

Anonymity

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Amendment I

- Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

– [Amd. XIV. ...nor shall any state deprive any person of life, liberty, or property, without due process of law...]

Where is anonymity in there?

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NAACP v. Alabama

- Alabama sought membership records in discovery in litigation over NAACP's right to conduct business as a foreign corporation in Alabama

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Surveillance of Association

- Is privacy or the right of assembly implicated by army or law enforcement surveillance of public gatherings?
- Can plaintiffs allege First Amendment violations?



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Handschu v. Special Services Division

- Class plaintiffs come to court to enforce a consent decree limiting police surveillance of political activities. Police have changed the guidelines post-9/11
- Evidence of video surveillance at
 - Coalition for the Homeless march
 - Critical Mass bicycle ride

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Talley v. California

- "No person shall distribute any hand-bill in any place under any circumstances, which does not have printed on the cover, or the face thereof, the name and address of the following:
 - (a) The person who printed, wrote, compiled or manufactured the same.
 - (b) The person who caused the same to be distributed; provided, however, that in the case of a fictitious person or club, in addition to such fictitious name, the true names and addresses of the owners, managers or agents of the person sponsoring said hand-bill shall also appear thereon."

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McIntyre v. Ohio

- **No person shall write, print, post, or distribute**, or cause to be written, printed, posted, or distributed, a notice, placard, dodger, advertisement, sample ballot, or any other form of general publication which is designed to promote the nomination or election or defeat of a candidate, or to promote the adoption or defeat of any issue, or to influence the voters in any election, or make an expenditure for the purpose of financing political communications through newspapers, magazines, outdoor advertising facilities, direct mailings, or other similar types of general public political advertising, or through flyers, handbills, or other nonperiodical printed matter, **unless there appears on such form of publication in a conspicuous place or is contained within said statement the name and residence or business address of the chairman, treasurer, or secretary of the organization issuing the same, or the person who issues, makes, or is responsible therefor.** ... No person, firm, or corporation shall print or reproduce any notice, placard, dodger, advertisement, sample ballot, or any other form of publication in violation of this section. This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution. 7

Watchtower Bible & Tract Society v. Village of Stratton

- "The practice of going in and upon private property and/or the private residence of Village residents in the Village by canvassers, solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise or services, not having been invited to do so by the owners or occupants of such private property or residences, **and not having first obtained a permit pursuant to Section 116.03 of this Chapter**, for the purpose of advertising, promoting, selling and/or explaining any product, service, organization or cause, or for the purpose of soliciting orders for the sale of goods, wares, merchandise or services, is hereby declared to be a nuisance and is prohibited."

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Benefits and Costs of Anonymous Speech

- Allow those with unpopular views to speak without fear of reprisal
- Allow speaker to persuade independent of identity
- Allow speaker to choose what information to present
- *Weakened accountability*
- *Opportunity for fraud*

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Justice Department calls for retention of identifying information

- By *Declan McCullagh*, CNET News.com
Published on *ZDNet News*: March 2, 2007, 4:00 AM PT

The Bush administration has accelerated its Internet surveillance push by proposing that Web sites must keep records of who uploads photographs or videos in case police determine the content is illegal and choose to investigate. CNET News.com has learned.

- That proposal surfaced Wednesday in a private meeting during which U.S. Department of Justice officials, including Assistant Attorney General Rachel Brand, tried to convince industry representatives such as AOL and Comcast that *data retention* would be valuable in investigating terrorism, child pornography and other crimes. The discussions were described to News.com by several people who attended the meeting.
- A second purpose of the meeting in Washington, D.C., according to the sources, was to ask Internet service providers how much it would cost to record details on their subscribers for two years. At the very least, the companies would be required to keep logs for police of which customer is assigned a specific Internet address.
- Attorney General Alberto Gonzales has been *lobbying Congress* for mandatory data retention, calling it a "national problem that requires federal legislation." Gonzales has *convened earlier private meetings* to pressure industry representatives. And last month, Republicans introduced a *mandatory data retention bill* in the U.S. House of Representatives that would let the *attorney general* dictate what must be stored and for how long.

NSL: § 2709

- A wire or electronic communication service provider shall comply with a request for subscriber information and toll billing records information, or electronic communication transactional records in its custody or possession made by the Director of the Federal Bureau of Investigation...
- (b)(2)[The FBI Director or designee may] request the name, address, and length of service of a person or entity if the Director ... certifies in writing to the wire or electronic communication service provider to which the request is made that the information sought is relevant to an authorized investigation to protect against international terrorism or clandestine intelligence activities, provided that such an investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution of the United States. 11

NSL: § 2709

- (c) **Prohibition of Certain Disclosure.**— No wire or electronic communication service provider, or officer, employee, or agent thereof, shall disclose to any person that the Federal Bureau of Investigation has sought or obtained access to information or records under this section.

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