

Every time you breath,
they might see. Every time
you speak, it might leak.

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U.S. Government
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Period 1
April 19, 2010

Electronic Surveillance

Have you ever picked up the phone to call a friend? Have you ever gone to the train or bus station? Have you ever stopped at a red light? Have you ever made a search on Google? If you said yes to one of these questions, or even similar questions, then there is the great possibility of electronic surveillance. Electronic surveillance refers to the use of hidden listening and recording devices in, or around, computers, telephones, televisions, and any other electronics in the hope of obtaining information. This listening is conducted either at the grocery store, at the bank, in your car, or even in your own home. There are many people who still say that the government is not watching, or listening, to us. Those people are very wrong. All they have to do is look up when they are in 7-11, or in the bank. When you go to school, there is always a camera on you. No matter where you go, there is at least a camera in sight. Eighty-two percent say they use, or have used, cameras and seventy-five percent own two or more cameras. It's not just the government that can get a hold of this information, however. Anyone can take a video, or record a conversation. All it takes is for it to land in the wrong hands. Since 9/11, the United States government has taken steps to protect against terrorism. Many of these steps one might argue as unethical. They can tap into phone lines, and monitor your computer screen. As part of a terrorist surveillance program, the National Security Administration conducted wiretapping and surveillance without judicial oversight from 2001 to present.

Take a step back for a second. The first use wiretapping came before the telephone was even invented. Law enforcement tapped into telegraph communication,

and began eavesdropping. Then, in the 1860s, state laws made it illegal to listen and intercept telegraphs. By the time the 1890s rolled around, wiretapping was a common initiative. Telephone companies assisted law enforcement with wiretapping phone lines. At the turn of the century, state governments were criticized by media for not doing something about it. In response, the aid ceased, and laws were passed to ban eavesdropping altogether without a warrant. The Supreme Court ruled in 1967 that electronic surveillance search and seizure was illegal. Congress responded by passing the Omnibus Crime Control and Safe Streets Act in 1969. This made it legal to wiretap with judicial approval. Some states continued to ban electronic surveillance altogether despite the act. In 1972, the Supreme Court ruled that electronic surveillance was illegal and unconstitutional without a warrant in all cases. Yes, that's right, even cases concerning national security. As a response, law enforcement argued that this judicial oversight limited the ability to fight crime. This is when Congress passed The Foreign Intelligence Surveillance Act (FISA). In the 1980s, computers came along. Law enforcement began monitoring email and text message communications. Since they did not transmit a voice, they were not protected. Congress then passed the Electronic Communication Act of 1986, which extended the judicial oversight to cell phone, email, and text communication. On three separate occasions, Clinton petitioned to have the surveillance laws changed to allow federal agencies to conduct surveillance. In 2002, President George W. Bush authorized the war against Iraq. This also authorized the use of electronic surveillance methods to prevent terrorism against the United States. The Foreign Intelligence Surveillance Act (FISA) was changed in 2001 to allow this surveillance as long as the nationalists were not associated with those governments.

Also, within the USA Patriot Act of 2001, extreme measures can be taken to stop terrorism in the U.S., and around the world. In 2006, a U.S. District Court Judge ruled the NSAs surveillance as unconstitutional, and eliminated the program. In July 2007, however, the decision was overturned by a circuit court, and by February 2008, the Supreme Court declined the case.

The main question is: “are rights worth more than ones safety?” This is a question that should be answered before moving on. This is a question that all Americans should ask themselves. Well, one might have a different opinion, but they most certainly are! The Constitution, and its meanings, are supreme over all. The basic rights of the people should not be infringed up in any way! There are three main reasons why this is the case: (1) misuseage, (2) democracy, and (3) law enforcement can still battle crime.

Now, of course there are counterclaims. There are always counterclaims whether true, or not. The main argument in this case is to protect the safety of the American people. The terrorist attacks on September 11, 2001 were a turning point within American history. These attacks show that the United States must protect, and defend, itself from foreign attack. This includes using the best technological innovations to intercept, and eliminate, the threat. Who is a terrorist? Is there a profile for this name? There is absolutely no way to profile who a terrorist is, and who isn't. The reader, the teacher, and the preacher can all be terrorists. Safety does not outweigh the dangers of loosing a Constitution. Safety does not outweigh a persons rights. Another argument that is one the other side of the table is obtaining a warrant takes to long. It is stated that the process of obtaining a warrant takes longer than it does to monitor a communication

device. By the time they get the warrant, then it will be too late. If that is really the case why don't we just throw warrants out? Why don't you just have police raiding your house for the hell of it? We are protected from those unreasonable search and seizures. It in the fourth amendment. The warrant process is to be used, so enough evidence is gathered to rule the search as justified. It is to protect the American people from government taking over one's home; the respect of privacy. If the proper paperwork is filled out, a warrant can take as long as a phone call. If they really have enough evidence to tap the device in the first place, then submit the paperwork. Get a warrant! The government doesn't need that many wiretaps, unless they plan to wiretap every foreign nationalist. Even people associated with them. If they don't need warrants, cause it takes to long, then they can monitor *anyone*. Next, they argue that electronic surveillance must be used to track and monitor "fourth-generation warfare." In other words, the U.S. must use tools to combat a new form of enemy in this new form of warfare, which includes the ability to track the enemy and prevent attacks in the future. Now, in this case, it is very possible to do this. If the military had enough substantial evidence to prove a certain person is involved in illegal activity, then they get a warrant to tap the person phone, and email. This will then secure the rights of that individual. Instead, military has taken it upon themselves to do whatever they want when it comes to surveillance. Lastly, the counter argument of planning comes into the picture. To explain further, the terrorist attacks of 9/11 were carefully laid out and planned. Government claims that if they electronically monitor these terrorists, then future plans can be spoiled. That is not necessarily the case considering how many instances this have occurred in the past, but in the opposite favor. Electronic surveillance has no effect

