

Digital Dragnets

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Objectives

- Learn about the major surveillance technologies used by law enforcement
- Understand the legal constraints on the use of each surveillance tool
- Consider whether the cumulative effect of multiple technologies presents novel legal issues

Road Map

- Location information
- Cameras/visual surveillance
- Holistic thinking
- Buying information from private data brokers
- Q+A



Location Information

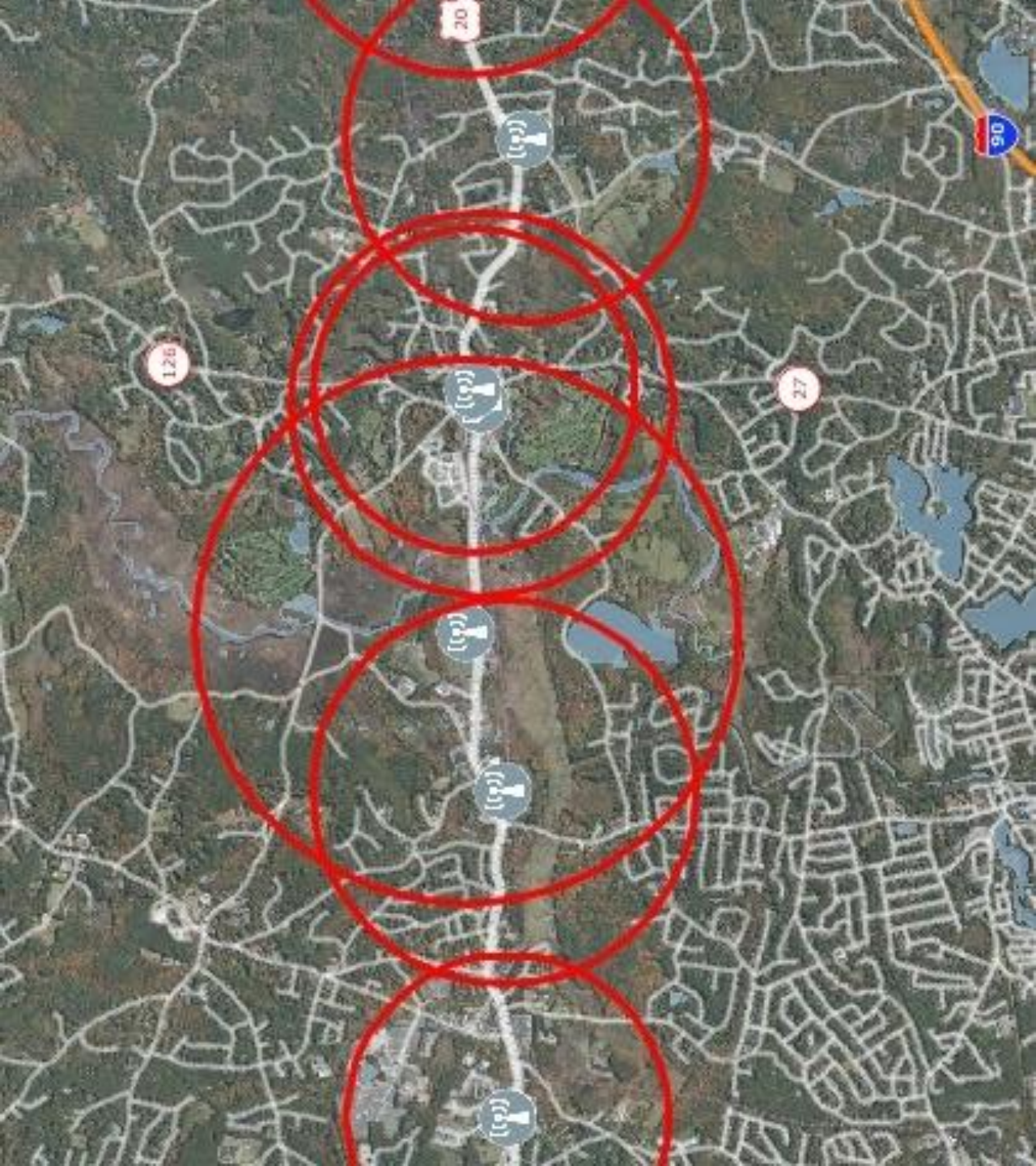
Beepers

- United States v. Knotts, 460 U.S. 276 (1983) (using a beeper to track a vehicle on the public roads did not violate any reasonable expectation of privacy and so was not a Fourth Amendment search)
- United States v. Karo, 468 U.S. 705 (1984) (using a beeper to locate an item inside a residence was a search)

GPS Tracking

United States v. Jones, 565 U.S. 400 (2012) (installation of a GPS tracking device on a suspect's vehicle was a search under the trespass theory of the Fourth Amendment; five Justices also appeared to endorse the idea that monitoring the device's location for 28 days was a search because it intruded on the suspect's reasonable expectation of privacy)





Cell Site Location Information (CSLI)

Carpenter v. United States,
585 U.S. 296 (2018) (obtaining
127 days of cell site location
information about a suspect
from a service provider was a
Fourth Amendment search)

Geofence Warrants and Tower Dumps

- United States v. Smith, 110 F.4th 817 (5th Cir. 2024) (search, inherently lacking in particularity)
- United States v. Chatrue, 107 F.4th 319 (4th Cir. 2024) (not a search)



Cameras and Visual Surveillance

Persistent Aerial Surveillance

Leaders of a Beautiful Struggle v. Baltimore Police Department, 2 F.4th 330 (4th Cir. 2021) (en banc) (using plane-mounted cameras to record 90% of the city, 12 hours per day, with sufficient detail to locate vehicles and individuals, was a search)





Drones

- State v. Stevens, 210 N.E.3d 1154 (Ohio Ct. App. 2023) (applying Ciraolo, not a search)
- Long Lake Twp. v. Maxon, 970 N.W.2d 893 (Mich. Ct. App. 2021) (drones are “qualitatively different” from the plane in Ciraolo, using them is a search)
- N.C.G.S. 15A-300.1 (unlawful to use a drone to “conduct surveillance” of a person or occupied property, with some exceptions)

License Plate Readers

- Scholl v. Illinois State Police, 776 F.Supp.3d 701 (N.D. Ill. 2025) (joining a “nearly uniform consensus” of courts and ruling that LPRs did not effect a Fourth Amendment search as they capture images/data only on public roads)
- Schmidt v. City of Norfolk, 2025 WL 410080 (E.D. Va. Feb. 5, 2025) (unpublished) (denying a 12(b)(6) motion to dismiss a lawsuit by citizens alleging that the installation and use of LPRs violated the Fourth Amendment; the court noted that the police chief said that “[i]t would be difficult to drive . . . any distance [in the city] without running into a camera” and that combining the city’s cameras with nearby towns’ created a “curtain of technology”)
- N.C.G.S. 20-138.30 et seq. (data to be used only for law enforcement purposes and not normally retained more than 90 days)

Other Cameras

Law enforcement may use stationary “pole” cameras (overt or covert), body-worn cameras, dashboard cameras, and security cameras at law enforcement facilities; sometimes privately-owned cameras can also contribute to law enforcement systems/networks



Holistic Thoughts



Technology is faster than the law



When (if at all) does the whole become greater than the sum of the parts?



People have radically different reactions/intuitions

Buying Information from Private Data Brokers



Questions



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