

Two Case Studies in Computer Ethics

This handout describes two case studies from recent events that raise questions about the ethical responsibilities of individuals in the computing domain. The first is that of the Dean of the Harvard Divinity School, who was forced to resign his position last year over a scandal involving pornography found on the Harvard-owned computer in his home. The second, which is still unfolding, concerns the arrest last week of a 16-year-old programmer in Norway who developed and published software that defeats the encryption system on commercial DVDs. We will discuss each of these cases on Wednesday.

Case 1: Pornography and the downfall of a dean

This case is described in the following articles from *The Boston Globe* and *The Boston Phoenix*. In seeking to assess the ethical dimensions of this case, we will focus on three actors: Dean of Divinity Ronald Thiemann, Harvard President Neil Rudenstine, and the unidentified student employee of the computing center who reported the case.

The Boston Globe

Harvard ouster linked to porn Divinity School dean questioned

May 19, 1999

By James Bandler

The dean of Harvard Divinity School was forced to resign last fall after thousands of pornographic images were found on his Harvard-owned personal computer, university sources said this week.

Harvard asked for Ronald F. Thiemann's resignation shortly after the matter was brought to the attention of president Neil L. Rudenstine. He was asked to resign his position "for conduct unbecoming a dean," the sources said.

"Last fall, information was brought to President Rudenstine's attention bearing on Dean Thiemann's continued capacity to serve as dean," said Joe Wrinn, a university spokesman. "President Rudenstine met immediately with Dean Thiemann. They agreed that it would be in the best interests of the Divinity School for the dean to resign."

At the time of his resignation, Thiemann did not publicly disclose the specific reasons for his sudden departure. Thiemann, who has taken a year sabbatical, remains a tenured faculty member.

"Based on what we knew, the university did not initiate tenure revocation proceedings," Wrinn said, adding that Harvard would have no further comment on the matter, which he described as a

confidential personnel issue.

Thiemann's lawyer, Charles Ogletree, a professor at Harvard Law School, said Thiemann would not respond to "anonymous allegations," but would issue a statement later in the week.

"The measure of a man like Ron Thiemann cannot be determined in response to allegations such as these but in the context of the admiration and respect he has gained from colleagues at the university, in the theological community and the secular community," Ogletree said.

Ogletree said the decision of Thiemann to step down was a "mutually agreed upon decision and there were a number of factors beyond those alleged that influenced his decision."

While not speaking about this particular case, Ogletree added: "Any time there is a question of an employer pursuing the private life of employees it raises some large constitutional issues, and the public debate on this is necessarily a vigorous and hotly contested one."

The pornographic material was found last fall on Thiemann's office computer at his Harvard-owned residence at Jewett House. The discovery

was made after Thiemann requested more disk space for one of his Harvard-owned machines, which was full, according to university sources. Thiemann was caught after he asked the computer department to transfer the pornographic files to the new disk drive, sources said.

Individuals familiar with the proceedings described the material as explicit pornography, but said they believed the incident did not involve child pornography or other illegal activity. Nevertheless, the discovery ended Thiemann's nearly 13-year deanship at the Divinity School.

By the accounts of most colleagues, Thiemann's tenure was extraordinarily productive, marked by the acquisition of a slew of world class scholars and a successful capital campaign for the Divinity School. One of Thiemann's most recent accomplishments, faculty members say, was the creation of the Divinity School's Center for the Study of Values in Public Life, which is designed to engage discussion of values in fields such as law, journalism, business, and medicine.

Thiemann's colleagues said they worried about the effect that the scandal would have on the Divinity School's reputation. "There's the potential for tremendous damage to the school," said a source at Harvard. "If this were a business school dean, people might say, 'Big deal.' But take a look at what this guy's area of research is: It's values. That makes it all the more shocking."

Last fall, Thiemann surprised faculty when he announced at a special meeting that he was stepping down as dean. "I had the impression a few

days before that he was not himself," said a faculty member who was there.

At the meeting, Thiemann told the faculty that he was resigning because of medical problems, according to faculty members.

"He explained he had been suffering depression for some time and had been trying to deal with it," said William Hutchison, professor of the history of religion in America. "He said that he'd been ordered or strongly advised by his doctor to go on leave, to resign from the deanship and return as a teacher."

