

Coronavirus Is Just the Latest Excuse to Expand the Surveillance State

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Federal, state and local agencies have teamed up to operate a warrantless cellphone tracking program to monitor compliance with COVID-19 social distancing requirements.

According to [a report by the Wall Street Journal](#), the program provides information on people's movements in over 500 U.S. cities. According to the report, the CDC spearheads the program known as the COVID-19 Mobility Data Network with assistance from state and local governments. Tech companies and data providers have reportedly been cooperating with the effort.

This information has been fed to law enforcement agencies. For instance, according to a report from the [Daily Mail](#), "one source shared that researchers learned that a huge number of New Yorkers had been visiting Brooklyn's Prospect Park and handed the information over to authorities."

Emergencies create the perfect excuse for government power to expand.

The COVID-19 pandemic is no exception. The spread of coronavirus and the fear generated has opened the door to all kinds of government actions that would be intolerable in normal times. Once established, these government powers never go away. In fact, the 9/11 emergency allowed the federal government to create the foundation for the surveillance state that exists today with the passage of the Patriot Act and other post-9/11 "authorities."

Since then, the federal government has been constructing an integrated national surveillance state with the cooperation of state and local agencies. The COVID-19 "emergency" provides an excuse to put that system to "good use." it also sets the stage for further expansion and abuse of the system in the future.

Some have pushed back against further expansion of the surveillance state during the pandemic, recognizing the inherent danger of letting that particular cat out of the bag. The New York-based Surveillance Technology Oversight Project (STOP) [released a statement](#) opposing the expanded use of location data to track coronavirus.

"Even as we battle this unprecedented public health threat, we still have to uphold the Constitution. Warrantless cellphone location tracking has been ruled unconstitutional by the Supreme Court, and this surveillance program poses dire consequences for Americans' privacy. We are deeply concerned that this data was not only collected in secret, but that it's apparently being shared with no protections against being used by police or even ICE. While it's unclear if this sort of surveillance state helps prevent the spread of COVID-19, it's quite

clear that it undermines our most fundamental rights and risks driving countless Americans into the shadows.”

The COVID-19 tracking program reportedly strips records shared with government agencies of identifying information. But as [a report by the Electronic Frontier Foundation](#) (EFF) points out, it’s virtually impossible to truly anonymize location data.

Practically speaking, there is no way to deidentify individual location data. Information about where a person is and has been itself is usually enough to reidentify them. Someone who travels frequently between a given office building and a single-family home is probably unique in those habits and therefore identifiable from other readily identifiable sources. One [widely cited study from 2013](#) even found that researchers could uniquely characterize 50 percent of people using only two randomly chosen time and location data points.

It is possible to aggregate data in a way that protects individual identities, but once the Pandora’s box is open, how do you keep everything inside? By its nature, government pushes the boundaries. It’s only a matter of time before police agencies are using this information to identify individuals.

Other countries have already used location data to identify specific people. China was particularly aggressive in using mass surveillance of phones to classify individuals based on their health status and to then restrict their movements. Those who claim “that can’t happen here” are naive. In fact, police have already used [mass location tracking to hunt down fugitives](#).

Judges across the U.S. are issuing search warrants that effectively authorize police to search broad geographical areas to determine who was near a given place at a given time. In practice, these warrants give police permission to use Google location data to engage in massive fishing expeditions and subject hundreds, if not thousands, of innocent people to police location tracking.

In practice, “geofence” warrants authorize police to search Google’s massive location tracking database for all of the phones within a given geographical area during a specific timeframe. [According to the New York Times](#), federal agents first utilized the practice in 2016.

According to the *Times*, these broadly construed warrants help police pinpoint possible suspects and witnesses in the absence of other clues. Google employees said the company often responds to a single warrant with location information on dozens or hundreds of devices.

North Carolina produced the first public reports of this investigative tactic last year after detectives obtained warrants to obtain location data for all the phones that were in the area of two shootings. [According to WRAL](#), “On a satellite image, they drew shapes around the crime scenes, marking the coordinates on the map. Then they convinced a Wake County judge they had enough probable cause to order Google to hand over account identifiers on every single cell phone that crossed the digital cordon during certain times.”

Geofencing could also be accomplished in real-time using cell site simulators, commonly

known as “[stingrays](#).” These devices essentially spoof cell phone towers, tricking any device within range into connecting to the stingray instead of the tower. This allows law enforcement to sweep up communications content, as well as locate and track the person in possession of a specific phone or other electronic device.

Some argue that this kind of mass surveillance is necessary to catch “bad guys.” But what happens when the government defines a person stopping at the gun store or [attending a church](#) a “bad guy?”

Government powers never shrink. They only expand. Each expansion begets new expansions. It is imperative to place absolute limits on surveillance. We can't trust government agents to limit themselves. As Patrick Henry warned, “Show me that age and country where the rights and liberties of the people were placed in the sole chance of their rulers being good men without a consequent loss of liberty.”

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