

Coalition sues to halt electronic surveillance

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Environmental and human rights activists, church leaders and gun rights advocates found common ground on Tuesday, filing a lawsuit against the federal government to halt a vast National Security Agency electronic surveillance program.

The lawsuit was filed in federal court in San Francisco by the Electronic Frontier Foundation, which is representing the unusually broad coalition of plaintiffs.

It seeks an injunction against the NSA, Justice Department, FBI and directors of the agencies, and challenges what the plaintiffs describe as an "illegal and unconstitutional program of dragnet electronic surveillance."

"Our goal in this case is to highlight one of the most important ways that the governments' bulk untargeted collection of telephone records is unconstitutional," said foundation Legal Director Cindy Cohn. "It violates the First Amendment right of association."

The suit followed disclosures from former NSA contractor Edward Snowden, who has been leaking details about a broad U.S. intelligence program to monitor Internet and telephone activity to ferret out terror plots.

Snowden, who has been charged with spying and theft of government property, has spent the past three weeks in the Moscow airport transit zone.

On Tuesday, he submitted a request for temporary asylum in Russia, his lawyer said, claiming he faces persecution from the U.S. government and could face torture or death.

NSA public affairs deferred comment on the Electronic Frontier Foundation lawsuit to the Justice Department. A Justice Department spokesman did not respond to a request for comment.

In the suit, the coalition of 19 groups representing about 900,000 people demands that the federal government return and destroy any telephone communications information in its possession. It also wants a jury trial on the allegations contained in the suit.

The plaintiffs fall across the political spectrum, including the First Unitarian Church of Los Angeles, the Council on American Islamic Relations Foundation, Greenpeace, Human Rights Watch, Students for Sensible Drug Policy and others.

Plaintiff Gene Hoffman, chairman of The Calguns Foundation, which advocates against gun control laws, said members are nervous about calling hotlines to ask if they are inadvertently violating any rules or regulations.

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"It's a very serious concern that the sensitive conversation would be something the federal government or state government ... could access and realize what's going on," he said.

Dale Gieringer, who directs the California chapter of NORML, said the group joined the suit because members working to reform marijuana laws also have concerns about privacy.

"Because we are devoted to marijuana reform, many of our members have knowledge of activities that are illegal under federal law," Gieringer said.

The lawsuit states the federal government has "indiscriminately obtained, and stored the telephone communications information of millions of ordinary Americans as part of the Associational Tracking Program."

Last month, the American Civil Liberties Union filed a similar lawsuit in federal court in New York asking the government to stop the phone tracking program. Several other civil libertarian organizations have also filed legal actions, hoping to increase the odds of victory by taking cases to federal judges in different jurisdictions.

A legal expert said one challenge that plaintiffs face is proving they have actually been wiretapped or been a victim of surveillance.

"But it's now clear that virtually everyone's phone call records can be gathered in this metadata collection program, so I believe they do have standing," said University of Chicago law professor Geoffrey Stone.

Other legal issues include whether the surveillance constitutes a violation of the Fourth Amendment, which guards against unreasonable searches and seizures.

In addition, George Washington University law professor Jonathan Turley said the Obama administration will likely argue, as it has in the past, that the surveillance is protecting national security.

"It's distressing that until the Snowden disclosures, the administration insisted that any discussion of these surveillance programs would cause grave national security problems," Turley said. "What's fascinating is that after Snowden came forward, the administration didn't hesitate a second in discussing the surveillance in the public realm."

After Snowden's disclosures, Yahoo asked the U.S. Foreign Intelligence Surveillance Court, which reviews government requests to spy on individuals, to unseal a 2008 case that ordered the Silicon Valley firm to turn over customer data.

On Monday the court agreed, although the government is going to review the records first to see what material, if any, is classified and should be withheld.

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