

Amazon Echo - Did Alexa Record a Murder?

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Last year, the FBI sought a court order forcing Apple to help it access the encrypted iPhone of San Bernardino shooter, Rizwan Farook. The FBI wanted Apple to create software allowing it to circumvent the built-in protection that prevents more than 10 attempts to enter a PIN number. Apple refused and litigation commenced. The FBI was ultimately able to access the data stored in Farook's phone without Apple's help and so, the Department of Justice dropped its suit against Apple.

However, privacy advocates predicted more such cases would be filed, and stressed they would involve personal devices connected to the internet. It appears they may be right. Law enforcement officials have now turned to Amazon for assistance in accessing the personal data of one of its customers. Amazon was served with a search warrant seeking audio recordings possibly made by the Amazon Echo found in the home of murder suspect, James Bates.

The Murder in Arkansas

Bates was arrested and charged with the murder of Victor Collins, who was found floating in a hot tub in November 2015, at Bates' home in Bentonville, Arkansas. Bates called the police, claimed he woke to find Collins dead, and explained it must have been an accidental drowning. According to the affidavit for the search warrant, Detective Cpl. Josh Woodams noted that Bates and his friends had been drinking beer and several shots of vodka. Detective Oliver of the Bentonville Police Department observed injuries on Collins, traces of blood around the hot tub, and signs of a struggle around the spa. Investigators believe Bates strangled and drowned Collins.

A search warrant was approved for Bates' residence, specifically for the search and seizure of electronic devices. In December 2015, Bates' Echo was seized as part of the investigation. Data was extracted from the device but it did not include voice recordings stored remotely by Amazon. Thus, a search warrant was issued directing Amazon to produce "the electronic data in the form of audio recordings, transcribed records, or other text records related to communications and transactions" between Bates' Amazon Echo and Amazon.com's servers. Investigators hoped to find comments overheard by the device, which may have been in use on the night of the murder. It is believed that the Echo may have captured audio relevant to the murder case. However, the prosecutor admitted he had no idea if the device recorded anything at all.

Amazon moved to quash the search warrant. Amazon argued that, because of the important First Amendment and privacy implications, the warrant should be quashed "unless the court finds that the state has met its heightened burden for compelled production." Amazon did not seek to "obstruct any lawful investigation, but rather seeks to protect privacy rights of its customers when the government is seeking their data from Amazon." Amazon asked the court to apply a heightened level of scrutiny because the government sought First Amendment-protected material. It argued that the government had the burden to show that it had a compelling interest in the information and that there was a sufficient connection between the information sought and the underlying inquiry. It was Amazon's position that prosecutors had not made that case.

The central theme of Amazon's argument was that the audio recordings are protected under the First Amendment; and therefore, requests for information through smart electronic devices are subject to heightened protections. In its memorandum of law in support of the motion to quash, Amazon argued that "searching Alexa's recordings is not the same as searching a drawer, a pocket, or a glove compartment." Because the devices contain data that, in combination, can reveal more about an individual's private life, First Amendment concerns were implicated. Amazon argued that it should receive special protection under the First Amendment since what owners say to the device—and Alexa's responses—are forms of free expression. For example, users might have asked the Echo questions about their health or a political figure.

This was expected to be an important test case for the First Amendment. But, Bates consented to the disclosure; and on

March 3, Amazon produced the Echo audio recordings.

Interestingly, Bates also had other smart-home devices. Another device that may become critical is his smart water meter. That meter confirmed high levels of water use between 1 a.m. and 3 a.m. on the night of the murder. Investigators believe that water may have been used to wash away evidence of a struggle near the hot tub.

Amazon's Echo

The Echo is marketed as a "hands-free speaker you control with your voice." Amazon's law enforcement response team manager, Jeff Stanford, prepared an affidavit in support of the motion to quash. He explained that the device is a "9.3 inch voice controlled speaker equipped with seven microphones" that actually listens for a user's voice and responds. The Echo connects to the internet via a Wi-Fi network and is always listening for the "wake" word (users say the default word "Alexa" or "Amazon," "Echo" or "computer" to wake up the Echo). The Echo's intelligent personal assistant, Alexa, will provide (when asked) many types of information, including the weather and the news. It will also play music upon request. If the Echo is connected to other compatible smart devices in the home, it can perform many more functions, such as turn on a room's lights.

The Echo has several microphones and is designed to pick up your voice even over other noise or while music is playing. The Echo is not just listening, but it is also recording and saving many things that are said. It does so just as a pre-buffer on a camera captures a few frames before you press the shutter button. The audio pre-recordings help the system handle requests instantly. According to Stanford's affidavit, an audio recording and transcript of the request are stored on Amazon's server. Alexa's response may also be stored.

Some users have described odd experiences where the Echo is activated and starts responding even when the wake-up word was not said. It has also been reported to make accidental recordings while it was listening for commands.

Prosecutors hope to find recordings made on the night of the murder that may prove helpful in the investigation. Only time will tell if Alexa actually recorded anything on the night in question.

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