SCANDAL OR SEX CRIME? ETHICAL IMPLICATIONS OF THE CELEBRITY NUDE PHOTO LEAKS

Alice E. Marwick
Data & Society Research Institute

Introduction

On August 31, 2014, a large archive of digital images of (almost entirely female) celebrities were posted to the image-sharing website 4Chan. Most of the pictures were nude or scantily-clad selfies, presumably taken with iPhones, and stolen from iCloud, Apple's cloud storage product. Hackers had obtained the images through various means, including phishing, remote access tools, password resets, and social engineering, but primarily through an iCloud security flaw that allowed unlimited password guesses. The images began circulating privately on darknet image bulletin boards, and were disseminated into the mainstream by an individual who described himself as a "collector," who posted them on 4chan in exchange for bitcoin. Reddit users created a subreddit called "The Fappening" (a portmanteau of "The Happening" and "fap," an internet slang term for masturbation) to post, organize, and discuss the images. Within days, this group became the fastest-growing subreddit of all time, with more than 100,000 users (Massanari 2015).

Fans and representatives of the women whose photos had been stolen, including actors Jennifer Lawrence, Gabrielle Union, and Kirsten Dunst, spoke out against the leak and asked fans not to share or look at the photos. The users of the Fappening, in contrast, were beside themselves with delight. Early posts on the Fappening included hundreds of statements like ""This is the best day of my life" and "This...This is just beyond our wildest dreams." Reddit administrators quickly warned users of the subreddit that it would take down any links that included leaked images of US gymnast McKayla Maroney or actress Liz Lee, who were both under 18 at the time their photos were taken, making the photos legally child pornography.

A week later, after DMCA[1] requests from celebrity lawyers and a great deal of bad publicity, Reddit deleted the subreddit and posted a public blog post explaining their actions (Unknown 2014). They did not remove the Fappening due to ethical issues, or concern for the privacy of the women in the pictures. The Fappening community was

---

[1] Digital Millennium Copyright Act

instead removed due to legal pressure, child pornography laws and DMCA complaints—in other words, implications that might hurt Reddit the company. In fact, Reddit made enough money from the Fappening, both in terms of pageviews and premium accounts, to pay for its server costs for a month (Greenberg 2014).

There was a fevered public debate over the ethics of not only leaking, but viewing and spreading the photos. In *The Atlantic*, feminist writer Jessica Valenti argued that people seeking out the photos were violating the women's privacy just as the hackers had (Valenti 2014). Jennifer Lawrence herself told *Vanity Fair,* "It is not a scandal. It is a sex crime. It is a sexual violation… It's disgusting…Just because I'm a public figure, just because I'm an actress, does not mean that I asked for this" (Kashner 2014). The ethics of "looking" are similar to the public discussion around the beheading video of James Foley, a journalist captured by ISIS. James Foley's cousin stated, "Please honor James Foley and respect my family's privacy. Don't watch the video. Don't share it. That's not how life should be" (Parkinson 2014).

At the same time, celebrities are somewhat of a unique class in American law, as they have fewer privacy rights than the average American. In a 2010 ruling, California District Judge Hall Patel ruled that "[P]ersons who have placed themselves in the public light, e.g., through politics, or voluntarily participate in the public arena have a significantly diminished privacy interest than others" (Rosenfeld v United States Department of Justice 2010). But revenge porn and "leaking," or more accurately, stealing, private nude photos of non-celebrities is increasingly commonplace, and linked to misogynistic internet subcultures (Marcotte 2014). What does this event tell us about how sexting, celebrities, and "the cloud" are viewed in popular understandings of privacy?

Method and Framework

This paper analyzes selections from a mass capture of 94,602 text comments from reddit.com/r/thefappening. These comments are augmented by a discourse analysis of popular press discussion, primarily from afflicted celebrities, feminist columnists, and journalists.

I ask two questions:

RQ1: What are the popular ethical understandings of the celebrity nude photo leaks?
RQ2: What are the relevant implications of celebrity privacy law?

This paper explores the ethical implications of the celebrity nude photo leak. It is grounded in the emerging feminist literature on geek masculinity, gendered harassment, and misogynist subcultures online (Citron 2014; Chess and Shaw 2015; Nakamura 2012), and uses critical discourse analysis (Fairclough 2003) to examine how Redditors framed and made meaning of the nude photo leaks. I analyze US legal policy around celebrity privacy to discuss the "need to know, right to know, want to know" ethical framework that has been used to justify publicizing private information. I conclude that the potential for attention and publicity brought about by the material affordances of the modern internet creates a continuum between "celebrities" and "average people." Thus,

attitudes towards nude photos of celebrities may mirror public attitudes towards stolen photos of the non-famous (e.g. revenge porn).

References

Chess, Shira, and Adrienne Shaw. 2015. "A Conspiracy of Fishes, Or, How We Learned to Stop Worrying About# Gamergate and Embrace Hegemonic Masculinity." *Journal of Broadcasting & Electronic Media* 59 (1): 208–20.

Citron, Danielle. 2014. *Hate Crimes in Cyberspace*. Cambridge, MA: Harvard University Press.

Fairclough, Norman. 2003. *Analysing Discourse: Textual Analysis for Social Research*. New York: Routledge.

Greenberg, Andy. 2014. "Hacked Celeb Pics Made Reddit Enough Cash to Run Its Servers for a Month." *WIRED*. September 10. http://www.wired.com/2014/09/celeb-pics-reddit-gold/.

Kashner, Sam. 2014. "Both Huntress and Prey." *Vanity Fair*, October 20. http://www.vanityfair.com/hollywood/2014/10/jennifer-lawrence-photo-hacking-privacy.

Marcotte, Amanda. 2014. "'The Fappening' and Revenge Porn Culture: Jennifer Lawrence and the Creepshot Epidemic." *The Daily Beast*. September 3. http://www.thedailybeast.com/articles/2014/09/03/the-fappening-and-revenge-porn-culture-jennifer-lawrence-and-the-creepshot-epidemic.html.

Massanari, Adrienne. 2015. "#Gamergate and The Fappening: How Reddit's Algorithm, Governance, and Culture Support Toxic Technocultures." *New Media & Society*, October, 1461444815608807. doi:10.1177/1461444815608807.

Nakamura, Lisa. 2012. "Queer Female of Color: The Highest Difficulty Setting There Is? Gaming Rhetoric as Gender Capital." *Ada: A Journal of Gender, New Media, and Technology* 1 (1). http://adanewmedia.org/2012/11/issue1-nakamura/.

Parkinson, Hannah Jane. 2014. "James Foley: How Social Media Is Fighting Back against Isis Propaganda." *The Guardian*, August 20, sec. Technology. http://www.theguardian.com/technology/2014/aug/20/james-foley-how-social-media-is-fighting-back-against-isis-propaganda.

Unknown. 2014. "Every Man Is Responsible For His Own Soul." *Blog.reddit*. September 6. http://www.redditblog.com/2014/09/every-man-is-responsible-for-his-own.html.

Valenti, Jessica. 2014. "What's Wrong With Checking Out Stolen Nude Photos of Celebrities." *The Atlantic*, September 1. http://www.theatlantic.com/entertainment/archive/2014/09/leaked-photos-nude-celebrities-abuse/379434/.