

SELF-INCRIMINATION

Did you know that even if you post something under a screen name or nickname, police may be able to figure out your identity by contacting the website or your internet service provider? Or that police sometimes set up fake online accounts and add young people as friends to look at their profiles? Find out how posts on social networking sites can be used as evidence against you by reading this factsheet. Nothing is ever completely private online, even after you delete it.

What is self-incrimination?

Self-incrimination is when a person says or does something that links them to an illegal activity or crime. If the police learn about what you've said or done, it could be used as evidence against you or the people you know. Sometimes you might not even realise that what you're talking about is a crime!

What does this have to do with social media?

It's becoming more common for people to post information on Facebook, Twitter and other social networking sites that links them to crimes without realising that the posts can be used against them. Often, they don't realise that online information can be used as evidence of offline crimes. Here are some recent examples that made the news:

1. In Sydney, two teenage girls were arrested and charged after posting videos of their punch-ups on YouTube.
2. In London, police used Tweets and Facebook photos posted by looters to track them down and lay charges against them.
3. In San Diego, police found and arrested teenagers suspected of tagging after finding Facebook profiles they had created with their tagging nicknames.

Online comments can also get you in trouble at school or at work. For instance, two Sydney students who got into a fight at school and another student who recorded the fight on his cell phone were all suspended after the video was posted on YouTube.

How police can view your private accounts...

Did you know that even if you're careful about your privacy settings, police and others may be able to gain access to the information you post?



Police and other adults can make up fake profiles and add young people as friends. This is important to remember when accepting friend requests from people you don't already know.

The police can try to see the things you've sent and posted by searching your mobile. The only times police can take your mobile from you without your permission or a warrant are when:

- They have reason to believe that the phone is stolen;
- They have reason to believe that you used the phone to commit an offence;
- Taking the phone will help prevent or control a public disorder (like a riot); or
- You have been arrested.

Just because police are allowed to take your mobile doesn't mean they're allowed to search it. In most cases, police still have to get your permission or a warrant to search through your mobile.

If the police suspect that you or your friends have committed a crime, they can apply for a warrant to search your social networking accounts for evidence. Under New South Wales law, police can apply for "covert" search warrants, which allows them to search your things without your knowledge – this includes online accounts such as Facebook.

Many websites have policies in place to deal with search warrants. For example, Facebook allows police with search warrants to request information about users, even if they set their profiles to private.

If a serious crime has been committed, police may be able to apply for warrants to search all of the communications sent to and from a computer.

How schools, employers and others can view your private accounts...

Schools and employers can't apply for search warrants like the police — but that doesn't mean that they can't look at what you post. If you use a school or work computer to access your accounts, you have to follow their "acceptable use policy". This policy will usually give your school or employer the right to monitor your computer use. This means they can see everything you post and all the websites you visit when you're using a computer at your school or work. So, you should always read the policy—and if there is something you don't want your school or employer to see, don't use their computers to look at it.

Finally, be careful that your online posts aren't illegal...

Remember, the information you post online might be more than evidence—it might be a crime itself. See our fact sheets on

- cyber bullying
- sexting
- identity theft

Online posts and messages can also break court orders. For example, if an Apprehended Violence Order (AVO) has been taken out against you for harassing another person, you're not allowed to contact that person—online or offline. If you comment on their profile or tag them in a photo, the same penalties apply as if you talked to them in person.

For more information on AVOs check out this website: <http://www.lawaccess.nsw.gov.au>

If you are questioned or arrested by the police in relation to something you've posted online, you should get legal advice before you speak to police. If you are under 18, you can call the [Legal Aid Youth Hotline](http://www.lawstuff.org.au) on **1800 10 18 10**. The Hotline provides legal advice and information to young people under 18, and operates from 9am to midnight on weekdays, with a 24-hour service from Friday at 9am to Sunday at midnight and also on public holidays

Want more information?

For FREE legal advice and information you can send a Lawmail at http://www.lawstuff.org.au/nsw_law/LawMail.

This information was last reviewed on 10 April 2012. This factsheet provides information about the law in NSW. It does not provide legal advice. If you need advice, or if you would like information about the law in a state or territory other than NSW, please send us a Lawmail at <http://www.lawstuff.org.au>