

Privacy and Public Benefits

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Annotated Bibliography

Introduction

Though New York City and other municipal governments typically require a privacy policy acknowledgement to access public assistance programs, users rarely read them and the policies often contain vague, jargon-filled language that can obscure meaning. This research seeks to investigate what privacy concerns exist when an individual applies for sustenance benefits. Privacy concerns can exist both in the design of the application (i.e., how questions are asked, what is a required question and why?) as well as the use of the information collected. Our initial research questions include:

1. What questions are asked when one applies for sustenance benefits in NYC?
2. Why are these particular questions asked?
3. Who determines the necessity of the questions? Which questions are necessary for providing food stamps?
4. How is this information used?
5. What value does this information have to the State?

Though the primary purpose why an individual may seek sustenance benefits is clear, there is little-to-no information about how personally identifying information is handled and maintained once it has been collected, or for what purpose. The references in this bibliography focus on the administration of the Supplemental Nutrition Assistance Program (also known as SNAP, or food stamps) and start to answer some of these questions while uncovering even more.

2. Why are these questions asked on the sustenance benefits application?

“Verification Requirements and State Options.” *Food and Nutrition Service U.S. Department of Agriculture*, Food and Nutrition Service, 10 July 2009,
<https://www.fns.usda.gov/snap/verification-requirements-and-state-options>.

A USDA list of verification requirements and flexibility within those requirements that states can implement at their discretion. Why may New York City’s agency choose to include or omit certain verification requirements during their data collection? When seeking to answer research questions two and three this document may prove useful. Cross-referencing the application questions asked by the NYCHRA with this document will help uncover what is deemed “necessary” to distribute SNAP benefits.

Widor, Sarah. "Data Requests from Infant Formula Manufacturers." *Food and Nutrition Service U.S. Department of Agriculture*, Food and Nutrition Service, 7 Apr. 2021, <https://www.fns.usda.gov/wic/policy-memorandum-2021-6>.

The release of this April 2021 memorandum 2021 from the FNS reveals that infant formula manufacturers are requesting data from state WIC agencies though the purpose of these requests is not clear. In this instance the federal guidance clearly prohibits the sharing of personal data for both applicants and participants in the program.

Casey, J. T, Price Waterhouse (Firm), P. Waterhouse (Firm), Office of Government Services, O. of Government Services, United States, U. States, Food and Nutrition Service, F. and Nutrition Service, & Office of Analysis and Evaluation, O. of Analysis and Evaluation. (1994). EBT data privacy issues for food benefit programs. <https://naldc.nal.usda.gov/catalog/46574>

This document, prepared by Price Waterhouse, seeks to investigate potential privacy concerns related to the introduction of online EBT benefits through a review of the current privacy regulation of the time and a round table discussion with various stakeholders who are outlined in the conclusion.

The "Applicable Privacy Laws" listed in Appendix A still form the foundation for the privacy regulations that govern SNAP today, the Privacy Act of 1974 does not extend to state governments who are left to their own devices when it comes to privacy regulations on personally identifiable information.

Lynn Dombrowski, Gillian R. Hayes, Melissa Mazmanian, and Amy Volda. (2014). E-government intermediaries and the challenges of access and trust. *ACM Trans. Computer-Human Interaction*. 21, 2, Article 13 (February 2014), 22 pages. <https://doi.org/10.1145/2559985>

Dombrowski et. al address the need for both access to and trust within e-government systems (and government systems at-large). This study specifically looks at the online Supplemental Nutrition Assistance Program (SNAP) and the challenges that face community-based organization (CBO) workers whose job is to assist clients both access and successfully completed their SNAP applications. The study concludes that while CBO workers can help to facilitate this process their capacity to help is limited by the technology afforded to them to complete this task, their own knowledge of the application logistics, and an erosion of trust between the government and its citizens.

Section 5.2 focuses on what challenges CBO workers encounter in the field with regard to trust in e-government systems, while section 6.2 provides design recommendations to alleviate these challenges. These insights reinforce the necessity of research questions 2, 4 and 5. A thorough and clear understanding of the information flow will improve overall communications about the services.

3. Who determines the necessity of the questions? Which questions are necessary for providing public housing and food stamps?

