INTERVIEWER: It's fantastic to welcome-- I have the great honor of welcoming Chris Gilliard to come talk to us, the LawTech Center at UVA Law, to our fellows, to friends of the UVA Law community. I'm pretty giddy, I have to say. It's my first time meeting Chris, though we have been dear friends, and he's inspired me for years now. So welcome, Chris.

Let me just give you, by way of background-- Chris Gilliard is part of the inaugural class of Just Tech Fellows for the Social Science Research Council, which really gives him the time and space to write. He is an author, he is a thinker, he is a provocateur in the most extraordinary way. He gets us thinking about the downsides of surveillance technologies, their pervasiveness. And I hear Chris all the time whenever I talk to students in my writing. Your voice is powerful.

So Chris, it's so exciting to have you here to talk to us about luxury surveillance and your new book project. So welcome. Can you tell I'm-- also, by the way, everybody knows you, Chris, @hypervisible on Twitter. I feel like your fan club is huge. And so folks, if you don't Chris Gilliard, he's also @hypervisible on Twitter. So Chris, welcome.

CHRIS GILLIARD: Thank you.

INTERVIEWER: I'm so excited to have you.

CHRIS GILLIARD: And thanks for that introduction. The fan feeling is mutual, so I really appreciate everything you've said just now. But I also, I've been following your work for a really long time, and I'm just really pleased to be here. Thank you.

INTERVIEWER: Thank you so much. So Chris, tell us a little bit about what you're doing during this time that you have as a Just Tech Fellow because I think that helps open us up to the book project and luxury surveillance and what luxury surveillance is, what the risks are, and on whom it falls. So I open it to you. I'm so excited to hear about your project.

CHRIS GILLIARD: Yeah, so as you mentioned, I'm part of the inaugural cohort of Just Tech Fellows. What a lot of people don't know, I don't think, is that everything I've been doing up until now I've been doing while also full-time faculty at a community college, so teaching 10 courses a year. Yeah. [LAUGHS]

INTERVIEWER: Totally. 10 courses a year?

CHRIS GILLIARD: Yeah.

INTERVIEWER: You're amazing. That's all I have to say.

CHRIS GILLIARD: So this fellowship has been-- I mean, I'm not being hyperbolic to say it's been amazing. Yeah, it's just given me, first of all, support institutionally, but also with some amazing colleagues and leadership, but given me the opportunity to read and write and think about this stuff more exclusively.

INTERVIEWER: Without having to teach 10 classes?

CHRIS GILLIARD: Yeah, exactly. So it's been wonderful. It's just, yeah--

INTERVIEWER: How did you do all that writing that you did do? There isn't a time where I'm not like, where's the Chris Gilliard op ed that's going to inspire me and make me mad too? Because if the tech is making me mad and then the pervasive surveillance, but-- so everyone should know, I left this part out, but Chris has written in the *Atlantic, Wired,* countless times, right, not just one, *Fast Company, Vice, Educause,* many, many outlets. So that's incredible that the whole time as you were doing all of that, you were teaching. Many, many loads, right?

CHRIS GILLIARD: Yeah. You know what? I guess I didn't realize how much work I was doing until I wasn't doing it. Yeah, I just didn't-- I thought that was kind of normal to do that.

INTERVIEWER: Yeah, of course. Yes, because your colleagues are all running around doing that. And I'm so glad this gives you the time, also that amazing cohort to talk to, but also the time, space, and the financial support to do this work. You just can sit down and write and think and talk about the-- that's the scoop, giving you the time to do that.

CHRIS GILLIARD: I'm so fortunate. Yeah, it's been fantastic.

INTERVIEWER: Oh, I'm so glad. OK, so now tell us the concept of luxury surveillance. Tell us what that means. And of course, I'm going to bug you about, of course, the implications and where this book project is going and you're thinking as it develops over time.

CHRIS GILLIARD: Yeah, so I made this, what I thought kind of cast offline a long time ago, in which I compared Apple Watches and Fitbits to ankle monitors. And to me, it was a very mundane observation. I assumed everyone thought that. Right?

That's what I think what I see them. They look like ankle monitors to me. I mean, there's some aesthetic developments, both with the carceral tracking devices, but also with the supposedly noncarceral ones put out by Apple and Google.

INTERVIEWER: Yeah, we're buying that for ourselves.

CHRIS GILLIARD: There's some aesthetic developments, right?

INTERVIEWER: Yeah.

CHRIS GILLIARD: There's some aesthetic developments that have drawn them closer to each other just in the way they look. But in terms of functionality, they do many of the same things. In fact, the running joke I have, it's just, what is the difference between an ankle monitor and a Fitbit or an Apple Watch? And the joke is that one of them collects a lot more data. But it's the Apple Watch, not the ankle monitor.

INTERVIEWER: Totally, yes, and that would shock people, right? You stop them in their tracks.

CHRIS GILLIARD: Yeah, and so I thought this was a very kind of quotidian observation. But it seemed to resonate with people. And so I began to talk about it more and developed of what I call this idea about luxury surveillance, which, if I can kind of put it into a small box, it's the way that certain devices-- and we can think about Apple Watches and Fitbits. I mean, I put ring doorbells in there, a lot of Amazon devices like the Halo Rise and things like that, the Oura Ring.

