VOLUME TWENTY TWO • NUMBER 2

WINTER 2018

THE LEGAL EAGLE

A LEGAL NEWSPAPER FOR KIDS

Fake News *Has Real Consequences*

by Cheryl Baisden

The blurred lines between fabricated news and real news is nothing new. An article in the *Columbia Journalism Review* recounted a number of fictitious news stories dating back to the 1800s. One 1874 article in the *New York Herald* claimed that animals from the Central Park Zoo had broken free and were roaming the streets of Manhattan. A tiny disclaimer, which stated the above story was false, appeared at the bottom of the story, but that didn't stop people from panicking. Some took to the streets with guns to hunt down the wild beasts, while others headed to the piers in an attempt to escape the rampaging animals.

Today, fake news seems to have reached new heights, especially since the 2016 presidential campaign. In fact, Politifact named "Fake News" as its 2016 Lie of the Year. In addition, the rapid spread of fake news from Russia and other sources has been cited as influencing the 2016 election, according to U.S.

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Internet Privacy For Sale

by Phyllis Raybin Emert

If you have a profile on a social media site like Facebook, your followers might know you graduated high school, work at a coffee shop, and live in Newark. They might even see you're in a relationship, watch American Horror Story, and recently traveled to Canada. You control what information you want the public and your followers to see.

Your Internet Service Provider (ISP), however, knows everything you've done online—that you purchased lifts for your shoes, looked at cosmetic surgery sites, watch reruns of Saved by the Bell, and get updates on 80s tribute bands. As a result of a recent resolution passed by Congress, AT&T, Comcast, Verizon and other ISPs can now use this personal information, without your consent, to sell to advertisers for their own profit. The legislation allows them to enter the online advertising marketplace, an $83

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Limiting Protest Silences Dissent

by Jodi L. Miller

Remember the Boston Tea Party? It wasn't really a party; it was a protest.

Our Founding Fathers believed strongly in a citizen's right to express dissent, enshrining the right as one of five outlined in the First Amendment of the 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 people to peaceably assemble, and to petition the Government for a redress of grievances."

The right to express dissent is tied to freedom of speech, as well as the right to peaceably assemble. It is the right to assemble that is the hallmark of activism, allowing for the marches of the civil rights movement, the women's rights movement, and protests against the Vietnam War, just to name a few.

The power of protest

So, why were the Founders compelled to include the "right of the people to peaceably assemble"

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Familial DNA Searching *Solving Crimes vs. Protecting Privacy*

by Phyllis Raybin Emert

What happens when law enforcement has DNA evidence from a crime scene but cannot match it to a suspect? In some states they are turning to the controversial process of familial DNA searching.

There have been successful well-publicized cases where the use of familial DNA searches has been fruitful. In California's "Grim Sleeper" case, for instance, detectives had DNA from the murderer who had terrorized the Los Angeles area in the 1980s and then again from 2002 to 2007. The 14-year gap between crime sprees led police to dub the killer "The Grim Sleeper." Unfortunately, detectives could not find a DNA match through traditional methods using the Combined DNA Index System (CODIS), where more than 8.7 million offender profiles are kept. In 2010, a familial DNA search successfully uncovered a partial match of a recently convicted offender, the son of Lonnie Franklin Jr., who turned out to be the man police were looking for.

Franklin was put under surveillance and, posing as waiters, police collected his discarded food and eating utensils. DNA tests revealed an exact match. Franklin was arrested in July 2010 and in August 2016 was convicted on 10 counts of murder and sentenced to death.

There have also been cases where familial DNA searching hasn't been so successful, creating false leads, or calling into question the innocence of people who happen to be relatives of a perpetrator. This is the basis of the controversy surrounding familial DNA searching and the debate on whether it should be a regularly used law enforcement tool. Many claim it is an intrusive and discriminatory invasion of privacy.

How does it work?

Familial DNA searching was first used in Great Britain in 2002 to solve a cold murder case from 1988. DNA from the attacker was partially matched to a 14-year-old boy who was not even alive at the time of the murder. With that partial DNA evidence, however, detectives were led to the boy's uncle, who would eventually plead guilty to the crime.

