



As this issue of *BCS Update* goes to press, Craig Neidorf, a 19-year-old student at the University of Missouri, goes to trial.

Mr. Neidorf is charged with wire fraud and interstate transportation of stolen property. The property in question: a 12-page document that describes the administrative structure of the telephone company offices responsible for Enhanced 911 service. Neidorf published the document in *Phrak*, his electronic magazine.

The 911 document is an abysmally written mess of technical jargon and officialese. An example: "The SSC/MAC should verify with the PSAP attendant that the equipment's primary function is answering E911 calls. If it is, the SSC/MAC should request a dispatch SSIM/D&M." The document contains no access codes or instructions for how to control the 911 system; indeed, some people who have seen it have said that much of the information in it was publically available in reports that the telephone company had filed.

But the document that Neidorf published was definitely stolen. We know, because on June 9 in Atlanta, three computer criminals pleaded guilty to breaking into a Bell South computer and downloading the document. One of the three, Robert J. Riggs, sent a copy of the file to Neidorf. Riggs is the government's star witness in the Neidorf trial.

Trouble on the electronic frontier

The Secret Service has begun to crack down on "computer crime" around the country, a fact that worries people interested in First Amendment and civil liberties implications.

"They have decided to use the thief against the publisher," says Sheldon Zenner, an attorney at the Chicago law firm of Katten, Muchin and Zavis, which is defending Neidorf.

Neidorf isn't your everyday publisher. His magazine was much closer to a wire service than a magazine like *BCS Update*. People from all over the world send Neidorf "files" by electronic mail; he edits them, collates

them, and sends them out on a regular basis. Many of the contributors to *Phrak* were crackers—people who broke into computer systems. Neidorf chronicled their activities, says Zenner, much in the same way that Mark Twain wrote about Huckleberry Finn.

"What's going on is that the government has chosen to indict a publisher of information that was misappropriated by somebody else. In my review of the law, I have never seen the government try so blatantly to step on the First Amendment. My guess is that if it was the *Christian Science Monitor* or *The New York Times*, as in the Pentagon Papers case, they wouldn't prosecute. Not because they believe that there is a First Amendment distinction, but because they are not going to take on [a real newspaper]. They will take on a 19-year-old kid who publishes out of his dorm room in the University of Missouri because he is an ant."

But some computer professionals feel that it is precisely because *Phrak* was published electronically that federal prosecutors chose to arrest Neidorf. They say that the right to publish and the freedom of the press that have been granted to conventional newspapers and magazines are being overlooked in the new electronic world.

"*Phrak* was a magazine. However, the average person wouldn't be quick to realize that because they don't see a magazine. The average person sees a computer hacker playing with a computer and nothing more," says Eric Corley, editor of *2600*, a quarterly hacker's magazine that is printed on paper. Even though *2600* has published many of the same articles that *Phrak* did, *2600* has not been the subject of a federal indictment.

Although he believes his magazine faces no immediate danger, Corley is worried nevertheless. In the future, he says, most people will get their information not by paper, but via elec-

tronic networks. "That's why we have to do everything we can to make sure that the First Amendment protections apply there as well."

Others are worried as well. This July, Mitchell Kapor, the multi-millionaire author of *Lotus 1-2-3*, and John Barlow, an author and lyricist for the Grateful Dead, established the Electronic Frontier Foundation, to educate the public and policy-makers about civil liberties issues being raised by new communications technology. Initial funding for the foundation came from Kapor and Steve Wozniak, co-founder of Apple Computer. The foundation's first act was to give \$275,000 to an organization called Computer Professionals for Social Responsibility; the grant will help CPSR fund educational activities in the area of computer-related civil liberties. The foundation also plans to file an *amicus curiae* brief in Neidorf's defense.

"It is our contention that if Neidorf had done what he had done in a printed publication, either he wouldn't have been charged at all, or you would have heard the screams from coast to coast," says Kapor.

Ironically, the real problem might be simply a lack of understanding on the part of the Secret Service.

In another anti-computer crime operation, Secret Service agents raided the offices of Steve Jackson Games in Austin, Texas, before dawn on the morning of March 1.

For the past 10 years, Steve Jackson has published fantasy role-playing games like *Dungeons and Dragons*; in March, he was about to publish a new gamebook called *Cyberpunk*. One of the things that the *Cyberpunk* players could do was break into fictional computers—not by guessing passwords, but by rolling dice.

The day after the raid, Jackson went to the offices of the Secret Service to make copies of the important files on his computer, so that he could publish the new game and stay in business.

"They wouldn't let me touch the computer at all," recalls Jackson. "They were obviously very afraid that I might do something that would destroy their evidence. The only way that I could get the files copied was to stand behind the Secret Service officer who was at the keyboard and explain to him what command I wanted him to enter."

Jackson told the man to type DIR, and the man shouted across the room, "is it okay to type DIR?" The answer came back "yes," so the agent typed DIR, and nothing happened—Jackson hadn't told the man to press the RETURN key.

It kept up like that for an hour and a half, says Jackson. Obviously, he didn't get much of his data back. That afternoon, he had to lay off eight of his 17 employees.

Jackson is also upset by what he learned about the Secret Service. One agent told him that the modems should be outlawed to cut down on computer crime. At another point, somebody told him that his book was a handbook on computer crime.

"That statement was doubly infuriating," says Jackson. "None of them understood what they were dealing with here. None of them understood that it was just a game. And even if it had

been what they thought it was, they would have had no business coming in and taking it."

Even if it had been a handbook on computer crime, the First Amendment should have protected Jackson's right to publish it.

Four months later, Jackson got his computers back. One of them was apparently broken the day it was taken. And another one had had data on its hard disk deleted, seemingly at random.

Jackson still doesn't know why he was raided—the search warrant was sealed at the Secret Service's request.

Both the Neidorf and the Jackson cases come at a time when the Secret Service is cracking down on "computer crime" around the country, in a campaign called Operation Sun Devil. In March, Secret Service operatives in 14 cities executed 27 search warrants;

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more than 40 computers and 23,000 floppy disks were seized. Four people have been arrested—not for computer crime, but for weapons violations.

"I'm not talking about bright young geniuses who might be committing mischief; I'm talking about thieves and vandals," says Gail Thackery, an assistant attorney general in Arizona who was involved with the investigation.

"One victim in Sun Devil lost 1.7 million dollars," says Thackery. "I can't even count the number of victims with six-figure losses."

It all comes back to computer bulletin boards. Neidorf's *Phrak* magazine was distributed by bulletin boards; likewise, one of Jackson's writers had researched the *Cyberpunk* game by logging onto a bulletin board called *Illuminati*—a bulletin board that was frequented by computer crackers.

At least in the Jackson case, it seems that the government feels that anybody who read a certain electronic magazine had to be guilty of certain crimes.

Computer networks and electronic newspapers will be the way that most of us get our news and communicate with our friends in the not-too-distant future. The government seems intent upon establishing some very scary controls on our future printing presses and telephones. ☐

Ed. Note: As this issue went to the printer, the Federal Government dropped all charges against Neidorf.

Simson L. Garfinkel is a freelance journalist living in Cambridge, Mass. Copyright 1990 by Simson L. Garfinkel.

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