

# Tyranny Grows in America as FBI Insists No Warrant Needed to Snoop on Private Citizens' Cell Phone Calls

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The Fourth and Fifth Amendments to the U.S. Constitution have taken new hits recently, as the Federal Bureau of Investigation now asserts that it does not need a court-issued warrant when deploying cell-tower simulators in public places.

The devices, which are nicknamed “stingrays,” are essentially nothing more than cell phone tower decoys that are capable of capturing locations and identities of mobile phone users. In addition, the decoy towers can intercept calls and text messages.

As reported by the tech blog *ArsTechnica*, the FBI has staked out its position recently to Congress:

The FBI made its position known during private briefings with staff members of Senate Judiciary Committee Chairman Patrick Leahy (D-Vt.) and Sen. Chuck Grassley (R-Iowa). In response, the two lawmakers wrote Attorney General Eric Holder and Homeland Security chief Jeh Johnson, maintaining they were “concerned about whether the FBI and other law enforcement agencies have adequately considered the privacy interests” of Americans.

“No reasonable expectation of privacy”

“For example,” the letter states, “we understand that the FBI’s new policy requires FBI agents to obtain a search warrant whenever a cell-site simulator is used as part of a FBI investigation or operation, unless one of several exceptions apply, including (among others): (1) cases that pose an imminent danger to public safety, (2) cases that involve a fugitive, or (3) cases in which the technology is used in public places or other locations at which the [FBI](#) deems there is no reasonable expectation of privacy.”

*No reasonable expectation of privacy* is a modern concept developed by the surveillance state to deny Americans their constitutional protections.

The letter from the Senate committee was prompted by a *Wall Street Journal* report which revealed the existence of a program set up by the U.S. Marshals Service in 2007 that regularly employs airborne cell-site simulators known as “dirtboxes.”

The WSJ said the dirtboxes permitted “investigators to scoop data from tens of thousands of cellphones in a single flight, collecting their identifying information and general location.”

As noted by the tech blog, the FBI's position regarding the privacy of Americans should not be surprising. The Obama Administration, and the Bush Administration before it, has regularly asserted that Americans have no privacy rights in public places.

The Obama Administration began making that argument in 2010 when Justice Department lawyers told a federal appeals court that federal authorities ought to be permitted to attach GPS devices on vehicles, so they could track suspects' movements — and all without a court order.

We need a broader understanding of the technology

Eventually, however, the case made it to the U.S. Supreme Court, which ruled (correctly, in our view) that, yes, warrants are required for such tracking.

However, the administration has also argued that placing webcams with pan-and-zoom capabilities on a utility pole, for the purpose of surveillance directed at a suspect at his or her residence, was not significantly different from a police officer's direct observation from a public right-of-way (so much for being "secure in your person and effects"). But in December, a federal judge disagreed with the Obama Administration's position on that aspect of spying and tossed out evidence that was garnered from a webcam operated from afar.

In their letter, Grassley and Leahy said they had far too little knowledge of stingrays and similar devices, and that Congress indeed likely had a role in oversight of such programs.

"The Judiciary Committee needs a broader understanding of the full range of law enforcement agencies that use this technology, the policies in place to protect the privacy interests of those whose information might be collected using these devices, and the legal process that DOJ and DHS entities seek prior to using them," they wrote.

Sources:

<http://arstechnica.com>

<http://www.grassley.senate.gov>

<http://www.wsj.com>

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