

Bad Question!

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Individuals...exude expressions.

Erving Goffman (1969: 5)

Performers can stop giving expressions but cannot stop giving them off.

Erving Goffman (1959: 108)

Abstract. If you ask me a nosy question, have you violated my privacy? Put another way: does your intrusive question genuinely intrude? This paper offers a new argument for answering yes. Face-to-face conversation renders us uniquely vulnerable to each other. When you ask me a question, you sometimes undermine my effective control over whether to reveal the answer to you. Without coercing me, or violating my property rights, or literally reading my mind, you can force information from me against my will. Surprisingly, much of the time you may permissibly force this information from me. But when you ask me a question about my private affairs, and you thereby force private information from me, you violate my privacy rights. My discussion reveals the moral complexity of information flow in face-to-face conversations and raises new questions about the value and function of some of our politeness practices.

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1. Introduction

Defense attorney Mickey Haller (and protagonist of the fictional series *Lincoln Lawyer*) has his witness exactly where he wants him (“The Magic Bullet Redux” 38:33).¹ Anton Shavar isn’t on trial. But Haller wants to insinuate that Shavar committed the murders that Haller’s client stands accused of committing. First, he needs to insinuate that Shavar knows how to orchestrate a hit.

¹ Over the course of writing this project, I have amassed debts to many philosophers, among them: participants in my graduate seminar in philosophy of language at MIT in 2021, without whom I would not have written on this topic; the participants of the Words Workshop at the University of Pittsburgh in August 2022, including, among others, Nikki Ernst, Jonathan Jenkins Ichikawa, Justin Khoo, Quill Kukla, Dev Sprague Morse, and Audrey Yap; for many discussions, Nate Flores and Thomas Pendlebury; for their insightful comments on drafts, Sally Haslanger, Abe Mathew, Tamar Schapiro, and Kieran Setiya; and for their incisive recommendations, the two anonymous *PPA* reviewers.

Haller asks about Shavar's former job: "I have a background in formal intelligence in Israel." So he was in the Mossad? Shavar replies: "I did not say that." Haller repeats the question: "Were you in the Mossad? An organization which is known to carry out targeted assassinations?" The prosecution objects.

Then a man at the back of the court room stands up. He announces that he is Mr. Shavar's counsel and that "Mr. Shavar's past employment in Israel, whatever it may be, has no bearing on this case. It could jeopardize the national security of one of this country's closest allies." Haller smirks. Bingo.

"It's all right, Your Honor, I'll take that as a yes."

Just by asking, "Were you in the Mossad?" Haller had trapped Shavar. All of his available options became bad. Shavar could tell the truth, but the cost would be too high. Shavar knew that Haller would use this information to smear his good name. Shavar could lie, but the risk would be too high: under oath, to lie is to commit a felony offense. Or he could stay silent. But that too was a bad choice. That Shavar stayed silent revealed that Shavar had *good reason* to stay silent. And, as Haller's quip "I'll take that as a yes" dramatized, Shavar thereby revealed that he worked for Mossad.²

Courtrooms have elaborate rules to attempt to defuse what I call the problem of loud silence. In *Lincoln Lawyer*, the judge instructs the jury to disregard Haller's final quip. If the jury does what it should, it will deliberate without taking into account the information that Haller extracted through Shavar's silence. But without formal rules of evidence and deliberation, everyday interactions offer no such kindness. The right sort of question put to us, in the right sort of way, can leave us with only three bad options: to lie; to speak truthfully and reveal what we do not want to reveal; and to stay silent and reveal what we do not want to reveal anyway. I call this the problem of *loud silence*.

The right sort of question, put the right sort of way, can do worse still. A tell-tale pause, a barely perceptible facial expression, a subtle vocal change, an odd word choice: all have the potential to reveal sensitive information. You might ask me a prying question, not because you want to know what I will say but because you want to see how I will react. Face-to-face conversation, then, renders us uniquely informationally vulnerable to each other. We are porous beings, our information often escapes from us against our will, and we can exploit this vulnerability in order to extract information from each other.

Against a sufficiently powerful mind control machine, I am defenseless, and there is nothing I can do to improve my defenses. But against prying questions, I can martial some protection, and I can improve that protection over time. As any good poker player knows, the more I learn to bring my "tells" under voluntary control, that is, the more that I learn to manage the information that I both voluntarily and non-voluntarily exude, the less vulnerable I become to your questions. Drawing from the work of mid-century sociologist Erving Goffman (1957, 1967, 1969), I call this latter capacity *poise*.

² I do not mean to suggest that the jury's epistemic state after Shavar stayed silent is identical to what their epistemic state would have been had Shavar said, "I worked for the Mossad." First, the basis on which the jury forms their beliefs is different. In the "stay silent" case, it is an inference to the best explanation. In the "tell the truth" case, it is formed via testimony. Second, the quality of epistemic state may differ. In the "stay silent" case, their knowledge may be more fragile than in the "tell the truth" case. Alternatively, in the "stay silent" case, their beliefs, while justified, might not rise to the level of knowledge (Fricker 2012). So depending upon how we fill out the details, choosing to stay silent may still be *better* than choosing to speak truthfully. I only mean to say that in staying silent, Shavar gives far too much away.

In the arms race between those who would pry and those who would have poise, what safeguards does morality offer? In particular, when is a prying question not just boorish, uncouth, or obnoxious but genuinely wrongful? And even more particularly, when does a prying question not just wrong but wrong because it violates the addressee's privacy rights? In other words, when does an intrusive question not just offend but intrude?

I propose two different principles. (I remain neutral on which one is correct.) The first principle: if p is my private information, then I have a right against you asking me p ? iff, in asking me p ?, you thereby undermine my effective control over whether, when, and how to reveal p to you. The second principle: if p is my private information, then I have a right against you asking me p ? iff you could reasonably expect that in asking me p ?, you would thereby undermine my effective control over whether, when, and how to reveal p to you. (This is an approximation, actually. There are some book-keeping issues I consider later.)

These principles say that you may not ask me questions about private matters that also *force* private information out of me. I can force information from you even if I do not coerce you to answer my question. Compare two ways that I can force you to remain seated. I can say, "Sit there, or I'll shoot." That's coercion. Or I can press my hand onto your shoulder, so that you cannot physically rise.

Interestingly, we do not have a general right against prying questions. If you ask me a question about where I would like to eat and you thereby force information out of me, you have not violated any of my rights.

I will assume, at the outset, that our intuitions are right. Bad questions do violate our privacy rights. The question is: how could this be possible? Some "conversational libertarians" will not like this starting point.³ Conversational libertarians think that bad questions can be tacky or boorish. But they don't think that bad questions can be wrongful, or at least, not wrongful because they are rights violating. I ask for such readers' patience. My analysis of *why* bad questions violate our privacy rights also constitutes an argument *that* they do.

I also assume, at the outset, that we do have a class of rights that deserve the name privacy rights. These privacy rights function to protect "my" information. My medical diagnoses, sexual history, and religious background, but not the identity of the university at which I work, are "my" information in this special sense. We have a special and legitimate interest in maintaining a kind of discretionary control over to whom, when, whether, and how to reveal "our" information. This interest, in turn, grounds and justifies our privacy rights (for example, see Fried 1970; Rachels 1975; Gerstein 1978; Gavison 1980; Parent 1983; Schoeman 1984, 1992; Inness 1992; Moore 2003; Allen 2011; Marmor 2015). And this interest may be grounded in or explained or justified by a more basic interest or capacity still.

This vision has its skeptics. Famously, Judith Jarvis Thomson points out that many of the paradigmatic "privacy violations" are also other sorts of rights violations (Thomson 1975). If I break into your laptop to read your love letters to Justin Bieber, I may have violated your privacy rights, but I have definitely violated your property rights. If a man on the subway pulls my skirt down, he may have violated my privacy rights, but he's definitely violated my right against bodily trespass. If that's correct, then what work is there left for *privacy* rights to do?

³ Judy Thomson remarks, on more or less on intuitive grounds: "A stranger stops you on the street and asks, 'How much do you weigh?'...Some think that your right to privacy is violated here; I think not...I find it hard to see how we can have a right against such attempts [to create intimacy]. Of course, the attempt may be an annoyance" (1975: 311).

Unlike the privacy violations that typically exercise moral philosophers, bad questions do not seem to violate any rights *beyond* my privacy rights. For the privacy skeptic, then, one take-away from my paper is that privacy rights have some real work to do after all.

I have arranged this paper in the following way. In the next section, I will raise a skeptical challenge for myself and for P. Quinn White's recent discussion of prying questions (White 2022: 9, 41-42). Though prying questions might express disrespect or entitlement (the challenge goes), surely they are not rights violations. A question like, "Do you have cancer?" is better analogized to a clueless or entitled request for a favor, not to peeping through a curtain. In order to respond to the worry, in section three, I introduce three key concepts, each inspired by the work of Erving Goffman: *informational self-control*, *poise*, and *mentalism*.

In the fourth section, I use these concepts to defend what I call the Bad Question Principle. I suggest that the Bad Question Principle flows from the same interests that ground our privacy rights and show why the preceding discussion should convince even the privacy-skeptic that we have privacy rights. Then I distinguish two different interpretations of the BQP and draw out the consequences of each interpretation.

