



Can I Use Electronically-Stored Information to Spy on My Cheating Spouse?

Understanding Privacy and Surveillance Laws

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You married the spouse of your dreams and you are thankful because your wish came true. However, there are signs of infidelity with frequent calls and secretive text messages from an anonymous person, sudden office meetings with unusual home arrival, concern about appearance, and missing money in the bank.

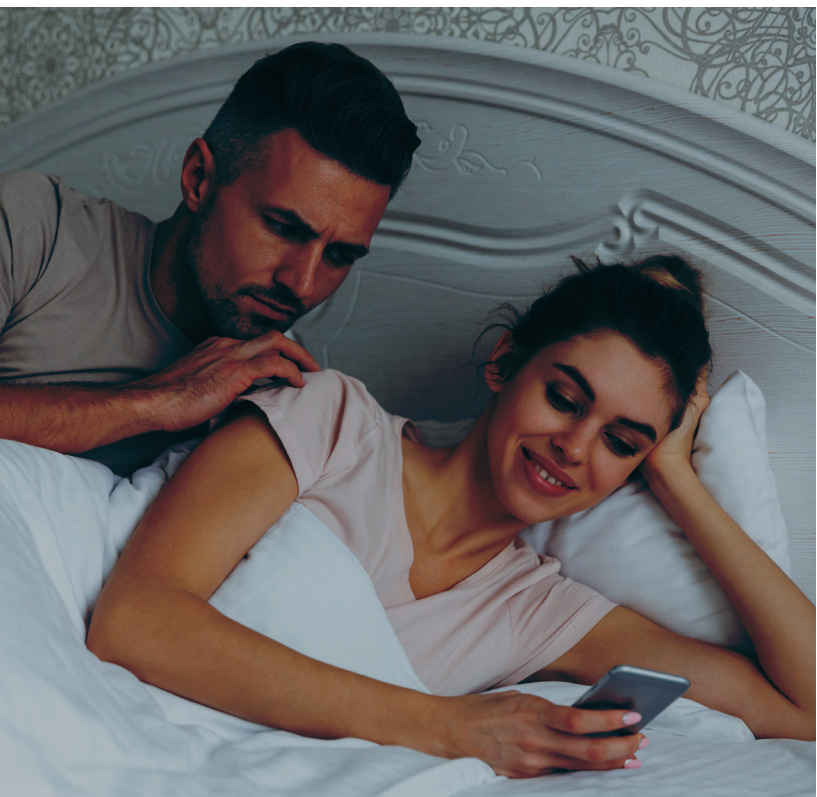
Good for you, you have access to the spy technology that you've seen in blockbuster movies to monitor your spouse's activities. Smart phones can be tracked to determine the whereabouts of the owner, CCTVs for monitoring suspicious behavior in your home, hidden microphones to catch conversations, and a GPS tracking system planted on the car in case the cell phone was left behind. However, it is important to think before you act.

The purchase of these devices are not prohibited by law. However, there are federal and state laws that consider the use of these systems as illegal and a violation of a person's right to privacy. When you think your trust is compromised and abused, don't act in haste. You might get

in hot water and find yourself on the other end of criminal proceedings. This may also have a negative impact on a custody or parenting time determination if you are going through a divorce.

Gain some inspiration from this e-book, learn to gather valuable evidence and use it against your cheating spouse. Understand the law and get to know how it works with answers to commonly asked questions and through real-life cases.





The Reality of Spying on a Cheating Spouse

Here are some reasons of why you might be inclined to spy on your spouse: they have cheated before and the same pattern is happening, you want to satisfy your feeling of insecurity or need for control, you want to use this information as a leverage in a divorce suit or to gain the upper hand in a child custody conflict.

Catching Your Cheating Spouse

It is very hard to catch a cheating spouse because they often will not admit it and they will lie. Call it unfair, but the rules of the game on infidelity favors the cheating spouse. Unless you have evidence to prove your allegations that will show the cheating spouse's wrongdoing, this will not stop the dishonest spouse from lying. Having proof might level the playing field and maybe tilt the issue in your favor.

Advancements in technology developed products and services to catch the lying, cheating spouse. They can run, but they cannot hide.

Cell phone software apps can detect your spouse's cell phone and forward emails, texts, and other cell phone activities. A global positioning satellite (GPS) will track your cheating spouse's vehicle whereabouts 24/7. Deleted messages and photos may be recovered from Windows, Mac, Android, and iOS systems with data recovery apps. There are online services that can help you uncover your spouse's hidden profiles, you

can see your spouse and the lover during their tender moments. Concealed cameras and voice triggered recording systems can be camouflaged as a pen, clock, radio, and other household items which can serve as your watchdog when you're away. However, these are not legal or admissible in Court. In fact, your spouse may take legal action against you and attempt to obtain a Final Restraining Order against you for staking consistent with the relevant State statute.

