

What are the legal
and privacy
concerns in the use
of automated license
plate readers?

There are some lower court cases directly on point as to whether the use of the license plate reader violates the 4th Amendment.

United States v. Wilcox, filed February 28, 2011 from the U.S. Court of Appeals, 11th Circuit.

The Atlanta Georgia officer used the ALPR (in January 2007) to determine that Wilcox was a convicted felon (ran the tag and then the criminal history) and stopped him for expired tags that did not match the vehicle to which they were affixed.

In the traffic stop, a firearm was discovered in Wilcox's possession.

From Wilcox's conviction for felon in possession of a firearm he argued unlawful search.

The Court upheld the conviction.

The court stated that Wilcox did not have a “*reasonable expectation of privacy*” in the plainly visible license plate.

Question

How does the recent US Supreme Court case, regarding GPS monitoring of a vehicle, affect ALPRs?

In the 2012 case of *United States vs. Jones*, 565 U.S. ____, (2012), the U.S. Supreme Court reviewed a District of Columbia case where the police had secretly attached a GPS device to a motor vehicle for gathering information to use in a criminal case.

The court distinguished the strictly “visual” surveillance of the vehicle from a physical occupation of a portion of the vehicle (trespass) by the GPS device.

The court in the *Jones* case applied the *Katz v. United States*, 389 U.S. 347 (1967) “reasonable expectation of privacy” standard and stated that “mere visual observation does not constitute a search” (Page 11).

The Court further refers to *United States v. Knotts*, 460 U.S. 276 at 281 (1983) by stating “[a] person traveling in an automobile on public thoroughfares has no reasonable expectation of privacy in his movements from one place to another.”

The Court makes it clear

A person traveling
in an automobile
on public thoroughfares
has no reasonable expectation
of privacy in his movements
from one place to another

At this point, it appears
that the recent GPS
case does not create or
cause a legal
impediment to the law
enforcement use of
ALPR

Other
questions that
could be raised

What about the “legal in-between spots”?

- Parked vehicles on public parking lots?
- Vehicles traveling in private gated communities?
- Vehicles parked in a garage of a private residence.
- What about covering your license plate after arrival at your destination?
- What about the compilation of data derived from license plate readers?

Suggestions

- If your department utilizes the license plate readers, have a policy in place concerning use of the reader and data storage.
- Keep apprized of any new case law in your jurisdiction concerning this subject.
- Keep updated on any legislative action that could affect ALPRs and their use.