In the final section, I tease out some further questions that my analysis raises. I ask how far our rights against prying-like behavior extend. I argue it is sometimes permissible to ask via email what we cannot ask face-to-face. I show that my discussion may reveal an unexpected function of certain politeness norms, which may in turn ground (some of) their value. And I close by considering the value of our porousness, specifically in response to questions. Our imperfect control over our poise is central, I suggest, not just for our capacity to project authenticity but also to our capacity to engage in certain kinds of politeness strategies.

2. The puzzle: how could intrusive questions intrude?

Consider this story (adapted from White (2022: 9, 41-42)):⁴

Camila is suffering from early stage cancer. She is a private person, however, and she isn't ready to tell her coworkers. She especially isn't ready to tell Jacqueline, the departmental busybody.

Unfortunately, Jacqueline has noticed that Camila has been looking sicker and sicker; that she has been taking time off work; and that she often cries in the bathroom. And, like many busybodies, Jacqueline just has a knack for knowing what's wrong with others. Jacqueline stops by Camila's office and asks, out of the blue, "Do you have cancer?"

In asking, "Do you have cancer?" did Jacqueline, firstly, wrong Camila? If so, did she wrong Camila in virtue of violating Camila's privacy? In idiomatic speech, we often describe Jacqueline's question as if it does. Jacqueline pried. She probed. She was intrusive. She was meddling, interfering, butting in, and injecting herself into Camila's life. Camila might describe the question not just as inappropriate but violating. She might say she felt put under a microscope or exposed. This is the same language we use for eavesdroppers, snoopers, peeping Toms, and indiscreet gossips. And victims of such people, we tend to assume, can plausibly claim that their privacy rights were violated.

⁴ While I've adapted this story from White, his own discussion of the case is quite short, and his interests are far different from mine. He doesn't find prying questions puzzling in themselves. I discuss the differences between my in-text discussion and White's view in footnote 6.

Compare this all to the way we might describe merely boorish, obnoxious, and out-of-touch requests. Suppose that my undergraduate student, Tommy, asks me, for no particularly good reason, “Can you read and return this draft to me in an hour?”⁵ The request would irritate me. It may even anger me. I’d ask myself, “Who does Tommy think he is?” I’d wonder why Tommy feels so entitled to my time or where he found the *chutzpah* to ask this. For all that, I would not accuse Tommy of prying, probing, putting me under a microscope, or otherwise violating my rights. His request might have *expressed* something morally objectionable, but it didn’t expose me.

Say that a question is *expressively problematic* iff, in asking it, the speaker expresses something morally objectionable. Tommy’s request is expressively problematic because it expresses a kind of entitlement to my time. Say that a question *pries* or *intrudes* iff, in asking it, the speaker violates the addressee’s privacy rights. Jacqueline’s question may be expressively problematic, and expressively problematic questions may or may not wrong, some or all of the time. But if expressively problematic questions (*per se*) wrong at all, they wrong in virtue of what they communicate.⁶ Here I am not interested in what Jacqueline’s question communicates or whether requests can wrong because of what they communicate. I am interested in why (it seems that) Jacqueline’s question wrongs because it *intrudes*.⁷

Consider this analogy. You ask me, out of the blue, “Hey, can I borrow your blender?” Let’s stipulate that this is genuinely a request, not a threat in disguise. The question, “Hey, can I borrow your blender?” is really the question, “Will you waive your property rights with respect to me and your blender?” Similarly, (you might reasonably think) the question, “Do you have cancer?” is really the question, “Will you waive your privacy rights with respect to me and the matter of whether you have cancer?” A request to waive a right R might be expressively problematic. It might even be wrongfully expressively problematic. But an expressively problematic request to waive a right R doesn’t constitute a violation of R itself.⁸

⁵ This isn’t a one-to-one analogy, although the technical details are too involved to describe in any depth. Jacqueline’s question, *p?*, more or less carries the presupposition that Camila will answer the question. On a literal interpretation, the question, “Would you be willing to tell me whether *p?*” does not carry this presupposition. As written, Tommy’s question does not carry the presupposition that I will accede to his request, and so it is analogous to this latter version of Jacqueline’s question. The request, “You’ll read this paper and return it to me in an hour, right?” is analogous to Jacqueline’s question in the body of the text. For the canonical discussion of the linguistic details, see Bruce and Farkas (2010). For the purposes of this paper, these details can be harmlessly ignored.

⁶ For an example of an argument that some requests wrong in virtue of what they communicate, see Laskowski and Silver (forthcoming).

⁷ Parent (1983: 277) argues that if A violates B’s privacy, B thereby expresses disrespect and contempt for A. But on Parent’s account, B expresses disrespect and contempt for A *because* B violates A’s privacy. If Parent is right, then prying questions are also entitled. But they are entitled *because* they are prying. When I speak of entitled questions in text, you can assume that I mean merely entitled questions.

⁸ White (2022), whose paper inspired my discussion of this case, wouldn’t put matters in these terms. But we can generate something like this problem within his preferred, heterodox framework. For White, constitutive norms of communication between A and B flow from the nature of A and B’s relationship. So White would reject the claim that Camila has (in the traditional sense) normative discretion over whether to tell Jacqueline her diagnosis. Rather, because of the nature of her and Jacqueline’s relationship, Camila is forbidden from revealing her diagnosis to Jacqueline (White 2022: 9, 31–32). Nonetheless, it remains unclear why Jacqueline’s question is *prying*. Jacqueline’s question is, at best, *morally tempting*: she invites Camila to share what she is morally prohibited from sharing. On another way of developing White’s ideas, Jacqueline’s question, “Do you have cancer?” is also the implicit question, “Are you willing to change your relationship with me, to one in which your cancer diagnosis is in bounds?” (White 2022: 33–34; cf. Thomson on presumptive intimacy, 1975: 311). Again, such a question might be wrong because it is expressively problematic or because Jacqueline ought not to change her relationship with Camila. But it isn’t wrong because it is prying. Though I will continue to suppress discussion of White’s framework in text, the general gist of my solution—that bad questions pry insofar as they force information from the addressee—is available to him.

Here's one disanalogy between the question, "Hey, can I borrow your blender?" and Jacqueline's question, "Do you have a cancer?" which (following White) I've built into the case itself. If you ask me, "Will you waive your property rights with respect to me and your blender?" I can tell you, "No," and that will be the end of it. If Jacqueline were to ask Camila, "Will you waive your privacy rights with respect to me and the matter of whether you have cancer?" and Camila says, "No," then Jacqueline may in fact get what she wants. For sometimes, to decline to waive one's privacy rights—whether by saying, "It's none of your business," or "I won't answer," or pointedly changing the subject—just *is* to give away one's private information.

Following White (2022: 9, 42), let's build some stipulations into the case. Camila finds herself with three options. She can tell Jacqueline the truth and so reveal what she does not want to reveal. She can stay silent and again reveal what she does not want to reveal. Or she can lie. Camila is staring down the same gun as Shavar. In other words, Jacqueline has created a *loud silence problem* for Camila. The question I will now investigate is this: just in virtue of creating a loud silence problem for Camila, has Jacqueline violated Camila's privacy rights? In other words: can we use the nature of loud silence problems to vindicate our intuition that Jacqueline *has* violated Camila's privacy rights?

I will temporarily answer, "Yes," and do my best to develop this line of response. I will ultimately reject it as misguided, but the errors will prove instructive for what's to come.

Before doing this, let me add a few clarificatory remarks.

Until now, I've described speakers as "staying silent" in response to a question. When describing courtrooms, that makes sense. On the stand, we can plead the fifth. Our attorney can object. In real speech situations, we rarely "stay silent" by literally staying silent. To use a term from H.P. Grice, say that a speaker who is "staying silent" in my sense *opts out* (Grice 1975: 49).

We can opt out of conversations altogether or opt out of a conversation's subcomponents. I might say, "Sorry, kid, I'm busy," to make clear that I'm not interested in conversing with you at all. When I opt out of a *question* you have posed to me, I make clear that I'm not interested in providing you an answer or, if I do not know the answer, telling you that I do not know the answer. (But note that a curt "Sorry, don't know"—delivered to the suspicious person who has just approached you, before she has said much of anything—can constitute an opt-out move.)

Opt outs can range from the straightforward, "I'd rather not answer that," to the facetious, "What lovely weather we're having," to the disapproving, "I didn't hear you say that." Once I responded to an obnoxious, out-of-the-blue question, "Are you carrying student loan debt? How much?" with a terse, "How much do you weigh?"

Say that when a speaker faces a loud silence problem, she is in a context in which her decision to opt out of the question *p*? or the conversation altogether would significantly and justifiably raise or lower her interlocutor's credence that *p*.⁹ "Significantly" is a weasel word. I use it to emphasize that our silence can be

⁹ I don't mean to suggest that the *only* way to create a loud silence context with regard to *p* is to ask *p*? For example, consider assertions. Suppose I assert that *p*, and you do not want to reveal to me that you believe that *not p*. If you pointedly change the subject or say, "I don't want to say whether I agree or disagree with that," you will (let us stipulate) reveal that you disagree with me. As in the Jacqueline and Camila case, you have the option of lying and agreeing *yes, p*. You are also free to *literally* stay silent, by not reacting to my assertion. According to Pettit (1994), in the most interesting case, your silence constitutes literal assent to my claim. To literally stay silent is just to lie. According to Goldberg

problematically “loud” even when it licenses only very secure suspicions. But for the sake of simplicity, I will just focus on cases in which opting out generates knowledge. Say also that a speaker, in asking $p?$ induces a loud silence context when her act makes it the case that her interlocutor faces a loud silence problem. We can induce loud silence contexts intentionally and unintentionally.

