

## Lecture 3: Free Expression

(Some slides are from M. Quinn, *Ethics for the Information Age*, Pearson © 2013.)

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## Lecture Overview

- Freedom of expression
- Children and inappropriate content
- Breaking trust on the Internet
- Censorship

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## The World Wide Web

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### Challenges Posed by the Internet

- Many-to-many communications
- Dynamic connections
- Huge numbers of Web sites
- Extends beyond national borders, laws
- Hard to distinguish between minors and adults

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### Freedom of Expression

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### Freedom of Expression: History

- *De Scandalis Magnatum* (England, 1275)
  - prohibited the distribution of "any false News or Tales, whereby discord, or occasion of discord or slander may grow between the King and his People, or the Great Men of the Realm."
- Court of Star Chamber (1422 until 1641)
- 18<sup>th</sup> century
  - No prior restraints on publication
  - People could be punished for sedition or libel
- American states adopted bills of rights including freedom of expression
- Freedom of expression in 1<sup>st</sup> amendment to U.S. Constitution

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### 1<sup>st</sup> Amendment to U.S. Constitution

"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."

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### *FCC v. Pacifica Foundation et al.*

- George Carlin records "Filthy Words"
- WBAI in New York airs "Filthy Words" (1973)
- FCC issues declaratory order to Pacifica
- Pacifica sues
- U.S. Supreme Court ruled FCC did not violate 1<sup>st</sup> Amendment (5-4 decision)
  - Broadcast media "uniquely pervasive"
  - Broadcasting uniquely accessible to children

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### Freedom of Expression Not an Absolute Right

- 1<sup>st</sup> Amendment covers political and nonpolitical speech
- Right to freedom of expression must be balanced against the public good
- Various restrictions on freedom of expression exist

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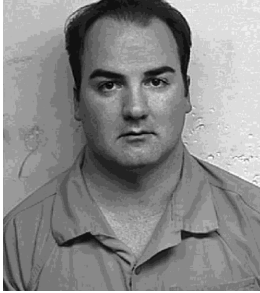
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### Jeremy Jaynes



AP Photo/Loudoun County Sheriff's office

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### Jeremy Jaynes

- **Jeremy Jaynes** (born 1974) was a prolific e-mail spammer broadcasting junk e-mail from his home in North Carolina. He became the first person in the world to be convicted of "felony spam," i.e., convicted of a felony for sending spam without allegation of any accompanying illegal conduct such as theft, fraud, trespass, defamation or obscenity. His conviction was later overturned by the Virginia Supreme Court ruling unanimously the law Jaynes was prosecuted under violated the First Amendment. On March 30, 2009, the US Supreme Court refused the Virginia Attorney General's petition for a writ of certiorari to review the decision of the Supreme Court of Virginia overturning the anti-spam statute. Jaynes never served any of his prison sentence for the overturned conviction.  
(from Wikipedia <[http://en.wikipedia.org/wiki/Jeremy\\_Jaynes](http://en.wikipedia.org/wiki/Jeremy_Jaynes)>

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### Case Study: Kate's Blog

- Kate: Maintains a popular "life on campus" blog
- Jerry: Another student; active in Whig Party
- At private birthday party, someone gives Jerry a Tory Party T-shirt as a gag, and Jerry puts it on
- Kate uses cell phone to take picture of Jerry when he isn't looking, posts it on her blog
- Story read by many people on and off campus
- Jerry confronts Kate and demands she remove photo; she complies, and they remain friends
- Kate's blog and Jerry both become more popular

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### Rule Utilitarian Analysis

- What if everyone were constantly taking photos of people they encountered and posting them?
- Positive consequences
  - People would have more opportunities to keep up with what their friends are doing
  - People might be more reluctant to engage in illegal activities
- Negative consequences
  - People would become more self-conscious
  - Some relationships would be harmed
- Negative consequences more weighty than positive consequences, so Kate's action was bad

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### Kantian Analysis

- Kate uploaded Jerry's photo to her blog without asking his permission
- She treated him as a means to her end of increasing the readership of her Web site
- Her action was wrong

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### Moral Rights Analysis

- Birthday party held in apartment of one of Jerry's friends
- Jerry had a reasonable expectation of privacy
- Kate violated Jerry's right to privacy
- Kate's action was wrong

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### Summary

- Three analyses: Wrong for Kate to post the photo without asking Jerry's permission
- Kate figured it would be better to beg for forgiveness than ask for permission, but she cut Jerry out of a decision that affected both of them, and that's no way to treat a friend
- Kate should have tried to get Jerry's consent

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### Issues created by Free Expression

- Spam
- False Information
- CyberBullying
- Web Filters
- Child Internet Protection Act (CIPA)
- Sexting
- Chat-room Predators & Stings

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### The Spam Epidemic (1/3)

- Spam: Unsolicited, bulk email
- Spam is profitable
  - More than 100 times cheaper than "junk mail"
  - Profitable even if only 1 in 100,000 buys product
- Amount of email that is spam has ballooned
  - 8% in 2001
  - 90% in 2009