In New Jersey, so long as you are a party to a conversation with another, you may record your conversation with another individual. The other individual does not have to have knowledge or consent to the recording. This can be an important tool for finding out information and confirming possible infidelity.

Another way of revealing the truth is by hiring a private investigator (PI). This works well when your spouse is skeptical that you know about the infidelity. Further, PIs are good at infidelity investigation: they know the surveillance systems that are legal in your area. This is important if



you are trying to gather evidence to prove your spouse's unfaithfulness. Video surveillance and other information gathered by a PI is admissible and legal. The PI can be a witness and testify in Court if necessary.

Though certain technology may be available, there are two important questions to ask yourself:

1. Is it legal, and
2. Is it admissible in Court?

How Can Proof of Infidelity Impact a Divorce Case?

There are no-fault states when it comes to divorce, including New Jersey, meaning the supported spouse filing for a divorce is not obligated to prove the infidelity of a paying spouse.

Spousal Support

In New Jersey, infidelity does not typically have any impact on the award of alimony. This is why many matrimonial attorneys will still recommend for a party to file under an Irreconcilable Differences cause of action in divorce. However, proof of dissipation of marital assets in a divorce matter may have an important impact on your divorce matter.

Child Custody

There are no specific guidelines that penalize a cheating spouse by denying custody of a child. Although adultery is not harmful to the child, custody is determined by what is the best interest of the child. Adultery can impact the decision of the

judge if it was determined that the unfaithful spouse is irresponsible, unstable, or unfit to be a parent to a child.

Often times, one parent's adultery will negatively affect that parent's relationship with the child. The parties' relationship with each parent is an important consideration in any custody determination.

Property Distribution

In most cases, the proof of evidence of adultery is not considered by the judge during the property division proceedings, except in the case of dissipation of marital assets. This means that if marital funds were spent by the unfaithful spouse on the paramour in their illicit affair, a credit might be due and owing to the other party.

In *Kothari v. Kothari*, 255 N.J. Super. 500, 506-07 (App. Div. 1992), the Appellate Division defined dissipation as "where a spouse uses marital property for his or her own benefit and for a purpose unrelated to the

marriage at a time when the marriage relationship was in serious jeopardy.”

N.J.S.A. 2A:34-23.1(l) authorizes a court to consider “the contribution of each party to the . . . dissipation . . . in the amount of value of the marital property . . .” when determining the equitable distribution of marital assets. The Supreme Court of New Jersey has specifically cautioned that “any disposition of property in fraud of the other spouse could be promptly made the subject of appropriate judicial action.” *Painter v. Painter*, 65 N.J. 196 (1974).

Proving Adultery

Each state has their own standard for proving adultery if you have file under that specific fault ground. In some states, both people are guilty if one of them is married to someone else. Other states, the rule covers only married women. Many states consider a single act of adultery a crime, the illicit affair should be continuing and notorious in other states.

In New Jersey, if a spouse chooses adultery as the cause of action, they will be asked to name the affair participant and often will need to include them in the divorce complaint. Typically, the Court will require details regarding dates and places associated with the infidelity. The affair participant will have to be served a copy of the complaint, will have the opportunity to hire an attorney and respond, and will be able to appear in Court. Because of the complex nature involved and the limited benefits to filing under the grounds of adultery in New Jersey, your attorney may advise you to file under the no-fault provisions.

If an aggrieved spouse files a case, mere accusations are not adequate to obtain a divorce on the grounds of infidelity; the complaining spouse has to prove the guilt. Many forms of proof may not be admissible in a divorce court, so how do you provide the evidence that will be allowed by the court?

Social Media Sites

With the advent of the internet, gathering evidence of adultery is a bit easier. Information from the cheating spouse's social media accounts can be used to prove adultery anything that is posted is considered public. Additionally, you may request an audit of social media accounts through the discovery process in New Jersey.

Facebook or Instagram with compromising photos of the cheating spouse and the paramour in their tender moments. Images of gifts or tokens from either the unfaithful spouse or the paramour. Intimate posts quoting messages of affection are fair game.

Text Messages

Text messaging can be used as proof for committing adultery. What was once considered personal can now be used in a divorce case. Screenshots of text messages are admissible in Court. You can also subpoena the relevant cell phone provider to get telephone and text message

records. Cell phones store a significant amount of information that can be used as proof of adultery.

