

# GPS Case Tests Fourth Amendment Protections in Digital Age

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When [detectives attached a GPS](#) [1] unit to the underside of an Ohio man's van--based only on tips from informants and absent a warrant--they set in motion a series of events leading to a case now before the Ohio Supreme Court. That case will test "the relevance of the Fourth Amendment's warrant requirement in the digital age," said the National Association of Criminal Defense Lawyers, CDT, and several other groups in a recently filed [amicus brief](#) [2].

The brief says the Court should consider the "clandestine installation and indiscriminate use of electronic surveillance to monitor and record an automobile's every move, around-the-clock and indefinitely, as a search mandating a warrant based on probable cause."

The case turns on the "critical question" of whether law enforcement can secretly put a GPS tracking device on someone's car and remotely track that person's every move, "24 hours a day, for as long as they want, anywhere, without any judicial oversight whatsoever," the brief says. "The decision in this case will have profound consequences for the lives of Ohioans as it will permanently define to what extent citizens of this state must forfeit '[any meaningful claim to personal privacy or effectively withdraw from a technologically maturing society](#)' [3]."

The brief notes: "The warrantless use of such powerful technology has profound consequences for personal privacy, including associational privacy, which implicates the rights of every individual and the community at large. Indeed, it exposes information that would not be apparent from the kind of discrete, single-trip surveillance at issue in earlier cases, such as an individual's habits and routines - and any departure from them."

However, such technological advances "need not be a one-way ratchet," the brief says. "Surely the judicially supervised use of the GPS tracking device, much like the wiretap, is an efficient and effective crime-fighting tool which should be readily available for that purpose," the brief says. "And, just as technology threatens to encroach on privacy, when utilized responsibly technology can also make abiding constitutional protections easier. Applying for a warrant is more efficient and less burdensome than ever before... Given the invasive nature of GPS tracking technology and the potential for devastating abuse, it is eminently reasonable to require fast application for a warrant before engaging in long-term satellite surveillance."

The brief concludes saying the Court should find that putting a GPS unit on a person's car to track their every move--without a warrant based on probable cause--is a violation of the Fourth Amendment.

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