



Supreme Court May Examine GPS Surveillance Issue

May 13, 2011

Last October, [we reported on a unanimous ruling](#) by the U.S. Court of Appeals for the D.C. Circuit, holding that prosecutors must obtain a warrant before attaching a GPS device to a criminal suspect's car.

The court found in that case that the act of attaching such a device to a suspect's vehicle is a "search" that requires a warrant from a judge under the Fourth Amendment.

At the time, we predicted that the case might go to the U.S. Supreme Court, and now it has, at least for consideration. Last month the U.S. Department of Justice asked the high court to review the October 2010 D.C. Circuit ruling. The petition for certiorari, filed by Acting Solicitor General Neal Katyal, cites a conflict between the D.C. Circuit, on the one hand, and the 7th, 8th, and 9th Circuits, on the other hand.

The Justice Department wrote in its petition that the D.C. Circuit ruling "conflicts with this Court's longstanding precedent that a person traveling on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another, even if 'scientific enhancements' allow police to observe this public information more efficiently." The department also noted in the petition that the question is "critically important to law enforcement efforts throughout the United States."

The fact that the solicitor general has weighed in on this case, and the fact that there are significant splits between the circuits, make it reasonably likely that this important issue will in fact be resolved by the U.S. Supreme Court. We'll continue watching it.

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

The commentary and cases included in this blog are contributed by Jeff Ifrah and firm associates Rachel Hirsch, Jeff Hamlin, Steven Eichorn and Sarah Coffey. These posts are edited by Jeff Ifrah and Jonathan Groner, the former managing editor of the Legal Times. We look forward to hearing your thoughts and comments!