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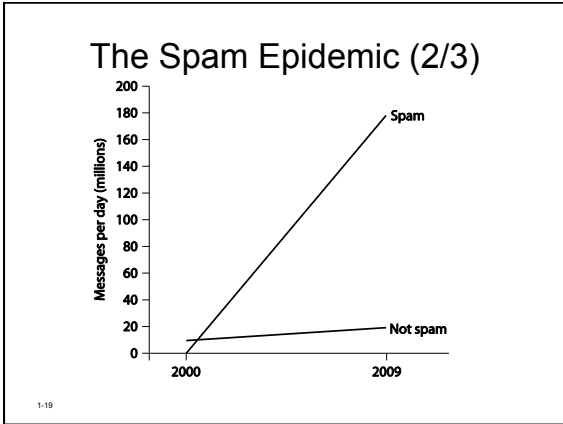
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- ### The Spam Epidemic (3/3)
- How firms get email addresses
    - Web sites, chat-room conversations, newsgroups
    - Computer viruses harvest addresses from PC address books
    - Dictionary attacks
    - Contests
  - Most spam sent out by bot herders who control huge networks of computers
  - Spam filters block most spam before it reaches users' inboxes
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- ### Need for Socio-Technical Solutions
- New technologies sometimes cause new social situations to emerge
  - Spam an example of this phenomenon
    - Email messages practically free
    - Profits increase with number of messages sent
    - Strong motivation to send more messages
  - Internet design allows unfair, one-way communications
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## False Information

- Quality of Web-based information varies widely
- Other media also have information of varying quality
  - *The New York Times* v. *The National Enquirer*
  - *60 Minutes* v. *Conspiracy Theory*
- Google attempts to reward quality
  - Ranking uses “voting” algorithm
  - If many links point to a page, Google search engine ranks that page higher

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## Cyberbullying

- Cyberbullying: Use of the Internet or phone system to inflict psychological harm
- In a 2009 survey, 10% admitted to cyberbullying, and 19% said they had been cyberbullied
- Case of Audre Pott (Saratoga, California)
- Case of Rehtaeh Parsons (Nova Scotia, Canada)
- Cyberbullying Prevention Act

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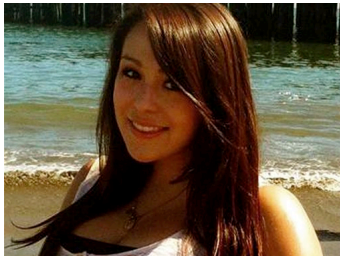
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**Audre Pott**

Saratoga California 15-year old committed suicide after sexually explicit photos were posted to social networks without her permission.

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### Web Filters

- Web filter: Software that prevents display of certain Web pages
  - May be installed on an individual PC
  - ISP may provide service for customers
- Methodologies
  - Maintain “black list” of objectionable sites
  - Examine content for objectionable words/ phrases

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### Child Internet Protection Act

- Libraries receiving federal networking funds must filter pages containing obscenity or child pornography
- U.S. Supreme Court ruled CIPA did not violate 1<sup>st</sup> Amendment guarantees (6-3 decision in June 2003)

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### Ethical Evaluations of CIPA

- Kantian evaluation: CIPA is wrong
- Utilitarian evaluation: depends on how benefits and harms are weighed
- Moral Rights theory: freedom of conscience should be given precedence

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### Sexting

- Definition: sexually suggestive text messages or emails with nude or nearly nude photographs
- In a 2009 survey, 9% of U.S. teenagers admitted to sending a sext, 17% admitted to receiving a sext

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### Chat-Room Predators

- Chat room: Supports real-time discussions among many people connected to network
- Instant messaging and chat rooms replacing telephone for many people
- Some pedophiles meeting children through chat rooms
- Police countering with “sting” operations

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### Ethical Evaluations of “Stings”

- Utilitarian evaluation
- Kantian evaluation
- Moral rights evaluation

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Censorship

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Forms of Direct Censorship

- Government monopolization
- Prepublication review
- Licensing and registration

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Governmental Control: Too Much or Too Little?

- Burma (Myanmar), Cuba, North Korea: Internet virtually inaccessible
- Saudi Arabia: centralized control center
- People's Republic of China: "one of most sophisticated filtering systems in the world" as well as censorship
- Germany: Forbids access to neo-Nazi sites
- United States: Repeated efforts to limit access of minors to pornography

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### Self-censorship

- Most common form of censorship
- Group decides for itself not to publish
- Reasons
  - Avoid subsequent persecution
  - Maintain good relations with government officials (sources of information)
- Ratings systems created to advise potential audience
  - Movies, TVs, CDs, video games
  - **Not** the Web

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### Ethical Perspectives on Censorship

- Kant opposed censorship
  - Enlightenment thinker
  - "Have courage to use your own reason"
- Mill opposed censorship
  - No one is infallible
  - Any opinion may contain a kernel of truth
  - Truth revealed in class of ideas
  - Ideas resulting from discourse are more influential

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### Mill's Principle of Harm

"The only ground on which intervention is justified is to prevent harm to others; the individual's own good is not a sufficient condition."

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