Title 7, Volume 4 C.F.R. § 272 (2022). <https://www.govinfo.gov/app/collection/cfr>

The Federal Code of Regulations that codifies the laws governing the Supplemental Nutrition Assistance Program. This code is referenced by multiple policies and memos released by the FNS.

New York City Administrative Code Title 23, Chapter 12 § 1202.

<https://codelibrary.amlegal.com/codes/newyorkcity/latest/NYCAAdmin/0-0-0-129569>

The New York City administrative code that is often referenced by public policies regarding data collection. This code does allow the retention of data, “when retention is in the interest of the city and is not contrary to the purpose or mission of the agency.” 23-1202 (e). However, this document does not explain why this practice may be necessary to further the mission of a particular city agency. This code also details each city agency’s duty to report their data practices every two years 23-1205(a).

4. How is this information used?

Urdapilleta, O., Koné, A., Mbwana, K., DeFever, R., Hoesly, L., & Ehrich, K. Understanding the Use of SNAP Online Applications. Prepared by Summit Consulting, LLC for the U.S. Department of Agriculture, Food and Nutrition Service, May 2021. Project Officer: Eric S. Williams. Available online at: <https://www.fns.usda.gov/research-analysis>.

This study was commissioned by the USDA Food & Nutrition Service (FNS) to investigate how online SNAP applications are being used and how often in several states (including NY). The purpose of the study is to provide insight into modernization of SNAP administration by looking into the benefits and challenges that are present at this time.

In this thorough report several key objectives relate to research question 4 through an investigation into the information flow of data once it is submitted to a State Agency. Figure 7 provides an infographic to illustrate the process. This infographic provides a cursory flowchart of how a SNAP application is reviewed and by whom before an EBT card is issued but does not reveal the specific protocols used in this review. Also, the retention of data is mentioned in Chapter 2 as it relates to the data sources used in the methodology, the Code of Federal Regulations stipulates that data will be retained for 3 years for auditory purposes.

“Nyc.gov Privacy Policy.” *Privacy Policy | City of New York*,
<https://www.nyc.gov/home/privacy-policy.page>.

This is the primary privacy policy that benefit seekers will be confronted with when attempting to access public assistance services. It is unclear how it relates to the Citywide Privacy Policy set forth by the Office of Technology and Innovation. The policy clearly

states that personally identifiable information submitted to NYC.gov will not be sold or distributed for commercial or marketing purposes.

“Questions and Answers on Snap Online Applications.” *Food and Nutrition Service U.S. Department of Agriculture*, Food and Nutrition Service, 27 May 2011, <https://www.fns.usda.gov/snap/qas-online-applications>.

This FAQ from the FNS, issued in 2011, sought to clarify compliance guidelines as the SNAP application slowly transitioned to offer an online application. When considering why particular questions are asked and who determines those questions the FNS reminds State Agencies of their obligation to strictly follow the federal eligibility requirements set forth for the program. In this newly digital world the question of whether or not e-mails could be a required component of the online SNAP application was quickly shot down since the addition of this requirement would impose an “additional condition of eligibility” for those seeking public assistance.

This document reveals tensions that still exist today between outdated regulations and the reality of digital data collection. Today, an account (i.e., an email login) is required to apply for SNAP online which according to this document, is in violation of the eligibility requirements set forth in 2009, a time when applying online was still a relatively new concept. When thinking about research 4, questions arise about data that is collected today that “falls through the cracks” of outdated regulatory policy. Does the Citywide Protection Policy effectively close this gap for New Yorkers?

Shvartzshnaider, Y., Apthorpe, N., Feamster, N., & Nissenbaum, H. (2019). Going against the (Appropriate) Flow: A Contextual Integrity Approach to Privacy Policy Analysis. *Proceedings of the AAAI Conference on Human Computation and Crowdsourcing*, 7(1), 162-170. <https://doi.org/10.1609/hcomp.v7i1.5266>

Shvartzshnaider et. al present a consistent and reliable annotation framework that allows privacy policies to be compared through a set of parameters that track information flow. This framework is based on the theory of contextual integrity (CI) (Nissenbaum 2010) and emphasizes the importance of context when considering privacy ‘norms’ in a given environment. This article first presents the novel CI method for analyzing privacy policies and uses Facebook’s privacy policy as a case study.

