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Pornography on the Dean's PC: An Ethics and Computing Case Study

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Abstract

A real case study in which a technician discovers pornography on an administrator's personal computer is developed for use in teaching ethics and computing. The case highlights issues of employee rights and responsibilities in using employer-owned computing resources, competing responsibilities in professional codes of ethics, claims about rights to privacy and free speech, and ethical decision-making. Analysis of the case emphasizes the need for strong critical-thinking skills.

Keywords: ethical issues, employee / employer rights, codes of ethics, critical thinking, privacy, freedom of speech.

1. INTRODUCTION

In May of 1999, the dean of the Harvard Divinity School made the news over the discovery of pornography stored on his personal computer (Bandler 1999a). Discussion with a reporter writing a story that focused on the role of the technician who discovered the pornography spurred me to develop this case study for use in teaching (Wylie 1999). The case has been used successfully in a NSF faculty workshop on "Teaching Ethics and Computing," in a plenary talk at ISECON '99, and subsequently in classes taught at several institutions. The purpose of this paper is to document the case in sufficient detail for faculty who wish to use it in their teaching.

2. EDUCATIONAL OBJECTIVES SUPPORTED

The major ethical issue in this case is employee rights and responsibilities in the use of computing equipment. The flip side of this is the employer's responsibility to have clear and consistent policies, along with sound procedures for handling violations. A major general educational issue in this case is development of critical-thinking skills. Because the case involves pornography, divinity, right to privacy concerns, and competing responsibilities in professional codes of ethics, there is ample opportunity for

critical-thinking errors. Students should come away from an analysis of this case with (1) a clear understanding of employee rights and responsibilities in the use of company computing resources, and (2) improved abilities to discern relevant facts, weigh competing responsibilities and judge appropriateness of analogies. Analysis of this case also involves claims about the "right to privacy" and the "right to freedom of speech." Many students have imprecise concepts about these rights, and examination of claims made in this case should sharpen their understanding. Last but not least, analysis of this case should promote more ethical behavior in the workplace and improve decision-making in ethically challenging situations.

3. BASIC OUTLINE OF THE INCIDENT

What the dean did.

As a perk of being dean, the dean lived in a Harvard-owned home. His home office contained a Harvard-owned PC. Over a period of time the dean downloaded "thousands" of pornographic images from the internet to the PC in his home office (Helderman 1999). Reports characterize the pornography as "explicit" but "not involving child pornography or other illegal activity" (Bandler 1999). When the dean's PC ran short of disk space, the dean requested that technical support staff from the divinity school

install a larger-capacity disk drive and transfer the contents of the old drive to the new drive.

The technician's discovery of the pornography.

The disk upgrade was done in three steps: transfer of the old disk's files to a central computer, installation of a new disk, and transfer of the files back from the central computer (Bandler 1999b). At some point in this process, the technician discovered the pornography. There is disagreement as to exactly how this happened. One report is that the dean left an image on the display that was seen by the technician when he/she arrived at the office to do the work (Helderman 1999). The dean's lawyer denies this account (Bandler 1999b). Another report has the technician noticing suggestive file names during the transfer (Bandler 1999b), and presumably opening a file out of curiosity or to verify the contents. Accounts state that the technician did not immediately report the pornography, but only reluctantly explained when a supervisor questioned why the disk upgrade took so much time (Bandler 1999b).

In classroom discussions of this case, some students have viewed the point of whether the technician opened an image file as critical in assessing the technician's professionalism. This point is not material to any legal issue. Also, given that storage of thousands of images would be the driving need for the upgrade, it may be odd to suggest that the technician had a responsibility to not look at the image files. The concern seems to be that the technician made a conscious choice to recognize that the dean was violating computer use policy.

Handling of the incident by Harvard administration.

The report of the pornography made its way to the office of Harvard President Neil Rudenstine, as would be expected given that a dean was involved. The president and dean met, and "mutually agreed" that he would step down as dean (Bandler 1999a). Publicly, the resignation was characterized as "because of medical problems" (Bandler 1999a), "for personal and professional" reasons (Helderman 1999) and "to spend time with my family" (Gegax 1999), with no mention of the pornography on the PC. It was announced that the dean would take a one-year sabbatical and then return as a regular tenured full professor (Helderman 1999). Because some news accounts refer to the dean being "fired" it is useful to clarify the employment status issue. This was in November of 1998. This resolution apparently was truly mutually acceptable, as there is no indication that either the university or the dean pursued a modification to it.

