



Spring 4-15-2016

# The Sky Is Falling, But not for the Reason You Think

Mark Y. Herring

Winthrop University, [herringm@winthrop.edu](mailto:herringm@winthrop.edu)

Follow this and additional works at: [https://digitalcommons.winthrop.edu/fac\\_pub](https://digitalcommons.winthrop.edu/fac_pub)



Part of the [Higher Education Commons](#)

---

## Digital Commons Citation

Herring, Mark Y., "The Sky Is Falling, But not for the Reason You Think" (2016). *Winthrop Faculty and Staff Publications*. 43.  
[https://digitalcommons.winthrop.edu/fac\\_pub/43](https://digitalcommons.winthrop.edu/fac_pub/43)

This Article is brought to you for free and open access by Digital Commons @ Winthrop University. It has been accepted for inclusion in Winthrop Faculty and Staff Publications by an authorized administrator of Digital Commons @ Winthrop University. For more information, please contact [bramed@winthrop.edu](mailto:bramed@winthrop.edu).

# Little Red Herrings — The Sky Is Falling, But Not for the Reason You Think

by **Mark Y. Herring** (Dean of Library Services, Dacus Library, Winthrop University) <herringm@winthrop.edu>

In case you missed it, the world is about to come to an end. I'm not a scryer or a doomsayer, nor am I especially prescient. But judging from the hysteria surrounding the **Apple** phone/**FBI** case, one can only conclude that the world is coming to an end, the sky is falling, civilization as we know it is coming to an end if **Apple** loses its gallant fight for the little millions who bought its phones.

For those of you who may be surprised by this, here's the short version of this story. The **FBI** uncovered an iPhone 5C in the case of the San Bernardino, California massacre that took place in December. The couple below, **Tashfeen Malik** and **Syed Rishwan Farook**, returned from Saudi Arabia. **Farook** and one, **Enrique Marquez**, in an on-again, off-again friendship, had planned attacks, gone shooting together, and stockpiled weapons. **Farook** and **Malik** had clearly become radicalized as had, to some extent, **Enrique**.

On 2 December 2015, **Malik** and **Farook** entered the **Inland Regional Center** and with 65 to 75 rounds of ammunition, he and his wife, both dressed in black, shot and killed 14 people while injuring 22. An excellent summary of this horrific tragedy can be found here: <http://nyti.ms/22htnAm>.



Lots of charges remain, and the **FBI**, **CIA** and local authorities are trying to ferret all this out. The iPhone 5C has become an entity of interest to the **FBI**, its thinking being that the phone quite possibly holds key information on the couple's associates, plans, and the extended machinations of these dreadful people and their deadly, dreadful acts. The **FBI** wants the phone unlocked, but **Apple** doesn't want to comply because that would end their promise of privacy and security. What we know for certain is that 14 people are dead through no fault of their own, and 22 people injured, again for no other reason than working there, at that place, at that time.

Cue the hysteria, and the absolutists.

All sorts of enimentoes have weighed in on this, and nearly all of them on the side of **Apple**. **Steve Wozniak** (or **Woz**, as those in the know like to refer to him), quondam co-founder of **Apple**, sides with **Apple**, no less, on what he calls the "lamest" (<http://for.tn/22htEU0>) case ever that the **FBI** could have come up with. On **Conan O'Brien** in early March, he pontificated his views on the San Bernardino case, making the usual claims for privacy and the sky-is-falling if we open this phone, or any other phones, to the **FBI**. It's always all-or-nothing for absolutists. If we do this now, it will be so for all eternity, and nothing will ever be the same.

Library notable, **Barbara Fister** weighed in on her *Inside Higher Ed* column "Babel Fish" called "Apple versus the **FBI**" (<http://bit.ly/1QUObFr>). She's "queasy" about "the state" making a company write code that will undermine its own operating system. The ever winsome and sort-of-on-the-lam **Edward Snowden** eloquently called the **FBI** case "horsesh\*t" (<http://bit.ly/1SPYXzr>). **NSA** contractor, **Mr. Edward Snowden**, is known only for leaking documents that he thought were important for the world to know, documents that the world immediately forgot. I should add that he did preface his comment by saying "Respectfully," presumably allowing him to say whatever he wished in as crude a manner as he thought useful. Add to these, almost all of Silicon Valley, Hollywood celebrities, Google officials, Facebook and Twitter CEOs, and on and on.

