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Symposium: Technical Change and the Evolution of Criminal Law: Foreword

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FOREWORD

On April 5, 2007, the Ninth Circuit Court of Appeals handed down its opinion in *United States v. Heckencamp*.¹ A unanimous three-judge panel held that a warrantless remote search of files on a student's personal computer by a university network administrator was justified under the special needs exception to the Fourth Amendment, as "the administrator reasonably believed the computer had been used to gain unauthorized access to confidential records on a university computer."² The *Heckencamp* case is certainly noteworthy in that it adds an important nuance to the scope of Fourth Amendment jurisprudence as applied to the search of computer files. But, perhaps the case is more important in that it—and others like it—represent the continual evolution of the law, specifically criminal law, alongside changes in technology.

The Framers ratified the Fourth Amendment in 1791—20 years after the chess-playing "Turk" beguiled audiences across Europe and 85 years before Alexander Graham Bell beckoned "Mr. Watson" with the first telephone—unable to imagine that box of wires and flowing electrons on a desktop could store more information than a monumental library or that such information could be sent to another person across the globe almost instantaneously. And yet today, courts and policy-makers are called upon to apply legal doctrines like the Fourth Amendment and myriad others to the questions and challenges created by the progression of the so-called Information Age.

It is almost trite to remark upon the way in which technological change, particularly the evolution of the Internet, has affected contemporary society. From business to politics to social interaction, the availability of electronic networks for the transmission of information pervades every facet of society in America, in most of the developed world, and, increasingly, in the developing world. This Symposium attempts to capture the double helix of technological change and the evolving doctrines of criminal law. From the future of cyberterrorism to the application of the Fourth Amendment to searches of digital media to the potential for using

¹ No. 05-10322, 2007 WL 1051579 (9th Cir. Apr. 5, 2007).

² *Id.* at *1.

the open source software model to prevent computer crime, the following collection of articles represents a mere snapshot of that co-evolution. Yet, it also provides both an understanding of the history undergirding current law and policy and a look to the future of criminal law in a world of continuing technological change.

JCLC Editorial Board