If you extract text messages from another cell phone that is not yours, you are violating Federal and State Laws and can be charged with a crime. The evidence will not hold up in court because the method used to obtain it was illegal.

Electronic Evidence

Access to information on a computer shared between spouses is legal if a spouse did not cite this in the divorce proceedings. Either of the spouses can use the data on the hard drive. The grounds for privacy is weakened if over one person has official access.

Conversely, if a spouse revokes the right of the other to a device, the usage of the information is unauthorized and cannot hold up in a divorce court. The same holds true for hacking into a personal account like an email by guessing the password. The offender faces criminal charges or civil consequences.

Some states make it a Class H felony to intercept, or procure any other person to intercept or endeavor to intercept, any wire, oral, or electronic communication without the consent of at least one party to the communication.

Silent Video Surveillance

There are statutes that consider oral communication and a videotape recording without an audio as not a violation of the state law and the federal wiretapping law.

An image does not intercept a wire or oral communication since there is no voice that is captured and there was no interception of an image while in transmission. The law does not cover soundless video recordings.

The aggrieved spouse can use the video in the house for surveillance of the cheating spouse since you own or a co-owner of the property. Also, the video recording device can be used in public areas as long as there is no violation of other laws.

Hire a Private Investigator

Private or Infidelity investigators are individuals licensed by the state to conduct surveillance. Hiring one will confirm your doubts and discover the truth of your cheating spouse. They are familiar with the investigation techniques in your area and they can provide the legal evidence that you need in your divorce suit.

You can watch a video of your unfaithful spouse in a romantic cuddle in a restaurant with the lover feeding each other with pasta, then proceed to a motel for a couple of hours. This information is fully admissible in Court.

GPS Tracking System on a Private Vehicle

The use of electronic tracking systems without knowledge or consent does violate New Jersey law. It is always best to go on the side of caution. There are other relevant and legal methods to gather information rather than GPS tracking your spouse.

Know the Consequences of Your Actions

What was once a family filled with love, trust, and happiness turned sour because of the illicit activities of your spouse. You feel angry; you want to get rid of the rat by filing for a divorce. The suspicion needs to be supported by evidence to tilt the decision of the court in your favor if seeking to file under an adultery cause of action.

Fear not, there are lots of products and services in the market that will catch your cheating spouse flat-footed. Capturing the spouse in a romantic tryst is easy, but can this be used as an admissible evidence?

The evidence should not violate any laws to be allowed in a divorce court. Otherwise, your time, effort, and money will be wasted; you will be flooded with criminal and civil liabilities; and a snicker from your cheating spouse. Plan ahead and know what works and what will not to win the battle.



Wiretapping and Electronic Eavesdropping

There are wiretapping and electronic eavesdropping systems in the market that can give the proof that you need. Keep in mind that any surveillance must be legal, sensible, and not invasive. Otherwise, your head will spin facing criminal charges with jail time and civil financial liabilities for illegal and inappropriate actions. Know what you are getting into and develop a strategy before you act.

Federal Law

Years back, wiretapping was connecting a listening device to a phone and intercepting a conversation as it runs through the telephone wire. Nowadays, it is synonymous with eavesdropping, things like smartphones, drones, and nanny cams required Congress to modify the federal wiretap law of the 60s.

The 18 U.S.C. § 2511 Wiretap Act was amended into the Electronic Communications Privacy Act (ECPA) in 1986. Under ECPA it is illegal to covertly record any face-to-face



conversation, phone call, email, text, or electronic communication that is private. The government restrictions on wiretapping telephone calls were extended to include transmissions of data by computer and other digital devices. Also, interception of stored electronic communications and tracking devices are not allowed.

Statutes penalize violators with fines and possible imprisonment depending on the severity of the offense.

A. Intent to Wiretap

18 U.S.C. § 2511 of the ECPA makes it a felony to intentionally intercept wire, oral, or electronic communications and endeavoring to intercept a communication, violators face the following consequences:

- *Not more than five years of imprisonment; or*
- *A maximum penalty of \$250,000 fine for individuals.*
- *A maximum penalty of \$500,000 fine for organizations.*

B. Custody of Illegal Wiretapping Equipment

18 U.S.C. § 2512 makes it a felony to possess unlawful wiretapping and eavesdropping equipment, violators face the following consequences:

- *Not more than five years of imprisonment; or*
- *A maximum penalty of \$250,000 fine for individuals.*

- *A maximum penalty of \$500,000 fine for organizations.*

C. Release of Information Obtained by Illegal Wiretapping

18 U.S.C. § 2511 makes it a felony to disclose information obtained by illegal wiretapping, violators face the following consequences:

- *Not more than five years of imprisonment; or*
- *A maximum penalty of \$250,000 fine for individual*
- *A maximum penalty of \$500,000 fine for organizations*

D. Additional Consequences

Intent to commit wiretapping, possession of wiretapping equipment, and the unlawful disclosure of information acquired through wiretapping are all charged as separate offenses. This is used as a leverage by prosecutors to intimidate offenders with extended sentences.

