

Spying or Tracking?

With little fanfare or traditional media advertising, a device/service entered the communication market about four years ago. Proponents call it a tracking mechanism, while opponents call it everything from high-tech stalking to technological abuse. Pennsylvania law deems it illegal in most situations.

The spy phone application can allow one to listen in on calls, read someone's text messages, view their call history, read emails and more. Some even come complete with a GPS tracking unit.

To subscribe to the service, one typically downloads the software from a provider to the phone to be affected. The costs vary greatly depending on the level of tracking/spying desired.

Who would use such a service? Employers could use the service to track workers on the road to insure company phone, vehicle and time are being used for the company. Parents of teens could use the service to track their problem teens, or merely to insure no "sexting" occurs. Children of aging, forgetful parents could use it to remotely assist the parent with daily planning. A partner who suspected a cheating partner could use it to justify his or her doubts, or be proven wrong.

But, is it legal in Pennsylvania? Title 18 of the Pennsylvania Consolidated Statutes states quite clearly that a person is guilty of a felony if he or she intentionally intercepts or attempts to intercept oral, written or electronic communications, with exceptions:

1. The party with the affected phone has given consent to be tracked/spied upon.
2. The party intercepting has obtained the correct court order allowing them to intercept the communication.

If one intentionally obtains stored communication (e.g., email) without authorization from the owner of the communication, the same Pennsylvania statute deems it to be a misdemeanor, unless the owner consented to sharing the communication or there is an appropriate court order that allows the seizure of the stored communication.

So, if one is looking to track employees, document their consent. If you think you are being spied on or tracked, get a new phone and limit access to the phone by the suspected perpetrator.

Please contact me (717.657.7770) at our office for more detailed advice for procedures to insure you stay within the law in accessing any live or stored communications.

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