INTERVIEWER: Can we pause on that for a second? Because you make some profound points about the way in which Ring devices that people are buying, and then the apps that they're using with it and the kind of surveillance society that some people are immune from, that is the owners in many ways, right? And so there it's a disproportionate-- how the harms and the vulnerabilities that the Ring camera creates is so profound.

So could you elaborate on that a little bit? Because you might think, OK, my Fitbit, which you and I are going to think, that's pretty dangerous for women now post-Dobbs, all the ways in which our reproductive health data can be misused and freely gotten. But the Ring camera is this development that people seized on and that I think we haven't-- you help us think through what the implications are for society, for vulnerable groups that you've been thinking about for a really long time.

CHRIS GILLIARD: Yeah, so there's two stories I tell, and I'll tell them really quickly. But I was reminded, I recorded a podcast, or I did a recording for an Amnesty International podcast that dropped yesterday. And so I was reminded of this one story.

So I have a friend who lives in Beverly Hills, California. And he got a Ring doorbell. And I mean, he knows me, and he knows my stuff, and I encouraged him not to get it, but he got it. And what was really interesting was how it immediately turned him into a cop. He was, oh, there's this person was standing outside my house, and this person was walking down the street, and the whole thing.

He started sending me little snippets of videos, and should I call the police about this person? They lingered a little bit too long, and all these things, right? So in that way, it's doing what it's supposed to do.

INTERVIEWER: It's normalizing the mini panopticon.

CHRIS GILLIARD: Exactly. And also it produces a lot of anxiety. Because normally, people walking down the street--

INTERVIEWER: It's normal.

CHRIS GILLIARD: For the most part, yeah, they don't produce anxiety. I mean, I hope they don't. In most cases, they're just people walking and biking down the street. But the device is working exactly as it's supposed to. The other example I give is--

INTERVIEWER: Can we linger on that for a little? Because I think made your insight about a culture of fear that these cameras generate. That is, we don't come to this place from a place of fear and anxiety, but the cameras create it.

And that's cultural, and that's creating an us and them in ways. At least this is what you say. I'm taking this from your work, Chris. But you make an important point about how it creates a culture of fear, one that isn't there before. Just to linger on that insight of yours for a second.

CHRIS GILLIARD: Yeah, absolutely. I mean, it was very clear to witness that-- and so one of the reasons I say it's doing what it's supposed to is that culture and that anxiety that's produced makes you-- it creates a loop, right? Then you want to check it more often. Then you feel as if it's doing the thing that you want it to do, which is keeping you safe, even though there's no empirical evidence that it does that.

But it then encourages people to buy more devices. And so then Amazon has a drone that flies around your house and a robot that scoots around your house and links your device to other devices and links those devices to a fusion station downtown, all these things. So these are not unrelated. And the other thing to mention when we think about this, talk about this, is this initially, it was basically Amazon's way to cut their losses when there's package theft.

INTERVIEWER: Oh, such a good-- right. That's really important to underscore who's really profiting in all of this, besides the terrible stuff that's happening to society. This was a profit-motivated-- there's theft, and they don't want to have to pay for it.

CHRIS GILLIARD: Yeah, because previously, if I got something delivered, and it was taken before I got home or brought it inside, Amazon was on the hook. And now they are not. And so--

INTERVIEWER: Talk about an evil genius, or as you would say every, iteration that a tech company thinks up, the next iteration is worse than the one before. I have that on my laptop. I wish I could-- I would show it to our students.

CHRIS GILLIARD: I mean, I have T-shirts, OK? I don't make money from these, right?

INTERVIEWER: No, I know you don't, because you stopped me.

CHRIS GILLIARD: I don't make money from these, but I do have T-shirts. So if anyone wants one--

INTERVIEWER: I want one. I'm going to talk to you.

CHRIS GILLIARD: Hit me up, I'll tell you how to get one.

INTERVIEWER: But it's such an important framing, that here you have this company trying to spread the cost off of itself for these stolen packages. And the repercussions are all-- the benefits are to them, and the loss is all to society.

CHRIS GILLIARD: Exactly.

INTERVIEWER: Because now your friend is fixating, sending you clips, and then getting more paranoid by the second. Where you go about every day-- I don't have one. But you wouldn't have thought to look who's looking in your front stoop for a second.

CHRIS GILLIARD: Right, right. And so the other story I tell--

INTERVIEWER: Yeah, tell me.

CHRIS GILLIARD: --is my neighbor across the street has one. And apologies to anyone who's heard this story before. So I'll keep it brief, but basically--

INTERVIEWER: No, tell us.

CHRIS GILLIARD: So someone was egging cars in the neighborhood, some kid, I assume. And so one day it was two houses down, and the next day it was the house next door. And so my turn arrived, and my car got egged.

And so I came out that morning, and my neighbor across the street who has a Ring doorbell says to me, I have the Ring footage if you want me to send it to the police. Now, he doesn't know what I do or anything like that. He says, I have the Ring footage.

INTERVIEWER: He should really-- can I send them all your pieces?

[LAUGHTER]

Just saying, I have a ready list. What did you say in that moment? He's like, would you like the Ring video? Did you have a moment to have a talk?

CHRIS GILLIARD: I'm very good at--

INTERVIEWER: You know what I mean? Did you say, can we talk about surveillance, can we discuss this, or not?

CHRIS GILLIARD: I'm very good at hiding my feelings. So I just said, no, no, that's OK. I've got some white vinegar in the house and--

INTERVIEWER: I can clean the car?