This article presents a feasible option for the analysis of government privacy policies and will help us investigate the information flow data collected by government entities as well as highlight any ambiguities and vague language present within the policy.

5. What value does this information have to the State?

Fitzpatrick, M. (2022). Citywide Privacy Protection Policies and Protocols. *New York City Office of Technology & Innovation*. <https://www1.nyc.gov/assets/oti/downloads/pdf/citywide-privacy-protection-policies-protocols.pdf>

Chief Privacy Officer Michael Fitzpatrick of the NYC Office of Technology and Innovation put forth a citywide privacy policy to govern “the collection, retention, and disclosure of identifying information by City agencies”. The policy defines terms and provides guidance for what is expected of each City Agency when considering the privacy rights of their constituents. The document also highlights the importance of transparency between City agencies and the public as it relates to their data privacy practices.

This document will prove foundational as it pertains to RQ5 and how New York City handles personally identifying information. Each agency is meant to staff an agency privacy officer who ensures that their agency’s practices remain in compliance with the citywide policy. To this end, each agency is expected to create a compliance report that details their data privacy practices and make the report publicly available.

Honan, Katie. “Snap Back: Stolen Benefits Would Be Repaid to Victims under Federal Bill.” *The City*, The City, 16 Dec. 2022, <https://www.thecity.nyc/2022/12/16/23513496/stolen-snap-benefits-repaid-victims-under-federal-bill>.

This article, published in December 2022 by THE CITY, illuminates the cybersecurity vulnerabilities present in the SNAP system. The article highlights that though any individual who uses a card payment is susceptible to ‘skimming’ those who are most burdened by the loss are most likely to be SNAP recipients, and EBT cards are not afforded the same fraud protections that cover debit and credit cards.

The article also mentions the collaboration between the NYC Office of Temporary and Disability Assistance and the USDA to increase SNAP transaction tracking to reduce theft. The potential spillover effects of this increased surveillance are related to research question 5.

Chester, Jeff, et al. Center for Digital Democracy, 2020, *Does Buying Groceries Online Put SNAP Participants at Risk?*, https://www.democraticmedia.org/sites/default/files/field/public-files/2020/cdd_snap_report_ff_0.pdf. Accessed 22 Nov. 2022.

This 2020 report from the Center of Digital Democracy reviews the benefits and challenges of the SNAP online purchasing pilot rolled out in 2019. They critique both the USDA privacy guidelines put forth to guide the online retailers within the pilot (Amazon, Walmart, Fresh Direct, Safeway, ShopRite, among others) as well as the privacy policies of the retailers themselves. (p.17-21)

Though this report addresses questions beyond the scope of this project their methods of analyses. These methods include employing software to detect cookies and trackers in use by companies such as Amazon and ShopRite and seeing how company privacy policies measured up against USDA requirements for an online EBT pilot program. The resulting conclusions showed the government needs to be held accountable in ensuring that private companies are complying with their regulations surrounding data privacy for online SNAP

users and that these regulations need to be regularly reviewed to keep up with the ever-evolving privacy landscape.

Conclusions, next steps

The U.S. food stamp program originated in the 1930s; however, despite this long-standing history, there are still very few resources available to clearly inform benefit seekers of their rights, privacy and otherwise, as they navigate the application process and beyond. This bibliography reveals a clear lag between policy and reality when considering data privacy and the collection of personally identifying information (PII). Food and Nutrition Services (FNS) memorandums from the past 20 years illustrate how the shift to internet-based platforms posed unique challenges for benefit seekers as they are faced with new physical and political implications when considering accessing sustenance benefits. In the absence of straightforward regulation from the FNS, a citywide privacy policy set forth by the New York City government does seem to prevent PII from being used for any purpose outside the scope of the intended use. Unfortunately, findings from Shvartzshnaider and the Center for Digital Democracy reveal that ambiguous language and loose definitions of “intended use” can leave benefit seekers both vulnerable and uninformed about how their data is used. As the conversation surrounding Big Data, Big Tech, and data privacy persists benefit seekers should be aware of their privacy rights and given tools that allow them to take ownership of their data.