

# Tighter oversight on border laptop searches

27 August 2009, By EILEEN SULLIVAN , Associated Press Writer

(AP) -- The Obama administration on Thursday put new restrictions on searches of laptops at U.S. borders to address concerns that federal agents have been rummaging through travelers' personal information.

The long-criticized practice of searching travelers' [electronic devices](#) will continue, but a supervisor now would need to approve holding a device for more than five days. Any copies of information taken from travelers' machines would be destroyed within days if there were no legal reason to hold the information.

Given all the personal details that people store on digital devices, border searches of laptops and other gadgets can give [law enforcement](#) officials far more revealing pictures of travelers than suitcase inspections might yield. That has set off alarms among civil liberties groups and travelers' advocates who say the government has crossed a line by examining electronic contact lists and confidential [e-mail](#) messages, trade secrets and proprietary business files, financial and medical records and other deeply private information.

In some cases, travelers suspected that border agents were copying their files after taking their laptops and cell phones away for time periods ranging from a few minutes to a few weeks or longer.

Last July, amid mounting outside pressure, the [Homeland Security Department](#) issued a formal policy stating that federal agents can search documents and electronic devices at the border without a warrant or even suspicion. The procedures also allowed border agents to retain documents and devices for "a reasonable period of time" to perform a thorough search "on-site or at an off-site location."

The new directive, effective immediately, put more restrictions on the searches:

-A supervisor must be present during these

-As before, Customs and Border Protection officials can keep the electronic device or information on it only if they have probable cause to believe it is connected to a crime. But now if there is no legal reason to hold the information, it must be destroyed within seven days.

-Officers must consult agency lawyers if they want to view a traveler's sensitive legal material, medical records or a journalist's work-related information.

-Immigration and Customs Enforcement agents cannot keep property for more than 30 days, depending on the circumstances of each case.

Marcia Hofmann, a lawyer with the Electronic Frontier Foundation, a digital civil rights advocacy group, said in an interview the new rules are an improvement. But they don't go far enough, she said.

She said travelers should be told if information is copied from their devices. The new directive states that federal agents must tell travelers if they are looking at their property. But if officials copy the hard drive during this search, the traveler will not know.

"I don't think that's the way to go," Hofmann said.

Reps. Bennie Thompson, D-Miss., and Loretta Sanchez, D-Calif., commended the administration for tightening oversight of these searches.

Opponents of the searches have said they threaten Fourth Amendment safeguards against unreasonable search and seizure and could chill free expression and other activities protected by the First Amendment. What's more, they warn, such searches raise concerns about ethnic and religious profiling since the targets often are Muslims, including U.S. citizens and permanent residents.

The searches, which predate the Sept. 11, 2001,

terrorist attacks, have uncovered everything from martyrdom videos and other violent jihadist materials to child pornography and stolen intellectual property, according to the government.

One successful search the government cites from recent years: In 2006, a man arriving from the Netherlands at the Minneapolis airport had digital pictures of high-level al-Qaida officials, video clips of improvised explosive devices being detonated and of the man reading his will. The man was convicted of visa fraud and removed from the country.

Between Oct. 1, 2008, and Aug. 11 of this year, [Customs](#) and Border Protection officers processed more than 221 million travelers at U.S. borders and searched about 1,000 laptops, of which 46 were "in-depth" searches, the Homeland Security Department said.

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On the Net:

DHS directives:

[http://www.dhs.gov/ynews/releases/pr\\_1251393255852.shtm](http://www.dhs.gov/ynews/releases/pr_1251393255852.shtm)

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