So, how does it work? Law enforcement can search CODIS to find exact or partial DNA matches. Partial matches are known as "familial," meaning they share significant characteristics of the suspect. When an exact match can't be found, a follow-up test of the Y-STR male chromosome (only male familial DNA matches are possible) can narrow the search and identify more specific potential leads.

In her book, *Inside the Cell—The Dark Side of Forensic DNA*, Erin Murphy, a professor at New York University School of Law, wrote, "The basic premise [of familial DNA searching] is that persons who are biologically related to one another are more likely than unrelated persons to have similar genetic profiles."

In an article for the *Michigan Law Review*, titled "Relative Doubt: Familial Searches of DNA," Professor Murphy explains, "Imagine a **homicide** in which scrapings from beneath the

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This publication was made possible through funding from the IOLTA Fund of the Bar of New Jersey.

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victim's fingernails turn up the profile of the likely perpetrator. Detectives first run the sample in the database to find the source, but no matches are forthcoming. Detectives then run the sample at lower **stringency**, and turn up twenty-five leads, which they narrow down to a list of five based on other factors (say, proximity to the crime scene). Detectives then investigate the relatives of the five leads, to determine if any link to the source."

New York debates pros and cons

At press time, 11 states currently allow for familial DNA searching. Maryland and the District of Columbia explicitly ban the technique.

In February 2017, the New York State Commission on Forensic Science held a public hearing on whether to allow its law enforcement to use the method. The Vetrano family of Howard Beach had been urging the state to adopt the practice since their daughter had been assaulted and strangled to death while running in a park near her home in August 2016. The killer's DNA was on her hands, throat and cellphone, but did not match any samples in the CODIS database. Testimony before the Commission illustrated the arguments on both sides of the debate.

Brad Maurer, a DNA specialist at the New York County Defender Services, said, "The criminal justice system has created a massive racial disparity in the way poor New Yorkers of color are policed and prosecuted. So logically their overrepresentation in the DNA database would be equally dramatic. Thus, the communities largely falling under investigation from familial searching would be those communities of color already disproportionately affected by the criminal justice system."

Arguing for the technique, Emanuel Katranakis, deputy chief of forensic investigations for the New York Police Department, said, "In 2004, the United States Justice Department published a report that concluded that almost half of all prison inmates surveyed report having a close relative who had also been in prison. Usually it was a sibling, primarily a brother. Data such as this supports the belief in and bolsters the **efficacy** of familial searching to produce valuable leads. There is no scientific or legal reason to believe that familial searching cannot provide the same finding of evidence that the criminal justice system has relied upon using conventional DNA comparisons for decades."

William J. Fitzpatrick, New York State Forensic Commission member and Onondaga County District Attorney, supports familial testing. He told *The New York Times*, "Invasion of privacy is basically what law enforcement does. We do it legally. We do it with warrants, court orders…You're telling me that if I have a scientific piece of evidence that shows me a perpetrator's son is in prison—what's a better lead?"

Professor Muphy also testified before the Commission, saying, "Familial searches take one entire class of citizens—the fathers, sons and brothers of convicted offenders—and turns them into suspects. We don't treat the fathers, sons and brothers of crime victims that way, we don't treat the fathers, sons and brothers of members of our military that way, we don't treat the fathers, sons and brothers of police officers or lab employees that way, and we don't treat the fathers, sons or brothers of missing persons that way, even though we have DNA databases for all those groups of people as well. And yet somehow proponents of familial searches believe that the state can single out the fathers, sons and brothers of convicted offenders for treatment as possible criminals. I disagree."

In June 2017, the New York State Commission on Forensic Science approved the use of familial DNA searching in New York for cases of rape, murder, and false convictions.

Fourth Amendment protections

The Fourth Amendment prohibits unreasonable searches and seizures, and requires probable cause for search warrants. George Thomas, a professor at Rutgers Law School—Newark, explains that running a DNA sample through a database does not violate the Fourth Amendment.

"There is no search or seizure of anyone or of anyone's property. The database belongs to the state," Professor Thomas says. "The technique by which a person's DNA is put in the database could violate the Fourth Amendment but we would have to know what those techniques were."