Aside from the criminal consequences, violators also face civil penalties which are money damages paid to the accuser.

State Law

Same as the federal law most state laws make it a Class H felony if without the consent of at least one party

to the communication, the person willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication.

New Jersey's wiretapping law is a "one-party consent" law. New Jersey makes it a crime to intercept or record an in-person or telephone conversation unless one party to the conversation consents. N.J. Stat. §§ 2A:156A-3, -4. Thus, if you reside in New Jersey, you may record a conversation or phone call if you are a party to the conversation or you get permission from one party to the conversation in advance. That said, if you intend to record conversations involving people located in more than one state, you should play it safe and get the consent of all parties.

Divorce cases get intense to the point that spouses resort to dirty tactics to reveal the infidelity of the erring spouses. The judicial system recognizes this and considers the invasion of privacy as a part of a tort law.

You may have all the reasons to hack the email or mount a GPS on your car to spy on your cheating spouse. Without the knowledge or consent, your actions will get you in hot water.

In *Kroh v. Kroh*, N.C. App. 347 (2002) the defending wife used tape recorders and video cameras to monitor her plaintiff husband's home conversations and actions. The plaintiff was awarded \$1,000.00 in compensatory damages under G.S. § 15A-296 and \$5,000 in punitive damages for violation of the Electronic Surveillance Act.

In New Jersey, anyone whose wire, electronic, or oral communication has been recorded or disclosed in violation of the law can bring a civil suit to recover the greater of actual damages, \$100 a day for each day of violation, or \$1,000, and can recover punitive damages, attorney's fees, and court costs as well.

Can I Use Text Messages on My Cheating Spouse's Phone?

Do you notice something strange about your spouse's behavior? Are there things hidden from you? Is the cell phone used in mysterious ways?

It's time for a serious talk and to speak your mind if your spouse won't open up avoid jumping to conclusions and delve deeper into the problem. It could be work-related stress, problems with health, or finances which could be worked out to keep the marriage healthy.

You should not download apps or software on to your spouse's phone without their consent to knowledge. This could lead to civil and criminal penalties. You can gain this information through the discovery process of your divorce and avoid any potential headache.

Can a Recorded Conversation Catch My Unfaithful Spouse?

Technological advancements have made a recording device accessible. Recording a conversation is no longer exclusive to owners of fancy equipment; a simple press on the cell phone's button does the trick.

Plaintiffs often think that they are holding a key evidence against their cheating spouse. A secret recording by the defendant of a conversation highlights the cheating, threats, and other discriminating evidence.

For instance, a mistreated party and the spouse had a heated argument. This was recorded as evidence unbeknownst to the cheating spouse. Everything was revealed from the extramarital affair to the hidden cash. The quarrel continues and the recording catches the cheating spouse admitting that his reported salary is lower than what he receives.

You hit the nail on the head, in a one-consent state, like New Jersey. So long as you are a party to a conversation, you can record the same. Your spouse will find this unjust, but

the recording was done through legal means and could hold in court as an admissible evidence. The affair and other misdemeanors were admitted, you recorded, it is fair game and that's the cheating spouse's problem.

Vicarious Consent

There can be an exception to this statute and this is when a custodial parent vicariously consents to an interception of a recording on behalf of a minor child based upon a good faith and reasonable belief that such interception is in the best interest of the child.

Examples of such recorded conversations include where the parent recording the conversation believes the other parent is manipulating the child, harming the child, or abusing the child. The key is that it must be a good faith, reasonable belief that such is occurring before the parent may attempt to intercept a conversation between the child and the other parent. In these types of scenarios, the parent may then

“vicariously consent” on behalf of the child in intercepting such conversations between the parent and the child.

In *State v. Diaz*, 706 A.2d 264 (N.J. Super.Ct. App. 1998), the court held that parents could vicariously consent on behalf of their five-month-old infant to recording a nanny abusing the child on videotape, under New Jersey's version of the federal wiretap act. It was held that the actions of a child's parents in contracting with a private company to install audio-video surveillance equipment in their home, for the purpose of observing a babysitter who they suspected of abusing the child, did not implicate the federal or state constitutions, because the allegedly unlawful videotaping was performed by private individuals and not by the government or its agents and the parents vicariously consented to the audio capture on behalf of their child. The court considered the admissibility of a videotape, which include[d] a sound recording, made by parents in their own home of the conduct of their child's daytime 'nanny.