CHRIS GILLIARD: Yeah. And so I live in an area that has a large Muslim and Arab population, very, very large. And so there's a strong possibility that it was a Brown kid who did this. Again, I should stress, I don't know. But just based on percentages, there's a strong possibility.

INTERVIEWER: And this is a kid doing egging, right?

CHRIS GILLIARD: Yeah. So I don't call the police for things like that, because that sort of chain, the potential for massive damage and harm over a problem that I can solve with paper towel and white vinegar is not a good equation. So I don't call, I don't involve the police and things like that. That's my ethos.

INTERVIEWER: Did your neighbors-- do we know if they did, just as a small anecdotal example, just how the overcriminalization move that the surveillance is like feeding fear and anxiety that then leads to really stupid ways in which we're using the criminal law in so destructive ways.

CHRIS GILLIARD: So he has a much nicer car than I do. His car did not connect.

INTERVIEWER: The neighbor?

CHRIS GILLIARD: Yeah. And so he did not. Yeah, but I just find it so interesting that again, previously, if your house got TP'd or your car got egged or someone took your newspaper, things like that, I mean, the level of harm that causes-- to me, it's a nuisance.

INTERVIEWER: And there's a lot of nuisances we just live with. There's a lot-- there's some friction in the system. We all absorb a little bit, but if it's not too painful, it's OK.

CHRIS GILLIARD: Right, absolutely. And it's just not a thing I would involve the police in. And again, traditionally, it would not have been for almost everyone. But this is a way to think about the ways that these devices encourage carceral solutions-- and "solutions" in quotation marks-- to the problem.

INTERVIEWER: And that's the most direct, right?

CHRIS GILLIARD: Yeah.

INTERVIEWER: Yeah. And do people get that-- do you find that when you-- because you give a lot of talks. You talk to both students and fellow colleagues, professors, companies. Do people get it?

CHRIS GILLIARD: No, absolutely not, no, for a couple of reasons. Because a thing that people will say is, well, I still need to get my packages.

INTERVIEWER: So I'm going to be really paranoid and freaked out because I really need my, whatever you're getting, your allergy medicine. But you can't just go get it at the store, but OK.

CHRIS GILLIARD: Yeah, and it's very difficult because-- the other thing, though, is that it seems as if these things are a solution, but there's no evidence that they are a solution. In fact, Cyrus Farivar did a very well-done essay--

INTERVIEWER: Yes, [INAUDIBLE].

CHRIS GILLIARD: --where he actually went and talked to law enforcement and asked them. Alfred Ng has done some great work on this, as well. And in moments of candor, law enforcement will also tell you this. I mean, one of the things they will say is that it involves them in things, in nuisance things, when hopefully, they would be doing things that matter a little bit more. But people are very invested in the idea that it is going to solve their problems, keep them safer, and protect their packages, things like that.

INTERVIEWER: Yeah. They buy that it's making your life better, that mantra.

CHRIS GILLIARD: Yeah. And there are so many other solutions. Particularly in the last three years, lots of people started to get a lot more things delivered and a lot more things that maybe weren't frivolous like prescription medicine, diapers, formula, things like that, right? And so I don't want to discount-- I mean, I don't use Amazon for the most part, but I'm very, I'm actually not--

INTERVIEWER: I'm proud of you. I'm just saying, I'm proud of you. You don't-- no Prime membership? I love you. I aspire to be you.

CHRIS GILLIARD: I may use them twice a year, only if I really, really have to. I'm lucky to be able to say and do that. So I will grant that. But the thing is, there are so many other ways to solve this issue if you can't be home to get your package.

You can have it delivered to a locker at the grocery store. You can ask a neighbor to look out for it. I mean. yeah, on and on. You can schedule it for a time where you will be home. If you trust Amazon, you can have them put it in your garage. There are all kinds of things you can do that don't create another layer of layer of surveillance that has all these other negative implications.

INTERVIEWER: Yeah. And what do you make of the folks that respond to you like, I need to get my packages? I bet the same people say, I need to have my Fitbit, Apple Watch, right? And I'm thinking we can extend your thinking.

And this is no doubt in the book, that our Fitbit is sending off wrong signals, just as period tracking apps are. Do you know what I mean? They're going to say, oh, you're likely to have polycystic problems with your ovaries and overdiagnosing, women running to doctors' in droves because the period of tracking app said, I think I have polycystic ovaries. And they're like, no, you don't. And it's making everyone really paranoid about their health, a solution you don't need to a problem you don't have, right?

CHRIS GILLIARD: Yeah, absolutely. I mean, again--

INTERVIEWER: I don't want to steal your phrases.

CHRIS GILLIARD: No, no.

INTERVIEWER: Because a lot of these amazing phrases come from Chris, just saying.

CHRIS GILLIARD: I mean, I feel, the research I've read very much says that there are not strong correlations between these things and better health outcomes. So having a Fitbit or an Apple Watch that tracks your steps or your heart rate or things like that mostly doesn't make you a healthier person, I mean, along the lines of the Ring. But one of the things it does do is make you more anxious about the things you are doing.

And as you said, there are people going to doctors all the time. Doctors aren't really often-- the information isn't set up in a way that it's easily accessible to doctors. And often, again, it's not telling people the information that they want or need. And to bring in a whole other thing, there's the ways that many of these devices often don't work with dark skin, with marginalized-- I mean, there's all of this stuff, right?

