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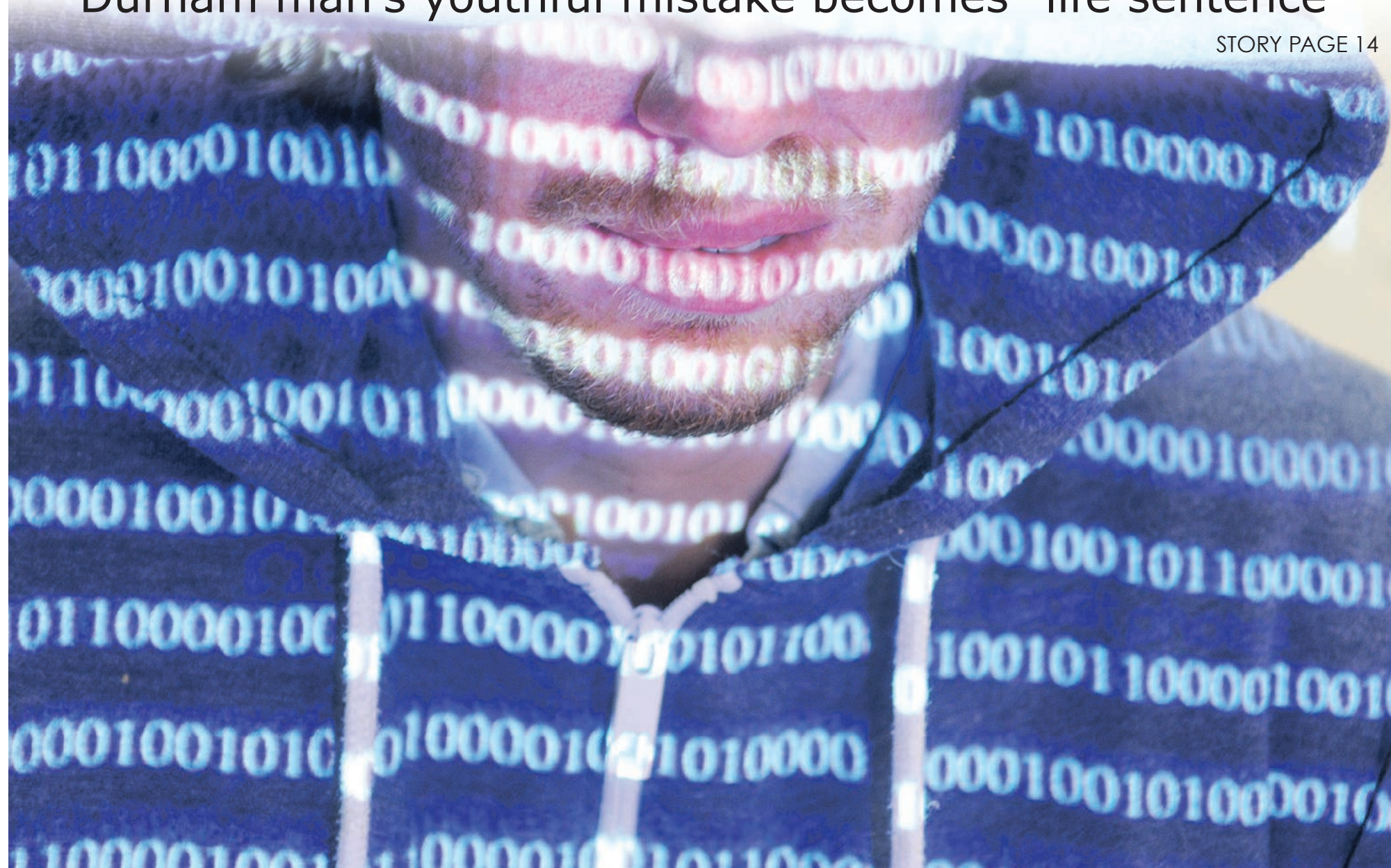
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The Internet never forgets

Durham man's youthful mistake becomes "life sentence"

STORY PAGE 14



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THE INTERNET NEVER FORGETS

Media outlets deluged with requests to unpublish

Jeff Mitchell
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DURHAM -- It all stemmed from a night out with the boys.

It was a spring night in 2009 and John, 18 at the time and nearing graduation from high school, was on his way home from a party with three pals. He'd been drinking, as had a few of the others. They stopped to smoke a joint in the darkness of rural Durham Region.

Someone had the bright idea to break into a nearby shop, a caper based more in mischief than a desire for criminal gain.

"We smashed some windows," said John, whose real name is being withheld.

An alarm sounded. The boys piled into the car and took off into the night.

"We hid out," said John. "We were all ecstat-

ic -- we thought we were in the clear. But the police were waiting for us when we got home."

John and his pals were arrested and hauled, handcuffed, into a Durham police station.

The next several hours were jarring for John, a good kid from a good home who had never been in trouble with the law.

"It was pretty traumatizing," he said. "I asked the cop, 'Do I really need to be put in handcuffs?'"

John and his friends may have thought at the time their offence was fairly innocuous. The police took a different view. They charged the boys with a number of serious criminal offences, including break and enter, possession of burglary tools and possession of property obtained by crime.

Released from custody many hours later, John was bound by several conditions, including a curfew and an order that he not communicate with his co-accused. The summer after his final year of high school saw him at home every night by 9 p.m. while others reveled in the freedom of youth. He went to court to get a curfew exemption so that he could attend his prom, but he still had to be home by 11 p.m.

More onerous was the realization that his act -- he attributes it to nothing more than stupidity -- might resonate into his future. A high achiever, John had plans -- university, teachers' college, a career. He began to wonder just how much of an effect his mistake would have on those aspirations.

"I remember I walked out of the

police station and I just bawled my eyes out," he said. "I thought at that point everything I had hoped and dreamed for was shot."

John resolved his charges quickly, pleading guilty a few months later to a single count of break and enter. He was granted a conditional discharge. Although it's not considered a conviction, the conditional discharge remained on his criminal record for several years before it was expunged.

"I was 23 before this all came off my record," said John.

Although the offence was erased from police databases, there was another, far more pervasive and accessible record of his indiscretion: the Internet. Shortly after the arrest in 2009, Durham police issued a press release about the incident, naming John and his two 18-year-old friends, and listing the charges against them (the fourth youth, a few weeks shy of his 18th birthday, had his identity withheld under provisions of the Youth Criminal Justice Act).

