

## Laptop Search Hit Rate: Only 1.4%

by [Greg Nojeim](#) [1]

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The overwhelming majority of laptop searches at the border turn up no evidence of crime, according data presented by Deputy Commissioner of Customs and Border Protection, Jayson P. Ahern. At a panel discussion on October 20, Ahern revealed that of the 169 laptops searched at the border in August 2008, **only two were seized** - a mere 1.4% "hit rate." Another 10 computers were "detained" for further analysis, such as language translation and decryption, to determine whether they contain evidence of crime. Under Customs' laptop search policy-- first revealed on July 16, 2008--computers, other digital media, and documents can be searched at the border with no individualized suspicion at all, and can be seized as evidence only when a Customs agent determines that there is probable cause. The policy permits agents to conduct the search without having either evidence of wrongdoing or even approval of a supervisor. It authorizes Customs agents to copy the contents of a laptop or other digital medium and send it to a distant location where persons unseen and unknown to the traveler decrypt and translate data in the laptop, and it permits Customs to "detain" the computer for weeks or for months while this occurs. A 1.4% hit rate means that a very intrusive search is being visited on passengers who have done nothing wrong, and strongly suggests that Customs should re-evaluate its laptop search policy. Indeed, of the two computers seized in August, neither was seized because a search of the computer's hard drive revealed evidence of crime. One of the computers was outfitted to hold drugs instead of data, the other computer was itself contraband. In other words, all of the searches of laptop data at the border in August 2008 turned up nothing. Customs argues that the chances that a particular traveler's laptop will be searched are remote: of 38,050,654 people and conveyances (mostly automobiles) encountered at the border in August 2008, only 169 of those encounters resulted in a laptop search. But it is also quite rare that a laptop search reveals evidence of crime. Perhaps if some criteria were imposed - such as reasonable suspicion, as proposed by Sen. Feingold in the Traveler's Privacy Protection Act - it would be more likely that the right laptops would be searched. Every fisherman knows: if you cast a big net often enough, you're going to catch some fish. The trick to fishing, though, is to catch the right fish, avoiding the dolphins. The Customs laptop search policy keeps catching the wrong fish.

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