like the sister withhold because they believe doing so will protect a relationship.

Confidentiality regulation from a CPM perspective can also provide a link to the part social support plays in a confidential relationship. For instance, in order to provide support, a confidant may be more likely to contribute to the mutually owned private information by telling about private experiences as a way to show empathy and understanding. As such, it may be interesting to consider online or community support networks, perhaps those available to new mothers such as La Leche League or those available to cancer patients and their families. These kinds of networks would provide a detailed web of interconnected disclosures with implications for confidentiality and social support. As we increasingly turn to the Internet for relationship building (dating sites, social networking sites, gaming sites), social support, shopping, and services such as banking, bill paying, and medical information, we must consider the implications for the process of confidentiality bound up in such disclosures of our private information. Breaches of confidentiality in these processes could have severe financial and social consequences and could also redefine the systems we currently use and take for granted.

Looking at the regulation system of confidentiality helps us to define the nature of breaches and we are more likely to determine viable repair tools once breaches take place. To better understand breaches and repair tools, researchers might consider the regulation systems for confidentiality between work and life (home). As the boundary between the two spheres becomes increasingly blurred and demands in each more intense, a breach becomes inevitable, constituting a need for viable repair tools that can be determined and explored as they are enacted. We live in a world where, as Bok (1982) suggests, "so much confidential information is now being gathered and recorded and requested by so many about so many that confidentiality, though as strenuously invoked as in the past, is turning out to be a weaker reed than ever" (p. 111). Consequently, we need a better map to discover more viable ways to address the confidentiality needs we face.

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