ANALYSIS

Free Electronic Press

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Special to The Christian Science Monitor

IN their zeal to clamp down on computer crime, federal investigators seem to be confusing people who commit crimes with those who are reporting and reading about them in the electronic media.

Consider, for example, the criminal trial of Craig Neidorf, a 19-year-old student at the University of Missouri in Columbia, Mo., scheduled to begin today in Chicago. He is charged with wire fraud and interstate transportation of stolen property. The property in question: a 12-page document describing the administrative structure of telephone company offices responsible for enhanced 911 service that appeared in his electronic magazine.

Mr. Neidorf is the editor and publisher of "Phrak," a magazine of the computer underground. Many of Phrak's contributors are computer "crackers," who used the magazine to write about their adventures breaking into computer systems.

But Neidorf never broke into any computer himself, and he never published sensitive information like credit-card numbers or passwords. He was indicted, among other things, for receiving the 911 document in his electronic mailbox. It is as if a newspaper publisher were indicted for receiving a leaked corporate report.

"In my review of the law, I have never seen the government try so blatantly to step on the First Amendment," says Sheldon Zenner, Neidorf's attorney.

"My guess is that if it was 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 [a newspaper] on. 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."

Some computer professionals feel that the real issue isn't Neidorf's age and lack of clout but his printing presses: He doesn't have any. Phrak is published electronically, through computer networks and electronic mail systems. 2600, a printed hacker's magazine, has not received similar treatment from the government, even though it has published many similar articles.

"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 Mitchell Kapor, author of the popular Lotus 1-2-3 spreadsheet program, who now heads his own software company in Cambridge, Mass.

Mr. Kapor believes that hard-fought civil liberties are being pushed aside in the new electronic world. Last week, he announced the formation of the Electronic Frontier Foundation to educate the public and policymakers about civil liberties issues being raised by new communication technology, and to provide legal representation for those whose rights have been violated.

Kapor's foundation has its hands full.

On the morning of March 1 in Austin, Texas, the offices of Steve Jackson Games were raided by United States Secret Service operatives. Agents seized a laser printer, three computers, and many floppy disks. For 10 years, Steve Jackson has published fantasy role-playing games. His newest, a science-fiction game called "Cyberpunk," was due to be published this spring. The day after the raid, he remembers Secret Service officers telling him: "Mr. Jackson, you know you are publishing a handbook for computer crime."

The agents' comments, says Jackson, showed how little they really understood about computers. In the game, players break into fictional computers by rolling dice, not by guessing passwords. Jackson suspects that he was targeted because one of his writers had used an electronic bulletin board to research the game, but he doesn't know for sure, because the search warrant was sealed at the Secret Service's request.

With widespread fraud in the credit and telecommunications industries, it is easy to understand why the Secret Service is so intent on shutting down computer criminals. But investigations and searches should be confined to those who actually break into computers – not to those who merely write about these activities.

The danger is that precedents established now may cause problems when electronic newspapers and magazines have become the dominant form of communication.