According to John, the story was picked up by media outlets beyond Durham Region -- it even appeared in the Toronto Star. To his chagrin, the stories -- the lengthiest was all of five paragraphs -- became the top result when he entered his name in a basic Google search. That remains the case to this day.

"Throw my name in there -- the first thing that comes up is this article about me," said John.

Now 24, John has moved far beyond his youthful indiscretion. He has obtained a degree in history and is preparing to become a teacher. He is involved with several volunteer organizations and is a reservist with the Canadian military. Yet his legacy, on the Internet at least, is the break-in.

He has appealed to media organizations to redact the story. He provided proof of his conditional discharge. Some sites complied with the request; others amended the story to reflect

the outcome of the court process. Our website, durhamregion.com, removed the names of the accused from the story after confirming the conditional discharge had been granted.

But the top Google result of a search using John's unique name continues to be a Star story from May 2009, based on the police media release.

John feels he shouldn't have to live forever in the shadow of the incident.

"We did something stupid, but do we deserve this?" he said. "It's a life sentence."

Your online profile matters. Prospective employers, landlords, and even romantic interests are increasingly turning to Internet search engines such as Google as they conduct their due diligence, said Matt Earle, founder and president of Reputation.ca, a Toronto-based reputation and crisis management firm.

"Between 70 and 80 per cent of people Google someone they're going to have a significant relationship with," said Mr. Earle. "And 76 per cent of people believe what they find online. So we have a huge percentage of people Googling, and a huge percentage of people believing what they find. It has an enormous effect."

The unfortunate aspect of all this is that often, negative content is what dominates the top results when an online search is conducted, he said.

"The Internet doesn't do a very good job of presenting a balanced image of a person," Mr. Earle said.

"They made one mistake; that small mistake should get a small piece of the pie. But what the Internet does is make it the whole pie. If it's No. 1 on Google, it can change your life."

Among the services provided by Reputation.ca is management of clients' online profiles. Those profiles can be amended by promoting positive material ahead of negative content -- effectively pushing the negative material farther down in search results.

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"You're talking about finite real estate in the top 10 positions. If something negative is off the first page of Google, it's going to have a dramatically reduced influence on a person's life," Mr. Earle said.

"Sometimes it's relatively straightforward," he said. "Sometimes it's difficult. But it's usually worth doing."

Mr. Earle is of the opinion that media outlets ought to be more sympathetic to requests from people whose relatively minor transgressions are distorted so that they come to define them. But he's not optimistic the media's approach to the issue will change any time soon.

"I find that generally they're not very receptive," he said.

The advent of the digital age has profoundly changed the media, print newspapers in particular. Once an ephemeral source -- the paper arrived in the house, was read, and discarded -- newspaper stories are now archived on websites, part of an indelible online record. That means everything reported about a person -- both good and bad -- lingers forever, and is immediately accessible to anyone with a computer.

That reality is not lost on those involved in the industry. Editors are regularly in receipt of requests to redact unflattering stories. Often the requests are made by people like John, whose brushes with the law have been resolved but continue to pop up during even cursory online searches.

"This has become a problem across the industry," said Kathy English, public editor at the Toronto Star. "It's fair to say there's rarely a week that goes by that we don't get a request to unpublish."

Ms. English -- her duties include acting as a liaison between Star readers and the paper -- saw the need to form a coherent policy to deal with the growing numbers of "unpublish" requests. She polled newspaper editors across North America and found a prevailing resistance to redacting accurate stories that reflected actual events; even if a criminal charge had been withdrawn, the reasoning went, that didn't change the fact the charge had been laid in the first place.

Removing stories is regarded as eradicating or editing history, Ms. English found.

"One editor said, we don't go into the library and clip stories out of the newspaper," she said.

But Ms. English also went beyond the industry

-- through her column in the Toronto Star, she asked readers to submit their opinions on the issue.

"It was surprising to me," she said. "Most readers seem to agree stuff should not be taken down."

The research, combined with consultation with the Star's newsroom, resulted in a policy for dealing with redaction requests.

"The Toronto Star does not unpublish except in very rare circumstances," Ms. English said.

In a column on the issue she explained the rationale this way: "The Star's policy regarding any of its content is rooted in the view that to erase the digital record of what has been published would diminish transparency and credibility with our readers."

The policy does not mean requests are summarily dismissed. Each is reviewed and if it is found an update on a report is merited -- say, in the event a charge is dropped, or an acquittal entered -- one is added to the existing story.

the Star and Metroland Media Group's Durham Region Division.

"I've seen some lawsuits, but none of them have gone the distance" and resulted in a trial, he said.

That's because there's no law compelling news agencies to remove damaging, but accurate reports. For instance, Mr. Gilliland noted, there is no law in North America similar to Europe's Right To Be Forgotten legislation, which requires data processors such as Google to comply with requests for redaction of some stories.

Of course, there are instances in which papers consider altering or redacting online reports, but that's likely to occur only when there's been a breach of a court-ordered publication ban, or when it's proven information is inaccurate or defamatory, he said.

And media outlets are crafting their own responses to instances in which new information about a story, such as a withdrawn charge or an acquittal, arises, said Mr. Gilliland.

"If somebody raises a legitimate complaint, what does a newspaper do in those circumstances? Generally they don't remove the story, but a responsible thing to do is follow up," he said.

"Unfortunately, a lot of the time the fact of a charge being dismissed isn't as quote-unquote newsworthy as the original arrest."

Years after the resolution of his charges, John continues to deal with the aftermath. He said he was recently confronted a prospective employer with the results of a Google search that turned up the story about his arrest. He fears it won't be the last time.

"To even have to explain it is embarrassing," he said.

John said he understands the principles espoused by editors and reporters who object to redacting stories, which are part of the public record. But he feels the reach and permanence of the Internet has changed the landscape.

"This is now forever on the Internet," John said. "I think those policies are outdated."