Rumors about the reasons for Thiemann's departure have been swirling for months at the Divinity School, where there is debate about the boundary lines between public and private conduct.

"I think the issue is one of privacy," said a Harvard Divinity School graduate who asked to remain anonymous. "Is the dean's computer in his home his own? Or because his home and computer are owned by Harvard, is his whole life owned by the Divinity School?"

Others questioned whether the use of pornography on Harvard-owned equipment constituted a grave enough offense to justify the forced resignation of a dean.

"Even if these allegations concerning pornography were true—and I have no knowledge that they are—I question whether someone would be dismissed on those grounds," said Hutchison.

He added: "I guess it would depend on the details. As you know, that's where the devil is."



July 5, 1999

Forcing out a Dean for Lawful, Private Activities Big Brother is alive and snooping at Harvard University

By Dan Kennedy

Last fall, Ronald Thiemann, the respected dean of Harvard Divinity School, announced his sudden, unexpected resignation, telling faculty members he was suffering from depression. This past May another, considerably more titillating, reason for his departure emerged. The Boston Globe reported that Harvard computer technicians had discovered thousands of pornographic images on Thiemann's university-owned computer. Word got back to Harvard president Neil Rudenstine, who asked for—and received—Thiemann's head on a platter.

Now, it's true that no one has the right to view pornography in the workplace. That's why few have come to the defense of Erik Butler, who

resigned as president of the Pine Street Inn last week after he was discovered looking at dirty pictures in his office. And it's unquestionably true that Thiemann—an ordained Lutheran minister who headed one of the country's most prestigious divinity schools—had put Harvard in a more embarrassing position than if he had been the dean of, say, the business school.

But Thiemann was the victim of a gross violation of privacy stemming from Harvard's unusually paternalistic relationship with some of its faculty members. You see, his Harvard-owned computer was actually his home computer, which he used in an office in his home—which, as it turns

out, was also owned by Harvard. According to news reports on his resignation, the cyberporn he liked to view was perfectly legal—that is, it didn't involve minors, and did not meet the definition of obscenity. It didn't matter. It seems that Rudenstine figured that, since Harvard already owned Thiemann's computer and home, it must have a proprietary claim on his brain as well.

The porn was unearthed when Thiemann asked computer technicians for a bigger hard drive. They came to his house, discovered the files, and couldn't keep their mouths shut—in itself a shocking breach of Thiemann's privacy. As a former Harvard Divinity School tech-support employee, writing pseudonymously in Salon, put it, "there is a way to look without looking, to help someone with a Word document without actually reading it, to troubleshoot a system for every conceivable problem and not notice the things on a hard drive Discretion is a virtue." That view is apparently not universal. Law-school professor

Alan Dershowitz is absolutely right when he questions why it was Thiemann who was disciplined rather than the loose-lipped technicians who ratted him out.

Following a year-long sabbatical, Thiemann is expected to return to Harvard this fall as a divinity-school professor. As a nationally regarded theologian and founder of the school's Center for the Study of Values in Public Life, he should be welcomed back. Unfortunately, the revelation of why he stepped down as dean will make for an awkward homecoming.

As for Rudenstine, he needs to do some soul-searching about how much privacy he allows faculty members to have. No one should lose his job for viewing constitutionally protected speech on his own computer in his own home. The notion that a person is entitled to less freedom because that computer and that home are part of his compensation package is abhorrent.

Case 2: The hacker vs. the motion picture industry

Last week, a young Norwegian programmer, Jon Johansen, was arrested for his role in distributing software to defeat the encryption on DVDs, as described in the following articles. What ethical arguments can you make for the actions of Jon Johansen, his father, and the executives at the Motion Picture Association of America?

San Jose Mercury News

January 26, 2000

Charges filed in DVD case

OSLO, Norway (AP) — A 16-year-old boy and his father on Tuesday faced charges and a battle with the U.S. film industry after the boy helped develop a computer program for cracking DVD video security codes, then distributed it.

The boy and his father, Per Johansen, were charged with copyright violations after police seized computers from their home and interrogated the boy into the early hours of Tuesday morning. Norwegian news reports said they were the first in the world to face criminal charges in such a case.

"The charges concern whether Johansen developed a cracker program that breaks the (DVD) copying code and distributed it on the Internet through his father's home page," Inger Marie Sunde of the Norwegian police's economic crime unit said.

