

STATE OF MICHIGAN LAW DAY 2006 ESSAY CONTEST
“LIBERTY UNDER LAW: SEPARATE BRANCHES, BALANCED POWERS”
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Suppose that the President, acting on his own authority and without a court warrant, has ordered surveillance on suspected foreign terrorist operatives within the United States. Should the President be able to order federal officials to eavesdrop on people within the United States?

The President of the United States of America should not be allowed to order federal officials to eavesdrop on people within the United States without a judge approving the order first. The President should not act on his own authority without a court issued warrant to eavesdrop on conversations and other communications of suspected terrorists in the United States.

The United States' core value of liberty supports my opinion. Liberty is a person's right to think and believe what they want, without governmental invasion of their thoughts and beliefs. Liberty is a value that protects a person's ability to act as they wish without unreasonable governmental interference. If the President is eavesdropping on the conversations and e-mail of people, then those people's liberty to think and believe as they wish and to express their thoughts and beliefs will be restricted. Today, people sometimes express their most private thoughts and feelings by e-mail. They also talk on cell phones with family and friends about private things. If the President and other government officials can listen to these private thoughts and conversations, people may be afraid to express their thoughts and have private conversations. People may be scared to say what they think about the government or to protest about things they think the government is doing wrong. Freedom of speech is protected by our Constitution. Freedom of speech is a basic part of our core value of liberty. Eavesdropping without court approval would violate this basic value.

Another core democratic value that is violated by eavesdropping is popular sovereignty. Popular sovereignty means that citizens have the ultimate power over the government. Government should obey citizens' wishes. Part of people being able to exercise their popular sovereignty to control government is to be able to express their thoughts without fear of the government listening. Eavesdropping on citizens by the government without approval violates popular sovereignty.

The United States Supreme Court in United States v. United States District Court, 407 U.S. 297 (1972), held that the Fourth Amendment of the U.S. Constitution (which stops “unreasonable searches and seizures”) requires that the President get judicial review for the type of surveillance in that case. That case is good precedent for requiring the President to get judicial review, like a court warrant, before listening in on conversations of people in the United States. Our government system is based on a balance between the three branches: executive, legislative and judicial. None of the three should get too powerful. That is why the Judicial Branch should review the order by the President before eavesdropping takes place.

In summary, eavesdropping by the President and other government officials violates basic core democratic values of liberty and popular sovereignty. Listening to private conversations without a court warrant violates the Fourth Amendment of the Constitution. Eavesdropping without court approval weakens too much our liberties and freedoms and strengthens too much the President's power to protect our country against terrorists.