Professor Thomas points out that running a DNA sample through a database does not target any one person, it just looks for similar DNA. "The DNA samples added to the database could have been collected in a targeted way, but I do not know how we would know that," he says and asks, "Does familial testing smack a bit of George Orwell's Big Brother in the novel 1984? Yes. But does one have a right to commit crimes without having DNA left behind compared to a database? No. I don't think so." Professor Thomas concludes, "As long as the DNA database is assembled in a way that does not violate the Fourth Amendment or other legitimate privacy concerns, yes, I think [familial testing] is justified."

Professor Murphy disagrees and in her *Michigan Law Review* article, wrote, "Familial searches should be forbidden because they embody the very presumptions that our constitutional and evidentiary rules have long endeavored to counteract: guilt by association, racial discrimination, propensity, and even biological determinism."

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billion industry. The potential revenue for ISPs is in addition to the monthly fees you pay them for their service.

How did this happen?

Bernard W. Bell, a professor at Rutgers Law School—Newark, who teaches courses in constitutional and privacy law, explains that the Federal Communications Commission (FCC) has power over radio and television broadcasters, as well as telecommunications companies, including ISPs. The FCC does not have jurisdiction over so-called edge providers, such as Google, Amazon, Netflix or Facebook. Jurisdiction over these providers falls to the Federal Trade Commission (FTC), which has a more limited power over the privacy of customer records.

According to Professor Bell, for many years "a federal statute has imposed upon telecommunication companies [and ISPs] a legal obligation to keep a lot of information about their customers' use of their services private."

The FTC handled general privacy enforcement in the U.S. including the Internet and social media sites. But in 2015, the FCC, upheld by a federal appeals court decision, decided ISPs were like telephone networks and should be regulated as "common carriers," and subject to the same rules as other utility companies. The result of this ruling was that the FTC no longer had jurisdiction over ISPs and there were no specific laws governing the personal information collected by them.

In December 2016, under the Obama Administration, the FCC adopted a rule that would have required ISPs to get consumer permission to share or use a customer's personal data. Social media sites, like Facebook and Google, were not limited by the rule because the FTC governs them.

"The rule never went into effect," Professor Bell says. "A resolution passed by the House of Representatives and the Senate and then signed by President Donald Trump on March 28, 2017 invalidated the rule."

The vote to nullify the rule passed the House of Representatives by a vote of 215-205. The Senate then approved a similar measure.

Selling your privacy

In a *New York Times* op-ed piece, Tom Wheeler, former chair of the FCC during the Obama Administration, noted, "the information that goes over a network belongs to you as the consumer, not to the network hired to carry it."

Wheeler wrote, "For decades, in both Republican and Democratic administrations, federal rules have protected the privacy of the information in a telephone call. In 2016, the FCC extended those same protections to the Internet." According to Wheeler, now that the December 2016 rule has been **repealed**, ISPs "are selling something that doesn't belong to them."

He goes on to explain in the op-ed, "When you make a voice call on your smartphone, the information is protected: Your phone company can't sell the fact that you are calling car dealerships to others who want to sell you a car. But if the same device and the same network are used to contact car dealers through the Internet, that information—the same information, in fact—can be captured and sold by the network. To add insult to injury, you pay the network a monthly fee for the privilege of having your information sold to the highest bidder."

In a blog post, Jeff Chester, executive director of the Center for Digital Democracy, wrote, "Data is power. And that power should be in the hands of the people—not those that wish to financially and politically benefit by harvesting our information."

On the other hand

President Trump and House and Senate Republicans, who have a majority in Congress, believe that the FCC rule prevented telecom businesses from making profits and see the issue as one of fairness. Ajit Pai, the new head of the FCC, has said that the repeal of the 2016 rule overturned "privacy regulations designed to benefit one group of favored companies [social media sites] over another [ISPs]."

According to an article in *The Washington Post*, the industry's position is that the FCC's definition of privacy is too broad. "The industry favors the interpretation of another agency—the Federal Trade Commission—that does not consider browsing history or app usage data to be sensitive and protected."

