



Stop Kavanaugh: Privacy

Judge Kavanaugh would threaten hard-won rights and protections for privacy and the Fourth Amendment.

Judge Kavanaugh's views on **government data collection** raise troubling concerns in an age of increasing surveillance.

- In *Klayman v. Obama*, a federal district judge issued preliminary injunctions in 2013ⁱ and 2015ⁱⁱ against the government's warrantless collection of telephone metadata, including numbers dialed and how long phone calls lasted
- When the D.C. Circuit stayed the 2015 injunction, Judge Kavanaugh went out of his way to justify the illegal programⁱⁱⁱ as important to "preventing terrorist attacks"^{iv}—a claim contradicted the previous year by the government's own Privacy and Civil Liberties Oversight Board^v

Judge Kavanaugh also approved **government GPS tracking** without the use of a warrant.

- Judge Kavanaugh's dissent in *United States v. Jones* argues for the full court to reconsider a ruling that police had to obtain a warrant for GPS tracking of a suspect's car for an extended period of time^{vi}
- A D.C. Circuit majority let the earlier ruling stand^{vii} and was later affirmed by the Supreme Court^{viii}

Judge Kavanaugh approved of a troubling **warrantless invasion of a man's privacy** after a stop-and-frisk search did not yield results.

- A D.C. Circuit majority in *United States v. Askew* determined that police violated a man's Fourth Amendment rights by unzipping his jacket to search him without a warrant after a stop-and-frisk search did not yield results^{ix}
- Judge Kavanaugh's claim in dissent that the search was a reasonable continuation of the stop-and-frisk was, according to his fellow judges, "unsupportable on any plausible reading of the record"^x
- Judge Kavanaugh also claims that the police were free to unzip the jacket because it would help a robbery victim identify him by his clothing, which his fellow judges explained was based on "no reasonable grounds for belie[f]"^{xi}

Judge Kavanaugh said that the U.S. Forest Service should be able to conduct **random drug testing** of employees at Job Corps Civilian Conservation Centers.

- A D.C. Circuit majority in *National Fed. of Fed. Employees v. Vilsack* invalidated the Forest Service's random drug testing program, noting that there was “no evidence of any difficulty” maintaining zero drug tolerance prior to the program^{xii}
- Judge Kavanaugh's dissent, according to his fellow judges, "paints with a broad brush without regard to precedent from the Supreme Court, and this court"^{xiii}

ⁱ <https://www.nytimes.com/2013/12/17/us/politics/federal-judge-rules-against-nsa-phone-data-program.html>

ⁱⁱ <https://www.nytimes.com/2015/11/10/us/politics/judge-deals-a-blow-to-nsa-phone-surveillance-program.html>

ⁱⁱⁱ <https://www.nytimes.com/2015/05/08/us/nsa-phone-records-collection-ruled-illegal-by-appeals-court.html>

^{iv} <https://www.cadc.uscourts.gov/internet/opinions.nsf/2565D20B2A8C4CCF85257F0300714E8C/%24file/15-5307-1584707.pdf>

^v https://www.pclob.gov/library/215-Report_on_the_Telephone_Records_Program.pdf

^{vi} <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/#abuseofpower>

^{vii} <https://caselaw.findlaw.com/us-dc-circuit/1545594.html>

^{viii} <https://www.supremecourt.gov/opinions/11pdf/10-1259.pdf>

^{ix} <https://caselaw.findlaw.com/us-dc-circuit/1335162.html>

^x <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/#abuseofpower>

^{xi} <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/#abuseofpower>

^{xii} <https://caselaw.findlaw.com/us-dc-circuit/1602768.html>

^{xiii} <http://www.pfaw.org/report/the-dissents-of-judge-brett-kavanaugh-a-narrow-minded-elitist-who-is-out-of-the-mainstream/#abuseofpower>