

From: sparrow.nospam@ukans.edu
Date: Thu, 04 Nov 1999 17:09:35 -0600
X-Mailer: Mozilla 4.5 [en]C-CCK-MCD (WinNT; I)
X-Accept-Language: en
To: key-recovery@nist.gov
Subject: Key recovery v. consumers' encrypted speech

Any law of this nation requiring government accessibility to private, confidential and protected speech cannot be allowed, and, if allowed, will undermine the very freedoms we hold dear. I personally resolve to challenge any such situation, if it were to come to pass, in every means and with as aggressive legal means as may be at my disposal. THIS IS WRONG! America is not under martial law, and I will not allow my government to slowly, methodically chip away at the very principles that allow me to say what I am saying right now! . Freedom from the often very oppressive eye of government is a basic tenet of the Bill of Rights. The very concept of key recovery reflects the low priority this government places on private interests, even when those private interests are the very ones men have fought and died to gain and keep for the nation. I will not stand for it.

The simple possibility (or fear) that someone may engage in encrypted speech concerning illegal acts is entirely insufficient justification to unilaterally prevent law abiding citizens from engaging in whatever form of communication desired, to exclude communication materially harmful to others, but to include encrypted speech. The government's ease of enforcing the law does not supersede an individual's right to speech when that speech does not directly and materially harm others.

There is no constitutional amendment guaranteeing that the government is entitled to catch every criminal. There is a constitutional guarantee to free speech. Clearly, the Constitution places the interest of protecting free speech in a far more compelling light than prosecuting illegal activity. Both endeavors are valid and necessary to an orderly society, but when they conflict, as in this case, the former must be held more compelling. If people do not have the basic right to say and do what they want to whomever they want whenever and however they want to, so long as NO other party (including the recipient) is materially harmed in any way by the speech, then the very principle of free speech is compromised. Yes, I realize there are laws today that, under this interpretation, compromise free speech. These laws must be repealed, but that is a separate issue. The issue here is to not make additional laws that further erode basic rights in favor of

greater governmental oppression. Without free speech, the ability to effect change in society through discussion of whatever topics two people feel are worth discussing is usurped from the individual.

Laws preventing government from misusing keys maintained in any contemplated key recovery scheme will not ensure always prevent such misuse, and in any case such laws, to my knowledge, do not exist yet. Therefore, any use of key recovery necessarily brings with it a certain level of unconstitutional violations of free speech (e.g., improper, unavoidable and for the most part, undetectable use of keys for government access to legal, private, constitutionally protected communications). This situation can not be allowed to exist. No individual can rightfully be expected to, nor should any individual tolerate, the sacrifice of their basic, inherent rights for the overly broad purpose of "making it easier" for the government to detect and prosecute illegal activity. I would rather allow a single criminal to go free until such time as sufficient evidence can be acquired against him with violating any person's inherent human rights. It is the basic principle of "two wrongs don't make a right", and it is universal, regardless of who's job is made tougher by that principle. It's a matter of ethics, dedication to the principles that are in this nation's long term best interest, and realization that a short sighted measure to combat a social ill (crime) can create long term social disintegration (lack of principles in everyday society).

Thank you, and may I remind you that you work for all the people of this nation, not just those engaged in law enforcement.

-- (to reply, remove the letters "nospam" from the return address)

Derck Birdwell
Aerospace Engineer
Capt, USAFR