Pai told *The Washington Post*, "Moving forward, I want the American people to know that the FCC will work with the FTC to ensure that consumer's online privacy is protected through a consistent framework. The best way to achieve that result would be to return jurisdiction over broadband providers' privacy practices to the FTC, with its decades of experience and expertise in this area."

No choices

An article in *New York Magazine* points out, "Even if you're comfortable with the amount CONTINUED ON PAGE 5

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of data that Google and Facebook are collecting on you and repackaging for sale—and you may not even be aware of it—the idea of ISPs doing the same thing is likely to be even more discomfiting: Google can only track you across sites that it owns or has contributed code to; your ISP can track your entire Internet-browsing history."

The Electronic Frontier Foundation (EFF), a nonprofit organization that defends civil liberties in the digital world, has some tips on protecting your privacy from your ISP, including picking one that respects customer privacy. EFF does acknowledge that ISP choice is not broad in the U.S., with some areas having no choice at all and others only a few options. In addition, EFF suggests checking account settings to see whether your ISP allows opting out of any cookie-like tracking.

Another way to protect your Internet privacy is using what is called a Virtual Private Network (VPN), which can shield your browsing information from your ISP. A VPN encrypts (scrambles and encodes your data) and then sends your Internet information through a private, safe network that you can access using various identification methods. In addition to being expensive, EFF also points out that you are simply transferring your trust from the ISP provider to the VPN provider.

With less oversight on the part of the FCC, several states—Connecticut, Illinois, Kansas, Maryland, Massachusetts, Minnesota, Montana, New York, Washington, and Wisconsin—have introduced and/or passed legislation to protect citizens from the sale of personal Internet information without their consent.

To soothe the fear and controversy surrounding the FCC regulation repeal, leaders of major ISPs like Comcast, Verizon, and AT&T released statements advising they would not change the privacy policies that allow customers to decline receiving specific ads or sharing their personal information for advertising campaigns. Only time will tell whether the ISPs will honor these statements.

Limiting Protests CONTINUED FROM PAGE 1

in the First Amendment when other forms of protest like speech and the press were already protected? Alan Hyde, a professor at Rutgers Law School—Newark, points out that the Constitution is supposed to protect everyone.

"The Founders knew the power of protest through eloquent words like the Declaration of Independence, but most people do not own a press, and will never write a political statement like Jefferson's," Professor Hyde says. "The Founders also knew very well about the kind of protest that comes when crowds dump tea into Boston Harbor as a protest against monopoly, or when the crowd yells at British soldiers on Boston Common to go home. The Constitution protects that kind of protest, too."

The U.S. Constitution provides protection only from the government, Professor Hyde says, but notes that working people have similar rights against their employers under the National Labor Relations Act of 1935.

"Employers may not retaliate against employees who try to form a union or who protest even without a union," he says and gives an example of employees who went home in protest on a cold winter day because their plant was unheated. "Their protest was protected and the employer could not discipline them," Professor Hyde says. "Just like the framers of the Bill of Rights, the 1935 Congress knew that working people's grievances—our plant is too cold—sometimes are expressed with protest, not with the drafting of an eloquent letter."

Limiting protest

Today, 19 states are attempting to limit the right to protest through legislation with increased fines to protesters, threats to seize protesters' assets if violence breaks out and calls for protesters to foot the bill for increased law enforcement.

"This is a very common thing in the history of the United States, to impose some costs on social movements or protest movements," Fabio Rojas, a sociologist at Indiana University told *Governing Magazine*. "Basically, the whole point of this is to suppress protests."

In addition, six states have proposed making it legal to run over protesters that block public streets. In Indiana, for instance, a bill would give officials 15 minutes "to dispatch all available law enforcement officers… with directions to use any means necessary to clear the roads of the persons unlawfully obstructing vehicular traffic." In response to protests against construction of the Dakota Access Pipeline, a proposed bill in North Dakota states: "A driver of a motor vehicle who unintentionally causes the injury or death to an individual obstructing vehicular traffic on a public road, street or highway is not guilty of an offense." The North Dakota bill was defeated 50 to 41. No action has been taken on Indiana's bill.