The 16-year-old said he and friends made a program to crack the code on the discs so they could be copied to computers for viewing. He denied breaking any laws.

Johansen uses the free operating system Linux, for which there is no commercially available

program that can be used to play DVDs.

The Hollywood-based Motion Picture Association, an association of the seven largest U.S. movie studios, and the DVD Copyright Control Organization filed a police complaint against the boy in early January.

The film industry groups also have filed a U.S. civil suit against 27 named and 72 unknown defendants for spreading software, called DeCSS, that allows users to unlock the security code on DVDs and copy movies to personal computers that don't have the DVD's decryption keys.

Last week, the a Santa Clara County Superior Court judge ordered Web site operators to stop disseminating the program.

The boy and his father were questioned and released while prosecutors decided whether to bring the case to trial. The maximum sentence for copyright violations is three years in prison.

In November, word spread on the Internet that the boy had broken the DVD code and posted it on his father's home page, where visits soared to about 10,000 per day.



11:45am 25.Jan.2000

Teen Hacker's Home Raided

by Lynn Burke

The home of a 16-year-old Norwegian hacker, who has become the Helen of Troy of the hacking world, was raided Monday.

Police entered Jon Johansen's Larvik home and confiscated two personal computers, a mobile phone, and several computer disks, Norwegian newspapers reported. The National Authority of Fraud Investigation, the agency responsible for environmental, computer, and economic crime in Norway, was apparently responding to the two federal lawsuits filed in the United States by the Motion Picture Association of America against several hackers who posted a code that breaks through the encryption code of DVDs.

Johansen is co-founder of a group called MoRE (Masters of Reverse Engineering), and it was there, he told Wired News, that he worked with others in developing the code. He has never named those authors publicly. Johansen says he posted the code because he wanted to help make a DVD player available for the Linux OS.

After the raid, Johansen was taken to a police station and questioned for nearly seven hours.

When he finally arrived home, Johansen posted a message to slashdot.org, a popular open-source news site.

"It's 2 a.m. CET now (I just got back), I haven't eaten, and someone's definitely going to pay for this," he wrote. "Did someone whisper countersuit?"

Several Web sites have sprung up as a result of the news. Newyen Technology in El Sobrante, California posted a site collecting digital signatures for an Internet Constitution to somehow help Johansen in the face of what many are calling a witch hunt.

"This is a good example of how aggressive the MPAA is determined to pursue this," said Tom McGuire, spokesman for the Electronic Frontier Foundation, the San Francisco-based group that is bankrolling the defense for the three cases filed in the United States. "To the best of our knowledge, what he did was completely legal," he said. "To pursue a 16 year old is inappropriate."

Spokesmen for the MPAA were not immediately available for comment.

San Jose Mercury News

January 26, 2000

Pirates cost record industry \$4.5 billion a year

CANNES, France (Reuters) — Pirates around the world are costing record companies \$4.5 billion a year in counterfeit compact discs and downloading off the Internet is now rapidly becoming a major new threat, the industry's copywright watchdog warned on Wednesday.

Piracy has become a huge black market industry that crosses continents and is backed by organised crime, said Adrian Strain of IFPI, the organisation that represents the industry and seeks to pressure governments to get tough with the pirates.

The point is being rammed home to international record executives with a special "Hall of Shame" exhibit showing a vast array of pirated compact discs on display at Midem, the annual marketplace for the industry which attracts more than 4,000 firms from over 90 countries to his French Riviera resort.

Strain pointed the main finger of blame at Ukraine, Hong Kong, Poland and Southeast Asian countries as the prime black market producers.

Pirates know no frontiers. "There has been an influx of CDs over the past year from Southeast Asia into Latin America. We estimate the figure at 3.5 million," Strain told Reuters. The IFPI reckoned that the worldwide CD market had climbed 20 percent in a year to a total of 400 million units. . . .

The Internet is transforming the way the industry trades and Strain said: "We need to crack down hard here as well. We estimate there are up to 100 million illegal tracks are on the Internet at one time."

Stamping out piracy was vital, he said, to ensure that consumers, record companies and retailers could all do business with confidence on the Internet.

"The pirates can be caught. The Internet allows you to track them. Court cases over the past year in France, Belgium, the United States and Switzerland showed you can crack down on Internet pirates," Strain said.