The claim under consideration is *not* the claim that whenever I ask someone $p?$ and so induce a loud silence context for her, I thereby wrong her. If this were the claim, then we could—quite easily, without reaching for recherche scenarios—generate an overwhelming number of apparent counter-examples. I might ask my co-teacher, “Do you really like the *Twilight* movies?” and create a loud silence context of him. In fact, I did this recently, as banter, and I do not think that either of us think that I wronged him.

The claim under consideration is not even this more complex claim: that whenever I ask someone $p?$ *and* knowingly induce a loud silence context for her *and* create the loud silence context only because I want to learn whether p *and* do all this knowing that if p , then my interlocutor will not want to reveal p to me, I thereby wrong her. Consider this sort of case:

Danny is my undergraduate student, and he’s working with me on his senior thesis. I suspect that things aren’t going well for Danny, and he’s embarrassed about it. I also know that when things aren’t going well for Danny, he never wants to tell me about it. When Danny walks into my office, I ask him, “How is the senior thesis going?”

This is a loud silence context, for if Danny replies, literally, “I don’t want to talk about this,” I would learn that it isn’t going well. (The evidential connection here is so tight that Danny might say, “I don’t want to talk about this,” not in order to opt out but in order to *mean* that it’s going badly.) But surely, in putting this question to Danny, I did not wrong Danny.¹⁰

When we intentionally create loud silence contexts, (you might think), we undermine our interlocutors’ capacity to choose whether or not to reveal some information to us. Since I do not have a right that you refrain from putting me in loud silence contexts, I do not have a right that you refrain from undermining my capacity to choose whether or not to reveal information to you.

If this sounds like an uncomfortable conclusion, I think it is only because it is easy to confuse this claim with a related one. I have a right that you refrain from undermining my capacity to choose whether to *tell you* some information. You may not coerce me into telling you something, because, as a general matter, you may not coerce me to do *anything*. The difference is that tellings are always actions that I intentionally perform,

(2020: 151-186), in the most interesting case, you have provided me with misleading evidence that you agree with me. To literally stay silent is to knowingly mislead. On either analysis, all of your options (like all of Shavar’s and Camila’s) are bad.

Despite the deep parallels, I will ignore assertions that create loud silence problems. Any prohibition on assertions that create loud silence contexts would thereby also restrict what a speaker can *assert*. So there are at least two competing kinds of interests to weigh up: our interest in freely speaking our minds to each other and our interest in protecting our privacy. Questions are not a form of speaking our minds in this sense, and so this added complication does not arise. I am sure that there are many interesting things to say here—Nagel (1998), for example, suggests that sometimes we ought *not* to speak our minds for just these reasons—and I regret that I don’t have the space to explore them.

¹⁰ In section 4, I consider a variation of this case without the pedagogical angle. There, I also speculate about *why* morality is so permissive in allowing us to intentionally create loud silence contexts.

whereas revealings needn't be. When I opt out in a loud silence context, I reveal something to you only in the sense that my action provides you with certain kinds of evidence.

The claim under consideration is more restricted: whenever I ask someone *p?* and so induce a loud silence context for her *with respect to her private information*, I thereby wrong her. This proposal meshes with the intuitive thought that morality provides us special safeguards over "sensitive" information.

In what sense does the bad questioner undermine her victim's control over her private information? Here's a first pass thought. Before Jacqueline said anything, Camila could permissibly choose to reveal her diagnosis to Jacqueline, and she could permissibly choose to keep it to herself. After Jacqueline asks her question, Camila cannot permissibly keep the information to herself, because she cannot permissibly lie to Jacqueline. (Bear with me on this assumption.) Camila has lost *normative control* over whether or not to reveal her diagnosis. And Camila lost this control because Jacqueline deliberately conspired to constrain Camila's permissible option set in just this way.

Here's an analogy. Suppose Camila lives in an isolated house on a mountain road. Jacqueline is desperate to see the inside of Camila's living room. But Camila, who is shy and not a fan of Jacqueline, refuses to invite Jacqueline into her home. So Jacqueline concocts an elaborate and desperate plan.

During a snow storm, Jacqueline goes hiking in the woods near Camila's house. Jacqueline wears inadequate winter gear and doesn't bring a phone. Jacqueline intentionally brings herself near hypothermic death. She then walks to Camila's house, rings the doorbell, and begs for Camila to let her into her house. It seems to me that Camila is obligated to permit Jacqueline to enter her house. (And if Camila doesn't voluntarily invite Jacqueline in, it seems that Jacqueline can permissibly force her way indoors to save her life.)

In carrying out this manipulative scheme, Jacqueline deliberately conspires to *undermine* Camila's normative control over her property. In entering Camila's house, Jacqueline does not violate Camila's privacy rights, at least not in the traditional sense. (Even if she forces her way inside, Jacqueline at best infringes them.) But Jacqueline's manipulative scheme clearly fails to respect Camila's underlying and legitimate interest in maintaining certain kinds of control over who enters her home and when. Similarly, Jacqueline's bad question might not violate Camila's privacy rights in the traditional sense. But her bad question is its own kind of manipulative scheme, which likewise fails to respect the interests that ultimately ground Camila's privacy rights.

Unfortunately, this kind of account stumbles early on. For Camila loses normative control in the relevant respect only if Camila cannot permissibly lie to Jacqueline about her diagnosis. This assumption is, at best, dubious.

First, it just seems plainly clear that in response to and because of Jacqueline's inappropriate question, Camila *can* lie to Jacqueline. If Camila did lie to Jacqueline, Jacqueline would not have a legitimate complaint against Camila. Jacqueline would have no one to blame but herself. And if you were Camila's friend, and if Camila were fretting to you about whether to lie or not in such a situation, you'd almost certainly counsel her, "Jacqueline, in putting that question to you, gave up her right to a good faith reply."

Even a stringent moralist like Immanuel Kant, in his *Lectures on Evil*, acknowledges that "if I cannot save myself by maintaining my silence, then my lie is a weapon of defence" (Kant 1980: 228). For otherwise, "we might often become victims of the wickedness of others who were ready to abuse our truthfulness" (Kant

1980: 228). White likewise observes, “If dodging the question or refusing to answer would allow [Jacqueline] to deduce her secret, she may lie...That the lie is permissible and the question impermissible is clearly no coincidence” (White 2022: 9).

There is more to say in favor of this viewpoint. In the hypothermia scheme, Jacqueline manipulates the situation in order to dramatically change her underlying interest in accessing Camila’s house: her life depends upon it. If Jacqueline doesn’t gain access to her house, she will die.

In the bad question scheme, Jacqueline’s question doesn’t change the nature or urgency of her interest in learning Camila’s diagnosis. If Camila were to respond with the lie, “I don’t have cancer,” her lie would not set Jacqueline’s interests back any more than would her out-of-the-blue assertion, “I don’t have cancer.” This is not to say that these lies don’t set Jacqueline’s interests back. Jacqueline, like all agents, has an interest in gaining knowledge and avoiding false beliefs, and lies undermine that interest. But given Jacqueline intentionally conspired to bring her interest in avoiding false beliefs into conflict with Camila’s interest in protecting her privacy and given that her underlying interests have otherwise not changed, it would seem perverse for morality to decide in Jacqueline’s favor.

Here’s a last-ditch effort to save the normative control explanation. Let us concede that it is permissible for Camila to lie to Jacqueline, and it is permissible in part or in whole because Jacqueline intentionally asked Camila a question that created a loud silence context about her private information. Still, you might think, Jacqueline conspired to create a situation in which Camila *infringed* Jacqueline’s rights—justifiably so, of course, but an infringement, nonetheless. And as infringements sometimes do, that might leave a residue. Camila might owe Jacqueline some kind of “compensation”—perhaps an apology, if Jacqueline ever learns the truth, for example, or more metaphorical compensation, in the form of a pang of conscience or regret.

Still, even if we concede this point, could this plausibly explain the facts that we aim to vindicate? In creating a situation in which Camila has no reasonable choice but to infringe Jacqueline’s right against deception, has Jacqueline thereby violated Camila’s *privacy*? To compel me to infringe your right R in order to protect my right R* does not seem to thereby violate my right R*, or even to disrespect the interests that ground my right R*. It is rather to disrespect my interest in not infringing your rights.

We have been investigating a certain analysis of prying question, one on which Jacqueline intrudes insofar as she intentionally undermines Camila’s normative control over the disclosure of her private information. That analysis has floundered on a difficult-to-defend presupposition. If this isn’t the correct story about why Jacqueline’s question intrudes, what is?