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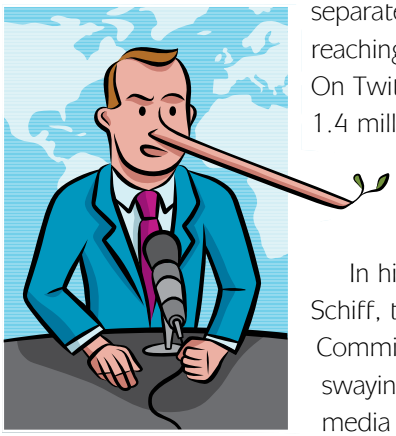
intelligence agencies. The agencies continue to investigate the matter along with a special counsel charged with unraveling what happened and whether candidate Donald Trump or his campaign team worked with the Russians to sway the election.

Among the false stories were claims that candidate Hillary Clinton sold weapons to ISIS and that the Pope was endorsing Trump. Probably the most bizarre fake news story to go viral during the campaign was "Pizzagate," which claimed Clinton ran a child sex ring from a Washington, D.C. pizza shop's basement. General Michael Flynn, then an advisor to the Trump campaign and later briefly his national security advisor, posted a tweet promoting the false report. As a result of the fake news story, a man armed with an assault weapon opened fire on the shop. Fortunately, no one was injured but it was a wake-up call as to how dangerous these fake news stories can be.



Challenge to decipher

Digital technology makes it easier and faster to spread information (and misinformation), explains Frank Corrado, a constitutional law attorney practicing in Wildwood. Along with that technological boost comes the ability to more easily replicate the look and tone of legitimate news, making it harder to distinguish the fake stories from legitimate ones.

"If you define fake news as news that's totally fabricated, that's only a small part of a much bigger problem, which is this tsunami of information and misinformation, half-truths, advertising masquerading as news and opinion appearing as if it's fact-based," Howard Schneider, dean of the Stony Brook School of Journalism, told *The New York Times.* "That's the problem, the information stew we're dealing with."

Distinguishing between real and fake reporting can be challenging. This past summer a Stanford University study of middle and high school students found that 82 percent of the students could not tell sponsored content from a real news story. A survey from Common Sense Media found nearly a third of the respondents (ages 10-18) said they had shared inaccurate news before realizing it, and a post-election analysis by BuzzFeed noted that fake news spread faster than real news as a result of readers automatically sharing sensational headlines. According to eMarketer, a market research company, Facebook and Google control more than 53 percent of the digital market and 80 percent of Internet advertising growth in the U.S.

"The principal vice of fake news is that it de-legitimizes legitimate media, precisely because it can be so difficult to distinguish," says Corrado. "It takes time, effort and an open mind to stay well-informed, and that's much harder than it used to be."

Campaigning on fake news

In a congressional hearing held in October 2017 before the House Intelligence Committee, it was revealed that during the presidential campaign and beyond (from June 2015 to May 2017), an estimated 3,400 ads were purchased by Russian operatives and posted on Facebook using 470 separate accounts. These ads spread like wildfire, reaching an estimated 126 million Facebook users. On Twitter, 36,000 Russian bot accounts posted 1.4 million tweets that had 288 million views. On YouTube, 1,100 videos were posted by Russian-backed accounts. These videos got more than 300,000 views.

In his opening statement, Congressman Adam Schiff, the ranking member of the House's Intelligence Committee, said that in addition to potentially swaying the election in favor of Trump, the "social media campaign was also designed to further a broader Kremlin objective: sowing discord in the U.S. by inflaming passions on a range of divisive issues. The Russians did so by weaving together fake accounts, pages and communities to push politicized content and videos and to mobilize real Americans to sign online petitions and join rallies and protests."

Since the election, Facebook and Google have been pursuing various efforts to monitor and remove fake news that is posted through their platforms, but the challenge is a difficult one since neither is equipped to prevent fake news postings.

"The problem is that today's Internet distribution systems distort the flow of economic value derived from good reporting," News Media Alliance's chief executive David Chavern wrote in an opinion piece for *The Wall Street Journal*. "But the two digital giants [Facebook and Google] don't employ reporters: They don't dig through public records to uncover corruption, send correspondents into war zones, or attend last night's game to get the highlights. They expect an economically squeezed news industry to do that costly work for them."

