

Judge sides with government in lawsuit over surveillance

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A federal judge on Tuesday sided with the government in a lawsuit alleging the National Security Agency is illegally engaging in the bulk collection of Internet and telephone records in the hunt for potential terrorists.

U.S. District Judge Jeffrey White in Oakland said the plaintiffs in the case—AT&T customers—had not shown that all AT&T customers' Internet communications were currently the subject of a "dragnet seizure and search program, controlled by or at the direction of the Government," and they therefore did not have standing to file a [lawsuit](#) under the Fourth Amendment, which protects against warrantless searches and seizures.

White said the plaintiffs' understanding of the key parts of the data collection process was "substantially inaccurate."

Additionally, even if the plaintiffs had standing, White said a Fourth Amendment claim would have to be dismissed to protect secret information that would damage national security if released. He granted partial summary judgment for the government.

"The Court is frustrated by the prospect of deciding the current motions without full public disclosure of the Court's analysis and reasoning..." White wrote in his ruling. "The Court is persuaded that its decision is correct both legally and factually and furthermore is required by the interests of national security."

The judge did not dismiss all of the claims in the suit, said Nate Cardozo, a staff attorney for the Electronic Frontier Foundation, which brought the suit in 2008.

Still, he said the judge's ruling was disappointing.

"What we want is a court to rule on the merits of the NSA's program," he said. "Is what they are doing legal? Is it constitutional? The court didn't do that. It didn't say 'yes' or 'no.'"

The foundation plans to continue fighting the case, Cardozo said.

Cardozo said other pending lawsuits are challenging the government's collection of telephone metadata such as the duration of a call and to whom it was placed.

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