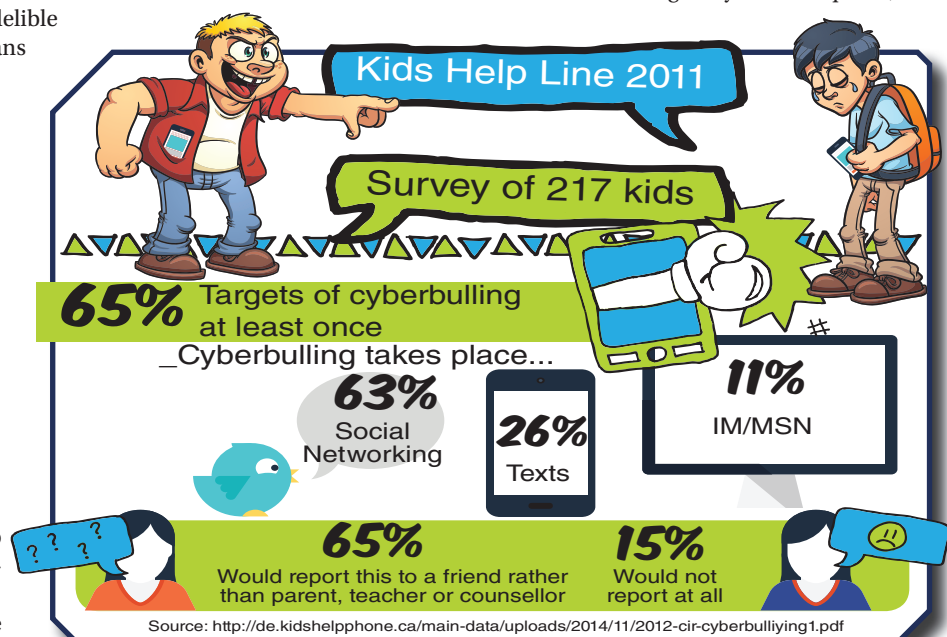
He is frustrated that he's haunted by an indiscretion from his past.

"Obviously there's no excuse for it, but we've served our sentence," he said. "I don't think that at 18 you really have a defined character yet. I did something stupid -- I broke some windows."

"But that's not a defining moment in my life."

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THIS is part 1 of a 4-part series. Next week, 'Sexting in Durham'



In very rare instances, such as when a person's safety is jeopardized, redaction is an option, Ms. English said.

"We needed a policy because you can't be deciding this based on who makes the most compelling argument," she said. "The important thing is that the policy be consistent. If we unpublish every story about someone who made a mistake when they were young, we wouldn't have anything left."

Sometimes, demands for redaction are bolstered by threats of legal action. But mere threats of lawsuits aren't likely to compel papers to comply.

Is there any legal recourse for someone who wants an accurate but deleterious story about them removed?

"The very short answer is no," said Ryder Gilliland, a media lawyer whose clients include

METROLAND MEDIA GROUP LTD. DURHAM REGION DIVISION POLICY

The creation of policy for addressing requests to redact or amend online articles has been an ongoing and evolving process, according to Joanne Burghardt, editor-in-chief of Metroland Media Group Ltd.'s Durham Region Division.

Like many other media outlets, Metroland's Durham division receives regular and frequent requests, primarily from people whose criminal charges have been reported on in our papers and on our website, www.durhamregion.com.

"Faced with the growing number of unpublish requests, we researched best practices that would help us write guidelines to ensure these requests are handled fairly and consistently," said Ms. Burghardt.

"We are guided by the belief that it is inappropriate to remove published content from our website: to do so is to alter the historic record of our community. If an article is inaccurate we will correct it and tell readers it has been updated. If relevant new information emerges, we will update the article or do a follow-up story. Under very narrow circumstances we will edit a story to remove the person's name and explain why in an editor's note on the article."

The Metroland Durham newsroom has created an ethics committee to review each unpublish request. That committee meets bi-monthly, and also on an ad hoc basis -- with a minimum quorum of three members -- to expedite some issues.

The model has functioned well, particularly because it incorporates a number of viewpoints, said Ms. Burghardt.

"Each person has their own biases based on personal experience. One member might have a child who had a brush with the law as a careless youth: that gives him the wisdom of life experience. Another might have experience covering the courts day in and day out and is invaluable in explaining court procedure," she said.

"The committee approach ensures we deliver balanced consideration for every request."



DIGITAL DANGERS
Series Part 2

SEXTING IN DURHAM

When cheeky texts turn into child porn charges

Under Canada's criminal code, teens under 18 sharing explicit texts could be violating pornography laws

Chris Hall
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DURHAM -- A summer-time fling has suddenly gone chilly like the autumn air.

A few months of fun throughout the warm summer months has now come to an end, leaving the young lovers with just memories and some photos. It's not an amicable breakup -- feelings are hurt and a heart is broken.

Those photos, titillating at the time they were taken, are now ammunition for a jilted lover.

With a single tap on a touch screen the photos, now used for a vengeful purpose, are scattered through cyberspace, underscored by the whoosh sound effect as the sent button is pushed. A private moment between two people -- an act of love, a show of sexual devotion -- is now in the hands of many.

Like the genie, the photos can't be shoved back into the bottle.

Sexting is a double-edged sword: the photos and words shared between two people via today's technology can add an extra element to a relationship; on the flip side, it can cause immeasurable hurt and embarrassment.

A relatively new term, sexting is essentially

defined as the sending of sexually related text or images from one mobile phone to another, although it can apply to any digital media, such as e-mail, instant-messaging and social networks. In most instances, sexting refers to the sending of nude or semi-nude photos that a sender has taken of themselves and is considered a popular pastime between teenagers and young adults.

Cellphone use is ubiquitous these days. They're everywhere, used by everyone for nearly everything important in one's life in this day and age: Phone. Camera. Internet.

A potentially bad mix that, with one poor decision, can seemingly haunt you forever.

Under Canada's Criminal Code, sexting is perfectly legal. In the eyes of the law, there is no problem with two consenting adults sharing explicit photos and words with each other.

But when it's children -- defined by the laws of the land as 17 and under -- sending and receiving those texts, or featured in the photos -- then another, darker word creeps into the picture: child pornography.

"The law hasn't quite caught up to smart-phones. When the child pornography laws were made ... no one ever considered young people sharing images," said Detective-Constable Jeff Lockwood, who works with the Durham police force's Internet Child Exploitation Unit. "And it's so common now for kids to share pretty much everything."

In Canada, 16 and 17 year olds are permitted to drive and can have consensual sex. They can't, however, possess photos that depict their

peers -- or younger -- naked or posed in a sexual manner. And, while it may seem harmless to them, teens sending photos of naked teens can also be considered to be distributing child pornography. Even a naked selfie can be considered production of child pornography.

Child pornography is generally considered to be any photograph or video that shows a person under 18 engaged in explicit sexual acts or where the focus of the photograph is on a sexual organ.

"They can consent to the photos, but they're still child porn. They're allowed to consent to it, but it's still against the law," said Det.-Const. Lockwood. "What you're possessing is illegal and (in the eyes of the law), it's child porn."

And that's the word that sometimes catches people by surprise when they dig a little deeper into sexting, he added.

"The words child pornography or kiddie porn have an effect on people and then they realize they've made a very big mistake," said the cop.