Crucial to democracy

Being able to tell the difference between real and fabricated news is essential to maintaining a healthy democracy. In fact, Corrado notes, throughout history discrediting the legitimate media and endorsing a thriving

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Fake News CONTINUED FROM PAGE 6

propaganda network has been the first step in destabilizing a government.

President Trump himself has regularly blurred the lines between real and fake news, most recently in late November and early December, when he increased his tweets calling the Russian investigation "fake news" as soon as his former national security advisor, General Flynn, pled guilty to lying to the FBI about his connections with the Russians. The president also personally re-tweeted anti-Muslim propaganda videos from a far-right British group implying the videos were accurate. They weren't.

In an article about its naming fake news as its "Lie of the Year," Politifact stated: "Fake news found a willing enabler in Trump, who at times uttered outrageous falsehoods and legitimized made-up reports."

Who decides what's fake?

Immediately after losing the election, Clinton called for action on **bipartisan** legislation known as the Countering Foreign Disinformation and Propaganda Act, which would help combat foreign government propaganda from Russia, China and other nations. President Barack Obama signed the measure into law in December 2016 and it will be funded under the 2018 National Defense Authorization Act (NDAA), passed by Congress in November 2017, which President Trump recently signed into law.

Other countries are dealing with the issue of propaganda and fake news as well. Germany and Italy are considering criminalizing the dissemination of fake news or imposing fines.

In an editorial, *The Washington Post* stated: "The legal tools proposed by European politicians to suppress fake news sound alarmingly like those used by authoritarian governments to silence dissent. This is dangerous. Not only are such measures incompatible with the principle of free speech, but also they set precedents that could quickly strengthen the hand of the populist forces that mainstream European politicians feel so threatened by."

OpenMedia is a Canadian-based advocacy organization that encourages open communication systems. An article on its website stated: "The idea that governments everywhere are exploring legislation that, presumably, would put them in charge of determining what is 'accurate' should sound alarm bells. The inherent dangers that come with giving legislators the power to decide what constitutes 'truth' undermines both free expression and freedom of the press."

The First Amendment strictly limits the government's ability to restrict the flow of information about issues of public interest, notes Corrado.

"The amendment rests on the assumption that each of us is wise enough, mature enough, and informed enough to make good decisions about what is true and valuable and what is not," Corrado says. "So long as that assumption is in place (and I believe, despite how easily it can be abused, that it should remain in place), the Constitution will forbid efforts to 'control' the media. And in my opinion, 'control' of the media is far more dangerous than the possibility (or even the likelihood) that people will abuse the freedom of speech."

Limiting Protests CONTINUED FROM PAGE 5

Professor Hyde doesn't think legislation regarding blocking traffic is necessary. "States and cities are always permitted to maintain reasonable rules regulating the time, place, and manner of protests," he says. "However, rules like this must be applied equally to all. There cannot be one set of rules for Black Lives Matter and another set of rules for a Republican rally."

According to Professor Hyde, if a city has a permit system in place, and it is administered fairly, regulating only the time and place of protests and never their content, then protesters have to comply with it and could be fined if they don't.

"But if the city first dreams up the permit system for a protest it doesn't like, or puts the protests it likes in a park in the center of town and forces the protests it doesn't like to the edge of town," he says, "then the permit law is unconstitutional and people do not have to follow it.

Standing for dissent by taking a knee

Another form of peaceful protest has been getting a lot of attention lately, creating a firestorm of debate over the right to protest.

It started during the 2016-2017 football season when Colin Kapernick, the former quarterback of the San Francisco 49ers, decided to remain seated during the playing of the National Anthem. Kapernick was protesting social injustice, specifically police brutality against African Americans. Kapernick's teammate, Eric Reid, later joined him in the protest and it was then that they began kneeling during the anthem.

"We chose to kneel because it's a respectful gesture," Reid wrote in *The New York Times*. "I remember thinking our posture was like the flag flown at half-mast to mark a tragedy."