3. What is poise?

The problem, I will argue, is that we have misunderstood the sense in which Camila *can’t* conceal her information from Jacqueline. It’s not that Camila cannot *permissibly* conceal her information from Jacqueline. Rather, Camila cannot conceal her information from Jacqueline in a more flat-footed sense. She is not *able* to do so. She lacks the skill it would require. Jacqueline has undermined Camila’s *effective* control over her private information and, in doing so, has wronged her. Or so I will argue in section four.

In this section, I will set the stage for that argument. Here I introduce a more realistic vision of conversation. Face-to-face conversations occur rapidly, between flesh-and-blood people staring into each other’s eyes, with

only imperfect access to their knowledge and imperfect self-control, and with an extraordinary capacity for mind-reading. Given this, conversation renders us uniquely vulnerable to each other. Ask me just the right questions, in just the right way, and you can turn me into an open book—without inducing a loud silence context at all. To describe these vulnerabilities with greater precision, I will also introduce a suite of new terminology, grounded in the work of Erving Goffman.

But first, I want to introduce a real-life Camila, an anonymous woman who wrote into an advice column a few years ago. To make it easy to refer to her, I'm going to call her Rose. By studying the advice columnist's reply and Rose's overall predicament, I will argue that loud silence contexts are much more fraught and interesting than the previous discussion suggests.

Dear Abby,

On behalf of all new moms, please help with this question. Why does every woman in the world, it seems, feel entitled to ask new moms if they are breastfeeding their babies? How should new moms respond politely to this question? If you say yes, you may or may not be lying. If you say no, you will be judged. If you give an evasive answer, people will assume you are not and you will be judged as well.

(van Buren 2018)

Surely, Rose has a special prerogative (co-parent excluded) to determine whether, when, how, and to whom to reveal how she feeds her baby. To make the case interesting for our purposes, let us stipulate that Rose is bottle-feeding, not breastfeeding. Just as Mickey induced a loud silence context for Shavar and Jacqueline for Camila, Rose is complaining that other women (let's call them "Nosy Noras") are inducing a loud silence context for her.

Surprisingly, given our previous discussion, Abby doesn't recommend that Rose reply, "I'm breastfeeding." She proposes that Rose deliver one of two zingers:

If you will forgive me for not answering that question, I'll forgive you for asking.

If that were any of your business, you would know already!

Abby's response isn't a fluke. Responding to a similar letter writer, Miss Manners recommends the letter writer reply with more gentility:

Thank you; the baby is being well fed. It is kind of you to worry about him.

(Martin 1990: 224)

Both Miss Manners and Abby seem to believe that when Nosy Nora asks Rose, "How do you feed your baby?" Nora hasn't induced a loud silence context at all. If Rose opts out the correct way, Rose can opt out silently. To opt out the correct way, of course, Rose must do more than mouth the correct words in the

correct order. To pull off any of these retorts, Rose must say them with the appropriate conviction, panache, and grace. She must transform the guilty and abashed, “I’d rather not to say,” which reveals too much, into the principled and affronted, “I *will not* say,” which, in the best case, reveals nothing.

Earlier, we stipulated that Jacqueline and Camila’s case was not like this. But exactly in what sense “couldn’t” Camila silently opt out? If Camila had said, with the appropriate conviction, panache, and grace and with the right suggestion of affronted dignity, “If you forgive me for not answering that question, I’ll forgive you for asking,” would Jacqueline have learned that Camila has cancer? I don’t think so. The sense in which Camila couldn’t silently opt out is exactly the same sense in which Rose, prior to reading the Dear Abby and Miss Manners columns, couldn’t silently opt out. What they both lacked was not the option to reveal nothing but the ability to cognize and execute that option. They lacked a capacity, ability, or skill.

If Rose and Camila thought for long and hard enough about how to answer their interlocutors’ questions, they could, in principle, arrive at Dear Abby’s and Miss Manners’ advice. There is nothing exotic about this. We have all thought up ingenious, sizzling comebacks only hours after our need for them has passed. Maybe we were mulling over the conversation in our head or describing it to friends. Or maybe the right answer just spontaneously “bubbled up” from our subpersonal consciousness, in the way that the correct answer to exam questions used to spontaneously “bubble up” to me hours after I had submitted the test. In all of these cases, what we lack is not the knowledge, per se, but *access* to the relevant knowledge. We can’t retrieve and so make use of what we know in the right time frame.

It’s worth emphasizing exactly how fast conversation moves and how communicatively perilous delays are. As some of us have found out the hard way, even memorizing a witty comeback *ex ante* is no guarantee that you can access the knowledge with the right speed in the right context. From empirical linguistic anthropology, we now know that in face-to-face conversation, an addressee has exactly *one second*, from the end of her interlocutor’s turn, in which to begin speaking (Jefferson 1989; Roberts et al 2011; Roberts and Francis 2013). Anything longer is perceived as awkward, conversationally incompetent, or deeply communicatively significant. You ask me a question in Q&A, and I look at you for three seconds before saying anything at all. What has happened? We want to say: I was either *dumbstruck* by your question, and so you got one over on me, or I was shocked by the badness of your question, in which case my pause is getting one over on you. Either the way, this isn’t something I normally want to happen.

But even this undersells conversation’s speed.¹¹ For *within* the one second window, delays of *only 300 milliseconds* already carry information about the addressee’s mental state. At only *600 milliseconds*, you will perceive my delay as intentional. We know that interlocutors reliably decode and have introspective access to the information that these fraction-of-a-fraction of a second delays carry (although they may not know how they know it). A comeback delivered at only a 300-millisecond delay reveals that the speaker is cognitively overburdened; a comeback delivered at only a 600-millisecond delay reveals that the speaker is reluctant or dissatisfied about something. In this context, the worry is that Rose’s delay will reveal to Nora not just *that* she is stressed or reluctant to respond but that she is stressed and reluctant because she is bottle-feeding.

Even if Rose memorizes Abby’s line and accesses it at the right speed, this is still no guarantee that Rose knows *how* to and will in fact execute the retort in a way that reveals nothing. She must say it with the right intonation, force, phrasing, and grace. From the moment Nora asks the question, Rose must have the right body language and facial expressions. Nora will be watching for any telling cue at all: blushing, trembling,

¹¹ The following paragraph draws on N.J. Enfield’s interpretation (2017: 77-81) of Robert and Francis (2013)’s study of timing and speech signals. Thanks to Zoltán Gendler Szabó for bringing Enfield’s work to my attention.

flinching, fidgeting, looking away, blinking, and so on. Again, if Rose loses control for even a fraction of a fraction of a second, her distress may give away the game. The more upsetting the question, the harder it is to maintain this sort of control; and sometimes this control is beyond us entirely. If someone is newly diagnosed, can she hear the question, “Do you have cancer?” without her body itself betraying her internal distress and anxiety?

This all sounds daunting enough that you are probably thinking, “Look, just lie to Nora!” But lying does not circumvent these challenges. It just recapitulates them under a new guise. For just as Rose and Camila must act in exactly the right way if they want to opt-out and reveal nothing, they must act in exactly the right way if they want to lie and convince their interlocutors of that lie. And they are not just trying to convince *any* interlocutors. As Rose herself observes (“if you say yes, you may or may not be lying”), all parties in the exchanges know that if the addressee bottle-feeds or has cancer, she has a strong incentive to lie. If Jacqueline and Nora are interested not just in asking for but in ascertaining the truth, then Jacqueline and Nora will scrutinize every aspect of Camila and Rose’s responses for signs of insincerity—from their faces, vocal intonation, body language, and even, yes, once again, small delays in timing (Ziano and Wang 2021).

If this vision is correct, then Jacqueline’s question, “Do you have cancer?” induces something like a high-stake poker game. Camila erects her best defenses; Jacqueline, with the element of surprise, seeks to penetrate them. Construed widely enough, Camila’s options aren’t all *bad*. But they are all *risky*. She can tell the truth, which is costly. She can lie, which is risky, since in lying, she might reveal her insincerity and so reveal the truth. Or she can opt-out, which is risky again, since in opting out, she may reveal her stress, embarrassment, or reluctance and so reveal the truth anyway. But notice that how *much* Camila risks is, in an interesting sense, up to her. Our self-control is not a fixed quality at birth. For Camila can practice and train her self-control, in a general way, or specifically with respect to the question, “Do you have cancer?”

To clarify the preceding discussion and deepen out our conceptual resources, I want to introduce some terminology.

Say that to have *informational self-control* is to have the ability to manage the total information that one exudes, about oneself, in a face-to-face interaction.¹² I *exude* information about myself just in case I behave in a way that justifiably alters your credences about me. I speak of what *does* justifiably alter your credences, and not what you infer, because much of what you know about me you know non-inferentially. This is especially so in face-to-face interaction, when our attention is intensely trained on the other person’s face and voice. Sometimes I just know—reliably, automatically, subpersonally, without any awareness of how I know it—that you are lying, that you are about to ask me on a date, that you are embarrassed, that you wished I hadn’t approached you, that you are happier to see me than you will admit. And sometimes, I know this because you exuded it.

If we are willing to engage in extremely unusual, socially incompetent, or otherwise unintelligible actions, we have a surprisingly large repertoire of ways to shield ourselves from bad questions.

