

## *Nat Hentoff: Government will know more about you constantly*

By **NAT HENTOFF**

Posted Feb 12, 2012

Celebrations resounded far too prematurely on Jan. 23, when a unanimous Supreme Court appeared to be returning our personal privacy in *United States v. Jones*. The court ruled that it is unconstitutional for authorities to secretly place a Global Positioning System (GPS) device on a person's physical property (in this case, the defendant's Jeep) to track him.

However, it soon became clear to constitutionalists that we are not free from our government continuing to learn so much more about us than we can imagine.

Because of this nation's use of rapidly evolving surveillance technology, government agencies are able "to comprehensively monitor an individual's private life without necessarily introducing the type of physical intrusion into his person or property covered by the (Supreme Court's) ruling," says the Rutherford Institute's John Whitehead in one of his regular national news analyses ("*U.S. v. Jones: The Battle for the Fourth Amendment Continues*," [rutherford.org](http://rutherford.org), Jan. 23).

While growing up in this land of the free and home of the brave, how many of us ever imagined that our government could covertly pry into such extensive areas of what we do, say and plan? Are those we elect to govern us no longer responsible for keeping us a free people?

I have always avoided using the inflammatory term "police state." But as you think about the rapidly increasing government invasion into our personal lives, aren't we in the early stages of that kind of America?

Whitehead lists a number of these technological privacy invaders that I expect many of us will find chilling:

"Facial-recognition software is another tool in police forces' surveillance arsenal in which police take a photograph of a person's face, then compare the biometrics to other

photographs in a database. Such a system can easily be placed onto the back of a smartphone and only weighs 12.5 ounces. Facial-recognition software is currently being used in conjunction with public surveillance cameras at airports and major public events to spot suspected terrorists or criminals."

When the information collected on these databases is usually done without a warrant, on what basis are these people regarded as "suspects or terrorists"?

Whitehead continues the facial-recognition scope: "Cities such as Tampa have attempted to use this technology on busy sidewalks and in public places."

Why not? There will be many more people regarded as "suspects" in various police conjectures to fill databases -- with taxpayers' money.

Next: "RFIDs, Radio Frequency Identifications," Whitehead writes, "have the ability to contain or transmit information wirelessly using radio waves. These devices can be as small as a grain of rice and can be attached to virtually anything, from a piece of clothing to a vehicle."

Providing, I would add, that the vehicle is not the personal property of the actual individual being surveilled.

Now dig this, fellow Americans being shorn of your Fourth Amendment rights: "If manufacturers and other distributors of clothing, personal electronics and other items begin to tag their products with RFID," says Whitehead, "any law enforcement officer armed with an RFID reader (BEGIN ITALS) could covertly search an individual without his or her knowledge(END ITALS)."

If you don't know you're personally being searched and with what device, to whom could you file a constitutional complaint -- about what?

Here's John Whitehead again: "Drones -- pilotless, remote-controlled aircraft that have been used extensively in Iraq, Afghanistan and Pakistan -- are being used increasingly domestically by law enforcement."

Drones, President Barack Obama's favorite weapons in the war against terrorism abroad, are now also being used back home in this administration's war on the Constitution.

Whitehead reports: "Under many states' proposed rules, they could also be used" -- and are already being used -- "to track citizens and closely monitor individuals based on the mere suspicions of law enforcement officers."

Ah, "suspicions." So, because people don't know the government is tracking them, they have no possible due process rights. You also ought to know that Congress is calling for more use of drones here ("Congress Calls for Accelerated Use of Drones in U.S." fas.org, Feb. 3).

And keep in mind Whitehead's warning: "The precision with which drones can detect intimate activity is remarkable."

Our chief digital protector of privacy rights, the Electronic Frontier Foundation, adds that the huge data-collecting capacity of some newer drones is due to "super high-resolution 'gigapixel' cameras that can 'track people ... from altitudes above 20,000 feet'" ("Are Drones Watching You?" Jennifer Lynch, eff.org, Jan. 10).

That expanded capacity could be handy for CIA drones to monitor Bill of Rights Day demonstrators. They could detect persons suspected of being associates of organizations dangerous to national security. How will they tell? Do you trust the CIA?

As we Americans become aware of the possibility -- though not the specifics -- of being caught in this endless government dragnet, will we passively yield to our liberties being indefinitely suspended to safeguard national security? If President Obama is re-elected, we know he will tell us what our safety mandates. But will anything different come from a Republican president?

Whatever political party your congressional representatives belong to, are they even aware of their constituents being watched by the government? Are they disturbed?

And as one of their constituents, what will you do? Watch carefully what you text or whom you associate with? Or maybe protest your representatives to get America back? Protest to whom in government -- local, state or national?

*Nat Hentoff is a nationally renowned authority on the First Amendment and the Bill of Rights. He is a member of the Reporters Committee for Freedom of the Press, and the Cato Institute, where he is a senior fellow.*