But that doesn't mean authorities are always heavy-handed when they're asked to intervene, stressed Det.-Const. Lockwood.

Police are most commonly called in after a breakup, he explained. Boy-friend and girl-friend are in love and send images to each other. Then, things go sour and the images, somehow, are shared with a hockey

team and then spread around a high school.

When things get out of hand and a formal complaint is made, it's usually school liaison officers who step in and work with the accused, victim, parents and school officials, said Det.-Const. Lockwood. Typically, teens are cautioned about their actions and educated about the consequences before they're signed to a youth diversion contract that aims to keep their criminal record clean.

"We want to give them a chance at a clean slate, but if they refuse or skip a step or don't buy in, then we go back to the Criminal Code," he said. "Just because the Criminal Code does apply, it's not always the best course for kids. We don't want to make a 16 year old a registered sex offender, so typically we try and deal with it in a better way."

There are very few cases where teens -- even those deemed to be the primary circulator, sending the first photo -- have been charged, said Dr. Andrea

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OPP LAUNCH APP TO COMBAT SEXTING

DURHAM -- The Ontario Provincial Police unveiled a new app in 2014 to provide social media users an alternative to sexting, which the police force has dubbed, 'Send This Instead.'

The free app was created by members of the OPP's child sexual exploitation unit and gives users "an edgy and funny alternative to sexting" and a "novel and witty way to say, no."

The provincial police force describes sexting as "an epidemic" now, as opposed to a "trend," and says a new strategy was needed after authorities realized that anti-sexting campaigns that focused on warning kids about the dangers of sending explicit photos of themselves was not working.

The app contains digital posters of humorous and sarcastic retorts that users can send instead of nude photos. It also includes entertaining graphics and funny and pointed messages that include, 'Sorry, just in the middle of something ... Can I reject you later?' and 'Save the bandwidth ... Download a life' among many others.

The Send This Instead app also offers teen education called "Life Bytes" on how to deal with issues surrounding sexting. The app provides links to organizations such as Need-HelpNow.ca, a website and program maintained by the Canadian Centre for Child Protection which helps kids get nude sexting photos off of the Internet. It also links to abuse pages for social media and IM platforms as well as to country-specific agencies to report people asking for nude images.

And, the Send This Instead website offers free media and presentation pieces for anyone reaching out to teens in a live setting, such as classrooms and community groups.

- www.youtube.com/user/sendthisinstead
- www.sendthisinstead.tumblr.com
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"They should be educated younger, probably," he said. "By the time they get to high school, they're pretty familiar with sexting." The consequences of ignorance, added Det.-Const. Lockwood, can potentially be deadly.

"It can be very embarrassing for them. They don't think that far ahead, they just think in the moment," he said. "It can absolutely ruin their life. To teens, it can be life-ending."

• This is part two of a four-part series. Next week: *More on Sexting*

"Judgment issues occur, mistakes occur and if something is done out of character or there is a lack of knowledge, then we'll make sure the knowledge is there for in the future."

Considering the amount of time teens spend on the Internet, Dr. Jonathan Obar believes school boards should put more of an emphasis on web safety. Sexting, says Dr. Obar, an assistant professor of communication and digital media studies at UOIT, is an example of users who have poor digital policy literacy skills.

"Young people who send nude photos of themselves are not understanding the laws that apply ... and that they can get into trouble that way," said Dr. Obar. "It demonstrates the need for better, stronger digital leadership."

He said both parents and schools need to be more engaged because technology changes so quickly and that educators need to be "more on the ball."

"Too often their digital literacy efforts focus mainly on how to use technology, like spending one hour on how to make PowerPoint presentation," said Dr. Obar. "My belief is that we spend so much of our lives online and there are so many potential implications being online, it's vital we have stronger digital literacy."

Dr. Slane applauds the school boards for having "really good" materials available about digital skills, but also agrees there should be a finer focus.

"It's not like it's hard written into the curriculum, there's lots of flexibility and the teachers don't have the time or can't handle it themselves or they don't necessarily want to take it on," she said. "With the completely saturated media environment students live in, we can't ignore it. It's a big part of their lives."

Det.-Const. Lockwood also believes students should start learning about sexting earlier in life, citing an 11-year-old girl as the youngest person he's seen involved in a sexting investigation.

visit both elementary and secondary schools and touch on cyber-bullying and bullying and, with older grades, sexting and luring, continued Mr. Hogan.

It's then left to individual teachers to follow up, he added.

The Durham Catholic District Board covers cyber-bullying from kindergarten to Grade 12 and touches on sexting in one way or another from Grades 7 to 12.

"If it comes up before (Grade 7) it's addressed, but we don't bring it in prior to (Grade 7)," said Janine Bowyer, the DCDSB's superintendent of student services and safe schools. "If there's a particular situation in a particular school, we'll talk to the whole class."

The board's big focus, she stressed, is to promote good digital citizenship throughout the student's educational career.

"There's a notion this generation of children need to know that any time they turn on a computer, it could have an impact. Every time they use a computer, they need to know about digital citizenship."

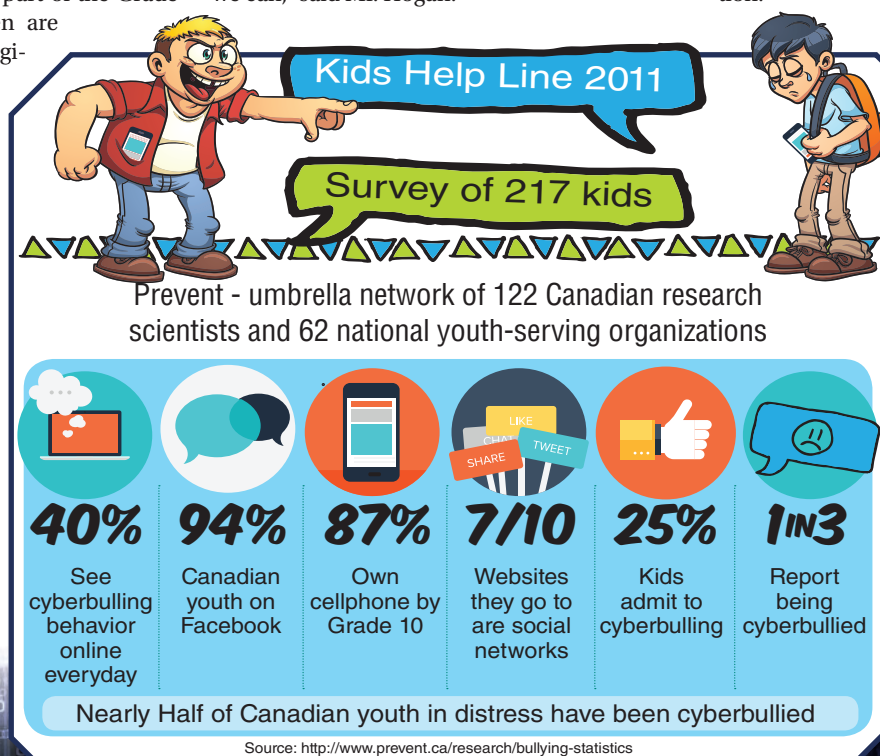
Ms. Bowyer said the DCDSB has dealt with sexting problems in the past.

