

Thursday, June 19, 2008

## **Patriotism and Wiretaps**

A new domestic wiretap law is looking like it will soon pass the House of Representatives (see this article for more information).

Among other things, this law will, for all intents and purposes, grant retroactive immunity to the telecommunications providers who, illegally, cooperated with past wiretap requests. Why are our representatives issuing a "Get Out of Jail Free" card to these organizations who deserve punishment for their criminal actions? This quote from the above-referenced article is very revealing:

Rep. Pete Hoekstra, the ranking Republican on the House Intelligence Committee, said the intelligence community depends on "the backing of patriotic private companies."

In other words, according to Representative Hoekstra, these organizations deserve to be let off the hook because they were patriotic. Perhaps, according to Hoekstra's definition of patriotism, they were patriotic. I have to say though, that I have a different definition of patriotism. Let's take a moment and look at the roots of the word patriot. The main root of the word is the greek word patrios, which means "of one's fathers." Building a definition from this root, I conclude that a patriot is someone who loves the land of his fathers.

I personally do not believe that this refers to a certain piece of ground; I think that the issue of patriotism is a larger issue than a simple matter of property rights. To me, the land of my fathers refers to a land where certain ideals were upheld. One of these ideals is that

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

I believe that there are cases where a wiretap is necessary and good. They are an important part of many criminal investigations, but if this is really still the land of my fathers, then they should not be granted without probable cause "supported by Oath or affirmation, and particularly describing the [line to be tapped], and the [conversations to be overheard]."

Allowing companies to breach this protection, and then abrogating the just punishment of the law upon them because their actions were supposedly "patriotic" makes a mockery of true patriots. According to my definition of patriotism, a true patriot would uphold the ideals of the land of his fathers instead of trading them off for a mess of pottage. What's your definition?

Posted by Johnny Elbows in News at 14:07

I think I agree with you. But I have a question for you: Should this extend to all people in this land of the Untied States or should it be just for their proven citizens? Comments (9)

Anonymous on Jun 19 2008, 21:29

I honestly can't think about this without feeling like my head is going to explode. Between the current presidential administration throwing the word patriot around like it means "loyal to Bush and none other" and congress completely trampling over any freedom they encounter to line their campaign pockets, the last eight years have been eye-opening to say the least. Sure, the Clinton administration was corrupt, but at least they had the decency to try hiding it. Comments (7)

Anonymous on Jun 20 2008, 08:11

This is a bad precedent to have set.

While these companies are getting called patriots, I'd call it treason to the ideals that were originally set by our four fathers.

Though In all honesty the true punishment for the wiretapping shouldn't fall squarely on the shoulders of these companies, but the true punishment should fall squarely on the shoulders of those who reside at 1600 Pennsylvania Ave. Comments (4)

Anonymous on Jun 20 2008, 08:20

If the wiretapping is taking place on U.S. soil, then it should require a warrant. Comments (7)

Anonymous on Jun 20 2008, 08:21

I don't know about you, but I only have one father. Comments (7)  
Anonymous on Jun 20 2008, 08:25

Four, Fore... Comments (4)  
Anonymous on Jun 20 2008, 08:29

Getting a warrant really isn't that complicated. All you have to say is, this is who I'm searching, this is what I'm searching for, and this, if anything, is what I'm planning to seize. If you've gone to the trouble to prove that someone is a citizen, then you can probably satisfy the necessities of getting a warrant without much trouble. Comments (6)  
Anonymous on Jun 20 2008, 08:55

That doesn't quite answer my question. I guess I should be clearer. Do you feel that non-citizens should be protected by the law in requiring a warrant to search/wire-tap them? Comments (9)  
Anonymous on Jun 20 2008, 09:03

Yes, I do think that non-citizens should be protected. My point from above is that if you've gone to the trouble of proving that the person you're wire-tapping is a citizen, you've already gone to most of the trouble necessary to get a warrant. Comments (6)  
Anonymous on Jun 20 2008, 10:05

How do YOU know? Maybe you're one of those artificial insemination experiments. You could have hundreds of fathers. Comments (5)  
Anonymous on Jun 20 2008, 10:14

I don't know. Just proving someone is not a citizen is not the same. Don't you have to a reason or probable cause to do a search or wire-tap? I just think it is a little simplistic to assume that since you know someones personal information that you then qualify to search their property or person. Am I wrong, or misunderstanding the statute? Comments (9)  
Anonymous on Jun 20 2008, 10:15

I don't think that's how fertilization works. Regardless of the amount of "donors" you still have a one to one relationship. Comments (9)  
Anonymous on Jun 20 2008, 10:17

In order to "prove" that someone is a citizen, law enforcement would have to do more than just know someone's personal information. They would have to have documentation of the person's citizenship status, and they would have to present that proof to a judge.

If they've gone to the trouble of obtaining that proof, and they've gone to the trouble of appearing before the judge, then is it really that far-fetched to say that they have probable cause for their wire tap request? Comments (2)  
Anonymous on Jun 20 2008, 10:22

I think that it is. If it is so easy to get the warrant, then why didn't they get it. I personally think they didn't bother to get the warrants because they probably would have been denied (opinion not based on facts but my own intuition).

And to answer my own question, I think that it should be legal to do searches and wire-taps on non-citizens. Comments (9)  
Anonymous on Jun 20 2008, 10:33

Why should it be legal to search/wiretap them without a warrant? Comments (6)  
Anonymous on Jun 20 2008, 10:37

The same reason that it is not legal for them to vote. I think I believe that there should be some things that we exclude to people who are not citizens. If they want the benefits of being a citizen, then let them become one.