INTERVIEWER: Can we talk a little bit about your opposition to facial recognition software and why-- I think you think we should just ban it and be done with it, right, as Woody and Evan would say, and you might say. I think people really don't appreciate the risks and the disproportionate impact that we're not reading Black female faces correctly, or we're not reading Black and Brown male faces correct-- this stuff is not working, because we're not building it right.

We're not building with the right data. So maybe let's sit with this for a second. Because I think most people say, oh, it scares me, but not enough to think it's pernicious.

CHRIS GILLIARD: Yeah. Well, so I live in Detroit or thereabouts, which is home to two of the really high-profile cases of people who are misidentified by facial recognition, arrested, detained. And in one case, the only way that the man knew that this was all the result of facial recognition is because law enforcement slipped up and said, oh, so I suppose the computer is wrong. I mean, it was, it wasn't him.

But I live in a place with two of the very high-profile cases. There are several more that we know of, and just statistically, I'm sure there are dozens, if not hundreds that we don't know of. And there's that. But I also draw and talk about Hartzog and Salinger all the time, in terms of obscurity, which is that I think when people think and talk about facial recognition, and even privacy and surveillance in general, operating from a kind of nothing to hide perspective,

I think there's some really basic misunderstandings of those things and of people's rights and how rights work and things like that. And so when Hartzog and Salinger talk about obscurity, the way I think about it is the ability to go about your business in what is supposed to be a free society. I mean, we could [INAUDIBLE] how much it really is, but it's supposed to be a free society. I'm supposed to be a--yeah.

INTERVIEWER: Yeah, like we have made a liberal commitment to, supposedly.

CHRIS GILLIARD: Yeah. I'm supposed to be able to go about my business day to day, worship where I want with whom I want, go to conduct business where I want, to seek medical care, all these things, associate with whom I want. I'm supposed to be able to do these things free of harassment. And so me doing them, there's not supposed to be a precondition to me doing them.

But the society we live in says I'm supposed to be able to do these things free of harassment, whether-- But the other kind of-- and we have countless cases of law enforcement using these tools to harass people who are engaging in often what are constitutionally protected activities, whether that's protesting, again, worshipping, all these things. We have countless examples.

INTERVIEWER: Yeah. The Oregon Fusion Center, that's one. There's so many examples, right?

CHRIS GILLIARD: Absolutely. We can go back as far as 9/11 in New York, surveillance of mosques. And so--

INTERVIEWER: How can we convince people then, Chris? You make such powerful arguments, and yet, you're faced with, I need my packages, I feel safer, I want to be on top of my steps. And it seems like so many people are so fully bought in on the notion that it is making their lives better.

And you're like, look, I can tell you how it's not, how it is making us profoundly worse, paranoid, more worried, all these ways in which a deeply unjust society is resulting. Do you talk to lawmakers? Where are you, as you think about your book project and its audience, in the work? Is the audience everyone all the time?

Is it also lawmakers? Have you been working with lawmakers? I actually have never asked you this, Chris. Do you know what I'm saying? In your work, so you get contacted by folks working on facial recognition, propositions that you either ban it or severely limit its use.

Do you like doing that work? Do you do that work? Is that part of what you think your mission is? Because students always ask, how do you see yourself as your roles, what you do? And I think they'd be really interested because you're a deep thinker, and you help us craft how we think and how we should respond. But then what do you do with that?

CHRIS GILLIARD: So I have a couple answers to that. One is that a lot of this actually spawned me thinking a lot about luxury surveillance. Because it's very hard to convince people who are invested in this that it's not good for them. The metaphor I used often is that there are a segment of people who think they're always going to be on the right end of the camera. Now we know it's a maxim of surveillance and privacy studies that a lot of the harms of these technologies and associated policies are going to fall first, earliest, and most deeply--

INTERVIEWER: And often, right?

CHRIS GILLIARD: --on the marginalized, on the most marginalized. This is true. And I don't want to take anything away from that or diminish that. But that doesn't move the needle for a lot of people. Now, I would love to live in a society where I could say, this is bad for women, and people would stop doing it.

INTERVIEWER: People would care.

CHRIS GILLIARD: This is bad for trans people, and people would stop doing it, right? We don't live there. We don't. And so a thing that I'm partially invested in is, because I've found that unless you can-- so we've seen so many times where people will say something to the effect of, I didn't realize how misogynist society was until I had a daughter.

INTERVIEWER: Yes, my world, right, Chris?

CHRIS GILLIARD: Yeah. I didn't realize how racist society was until I had this biracial kid, something like that. Now, if they had just listened to what people said for hundreds of years--

INTERVIEWER: --we wouldn't be in this pickle.

CHRIS GILLIARD: But people-- unfortunately, there are many, many people who I think might tune in if we could somehow tap into the ways in which these things are not only harmful for marginalized populations but I think downstream are harmful to everyone.

INTERVIEWER: Everybody, yes, right. Interest convergence theory is depressing but true, right? I've got to make my case to suit mainstream society so they remotely care.

CHRIS GILLIARD: Yeah.

INTERVIEWER: It is depressing that moment. But I do think the insight is so important, Chris. As you say, it's affecting all of us, so everyone pay attention, and let me explain to you how, versus-- you know what I'm saying? It sounds to me that the argument grows both out of concern for disparately impacted communities, but also for humanity, human flourishing. You're like, wake up, friends.

CHRIS GILLIARD: Absolutely.

INTERVIEWER: Yeah, it's not just strategic. Some folks are, is that strategic? No, it's the real deal, or this is bad for all of us.

