



New Police Radars Can See Through Walls

It has come to light that law enforcement agencies across the country have, for over two years, been using radar devices that allow officers to look through the walls of homes to learn whether anyone is inside — raising serious concerns about privacy violations.

USA Today reported Monday, “Those agencies, including the FBI and the U.S. Marshals Service, began deploying the radar systems more than two years ago with little notice to the courts and no public disclosure of when or how they would be used.”

The radars use radio waves to detect movements inside a house, and are capable of detecting something as slight as breathing from a distance of over 50 feet. Other devices have additional capabilities, including three-dimensional displays, and some are used on drones. The Justice Department is reportedly developing systems that can map the inside of buildings and find the location of people inside.

Technology of this kind was originally designed for military use in Iraq and Afghanistan, but has made its way into domestic civilian policing, notes *USA Today*.

A 2001 Supreme Court ruling in the *Kyllo v. United States* case declared that officers cannot use such high-tech sensors to violate the privacy of a person’s home without a search warrant.

In that ruling, the court held,

Where...the Government uses a device that is not in general public use, to explore details of a private home that would previously have been unknowable without physical intrusion, the surveillance is a Fourth Amendment “search,” and is presumptively unreasonable without a warrant.

A 2013 high court ruling further protected privacy rights when it limited the police’s ability to have a drug dog sniff the inside of homes. Justice Antonin Scalia wrote in that decision that it is “the right of a man to retreat into his own home and there be free from unreasonable governmental intrusion.”

At particular issue is the secrecy involved in the use of this technology. *USA Today* explains,

Agents’ use of the radars was largely unknown until December, when a federal appeals court in Denver said officers had used one before they entered a house to arrest a man wanted for violating his parole.

But by the time the judges took notice, the technology involved in that case, a device called Range-R, had already been in use by the Marshals Service for years. According to Justice Department spokesman Patrick Rodenbush, the Marshals Service “routinely pursues and arrests violent offenders based on pre-established probable cause in arrest warrants” for serious crimes.

Range-R has a display that shows whether motion is detected on the other side of a wall, and the



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Written by [Raven Clabough](#) on January 20, 2015

distance of the movement from the wall. The maker of the device, L-3 Communications, reports that it has sold around 200 of them to 50 law enforcement agencies for approximately \$6,000 each.

The Denver case involved a fugitive-hunting task force headed by the U.S. Marshals Service that tracked down a man named Steven Denson after he violated his parole. Denson was believed to be in a house in Wichita, Kansas. Using Range-R, the marshals ascertained that there was someone inside the home. They then entered — without a search warrant — and found Denson, as well as two firearms.

Later, in completing the report, Deputy U.S. Marshal Josh Moff did not mention the use of the radar. Denson's lawyers would later attempt to throw out the gun charges on the grounds that the marshals began the search with the warrantless use of the radar device.

The judges warned that "the government's warrantless use of such a powerful tool [as the Range-R] to search inside homes poses grave Fourth Amendment questions." In the end, however, they upheld the search and the conviction.

Writing for the three-judge panel, Judge Neil Gorsuch said that he expected the courts to grapple with the implications of this type of technology in the future.

"We have little doubt that the radar device deployed here will soon generate many questions for this court and others," he wrote. "New technologies bring with them not only new opportunities for law enforcement to catch criminals, but also new risks for abuse and new ways to invade constitutional rights."

Law enforcement agencies have defended the use of this technology to protect law officers preparing to storm buildings or rescue hostages. But constitutionalists say the use of such devices is unjustified, and bemoan the lack of safeguards in place to protect the privacy of American citizens.

"The idea that the government can send signals through the wall of your house to figure out what's inside is problematic," declared Christopher Soghoian, principal technologist for the American Civil Liberties Union (ACLU). "Technologies that allow the police to look inside of a home are among the intrusive tools that police have."

"The problem isn't that the police have this," noted Hanni Fakhoury, a lawyer with the Electronic Frontier Foundation. "The issue isn't the technology; the issue is always about how you use it and what the safeguards are."

The Marshals Service has been scrutinized for use of other privacy-violating devices, such as the Stingray, a cellphone-monitoring tool. Last year the ACLU obtained an e-mail sent by a Florida police sergeant to his colleagues in another department, asking them not to reveal the use of the Stingray.

"In the past," the sergeant wrote, "and at the request of the U.S. Marshals, the investigative means utilized to locate the suspect have not been revealed." He suggested that officers instead say they had received help from "a confidential source."

Items such as the Range-R are just one of many that began as battlefield technology and gradually and stealthily entered civilian law enforcement agencies. For example, the Tactical Identification System, mobile facial recognition technology that was designed for America's wars in Afghanistan and Iraq, landed in the hands of 25 local, state, and federal law enforcement agencies, including San Diego-area law enforcement, without any public hearings or notice.

A report by the ACLU of Massachusetts found that local police departments are being stocked with surplus equipment from the Department of Defense and are being trained by military personnel, all



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without public notice or community input.

Another ACLU report, entitled “War Comes Home: The Excessive Militarization of American Policing,” concluded after the examination of 818 SWAT operations conducted by 20 law enforcement agencies in 11 states from July 2010 to October 2013:

Using these federal funds, state and local law enforcement agencies have amassed military arsenals purportedly to wage the failed War on Drugs.... But these arsenals are by no means free of cost for communities. Instead, the use of hyper aggressive tools and tactics results in tragedy for civilians and police officers, escalates the risk of needless violence, destroys property, and undermines individual liberties.

If liberty-minded Americans do not act quickly, however, the use of radar to search inside citizens’ homes will become as widely accepted as the presence of TSA agents in airports.



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