While it is true that there are some inalienable rights that all men should have, I believe that this is not one of those rights. If you think it should be, I would like to know your thoughts on why. Comments (9)  
Anonymous on Jun 20 2008, 10:46

Can a non-citizen own property? Comments (6)  
Anonymous on Jun 20 2008, 10:47

I believe that they can. But I don't think that the ownership of a thing should necessarily guard against the search of it if you are not a citizen. Comments (9)  
Anonymous on Jun 20 2008, 10:57

The great thing about our system of government is that, even if Congress DOES pass this law, the Supreme Court ultimately decides whether or not that law supports the Constitution. Additionally, it's generally believed by legal pundits across the country that the obvious 4th amendment violation here would have serious implications on the case of anyone trying to use it in a court of law:

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"Evidence gathered without warrant may raise significant Fourth Amendment issues which could preclude its use in a criminal trial."

This just gives them an opportunity to uncover other wrong-doing. Not that I'm in support of illegal wiretaps, I'm simply saying that I will continue to have faith in The System until it has been ripped from my cold, dead, and betrayed fingers. Comments (2)  
Anonymous on Jun 20 2008, 11:06

The fourth amendment, which is quoted above, protects against unreasonable searches \*and seizures.\* If this protection is not afforded to all property-holders, then their property rights can be, and often are nullified (see <http://en.wikipedia.org/wiki/Expropriation> for more information about instances where such seizures have occurred).

Additionally, if a property owner is not protected against unreasonable searches, then law enforcement officials can easily use said searches as a method of bullying and/or intimidation. Sooner or later, the benefits of owning property will be outweighed by the continual harassment of government officials searching for communists, terrorists, or any of the other "ists" that happen to be en vogue. Comments (6)  
Anonymous on Jun 20 2008, 11:07

I stand with Radar on this point - if you're not a citizen of the United States, the Bill of Rights doesn't apply to you. It is a set of rights extended to American citizens - a lot of things may suck here, but that's the trade-off we accept for having these rights. Comments (5)  
Anonymous on Jun 20 2008, 11:10

Do you have a source for the quote in your comment? I'd like to read more about this. Comments (6)  
Anonymous on Jun 20 2008, 11:21

That's not true, I consider myself to have 2 fathers. Only 1 of which is biologically my father, But I refer to both, and treat both as my father. Comments (4)  
Anonymous on Jun 20 2008, 12:26

In your face MG! Comments (9)  
Anonymous on Jun 20 2008, 12:33

If you think "they probably would have been denied" then isn't there a good reason for requiring a warrant in the first place? Are you saying you put more faith in law enforcement than judges? If so, why? I'm not saying either group is immune to corruption, but the judges help keep the police in check, while the people vote out bad judges. And don't laugh, I've seen bad judges fail to get re-elected. Comments (7)  
Anonymous on Jun 20 2008, 12:35

He still doesn't have multiple fathers through "artificial insemination experiments" which was AoD's argument. And for the record, I said, "I don't know about you, but I only have one father." Besides Sideshow still only claims two fathers not four. Comments (7)  
Anonymous on Jun 20 2008, 12:38

Not if they aren't citizens. I am completely behind the 4th amendment when it comes to citizens. I am not saying that law enforcement should be trusted more than judges at all. They both wield power and are therefore subject to corruption/"good intentions" more than most people.

If they were taping citizens without a warrant then I have a problem with that. If they did it to NC's then I am ok with it. I was merely stating my feelings that I don't think those searches would have passed the test to get a search warrant and so that is why they didn't bother to get them. Comments (9)  
Anonymous on Jun 20 2008, 14:26

So where are we drawing the line between citizens and non citizens?

Are we referring simply to illegals, or what about people here completely legally and are legal residents but haven't completed the qualifications for residency? Comments (4)  
Anonymous on Jun 20 2008, 14:55

I'm just a little confused. If they have enough evidence that indicates a wire tap should be put into play, then they should have enough evidence to get a warrant. If they don't have enough evidence, then they're probably wasting their time and taxpayer money following a dead lead.

If they've researched this person enough to know whether or not they're a citizen, then there should be enough evidence either way.

Now if for some reason they learn that a person they've been tracking is going to have an important phone call in the next hour and they don't have enough time to get a judge out of bed, then \*maybe\* they should be allowed to get a wiretap in place as they are working on a warrant application. If the warrant is denied, they should immediately cease the wiretap. As it stands now, the law about to be signed allows them to keep a wire tap in place for up to a week.

<http://www.nytimes.com/2008/06/21/washington/21fiscand.html> Comments (7)  
Anonymous on Jun 20 2008, 15:14

It's from an article in the March 2008 IEEE Communications, which mainly discusses how the wiretaps themselves happened, but briefly attempts to discuss the legal landscape. Help me remember to loan it to you. :) Comments (5)

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Anonymous on Jun 20 2008, 15:37

Foreign nationals of any stripe are not citizens, regardless of how they came into the country (legally, illegally, whatever).Comments (5)

Anonymous on Jun 20 2008, 15:42

I don't like this - if you lower the requirements for obtaining a wiretap, then you also lower the requirement for what is admissible in a court of law - and every negative portrayal of every defendant expands 10-fold. I prefer they wiretap people but the material gained thereby not be admissible in a court of law - they have to use it as a means to find OTHER things which they can prosecute you on. Comments (5)

Anonymous on Jun 20 2008, 15:47

Ok. I'm willing to give you that. Comments (7)

Anonymous on Jun 20 2008, 15:53