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Best Buy defends practice of informing FBI about child porn it finds

New documents produced as a result of FOIA lawsuit brought by EFF.

CYRUS FARIVAR - 3/7/2018, 5:27 AM

Daniel Acker/Bloomberg via Getty Images



Enlarge / A customer speaks with employees at the Geek Squad counter inside a Best Buy store in Downers Grove, Illinois, on Tuesday, May 23, 2017.

Nearly 200 pages of documents

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released Tuesday by the Electronic Frontier Foundation show that Best Buy's top officials have "enjoyed a particularly close relationship" with the FBI for at least a decade, if not longer.

The filings were obtained by the advocacy organization as part of a Freedom of Information Act lawsuit in an attempt to better understand how the retail chain sometimes uses its "Geek Squad" tech support service to aid law enforcement. In a document from 2008, the FBI's Louisville, Kentucky, division is described as having a "close liaison with the Geek Squad's management." In some instances, the agency even paid Best Buy employees directly.

The FOIA suit was filed last year in the wake of a federal prosecution of a California doctor, Mark Rettenmaier, who was charged with possession of child pornography in 2014. In court filings from 2015, Rettenmaier claimed that when he took his computer in for repair, Best Buy technicians, at the behest of the government, searched his hard drive without

a warrant in violation of the Fourth Amendment.

Eventually, as the EFF summarized, after a May 2017 [hearing](#) the judge ruled that it wasn't a search, as Rettenmaier had consented to letting Best Buy access his computer. "The court, however, threw out other evidence against Rettenmaier after ruling that FBI agents misstated key facts in the application for a warrant to search his home and smartphone," the group wrote in its Tuesday blog post. The Rettenmaier case was finally [dismissed](#) in November 2017.

In a statement sent to Ars on Tuesday, Best Buy wrote that it continues to "discover what appears to be child pornography on customers' computers nearly 100 times a year. Our employees do not search for this material; they inadvertently discover it when attempting to confirm we have recovered lost customer data."

The company added that it had a "moral, and, in more than 20 states, a legal obligation to report these findings to law enforcement. We share this policy with our customers in writing before we begin any repair."

However, the company did acknowledge that "four employees may have received payment" from the FBI after turning over such illicit material. Best Buy dubbed this decision "in very poor judgement and inconsistent with our training and policies. Three of these employees are no longer with the company and the fourth has been reprimanded and reassigned."

The FBI did not immediately respond to Ars' request for comment Tuesday evening.

UPDATE 9:23am ET: Shayne Buchwald, an FBI spokeswoman, emailed Ars Wednesday morning.

"We will not comment at this point, as this pertains to an ongoing legal matter," she wrote.

"In addition, the FBI does not provide any information on the dealings with informants. For obvious reasons."

CYRUS FARIVAR

Cyrus is a Senior Tech Policy Reporter at Ars Technica, and is also a radio producer and author. His latest book, *Habeas Data*, about the legal cases over the last 50 years that have had an outsized impact on surveillance and privacy law in America, is due out in May 2018 from Melville House. He is based in Oakland, California.

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