

Courts Defer to Law Enforcement on Broad Searches of Digital Devices

Computers and related digital devices like smartphones store massive amounts of business and personal data. When law enforcement obtains a digital device during an investigation of suspected crime, this data is fair game. Although the Fourth Amendment demands that search warrants be particular as to the material sought and seized, prosecutors invariably argue -- and courts often agree -- that the requested search and its execution necessarily must be extremely broad. A recent opinion out of the Sixth Circuit Court of Appeals, citing heavily to an opinion issued earlier in 2011 by the Third Circuit, continues an emerging trend of acknowledging Fourth Amendment concerns but ultimately embracing the notion that, because investigators do not know in advance where any contraband is located, practical considerations allow them to individually examine almost every electronic document stored on the devices they have seized.

In a recently-published article in *The Legal Intelligencer*, Post & Schell white collar defense attorneys Peter D. Hardy and Abraham Rein discuss this trend and examine whether there are any practical limits to what data may be accessed, viewed and ultimately used to convict. The article, "Courts Show Continued Deference to Broad Electronic Searches," can be found [here](#).

If you have any questions about this E-Flash or about electronic searches and e-discovery, please contact Post & Schell P.C. attorneys Peter D. Hardy at phardy@postschell.com or 215-587-1001 or Abraham J. Rein at arein@postschell.com or 215-587-1057.

The attorneys of Post & Schell's White Collar, Compliance & Risk Management group focus on white collar defense and counseling; corporate compliance and risk management programs; and internal corporate investigations.

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