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Private Snoops Find GPS Trail Legal to Follow

By ERIK ECKHOLM

Only yesterday it was the exotic stuff of spy shows: flip on a computer and track the enemy's speeding car.

But today, anyone with $300 can compete with Jack Bauer. Online, and soon in big-box stores, you can buy a device no bigger than a cigarette pack, attach it to a car without the driver's knowledge and watch the vehicle's travels — and stops — at home on your laptop.

Tens of thousands of Americans are already doing just that, with little oversight, for purposes as seemingly benign as tracking an elderly parent with dementia or a risky teenage driver, or as legally and ethically charged as spying on a spouse or an employee — or for outright criminal stalking.

The advent of Global Positioning System tracking devices has been a boon to law enforcement, making it easier and safer, for example, for agents to link drug dealers to kingpins.

Last Monday, in a decision seen as a first step toward setting boundaries for law enforcement, the Supreme Court held that under the Fourth Amendment of the Constitution, placing a GPS tracker on a vehicle is a search. Police departments around the country say they will be more likely to seek judicial approval before using the devices, if they were not already doing so.

Still, sales of GPS trackers to employers and individuals, for a multitude of largely unregulated uses, are growing fast, raising new questions about privacy and a legal system that has not kept pace with technology. This easy tool for recording a person's every move is a powerful one that, when misused, amounts to "electronic stalking," in the words of one private investigator.

"That, to the victim, is just as terrifying as seeing your face in the window at night before

they go to bed," said the investigator, John J. Nazarian, who heads an investigation agency based in Los Angeles.

So many suspicious spouses are now doing their own spying, a private investigator in New Jersey said, that his infidelity business is declining.

In the absence of legislation in most states, putting a GPS device on a spouse's car, or hiring an investigator to do so, is widely considered to be legal if the person placing it shares ownership of the car. But some privacy experts question this standard, and there is little to stop a jealous suitor, or an abusive man trying to prevent a battered woman from escaping, from doing the same.

GPS trackers are increasingly being cited in cases of criminal stalking and civil violations of privacy.

One increasing use of GPS tracking — by as many as 30,000 parents, one seller estimates — is to monitor the driving habits of teenagers; some devices even send a text message when the car goes over a certain speed.

Jimmie Mesis, a private investigator in New Jersey who, with his wife, Rosemarie, publishes PI Magazine and also sells devices through a company called PIgear, recalled a couple whose 17-year-old daughter had a drug problem and would disappear for hours at a time. Worried that she might overdose, they placed a tracker on her car. When they saw that she was visiting the same house repeatedly, they informed the police, who raided the drug den.

Also rising is the placement of devices in the cars or pockets of elderly parents with dementia. Mr. Mesis said one client with an erratic 86-year-old father discovered that he had driven to the southern end of the Garden State Parkway in New Jersey, and they were able to retrieve him.

Even if done legally and out of concern for family members, the covert use of GPS devices poses ethical questions. "To have this as a routine tool strikes me as pretty chilling," said Jonathan Zittrain, professor of law and computer science at Harvard University. "We are talking about partners and spouses, not pets."

"It cuts into someone's autonomy to know where they are all the time and not give them the opportunity to opt out," he said.

Rick Johnson, a private investigator in Denver, recalled two recent cases in which women

who were going through divorces hired him because they believed that their husbands were following them. He found GPS trackers on their cars and removed them.

“It scared the hell out of these women,” Mr. Johnson said.

Sales of GPS trackers to private individuals may have already surpassed more than 100,000 per year, some experts believe. The marketing is just getting started.

Danny Burnham, the general manager of InTouch MVC in Lakeland, Fla., said that he was negotiating with Best Buy, Radio Shack and Brookstone and that he hoped to be selling trackers in the big retailers before the end of the year. The devices will be described as safety tools, but no one can be sure of buyers’ intentions.

“Selling a tracking device is similar to selling a firearm: you don’t ask what they are going to use it for, and what they do with it is entirely out of our control,” said Brad Borst, the owner of Rocky Mountain Tracking in Fort Collins, Colo. His company sells GPS devices online, including a 4-inch-by-2.5-inch model called the Ghost Rider, for $349, that can, with a waterproof box and magnet ($30), be hidden under a vehicle.

One Los Angeles man who went through a nasty divorce said he used zip ties to attach a similar device to the car his wife was driving, which was registered in his name. He suspected that his wife, who had said she had health issues and could not work, was giving false testimony.

“I couldn’t eat, I couldn’t sleep, and then I got that thing,” the man said. “It showed the car at the place of business. It showed that she was going out to nice restaurants. It showed she was living a lifestyle above what she had when she split up with me.”

The man confronted his wife but never told her how he learned of her lies. In the divorce case, he said, “it was a major tool in saving my assets.”

The most pervasive use of the devices is by companies that track fleets of vehicles or high-value shipments. But company detectives have also been making covert use of GPS devices to follow employees suspected of theft or malingering.

Paul J. Ciolino, whose Chicago-based investigation firm specializes in corporate work, recalled following an employee of one company who turned out to be playing golf every day. “He’d sit in the clubhouse and fill out expense reports for places he never went.”

Some devices plug in under the dashboard and are powered by the car battery; others have

batteries for covert placement. They establish position through satellite signals, then report via cellphone towers to a central computer; customers, who pay perhaps $20 a month, log in to the server.

“To follow someone in a city like Los Angeles, law enforcement use 10 to 12 cars and even a helicopter, and even then they can still lose them,” said Mr. Nazarian, the Los Angeles private investigator. “With this device, you apply it in 10 minutes, go have dinner, have a drink, then go see everywhere that car went, how long they stayed there. It’s absolutely the cat’s meow.”

California and Texas, unlike most states, ban many uses of GPS trackers without consent, with exceptions for law enforcement and car owners. Many private investigators said they followed the same rules to minimize the risks of civil litigation — that a tracked person could sue for violation of privacy.

Niall Cronnolly, the president of Eagle Investigative Services, based in Atlanta, said his company uses GPS trackers in about half of the 3,000 to 5,000 cases it handles each year. Most involve suspicious spouses, he said, but sometimes employers track suspect workers. Mr. Cronnolly said the company uses the devices only when clients are married or engaged to the target, or for employers only when the suspect is driving a company car.

“So in a sense,” he said, “it’s like putting a GPS device on your own car.”

Reporting was contributed by Jess Bidgood from Boston, Robbie Brown from Atlanta, Dan Frosch from Denver, Ian Lovett from Los Angeles and Steven Yaccino from Chicago.