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does anyone know where this surveillance topic falls in the Constitution?

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<http://www.theguardian.com/world/2014/feb/03/microsoft-facebook-google-yahoo-fisa-surveillance-reque...>

 1  · [flag](#)[Anonymous](#) · a month ago 

The opponents to the massive collection of that data by the NSA, like yours truly, claim this to be a pure 4th amendment issue in which there is no argument: the NSA (with the agreement of the US President) has been in violation of the 4th amendment for a long time.

Those who defend the NSA make the improbable argument that based on an obscure 1979 decision, the data that the NSA is collecting is data that you "give away" so that there is no reasonable expectation of privacy once you make a phone call or send an email.

As always, it all will come down to where the supremes stand on the issues. The traditional "living constitution" vs "originalist" division is not even apt here. Who knows what they will decide if they take the case (the supreme court has discretion to take the cases it wants).

 0  · [flag](#)[+ Comment](#)[Sonia B.](#) · a month ago 

I am no expert in this matter but it points toward the right to be free from illegal searches and seizures, self-incrimination, and due process with prosecutorial issues- which falls under the scope of the fourth, fifth, and sixth amendments, among many others.

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Joel Kovarsky · a month ago

I think you are right, regarding the multiple constitutional issues involved with use of the Patriot Act. Given the conflicted judicial opinions to date, it looks like we are in for a long and wild ride.

<http://www.theatlantic.com/national/archive/2013/12/is-the-nsas-spying-constitutional-it-depends-why...>

<http://www.scn.org/ccapa/pa-vs-const.html> (shows multiple amendments and issues considered)

<http://www.scotusblog.com/2013/12/judge-nsa-phone-sweep-likely-invalid/>

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Anonymous · a month ago

The Atlantic article summarizes very well something that cannot be repeated enough,

"That two judges would hold such contrasting worldviews is either alarming (if you believe the law can be evenly applied) or comforting (if you believe that each individual judge ought to be free to express his conscience). In any event, taken together, the two opinions say a lot about nature of legal analysis. The judge who gets overturned on appeal here won't necessarily be wrong—he'll just not have the votes on appeal supporting his particular view of the law and the facts. In the end, you see, there is no central truth in these great constitutional cases that rest at the core of government authority; there is just the exercise of judicial power."

All of which, of course, makes a great argument for stripping federal judges of their lifetime tenures so that at least they are accountable to the voters.

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Paarth Arora · a month ago

Good question, I hope this is covered in this course.

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Anonymous · 5 days ago

Looks like the issue is moot. The Supreme Court punted again:

<http://dissenter.firedoglake.com/2014/03/04/supreme-court-declines-to-hear-case-that-would-have-chal...>

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Dara L. Grieger · 19 hours ago 🔗

All this NSA surveillance is a clear 4th amendment issue. After the passage of the Stamp Act, which required all paper in the colonies to bear an official stamp, the British soldiers would simply enter and search the homes of colonists at will, searching for any paper that didn't have the stamp. They'd simply write their own search warrants prior to entering the home.

So the forth amendment was an attempt to ensure that government agents would only be able to search people's effects if there was probable cause to believe evidence of a crime would be found. The government cannot simply go on a fishing expedition. Just because cell phones and the internet didn't exist in the 1700's doesn't mean that the 4th amendment was only meant to apply to physical paper. These days our computers and electronic files and communications, and our cell phones are our "personal effects". People still have a fundamental natural right to be left alone, and to be secure in our personas and effects. The government does not have the right to engage in fishing expeditions.

The statistis who seek ever increasing power have corrupted the Constitution here. Sadly, they have been able to justify this intrusion on privacy in the name of "public safety", playing on the public's fears of a terrorist attack, to get people to comply. Even though being injured or killed in a terrorist attack is statistically very small, and much smaller than any number of bad things that can happen (example: automobile accident), the statistis know how to use this fear to their advantage. The lame excuses they give (example: since electronic communications go through a third party providing the service, there is no "reasonable expectation of privacy") are pure hogwash.

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Lori A Decker · 18 hours ago 🔗

I'm torn over this issue because of the standard Big Brother concerns. OTOH, I have sincere doubts that the government can do much with the data.

The huge VA disability claim backlog issue from last summer was because VA computers couldn't talk to DoD computers, and to date they can't agree on a common software platform. Each branch of the armed forces has their own system that cannot talk to the others. Each department in the government has their own isolated "language," there is no common tongue of inter-connectivity.

The news said this past week that the CDC can't find anything to read the metadata so is hoping to find something to process Twitter feeds to mine trends in people who talk about having the flu.

Then there's the hoopla over the failures in the launch of the healthcare marketplace website not talking to the plan providers correctly. Instead of using an existing platform proven to work (like Amazon), they spent money to invent their own (as usual, reinventing the wheel).

I picture the metadata as a huge landfill with seagulls flying overhead looking for scraps. But as of yet, the government has no way of letting the seagulls talk to each other. If they ever combine into a single giant seagull, *then* I'll be ready to shoot it out of the sky.

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[Linda Hansen](#) · 18 hours ago 🔒

Even if they can't do anything with it, I think it is just the idea of collection. I don't want my medical records on some big database, but looks like I don't have a choice. I think what goes along with it, is the new attitude of so what. I have had more than one person say "why do you care if you don't have anything to hide." Well, although I have nothing to hide, I still like some privacy .

