



## In Memory of Aaron Swartz:

### REBOOT DRACONIAN COMPUTER CRIME LAW

In the wake of social justice activist Aaron Swartz's tragic death, EFF has been working with a coalition of legislators and experts to reform the Computer Fraud and Abuse Act (CFAA), the infamously problematic U.S. anti-hacking law. First enacted in 1986, the CFAA is dangerously broad and wildly outdated.

In June, Reps. Zoe Lofgren and Jim Sensenbrenner introduced **Aaron's Law**, a terrific start to bringing the CFAA into the modern era.



### Why do we need to change the CFAA?

#### ***Violating a website's terms of service should not be a crime***

Lying about your age on Facebook? Letting a friend log in to your Pandora account? Saying you're "tall, dark and handsome" on Craigslist when you're actually short and homely? All very normal tasks, but someone might claim they are violations of terms of service—those long walls of text that you "agree" to before using a website or service.

According to the government's interpretation of the CFAA, violating this fine print—something any Internet user can easily do—could mean criminal penalties. It's dangerous for a private, one-sided contract to be enforceable with punishment of severe criminal penalties at a prosecutor's whim.

*Solution: No criminal exposure for violating private agreements or duties.*

#### ***Accessing information in an innovative way should not be a crime***

As the CFAA is written today, the government may file criminal charges if someone is authorized to access data, but does so while engaging in commonplace "circumvention" techniques like changing IP addresses, MAC addresses, or browser User Agent headers. But these "circumvention" activities can have great benefits: they can help protect privacy, ensure anonymity, and aid in testing security.

*Solution: If access to data is already authorized, gaining that access in a novel or automated way is not a crime.*

## ***Current penalties are too harsh***

As a general principle, minor violations of the CFAA should be punishable with minor penalties. As the law is currently written, first-time offenders can be too easily charged with felonies instead of misdemeanors.

Furthermore, several sections of the CFAA are redundant with other parts of the law, which lets prosecutors "double dip" to pursue multiple offenses based on the same behavior. And the stiff penalties for "repeat" offenses can be used to dole out harsher punishment for multiple convictions based on the same conduct. Prosecutors shouldn't count the same actions more than once to ratchet up the pressure for a plea bargain by threatening a defendant with decades of jail time.

*Solution: Make penalties proportionate to offenses*

## **Common sense reform starts with Aaron's Law**

Proposed legislative fixes—like Rep. Zoe Lofgren's "Aaron's Law"—are a great start, but they don't go far enough. To fix the CFAA, we need to clarify the meaning of "unauthorized" to reflect the fact that commonplace and privacy-protective "circumvention" techniques should not be crimes. We also need to make penalties proportionate to offenses.

Brilliant, talented, visionary people should be spending their time building our future, not worrying about wasting away in prison. Congress must start by updating the CFAA to ensure the penalties make sense in light of the behavior they're meant to punish. In order to bring sanity to the CFAA, we need your help.

## ***Here's what you can do***

*Contact Your Representative*

Tell Congress that we need to fix computer crime law at [eff.org/Aarons-Law](https://www.eff.org/Aarons-Law)

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