"We hear about it in the community and every school board is a microcosm of the community," she said. "We're no better or no worse. It's something we're always conscious of and educate students about, but it's not a problem we focus on."

At both school boards, if there's a legitimate problem, the cops are called in.

When a problem comes to the attention of teachers or administration, explained Mr. Hogan, an internal review is carried out by school officials. If warranted, Durham police will be called in to take a closer look.

"Our role as a school board, our job, is to educate the students and if there are mistakes then we'll teach, educate and support them the best we can," said Mr. Hogan.



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Slane, an associate professor of the legal studies program at the University of Ontario Institute of Technology and also an assistant dean with the school's faculty of social science and humanities. It's even more unlikely that those who continue to pass around the photos will face consequences, she added.

"While circulating and possessing photos technically qualifies as child pornography, the police have been very reserved and try and find different scenarios to deal with it," said Dr. Slane. The cops "are very careful about overcharging."

There's only one case in particular in Canada that stands out where a teen was charged in relation to sexting. In Saanich, B.C., a 17-year-old girl was found guilty of possessing and distributing child pornography after she was caught sexting nude photos of her boyfriend's underage ex-girlfriend to friends.

In the big picture, sexting images exchanged by teens qualifies as child pornography if there is nudity in the image, noted Dr. Slane.

There is, though, one loophole, she added.

In a narrow exception set out in the Supreme Court of Canada, the exchange of sexual images between underage intimate partners is allowed, provided the sexual relationship is legal (complying with consent restrictions) and the images are kept exclusively by those two people, said Dr. Slane.

It's unlikely, however, that teens are even aware that what they're doing is illegal, she added.

"People used to talk about what other people did, they'd talk about them at high school. Now, everyone has a phone with a camera and they know how to pass around pictures," said Dr. Slane. "I don't know if it's well-thought through by the kids who pass it around and cause a stir."

At the Durham District School Board, sexting is part of the curriculum included in a cyber-bullying kit that's available to all students in Grades 6 to 12 and it's a key part of the Grade 6 lesson plan when children are introduced to being a good digital citizen, said Dan Hogan, the board's substance abuse and violence coordinator.

"We don't talk directly about that issue, but more about how to make good and healthy choices in life. It's a choice issue, a decision-making issue," he said.

As well, in 2011 the DDSB partnered up with Durham police for a positive social networking project that provided education about sexting and cyber-bullying. Police will also provide training for staff at schools when requested, added Mr. Hogan.

School liaison officers



SEXTING IN DURHAM

Navigating the murky world of online sharing

'A lot more people are doing it than they let on...'

Chris Hall
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Earlier this year, a young high school girl in Durham thought she found a new friend online. As their friendship grew they chatted more and more online and he convinced her to send him some explicit images of herself. Then came the twist: he threatened to expose her if she didn't send more photos.

The man turned out to be a 25-year-old guy from Europe. The girl ended up shutting down all her social media accounts in an attempt to get away from him, said Det.-Const. Lockwood.

"It's much more difficult when they're out of the country," he said. "The Internet is world-wide, it's not just Durham Region, so we can't just go down the street and knock on their door."

Det.-Const. Lockwood says there's a "pretty

even split" between those types of "sextortions" and the type of sexting where photos are shared by friends and lovers.

When relationships end, sometimes that's when trouble begins, continues Det.-Const. Lockwood.

It's not unheard of for an ex-lover to share once-private photos online or, even worse, posting pictures on what is known as "revenge" websites, he said.

"That's still a strong form of harassment, no one wants their most intimate photos on the Internet. That can ruin someone's life," said Det.-Const. Lockwood.

In an effort to discourage the sharing of photos, the Canadian government ushered in a new law in March 2015 aimed at adults that prohibits the non-consensual distribution of intimate images.

"As soon as someone turned 18, they could be as nasty as they want, circulating images with no consequences at all," said Dr. Slane of the lawlessness before the new legislation was introduced.

Sharing images without permission "is some-

thing that needs to be considered universally not a good thing, it's not just kids," she said.

Chances are, you know someone who has sent or received a sex-themed text.

"A lot more people are doing it than they let on. It seems like it's not necessarily something in the long-term that is considered deviant in some way," said Dr. Slane. "It seems like our boundaries are shifting and there's so much more information that is more accessible than ever before."

It's hard to pin down exactly how many people are sending sexts. Surveys show that older teens and young adults send the most sexts, said Dr. Slane, explaining the most common theory is that use increases by age.

In 2014, a MediaSmarts survey, dubbed 'Young Canadians in a Wired World,' surveyed 5,436 students across Canada, from Grades 4 to 11. Only the students from Grades 7 to 11 were asked about sexting; the respondents either had their own cellphone or had access to a shared cellphone.

The data showed that eight per cent of the students have sent a sext of themselves to some-

one else, with a fairly even split between boys and girls. The survey also backed up Dr. Slane's theory by finding that older students are more likely to sext: a low of two per cent of students reported sexting in Grade 7, while 15 per cent of students in Grade 11 admitted to sending a racy text.

When it comes to receiving a text, almost a quarter (24 per cent) of students reported that someone has sent them a sext of himself or herself. Again, Grade 11 students were more than three times likely than Grade 7 students to receive a sext created by the sender: 11 per cent of Grade 7 students reported receiving one, compared to 36 per cent of Grade 11 students.

And, the MediaSmarts survey also showed that boys are significantly more likely than girls to be sent a text: 32 per cent of boys versus 17 per cent of girls.

The survey also indicated boys are somewhat more likely than girls to have forwarded a sext sent to them (16 per cent compared to 12 per cent of girls) and sexts of boys are more likely to be forwarded than sexts of girls (26 per cent compared to 20 per cent of girls).

