

The Public Interest and Personal Privacy in a Time of Crisis (Part I)

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Original Mandarin:

https://mp.weixin.qq.com/s/1NfCH9M_9VsEG89gdm4x3A?fbclid=IwAR2gsu5HFa0dhIDloo_zDeAyF5rMnAxdKZoCVCoXo8PseNb-X-54G5RnhrU

Excerpted first six or so paragraphs: Professor Hu goes through the Apple-FBI case (both San Bernardino and the recent Pensacola naval shooting), and emphasizes his view that "Privacy is indeed at the core of freedom and often supports other fundamental rights and freedoms." [隐私乃是自由的核心，通常会支持其他基本权利和自由]

At the start of a "Year of the Gengzi," the novel coronavirus spread across five continents. On February 28, the World Health Organization (WHO) raised the global risk of the epidemic to "very high", which is the organization's highest level of risk assessment.

When infectious diseases have erupted on such a large scale, timely access to data is often critical. First, it is important to know who has been in close contact with infected people or who has flown on the same plane or train. Second, there's a need to know who all reside in the same residence, as well as which neighborhoods they are in. Third, to track the potential spread of the disease, it may also be important to check cell phone location information and digital maps to understand the travel routes of people within cities as well as migration across the country. In fact, public health surveillance is a data-intensive practice, which inevitably raises personal privacy issues.

Per the *Southern Metropolis Daily*, the personal information of more than 7000 people who returned home from Wuhan (for the holidays) was leaked.



南方都市报

1-27 14:42 来自微博视频

【#超七千武汉返乡者信息泄露#，被短信骚扰谩骂！相关登记方称未披露】1月26日晚，据武汉市市长周先旺介绍，因为春节和疫情的影响，目前有500多万人离开武汉。严峻疫情形势下，针对返乡人员的信息登记、活动监控在全国各地展开，但与此同时，返乡人员名单在各种亲友、同事群中肆意流传，大量敏感信息泄露事件频发。

有知情者透露，泄露信息的源头和地方登记返乡人员的途径直接相关。在接受南都记者采访时，专家表示泄露者应承担由此产生的威胁公共安全的责任，转发者也应承担侵权责任。

1月10日，中国地质大学（武汉校区）大一学生吴肖乘坐高铁从武汉返回江西宁都县老家。24日晚，她在家庭微信群中看到一份“武汉回宁都人员数据表（分为航空、铁路等4种交通方式入宁）”的表格。除她自己外，还有四、五百人的个人信息被曝光，包括身份证号码，电话号码，具体家庭住址，列车信息等内容。吴肖感到气愤又无奈，“大学生及务工人员寒假返乡正常不过，怎么到某些人嘴里我们还成了罪人？”

*****Excerpted paragraph:** Professor Hu Yong outlines three notions of privacy: 1) a hiding space, 2) the ability to control when and how your personal information is disclosed, and 3) U.S. Supreme Court Brandeis's notion of the "right to be left alone."

If you use these three kinds of privacy to analyze the case of the coronavirus, the infringement of privacy by public health surveillance can be described as shocking. Let's take as an example this February 26 article in the *Xinhua Daily Telegraph*, titled "If there was no police officer, that night in the Shunyi District of Beijing would have been even colder for this 'drifter' with a Hubei hukou" as part of the column series "My Oral Account of Fighting the Epidemic" column.

A 26-year-old freelancer Xu Chang (pseudonym), a native of Hubei, did not return to her hometown during the Spring Festival. Instead, she went with her husband to the countryside in her husband's native Xuzhou to spend the New Year. Next, the couple returned to Beijing and went through a series of "strange encounters":

_____(Hu Yong includes following excerpts from the *Xinhua Daily Telegraph* article)_____

On the afternoon of February 16th, when entering her husband's home district in Xuzhou District, the (security) staff saw that the couple was from Hubei and had Xu Chang send a text message to their telecom provider to check their itinerary for the past 14 days. —This is the telecom big data for this epidemic. The three major operators coordinated by the Ministry of Industry and Information Technology provide users with short message query services, so that users can check where they have been in the past 14 days (where they have stayed more than 4 hours). Although querying your own information does not violate the corresponding regulations on the protection of personal information, it is very obvious that the query results will need to be handed over to the neighborhood staff for viewing and confirmation.