CHRIS GILLIARD: And I have had tremendous opportunities to speak to policy people and lawmakers. I was able to testify before Congress on Fintech.

INTERVIEWER: Yeah, see?

CHRIS GILLIARD: But some of that is difficult because there are many of these things. So we've accepted-- well, that's not the right way to put it. There's a prevailing belief that we have to accept these technologies, that--

INTERVIEWER: They're here, what are we're going to do? Now, is that the--

CHRIS GILLIARD: Yeah. I don't want to fall too far down that rabbit hole right, there's a prevailing belief that if a tech company puts out something, like, oh, we've just got to accept it and live with it. I mean, we're seeing that right now with ChatGPT.

INTERVIEWER: I wanted to invite you to reflect on that too. Let's not forget them.

CHRIS GILLIARD: There are many of these things I think should be banned, abolished, shouldn't exist. I think they should be firmly resisted. And so, often when we're talking about policy, it comes a little bit-- well, there's often a discussion about how to ameliorate something, how to make a thing less harmful. So there are things I don't think are best made less harmful. I think they're best smashed into bits.

Famously, there was a letter from Amazon workers, engineers, to Bezos, I don't know, five or six years ago. It seems like forever ago. And I quote this often, and it's not the exact wording. But there was an Amazon engineer who said in this open letter that Ring doorbell is incompatible with a free society. And so I'm not interested in how to make it better.

INTERVIEWER: Or less or cleaning up the harm afterwards.

CHRIS GILLIARD: Yeah, exactly.

INTERVIEWER: I don't want to throw 3,000 content moderators-- this is my world-- audit afterwards. Don't build it. Facebook Live-- dumb idea. Yeah.

CHRIS GILLIARD: There are so many. And for a lot of these things, it's not-- it's very easy to exactly what's going to go wrong.

INTERVIEWER: Yes, totally.

CHRIS GILLIARD: Go wrong is not even the right phrase. So there's this-- I forget the name of it, but there's now a thing where, with a snippet of someone's voice, then you can recreate their voice reading or saying anything you want with, like, a 10-second snippet.

INTERVIEWER: Yeah. It's a bad idea.

CHRIS GILLIARD: And so somebody who's better at thinking about the good parts of things can explain to me what the benefits of that are to society. I don't know. But I can really, really easily tell you all the terrible ways it's going to be used. And you notice I didn't say misuse, right?

INTERVIEWER: Yes, misused.

CHRIS GILLIARD: We can think about air trackers, right? It's solving the problem of people misplacing their keys. Again, maybe it's a much bigger issue than I realized.

INTERVIEWER: People need to literally wear-- I wear my keys on my neck. I'm just saying, we create these elaborate-- I hear you saying, Chris, I know that we create these elaborate schemes for nonproblems or problems we could solve so much more usefully in ways that are compatible with the free society that we could do it in another way. We just don't-- as you're saying, we don't think about it. We don't think to build that other way, because it doesn't suit the powerful making these tools.

CHRIS GILLIARD: Yeah, everyone told Apple, this is how this is going to be used, as a stalking device. I can name quite a few people. I think you were part of that, the cohort, right?

INTERVIEWER: I was-- yes, oh, yes, yes, like, bad idea, hello. Oh, absolutely.

CHRIS GILLIARD: And they put it out, and gee, it immediately became-- because it lowered the barrier to all kinds of harassment.

INTERVIEWER: Of course, yes.

CHRIS GILLIARD: Immediately it was used in all the ways that people said it would be.

INTERVIEWER: So the cheapest and easiest GPS on your car-- it's expensive to get a GPS to stick under someone's car. This is cheap. You what I'm saying? You can track location in a way that's much more precise with those things. Stalking's really easy. We're building these tools, like, really could do that? We're all like, we told you.

CHRIS GILLIARD: And so like things like that. I just don't think it needs to exist.

INTERVIEWER: Yes, yes. The use case is very far from where you're thinking, right, Chris? Coming up with the use case is really tough. There are many things like that. Even if there is a use case, it's a dumb idea. It's all-in bad, right?

CHRIS GILLIARD: Yeah.

INTERVIEWER: So I just want to say to our students and friends on the call, if you have questions, please put them in the chat. I'm going to keep asking if no one does. But I'm looking, I have my chat up.

And so when ChatGPT, tell us your reaction, you know what I mean? Because I'm feeling like I could see how your head would blow off. Your fingers were-- it's like your eyes on Twitter, you what I'm saying, when I worry about something like, what is hypervisible, say. Tell us your thinking because you're a teacher of undergrads. You know, in your spirit. You've been doing it for a really long time, right?

CHRIS GILLIARD: Yeah, absolutely.

INTERVIEWER: You what I mean? Let the spirit of teaching, tell us how it gave you-- it sounds like it was a punch in the gut to you.

CHRIS GILLIARD: Yeah, I mean--

INTERVIEWER: Why are we building this? This is really dumb. But kind of walk us through your thoughts about the claimed proficiencies of AI writing cover letters, term papers, like oy!

CHRIS GILLIARD: Yeah. So I'm going to say something that's probably going to upset a lot of people. First off--

INTERVIEWER: You're in good company. I piss everybody off, don't worry.

CHRIS GILLIARD: I wish people-- like OpenAI does not need our help hyping their technology. And so I understand the appeal, and when a new toy comes out, I get it. But the way in which people just grabbed onto it and said-- I feel like there's a segment of people who are going to do that, right? But people I feel like should better--

INTERVIEWER: Yeah, don't give them air time, right?

