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ACLU Seeks Records About Laptop Searches At The Border

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June 10, 2009

Border Patrol Policy Allows Officials To Search And Retain Information Without Suspicion

FOR IMMEDIATE RELEASE

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NEW YORK – United States Customs and Border Protection (CBP) policy permits officials to search the laptops and other electronic devices of travelers without suspicion of wrongdoing, according to a Freedom of Information Act (FOIA) request filed today by the American Civil Liberties Union. The ACLU filed the FOIA request with CBP, a component of the Department of Homeland Security (DHS), to learn how CBP's suspicionless search policy, first made public in July 2008, is impacting the constitutional rights of international travelers.

"Based on current CBP policy, we have reason to believe innumerable international travelers – including U.S. citizens – have their most personal information searched by government officials and retained by the government indefinitely," said Larry Schwartzol, staff attorney with the ACLU National Security Project. "The disclosure of these records is necessary to better understand the extent to which U.S. border and customs officials may be violating the Constitution."

In July 2008, CBP issued its "Policy Regarding Border Search of Information," which permits CBP to subject travelers to suspicionless searches of information contained in documents and electronic devices, including laptop computers.

According to the ACLU's request, giving the government unchecked authority to search travelers' personal documents and electronic devices is a violation of Fourth Amendment privacy rights and the First Amendment freedoms of speech, inquiry and association.

"These highly intrusive government searches into a traveler's most private information, without any reasonable suspicion, are a threat to the most basic privacy rights guaranteed in the Constitution," said Catherine Crump, staff attorney with the ACLU First Amendment Working Group. "Searching or retaining a traveler's personal information – especially the vast stores of information contained in a laptop or other electronic storage device – could also have a chilling effect on the free exchange of ideas and beliefs."

The ACLU FOIA request seeks records related to:

“

- CBP's authority to search, review, retain and disseminate information possessed by individuals who are encountered by CBP at the border;

”

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- the retention of documents or electronic devices by CBP, including the number of documents or electronic devices retained, the length of retention, the reasons for retention and the ultimate disposition of retained material;
- the dissemination of documents or electronic devices to other components of DHS, other government agencies, or persons or entities outside the government;
- complaints filed by individuals or organizations affected by CBP's policies or practices related to the search, review, retention or dissemination of travelers' information;
- statistics reflecting the number of travelers subject to suspicionless searches of their information at the border; and
- statistics reflecting the race, ethnicity, country of origin, citizenship and gender of individuals subjected to suspicionless searches of their information at the border.



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The ACLU's FOIA request is available online at: www.aclu.org/freespeech/gen/39817lg|20090610.html



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