**Will the Government Protect Our Privacy?**

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It is a combination of law and technology that decides how surveillable we are. But technologies change a lot faster than major legislation, faster than anything can get to the courts. It was not until 2010 that a court finally ruled that the Fourth Amendment protects email and that's one court in one circuit. Federal law still says your email can be read in a lot of situations without a search warrant. The basic statute governing federal surveillance is the Electronic Communications Privacy Act--that’s 1986, tweaked in the early nineties but it’s still a sort of framework for police and government surveillance of people's electronic communications. It’s a law that was written before most people had heard of the Internet or knew it existed.

So it may be that by the time that courts get around to considering the appropriateness of some new method of technological surveillance, the technology has moved on, decided that it needs to be easy to have a secure communication that involves a credit card transaction. We haven't decided it's as important for it to be easy by default to send an email that’s encrypted, or have an IM chat that’s encrypted. So a lot of the defaults have to do with the technology.

And now we're starting to see this growing body of services that are pitching to people who are not that comfortable with collection of data about them--things like Spideroak, which is a kind of Dropbox alternative, where everything is sort of encrypted, browsers that are set by default to not accept third-party cookies or to tell sites not track you. There's also a push to lock in some of those two defaults legally. But the Department of Justice, the FBI, have gotten accustomed to being able to listen the phone calls and reading emails and is pushing for legislation to say companies basically cannot offer you more secure communications, cannot offer you a service where the company itself doesn't have the keys to unlock the message you're sending, the conversation you're having. So in a lot of ways I think the future of our Privacy will depend on whether the technology to allow for greater privacy is deployed in a kind of easy-to-use- for-the-ordinary-person way before the government is able to lock that down and legally forbid it.