Reporting of the incident by the news media.

Some time between November of 1998 and May of 1999, a reporter discovered the story behind the dean's resignation. News articles do not say how the reporter became aware of the story. At any rate, six months after Harvard's internal resolution of the incident, a reporter decided it was newsworthy and revealed the dean's use of pornography to the public (Bandler 1999a).

Facts and opinions offered by commentators.

In subsequent news stories, commentators offered a variety of statements and opinions. Some statements contribute factual

information important to understanding the case. Some opinions contribute to the educational value of the case by providing examples for critical thinking analysis.

One important fact brought out in this case is that employees have no legal expectation of privacy in their use of company computers. Many students are not fully aware of this reality, and so it is worth emphasizing to them. For instance, an American Management Association survey revealed that 27% of businesses surveyed review employee e-mail, and that the majority of these are done on a random basis; that is, without a "probable cause" to suspect a problem (Brelis 1999). A slightly smaller percentage of companies also review the contents of stored files. The co-chair of the American Bar Association privacy committee stated – "In this day and age, I would say that an employee is foolish or naïve who allows information to be stored in his or her computer that he or she does not want the employer to be aware of" (Brelis 1999).

One news article (Wylie 1999) carried the title – *Do Computer Docs Need a Hippocratic Oath?* This title suggests an analogy between our concept of a personal physician and the technician in this incident. To the extent that one accepts this analogy, one will tend toward the conclusion that the technician should not report the pornography. It can be valuable to have students assess the validity of this and other analogies by constructing and comparing graph structures that summarize the important elements of the case. Figure 1 gives an example. The more similar the structure of the diagrams and the more similar the relationships in the diagrams, the more valid is the analogy (Bowyer 2000a). This approach tends to make the limitations of the analogies more readily apparent, and helps to point out critical factors for decision-making.

A number of commentators focused on the fact that the dean had done nothing illegal. An example appears in (Helderman 1999) – "Professor of Law Alan M. Dershowitz said that, though he did not know the details of the case, what [the dean] chooses to do privately is his own business and only becomes the University's concern if it is illegal. "As long as it's done in private and doesn't hurt anyone it is not the school's business. I don't think it matters that he is the divinity school dean." Dershowitz may have been uninformed about critical factors of the case when he offered this comment. The "private" use of a Harvard-owned computer is certainly a legitimate interest of the school. Also, the suggestion seems that employers should not have rules any stricter than "what is against the law" fails with only a moment's thought. A simple what-if should make the point clearly to students. What if it had been the dean of a law school, who was currently nominated to the Supreme Court, and the technician had discovered that the dean had performed anonymous pro bono work for the Ku Klux Klan for the past ten years? Most people would want the technician's sense of duty to society to cause him/her to make sure that the information became public knowledge.

A number of other opinions expressed in various news articles provide opportunities for discussion and analysis. One Harvard student was quoted as saying the dean's actions were "like getting caught with Playboys under the mattress" (Gegax 1999). This is

