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PHENOMENON

## Your Blog or Mine?

By JEFFREY ROSEN

**O**ne of the first sex scandals of the blogosphere ended, of course, in a book deal. In May, Ana Marie Cox, the Internet gossip whose Web log, Wonkette, focuses on Washington, published a link to another blogger who called herself the Washingtonienne. In the blog, Washingtonienne, a Capitol Hill employee, used a Senate computer to post intimate details about her experience sleeping with six different men, some of whom were paying for her favors. Washingtonienne listed her partners by their initials and occupations, from the married "Chief of Staff at one of the gov agencies, appointed by Bush" to her current boyfriend, a fellow Senate staff member. Praising Washingtonienne for her candor and honesty ("You go, girl!"), Wonkette identified her as Jessica Cutler, a 26-year-old mail sorter for Senator Mike DeWine, an Ohio Republican, who promptly fired her from her \$25,000-a-year job. After a flurry of interviews in the newspapers and on TV, she sold a novel based on her blog to Hyperion for a figure that Wonkette estimated at \$300,000. Cutler's agent announced that she would pose nude for Playboy but would not talk to the media until the book was published. Her privacy, after all, had to be respected.

The men whose initials Cutler posted were not so lucky. In an effort to identify the Bush appointee who was paying for sex, Wonkette posted pictures of 13 chiefs of staff at federal agencies under the headline, "Would You Sell Sex to This Man?" One of the suspects was a law-school classmate of mine, Frank Jimenez, who had recently served as chief of staff at the Department of Housing and Urban Development. When I saw the photo, I wondered if his career was over. Happily, the following day, Jimenez was completely exonerated by Wonkette: Cutler's "F" was married, while Jimenez was single. But during those hours of uncertainty, Jimenez experienced the peculiar anxiety of being falsely implicated in someone else's Internet exhibitionism. "I went to the gym during lunch, and when I came back, there were e-mails and voice mails from concerned friends," he said. "I was amazed at how many friends were following the story in real time, like a cyber soap opera." Jimenez, who said he was never so glad to be single in his life, added, "I would hope that bloggers would be more circumspect about what they post on the Web: it's no different than old-fashioned gossip spread by word of mouth, but modern technology has magnified its impact a millionfold, and it's potentially more harmful because of its permanence."

As Web logs proliferate -- Technorati, which tracks 5 million blogs, estimates that 15,000 are added each day -- the boundaries between public and private are being transformed. Unconstrained by journalistic conventions, bloggers are blurring the lines between public events and ordinary social interactions and changing the way we date, work, teach and live. And as blogs continue to proliferate, citizens will have to develop new understandings about what parts of our lives are on and off the record.

In 1890, when Louis Brandeis, the future Supreme Court justice, and Samuel Warren, his former law partner, wrote their famous article on the right to privacy, they worried that the press and the camera were threatening the privacy of daily life. In the age of blogs, all citizens, no matter how obscure, will have to adjust their behavior to the possibility that someone may be writing about them.

There are as many different kinds of blogs as there are human impulses -- sex blogs, dating blogs, political blogs, technology blogs and music blogs. But 70 to 80 percent are varieties of personal journals. A few have broken into the Technorati Top 100: for example, dooce, No. 39, advertises herself as "that girl who lost her job" and "managed to alienate her family because of her Web site." (You can click the links to read the nasty things she said about her parents and colleagues that got her into trouble.) Although men and women blog in roughly equal numbers, personal bloggers are more likely to be women than men. And the favorite topic of personal bloggers is sex.

The founding father of personal bloggers may be Justin Hall, who started his Web site, Links.net, 10 years ago when he was a student at Swarthmore. "When I first started doing it, they called it a personal home page; then they said I'm one of the first Web diarists, and now I'm one of the first Web bloggers," he said. Hall's short biography says that he is enrolled as a graduate student in interactive media at the University of Southern California School of Cinema-Television. But if you follow the links to his unofficial biography, you will learn much, much more about him -- more than 4,800 pages of postings, in fact. You will learn about his relationship with his father ("When I was 8, my father, an alcoholic, killed himself"), his stepfather ("the intense difficulty we had getting to know each other was perhaps inevitable") and his high-school friends. You will see photographs posted from his travels around the world and read his daily thoughts on "art, writing, science, eating disorders, African-American religions and tai chi." But, as Hall notes, "the most popular subject is sex." Here the links provide a great deal of personal information. Follow the link to "looking for love," and you will find Hall's sexual biography, which includes a cumulative tally of "Various Romantic Partners (Spring 1992 - Present) -- Penetrative sex with a total of 26 people, ranging in age from 16 to 38. Fifteen of these exchanges were one-evening insertions." At least one of these exchanges culminated in a sexually transmitted disease. (Click the link for details.)

Hall takes notes on his mobile phone, a Trio 650 with a camera, and he often posts

photographs directly to the Web in real time. This gives his journal, at its best, the immediacy of a gonzo documentary, but it also runs the risk of upsetting people whose names or photos appear in his journal without their consent. As his blog has become more widely read, Hall says, former girlfriends have asked him to remove their names because they fear professional consequences if a Google search revealed their previous association with such a racy character. When one former girlfriend, with whom he lived for four years, asked him to remove her from the site, he replied: "This is my art. I'll remove specific things that bother you, but I can't go through the entire Web site and remove every mention of your name."