CHRIS GILLIARD: Sam Altman isn't paying me, right? And so I'm not doing the job of promoting his product for him. The number of people who are doing that on social media, in journalism, and things like that-- if I read one more essay where people say, oh, hey, the first 500 words you just read were written by ChatGPT, I'm going to pull my hair out. If you don't know-- like dreadlocks, it'd be really messy. But if I see one more essay, I'm going to do that.

INTERVIEWER: Yeah. And why is that? It's just because people feel like it's going to be clicked and liked and shared? Do they really buy it, you know what I'm saying? Is the harm not evident, you think?

CHRIS GILLIARD: Well, there's a little bit-- so I just wrote an essay about this in *Slate* with a buddy of mine, Pete Rohrbach. And we mentioned-- and I'm going to butcher it.

INTERVIEWER: I didn't see it. I'm excited. I'm ready to read it. I didn't know that. I sent, like, 10 pieces to all my beloved LawTech fellows and students, but I will send this too. Yeah.

CHRIS GILLIARD: We mentioned-- and I'm going to butcher his name, and I apologize in advance-- L.M. Sacasas.

INTERVIEWER: You may be right, don't worry.

CHRIS GILLIARD: He did a-- he's probably tired of people referring to it, but he did an essay where he talked about the Borg Complex, which is this idea where people say, it's some iteration of, well, it's out here, and it's not going anywhere, and so we have to deal with it. And so I mean, there's a kernel of truth in that.

But again, I wrote a thing with David Golumbia on this. The idea-- well, I'll put it this way, again, an analogy or a metaphor I've used very often. If I opened a new restaurant and created some new substance that I said was edible and started poisoning people--

INTERVIEWER: They would shut you down pretty fast, no?

CHRIS GILLIARD: Yeah, I mean, it's not improvement when I put out the next version and says, now poisons 20% fewer people. No one's going to say--

INTERVIEWER: Yes, but that's evocative, right? That way you're framing it is really--

CHRIS GILLIARD: Bu we do that with technology constantly.

INTERVIEWER: That's right.

CHRIS GILLIARD: And we also-- so the more complex idea is that if a tech company puts something out like, resistance is futile, now we have-- it's not going anywhere. But we have-- it's unfortunately been truncated because of the way our government doesn't function currently, but we have a long history of banning things.

INTERVIEWER: Yeah. We don't walk around with plutonium.

CHRIS GILLIARD: Right, [LAUGHS] yes. I mean, there is a history of regulation and banning or severely restricting. There's all these ways that we look at technologies, at substances, at behaviors, and say, oh, well, maybe that's not good for society. And I'm simplifying it, of course, but it's a thing that happens. It happens less now, for reasons, but it's a thing that happens. And so this idea that we have to be subject to the whims of these companies when they put out things that are harmful--

INTERVIEWER: And they're, like, fools [INAUDIBLE], right? It's like a tech fatalism. Have you called it that?

CHRIS GILLIARD: Yeah.

INTERVIEWER: I feel like that's what you're describing.

CHRIS GILLIARD: Exactly.

INTERVIEWER: It's not just deterministic, it's like we're fatalistic, like we're running off the cliff with both hands, like woo-hoo, let's jump off a cliff here together! No?

CHRIS GILLIARD: I mean, I'm a writing teacher. And so I think that there are some very, very crucial and essential ways in which writing by ourselves and with others helps kind of shape our thinking and our understanding and helps us come to some manner of truth and realize what we think about something. And I'm not ready to give that over to a technology that really is a super complex autocomplete. And I made that observation, and then I saw that Gary Marcus said it, and then I saw that--

INTERVIEWER: No, but it's true. It captures it, no? I feel like it's well done. You always do that. You capture stuff, and this is your power. I think, Chris,

I don't want ChatGPT for you, I want you. That is, your writing has always evocatively captured the perils, the promise, the perils, and the pause friends, because this is where we're headed. And god forbid we lose that voice, you know what I'm saying?

CHRIS GILLIARD: Yeah.

INTERVIEWER: That is as you're a writing teacher, and you're teaching the next generation of people following in our footsteps doing what we're doing and helping teach and evangelize and help them understand the world around us. It would be depressing to think we would ever turn it over, do you know what I'm saying? God forbid, right?

CHRIS GILLIARD: I mean, I just encourage anyone listening to think about the insights you've had when you work through something, whether that's journaling or drafting or collaborative writing.

INTERVIEWER: The joy, right?

CHRIS GILLIARD: Yeah. I can't stress enough how important that is. And to hand that over to a machine--

INTERVIEWER: You miss all of it.

CHRIS GILLIARD: Because I immediately saw people saying, well, it can draft for you. Someone took the *Slate* piece that I wrote with Pete and asked ChatGPT to grade it. And ChatGPT assigned it a B-minus or something. And the critique that it had, actually wanted me to write it as a five-paragraph theme. And so when she's writing, that's kind of offensive.

INTERVIEWER: Totally. Wow.

CHRIS GILLIARD: Yeah. But also, the other thing is--

INTERVIEWER: As if that's insightful, meaning we-- automation bias on drugs or something, that we think that actually is right. You know what I mean? In credence to this critique, it should be five paragraphs, B-minus. Did you not read what we wrote? I mean, that's the thing, and then people don't learn these skills. So we've got some questions from our students.