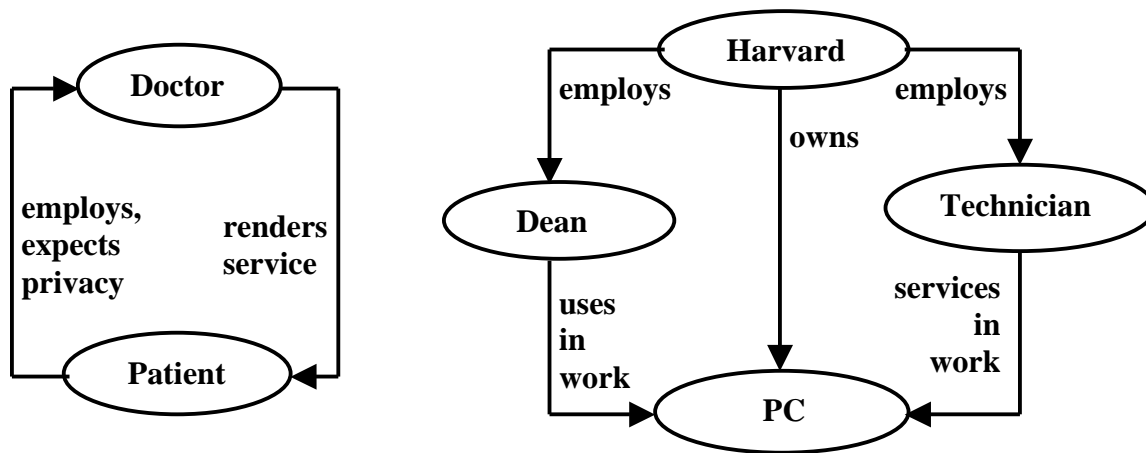


Figure 1 – Example Graph Diagrams to Evaluate Appropriateness of Analogies.

another good example for evaluating the quality of analogies. Randall Kennedy draws sharp distinctions between snuff porn and child porn and the porn on the dean’s PC, and asserts “there is nothing wrong about seeking sexual gratification from pornography ... wholesale revulsion toward these erotic activities is an irrational reaction nourished by all sorts of destructive superstitions” (Kennedy 1999). Kennedy seems to be calling the ELC and many other mainstream religions “destructive superstitions.” Another author claims to have worked in technical support for the divinity school (Hemingway 1999). This author asserts that the technician should have learned to “look without seeing,” reasoning that “if I happen to see something you would rather I didn’t, I extend you the same courtesy I want extended to me.” This seems to suggest an agreement to evade or ignore employer regulations that you don’t like. Also, the dean’s lawyer seemed to complain about Harvard violating the dean’s privacy (Bandler 1999b), when in fact it was the Boston Globe reporter who first made the incident public. Short reactions to the case by a variety of computing professionals can be found in (Bowyer 1999; Bowyer 2000b).

4. RESPONSIBILITIES OF MAIN STAKEHOLDERS

For students to think through the case clearly, it is important to itemize and evaluate the roles and responsibilities of the main stakeholders in the incident.

The dean.

The dean had held his position for over twelve years and was reportedly well liked and regarded as quite successful. Two achievements often mentioned are fundraising that boosted the School’s endowment from \$64 million to \$245 million and creation of the Center for the Study of Values in Public Life (Gegax 1999). His areas of academic expertise are described as religion in American public life and modern Protestant thought. The dean was / is an ordained minister in the Evangelical Lutheran Church (ELC). He is married and has two adult daughters.

A major responsibility of the dean is to the institution as a whole, to fulfill the duties of his job. In this regard, it is useful to consider the computer use policies in the divinity school. One

element of school policy states that computer use must be “related to the school’s mission of education, research and public service” (Helderman 1999). Policy also prohibits users from having “inappropriate, obscene, bigoted or abusive” material on school computers (Helderman 1999), and requires “explicit authorization” to use school computers “for private, commercial, or non-Harvard business purposes” (Atlanta Constitution 1999). The dean also has responsibilities to his colleagues, staff, and students to interact with them in a professional manner. Another important responsibility involves the dean’s professional credentials; being an ordained minister is a relevant part of being the dean of divinity. Thus the dean has a responsibility to the ELC. In this regard, it is important to note that the ELC has a policy against pornography (Helderman 1999). After the incident became public, the bishop of the ELC synod that ordained the dean commented that he could be dismissed from the roster of pastors (Helderman 1999). Lastly, although we may consider it more personal than professional, the dean also has a responsibility to his family. It is hard to argue that the dean fulfilled any of his responsibilities well. He violated computer use policies of his employer. He violated ethical policies of his professional organization in a way that could call his professional standing into question. And his violations could well cause embarrassment to his employer and his family. In discussing this case, students may disagree with the dean’s religious choice, or argue that the ELC should not have a policy against pornography. However, these are inescapably relevant facts of the case.

The technician.

The technician also has a variety of responsibilities. One is a responsibility to the employer to perform the job as effectively as possible. This could relate to whether the technician should (a) look at how space is used on the PC, and (b) take note of violations of computer use policy. Another responsibility is to colleagues in technical support and to the users of the computing resources. This is relevant if others might be exposed to the pornography. One report suggests that this was not the first time a technician had seen pornography on the dean’s computer (Helderman 1999). We might also consider that the technician would have a (personal) responsibility to his/her family. This

would be relevant if the technician's choices could affect his/her employment status.

