

## US Federal judge: NSA is Orwellian

From Zerohedge, 12 November 2015

On Monday, a federal judge ordered a halt to the NSA's bulk metadata collection program in a reiteration and confirmation of a previous ruling that found the practice "*unconstitutional*" — and even "*Orwellian*."

***"This court simply cannot, and will not, allow the government to trump the Constitution merely because it suits the exigencies of the moment,"*** stated Washington, D.C. District Court Judge Richard Leon in his mordant [43-page ruling](#).

Edward Snowden immediately [hailed the decision](#), pointing out significant passages from the court to his millions of Twitter followers. Of particular importance — and, indeed, at the heart of both known and potentially unknown domestic spy programs — remains the impossible reckoning between Fourth Amendment protections and the government's claims of a national security imperative.

### **Moved by whatever momentary evil has aroused their fears**

*"Moved by whatever momentary evil has aroused their fears, officials — perhaps even supported by a majority of citizens — may be tempted to conduct searches that sacrifice the liberty of each citizen to assuage the perceived evil. But the Fourth Amendment rests on the principle that a true balance between the individual and society depends on the recognition of 'the right to be let [sic] alone — the most comprehensive of rights and the right most valued by civilized men,'"* the ruling stated, with emphasis added by Snowden.

In another tweet, the whistleblower summarized the ruling: "*Judge rejects government claim that so long as you aren't targeted individually, dragnet searches of your life are OK.*"

Though Leon's judgment arrives mere weeks before metadata collection would naturally end under the [USA Patriot Act's Section 215](#) upon [implementation](#) of the newly passed [USA Freedom Act](#), he emphasized potential implications of any undue delay in bringing such spying to a close, stating:

### **Likely violates the Constitution**

*"In my December 2013 Opinion, I stayed my order pending appeal in light of the national security interests at stake and the novelty of the constitutional issues raised. I did so with the optimistic hope that the appeals process would move expeditiously. However, because it has been almost two years since I first found that the NSA's Bulk Telephony Metadata Program likely violates the Constitution and because of the loss of constitutional freedoms for even one day is a significant harm [...] I will not do that today."*

In other words, the judge harshly repudiated the government's already poorly disguised emphasis on national security to justify bulk collection as wholly secondary to the individual's right to privacy under the Constitution. Leon's [2013 ruling](#) was struck down in August this year, when an appeals court found the plaintiff in *Klayman v. Obama* had not established the legal standing necessary to dispute the constitutionality of the NSA program. Once amended

appropriately, the judge was able to make a ruling on the original case and [issue an injunction](#) to halt bulk collection.

### **Leon sharply admonished the appeals court**

In this ruling, Leon sharply admonished the appeals court for its reversal, saying:

*“Because the loss of constitutional freedoms is an ‘irreparable injury’ of the highest order, and relief to the two named plaintiffs would not undermine national security interests, I found that a preliminary injunction was not merely warranted — it was **required**.” [emphasis by the judge]*

Seemingly irritated at the insult of the government maintaining its position on the necessity of bulk collection while ignoring the preceding twenty-two months to find less invasive means to achieve the same goal, Leon searingly stated:

*“To say the least, it is difficult to give meaningful weight to a risk of harm created, in significant part, by the Government’s own recalcitrance.”*

Pointing out the painfully obvious, Leon derided fictitious claims the government needs bulk data collection at all, considering the program thwarted exactly zero terror attacks throughout its entire duration. In rebuttal to claims the contentious NSA program remains reasonably effective, the judge flatly stated:

*“This is a conclusion I simply cannot reach given the continuing lack of evidence that the Program has ever actually been successful as a means of conducting time-sensitive investigations in cases involving imminent threats of terrorism.”*

### **A scathing challenge to the naïveté and blind acceptance**

Pulling no punches, Leon concludes with a scathing challenge to the naïveté and blind acceptance Congress mistakenly presumed the public and court would give the contentiously invasive program:

*“To be sure, the very purpose of the Fourth Amendment would be undermined were this court to defer to Congress’s determination that individual liberty should be sacrificed to better combat today’s evil.”*

### **Nobody buys your bullshit**

Employing linguistic subtlety which, at times, borders on a verbal smackdown, Judge Richard Leon brilliantly sent the NSA, Congress, and rest of the government a message that couldn’t be denied this second time around: ***Nobody buys your bullshit.***