Kapernick's movement took on a life of its own with

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Limiting Protests CONTINUED FROM PAGE 7

more and more football players, as well as other sports figures, joining in. Things came to a head in September 2017 when President Donald Trump expressed his displeasure at the kneeling, seeing it as disrespectful to the flag, the country and our military, even though no disrespect was intended and the reason for the protest was made clear from the beginning. The President called on National Football League (NFL) owners to fire any player that didn't stand during the Star Spangled Banner. The Sunday after President Trump's controversial comments, more than 250 NFL players and some owners presented a united front in support of free speech, and either knelt or locked arms while the anthem was played.

Some agree with the President, others view protesting injustice as the most patriotic thing Americans can do.

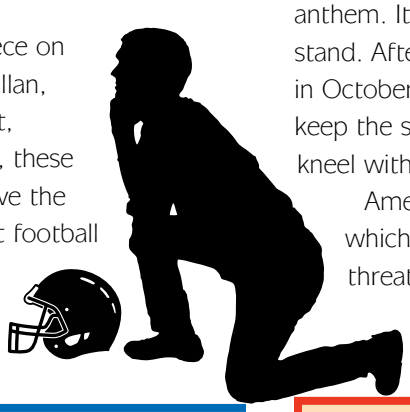
David French, a conservative columnist for the *National Review*, wrote, "This is the president of the United States demanding that a private company fire its employees because of 'free speech he doesn't like.' That's a dangerous threat to the First Amendment, and it's why a tiny protest turned into a league-wide show of solidarity."

Supporting Kapernick's cause, Bruce Maxwell, the catcher for the Oakland A's, became the first major league baseball player to take a knee. Maxwell, an African American whose father served in the Army, said in a statement: "I love this country. I've had plenty of family members, including my father, that have bled for this country. My hand over my heart symbolized the fact that I am and forever will be an American citizen and I'm more than grateful for being here. My kneeling is what's getting the attention because I'm kneeling for those who don't have a voice. This goes beyond the black community. It goes beyond the Hispanic community because right now we're having an indifference and racial divide in all types of people. It's being practiced from the highest power we have right now in this country and it's basically saying that it's OK to treat people differently."

Is it legal?

Some legal scholars have suggested that football players do not have the right to protest because they are "at work."

In a opinion piece on CNN.com, Paul Callan, CNN's legal analyst, wrote: "The fact is, these athletes do not have the 'right' to protest at football games unless their employers consent to the conduct. Their private employers have a legal right under the U.S. Constitution to fire or suspend players who engage in acts of protest on the field during the playing of the National Anthem and the display of Old Glory." Callan went on to say, "The First Amendment restricts only government from abridging 'the freedom of speech.' Private employers can do as they please. Thus, kneeling during the National Anthem can never be legally prohibited by the government, but can always be prohibited by private employers."



Professor Hyde disagrees and points to the example of the workers protesting their working conditions.

"Work is a very good place for protest, as the labor laws recognize. When football players join other players, seeking to establish their right to take a knee, that protest itself is protected by labor laws, and they may not be disciplined for it."

The NFL Players Rule Book does not compel any player to stand for the anthem. It only states that they "should" stand. After a meeting with owners in October 2017, the NFL elected to keep the status quo, allowing players to kneel without penalty.

America was founded in protest, which is why when that right is threatened all citizens should be alert.

Familial DNA CONTINUED FROM PAGE 3

She argued that even if the technique is effective, it "contradicts the very principles of equality and liberty that law enforcement serves to uphold and defend" and suggested that familial DNA searches should be a last resort in the most serious of criminal investigations with "a narrowly composed, scrupulously maintained database, with protections in place to prevent undue exploitation…striking the balance between the benefits of DNA databasing and its potential for harm."

The Courts have not yet ruled on the constitutionality of familial DNA searching. So, the question of how to balance the safety of society with the privacy of individuals, while apprehending dangerous criminals still remains.

GLOSSARY

bipartisan—supported by two political parties.

efficacy— the ability to provide a desired or intended result.

homicide—a murder.

repeal(ed)—revoked. A law that is repealed has been withdrawn or cancelled and is no longer a law.

stringency—imposing severe or exacting standards of performance.