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| [Wiretap Main](#) | [Wiretap News](#) | [Wiretap Tutorial](#) | [Home](#) |

## Wiretap News

Updated 04/04/2008

### EPIC Urges Court Review of Surveillance Program.

EPIC, in cooperation with the [Stanford Constitutional Law Center](#), filed a "[friend-of-the-court](#)" [brief](#) (pdf) in "Hepting v. AT&T." This [lawsuit](#) alleges that AT&T allowed the government to wiretap calls and e-mails without judicial authority. The U.S. government and AT&T seek to dismiss this case. The EPIC brief states, "The statutes and constitutional provisions relied upon in the complaint are designed to interpose the courts between citizens and the government when government conducts surveillance that it naturally would prefer to conduct in secret and wholly at its own discretion . . . . This litigation should thus proceed, lest the privacy claims here be made effectively unreviewable." For more information, see EPIC's [Resources on Domestic Surveillance](#) and [Spotlight on Surveillance on the NSA Program](#).

(<http://epic.org/privacy/hepting/>)

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### Congress will Consider Amnesty to Telecom Providers

Congress returned Tuesday from a two-week spring break to find the Bush administration now willing to talk compromise on new wiretapping powers, and on amnesty for telecoms that spied on U.S. citizens. That means an end to the drama that's characterized the debate thus far -- a closed congressional session; *Mr. Smith Goes to Washington*-style floor speeches, and unrelenting, factually-challenged charges that lawmakers are blindfolding the nation's spies. Now negotiations over the bill will likely happen over weeks and months, behind closed doors, with the House horse-trading oversight provisions with the Senate in exchange for a compromise on total amnesty for the nation's telecoms. (Wired Magazine - [http://www.wired.com/politics/onlinerights/news/2008/04/fisa\\_faq?currentPage=all](http://www.wired.com/politics/onlinerights/news/2008/04/fisa_faq?currentPage=all))

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### FBI's \$500 Million Wiretap Retrofitting Fund Empty

The FBI has gone through nearly all of its \$500 million budget for making old telephone switches wiretap friendly, but an FBI survey showed that nearly 40 percent of the nation's switches still aren't up to federal wiretapping standards, according to a new report from the Justice Department's inspector general.

When listening in to criminals, the FBI uses DCS-3000 to connect to wiretap-friendly telephone switches. A 1994 law known as the Communications Assistance to Law Enforcement Act or CALEA requires all telephone switches installed after 1995 to comply with detailed wiretapping rules, and Congress set aside a half billion dollars for the FBI to dole out to help carriers make older landline switches compliant.

Cell phone switches, however, are all compliant and nearly all FBI surveillance targets cell phones and pagers. In 2005, the feds got some 1800 criminal wiretap court orders, along with nearly 2,200 court orders for anti-terrorism and foreign intelligence wiretaps.

According to a redacted report from the DOJ's Inspector General, the FBI has only a little more than \$5000 left in dedicated CALEA funds, which mostly went towards paying switch manufacturers to write wiretapping software and issue licenses to use that software for older switches. The audit says it is not possible to tell if the money was well-spent, since neither the telecoms nor the switch makers are keen on sharing information.



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