Jacqueline asks Camila, “Do you have cancer?” and Camila immediately ducks under her desk and begins chanting in Latin poetry. What has Camila conveyed to Jacqueline? If I were Jacqueline, I would conclude

¹² Following the traditional usage in the philosophy of language, I am not going to understand “information” factively. If I cry and from this, you reasonably infer that I’m genuinely distressed, I’ve exuded the information that I’m sad. This remains true, even if in fact (let us say) my eyes are only inflamed from seasonable allergies.

that Camila is in the midst of a psychotic episode, not that she intends to opt out of my question.¹³ But for the most part, we are not willing to act like this. Options like this are so aversive that they don't even occur to us. So for our purposes, the capacity that interests us is *poise*. To have poise is to have the ability to manage the total information that one exudes, through one's holistic actions in a face-to-face interaction, while—and this is the crucial bit—appropriately conforming to social norms of well-ordered face-to-face interaction.

My conception of poise, particularly its relativization to norms of face-to-face interaction, is rooted in Erving Goffman's work (1959, 1967, 1969). Goffman was not particularly systematic with his terminology, and he never directly defined the capacity that I call poise. Rather, he defined a sequence of sub-capacities, each of which is necessary but not sufficient for poise in my sense. These include *composure* or *aplomb*, which is the capacity to bring one's activities, facial expressions, and bodily movements under voluntary control (Goffman 1967: 101, 103, 168); what he calls *poise*, which is the ability to suppress one's internal awareness and outward manifestation of one's own embarrassment (Goffman 1967: 9, 13); and *character*, which is the ability to maintain one's composure and poise under unexpected high pressure (Goffman 1967: 214-216).

Goffman also talked of *savoir-faire*, tact, and social skill, each of which names the capacity to conform to both social norms and promote pro-social ends (Goffman 1967: 13-14, 28, 40, and *passim*). *Savoir-faire* requires poise, but poise doesn't require *savoir-faire*. To maintain her poise in my sense, Rose must deliver the Miss Manners comeback while revealing nothing; to exercise *savoir-faire*, she must do so without embarrassing her interlocutor.

To maintain control over my information and so maintain my poise, I must know what to say and when, and I must maintain control over how and when I say it. I voluntarily and intentionally tell you that I like *Hamlet*, and so you come to know that I like *Hamlet*. That's poise. Because our control over ourselves is gradable, my poise is gradable too. If you ask me how I liked the recent talk, and I am agitated and blurt out, unthinkingly, "I hated it!" I have not fully maintained my poise, because I have not fully maintained my self-control. But I have maintained my poise more than I would have had I involuntarily grimaced or guffawed.

As Goffman points out, however, what we say in face-to-face interaction only carries a fraction of the total information we exude. We may exude information as part of an overall policy of self-presentation: I pick certain jewelry and clothing, and I use certain ranges of my voice, and I tell certain jokes, and I have a certain posture, all in order to convey certain things about myself to you (Goffman 1959). We may exude information against our will, as when Camila, in response to Jacqueline's question, trembles or seizes up or when I, in response your question, "Do you find so-and-so attractive?" blush. We may exude information in a semi-voluntary way, as when I fail to stop a (mostly) subpersonally controlled process—laughing, crying, slumping in my seat, cringing, yawning—but *could* have exercised some person-level control to stop it (Green 2007).

These examples may misleadingly suggest that to have poise, in my sense, is to appear calm, self-assured, and relaxed. That is, after all, what the idiomatic English term "poise" means. But to have poise, in my sense, is to have a type of control. Having this control is compatible with appearing all sorts of way. Suppose you and

¹³ One of my referees points out that even this isn't a fail-safe option. If Jacqueline correctly recognizes that Camila is engaged in strategic, not purely bizarre behavior—that she is chanting Latin poetry under desk only in order to avoid Camila's question—then Camila might as well have said, "I don't want to answer your question." Moreover, the more often Camila uses the "bizarre behavior" strategy in response to a prying question, the more likely her interlocutor will recognize her behavior *as* strategic.

I am negotiating. I intentionally fidget and blink, and so you come to believe that I'm doing this involuntarily, and that I'm anxious, and so you lower your guard. But in fact, I wasn't anxious at all. I only wanted you to think so. I exuded the information I wanted to exude: that is a great feat of poise. Alternatively, if a sociopathic murderer appears calm and controlled but *intends* to appear overcome with grief, she isn't poised at all.

What information I exude does not just depend on me. It depends on what you do too. *Mentalism*, as I will call it, is the ability to glean accurate information from others in face-to-face interaction. To be a good mentalist, one must be a good mind-reader. If the Griceans are right, you cannot understand what I mean without recognizing some fairly byzantine intentions of mine (Grice 1957). But a good mentalist must also detect those mental states that I did not want her to detect. If I say "I'd love to go to the talk," but don't really want to do so, because I'm straining under so much work, a good mentalist will know my underlying preferences and suggest, "Perhaps another time" (Coking and van den Hoven 2018; Véliz 2022). And she will recognize that when Camila says, "I don't have cancer," she is lying.

But a good mentalist is also more than a good mind-reader. Like someone with good poise, the good mentalist must have competency with the full repertoire of signs, symbols, items, stereotypes, and heuristics that we intentionally leverage in order to exude information or that, against our will, give us away. If I am wearing a Calvin Klein dress hoping to impress you, my capacity to exude information about my fashion sense depends upon your capacity to recognize Calvin Klein from the Banana Republic from the Gap and to know these brands' associations. If I speak with a heavy Latvian accent, I only exude that I am from Latvia if you have the capacity to correctly identify Latvian accents. If I select a glass of Chardonnay for the table, hoping that you will infer that I have a certain kind of personality and gustatory taste, I am also hoping that you know enough about wine and American women to know the stereotypes I am exploiting.

In all of these cases, my capacity to manage my information about myself depends upon and presupposes your capacity to recognize what certain things mean or suggest. My poise depends upon and presupposes your mentalism. Conversely, your capacity to recognize what I am doing depends, in part, on my capacity to make myself legible to you (Velleman 2002). If I want to convey to you that I do not want to go to the talk, but I am afraid to just say, "No, I don't want to go," your capacity to recognize my underlying reluctance depends upon my skill in appropriately arranging my facial expression, body language, and intonations.

But often enough, even in cooperative contexts, your mentalism might outstrip my informational self-control: you might see and know more than I want you to see and know. Or my informational self-control may outstrip your mentalism: you might not see the truth but only the illusions that I want you to see. The battle between someone who would have perfect poise and someone who would have perfect mentalism is not merely a battle over the speaker's self-control. Sometimes, we lack some aspect of poise, and there is nothing that we can easily do about it. Drew Pinsky claims that he can determine, just on the basis of his interlocutor's voice quality, whether she has suffered a traumatic childhood (*Washington Post* 2002). John, an adult survivor of child abuse, might desire to talk to Pinsky but also conceal his childhood trauma. But if Pinsky's claim is true, John *can't* conceal this information without intensively retraining his voice—an expensive, difficult, and time-consuming process.

Edward Bloustein worried that compulsory psychological testing infringes upon our human dignity. The only question is when such infringement is justified:

The feeling of being naked before the world can be produced by having to respond to a questionnaire or psychological test as well as by having your bedroom open to prying eyes and ears. And the fear that a private life may be turned into a public spectacle is greatly enhanced when the lurid facts have been reduced to key punches or blips on a magnetic tape accessible, perhaps, to any clerk who can throw the appropriate switch.

(Bloustein 1964: 191)

I am not suggesting that Jacqueline's mentalism, or anyone else's, is as reliable as an empirically validated psychology test or polygraph. (Although if I had to choose whether to believe my own judgment or the read-out of a subsequent, reliable but imperfect polygraph test about whether someone lied to me in a face-to-face encounter that I remember well, I have a hard time knowing *ex ante* which way I would go. Sometimes we just know perfectly and securely.) But recall what we said in the previous section: questions like Jacqueline's make us feel exposed, put under the microscope, laid bare. Jacqueline doesn't merely create a high stakes poker game; she intentionally creates and subjects Camila to an amateur psychology questionnaire. Is it any wonder that Camila, perfect poise or no, feels that her privacy has been violated?

4. Given the realities of face-to-face interaction, what are my privacy rights?

Once again, compare the question, "Can I borrow your blender?" with the question, "Do you have cancer?" Just in virtue of asking Camila, "Can I borrow your blender?" Jacqueline will not obtain Camila's blender. To ask a question is, obviously enough, not to take a material object.

But just in virtue of asking Camila, "Do you have cancer?" Jacqueline *may* force the information from Camila against her will. And even if Jacqueline doesn't succeed in forcing the information from Camila, she lays a significant cognitive and affective burden upon her addressee. For given the psychologically explosive nature of the subject matter, Camila must skillfully navigate choppy emotional and interactional waters, successfully exercising self-control and conversational skill to protect her information.