Is Video Recording an Admissible Evidence?

Federal and state laws cover only oral communications and videotaping without aural, recording is not a violation of wiretapping laws.

Capturing an image is not the same as intercepting a wire or oral communication since the contents of the conversation are not recorded. Video surveillance is not intercepting an electronic communication because there is no image transmitted, but a video recording of the actions of characters in a real-time setting in a public place. Remember the statutes about tortious invasion of privacy, a video camera in a bedroom or any private area may expose you to civil liability.

Hidden cameras versus open and known cameras in and around the home are two different stories. If there are open and known cameras in the home, that video evidence is admissible in Court as evidence and can be very powerful in supporting your claim.

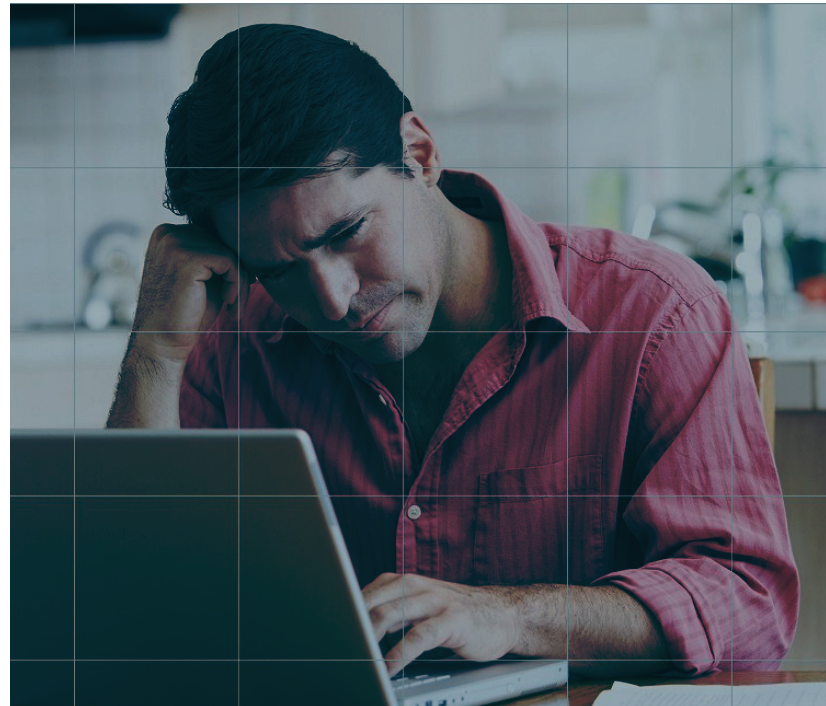
Is it Legal to Snoop in Spouse's Email or Facebook to Seek Proof of Infidelity?

Email, Facebook, or Twitter communications are being recognized in many divorce courts, but the manner in how the cyber evidence was collected will determine if it is admissible in court. Spouses trying to build a case for divorce may find themselves recipients of criminal and civil liabilities in pursuit of the smoking gun.

