Use of 180 Day Emails and GPS Tracking

In recent times, the use of modern technology such as email and cell phones has challenged long standing ideas about rights in the U.S. Constitution’s Fourth Amendment. The most pressing question concerns the level of expected privacy a citizen has while using these two innovations. The reasonable expectation of privacy in a citizen’s electronic communications is no different than in physical mail; furthermore, citizens should expect even more privacy in the use of their cell than in the use of their vehicles.

When judging the reasonable expectation of privacy one has in an email account, the analysis should not move past the reasonable expectation of privacy one has in physical mail. Email, like physical mail, has the ability to be opened, stored, filed, and deleted/thrown away although done by electronic means. Physical mail stored in a file cabinet in a person’s home is unquestionably protected against unreasonable search and seizure by the Fourth Amendment even if that mail has been there for 180 days or longer. Email deserves no less protection because the degree of expected privacy is the same. A reasonable person should not suddenly expect less privacy for an email that has been electronically stored in his account past some arbitrary deadline created by government. However, mail in the trash file should be treated with the same procedure as mail in a trash bag with a lower expectation of privacy.

In *United States v. Jones,* the Supreme Court decided that the government may not place a GPS tracking device on a person’s vehicle without violating the Fourth Amendment. This case serves as a guide as to how the government should act in regards to GPS tracking on a cell phone. Unlike a vehicle, a cell phone can travel into places that are given more protection that a person’s vehicle, like their home. So if GPS on a car infringes the Fourth Amendment, then GPS tracking a cell phone also violates the Fourth Amendment because cell phones are mobile and can be carried into private areas protected by the Fourth Amendment.

Like most things, the answer to the level of privacy one should expect in cell phones and email can already be found in other issues that have already been decided. The Supreme Court’s position on GPS tracking a vehicle serves as a good model for standards on GPS tracking cell phones. Likewise, physical mail which has been around for hundreds of years already has standards for privacy that are easily applied to email. The mere fact that government has easier means to search and seize electronic information does not mean that reasonable Americans expect less privacy in these areas.