Discovery of the pornography placed the technician in the dilemma of choosing whether or not to report it. Two important factors argue against reporting: (1) it will result in personal embarrassment to the dean, and (2) the technical support office is part of the divinity school, so alienating the dean could affect the technician's employment status. Some people might also argue that the school's computer use policies are somehow wrong and so should be ignored. Two important factors argue for reporting: (1) the dean is clearly violating computer use policies, and (2) if and when someone else discovers the existence of the pornography, it could become clear that the technician chose not to report a violation of computer use policies. Thus, the technician has no perfectly safe option.

There is no question that the technician was within his/her right to report the pornography. Disagreement arises over whether it "should have" been reported. My conclusion is that the technician's duty to report violations of computer use policy clearly outweighs considerations of the dean's privacy. This conclusion could be changed if any of the critical facts of the case were changed. Reviewing "what if" questions can help students understand critical elements of the case. What if the technician had seen e-mail from the Harvard clinic saying that the dean's HIV test results were positive? The dean is owed absolute confidentiality. The situation is fundamentally different because there is no violation of computer use policy. What if the PC is really the dean's and he hires a technician from the local computer store? Again, the situation is fundamentally different, and the technician has no reason to report anything to Harvard. What if the dean had kept a huge collection of non-offensive images on his computer (e.g., family photos)? One of the policy statements is no longer violated, and so there is in a sense less weight on the technician to report the violation. Also, the violation would not involve considerations of the dean's professional standing or possible harassment of staff that see the images, and so there is no reason for the President's disciplinary action to be as strong.

The President.

The president has a responsibility to ensure fair treatment of each Harvard employee and to manage the university so that it effectively achieves its mission of research, education and public service. In this case, president Rudenstine seems to have handled a difficult situation well. The dean's use of pornography in violation of computer use policy required some definite disciplinary action. The dean was violating a policy that he was responsible at an administrative level for enforcing. To make matters worse, this particular violation could call the dean's professional credentials (ordination by the ELC) into question. Also, once the pornography was reported, doing nothing would support claims of harassment and a hostile workplace by the next technician who came in contact with the pornography. At the same time, public knowledge of the dean's pornography habit could cause he and his family personal embarrassment. Given the nature of the situation, having the dean step down for "health reasons" and take a sabbatical, during which time he would presumably get some counseling, is a reasonable resolution. It

protects the dean's privacy and employment. It also protects the institution's integrity and potential liability.

The Reporter.

The reporter has responsibilities to his employer, to the public at large, and to the people and institutions in the story. Reporting the dean's use of pornography was embarrassing to the dean, to Harvard, and to some extent also to the ELC. The response to this might be that the public has a right to know the truth about why the dean stepped down. This opens the question of distinguishing between the right to know and the need to know – was some public good served to an extent that outweighed the violation of the dean's privacy? Of course, from the pure economic perspective, if the story helped to sell newspapers then it was a good story.

5. GUIDANCE FROM CODES OF ETHICS

It is important to relate this case to guidance given in professional codes of ethics. Doing so should emphasize to students that such codes are not moral cookbooks, that different items of a code can be in conflict, and that they must develop their own ability to reason through moral dilemmas.

The AITP code of ethics (www.aitp.org) contains several relevant statements. One is – "I shall not use knowledge of a confidential nature to further my personal interest, nor shall I violate the privacy and confidentiality of information entrusted to me or two which I may gain access." But another is – "I have an obligation to my College or University, therefore, I shall uphold its ethical and moral principles." And a third statement talks about "an obligation to my employer" and says "I shall endeavor to discharge this obligation to the best of my ability." In this case, the first obligation is in conflict with the other two. The code does not provide an "easy answer," but instead helps to identify obligations that must be weighed against each other.

A similar situation arises if one looks at the ACM code of ethics (Bowyer 2000a). Element 1.7 of the ACM code states "Respect the privacy of others." But element 3.3 states "Acknowledge and support proper and authorized uses of an organization's computing and communications resources." And similar conflict also arises in elements of the IEEE-CS / ACM Software Engineering code of ethics (www.computer.org/tab/swecc). Element 2.3 of the software engineering code states "Use the property of a client or employer only in ways properly authorized, and with the client's or employer's knowledge and consent." Element 2.5 of the code states "Keep private any confidential information gained in their professional work, where such confidentiality is consistent with the public interest and consistent with the law." Element 2.9 states "Promote no interest adverse to their client or employer, unless a higher ethical concern is being compromised; in that case, inform the employer or another appropriate authority of the ethical concern."