The question, "Do you have cancer?" is, at some level of abstraction, just the question, "Will you waive your privacy rights with respect to me and the matter of whether you have cancer?" Earlier, we reasoned that if Jacqueline's question, "Can I borrow your blender?" is not a violation of Camila's property rights, then *ceteris paribus*, the question, "Will you waive your privacy rights with respect to me and the matter of whether you have cancer?" is not a violation of Camila's privacy rights either. But we finally have plausible grounds to resist this argument: for we can now see that the *ceteris* is not in fact *paribus*. And the *ceteris* is not *paribus* not because Jacqueline undermines Camila's *normative* control over her information but because she undermines her *effective* control over her private information.

Still, even if we have found a normatively significant difference between the two questions, do we have positive reason to believe that Jacqueline, in asking "Do you have cancer?" violates Camila's rights?

If you believe that morality safeguards our discretionary control over who knows our private information and how and when they learn it, you have reason to answer "yes." Still, the issues are subtle. The discretionary control at issue is not the (mere) control over whether we *tell* someone our private information. It is the discretionary control over *whether someone finds out*.

Here's an everyday minimal pair that illustrates the sort of interest I have in mind. In the first case, my student Dan confides in me about his difficulty understanding modal logic. I share this information with his modal logic teacher, Professor Smith, in order to better help Smith meet Dan's needs. I don't take myself to need Dan's consent in order to permissibly share this information. In the second case, my student Lydia confides in me that she is struggling in modal logic because she is in the midst of an acrimonious divorce. I *don't* share this information with Smith, because I take myself to need Lydia's permission to do so. (At best, I might tell Smith that Lydia is struggling due to "reasons of a personal nature.")

What is at issue is not Lydia's control over whether she *tells* Smith. If I tell Smith, Lydia can still choose not to tell Smith. This has the whiff of paradox only because, in idiomatic English, we often conflate telling with knowing. If I tell Smith, the choice of which I deprive Lydia is not the choice to *tell* Smith about her divorce but the choice to determine whether Smith *knows* about the divorce.

Of course, information flow is unpredictable. Smith might learn about Lydia's divorce any number of ways: by coming across a court filing about it, or accidentally overhearing Lydia speaking on the phone to her attorney, or through preternaturally good mentalism. Just in acquiring this information, does Smith violate Lydia's rights? I am inclined to say no. But happily, for our dialectical purposes, we don't need to settle that question here. For even if it makes no sense to say that Lydia has a right that Smith not *know* about her divorce, it is perfectly sensible and indeed plausible, given what we are assuming about Lydia's underlying interests, to say that Lydia has a right against me taking certain actions that will almost certainly foreclose her capacity to choose whether to reveal her diagnosis to Smith.

Similarly, we needn't say that Camila has a right that Jacqueline not *know* that she has cancer. Nor need we say that Camila has a right that Jacqueline not perform *any* action that results in Jacqueline acquiring the information that Camila has cancer. We needn't say that if Jacqueline tells a story about her cousin's cancer diagnosis, and Camila turns white, and Jacqueline realizes that her hunch about Camila's diagnosis is correct, then Jacqueline, in telling the story, violates Camila's rights.¹⁴ We only need to say that Camila has a right that Jacqueline not take certain actions that will, if not almost certainly, then very likely foreclose Camila's capacity to choose whether to reveal her diagnosis to Jacqueline.

Still, suppose you weren't antecedently convinced that we *do* have this sort of interest and that morality *does* protect it. What might I say to convince you that Camila has a right against Jacqueline's prying question?

Consider this thought experiment. Each of us walks around carrying a giant panel of buttons. In this sci fi hellscape, the panel of buttons is permanently affixed to our bodies; there is nothing we can reasonably do to remove it. And each button is clearly labeled. One says, "Whether I have cancer." Another says, "Whether I had sex in the past month." And so forth. If someone else points directly at the button, the button will emit some significant albeit probabilistic information about the answer to the question. (Perhaps there is some chanciness in the nature of information the button will release, upon any given pointing.)

¹⁴ You might think that if Jacqueline tells this story *with the intention* of extracting private information from Camila, then Jacqueline clearly *would* violate Camila's privacy rights. Moreover, Jacqueline would violate Camila's privacy rights for roughly the same reason she violates them when she asks, "Do you have cancer?" Her act undermines Camila's poise with respect to her private information. I'm sympathetic. But these kinds of cases introduce too many complications, and I mostly set them aside. See section 5 for further discussion. (Note that on my analysis of prying questions, Jacqueline's prying question violates Camila's rights *whether or not* she does so intending to test her reaction.)

Does someone, let us name her Jen, have a right that no one knowingly point at one of her buttons? It seems to me that Jen does have just such a right. If someone pointed at one such button and so came to learn whether Jen had had sex in the past month, Jen would have a legitimate complaint against this person.

Now, if Jen *could* have reasonably removed the panel of buttons, then perhaps she wouldn't have such a right. Or, if Jen could have *reasonably* re-engineered the panel of buttons so that they would not emit significant probabilistic information, then perhaps she wouldn't have such a right. Or, if Jen waves her buttons in the direction of someone already pointing, then perhaps Jen waives or forfeits her right. But that is not the situation we are imagining.

Prying questions are the analogue to (intentionally) pointing at our buttons. I am interacting with you, knowing that I risk you undermining my poise in a way that reveals my private information from you. But Jen, too, moves through the world knowing that she risks someone pointing at one of her buttons. If Jen wants to live a reasonably good life, Jen must undertake the risk of moving in public. Similarly, if I want to live a reasonably good life, I must undertake the risk of conversing with others, many of whom are not my intimates. Just as morality steps in to safeguard Jen against such risks, it steps in to safeguard me against these risks as well.

Now, I think it is downright implausible to hold that we *wouldn't* have such a right against someone pointing at our buttons. And if you do think that we have a right against others pointing at our buttons—and I think you should think this—then you should also think that I have a right against you asking me bad questions about private information. And if you think all of that, then you should think there is no other, deeper right or interest that *could* ground the right against bad questions *except* some kind of genuine privacy related right or interest. After all, to merely point at Jen's buttons (ask a question) is not to violate Jen's *property* rights. It is not to coerce her or violate her person (*cf.* Thomson objection on 1975: 298-299). The committed foe of privacy must explain away all of this data—by either saying that there is no right where I insist there is one or by showing that the right exists but has nothing to do with privacy.

If we *do* have just such a right against such questions, what kind of structure might it have?

Here we face a critical choice point. How you'll want to resolve it depends upon your upstream normative commitments and tastes. So while I will sketch the terrain that lies down each fork in the road, I will not myself commit to one path or another.

If we take the objectivist path, we should say something like this: I have a right that you not ask me questions that *in fact* undermine my poise with respect to my private information. If we take the subjectivist path, we should say something like this: I have a right that you not ask me a question that you, *if you were reasonable*, would believe would undermine my poise with respect to my private information.

Suppose that Nora asks Rose, "How are you feeding your baby?" and Rose, through meticulously acquired skill, effortlessly pulls off Miss Manners' retort. Nora has not undermined Rose's poise.

The objectivist will diagnosis the case like this. Since Nora did not in fact undermine Rose's poise, Nora didn't violate Rose's rights. Of course, from Nora's vantage point, it was mere luck that Nora didn't violate Rose's rights (*cf.* Nagel 1976). We can surely find moral fault with Nora: for running that kind of risk or (if this doesn't amount to the same thing) demonstrating insufficient concern for Rose.

The subjectivist, on the other hand, convicts Nora not just of blameworthiness but of wrongdoing: she has violated Rose's privacy rights, for Rose has a right that Nora not ask her questions that Nora could reasonably *expect* would undermine her poise.

Now suppose that Kyle and Sofia are distant friends. Sofia knows that Kyle has recently taken a new job. Sofia asks Kyle, "How's the new job going?" Kyle becomes agitated and snaps, "I don't want to talk about this." Sofia infers that the new job is not going well at all. For the sake of illustration—although this is contentious—let us stipulate that Sofia has now extracted private information from Kyle.

The objectivist will diagnosis the case like this. Since Sofia did in fact undermine Kyle's poise, Sofia did violate Kyle's rights. But since Sofia (let us suppose) could not have reasonably expected that her question would undermine Kyle's poise, Sofia is not morally responsible and not morally blameworthy for violating Kyle's rights. (Such a question is, after all, in the standard toolbox of polite chit-chat, and most of us know how to deflect such questions in a graceful and informationally "silent" way.)

The subjectivist, on the other hand, does not merely exculpate Sofia. The subjectivist says that Sofia did not violate Kyle's right at all.¹⁵

Either way we approach the problem, we have a book-keeping issue. When assessing whether you are morally responsible for violating my privacy rights (on the objectivist picture) or whether you have violated my privacy rights at all (on the subjectivist picture), it seems to me that we need to keep track of at least two different kinds of beliefs. We need to know, first, whether Jacqueline believes (or how likely she judges it) that Camila *does* have cancer; and second, whether Jacqueline believes (or how likely she judges it) that if she asks Camila, "Do you have cancer?" she will thereby undermine Camila's poise.

Jacqueline might judge it more likely than not that Camila doesn't have cancer. Still, Jacqueline might *also* believe that if Camila *does* have cancer, her question *would* almost certainly force the information from her. So if we just ask, "Would Jacqueline, if she is reasonable, believe that her question would undermine Camila's poise?" then we would arrive at the answer: no. But if we ask, "Would Jacqueline, if she is reasonable, believe that *if* Camila does have cancer, *then* her question would undermine Camila's poise?" the answer is yes. I am inclined to say that it is these latter conditional beliefs that determine the moral status of Jacqueline's action. (If Jacqueline *knows* that Camila doesn't have cancer, then we can ignore Jacqueline's conditional belief.)