on the prevention of crime. A conversation can be recorded today, and no one has listened to it until a week from now. By that time, the person on that line could have blew New York up, or the White House, or something of that nature. The point is, there is no way to keep Americans safe by imprisoning them and monitoring them. The real terrorists are the ones that people would least expect. Even 9/11 and Pearl Harbor could have been prevented. They had prior knowledge, but they got it too late. All these counterclaims are very well thought out, but that doesn't mean they are the answer to the problem.

This new technology of gathering Intel to battle crime and terrorism is crucial in law enforcement tactics. However, that does not mean they can use it whenever they want to, and prosecute whoever they want for no reason. Of course, Americans have fear of another attack on our soil, but we can't let that fear get in the way of life in America. Issues of wiretaps is not just a technology issue. It also involves issues of human behavior. To start off, wiretaps always involve the issue of misuse. There is only one way to stop the misuse of this technology. The only way is to effectively require a warrant. Although one might argue that law enforcement would not abuse such a privilege, but the case is that they have in the past. Why would they all of a sudden change their tactics? They want to stop everyone and anyone who commits a crime. Correct, but they also drop into those private conversations. The dirty conversation one might be having with their girlfriend or boyfriend. Why even risk that type of privacy invasion? The next argument is Democracy. The most important of all reasons to restrict electronic surveillance. We live in a democracy, or what is supposed to be one. The point here is that we can't call ourselves a democracy if our own

government feels they have to monitor everyone. The Constitution is a document written to protect the American people from these kind of tactics. One might say that the founders could not have expected such a technology driven society. The founders did, however, think it through very deeply about the future. They really stressed property, civil liberties, and privacy issues. Once we start picking at the Constitution for all the little things, the Constitution will be abolished. We are leading more, and more, to a socialistic and communist society with electronic surveillance. The third, and final argument, is that law enforcement can still conduct their regular duties without going to the extreme without using warrants. In other words, the police have still stopped attacks in the past. They have still prevented crime. Although, it is still impossible to stop crime all together, they have done a good job. Everyone knows that a cop cannot be everywhere, watching everyone, at every moment. Just because they have to use a warrant doesn't mean that their powers are crippled. In reality, it protects them against embarrassment and it saves tax dollars. So, as you have seen, the arguments against these unlawful tactics have been presented.

To wrap it all up, widespread fear of safety also create widespread fear loosing freedom. Widespread fear creates the perfect opportunity for state tyranny. The Constitution was established to prevent this very issue. The guarantee that we would all be free and independent from government control was paid for with bloodshed. In an atmosphere of fear and widespread tyranny brought by the tragic events, such as that of 9/11, persuade people that the only way to stay safe is to give up their rights. The truth is that we don't have to make a few technological changes in the fourth amendment. The decision may very well be phrased to chose between freedom and safety; between

listening in on conversations or doing nothing. Wording it in that manner completely ignores the fundamental principles this country stands for. The constitutionally protection to be free from governmental searches without a warrant. No matter how law enforcement may word it, or the media, it does not justify the right to abolish privacy. Always remember that the framers of the Constitution understood this principle very clearly when they stated in the Constitution that the people had the right to be secure in their persons, places, papers, and things, against unreasonable searches and seizures. No warrant shall be issued but upon probable cause supported by oath or affirmation. Of course the founders had no idea about email, phones, Al Qaeda, etc, but they did understand the desire of government to exercise power over its citizens to barge into houses and search for incriminating evidence to put them in jail like was previously done in Great Britain. In the end, it isn't the electronic surveillance that is in question it is the people behind the listening devices. The people who are motivated by human behavior. They have a sense of power and authority, so they think it justifiable to tap phone lines. Although people might fear for their safety, they must ask themselves a few questions. First, ask themselves, if this type of surveillance is conducted what guarantees are present to guard against its abuse, such as conducting surveillance for political purposes? If the government uses such tactics to listen, and monitor, private citizens, what distinguishes the Unites States from totalitarian societies? Also one should ask themselves if unconventional terrorism calls for the unconventional means of preventing it? What about if someone overhears a murder plot being conducted on the street, and reports it, is that considered surveillance, or a search? How does this situation differ from law enforcement? Well, law enforcement eavesdropping on private

conversations is different from a private citizen eavesdropping on a conversation in public. The public conversation is conducted in public and it was a citizen that listened in.

There are different ways to view this issue. There are many solutions to this problem, but for now, the best solution is to stop the eavesdropping. Stop the the unwarranted searches of information. The electronic surveillance provide law enforcement with important means of capturing communications that may introduce critical information about an enemy's tactics. However, this information can still effectively with a warrant. The best thing for ourselves, and our country, is to not allow this form of tyranny surpass our civil liberties. Warrants with judicial oversight are used to insure the protection of the American peoples freedom. They are used to ensure that law enforcement, and government, do not overstep their boundaries. This needs to cease before it gets out of hand. Stop unreasonable searches and seizures now! It violates the fourth amendment.

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