

FBI ADMITS IT USED GPS TRACKING ON 250 PEOPLE WITHOUT PROBABLE CAUSE

NPR's Carrie Johnson puts together the numbers on how many GPS trackers the FBI had to get warrants for after *US v Jones* held that you need a warrant to attach a GPS tracker to a car. And while she doesn't state it this way, what the FBI basically admitted is that in 250 of the 3,000 cases where they had GPS units activated but no warrant—over 8% of the GPS devices in question—they lacked probable cause.

Before the Supreme Court ruling in late January, the FBI had about 3,000 GPS tracking devices in the field.

Government lawyers scrambled to get search warrants for weeks before the decision, working to convince judges they had probable cause to believe crimes were taking place.

But after the ruling, FBI officials tell NPR, agents still had to turn off 250 devices that they couldn't turn back on.

FBI General Counsel Andrew Weissmann even admits to Johnson that they were using GPS tracking **to get** probable cause.

Weissmann says FBI agents in the field need clear rules. So, for now, he's telling agents who are in doubt "to obtain a warrant to protect your investigation."

But he says that's not always possible.

"And the problem with that is that a search warrant requires probable cause to be shown and many of these techniques are things that you use in order to

establish probable cause," Weissmann says. "If you require probable cause for every technique, then you are making it very very hard for law enforcement."

Now, I can understand why Weissmann and Robert Mueller would like to use GPS in the examples Mueller cited—where they have things like Internet statements and gun purchases.

But last I checked both of those things were constitutionally protected activities themselves.

So what the FBI's reaction to *Jones* has really revealed is that it had been violating the Fourth Amendment protections of around 250 people to get around their First and Second Amendment protections.