

Technology Privacy Laws Should Not be Older than Technology Itself

In 1986, the Electronic Communications Privacy Act (ECPA) was passed in order to protect the privacy of electronic items such as e-mails, posts on social networking sites and cell phone records. It is ironic that this law is older than the Internet itself; thus, this law should be updated in order to elucidate the rules for Internet privacy. Because the regulations for Internet privacy are so ambiguous, constitutional rights are often violated in cases of online controversy, and regulations should be made more clear in order to prevent this from happening.

The Bill of Rights of the United States says that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” In today’s world, freedom of speech laws are violated when Facebook posts made outside of school are involved in high school suspension cases. In 2010, a high school student in Florida was suspended for creating a Facebook page to criticize one of her teachers. U.S. Magistrate Barry Garber ruled against the principal’s desire to dismiss this case and allowed the student to pursue a lawsuit. Garber argues that ““It was an opinion of a student about a teacher, that was published off-campus ... was not lewd, vulgar, threatening, or advocating illegal or dangerous behavior,” and thus the student should not be punished for exercising her free speech. I agree that students (and teachers) should not shed their constitutional rights at the schoolhouse doors and thus freedom of expression laws set forth by

the constitution should be formally extended to include the Internet. In this case, not only were the student's first amendment rights violated but also the student's rights to privacy were violated. As long as it contained no "fighting words" (which it did not), the Facebook group that this student set up was a private matter that the school authorities had no right to meddle into. The ECPA should be revised to specify that schools cannot restrict students' free speech unless it contains "fighting words," just as the U.S. Constitution states.

Similarly, e-mail communication should not be used against individuals, as this is a violation of first amendment rights. If the e-mails contain "fighting words" intended to provoke violence, then it becomes a different story. However if individuals are just having a healthy debate, e-mails should not be grounds for convicting senders; they are just simply a means of expression. Although our founding fathers could not foresee the invention of the Internet, they wanted all American citizens to be able to express themselves freely. Convicting people on the grounds of an e-mail that is not threatening goes against our founding fathers. Also, as in the previous example, e-mails are private matters and the ECPA should be revised to protect peoples' privacy when it comes to e-mail issues.

On a similar note, cell phone privacy laws should be elucidated as technology develops. In some schools, teachers or administrators take it upon themselves to search students' cell phones as part of a disciplinary or other investigation. These adults defend their actions under the pretense of protecting the well being of all students, however, these actions violate students' fourth amendment rights. It should be made explicitly clear that teachers and administrators are not to search students cell phones under any circumstances without permission. After all, students have legal rights too and those rights must be protected. Students often use text messaging to express themselves to their friends, which is healthy for adolescents. Some private

thoughts that they convey in text messages to friends would likely be embarrassing for students if their teachers and administrators were to read them. Additionally, it could alter the way these adults view the students and lead to bias when it comes to grading and such. Because of these factors, it is fair to allow students to have some privacy in their communications, and schools should respect that.

Since technology is advancing so rapidly, Internet privacy laws should advance at the same rate. Instead, these laws have remained at a standstill for the past 15 years. It is up to our generation to ensure that these laws evolve as technology evolves in order for everyone's first amendment rights and privacy when it comes to electronic communication to be protected.

Works Cited

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