If that's right, then here's the (rather involved) statement of the two different principles:

¹⁵ An anonymous referee worries that the subjectivist interpretation is just far too weak. The worry is that if Jacqueline justifiably believes that Camila *can* handle the question with perfect poise, then even if Camila thereby *does* lose her poise, Jacqueline wouldn't have violated Camila's rights. And that seems flatly counter-intuitive. That these kinds of cases seem so prevalent is the product of my running simplifying assumption: namely, that I have concealed *p* from you just in case, from my actions, you do not come to know that *p*. In actuality, I might fail to conceal *p* from you just in case, from my actions, your credences significantly and justifiably change. In order to escape the clutches of the subjectivist Bad Question Principle, Jacqueline would need to reasonably believe that her question would not force any significant probabilistic information from Camila. Such cases are rarer. Still, I concede that they *could* in principle happen. The subjectivist might still say that, in such cases, the addressee has unjustifiably imposed a *cognitive and affective cost* on Camila. Though she does not violate Camila's rights, she wrongs her insofar as she makes it difficult for Camila to protect her interests. But I concede that such an objector might just prefer to move to an objectivist interpretation.

Bad Question Principle

Suppose that p is the kind of information that privacy rights protect. Suppose that $q?$ is a question to which p is a possible answer. Then, *ceteris paribus*, I have a right against you asking me $q?$ iff:

Objectivist interpretation

in asking me $q?$, you thereby undermine my effective control over whether, when, and how to reveal p to you.

Subjectivist interpretation

you don't know that *not* p , and if you were reasonable, you would expect that if p and you ask me $q?$, then you would undermine my effective control over whether, when, and how to reveal p to you.

Either way we go, what you can permissibly ask me depends upon your own capacities for mentalism. This follows from the fact that the information I exude, and so what *does* in fact undermine my effective control over my information, depends in part on what *you* glean from my behavior.

One corollary: if our society remained exactly the same, *except* we all became remarkably more skilled at mentalism, then vast swathes of questions would newly fall afoul of the Bad Question Principle. The TV show the *Mentalist* imagines such a person in its lead character Patrick Jane, a preternaturally gifted mentalist who formerly posed as a television psychic (*The Mentalist* 2008-2015). And I think it is correct that what Patrick Jane can permissibly ask me is different from what I can ask Patrick Jane.

Of course, just because Patrick Jane can reasonably expect that his question will undermine my poise, it does not follow that I am able to reasonably expect this. I might exude information in response to his question without knowing that Jane is a preternaturally gifted mentalist; so without knowing I have exuded this information; and so without knowing that Jane has violated my privacy. That is no objection: if I snoop in your inbox, and you never find out, I have still invaded your privacy.¹⁶

Whether your question actually undermines my poise depends upon two further kinds of facts: my general skill at managing what information I exude *and* my capacity to exercise that skill in just the right way, at that particular moment. So when you assess whether to ask me $q?$, you need to take into account your beliefs about these kinds of facts.

¹⁶ But does *bad* mentalism get you off BQP hook? That is, if I am the opposite of Patrick Jane, can I ask many *more* questions? The question often confronts us, in various forms, in real life. I recall a debate that I once had another faculty member. "Larry" insisted that it was acceptable for him to ask a student $p?$ I said it was not: if a student declined to answer, Larry would learn that p , and p was a private matter. Larry countered that whatever a typical person might conclude, *he* would not personally conclude that p . Does it follow that Larry, but not me, is permitted to ask students $p?$

First, I am skeptical that we have good introspective access to our capabilities for mentalism. Perhaps Larry knows that he wouldn't introspectively rehearse reasoning like this: "The student is upset, and so it must be the case about her that..." That doesn't mean that his credences didn't automatically and significantly adjust in light of her reaction. Second, just because the question doesn't violate the Bad Question Principle *per se*, it doesn't follow that the question is permissible. If Larry asks the questions, the student would reasonably believe (and Larry can anticipate that she would reasonably believe) that Larry had violated the BPQ and so violated her rights. And Larry's protestations, "I haven't inferred anything," are not likely to strike the student as credible. This might be enough to prohibit Larry's question.

Suppose that Kyle has just watched Sofia and her husband argue. Kyle considers whether he should ask Sofia, “What was that about?” He must ask himself: what is the likelihood that the *actual* answer to this question is private information? (“It was about my recent abortion.” “It was about my cancer diagnosis.” “It was about his recent infidelity.”) But Kyle must also ask himself: what is the likelihood that if the answer *is* private, Sofia can effectively conceal this information from me? How Kyle answers this latter question depends, in part, on how Sofia seems to him *right now*. Does she seem shaken? Distraught? Overcome with emotion? And it depends on what Kyle knows about Sofia in general. Is Sofia generally good at “batting away” questions without revealing what she does not want to reveal?

The *worse* poise you have—in general and in that moment—the fewer questions it is permissible for someone to ask you. But here a worry lurks. Think about the emotionally volatile person; the rageaholic; the compulsive, out-of-control over-sharer. Normally, I can ask someone innocuous small-talk questions like, “What’s new in your life?” without worrying that I will induce her to reveal that her best friend has died or that her boss has just written her up at work or that she is fighting with her husband. Suppose that I know that someone lacks the capacity to emotionally self-regulate or just generally can’t manage herself in conversation. Or suppose that I know that she has deliberately worked herself up, *hoping* that I will “trigger” her and that she will lose control. Suppose I ask her a small talk question, and I undermine her poise, and she reveals private information to me. Is it *really* the case that I wronged her?

Suppose not. Consider this hypothesis: if I have sufficiently bad poise and (a) I could have taken reasonable steps to improve it but declined to do so or (b) I intentionally brought it about that I have bad poise, then I have forfeited the BQP right. That’s extreme. It would entail that if Camila has sufficiently poor poise, then Jacqueline could permissibly ask Camila whether she has cancer. A more plausible hypothesis needs to constrain the forfeiture appropriately, so that the poorly poised agent lacks moral protection against questions like, “What’s new in your life?” but not against, “Do you have cancer?”

It’s unclear whether we can forfeit our privacy rights, at least in this sort of way. We can cook up a case that seems to give the right verdict. I watch my colleague Sandy walk into the kitchenette carrying a folder marked, “TOP SECRET VERY PRIVATE INFORMATION.” Documents fall onto the counter. He notices them but forgets pick them up. If Sandy were to retain his privacy rights over this information, it would impose burdens on me: I would face a choice between avoiding the kitchenette or exposing myself to moral risk. (After all, I might accidentally see the contents of the documents.) So you might conclude that Sandy, through his negligence, thereby forfeits his privacy rights (Hanin 2022).

Note that this the argument doesn’t generalize to rights *in general*. Suppose that Sandy has a serious peanut allergy.¹⁷ At no cost to himself, financial or otherwise, he could take a pill to completely suppress the allergy. If he doesn’t take the pill, we need to keep our entire workplace peanut-free. Suppose that Sandy, for whatever reason, just refuses to take the pill. Sandy, through his recklessness, imposes burdens on me, most especially, quite significant moral risk. But while Sandy might be blameworthy for imposing these burdens on me, and while I might be justified in resenting Sandy for it, Sandy does not forfeit any of his rights. If I brought peanuts into the workplace, I’d (presumably) violate his rights. If I brought peanuts into the workplace and triggered his allergies, I definitely would. Insofar as the privacy rights forfeiture story is plausible at all, it is presumably because the harms at issue are so much slighter than this.

¹⁷ Thanks to my two referees, who offered cases with this structure.

Still, I think that the forfeiture story misdiagnoses the case. If you lack a certain baseline level of poise and if I suspect that you are fault for this, I tend to *resent* you. But that tracks not with the kitchenette story but with the peanut allergy story. It is only in the latter case that I am justified in resenting Sandy, because it is only in the latter case that Sandy's actions still impose burdens on me. (After all, if Sandy has forfeited his rights, then he imposes no extra burdens on me, and so there is nothing to resent.) As in the peanut allergy story, whether my resentment is justified depends upon whether Sandy is blameworthy for imposing these burdens on me. In the real world, there is no pill Sandy can take. And similarly, sometimes there is just nothing *reasonable* that I can do to improve my poise— most paradigmatically, in cases of neurodivergence.

While I doubt we forfeit our BPQ rights (at least in this simple way), we implicitly waive them all the time. If you and I are bargaining over what salary I will pay you, then (it seems to me) you have waived your right against me prying about your previous salary or how much pay you are willing to take. (Assuming these are private matters at all, of course.) If I knowingly and permissibly initiate a (boozy, intimate) conversation with you about certain types of erotica, and you knowingly and permissibly keep engaging with it, I don't think I have much complaint if you ask me, "Does this erotica turn you on?" And if Camila asked *Jacqueline* about her health diagnoses, and Jacqueline does not indicate that the question is unwelcome, I don't think Camila has any complaint if Jacqueline then asks her if she has cancer.

