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FOR ENGINEERING AND SCIENCE

# LaMacchia Case Raises Larger Questions

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## Description

An article about the dismissal of the case against LaMacchia, possible disciplinary action taken against him by MIT and the amount of electronic privacy MIT students and faculty have.

## Body

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On Dec. 28, 1994, Judge Richard Stearns of the United States District Court dismissed the federal governments charges against David M. LaMacchia '95. In making this decision, the judge accepted the governments version of the facts: that LaMacchia operated a server and encouraged its users to upload and download copyrighted materials. The events as stated, without any mention of LaMacchia's version of the events, were not found to be a violation of the law. We applaud this decision.

Now that the case has moved out of the courts, it comes to MIT to decide whether it

should take action against LaMacchia. We urge MIT's disciplinarians to look at the courts decision and remember that what LaMacchia did was not a violation of the law, even though many people including the judge think his actions were reprehensible. However, punishment for violations of the Athena Rules of Use, applied without regard to the content of the files found on the server, are entirely appropriate.

The clamor over the indictment and dismissal has overshadowed an issue that we find particularly troublesome. MIT Information Systems said that it discovered LaMacchia's activity, turned the information over to the Campus Police and the Federal Bureau of Investigation, and "cooperated" with the resulting federal investigation. How did IS "discover" the activity? What can we, as users of Athena, expect for privacy? It is disturbing to think that all of our Athena activity might have been monitored to make other "discoveries." The MIT community should be made aware of exactly what degree of privacy and protection they can expect from IS.

This specific case aside, there is much work for the government to do on the issue of intellectual property and the Internet. The Internet continues to grow exponentially and in ways that were entirely unanticipated by the legislature and the judiciary. Wire fraud, copyright, and other intellectual property laws are clearly not up to the task of regulating it. The government needs to consider closely what regulation needs (or does not need) to be imposed on a system that allows information to be translated speedily, effortlessly, and without regard to geography or political borders.

When our leaders do consider this issue, we have a bit of advice: the operator of a server or on-line service should not be responsible for the content. The role these services play on the Internet is analogous to a photocopier's effect on printing, the videocassette on film, and the digital audio tape on compact discs. There should be no more responsibility attached to the administrator of a server than there is to the manufacturer of these other products.

It is unfortunate that LaMacchia has had to endure such distress. He must be pleased with the conclusion, but the result cannot repair the harm. We only hope that MIT and the government will take this opportunity to consider the many questions so clearly - and inexcusably - left unanswered.

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