

The 4th Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Intelligence Pushes To Reshape Constitutional Privacy

Technocrats have no use for privacy when it comes to social engineering, thus proving that U.S. Intel has gone rogue and is being run by Technocrats for Technocrats. □ TN Editor

Yahoo Inc's secret scanning of customer emails at the behest of a U.S. spy agency is part of a growing push by officials to loosen constitutional protections Americans have against arbitrary governmental searches, according to legal documents and people briefed on closed court hearings.

The order on Yahoo from the secret Foreign Intelligence Surveillance Court (FISC) last year resulted from the government's drive to change decades of interpretation of the U.S. Constitution's Fourth Amendment right of people to be secure against "unreasonable searches and seizures," intelligence officials and others familiar with the strategy told Reuters.

The unifying idea, they said, is to move the focus of U.S. courts away from what makes something a distinct search and toward what is

“reasonable” overall.

The basis of the argument for change is that people are making much more digital data available about themselves to businesses, and that data can contain clues that would lead to authorities disrupting attacks in the United States or on U.S. interests abroad.

While it might technically count as a search if an automated program trawls through all the data, the thinking goes, there is no unreasonable harm unless a human being looks at the result of that search and orders more intrusive measures or an arrest, which even then could be reasonable.

Civil liberties groups and some other legal experts said the attempt to expand the ability of law enforcement agencies and intelligence services to sift through vast amounts of online data, in some cases without a court order, was in conflict with the Fourth Amendment because many innocent messages are included in the initial sweep.

“A lot of it is unrecognizable from a Fourth Amendment perspective,” said Orin Kerr, a former federal prosecutor and Georgetown University Law School expert on surveillance. “It’s not where the traditional Fourth Amendment law is.”

But the general counsel of the Office of the Director of National Intelligence (ODNI), Robert Litt, said in an interview with Reuters on Tuesday that the legal interpretation needed to be adjusted because of technological changes.

“Computerized scanning of communications in the same way that your email service provider scans looking for viruses – that should not be considered a search requiring a warrant for Fourth Amendment purposes,” said Litt. He said he is leaving his post on Dec. 31 as the end of President Barack Obama’s administration nears.

Digital Signature

Reuters was unable to determine what data, if any, was handed over by Yahoo after its live email search. The search was first reported by

Reuters on Oct. 4. Yahoo and the National Security Agency (NSA) declined to explain the basis for the order.

The surveillance court, whose members are appointed by U.S. Supreme Court Chief Justice John Roberts, oversees and approves the domestic pursuit of intelligence about foreign powers. While details of the Yahoo search are classified, people familiar with the matter have told Reuters it was aimed at isolating a digital signature for a single person or small team working for a foreign government frequently at odds with America.

The ODNI is expected to disclose as soon as next month an estimated number of Americans whose electronic communications have been caught up in online surveillance programs intended for foreigners, U.S. lawmakers said.

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