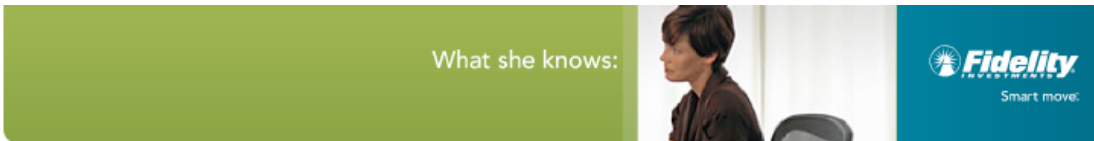


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FBI Seeks To Pay Telecoms For Data

\$5 Million a Year Sought for Firms To Keep Databases

By [Ellen Nakashima](#)
Washington Post Staff Writer
Wednesday, July 25, 2007; Page A07

The [FBI](#) wants to pay the major telecommunications companies to retain their customers' Internet and phone call information for at least two years for the agency's use in counterterrorism investigations and is asking Congress for \$5 million a year to defray the cost, according to FBI officials and budget documents.

The FBI would not have direct access to the records. It would need to present a subpoena or an administrative warrant, known as a national security letter, to obtain the information that the companies would keep in a database, officials said.

"We have never asked for the ability to have direct access to or to 'data mine' telephone company databases," said [John Miller](#), the FBI's assistant director for public affairs. "The budget request simply seeks to absorb the cost to the service provider of developing an efficient electronic system for them to retain and deliver the information after it is legally requested."

The proposal has raised concerns by civil libertarians who point to telecom companies' alleged involvement in the government's domestic surveillance program and to a recent [Justice Department](#) inspector general's report on FBI abuse of national security letters. In one case, a senior FBI official signed the letters without including the required proof that they were linked to FBI counterterrorism or espionage investigations.

The report also disclosed that the bureau was issuing "exigent letters," telling telephone companies that the bureau needed information immediately and would follow up with subpoenas later. In many cases, agents did not follow up. Moreover, [Inspector General Glenn A. Fine](#) found, there was no legal basis to

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compel the disclosure of information using such letters.

The proposal "is circumventing the law by paying companies to do something the FBI couldn't do itself legally," said Michael German, [American Civil Liberties Union](#) policy counsel on national security. "Going around the Fourth Amendment by paying private companies to hoard our phone records is outrageous."

Mark J. Zwillinger, a Washington lawyer who represents Internet service providers, said companies have no "business reason" to keep the data. Moreover, he said he did not think telecom companies "are in the business of becoming the investigative arm for the government, keeping data just so the government can get access to it. That's really what the government is asking for: 'Keep data on hundreds of millions of users just in case we need to get data for 15 individuals.' "

Last year, according to industry sources, [U.S. Attorney General Alberto R. Gonzales](#) and FBI Director Robert S. Mueller III urged telecom providers to keep subscriber information and network data for two years. Legislation is pending in Congress that would require companies to keep the data. What type and for how long would be up to the attorney general.

The administration is also attempting to win immunity for telecom companies from criminal and civil liability for any role in the surveillance program.


Telecoms have been providing data legally to the government and then charging for it, said a government official not authorized to speak publicly about the matter and who spoke on condition of anonymity. The cost is about \$1.8 million a year since the Sept. 11, 2001, attacks, the official said.

The idea now, the official said, is to have the telecom companies create and maintain databases of phone and Internet records so that when they receive a subpoena or national security letter, they can deliver the information expeditiously in electronic form.


Zwillinger, an Internet and data protection expert with Sonnenschein Nath & Rosenthal and a former federal prosecutor, said that merely retaining the records creates "a very attractive trove" of data that can be subpoenaed by other entities, such as lawyers in divorce proceedings or other civil litigation.

The FBI's proposal to pay companies for the records was reported previously by [ABC News](#).

Staff researcher Karl Evanzz contributed to this report.

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