As personal blogging proliferates, an etiquette is beginning to emerge. In a forthcoming study of nearly 500 bloggers and their expectations of privacy by Fernanda Viegas of M.I.T., more than a third of the respondents said they had "gotten in trouble" for material posted on their blog, and a third knew other bloggers who had gotten into trouble with family and friends. Those who wrote frequently about "highly personal materials" got into trouble most often of all.

When Viegas asked bloggers to give her examples of the trouble their blogs had caused, she received responses like this: "I lost a prospective girlfriend, who found that I'd blogged a brief amount about our date," wrote one blogger. Nearly two-thirds of the bloggers told Viegas they almost never asked permission before blogging about other people by name, but bloggers who got into trouble said they became more sensitive to the importance of using pseudonyms after their friends and family objected.

The most popular personal journal sites, like LiveJournal.com (which has more than two million active users and nearly 400 posts a minute), allow bloggers to restrict access to a preselected audience. Nevertheless, most of the dating bloggers I talked to preferred to vent anonymously before unseen strangers because they viewed their sites as a form of personal therapy. Consider "the Jewish American Warrior Princess," whose anonymous blog styles itself "a confessional of hope and vulgarity" dedicated to "the nitty-gritty of dating and sex in Manhattan." In a recent post, Warrior Princess confessed that she hadn't "had sex in over a year" or "gone on a date in almost three months." She said that she avoids mentioning the blog to potential dates because many people react badly to it. In the blogging world, however, anonymous strangers relate to her stories of dating woe and e-mail her to express solidarity. Other dating bloggers report similar feedback when they discuss common experiences that readers can relate to. "I'll admit that certain things drive me crazy, like my boyfriend going to a strip club, and then 20 girls will e-mail and say, 'Oh, my God, it drives me crazy, too!'" says a dating blogger named Deb who blogs as Smitten (at thesmitten.com).

Dating bloggers like Warrior Princess say they get several hundred hits a day and dozens of e-mail messages a week, and they find the emotional support from strangers to be comforting. But their blogs have not yielded lots of dates, in part because potential boyfriends are understandably wary about having their most intimate behaviors

broadcast to the world. In the blogging community itself, there is a general consensus that dating fellow bloggers is crazy. "Dating a blogger: quite frankly, I wouldn't do it," wrote Jessica on the Blog of Chloe and Pete. "Dating writers is hard enough," she continued, noting that Tolstoy's marriage almost broke up after he shared with his virgin bride his diaristic accounts of liaisons with servant girls. "And that was a private drama. Imagine enacting such a dysfunctional ritual online."

The dating bloggers who are bold enough to date one another are indeed learning to negotiate complicated protocols about what parts of their life are on and off the record. The Tracy and Hepburn of the dating blog set may be Smitten and her boyfriend, Alex, who has blogged as Business Casual. They have inspired envy in the blogosphere for having met through their separate dating blogs. Deb started her blog in the summer of 2003, after a series of "laughably bad" dates. She generally wrote about her partners anonymously, except in cases where they behaved badly, when she would shame them by using their first names. "If you're a bad date, you have no right to privacy; that's Debbie's law," she said with a chuckle. Starting with seven readers on her first day, she was soon getting up to 900 hits a day. Then she met Alex.

"We actually met through our sites," she said. "It was Sept. 11, 2003, and I remember waking up thinking I'd really like to go for a drink, but none of my friends were around. I saw on his site that he really wanted to go for a drink. He said, I'll be at this bar if anyone wants to stop by."

Said Alex: "Debbie sent me an e-mail and said, in effect, I'll meet you there. It was definitely flattering."

You can read about the meeting on her blog, as well as tracking the progress of their relationship. At first, Deb continued to date several men at the same time, enumerating each of their strengths and weaknesses, but after what Deb recalls as a messy beginning, she broke up with Alex a month later. Then, as she recorded on her blog at the time, she found herself missing Alex while making out with another man. After blogging her guilt, she called Alex to apologize, and they moved in together soon after.

Deb has continued to blog her feelings during their cohabitation -- an exercise that, as you can imagine, sometimes leads to tensions. "We used to joke in the beginning about things being on or off the record," Deb said. "This was something we bickered about all the time -- I can't let him read something before I post it. It's like having someone reading over your shoulder, and I don't like people to read my rough drafts."

Not all blog gossip is about sex, of course -- or only about sex. As blogs expand, people will need to develop new social conventions to resurrect the boundaries between public and private interactions. Consider law professors, in whose privacy I take a special interest. There is a growing category of blogs, known as blawgs, in which law students

across the country record their musings about their daily experiences in law schools. (The legally inclined Web ring now has about 450 members.) Professors have always had to assume the risk that performance in class will be publicly evaluated: a Web site called RateMyProfessors.com posts anonymous rankings of teachers across the country.