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[Lori A Decker](#) · 17 hours ago 🔒

Yeah, I guess I'm not representative of the majority, perhaps because my time in the military had me giving up so many personal freedoms. They already have my fingerprints and DNA, my medical records, X-rays, brain scans, surgeries, prescriptions, intrusive personal history including my family, friends and neighbors (for my Top Secret clearance), psychological evals, financial records, etc.

My Social Security Number is printed on my dog tags and at one point was required to be pre-printed on any checks I wrote. I peed for my country in front of witnesses for random drug tests, and had worldwide immunizations for every germ known to man. After that, I suppose my phone records and emails just don't seem that big a deal anymore.

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[Cristian](#) · 16 hours ago 🔒

Kind of sad to think like that. This is exactly the plan behind the "boiling of the frog". Don't forget that you did that voluntary due to your desire to work for the government. If you have been in the military you swore to defend the Constitution. People dismissing the issue as no big deal is what brought us here in the first place. We do have the power of the vote and to keep our representatives accountable. It seems though that hardly anybody gives a f**k. And

this will be the downfall of our great country. God bless the USA!

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Anonymous · 13 hours ago

Cristian, "Boiling frog" is a myth--look it up.

I agree with Linda. The problem with data collection is that even though the government may not be able to make the linkages right now (Lori's seagulls not talking to one another) the data, once collected, are going to be around forever. So what happens when they can make the linkages? Here's an example: the government collects data about you--where you travel, who else travelled on the same flight as you, your movements (based on cellphone data), your email and texting patterns. All the while you've committed no crime. Now, you get pulled over and the police have immediate access to all of the above information. And let's say by chance you happened to be within two blocks of a recent bank robbery. Should they be able to ask you questions about that? Or you happened to be on two flights with a 'person of interest'. Should you be probed? How about this--they build a predictive model that says there's a 60% chance you'll commit a crime in the next 5 days. Should you be arrested (not so far-fetched--Facebook now claims to be able to tell if you're about to end a relationship, based on your updates).

Given advances in computing power all of the things above are already possible, and indeed some are already in place. That's the concern I have.

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Cristian · 12 hours ago

It doesn't matter if "Boiling frog" is a myth or not (is not by the way given the temperature is increased slow enough). I guess people get the point of the metaphor. In some aspects I agree also with Linda (they should not collect any data about me). The only thing that I don't agree with is that we can't do anything about it. If everyone of us will vote with our conscience instead of caring about the amount of "free stuff" we get a lot of this will go away. All is needed for evil to succeed is for good people not to do anything.

Let your representatives how you feel about this, keep them accountable, vote them out if they don't listen. One worry that I have is that half or more than that consider the surveillance by NSA as being necessary for our "safety". Stupidity knows no limits.

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Linda Hansen · 5 hours ago

I meant I can't do anything about my medical records. I understand that is part of the ACA to

put all the records on a data base for easy access by medical personnel. Of course, again, I may have misunderstood.

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Karen West · in a minute 🔗



Last year at this time I took my first humanity in the law area outside of my high tech area I've always worked in, and all my education came from. This was a few months prior to the revelation about NSA Spying became common knowledge in the news we read and hear. There were some interesting discussions on that forum that inspired me to every once in awhile take more business and law humanities outside my high tech area of interest and why I originally made the above post a month ago. Since last year, I have taken a few more and find that although at my age most likely will never work in any law related area (I'm 49!), I think it is very important to remain aware, sign petitions and be in a position to vote when asked our informed opinions on things, so I have continued to try to be more aware of how our government and laws work.

I don't know the answer to all the spying that goes on in terms of how to keep us "safe" as they say without abusing their privilege and invading too much privacy, but I try to stay aware of all that goes on now on the side when I can, even though this may be a side interest for someone like me, who has always just worked in high tech.

However here is another part of that discussion that was started that may sound like a bit of science fiction to some and to others who might know a bit more about how some things in high tech work than I do, it may not sound so far fetched.

One thing mentioned was the "Shazam" application in a smart phone where you walk by a speaker when a song is playing and over bluetooth, the speaker announces the name of the song playing, artist, etc, all the things you might find in the meta data in that music database.

So the comment was that biomedical engineers and others know that we all have brain waves that can be read with some kind of sophisticated technology, and who is to say that the private thoughts you have in your own mind, and especially if you are some kind of researcher or business person with a secret idea you do not want to share with your competitor, who is to say that that idea won't be read and stolen and you've just lost the thing on which your business relies on or in the case of a researcher, some new discovery. In the name of keeping everyone safe, all these things can be taken away from people and given to your competitor. It may have originated in the name of keeping people safe from terrorists, but who is to say that in the hands of some dishonest person, the ability to do these things is abused.

So that is the part in the discussion that some found far fetched and futuristic science fiction, and others did not.

So today the big news that you hear on these topics is reading our cell phone and email and social

network meta data, to make sure we are safe, but the discussion I read about last year was also in the area of wireless communications and brain wave reading, and the data that can be read that way. So not only is our cell phone, email, social network data read in the name of stopping terrorists, but also, our thoughts was the comment.

I think what ever anyone's view is on the topic, it is a discussion that should take place by those who have the common sense answers to these issues in our societies, and in the USA's case, what abuses the 4th amendment, and what is keeping us safe. I'm sure these thoughts also apply to other countries with analogous constitutions, and also things like international treaties on human rights, etc, but this area of expertise is foreign to me, and I just randomly take humanities when I can to learn a bit more on the side, since currently I'm an unemployed former software engineer, exploring some business and law humanities while job searching! ;-)

You can learn and be more aware though, by participating in these discussion forums, etc, outside of what you read in the news.

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