It should be clear to students that almost any action could be justified based on a particular selected element of a code. Thus the students must develop the ability to understand the motivations

and principles of a code as a whole. Also, they must be able to reason through potential conflicts for themselves.

6. USE OF THIS CASE IN CLASS DISCUSSION

This case has been used in ethics and computing classes by faculty at several institutions. A PowerPoint file for use in presenting the case is available at marathon.csee.usf.edu/~kwb/nsf-ufe/. (This site contains a wealth of resources for teaching ethics and computing.) The presentation reveals the details of the case in stages, to help students consider the responsibilities of each of the stakeholders, and to help students evaluate the relevance of analogies and considerations offered by commentators. An example worksheet that might be assigned prior to class discussion of this case is given as an appendix to this article. The instructor might select particular articles to hand out with the worksheet, or might allow the students to find their own. There will of course be greater variety if students find their own articles, but then some students may use less relevant sources.

If students are tempted to think that such things won't happen in the workplaces that they envision themselves entering, there are numerous other cases that have occurred in high-tech companies. For example, Xerox recently fired forty employees for surfing porn web sites at work (AP 1999). Students could readily find additional examples.

An interesting postscript to the analysis of this case came to me in an anonymous report claimed to be based on contacts in the Harvard Divinity school. The details of this report have not been verified, so they are best treated as what-if questions. The first interesting detail is that the technician in this case is a woman! Although almost everyone nowadays can think of at least one female computer technician that they know personally, most people still implicitly assume that the technician is a man. For some people, it may be more understandable that a female technician would complain about the pornography. However, the second important detail is that it was the technician who took the story to the reporter! The technician's motivation was her conviction that Harvard had not sufficiently punished the dean in this incident. This is likely to substantially change our assessment of the technician's professionalism. It may also to some degree alter our assessment of the reporter's professionalism.

7. ACKNOWLEDGEMENTS

This work was supported by NSF grant DUE 97-52792. Reporter Margie Wylie of Newhouse News Service first brought the diversity of viewpoint on this case to my attention. Attendees at my 1999 "Teaching Ethics and Computing" workshop gave feedback that sharpened my thinking about the case, and attendees at the ISECON '99 presentation asked questions that further clarified some essential issues.

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Kevin Bowyer is currently a Professor in the Department of Computer Science and Engineering at the University of South Florida. The second edition of his textbook, "Ethics and Computing – Living Responsibly in a Computerized World," was published by IEEE Press in 2000. In 1998 and 1999 he led undergraduate faculty enhancement workshops on the theme "Teaching Ethics and Computing," sponsored by the National Science Foundation. He chaired the Social, Ethical, Legal and Professional Issues subcommittee of the CC-2001 model curriculum. He received an Outstanding Undergraduate Teaching award from the USF College of Engineering in 1991, and Teaching Incentive Program awards in 1994 and 1997. He has served as Editor-In-Chief of the IEEE Transactions on Pattern Analysis and Machine Intelligence (1999-2000), North American Editor of the Image and Vision Computing Journal (1994-1998), and on the editorial board of several other journals. He was elected as a Fellow of the IEEE in 1998.

“Pornography on the Dean’s PC” – An Ethics and Computing Case Study

In May of 1999, news accounts described how the dean of the Harvard School of Divinity resigned his position as dean after a computer technician reported the existence of pornography on the dean’s PC. Using web search, Lexis search, and/or handouts, read at least three different news accounts of this incident.

Make a list of the “stakeholders” involved in this incident (dean, technician, Harvard president, and at least two others). For each stakeholder, list their major responsibilities and indicate how well you feel each was fulfilled. Wherever possible, make reference to specific elements of a professional code of ethics. Which person’s actions would you rate as the most ethical and the least ethical? Why?

dean	technician	Harvard president		

To what extent is there a “right to privacy” involved in this incident? Why?

To what extent is there a “right to freedom of speech” involved in this incident? Why?

What elements of the computer use policy at your institution would the dean’s actions violate?

After class discussion of this case, make a list of the critical facts involved and rate the sources that you read for how well these facts were covered.



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