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ELECTRONIC MONITORING/TRACKING DEVICES

SCOPE:

This policy is intended to inform Private Investigator (PI) trainees of the definition, best practices, potential laws relating to, and the penalties of the improper use of GPS and other styles of tracking devices currently available to PI's.

DEFINITION:

"**Electronic monitoring**" means tracking the location of an individual through the use of technology that is capable of determining or identifying the monitored individual's presence or absence at a particular location including, but not limited to:

- (a) Radio frequency signaling technology, which detects if the monitored individual is or is not at an approved location and notifies the monitoring agency of the time that the monitored individual either leaves the approved location or tampers with or removes the monitoring device; or
- (b) Active or passive global positioning system technology, which detects the location of the monitored individual and notifies the monitoring agency of the monitored individual's location.

COMPANY POSITION & POLICY:

It is P.S.I. Investigations position and policy that attaching any such tracking devices to a vehicle constitutes not only a Fourth Amendment search, but a highly intrusive one at that, and therefore requires the obtaining of a judicial warrant based upon probable cause. Therefore no employee or subcontractor to P.S.I. investigations shall utilize any such device in the course of their relationship with the company and its clients.

CASE CITES:

1. A defendant convicted of murder challenged his conviction in *State v. Jackson*, #72799-6, 76 P.3d 217 (Wash. 2003). He argued that a warrant was required under Washington state law before police could attach a GPS device to his vehicle for the purpose of tracking his movements. The Washington Supreme Court accepted his argument, ruling that, absent some recognized exception to the warrant requirement, attaching the GPS without a warrant was unreasonable.
2. Washington State's Constitution states "no person shall be disturbed in his private affairs, or his home invaded, without authority of law." Article 1, sec 7
3. Despite the 1983 ruling in *United States v. Knotts*, #81-1802.460 US 276 (1983) however, one federal appeals court and the highest courts of five states—Massachusetts, New York, Oregon, Washington, and Wisconsin have ruled or at least implied or assumed that the principles in that case are inapplicable to the use of today's more sophisticated GPS tracking devices.