CHRIS GILLIARD: Oh, I have a tiny little bit more I want to say about.

INTERVIEWER: Yeah, please, please, and then I've got a good one.

CHRIS GILLIARD: I worry, too, about the ways that-- so it's as other people have said, it's like a very competent bullshitter.

INTERVIEWER: Yes. Oh, I love that, so competent bullshitter, yes!

CHRIS GILLIARD: Yeah. So it spouts what seemed to be answers that are often inaccurate.

INTERVIEWER: It's like words, looks good.

CHRIS GILLIARD: But also it's potential to massively lower the barriers to produce mounds and mounds of hate speech and misinformation to make those things so much easier and lower other barriers and fill the internet, which is already--

INTERVIEWER: It's already bad.

CHRIS GILLIARD: Yeah, so completely overwhelm us with trash, not even to talk about the surveillance aspects, on and on. So yeah.

INTERVIEWER: OK, so I'm going to tell you, there's questions that I want to take pieces of and present them, and then you can just-- you know what I'm saying?

CHRIS GILLIARD: Yeah.

INTERVIEWER: Like three ideas, and then you just respond, like we're saying, if any of it is interesting. So they're all really interesting, but that would get you excited to talk about. So is there anything we can do about the problem of being a guest in someone's house when a person has an Alexa and a baby camera and a Ring, and then of course gaining access-- this is always my students and all these people-- biometric data.

Are there things we can do to adopt social norms or enforce social norms against surveillance? Are there rights for guests to insist upon, almost like along licensing lines? So that's one question.

Another is, are there any upsides to any of this? Do you believe all surveillance is bad? Are there ways in which surveillance could be beneficial to society, so public health sector uses to monitor diseases like COVID? And is there for you any interventions that you think are worthwhile?

And how can we take steps for my students to inform people about the harms of surveillance? Do you have a charge for them? So those are the three wonderful questions we've taken in there.

CHRIS GILLIARD: OK, I'm going to take that second one first. It's the one I get all the time.

INTERVIEWER: Yeah, you get that all the time, no, I'm sure.

CHRIS GILLIARD: I mean, my short answer is no. And so when I think about surveillance, I'm thinking about it in some very specific terms. And so if you want to talk about disease surveillance, I'm obviously not going to say it's a bad idea for people to track diseases in society.

But I'm not thinking about it like that. I'm thinking about it when we can look at the last three years and think about how effective or not all the tech bro interventions were for tracking and stopping COVID, like kiosks with facial recognition and thermometers, apps on your phone that are supposed to be contact tracing apps, all those things. Mostly they didn't work.

We have established methods for some of these things. And if there was investment and political will in doing them, we would, and also in doing some of the things that we would curtail or help curtail the disease. But we don't do those things. And so there's this sense that there's a technological fix for things that there's often not.

But the way I described the surveillance I'm thinking about is that-- I've said this before, which is, surveillance always finds its level. And so we talked about this before. So the idea that we're going to somehow leverage these systems that are in the hands of very powerful institutions with a seemingly endless supply of money, that we're going to somehow leverage them into our favor, I don't want to say this in an offensive way, but it's pure fantasy.

INTERVIEWER: It's infinitesimally small or something.

CHRIS GILLIARD: Yeah. We know that, for instance, if we look at all the crime that we think about in terms of someone going into, like, shoplifting and things like that, we know that wage theft or-- I forget, I've lost the term, but for like civil forfeiture, things like that, white collar crime dwarfs those things exponentially. But there's not cameras that are trained on those people.

INTERVIEWER: Totally and their [INAUDIBLE]. If you think about the surveillance that could be, but they're not always [INAUDIBLE].

CHRIS GILLIARD: I mean, we have this discussion with body cams. And there have certainly been some instances, I mean, relatively isolated, though, where the body cam footage has been leveraged in a way that helps people seek justice. But more often than not, police have developed all kinds of means to circumvent that.

And then there's the question about control of the-- I mean, in short, it didn't do what people hoped it would do. It never was going to do that, honestly. And it's not going to do that. And so the ways in which--

INTERVIEWER: But it's not the cameras, you're saying, it's the people. Is that your concern?

CHRIS GILLIARD: And so-- but I think another thing, if you are super invested, if for some reason you feel like need cameras on your property or things like that, go ahead and do that. But there's, I think, a huge difference between doing that and having a server looking in a cabinet in your basement or something like that and involving Amazon and a police fusion center and things like that. Those are two very different things.

And so if people are really invested in surveillance for one reason or another, I would encourage them to think about this. But the other thing, too, is we've seen lots of instances where what's supposed to be good surveillance, giving Ring doorbells to women who are--

INTERVIEWER: Yeah, domestic violence.

CHRIS GILLIARD: Yes, exactly. But I encourage people to go look at what happens in those cases. In many cases, too, part of that cycle is that the violent offender often uses those devices as a means to further terrorize their partner.

INTERVIEWER: And of many tools, right?

CHRIS GILLIARD: Yeah. And so my short answer is no. I think there's lots of empirical evidence-- well, let me put it another way. If it did what it was supposed to do, the UK would be the safest place in the world.

INTERVIEWER: So true.

CHRIS GILLIARD: There's all these-- we have--

INTERVIEWER: You're way ahead of us on the camera thing, right?

