

## **Radar People-Finders: Constitutional?**

### **Police use new radar device to "see" inside homes**

What happens when you cross a futuristic stud-finder type device with Doppler radar technology? You get a body movement detector now being put into use by police officers to determine the presence of people within a home--from the outside.

The device works by using radio waves to detect human movement, even movement as slight as breathing. One manufacturer says its device is accurate at distances of over 50 feet--more than enough to get from a public road to a house in many instances. Sure, it may not be a James Bond-level gadget, but still, as a federal appellate court recently noted, it "poses grave Fourth Amendment concerns." Under the Fourth Amendment, police officers generally can't search your home without a warrant. They can, however, sit outside your house and watch for as long as they'd like. In theory, if you were to stay inside your house with the curtains shut, the officers would have no way of knowing whether you were in the house or what you were doing (allowing you to carry on watching that junk TV show guilt-free). With the new radar devices, however, the police can conduct what arguably amounts to a search of your home without ever entering the home itself. As the federal court succinctly summed things up, "New technologies bring with them not only new opportunities for law enforcement to catch criminals but also new risks for abuse and new ways to invade constitutional rights."



It's definitely not the first time that new technology has proved problematic in light of the Fourth Amendment. The advent of GPS tracking required the courts to determine whether police can place a tracker on your car without a warrant (they can't). The Supreme Court has also found the warrantless use of a thermal imaging device to show activity inside a home unconstitutional.

So will warrantless use of the radar movement detector be found unconstitutional in the near future? It's possible that a court could find use of the device to be perfectly constitutional. The Supreme Court's decision finding that police couldn't place a GPS tracker on someone's car without a warrant was made based on the logic that the police officers had physically intruded onto someone's private property, namely the car. With the radar detectors, though, there's no physical intrusion because the police can use them while staying off the surveillance target's property.

If police use of the device without a warrant is found to be constitutional, that could have some worrying privacy implications, since it's not hard to imagine technology in the near future which could provide an even clearer picture of what's happening inside a home, from a surveillance point outside of the person's property. No matter which way Minnesota's courts go on the issue, with the amount of radar devices now in use by police forces throughout the country, it's not likely to be long before the question comes up.

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