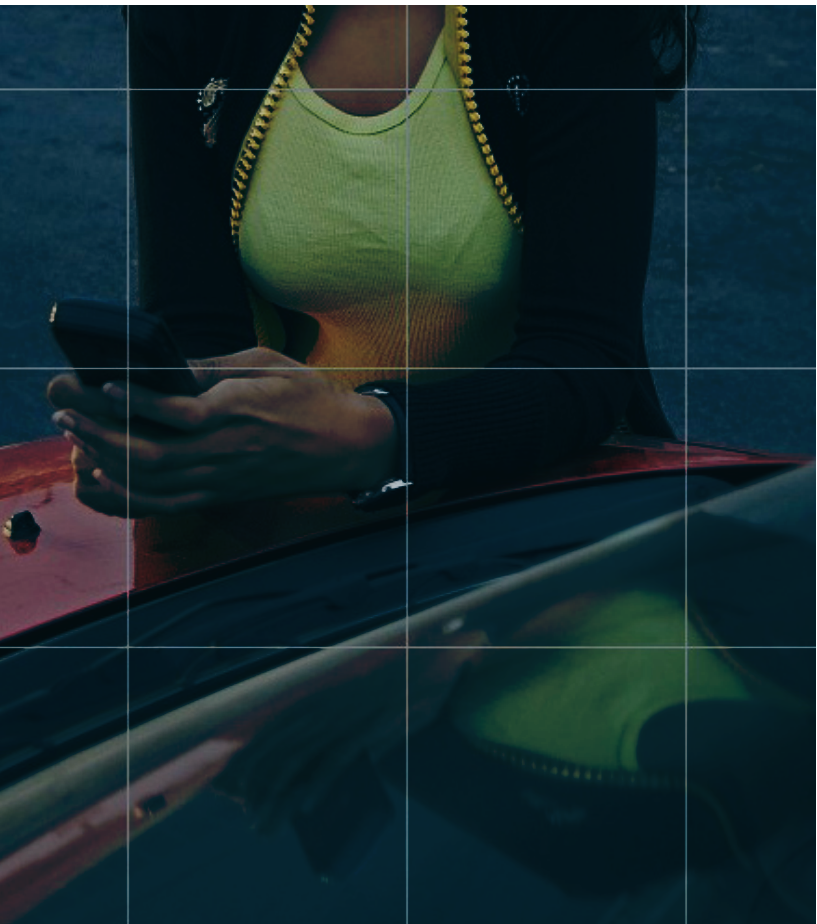
In today's technology-driven age, snooping software like spyware will send confidential information to a receiver. However, this does not mean the actions are legal. Any public postings on social media and other forums are permissible as the other party has no expectation to privacy.

In *White v. White*, 344 N.J. Super. 211 (Ch. Div. 2001), the husband asked the court to reject emails based on his right to privacy because he claimed they were located on his personal, password-protected AOL email account. As it turns out, the

husband's email account had been inherently configured to automatically copy all email correspondence to a folder on the desktop of the couple's shared family computer. The wife didn't need to use a password or even log in to AOL to see the incriminating evidence. The court ruled the husband didn't have a reasonable expectation of privacy, thus making the emails admissible evidence in the custody case.



You are not violating any law If you gained access to your spouse's Facebook account by logging into your own. All information is public; the messages between your cheating spouse and the paramour and sensual poses can be used in your battle. Again, this information can also be gained through the discovery process.



Can I use GPS Tracking to Monitor My Spouse's Whereabouts?

The legality of a GPS device to monitor a spouse's whereabouts is up in the air.

The Supreme Court previously established that people riding in a vehicle can be seen by anyone, hence the whereabouts are not considered confidential. However, in *U.S. v. Jones* the police installed a tracker in Jones' jeep without judicial approval and used it to follow him for a month. A jury found Jones not guilty on all charges save for conspiracy. The Supreme Court specifically stated in a 1983 case regarding the use of a beeper to track a suspect that the decision could not be used to justify 24-hour surveillance without a warrant.

The ruling sent mixed signals to the legal community, some lawyers believe that GPS devices are not allowed to spy on a spouse's whereabouts, others think that it was illegal because it involved police activity. Some lawyers say there is no law against GPS hence usage is

legal, others believe that it depends on the ownership of the vehicle. In shared vehicles, there can be no expectation of privacy. However, it is best to err on the side of caution and avoid GPS monitoring your spouse's whereabouts. There are other powerful methods available to you as previously discussed.

Admissible Evidence of Infidelity

With all the information you've read, your head might be spinning. Now you understand what evidence will work and what will not in court.

So you printed all the information on your spouse's electronic communication; gathered and arranged all text messages and prepared other evidence that will prove your spouse's fault.

Proving adultery is tricky; there might be details missing in your evidence that will tilt the favor on the other side that could impact your claim for child custody, alimony, and asset division.

Read some more to get more inspiration to get your facts straight on your day in court.



The Importance of Hiring an Attorney

You visit the doctor for treatment of an ailment, employ the services of a carpenter for some house repairs, and seek the services of a family lawyer to protect your rights in a divorce suit.

To save time and money, you forgo hiring a family lawyer and represent yourself. This will work if spouses are committed to end the marriage sans a legal battle, if there are no children or assets involved, and if neither party wants to receive alimony

from the other. Even in those cases, it can be best to hire an attorney to ensure your legal rights are being preserved.

However, most people know that divorce is not a walk in the park. In fact, it is complicated, stressful, and a confusing procedure and an experienced family lawyer by your side will help you through it. There are a lot of decisions that need to be made and legal documents to plow through—these are trying moments and you won't be able to think straight. Non-lawyers struggle with court rules and procedures, and legal jargons making legal documents too complicated to comprehend.

Your Family Lawyer at Work

Divorce laws vary by state, and your family lawyer will make use of the laws to your favor. They have the educational background, training, and savvy to determine the best course of action that will provide the best result.