CHRIS GILLIARD: Yeah, we have enough information, we have enough data to know that it actually doesn't do the thing that we're told that it does. But it's an overwhelmingly powerful narrative that it does. We have decades of police procedurals and other things, novels--

INTERVIEWER: Yeah, suggesting otherwise, right?

CHRIS GILLIARD: --all this stuff that tells us it does. It doesn't. I mean, it doesn't. I'll take the first one.

INTERVIEWER: Yeah, the baby monitor.

CHRIS GILLIARD:	That's a really difficult question.
INTERVIEWER:	How do we resist it when it's literally in the built environment? I found that I had an Alexa in a hotel room, to tell this story in my fight for privacy in my new book. And I went and marched myself downstairs to the front desk and, has anyone ever complained? I unplugged it. And they're like, you're the first ever. I was like, oh, my. It was in the built environment of my hotel room. I had to unplug it. It was the phone that it was-- it was playing that role.
CHRIS GILLIARD:	I mean, there's a super interesting-- there's a lot of stuff coming out now about how people are basically abandoning voice assistants. I mean, Amazon at one point was basically giving them away, right?
INTERVIEWER:	Yeah, yeah.
CHRIS GILLIARD:	Because the thought was that once everyone had one that they would use them and become indispensable. People use them to turn on the lights, and occasionally play music or whatever. But I mean-- I will just say this--
INTERVIEWER:	I feel hopeful over that. My mother-in-law gave me her, whatever it was. It's over there, her Amazon Echo. I have it here. It's unplugged, meaning it's my deal toy. It's my-- I convinced my mother-in-law not to have this, and she gave it to me. She's like, throw it away. I was like, I'm just going to keep it for fun. If it's not plugged in, it's my see-- proof we can convince people not to have it. That's interesting, people may be using it less.
CHRIS GILLIARD:	I'm very strident--
INTERVIEWER:	I didn't realize that.
CHRIS GILLIARD:	I'm very strident. I know I mentioned my friend who had the Ring doorbell. If he lived near me, I would probably have a different response--
INTERVIEWER:	More talk?
CHRIS GILLIARD:	--than just encouraging him to not have it. But I don't have friends with those devices.
INTERVIEWER:	You convinced them. They [INAUDIBLE].
CHRIS GILLIARD:	Yeah.
INTERVIEWER:	Right, Chris? Yeah.
CHRIS GILLIARD:	I mean, there's a degree in which-- well, this is going to sound difficult, given how I've spent the last 45 minutes. But I don't spend a lot of time trying to tell people in my circle what they should and shouldn't have.
INTERVIEWER:	Every day, yeah.

CHRIS GILLIARD: Because I don't feel like it's very effective.

INTERVIEWER: Like, don't have that, throw it away. Yeah, OK.

CHRIS GILLIARD: Yeah. I guess piggybacking off of some of the luxury surveillance stuff is that people who don't spend unhealthy amounts of time reading about these things don't know the downstream effects. So if I were to tell someone who has an Alexa, do you know that Amazon's also buying up-- one of the things that Amazon hopes to do, and they're getting into health care, is to use this device--

INTERVIEWER: For themselves, no?

CHRIS GILLIARD: --to diagnose you, right? And that's not going to be between you and your medical provider. That's not [INAUDIBLE].

INTERVIEWER: There is no HIPAA involved there. There's no protection. Good luck with that, friends. Yes.

CHRIS GILLIARD: Right. Do you know that Amazon's data protection policies and how--

INTERVIEWER: They're not good, not in the US.

CHRIS GILLIARD: Yes. Do you know-- are you comfortable with the idea that Amazon now owns your kid's voice? Those are the kinds of things I would say to them. I wouldn't center it on why I don't want it. I would center it on the ways in which it's serving Amazon and not them

INTERVIEWER: Yeah, that's right.

CHRIS GILLIARD: I don't remember the third question. I'm sorry, I didn't write it down.

INTERVIEWER: No, you've helped us here, which is the ways for students and the future lawyers to convince people. And I think you've given us a wonderful key, which is, give examples of things that you think would hit them in the gut like, are you giving Amazon your kid's voice, in ways to try to get people to see it from their selfish perspective so that they can see why it's bad for all of us, no?

CHRIS GILLIARD: Yeah.

INTERVIEWER: That's what I took you to be saying, this is what you're doing because you're not-- that was the last question was, how do we convince people? And you've given us important keys to do that. It's like one person at a time, even if, with your friends, you don't want to thrust yourself on them. But if we can use examples that help show the interest conversions that they should care because it could really hurt them in the long run, that it helps all of us.

CHRIS GILLIARD: Yeah.

INTERVIEWER: So I'm out of time now. So Chris, thank you.

CHRIS GILLIARD: Oh, thank you. It was an absolute pleasure.

INTERVIEWER: I'm beginning to be your biggest fan, among your biggest fans. We're many of us. But it's really a treat. And thank you so much, Rebecca Klaff and Peter Coughlin for making this happen and our LawTech Fellows. And we appreciate you at UVA Law. So I'm going to be sending you also UVA Law swag, Chris.

CHRIS GILLIARD: Oh, yeah, oh, that's so exciting!

INTERVIEWER: Totally. Well, off-line you'll tell me your address so I can send it to. Because you're always busy sending me things, I'm going to be sending you a great sweatshirt.

CHRIS GILLIARD: Oh, fantastic. Thank you.

INTERVIEWER: Of course. So thank you so much for tonight. It's been such a treat.

CHRIS GILLIARD: Thank you very much.