

Comment by Rich Neumeister on House File 7, Sections 16 and 17. Before the Minnesota House Public Safety Finance and Policy Committee, 2/11/2025

Law enforcement three years ago came to the Legislature for a change in law because we have a criminal penalty if a tracking device is placed on a vehicle without a warrant. Ramsey County Sheriff's testified (2022) about the new technology which launched a tracking device from a police vehicle to a fleeing car. Exigent circumstances preempt that part of statute so officers/sheriffs doing their duties properly would not be under the criminal purview. But the law enforcement lobbyists still wanted the change in law.

The change in law as introduced brought concerns of privacy and surveillance, therefore two major provisions were placed in the bill and passed. The 24-hour period before a warrant was needed and a person must be in the vehicle when a tracking device is attached.

The language passed in 2023 which is now being amended became law for the circumstances described as Ramsey County Sheriff so testified. Now Ramsey County Sheriff and others want to change the law.

What the change does is allow the ability to place tracking devices on any stolen car so reported that is on any street, driveway, or property without any person in it. Rather than use the technology so described in 2022 and the major rationale why the law was done in the first place, law enforcement will be able to place these small devices on vehicles by just walking up to them and do surveillance for up to 24 hours without a warrant.

Placing and installing a GPS tracking device on a vehicle constitutes a search under the Fourth Amendment.

The Fourth Amendment which protects against unreasonable searches and seizures is complicated and situation dependent. Whether knowing a car is stolen constitutes an exigent circumstance to allow the placement of a tracking device without a warrant can be complex.

Crux of discussion: does placing a location device on a stolen car not in exigent circumstances a violation of the Fourth Amendment. (Without a search warrant)

What are exigent circumstances? Situations where immediate action is necessary to prevent harm to individuals or the destruction of evidence. This notion generally allows law enforcement to bypass the protections of the Fourth Amendment under specific urgent conditions.

Now if a car is reported stolen, under present case law the only exception to place tracking devices on a vehicle is in hot pursuit or risk of harm or flight. The language being struck as proposed in the bill was placed in law to narrow the broad ability to place a tracking on "any" stolen car law enforcement comes across and tracks for 24 hours without a warrant.

I believe this change in law will allow for warrantless tracking more so than just recovering the stolen vehicle and apprehending those individuals that committed the crime. If there is momentum for the bill to continue I suggest the following changes:

There shall be probable cause documentation such as the car being stolen. It can be documented in a report or affidavit, detailing how they came to that conclusion. If the situation involves exigent

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circumstances and acts without a warrant there should be written substantiation why they could not wait for a warrant.

There must be after the fact justification. Providing affidavits or reports that layout why the device was used, how it was installed, and what was discovered. This helps in legal proceedings. Law enforcement agencies must have policies on the use of tracking devices. Included in the policies must involve creating logs or reports of the devices use, including who authorized it, the duration, and the outcome.

I oppose this change because of the real potential of abuse. Leading to unwarranted surveillance and invasions of privacy protected by the Fourth Amendment of individuals. Placing of tracking devices merely because the vehicle is reported stolen will lead to public vs. private space scenarios. Expectation of privacy may be less on a public street, but on private property a different dynamic.

The law was changed in the first place in 2023 because of the evolution of technology which allowed for a discharge of a location device from a law enforcement vehicle to a fleeing vehicle. But now to rid of the language as proposed in the bill now prompts new legal considerations and discussion for accountability and new guardrails.

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