Emotions run high and it is quite impossible for a couple to come to a settlement. They can act as a go-between and approach the issue judiciously within the law and settle the problem without going to the court.

Family lawyers have what it takes to divide assets fairly and they can draft the documents to bring your matter to a global resolution.

One of the most difficult issues in a separation has to be the welfare of the children. They can help with drafting an agreement of Child Custody for parents that are separating and amend the agreement if need be.

It often happens that family lawyers can't help couples to settle family disputes outside of the court, the unforgiving spouse has to settle these matters in court. Your family lawyer will protect your rights and see to it that you get justice from your adulterous spouse. They will help you navigate the complex jungles of the family law and ensure that you get justice that you deserve.

New Federal Rules of Evidence 902(13) and 902(14)

Rule 902(13):

Certified Records Generated by an Electronic Process or System. A record generated by an electronic process or system that produces an accurate result, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent must also meet the notice requirements of Rule 902(11).

Rule 902(14):

Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification, as shown by a certification of a qualified person that complies with the certification requirements of Rule 902(11) or (12). The proponent also must meet the notice requirements of Rule 902(11).

You will have someone to email or call who can answer your questions and give you advice on matters that are relevant to the case.

Authenticating Electronically-stored Information

In a couple of months, you have a court schedule for your divorce case, and among your proofs are copies of electronically-stored information (ESI) from cell phones, Facebook, Twitter, and Instagram. Judges are skeptical about these exhibits being digitally manipulated, you should be able to authenticate them to stand up in court.

You may think you have a problem on your hands. With two amendments to the Federal Rule of Evidence (FRE), which took effect on December 1, 2017.

FRE 902 governs evidence that is “self-authenticating,” meaning items of evidence that do not require any extrinsic evidence of authenticity in order to be admitted into evidence at trial. The items covered by this rule include, for example, sealed

and signed U.S. public documents, certified copies of public records, and newspapers and periodicals. Certain types of electronically stored information, or “ESI,” are scheduled to join this group and also be covered by FRE 902 on December 1, 2017.

It looks complicated, but it’s not. The statutes allow parties to authenticate certain types of ESI without needing to offer any testimony as to foundation. Specifically, the following ESI will no longer need foundation-related testimony at trial: (1) A record generated by an electronic process or system that produces an accurate result, as shown by an appropriate certification; or (2) data copied from an electronic device, storage medium, or electronic file, if authenticated by a process of digital identification, as demonstrated by an appropriate certification.

The types of evidence that would fall under these rules could include GPS data, cell phone photos, text messages, and other electronic evidence, if the proponent introduced an authentication certificate, pursuant to FRE 902(13), showing that

the ESI was obtained from systems that produced reliable results. FRE 902(14) will allow, among other things, self-authentication of forensic copies of web pages, text messages, or emails, certifying that they are the same as the originals.

To establish authenticity of the proof, the proponent of the ESI is required a certification way before the trial. The opposing party can challenge the authenticity of the proof. A qualified person can provide authenticity and can testify in court, a specialist would check the original copy and the duplicates to ensure that they are similar. Without any objection to the certification from the opposing party there is no need for the authenticator to attend the trial. The purpose of the committee is to encourage the parties involved to decide ahead of time whether to contest the authenticity of the ESI or not, to customize the trial arrangement and simplify the trial itself.

Evidence with proper certifications will save the parties and the court time and money from easier trial preparation, less witnesses, and brief trials.

In the New Jersey case, *E.C. v. R.H.*, Judge Jones in Ocean County examined the proper use of cell phone evidence when communications potentially cross the line from wanted to unwanted; from mild annoyance, to harassment.

In light of the above issues, the Court suggested that the following rules of thumb should be followed for litigants wishing to introduce evidence stored on cell phones:

CELL PHONE EVIDENCE	HARD COPY EVIDENCE
E-Mails & Texts	Printed on Paper
Social Media Messages	Printed on Paper
Photographs	Printed on Paper
Audio Recording	Duplicated on CD or Cassette
Video Recording	Duplicated on DVD



What You Need to Know?

A divorce is a complex and daunting nightmare.

So, you've decided to separate from your unfaithful spouse. The road has lots of humps and bumps along the way. Knowing what these are up-front will make the ride smoother, easier to navigate, and perhaps a favorable outcome at the end of your journey.

