

Facebook takes search warrant challenge to NY's top court (Update)

February 7 2017, by David Klepper

Facebook and Manhattan prosecutors went to New York state's highest court Tuesday to settle a legal dispute over search warrants for users' accounts, a closely watched case with big implications for online privacy.

An attorney for Facebook told the judges that it must be allowed to object when law enforcement seeks search warrants for its users' information. Manhattan District Attorney Cyrus R. Vance Jr. argued it is up to individual Facebook users to fight any effort to obtain personal information for criminal investigations.

Prosecutors sought search warrants in 2013 for the accounts of 381 people in connection with a disability benefits fraud case against New York City police and fire retirees.

The Menlo Park, California-based social media company challenged the warrants, but lower courts sided with prosecutors, ruling that Facebook didn't have legal standing to object since the target was information about possible suspects—not Facebook. Facebook turned over the data but has continued to contest the actions of prosecutors.

Facebook attorney Thomas Dupree said the search warrants were unprecedented in their scope. Facebook regularly works with law enforcement but has to be allowed to object when it feels a search warrant is overly broad, he said.

"This case involves the DA's seizure of the most personal and intimate information imaginable," Dupree said. "These are people's private thoughts and communications, on their lives, their identities, their families, their politics, their religion, their sexuality, all captured in the DA's dragnet."

Vance said anyone whose Facebook information is seized has the right to sue prosecutors for damages or challenge the admissibility of the evidence in court. He also noted that prosecutors must go before a judge before obtaining search warrants.

"Law enforcement is always going to be bumping up against people's privacy," he said. The search warrants for social media posts, he added, are "really no different than if we issued a search warrant into someone's house and took books and records or a car or a safe deposit box."

In the alleged disabilities fraud case against police and fire retirees, prosecutors sought the social media content in an attempt to show the retirees were leading active lives and lying about disabilities.

A decision is expected within a few months.

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