But unlike course-evaluation sites, many blawgs focus on far more than their teachers' public performances: they are essentially gossip sheets in which anonymous students transcribe conversations in and out of class with their professors and fellow students. For example, a blawg called Open and Notorious posted by students at a Washington law school was taken down after it posted graphic transcripts of conversations between professors and sycophantic students, as well as speculation about who was sleeping with whom.

At the law school where I teach, George Washington, I recently discovered that there are two anonymous student-run blawgs, Ambivalent Imbroglia and Life, Law, Libido. One includes photos and gossip items about student sex scandals, like the Capitol Hill intern (yes, another one) who broke up with one of his co-interns and then sent her a scathing e-mail message. The bloggers also include verbatim transcripts of their conversations with my colleagues not only in class but during office hours, augmented by unkind (if sometimes wickedly accurate) comments.

Now that I know that students may be reporting my after-class comments without my knowledge, I'm more likely to be circumspect in private conversations. Do I have any other remedies? One possibility might be to announce at the beginning of each term that all comments in the classroom are off the record to bloggers. But this kind of strategy is likely to backfire. In an Internet law class at Yale Law School, for example, Reed Hundt, the former chairman of the Federal Communications Commission, agreed to speak on the condition that no news media be invited; during his talk, he discovered that student bloggers were enrolled in the class and asked them not to blog his remarks. This had the effect of enraging the bloggers, who insisted that they hadn't agreed not to blog in advance and had a First Amendment right to blog whatever they liked. (Prof. Al Gore made the same mistake when he unwisely tried to block the media from one of his classes at the Columbia Journalism School.)

"Once burned, twice shy," Hundt said, reflecting about his experience. "I no longer try in any group larger than two or three people to establish any rules of confidentiality at all: what are you going to do, ask people to sign pieces of paper?" Hundt said he has abandoned the idea that he can control his audiences and assumes that everything he says might be posted. But in a small act of revenge, he has started an anonymous blog of his own. "It's in the nature of a private diary, but to tell you more would compromise its anonymity," he said coyly.

There are two obvious differences between bloggers and the traditional press: unlike bloggers, professional journalists have a) editors and b) the need to maintain a

professional reputation so that sources will continue to talk to them. I've been a journalist for more than a decade, and on two occasions I asked acquaintances whether I could print information that they had told me in social situations. Both times, they made clear that if I published they would never speak to me again. Without a reputation for trustworthiness, neither friendship nor journalism can be sustained over time.

Now that everyone is at risk of blogging or being blogged, what recourse do we have against unscrupulous bloggers? Nearly 60 percent of the bloggers in Viegas's M.I.T. study said they thought they were potentially liable to be sued for materials published on their blog. And if Jessica Cutler's boyfriend sues the Internet gossip sites that revealed his name and posted his picture, he might have a decent chance of winning. Like other journalists, bloggers can be sued for disclosing true details of someone else's private life, as long as the disclosures "would be highly offensive to a reasonable person" and "not of legitimate concern to the public." Cutler's boyfriend was a private figure, and it's certainly arguable that the disclosures about his sexual habits were highly offensive. Still, anyone in the boyfriend's position would have to weigh the benefits of a lawsuit against its costs. A lawsuit would only bring him more unwanted publicity.

If suing unscrupulous bloggers isn't a realistic option for most people, shaming them might be. "Maybe it shouldn't be the victim who bears the burden of punishing the person who does wrong; maybe the blogging community should take responsibility," said Lawrence Lessig, the cyberspace scholar who blogs at Lessig.org. "In my blog, when people make rude and inappropriate comments, people say, 'Don't feed the troll in blog space,' and that's a good response -- the community shaming the person who is misbehaving."

Other countries have experienced the effectiveness of shame in the blogosphere. In 2003, for example, China had its first blogging sex scandal, which played out rather differently from its American counterpart. In July 2003, a Chinese sex columnist named Mu Zimei had the highest-ranked Web site in China once she started naming names on her personal blog. She described her liaisons with various men, including an undistinguished tryst outside a restaurant with a rock-star guitarist from Guangzhou. The blog temporarily shut down because the Chinese service provider couldn't handle the millions of visitors, and a vigorous debate broke out in the blogosphere about whether Mu Zimei had violated the privacy of the men she identified. "Mu Zimei has released the name of the men who has ever slept with," wrote a Shanghai blogger named Wangjianshuo. "This is bad. I believe a blog can reveal whatever you want to show about yourself, but not others." In response to criticism from the blogosphere, Mu Zimei deleted the explicit discussions of her sexual encounters when Sina.com began to serialize her work in November.

Should Washingtonienne have been shamed as well? Many of the bloggers I talked to thought so. "I would never reveal the identity of a date -- it violates the honor among bloggers, which resembles honor among thieves," Warrior Princess said. "Using initials

was irresponsible, and the whole point of it was to call attention to herself," Alex of Business Casual said. "I feel really bad for the boyfriend." Or as his blogging girlfriend, Smitten, put it: "She was anonymous, but the other people she wrote about weren't given that benefit. She had the right to privacy, but nobody else did. Gag."

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