Choose a Competent Family Lawyer

Divorce is a legal matter that is less about the law and more of mediation, money, and parenting. Work with an experienced family lawyer to help you with this legal mess. The lawyer should get the point effectively as fast as possible to avoid dragging the case that can cost you. A long litigation can be daunting, a good lawyer will be properly motivated to complete the case up to fruition. A competent lawyer will do just about anything to win the case.

Don't Expect to Win

You're not a true winner when you beat your spouse in a divorce case, it's just scratching the surface. Deep inside, there were many joyous moments shared by the couple while raising the family. Besides, you won't end up with everything you want with issues about child custody, alimony, and division of assets. You might end up with child custody with a lower amount of spousal support. After the dust has settled, both parties will walk down memory lane reminiscing of happy moments, to win is pointless. It is important to have a goal, but be willing to compromise.

Do Not Tamper with Electronically-Stored Information

Texts can be cut and pasted to depict a message with romantic content, photos can be altered to display intimate moments. If these will be used as evidence, it has to go through the meticulous investigation of an expert or specialist. If ESI is tampered, the specialist won't issue a certificate and the supposed

evidence can't be admissible in court. DO NOT tamper with any evidence. It will only hurt you in the long run.

Don't Believe What Others Say About Divorce

Every divorce is unique and the advice from other people can be misleading or wrong. It's best to base your actions based on your decisions and not on other's experience. Be honest with your attorney, reveal all facts to analyze the case properly so that they can give you sound advice.

In a case in California, the wife filed for divorce without disclosing that she won \$1.5 million in the lottery. The husband was informed about this and told the judge about the concealment. The court awarded all, not just half, of the lottery winnings to the husband.

Marital Property

Marital property covers all property gained during the marriage, including the appreciation in value of a property acquired by a spouse

before the marriage or through inheritance, but not the property itself. The couples can come up with an agreement, and the judge can include this as part of the court order. In case of non-agreement, the court will split the property in an impartial manner through the process of equitable distribution. There are many factors to consider including the number of children, health issues, earning capability, education, and the standard of living.

The same court action is applied to alimony, which will be part of the court order before a divorce is granted.

Child Support and Custody

Child support and custody should be included with any pending divorce action. In fact, child support may have an important impact on a parties' ability to provide for alimony.

The separating couple must decide with whom the children will live and for other relevant matters such as where they will attend school, medical support, cost of living, and

visitation schedule. If the couple cannot come up with an agreement the court will decide for them.

Will I Serve Jail Time?

Federal and state laws are tricky if you are not a lawyer. It is possible you might be using ESIs which violate wiretapping laws. In the event you did, the relevant statute might state that you will fail jail time, but it is unlikely that the court will file a case against you for illegally spying on your spouse. The focus of the government on the wiretapping law is more on a national scale such as anti-terrorism, money laundering, drug-trafficking, and organized crime.

While it may be unlikely that you will be jailed for violation of the wiretapping law, an upset spouse will certainly utilize whatever available resources they may have. This could include, but is not limited, filing criminal charges against you with the County prosecutor or seeking a Final Restraining Order for stalking.

In a case from New York, a suspicious spouse got himself in hot water. The husband installed Spyware on his wife's cell phone three weeks before filing for divorce. He wanted to gain an edge in divorce proceedings by intercepting communications between his wife and her lawyer. He gained access to as many as 200 emails, which were discovered by a computer expert hired by his wife. The spouse's computers and devices were seized by the police and scoured for evidence that he intercepted from his wife's confidential communications.

In another case out of Texas, a man got four years jail time for using SpyRecon on his wife's cell phone.



About the Author:

Thomas Petrelli

As founding and managing partner of Petrelli Previtera, Tom leads the firm in resolving divorce cases. While he represents individuals and families in all types of financial situations, he has built a particularly strong reputation handling high asset divorces and those involving businesses as marital property. In this regard, he focuses on the protection, valuation, and distribution of significant assets or business interests.

Since passing the Bar, Tom's impressive career has earned him the recognition of his peers and authoritative legal organizations. He has been named in Pennsylvania Super Lawyers every year since 2009. Martindale-Hubbell awarded Tom with the Client Champion Gold Award in 2019 and in previous years. He is among Suburban Life Magazine's 2010 Awesome Attorneys in the category of Divorce and Family Law, and Arrival Magazine's Top 50 Family Lawyers in the Northeast.

The groundwork for Tom's laser-sharp legal mind started with his outstanding education. In addition to his Juris Doctor from Vermont Law School, he holds an LL.M. in Trial Advocacy from Temple University's James E. Beasley School of Law..

Contact our family law attorneys today. *If you're ready to discuss your legal options for your specific matter, we can help you get started and ensure you're as well-informed as possible from the beginning. Call us today.*

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