At 10 pm on February 16th, the couple returned to their apartment community in Shunyi District, Beijing. The neighborhood worker checked their IDs and said that Xu Chang was from Hubei and could not enter the community. Xu Chang explained that he was in Xuzhou during the Spring Festival and never returned to Hubei. She showed them the results of telecommunication inquiries from that afternoon in Xuzhou, which clearly showed that Xu Chang had been in Xuzhou for the past 14 days. However, the staff still insisted that they only recognized the household registration (hukou) and did not recognize the SMS. —The three major operators stated that the number of queries already exceeded 50 million (person-instances) in the week after opening up the telecom big data platform for the epidemic. When mobile phone users are asked about their travel history, they can use a text from the platform to self-certify. However, reality is cold, and the effectiveness of this big data cannot overcome the "dead limit" of hukou

Since Xu Chang and her husband couldn't freely pass into their apartment, they had to seek their housekeeper's help. Their housekeeper's attempts to communicate with the neighborhood staff were fruitless. The housekeeper told Xu Chang that now all neighborhoods in Shunyi are like this, and no one from Hubei can enter. —When it was revealed that some communities did not allow entry for returning tenants, some communities even sealed the door of households who had interacted with Wuhan in the past. Here, private spaces have vanished without a trace.

(image below): Early morning call records between Xu Chang and Shunyi Renhe Police Station.

010 6942 3472 北京		☎ 📺 💬
通话记录		清空
2月17日 凌晨1:05	1分9秒	
☎ 010 6942 3472		
2月17日 半夜12:57	4分2秒	
☎ 010 6942 3472		
2月17日 半夜12:46	2分55秒	
☎ 010 6942 3472		
2月17日 半夜12:39	1分48秒	
☎ 010 6942 3472		
2月17日 半夜12:34	36秒	
☎ 010 6942 3472		
2月17日 半夜12:30	1分0秒	
☎ 010 6942 3472		
2月17日 半夜12:28	11秒	
☎ 010 6942 3472		

At this point, the two have been standing outside the neighborhood for two hours. It was very cold in Beijing at midnight, and the two had no choice but to go to a hotel first, otherwise it would be a real hassle if they caught a cold or fever. They called several Shunyi hotels and asked if they would accept people from Hubei who hadn't returned to their hometown during the Spring Festival. All the answers were rejection. In the middle of the night, Xu Chang and her husband had nowhere to go on the street. They called the duty room of the town where they lived as well as the 12345 mayor's hotline and were rejected and pushed off. Not knowing who else to ask for assistance, they ultimately took a taxi to the train station, planning to take the earliest high-speed train back to Xuzhou. When they were about to take a taxi, Xu Chang, who was unwilling, dialed 110 again. This time she was transferred to Shunyi Renhe Police Station. On this winter night, the only person with a "warm heart" appeared. The male police officer who answered the phone enthusiastically helped to contact the hotel where he was temporarily staying, but they were rejected once again. —After the outbreak of the epidemic, not only did hotels and guesthouses in some places refuse entry to people from Wuhan or Hubei, but some localities also "advised all (people and vehicles from Hubei) to return." The leakage and dissemination of personal information of returnees from Wuhan and Hubei have repeatedly occurred, and a large amount of voices discriminating against Hubei people have appeared. Some people shout "Add oil, Wuhan!" all while also treating Wuhan people as "plague pests."

Xu Chang and her husband didn't want to bother the police officer any more, and just told him that they had decided to go to the train station. The South Station opened at 5am, and the two boarded the first train from Beijing to Xuzhou at 7am. On the way, they received a call from the

Shunyi Food and Drug Administration, saying that after listening to the feedback from the police, they could help them coordinate with the neighborhood or arrange for a quarantine point. Earlier, the staff of Xu Chang's apartment community said, "Even if you enter the neighborhood, we will drive you out." ---- Many Hubei netizens posted that they have not returned to their hometown in the past few months, but because "their ID cards start with 420," have demanded forced centralized isolation based on "big data reports." There are airports that restrict passengers with a Hubei hukou from boarding; some companies fire employees with a Hubei hukou; there are security ID checks at the entrance to malls that prohibit people with Hubei hukous from entering ... all places are avoiding a Hubei hukou, the normal freedom enjoyed by ordinary people is lost due to a single number, and the abuse of identity cards has reached the peak. No wonder people have said in jest, "The latest research shows that the novel coronavirus can be transmitted through ID cards?"

_____(end of excerpts from the *Xinhua Daily Telegraph* article)_____

From this example, we can see that there is no absolute boundary between spatial privacy, informational privacy, and decision-making privacy. For example, the right of people to control how their information is obtained and used is deeply linked to the experience of autonomy and freedom. Without the control of their own information and the private space in which they are protected from interference, how can people make important independent decisions?