Did the Justice Department cause Aaron Swartz's suicide?

Kasey Panetta, Associate Editor

Aaron Swartz was a 26-year-old computer programmer and online activist who died of apparent suicide on January 11, ahead of a scheduled trial where he was charged with 13 felonies.

Swartz, founder of Demand Progress, an online group actively working against the Stop Online Piracy Act (SOPA), was a legend in the tech and programming world. He was involved in the development of the RSS feeds and in 2010 worked as a fellow at Harvard's Safra Center for Ethic. He helped with the creation of the modern Redditt, edited for Wikipedia, and filed a Freedom of Information act for information regarding Bradley Manning. Needless to say, this was a very smart, very resourceful man.

In July of 2011, authorities charged Swartz with four felony counts—wire fraud, computer fraud, theft of information from a computer, and recklessly damaging a computer—for allegedly downloading academic articles from JSTOR from the MIT campus. In September 2012, an indictment that superseded charges from July 2011 was filed with 13 felony counts, according to Wired [1].

This wasn't Swartz's first time to the document-download rodeo. In 2006, he released 20 percent of the Public Access to Court Electronic Records documents to the public—previously you had to pay 8 cents per page. In this case, Swartz felt that since the per-page charge was resulting in a massive budget surplus for the department and since, legally, government papers cannot be copyrighted—often a reason access fees exist—the papers should be free for the public.

The JSTOR story runs along similar lines. Swartz felt that since the research is publically-funded and the fees go to the publishing houses and not the study authors, the research should be available to everyone. Plus, even JSTOR didn't want to press charges and recently announced they'll make some articles available for free with a cap.

[This is a good place to interject that academic studies have incredibly expensive, often prohibitive, price tags on research paid-for by taxes. Oftentimes, the only people who can afford to access these studies are large universities or corporations. The United Kingdom recently mandated that any papers funded by the British taxpayers must be made available to the public by 2014.]

The headline is, of course, hyperbolic, but raises interesting questions about how much the over-the-top persecution of a computer programmer led to his suicide.

Setting aside whether obtaining the studies was illegal—obviously it was—you have to question *why* the felony charges went from four to 13, leaving him open to up to 50 years in prison and a $1 million dollar fine. The legality behind this is the Department of Justice chose to charge him by individual counts on individual dates, thus upping the charges. The plea bargain offered 6 months in prison if he pled guilty to all 13 counts. They almost let him go with no jail time but no dice: JSTOR said yes, MIT said no. If they went to trial—it seemed this would happen—they were seeking seven to eight years.

This raises some really interesting technological questions. Should "stealing" papers via computers be treated the same as if you were to physically break into someone's house and steal the papers? Should pay--walls for academic papers be

legal? Should someone be labeled a "felon" for releasing documents that should be public? Is the Computer Fraud and Abuse Act unreasonably broad?

There has been some speculation that Swartz was targeted in a particularly aggressive manner for his activism against SOPA, the failed –thank goodness—piracy prevention act. Setting aside—we're doing that a lot in this article—the fact that SOPA is what happens when people who don't understand the internet try to legislate it, is this a legitimate reason for indicting someone on 13 felony counts when three—which he was already charged with—would have sufficed *and* half of the offended parties (MIT and JSTOR) don't even want to press charges?

Clearly, the Justice Department is not directly responsible for Swartz's suicide, but members of Congress are definitely concerned about the aggressiveness with which authorities pursued this case, according to Salon [2].

Swartz was charged under the Computer Fraud and Abuse Act, which to answer my own question, is unreasonably broad and represents a total lack of understanding of technology. It also offers the Justice Department a lot of wiggle room in cases like this.

At the end of the day, we'll probably never know the real reasons for the overly-aggressive pursuit of Swartz, and the charges were dropped after his death. But hopefully, this will raise some red flags about the ways the government attempts to govern technology and particularly the internet. Overly broad legislation is not the answer, as was made very clear by the public backlash to SOPA, so the onus is on the other branches—and activists—to prevent this from happening again.

Source URL (retrieved on *12/12/2013 - 5:28pm*):
http://www.ecnmag.com/articles/2013/01/did-justice-department-cause-aaron-swartz%E2%80%99s-suicide?qt-recent_content=0

Links:
[1] http://www.wired.com/threatlevel/2013/01/doj-briefing-on-aaron-swartz/
[2] http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CDgQqQIwAA&url=http%3A%2F%2Fwww.salon.com%2F2013%2F01%2F30%2Fissa_probes_attorney_general_over_aaron_swartz%2F&ei=zXcKUa7pLObBygHbjoCIDw&usg=AFQjCNGaxiyfzmyyWxrdLltGu2Oa69oq1g&sig2=1KrfOd89kYiyb3YIwlBNpQ&bvm=bv.41642243,d.aWc