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"It's not just girls, it's also boys," confirmed Dr. Slane. "If a boy sends a picture of his penis, that could be risky because he could be subjected to ridicule, harassment or unwanted attention."

Sometimes, sexting can go beyond just the consequences of Canada's Criminal Code. When the subject of an explicit photo or text loses control of whose hands that material ends up in, that's when the worrying can begin.

"Some kids suffer serious psychological consequences," said Dr. Slane. "There are so many ways to get images out there to people, to get personal information out there. It's easy to deliberately hurt someone."

It's hard, for example, for a young girl to stop worrying who has seen a photo of her topless once she knows it's been shared, continued Dr. Slane.

"There's that loss of control and you don't know who has seen it," she said. "They feel like they cannot walk down the street without seeing someone who they think has seen it. They think everyone has seen it and they can't forge their own ID -- that everyone only sees them naked or in that sex act."

"It's that loss of control and it makes them feel like there's no other way to think of themselves."

Sometimes, unfortunately, the victims of online bullying don't ever feel they can get that control back.

In Canada, two young women became the very public face of cyber-bullying after they took their own lives.

On one side of the country, in British Colum-

bia, Amanda Todd shocked the digital world with a series of flash cards on video in a silent cry for help. A month later, in October 2012, she died by suicide at 15.

The reason? She believed her reputation was ruined after an anonymous person online convinced her to flash her topless body to him; the photo then went viral, leading to relentless bullying.

Less than a year later, a similarly tragic story unfolded on the other side of the country, this time in Nova Scotia.

One night, Rehtaeh Parsons joined some high school friends and consumed some vodka before being raped by four boys. At some point that evening, one of those boys took a photo of her being raped and distributed the pictures to members of Rehtaeh's school and her community. She was constantly harassed and bullied and she died by suicide at 17.

"I can't imagine the absolute sense of despair they felt," said Det.-Const. Lockwood of the two girls' deaths. "I think when that happened, I thought about how enforcement still has to catch up with the whole sexting thing."

The deaths, he continued, "really brought (sexting and cyber-bullying) to the forefront of the news and as tragic as it was, it opened people's eyes to sexting and how quickly digital images can be shared. This can happen and kids get cellphones younger and younger. What checks and balances are there to make sure they're responsible?"

The onus, said Det.-Const. Lockwood, is on parents to figure out what their children are looking at. Don't understand what chat application or dating site your kids are spending all

their time on? Take a look for yourself.

"You can find almost anything on Google," he said.

Det.-Const. Lockwood also stressed that parents shouldn't be afraid to randomly check their children's phones themselves, grabbing a glance at photos and apps they're using.

"If you have nothing to hide, there's no reason to keep your parents out of your phone. (Parents) have to be a lot more involved," he said. "Stop it before it happens, don't wait before it does."

Sometimes, however, children are reluctant to tell parents something's wrong because they're afraid of losing the device that got them in trouble in the first place.

"It's sort of startling the number of texts teens send -- thousands of them -- and they have a hard time putting their phone away. They're not going to tell an adult because they're afraid (parents) will take the phone away," said Dr. Slane. "They're going to keep it under wraps so they don't get cut off."

If it gets to the point that trouble is evident, continued Dr. Slane, it's very important that children find someone to talk to.

"A lot of times they think there's nothing they can do and that's not true," she said. "If something is happening that's very disturbing, they have to find a trusted adult. There's going to be a teacher or parent or neighbour that can help. They've got to keep trying."

"They've got to make sure kids feel like they're not isolated and there's no recourse. There is someone that can help," said Dr. Slane. "You have to negate the message that can lead to despair: There's nothing I can do."

POTENTIAL PENALTIES FOR CHILD PORNOGRAPHY CHARGES

DURHAM -- The penalties for various child pornography charges vary, said Det.-Const. Lockwood.

