

# THE CONSTITUTION PROJECT



*Safeguarding Liberty, Justice & the Rule of Law*

## Warrantless Location Tracking Threatens Fourth Amendment Says Former Law Enforcement and Legal Experts in TCP Report

### Bipartisan Liberty & Security Committee Issues Report and Recommendations

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WASHINGTON- Today, The Constitution Project's (TCP) bipartisan Liberty and Security Committee released a comprehensive [policy statement](#) condemning the warrantless use of powerful surveillance technologies, including Global Positioning System (GPS) tracking, by law enforcement officials. Committee members concluded that the prolonged use of electronic tracking technologies without a warrant violates the Fourth Amendment.

Former Members of Congress Asa Hutchinson (R-AR) and Mickey Edwards (R-OK), former U.S. Court of Appeals Judge Patricia Wald, former federal judge and FBI Director William S. Sessions, and David Keene, former Chair of the American Conservative Union, were among the 24 Committee members who joined in the report's call to "carry forward Fourth Amendment safeguards into the Digital Age." Specifically, the Committee recommended that law enforcement officials should be required to obtain a warrant based upon probable cause before seeking GPS or other electronic location tracking information for a period of more than 24-hours, and to obtain a warrant before installing a tracking device on an individual's property.

This November, in [United States v. Jones](#), the U.S. Supreme Court will hear argument on whether the installation of a GPS tracking device on a person's car and the monitoring of the car's location for four weeks, all without a valid warrant, violates the Fourth Amendment. In the report released today, the Liberty and Security Committee urged that if the Supreme Court fails to conclude that a warrant is required for such tracking, Congress should enact legislation establishing these warrant requirements. The statement also calls upon Congress to amend the Electronic Communications Privacy Act (ECPA) to require a warrant based upon probable cause in order to access location information obtained from a mobile communications device such as a cell phone.

According to Committee Member Asa Hutchinson, "Rapid advances in surveillance technology have blurred the line between what constitutes a private space versus a public space. Today, powerful electronic surveillance devices can intrude on individual privacy even in public places. Law enforcement should be able to rely on these new tools, but for sustained tracking, a warrant should be required based upon probable cause."

The report urges that a warrant must be required for electronic location tracking to ensure that Fourth Amendment safeguards continue to apply. According to the Committee: "the government should not have unchecked discretion to electronically track anyone, anywhere, at any time without cause."

According to TCP Senior Policy Counsel Sharon Bradford Franklin, "We hope that the Supreme Court will take the opportunity in the GPS tracking case of [\*United States v. Jones\*](#) to bring the Fourth Amendment into the Digital Age. Thus far, the law has failed to keep pace with technology, and our privacy rights under the Fourth Amendment have been the biggest casualty of this failure."

#### [About The Constitution Project](#)

Established in 1997, The Constitution Project (TCP) is known for its ability to bring together unlikely allies-experts and practitioners from across the political spectrum-in order to promote and safeguard America's founding charter. TCP is working to reform the nation's broken criminal justice system and to strengthen the rule of law by undertaking scholarship, consensus policy reforms, advocacy and public education. TCP was born out of the belief that we must cast aside the labels that divide us, in order to keep our Constitution and our democracy strong.