

NEW MEXICO INJURY ATTORNEY BLOG

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Costly Contradictions of "Online Privacy"

FISA, the Foreign Intelligence Surveillance Act of 1978, was originally passed to allow surveillance of communications between foreign powers, foreign intelligence agencies, and their agents. Since 911, FISA has been greatly expanded through various amendments including the Patriot Act. The expansion of FISA allows virtually unfettered governmental monitoring of online and telephone communications of American citizens.

In order to facilitate the monitoring of telephone communications, Congress passed the FISA Amendments Act (FAA) of 2008 which granted the National Security Agency (NSA) virtually unlimited authority to spy on Americans. In addition to legalizing warrantless surveillance (no need for reasonable suspicion of wrongdoing), the legislation provided for what the ACLU terms "dragnet" surveillance of international phone calls and email, again without a warrant and without any suspicion of illegal activity.

To accommodate the new surveillance powers, Congress then passed the Communications Assistance to Law Enforcement Act (CALEA) which requires phone companies to make their networks "wiretap-ready."

Many Americans accept this as a reasonable response to 911 and the threat of terrorism. Perhaps, heightened surveillance authority is justified in the post 911 world. For both those that like to see the world in black and white, it applies to good guys and bad guys equally. It applies to those that oppose the intrusions on privacy as well as to those that fully embrace it.

Most Americans spend a fair amount of time online. There are 500 million Facebook members. There are hundreds of millions of online purchases each year. There are hundreds of billions of emails sent and received by law abiding citizens. Unfortunately, the protections that the government seeks to invoke and many Americans whole heartedly embrace may expose all these law abiding citizens to breaches of privacy. These breaches may be seemingly mundane such as the recent issue with Facebook. Others may be catastrophic to both innocent consumers and to the economy as a whole.

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It takes little imagination to see how this might happen. The government is now seeking to force all online platforms to make their software open to government surveillance. Basically, the government will require a "backdoor" to allow free and easy access for governmental use. Many would ask, "So what?" Fortunately, these folks do not need me or anyone else to answer that question. A simple Google search on internet privacy breaches will result in millions of results. Search again for online credit card security breaches and find millions more. Mull around for a while and ask yourself if you want a backdoor built into all your "private" online communications and purchases.

Unfortunately, the most gifted computer programmers do not always work in government. Nor do they always have benign purposes. Even those that do not mind the NSA poking around in their online activity might think twice about the 19 year old hacker prodigy doing the same. It all makes one miss the postman.

To follow the FISA Amendments, take a look at the [ACLU challenges](#) to the laws. A visit here might open your eyes to the problems with the FISA Amendments while also shedding some light on the value of the ACLU's work, which is widely misunderstood and regrettably much maligned.

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