

Civil Liberties Groups Support Google and Microsoft in Demanding Transparency from Secret Surveillance Court

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Washington, DC - The Center for Democracy & Technology joined a coalition of civil liberties groups in filing a brief yesterday in the secretive Foreign Intelligence Surveillance Court (FISC), arguing that Google and Microsoft must be allowed to describe their role in the government's surveillance of the Internet. The brief supports motions filed previously by Google and Microsoft requesting that the court declare that they are free to publish basic aggregate information about the number of court orders demanding their users' data that they receive from the FISC, and the number of users affected by those orders.

The First Amendment Coalition, a free speech group, organized the filing of the amicus brief, which was written by First Amendment lawyers Floyd Abrams and Dean Ringel. The brief was also filed on behalf of the American Civil Liberties Union, the Center for Democracy & Technology, the Electronic Frontier Foundation, and TechFreedom.

While acknowledging the need for secrecy surrounding many aspects of the FISC's work, the civil liberties groups contend that free speech safeguards nonetheless apply to judicial actions that purport to bar private parties like Google and Microsoft from describing their own interaction with government agencies that wield court-sanctioned demands for data access. As the brief says:

In seeking to provide the public with information about the number of government requests received and the number of affected subscriber accounts, Google and Microsoft each seeks to engage in speech that addresses governmental affairs in the most profound way that any citizen can: by describing their own interaction with the government process that is the subject of the national debate. Such speech... is at the very core of the First Amendment.

"Basic information about how often the government uses its surveillance powers for law enforcement has been published for years without any apparent disruption to criminal investigations," said CDT senior counsel and Free Expression Director Kevin Bankston.

"Microsoft and Google are simply seeking permission for the same information to be made available regarding the government's national security surveillance authorities. Publishing basic numerical data about criminal law enforcement surveillance never tipped off Tony Soprano, and publishing similar data about national security surveillance won't make the American people less secure—but it will make us more informed."

Bankston continued, "We support Google and Microsoft in their effort to provide greater transparency around surveillance authorized by the secret FISA court, and further call on Congress to update the law and clarify that companies have the right to engage in this kind of transparency reporting. We cannot have an informed debate about the scope of the government's surveillance authority until we have an informed public."

A copy of the brief is available [here](#) [1].

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