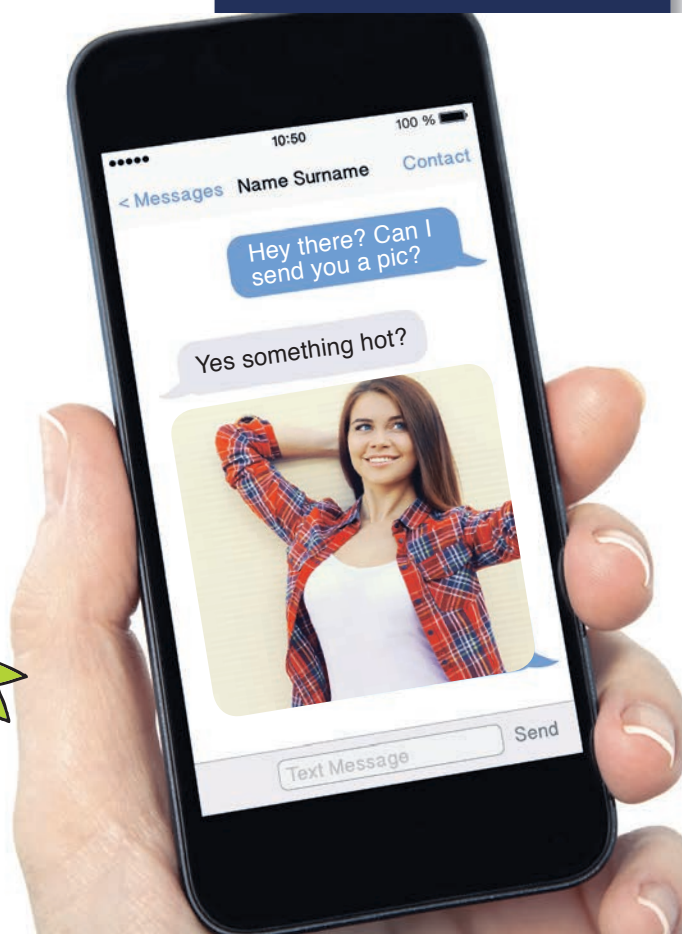
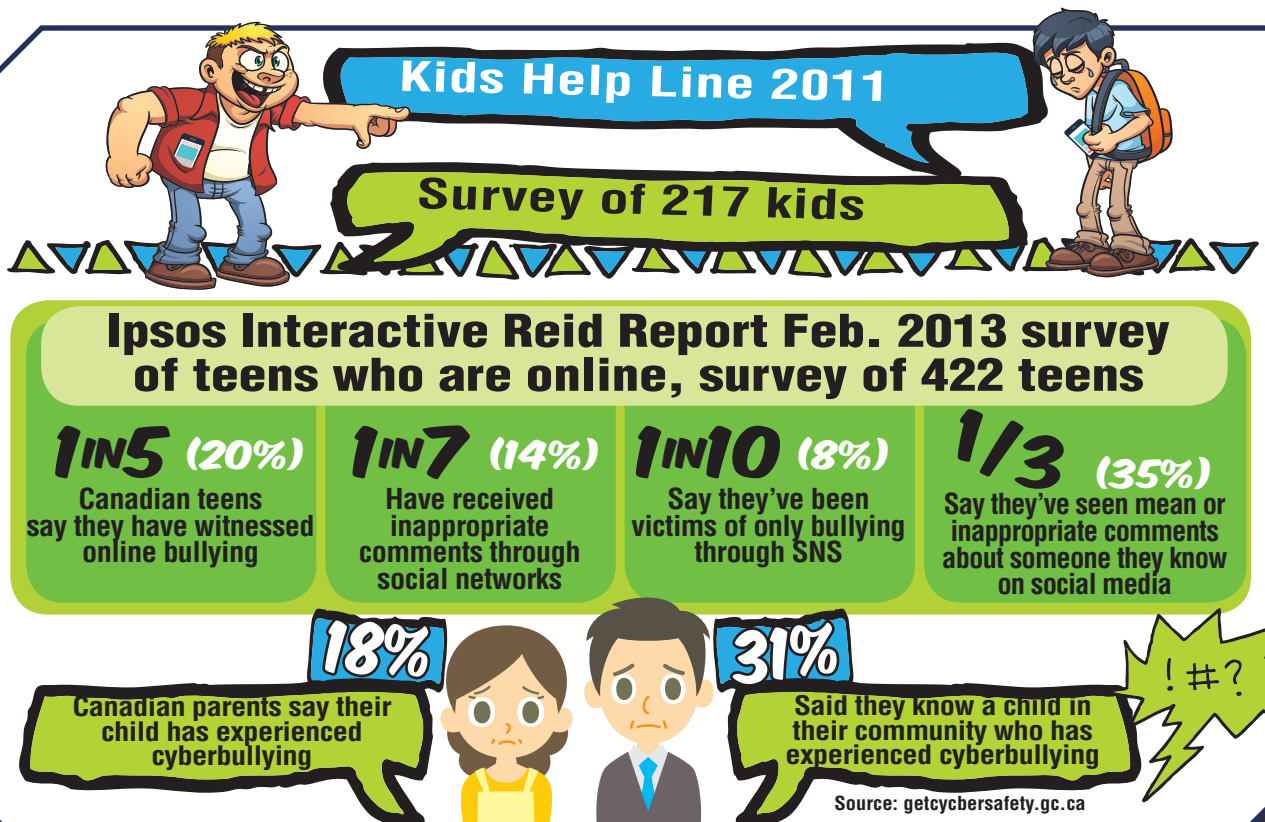
LURING: Using a device to arrange for a sexual encounter with someone under 18.
One year minimum.

MAKING: Creating media which shows someone under 18 in some sort of state of undress or sexual act.
One year minimum

MAKING AVAILABLE: Posting material deemed to be child pornography online.
One year minimum

POSSESSION: Possessing material deemed to be child pornography.
90-day minimum prison sentence.

"The (Crown attorneys) use their discretion," said Det.-Const. Lockwood. "Is it a massive collection or some 15 year old that sent a photo to his hockey team? We're not in the business of sending kids to jail."





SOCIAL MEDIA

has changed Durham employment landscape

Lines are blurred
between public and
private life

Keith Gilligan
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DURHAM -- It was all the talk around the water cooler back in May.

After a Toronto FC soccer game, four men made sexist and degrading comments to a female reporter, who then confronted the men over their comments. Within days of the incident, one of the men was identified and fired from his \$107,000 a year engineering job with Hydro One because of his conduct. He was reinstated to his job just this week after a deal was reached with Hydro One.

What many questioned was: Has the line between one's private life and their job been erased or is it just blurry?

While the Hydro One case is the most extreme, misconduct on social media has affected many others. In mid-August, Ala Buzreba, a Liberal candidate in Calgary-Nose Hill Riding, withdrew from the federal election race after a 2011 comment surfaced in which she told a Twitter user to "go blow your brains out."

Ms. Buzreba is 21 and a student at the University of Calgary.

The shifting landscape has both employers and employees scrambling to understand what's acceptable and what isn't.

Kyle Armagon, a lawyer who practises employment law with Walker Head, a Pickering firm, said the social media landscape has changed.

"In the last five years, the landscape has changed. Employers and employees are realizing this and it's starting to come to the forefront," he noted.

"People are very aware when they go for a job interview or are networking, the employer has done a simple Google search."

Employers are also checking Facebook, Twitter and Instagram, he said, calling those sites "the usual suspects."

He cautioned, "Once you're hired, social media can be used against you in a detrimental way."

There's an "arbitrary line that's being blurred" between private life and a job, he said, noting it's possible for actions in a private life to be used against an employee.

He said people are "shocked" when they find out that this is the case.

The situation with the Hydro One employee is "definitely on the extreme end."

When reviewing an employment contract, 99 per cent don't say what can be used against an employee, Mr. Armagon noted.

However, an employer would rely on "implied terms."

A contract would say an employee has to be at work from 9 a.m. to 5 p.m. and it would contain a "duty of good faith, a duty to be honest and a duty to do what's best for the employer," he stated.

"Everything now is so instantaneous. Employers are doing everything to cover themselves and protect their image."

He noted if an employee "makes inappropriate comments at a TFC game, Hydro One is now connected to this individual in a third-party way. If Hydro One didn't take steps, they would be viewed as an employer that would allow this sort of conduct. Hydro One would argue it's better for everybody that this sort of conduct can't be tolerated."

Jonathan Obar, an assistant professor of communications and digital media studies in the faculty of social sciences and humanities at the University of Ontario Institute of Technology, said social media is so commonplace, it affects both private and professional lives.

"It's been the new normal for quite some time. Things are more mainstream."

As for how companies are responding to the

situation of social media affecting the workplace, Mr. Obar said, "It's hard to generalize because I think different organizations are approaching big data practices, social data, differently."

How social media affects an employee-employer relationship depends on the size of a company's HR department, he noted.

"Some are and some aren't (affected). So much recent stuff is coming out. I'm hearing HR saying if we make all practices public, it will affect hiring."

He said job applicants should be wary about what to put on a resume as companies are doing systematic analysis.

"Reputation management for individuals is the first step."

Companies are "more concerned about their online image," Mr. Obar added.

