CONVERSATION CASE

Privacy, Surveillance, and Self-Disclosure

Getting started: If this is the first time that participants are meeting each other, consider using one of the icebreaker activities found in our Facilitator’s Guide.

What is a reasonable expectation of privacy in the context of teens’ online lives? What roles should schools play in monitoring social media? Who should teens expect might look at their online posts, and how can they sufficiently protect themselves? This case focuses on the role of schools related to tracking students’ social media posts. In the wake of tragic incidents of cyberbullying and a mix of other social media-fueled issues, schools are grappling with how best to protect and support their students. For many districts, questions of whether and how to monitor the “online playground” — and even how to avoid liability — loom large.

Key Vocabulary

<table>
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<th>post</th>
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<td>A post is content — text, a picture, a link — shared online for others to see. Posts can take the form of “tweets” on Twitter or “status updates” on Facebook.</td>
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<th>Twitter</th>
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<td>Twitter is a microblogging site that allows users to post brief, 140-character messages — called “tweets” — and follow other users’ activities. Teens like using Twitter to share quick tidbits about their lives with friends. It’s also great for keeping up with what’s going on in the world — breaking news, celebrity gossip, etc.</td>
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<th>privacy settings</th>
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<td>Privacy settings allow users some control over what information is shared and with whom. However, many platforms require that users actively seek out and set their privacy settings; default settings are often the most lenient or public.</td>
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SAN FRANCISCO — For years, a school principal’s job was to make sure students were not creating a ruckus in the hallways or smoking in the bathroom. Vigilance ended at the schoolhouse gates.

Now, as students complain, taunt and sometimes cry out for help on social media, educators have more opportunities to monitor students around the clock. And some schools are turning to technology to help them. Several companies offer services to filter and glean what students do on school networks; a few now offer automated tools to comb through off-campus postings for signs of danger. For school officials, this raises new questions about whether they should — or legally can — discipline children for their online outbursts.

The problem has taken on new urgency with the case of a 12-year-old Florida girl who committed suicide after classmates relentlessly bullied her online and offline.

Two girls — ages 12 and 14 — who the authorities contend were her chief tormentors were arrested this month after one posted a Facebook comment about her death. Although the charges were later dropped, the case helped to shine light on a very important issue.

Educators find themselves needing to balance students’ free speech rights against the dangers children can get into at school and sometimes with the law because of what they say in posts on Facebook, Twitter and Tumblr. Courts have now started to weigh in.

In September, a federal appeals court in Nevada, for instance, sided with school officials who suspended a high school sophomore for threatening, through messages on Myspace, to shoot classmates. In 2011, an Indiana court ruled that school officials had violated the Constitution when they disciplined students for posting pictures on Facebook of themselves at a slumber party, posing with rainbow-colored lollipops shaped like phalluses.

“It is a concern and in some cases, a major problem for school districts,” said Daniel A. Domenech, executive director of the American Association of School Administrators, which represents public school superintendents. Surveillance of students’ online speech, he said, can be cumbersome and confusing. “Is this something that a student has the right to do, or is this something that flies against the rules and regulations of a district?”

Interviews with educators suggest that surveillance of students off campus is still mostly done the old-fashioned way, by relying on students to report trouble or following students on social networks. Tracking students on social media comes with its own risks: One principal in Missouri resigned last year after accusations that she had snooped on students using a fake Facebook account. “It was our children she was monitoring,” said one Twitter user who identified herself as Judy Rayford, after the news broke last year, without, she added, “authorization” from children or parents.
But technology is catching on. In August, officials in Glendale, a suburb in Southern California, paid Geo Listening, a technology company to comb through the social network posts of children in the district. The company said its service was not to pry, but to help the district, Glendale Unified, protect its students after suicides by teenagers in the area.

Students mocked the effort on Twitter, saying officials at G.U.S.D., the Glendale Unified School District, would not “even understand what I tweet most of the time, they should hire a high school slang analyst #shoutout2GUSD.”

