ELECTRONIC PRIVACY INFORMATION CENTER

The Carnivore FOIA Litigation

EPIC Carnivore Documents | Other Resources

NEW Significant New FBI Carnivore Documents (Released May 24, 2002)

- EPIC Press Release -- "FBI's Carnivore System Disrupted Anti-Terror Probe"
- FBI Memo on "FISA Mistakes" (4/5/00) -- describes how Carnivore interfered with anti-terrorism investigation involving Usama bin Laden
- FBI Memo on Carnivore Legal Questions (4/11/00)
- FBI Memo Responding to Carnivore Legal Questions (4/12/00)
- Court Order Authorizing Carnivore Installation at Earthlink (C.D. Cal. Feb. 4, 2000) -- only known court decision addressing the use of Carnivore, issued after Earthlink challenged an order directing it to allow a Carnivore installation
- FBI Declaration on Carnivore Installation (1/31/00) -- submitted in support of FBI application for Carnivore order

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On July 11, 2000, the existence of an FBI Internet monitoring system called "Carnivore" was widely reported. Although the public details were sketchy, reports indicated that the Carnivore system is installed at the facilities of an Internet Service Provider (ISP) and can monitor all traffic moving through that ISP. The FBI claims that Carnivore "filters" data traffic and delivers to investigators only those "packets" that they are lawfully authorized to obtain. Because the details remain secret, the public is left to trust the FBI's characterization of the system and -- more significantly -- the FBI's compliance with legal requirements.

One day after the initial disclosures, EPIC filed a Freedom of Information Act (FOIA) request seeking the public release of all FBI records concerning Carnivore, including the source code, other technical details, and legal analyses addressing the potential privacy implications of the technology. On July 18, 2000, after Carnivore had become a major issue of public concern, EPIC asked the Justice Department to expedite the processing of its request. When DOJ failed to respond within the statutory deadline, EPIC filed suit in U.S. District Court seeking the immediate release of all information concerning Carnivore.

At an emergency hearing held on August 2, 2000, U.S. District Judge James Robertson ordered the FBI to report back to the court by August 16 and to identify the amount of material at issue and the Bureau's schedule for releasing it. The FBI subsequently reported that 3000 pages of responsive material were located, but it refused to commit to a date for the completion of processing.

In late January 2001, the FBI completed its processing of EPIC's FOIA request. The Bureau revised its earlier estimate and reported that there were 1756 pages of responsive material; 1502 were released in part and 254 were withheld in their entirety (see link below for sample scanned documents).

On August 1, 2001, the FBI moved for summary judgment, asserting that it fully met its obligations under FOIA. On August 9, 2001, EPIC filed a motion to stay further proceedings pending discovery, on the grounds that the FBI has failed to conduct an adequate search for responsive documents.

On March 25, 2002, the court issued an **order** directing the FBI to initiate a new search for responsive documents. The new search was to be conducted in the offices of General Counsel and Congressional & Public Affairs, and be completed no later than May 24, 2002. The documents listed above were located and released as a result of that court-ordered search.

EPIC Carnivore Documents

- Carnivore FOIA Documents
- EPIC Press Release on FOIA Lawsuit
- EPIC's Complaint (PDF)
- Motion for a Temporary Restraining Order (PDF)
- Response to FBI's Report to the Court (PDF)
- Opposition to FBI's Motion to Dismiss (PDF)
- EPIC's Motion to Stay Proceedings Pending Discovery (challenging adequacy of FBI search) (PDF)
- EPIC's Reply in Support of Motion to Stay Proceedings Pending Discovery (PDF)
- Court order directing FBI to conduct new search (3/25/02)

Other Resources

- FBI's Carnivore Page
- Final Independent Technical Review of the Carnivore System (PDF, 4.5mb)
- EPIC's Comments on Independent Technical Review
- Executive Summary of DOJ Request for Proposals for Independent Review of Carnivore System (PDF)
- DOJ Request for Proposals for Independent Review of Carnivore System (PDF)
- "Model Scenarios" for Independent Technical Review of the Carnivore System (PDF)
- "Vendor Issues" for Independent Technical Review of the Carnivore System (PDF)

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Page URL: http://www.epic.org/privacy/carnivore/default.html