Not many have come forward in support of the **FBI**. **Tracy Milano**, also of *Inside Higher Education*, came out in favor of the **FBI** in her column on the matter, "Understanding **Tim Cook**" (<http://bit.ly/1V9yZY4>). Her post is really more about **Cook's** ill-advised post that turned the case into an us-vs-them affair. She would have advised against that part, anyway. But she takes a much bolder, and I think, eminently wiser approach most recently (<http://bit.ly/1PaaJY9>). **Milano** does the best job I've seen of disambiguating the absolutist passion from government totalitarianism. And **Bill Gates** also came out in favor of unlocking the phone (<http://bit.ly/1oEfmLr>) and then he backtracked a little or a lot (<http://tcn.ch/1mVgvfO>) depending on whom you read.

What is disturbing about those who favor **Apple**, and what is disturbing about **Apple's** refusal, is that both

parties make this case about the Holy Grail of privacy and security, in the face of 14 really dead people and 22 very injured ones. In fact, these dead or injured folks never really come up in the discussion. **Apple** proponents argue for precept over people, and that's really the beginning of the end for all of us, as **Nicholas Berdyaev** had it.

A privacy/security argument in our digital age is a bit laughable anyway. Everything and almost everyone has been hacked already, and Internet security looks like Swiss cheese. The old saw about us not having any privacy and getting over it is now one of the sad but true facts of our brave, new digital lives. Handwringing over the potential loss of privacy for a company like **Apple**, a company that is stockpiling so much raw big data about all its users until the day it can figure out how to monetize that data without infuriating everyone, is ludicrous in the extreme.

We are awash in hacking and privacy breaches, but by God we're going to stop the **FBI**. These arguments have an almost boogeyman quality about them, as if the government is the *only* entity that we really must be worried about. And it isn't just phones. It's everything digital: privately owned drones, smart televisions, smart refrigerators, smart cars, smart houses, eBooks, and so on. Does anyone really believe those who make these products really aren't keeping an eye on who's using them and why? Don't get me wrong. We have to keep any eye on government, **Juvenal's** *quis custodiet ipsos custodies*, or who's watching the watchers, and all that. But this paranoia about government alone is, well, crazy.

Sure, we have a lot of leftover sexagenarian Woodstockers who now teach on college campuses all across America. They're itching for another revolution, but I don't know why. So **Apple** will have new background music for its next iPhone iteration? To do so at the expense of innocent people who did nothing more than go to work strikes me as a bit much.

I know many of my library colleagues will be scandalized (but unsurprised) that I'm making a case for the **FBI**. Of course, **Apple** should unlock that phone and any other phone that may well save lives, or bring to justice those who have taken them. Some years ago, we had a patron in our building who was surfing our open Internet. He behaved

*continued on page 31*

**Op Ed — Little Red Herrings**  
from page 30

very suspiciously, clicking windows closed every time someone came near, stealing furtive glances all about him. After he left, I checked the history on his computer. Not only had he been surfing child porn, but he had also filled out an application for a middle school not two miles from us. Did I waver at all about his privacy or hesitate while I read the Library Bill of Rights? Not even a second. Both the campus and local police were called.

Some will argue that my case and the **Fa-rook** case are two different things. But both perpetrators broke federal and state laws, and both had some expectation of privacy. My view is that if you break laws, you revoke your rights because you choose to steal the rights of others, and especially when you steal the ultimate right to life, to say nothing of liberty and justice. The state should bring to bear upon you its power in pursuit of justice. No, you can't beat con-

fessions out of those whom you suspect. But you should be able to have at your disposal at least as much power as criminals have at theirs. If they use a phone to plan and/or commit murders, the state should have the right to examine said phone to bring about justice and perhaps prevent or deter others from using that shield again. Yes, we must watch the watchers, but *lex est tutissima cassis*, after all: there is no better shield than law.

If we make any of our Bill of Rights absolute, we run the risk of making them useless for justice, let alone this Republic. One would think that after so many years of trying to make the First Amendment absolute, we'd have learned a lesson. First Amendment absolutists have made possible the Internet pornography that we are currently awash in, among other things.



And now it would appear that the absolutists are going to try to win another argument for the right of **Apple** to make phones and keep them locked away from government. Meanwhile, **Apple** will continue to collect big data and protect evildoers from the prying hands of a government that seeks to wrangle them to justice. It's a brave, new and now very dangerous world, made all the more dangerous because absolutists view privacy and security as a precedent over people.

If successful, this is the way the world ends because this center really cannot hold. 🌲

---

**Column Editor's Update:** *Just as we were preparing this issue for publishing, the **FBI** successfully unlocked the phone without **Apple's** assistance. While this particular issue is now resolved, the larger one discussed here still remains. — **MH***