What people should be concerned about are 'data brokers' who gather information on people, even their shopping habits.

"I say be careful what you put on your Shoppers' card or your Loblaws' card. It could get you fired. That's where it's going," Mr. Obar said.

Matt Gaskell, the commissioner of corporate services for Durham, said the Region doesn't have a specific policy in place, but added there are a variety of behavioural policies already in

Continued from page 14

place, such as a code of ethics and one dealing with harassment.

"Typically, those focus inward," he said.

An example in the code of ethics is not running a business conflicting with the Region's affairs.

He said the code of conduct if someone were "posting things on social media about another employee, that could come into play.

"There's nothing specific. Generally, we expect staff to hold up to a certain standard," Mr. Gaskell stated.

He suggested an employee being disciplined "needs to be tied to the workplace or it's so egregious it could affect work. It doesn't happen very often," he noted.

When employees are hired, "we tell them we have high expectations for their behaviour. Those expectations carry on through their careers.

"We don't specifically deal with external behaviour," Mr. Gaskell said.

It can have an impact at work if an employee made derogatory or defamatory comments, he noted.

Employers will try to deal with it, but "getting drunk at a soccer game, swearing and saying derogatory things, that to me goes to core values. There's an expectation of civility employers want," he said.

"It's very much case by case," he added.

Kathy Gooding, the vice-president of human resources for Rouge Valley Health System, noted, "The opportunity to share information that's inappropriate has changed. The policies of our organization haven't changed."

Rouge Valley established a social media and web conduct policy in March 2011.

One guideline noted, "Using social media to disrespect, harm, or embarrass RVHS as an institution, our patients and/or visitors, or co-workers, will not be tolerated. All RVHS employee-related policies apply to social media conduct whether done at/during work, off site, or after working hours."

David Brazeau, the director, public affairs, community relations and telecommunications for Rouge Valley, wrote the policy. Mr. Brazeau said the policies are based on the public and private sectors.

"We've looked at others to make sure we had a good broad picture."

Ms. Gooding added employees should be respectful and avoid any involvement with staff in social media.

"We may have been one of the first institutions in health care to have a policy," Ms. Gooding said. "We realized the landscape had changed."

Ms. Gooding noted, "We've never terminated anyone for violation of the policy."

"We haven't had to deal with anything that extreme," Mr. Brazeau added.

As for someone releasing patient information, Ms. Gooding said the hospital has privacy policies "that come even before the social media policy. We don't expect anything to be released. Patient information should never get into this kind of forum at all. That's never been an issue."

Ontario Power Generation has a code of conduct which employees are required to review annually through computer-based training.

"Safety, integrity, excellence, people and citizenship. These are Ontario Power Generation's ethical values, and are the fundamental truths about OPG that don't change. They clarify what is important in our organization, guide our behaviour and decision-making, and point the way to business conduct that results in successful individuals and a successful company," the code noted.

The introduction states, "We have all seen examples of companies or individuals who have not acted ethically and the damaging results. Customers question if they should continue doing business with the company and the public loses confidence in what its employees and leaders have to say. When people stop believing in you, the financial consequences may not be immediate, but loss is likely and it can be difficult to recover."

Mr. Armagon, the employment lawyer, said people are surprised that if they use a workplace e-mail account to send personal messages it can get them in trouble.

Most employers have a policy about using the Internet to visit inappropriate sites, he noted.

Employers can search employees' e-mail and Internet use, even if the employee thought messages had been deleted.

An employee might question what sort of intrusion into their private life is allowed.

"Am I entitled to my private views? The argument is a slippery slope," Mr. Armagon said.

Another change includes someone who has an accident or a fall.

"Insurance companies are asking for and getting access to Facebook accounts."

Someone could say the accident or fall has affected their ability to enjoy life. Then, they may post pictures of a trip to Cancun.

An insurance company may ask how the person can sit for a four-hour flight but they can't sit at a desk.

"Social media is moving across all areas of law," he noted.

Mr. Obar said that's how big data is changing the game.

Businesses are always looking for ways to be competitive and big data is a growing field. It's not just a prospective employer doing a Google search on a possible hire.

"That's why the data brokerage business is booming," he said, adding they are packaging information for niche markets.

"It creates a very complicated scenario for the average person. How you manage what Google has and others is an area of research.

"People are aware of a credit score. Similar scoring systems are being used. Eligibility decisions they are making, who's hired, who's fired, who can cross the border," Mr. Obar said.

He said Canada's privacy laws "don't have the teeth" to deal with big data.

"It's exciting as the government catches up to what industry is doing."

He said the data "is easy to get."

He noted during a lecture at the University of Toronto, students said there had been a battle on the campus over the school's plan to outsource e-mails to Microsoft. The university wanted to do it to save money.

He noted if someone were to have sent an e-mail alluding to their sexual orientation, a data brokerage could find that.

"To think that data point could be used 10 years down the road, long after you forgot about sending that e-mail," he said. "By law, you can't be asked about your sexual orientation (in a job interview)."

But, examples such as this are being seen in the United States, he noted.

Someone who has been charged with an impaired driving offence knows it's on their record.

"It's the hidden area people are looking at."

He said a call to action is needed.

"Privacy laws need to be changed, but only if the government makes it so. If people know how big data is affecting their life, they would make the government act."

"It's all about reputation management. There's a harsh split. There's your professional face and your personal face."

There's no separation from private life, work with social media

Kyle Armagon

There is no question that the effects of social media are felt in our personal lives. However, there is a disturbing trend clearly showing the negative effect social media is having in the workplace.

I am not talking about the use of social media on company time, which is usually covered by the employer's policy. There have been numerous examples over the recent months of employees either being investigated or outright terminated due to the intersection between their personal social media accounts and their employment.

To put it bluntly, the walls between personal privacy and the employment relationship have been blown apart. There are numerous cases before the courts which have held one's right to privacy will not be upheld if you are posting your views/photos on Facebook, Twitter, LinkedIn, etc. Employers are not only using these tools in the screening process for hiring but also using the evidence found on social media to uphold firings when the views expressed online contradict their employer or hold the employer in an unfavourable light.

Employees should be very mindful of what they are posting and to whom. Privacy settings for posts allowing only a select few to view can be simply copied and pasted to anyone, anywhere in a matter of seconds. As the recent incident between the Hydro One employee and the City TV reporter confirmed, anonymity in today's age is virtually gone. There are extreme repercussions for what you post online and your employer is watching.

Kyle Armagon is a lawyer with Walker Head in Pickering, where part of his practice is employment law.