“We should be monitoring gusd instead,” one Twitter user wrote after an instructor was arrested on charges of sexual abuse; the instructor pleaded not guilty.

Chris Frydrych, the chief executive of Geo Listening, based in Hermosa Beach, also in Southern California, declined to explain how his company's technology worked, except to say that it was “a sprinkling of technology and a whole lot of human capital.” He said Geo Listening looked for keywords and sentiments on posts that could be viewed publicly. It cannot, for instance, read anyone’s Facebook posts that are designated for “friends” or “friends of friends.”

But with Facebook’s announcement this month that teenagers will be permitted to post public status updates and images, Geo Listening and similar services will potentially have access to more information on that social network.

Glendale has paid Geo Listening $40,500 to monitor the social media posts. Mr. Frydrych declined to say which other schools his company works with, except to predict that by the end of the year his company would have signed up 3,000 schools.

David Jones of CompuGuardian, based in Salt Lake City, said his product let school officials monitor whether students were researching topics like how to build bombs or discussing anorexia. His customers include five schools, but he too, is optimistic about market growth. “It helps you boil down to what students are having what problems,” he said. “And then you can drill down.”

But when does protecting children from each other or from themselves turn into chilling free speech? (…)

(…) That fine line seems to be equally confounding the courts.

In the Nevada case, a 16-year-old boy bragged on Myspace about having guns at home, and threatened to kill fellow students on a particular date. He also cited the 2007 massacre at Virginia Tech, in which a troubled student killed 32 people.

The boy ended up spending 31 days in a local jail and was suspended from school for 90 days. He then sued the district, saying his free speech rights had been violated.

The Ninth Circuit Court of Appeals dismissed the claim. It called his threats “alarming” and so specific that they presented “a real risk of significant disruption” to the school. Administrators were justified, the court ruled, for penalizing what was ostensibly off-campus speech.
“It’s going to be more and more of legal issues,” said Gretchen Shipley, a lawyer who represents school districts. “The ability to monitor is growing so quickly.”

The Indiana case offers a contrast. In the summer of 2009, two incoming 10th graders at Churubusco High School posted what the court called “raunchy” pictures of themselves. Once school officials found out, the girls were suspended from extracurricular activities for the school year. The girls sued, saying their free speech rights had been violated. The school contended that its student handbook bars conduct that could “discredit” or “dishonor” it.

The court found that prohibition too broad. The students’ pictures, “juvenil” though they were, did not cause “substantial disruption” at school, the court ruled, and even though it was just “crude humor,” it was protected speech. “No message of lofty social or political importance was conveyed, but none is required,” the court said.

The full article can be accessed at: http://nyti.ms/1b1BGUO

Consider

• What surprises or concerns you about this story?
• What are the pros and cons of schools monitoring students’ social media? Where do you fall on the debate?
• Are there alternative ways schools can support students regarding their social media lives?
• What do you think the school’s motivations were for hiring Geo Listening? Do you think the approach will have the intended impact?
• How would you feel — relieved, angry, nervous, apathetic — if your school district started monitoring your child’s social media posts?
• Does it make a difference what kind of information the sites are looking for or collecting?
• How do you think about your child’s online privacy? Who should information be private from? What information should stay private – and what does it mean to keep it private?

Wrapping up: Feel free to look at the tip sheet together and invite reactions. You can again invite people to read quietly and then react by posing questions, such as: Which of these tips resonates most for you? Are there any tips you would definitely try? What is missing?

If you are running low on time, distribute the tip sheets at the end of your meeting. The trick is to make sure people are leaving with some concrete information, rather than feeling overwhelmed and wondering what to do next.

Azzam, Twitter post, October 22, 2013. 7:15 p.m. https://twitter.com/search?q=%23shoutout2GUSD&src=hash

Gahribian, Michael, Twitter post, October 17, 2013. 8:36 p.m. https://twitter.com/MichaelGhar/status/391045030929899520

Rayford, Judy, Twitter post, May 7, 2012. 1:15 p.m. https://twitter.com/jcr_each/status/199593354122633216