

‘Privacy and Security are Compatible’

Noah Sveiven

Thanks to the First Amendment to our Constitution, I can freely formulate an opinion to the question of the Right of Privacy and National Security, and you can hold your religious beliefs without persecution. The First Amendment secures the explicit right to speak and, therefore, the implicit right to **not speak**.

Thanks to the Fourth Amendment to our Constitution, my domain and yours—that is, our houses and cars—are protected from intrusion, and our possessions and correspondence are protected from seizure or search at the whim of law enforcement.

Thanks to the Fifth Amendment to our Constitution, my personal information and yours remains just that—personal.

These amendments along with the Ninth and the Fourteenth have been construed by the courts to create a right to privacy. Why did the courts have to create the right? Because there is no explicit language in our Constitution that names a right to privacy. The United States Supreme Court first expressed such a right in the case of *Griswold v. Connecticut* in June 1965 ... after many people in the room were born. It took the courts that long to recognize the right! Even further back—far before anyone alive today existed, Thomas Jefferson included in the Declaration of Independence “certain unalienable Rights, that among these are Life, Liberty, and the **Pursuit** of Happiness...” – a **pursuit** unachievable without the right to privacy.

In fact, the right to privacy is also recognized to be universal. Article 12 of the Universal Declaration of Human Rights declares that “no one shall be subjected to arbitrary interference with his privacy.”

Ladies and gentlemen, the right to privacy is not a threat to our national security; it is the reason for our national security.

National security is the country’s confidence that its land, people, and system of government will not be subject to attack. The cost of such security has been high. Brave Americans abandon the comforts of civilian life, put on uniforms, and run

towards danger. Too many times in our history, our national security has required the sacrifice of heroes who answered the call and served their country.

But we must not forget why these men and women were willing to run into the face of danger. They did it ... and do it so that the threat of danger does not become the justification to trample on the rights for which our country was founded and still stands.

We have plenty of tools to ensure national security without turning the right to privacy into a relic of the past. There are diplomatic tools—like bilateral and multilateral meetings. There are economic tools—like aid and trade, sanctions and investment. There are military tools—like law enforcement, the use of force, and intelligence collection.

The White House and the Pentagon can use these tools to secure our nation with the understanding that some tools are better than others. Some tools can be taken too far.

At the local level, governmental agencies have their tools too. The Fourth Amendment allows them to search or seize property after securing a warrant. A court may grant such a warrant only after the law enforcement agency has established probable cause. In other words, if you engage in activity which suggest that you are going to threaten national security, then you forfeit your right to privacy.

In times past, we could secure our borders by building walls and arming men. We could keep potential foreign threats in check by flexing our military muscles. This show of force could successfully keep threatening people out of our country then, but it does nothing to prevent the entry of threatening ideas or harmful information now. With today's technology—satellites, computers, smart phones, and the Internet—voice and text can be shared around the world to billions of people in a matter of seconds. With that same technology, our government, a foreign entity, or even a private company can infiltrate our homes, seize our information, and collect data on all aspects of our private lives. Should our government be permitted to do so in the name of national security? I say no.

While mass surveillance may seem sensible and necessary when national security is concerned, it is not. Mass surveillance is arbitrary. It is unconstitutional, for it assumes collective guilt without conviction. It hurts dissent, and it doesn't even achieve its objective.

Keeping America safe is a tall order, but the collection of data of ordinary citizens does not help make us safe. Recent violations of our right to privacy prove this.

Klayman v. Obama was a case argued before the DC District Court. In that case, the United States government was unable to cite “a single instance in which analysis of the NSA's [massive collection of data] ... stopped an imminent attack, or otherwise aided the government in achieving any objective[.]”¹

{PAUSE}

If we don't preserve the right to privacy, we **all** will be subject to the treatment received by a man named Linus Pauling.

Linus Pauling was an American who won a Nobel Prize—not once, **but twice**. The second of which was in Peace for his campaign against nuclear weapons testing.

As a scientist who advanced humanity, he was celebrated by the Americans he made proud. But when he stopped being just-a-scientist and became politically active in a way not favored by many Americans, he was labeled a spokesperson for communism.

Except he wasn't a communist. He was an American critiquing his government! Civic disputation isn't a communist activity; it's an American activity. Critique is what good citizens do!

The case of Linus Pauling proves that the government cannot exercise the invasive and investigative power of surveillance without punishing those who challenge popular thought—an often mistaken phenomenon.

¹ http://pdfserver.amlaw.com/nlj/NSA_ca2_20150507.pdf

The popular thought of many Americans says that only those who have something to hide have a reason to fear surveillance. The premise of that assertion is that only criminals have something to hide. That is demonstrably false.

Everyone has something to hide. When we don't feel like talking about a sore subject, we have something to hide. When we don't feel like having an argument in public, we have something to hide. When we don't tell our friends everything we think, we have something to hide. When we don't speak our minds because we are afraid of what might happen in response to our thoughts, we have something to hide.

The right of privacy is a constitutional recognition that it is okay for me or for you to hide—to have our solitude, intimacy, and anonymity as we see fit.

No, ladies and gentlemen, the right to privacy does not threaten our national security; the right to privacy is our reason for national security. If we lose the right, we will no longer be secure.