Thus, we have strong prudential reason to carefully regulate *which* conversational topics we introduce. In broaching certain topics, we do not merely, *in fact*, increase the likelihood that our interlocutor will ask us a prying question. We lose certain *moral* protections against the prying questions; we give up certain claims against them.

5. Some further questions

In this section, I want to tease out some further threads of our discussion. I won't hope to resolve the issues that I introduce. My primary aim is to elucidate the *kinds* of morally significant questions that we can now raise and the *kinds* of moral considerations that we can now entertain, given the general framework that I have sketched.

The first question is how far morality goes in protecting our porousness. In the discussion of loud silence contexts, we have already seen that we lack a general right against prying. If you put a question to me and, in doing so, force information from me, then so long as that information is not private information, I have no moral complaint against you.

Still, there are many different ways in which I might, intentionally or incidentally, force private information from you, ways that I did not consider in this paper. Jacqueline might, for example, say to Camila, "I recently read an article about cancer," or ask Camila, "Have you read this recent article about cancer?"¹⁸ or leave a newspaper article about cancer lying in the department lounge or tell a long story themed around cancer. And in response to any of these actions, Camila might react in a way that reveals her diagnosis to Jacqueline.

¹⁸ The BQP does not forbid us from asking *any* question (objectivist) that does extract private information from us or (subjectivist) that we could reasonably expect would extract private information from us. It only forbids us from asking *q?* when *p* itself is (a) private information and (b) a possible answer to *q*.

The question is: in doing any of this, does Jacqueline violate Camila's *rights*? Let's ask the question more abstractly. *In general*, do I have a right that you not perform *any* action that *does* in fact extract private information from me or that you could have reasonably expected would extract private information from me? I am inclined to say to the first, definitely not and to the second, *probably* not. But do I have a right against you *G-ing* when you *G* only because you intend to extract information from me, by gauging my reaction to your *G-ing*? Maybe. Certainly, when we adjust the stories so that Jacqueline is engaged in a Machiavellian plot, it intuitively seems that she wrongs Camila.

I won't attempt to resolve these questions here. For any of these actions, there are at least *two* competing sets of interests at work: there is my interest in you not performing an action, and your interest in my not performing that action. It is easy to see why, in the case of asking certain targeted questions, your interest in protecting your information outweighs my interest in asking you whether you will reveal that information to me. (After all, there are other ways Jacqueline *could* make her interest in Camila's diagnosis known to Camila without directly asking her about it.) The moral math is less obvious when we must weigh my general interest in freely making assertions about cancer or suicide or sexual assault or what-have-you against others' interest in protecting information about their cancer diagnosis, their suicide attempt, their sexual assault. And it is far from obvious how the actor's mental state figures into any of this—if it even does.

Now, we have seen that my rights against bad questions are sensitive to *your* mentalism. The better you are at "reading" people, the more you must exercise caution in putting questions to others. But here is another dimension along which we can vary matters. Consider two instances of the same question. If the questions are asked in different ways, the questions have a different *likelihood* of undermining the addressee's poise. The more I "catch you off guard"—if I ask the question out of the blue or quite quickly or when you are distracted or otherwise vulnerable—the more likely I am to undermine your poise.

Alternatively, if I ask you the question over phone or email or text, I am less likely to undermine your poise. Phone, email, and text all strip informational sources away from the interaction. Via phone, we lose access to the other person's face and body gesture. Over email and text, we lose access to sound and tone; whereas face-to-face interaction is lightning fast, delays over email and text often mean nothing more than "She put her phone down for a few minutes."

All of these factors may affect the permissibility of which questions you may ask and when, or whether or how blameworthy you are when you do undermine my poise, or the gravity of the complaint that I have against you in undermining my poise.

Since we all have an interest in maintaining our informational privacy, it is not surprising that some of our social practices function to facilitate this. Do we have any social practices that function to protect us, specifically, from prying questions? I suspect so. Here is one kind of practice or norm. Generally, if you ask someone, "How much do you weigh?" or "How much money do you make?" she will decline to answer you. And she might even decline in a huffy or affronted or outraged way. People do this, in part, because there is a social norm to respond to such "impolite" questions in this way—in part or in whole because the questions themselves are considered impolite.

Now if there *weren't* a social norm to respond in this way, some people still would decline to answer those questions. But probably, if there weren't such a social norm, fewer people would decline to answer than would now. This is, in part, because we are explicitly taught to decline such questions, and we are habituated into declining to answer them. And it is, moreover, because many of us decline to answer *just because* we

prefer to conform to the social norm and not because we have a deeper objection to sharing the information. These patterns dampen the overall significance of any *particular* person opting out of a question like, “How much do you weigh?” And it dampens the overall significance of any particular person opting out of the question in a huffy, affronted, or emotional way.

There is a further question of the *all things considered* justificatory status of social norms like, “Don’t ask people how much they weigh,” or “Don’t reply to such questions.” But I think *one* of their good-making features is that they divest prying questions of some of their power to pry.¹⁹

Finally, we have been investigating the *problematic* nature of our imperfect capacity for poise. I have treated our porousness—our tendency to exude information against our will and to be *made* to exude this information—as a problem requiring aggressive management, and I have imagined my mentalism and your poise as locked in a battle for information. But I don’t want to suggest that our porousness is only a *problem*.

For example, our imperfect capacity for poise guards against the possibility of widespread deception (Marmor 2015, forth; Cocking and van den Hoven 2018; Véliz 2022). Even if we all *wanted* to be sociopathic master deceivers, most of us lack the informational self-control to pull this off in any sustained way. (Even Jay Gatsby’s charade had its fissures.) Moreover, because I know that you’re porous—that you are constantly exuding signals, many of which are not under your control—I have better confidence in my capacity to detect, if only partially and imperfectly, your insincerity. And my capacity to detect your insincerity is, in part, what underwrites my trust in what you say and my confidence that the self you are projecting is an authentic one (Marmor forth).

But here is another, rather different way that our porousness might have value. Because we so often *lose* our poise, we can also successfully *fake* losing our poise. When we fake losing our poise, we both intentionally reveal information to another person and conceal that we are revealing the information intentionally. We make the information transfer look like an accident. It is often in response to questions that we engage in the fake poise loss gambit. We can ask: is the widespread availability success of this kind of communicative gambit itself valuable?

This is rather abstract, so here’s an everyday example:

William, my conscientious and reticent friend, and I are deliberating about our dinner plans. We have narrowed it down to a sushi restaurant and an Italian restaurant. William asks, “Would you prefer sushi?” Thinking that William prefers sushi, and wanting to satisfy William’s desires, I say, “That sounds wonderful. Don’t you think?” Subtle signs of disappointment flit across William’s face, and then they’re gone. William then says, “That sounds lovely.” I then reply, “Actually, the Italian restaurant might have less of a wait. Let’s go there.” William agrees.

¹⁹ In the best case, these norms *fully* deprive the prying question of its power to pry. In such a situation, if you ask me, “How do you weigh?” then almost certainly, whatever I do, my response will not reveal private information to you. Interestingly, in such a case, you don’t seem to have BQP-related reason to decline to ask me the question. After all, you know that if you put the question to me, then almost certainly you won’t force me to reveal private information to you. But that doesn’t mean you have *no* reason to decline to ask me how much I weigh. Perhaps you have good reason not to ask me that *just because* you have good reason to conform to a valuable social norm. But spelling out the details of such an account would take me too far afield.

William and I are locked in a typical politeness battle: I want to eat where William wants to eat, but I can't figure out where William really wants to eat. I can't figure it out, in part, because William will only say that he wants to do whatever I want to do. So I put a question to him explicitly hoping to glean information about what he *really* wants to do, not from what he says but from how he reacts.

Now, I think that William has genuinely lost control. I think he didn't want to show me his disappointment. But in fact, William only faked losing control. He *really did* want me to know that he didn't want sushi. So he faked his poise loss, simultaneously *intending* to reveal his real preference and intending to conceal from me his intention to reveal this real preference.

Why would William want to engage in this gambit? One possibility is that it is a kind of politeness strategy (Brown and Levinson 1987 [1978]: 69). It is a way of *appearing* to want to do whatever the other person wants to do—to appear agreeable, selfless, equanimous—while simultaneously revealing one's true underlying preferences. It is, in other words, a form of conversational discretion. What is the moral status of this discretion? In what sense is it polite? If it is polite, is it valuable *because* it's polite? Are “fake poise losses” a form of morally problematic deception? These are all moral complexities that our study of poise has revealed.

6. Conclusion

To sum up, then. We started with the question, “Why are intrusive questions genuinely intrusive?” We found that in order to answer this question, we needed to investigate the unique way in which face-to-face interaction renders us vulnerable to each. An intrusive question is intrusive when it undermines or when the asker expects it would undermine our capacity to control our private information. But many questions pry without wronging us: they undermine our effective control over our information. But since we have no special moral connection with that information, we have no special complaint when the information seeps out of us.

We are porous beings. Our porousness is, in many respects, a problem that we must manage. I have focused on the way that morality helps us to manage that problem. But our porousness is valuable too. Like so much in human nature, a source of trouble is also a source of good.

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