



amazon and subpoenas

16 messages

Aaron Swartz <me@aaronsw.com>

Mon, Mar 14, 2011 at 10:14 PM

To: Christopher Soghoian <csoghoian@gmail.com>

thinking of posting this to my blog. does it look reasonable to you?

Is The Government Snooping On Your EC2 Instance?

When I heard that the government had [ordered Twitter to turn over data about its users](<http://rop.gonggri.jp/?p=442>), I got real interested in the legal techniques for getting people's private data. I've spent the past few months talking to lawyers, policy experts, and executives at online service providers about how the rules work and what protections they afford.

What I've found is that -- incredibly -- anyone who's filed a lawsuit can order online service providers to turn over just about anything. (And the government doesn't even need to file a lawsuit.) But most major online service providers warn you before they hand over your data and give you a chance to challenge the order in court. Google, Yahoo, and Twitter all send their users emails with a copy of the request and instructions on how to challenge it.

But then I wondered about Amazon. Amazon not only has a lot of private data on its own, but they host a lot of other websites with personal data. It seems like everyone is using Amazon EC2 these days -- Reddit and Netflix and Foursquare and more. Even sites that aren't hosted on EC2, like 37signals, still use S3 for backup. The "truly paranoid" tarsnap uses both EC2 and S3. (Yes, tarsnap encrypts your data, but [it sometimes has bugs][b] and doesn't protect against traffic analysis.) Hell, even WikiLeaks was hosted there at one point.

[b]: <http://www.daemonology.net/blog/2011-01-18-tarsnap-critical-security-bug.html>

What's disturbing is that this means your personal data isn't just accessible by the people who operate these sites -- it's also accessible by Amazon. And anyone Amazon decides to hand it to.

What are Amazon's policies? I've had several conversations with them about this, but they refuse to comment on the record. Still, I'm in the rare position of getting to experience them first-hand. A couple years ago the government sent Amazon a subpoena for information about an EC2 instance I'd purchased. Amazon handed it over without stopping to warn me. When I asked them about it specifically, they refused to comment. When I asked them about their general policy, they refused to comment. The only reason I found out about it was because I filed a FOIA request with the Department of Justice. The DOJ was more transparent about this than Amazon.

As best as I can tell, this is Amazon's policy: When the government asks, turn stuff over. Never tell the people affected. Don't give them a chance to object. Here's [Amazon's Customer Agreement][aca]: "We may

disclose Your Content ... to comply with _any request_ of a governmental or regulatory body" (emphasis added). It doesn't matter if the request is legal or illegal, valid or invalid, justified or unjustified. Amazon can turn your data over anyway.

[aca]: <https://aws.amazon.com/agreement/>

For a company that's asking major websites to entrust them with their entire operations, that's just not good enough. They need to take a lesson from other providers and only turn data over when legally required to -- and they need to warn their users before they do so. If they can't commit to that -- well, there are other servers to be hosted on.

Christopher Soghoian <chris@soghoian.net>
To: Aaron Swartz <me@aaronsw.com>

Mon, Mar 14, 2011 at 10:29 PM

What I've found is that -- incredibly -- anyone who's filed a lawsuit can order online service providers to turn over just about anything.

Not true. ECPA (18 USC 2703) prohibits the disclosure of _content_ to anyone but the government.
[Quoted text hidden]

Christopher Soghoian <chris@soghoian.net>
To: Aaron Swartz <me@aaronsw.com>

Mon, Mar 14, 2011 at 10:31 PM

Be careful, you are mixing civil lawsuits and government investigations - two completely different areas.

Google will provide you notice if someone sues you and asks for access logs related to your account -- but do you think that Google will let you know if the FBI has asked for the contents of your Gmail or Google docs account? Hell no.

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:01 PM

Google insisted to me that they would, with a handful of very rare exceptions.

Sent from my iPhone

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Christopher Soghoian <chris@soghoian.net>
To: Aaron Swartz <aaronsw@gmail.com>

Mon, Mar 14, 2011 at 11:02 PM

They are not telling the truth. Ask your pals at EFF.

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:13 PM

They're all at sxsw. I didn't ask them about this specifically but in general they defended google on this stuff.

Sent from my iPhone

[Quoted text hidden]

Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:14 PM

To: Aaron Swartz <aaronsw@gmail.com>

If you find a single person who has been contacted by Google before the police or FBI obtained their email, thus giving them an opportunity to fight the request, I'll donate \$25 to EFF or the non-profit of your choice.

[Quoted text hidden]

Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:14 PM

Sent from my iPhone

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:14 PM

I'm eager to believe google is lying, but is there anything in the public record?

Sent from my iPhone

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Mon, Mar 14, 2011 at 11:27 PM

If you find someone who hasn't, i'll give you \$50. Again, I totally believe you, I just need something solid I can wave in the google dude's face.

Sent from my iPhone

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Tue, Mar 15, 2011 at 12:03 AM

Amusingly, the google guy namedropped you.

Sent from my iPhone

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Christopher Soghoian <chris@soghoian.net>
To: Aaron Swartz <aaronsw@gmail.com>

Tue, Mar 15, 2011 at 12:05 AM

Will DeVries? He is a nice guy.

When the FBI investigated me, I never received any notification from any of my online service providers that they had gotten my data. However, they quoted my emails back to me. I suppose I am an edge case though.

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Aaron Swartz <aaronsw@gmail.com>
To: Christopher Soghoian <chris@soghoian.net>

Tue, Mar 15, 2011 at 7:08 AM

I assume you FOIA/PAed your file? Did you find any requests to your email provider in it? Mine just had the request to Amazon. And only in the DOJ file, though the results were quoted in the FBI file.

Sent from my iPhone

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Christopher Soghoian <chris@soghoian.net>
To: Aaron Swartz <aaronsw@gmail.com>

Tue, Mar 29, 2011 at 10:19 AM

Are you going to post that amazon writeup to your blog? Looks like it would be very timely today.

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Aaron Swartz <me@aaronsw.com>
To: Christopher Soghoian <chris@soghoian.net>

Tue, Mar 29, 2011 at 10:21 AM

Because of Cloud Drive, you mean?

On Tue, Mar 29, 2011 at 10:19 AM, Christopher Soghoian

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Aaron Swartz <me@aaronsw.com>
To: Christopher Soghoian <chris@soghoian.net>

Tue, Mar 29, 2011 at 10:22 AM

I thought of that and wish I could, but I can't put my name on it right now personal reasons. You're welcome to post it or a modified version under your name if you want.

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