

FOX 13 News 360: Your digital trail

By: [Amy Nay](#)

Posted at 10:40 PM, Oct 07, 2021

Link: <https://www.fox13now.com/news/local-news/360/fox-13-news-360-your-digital-trail>

Video: <https://www.youtube.com/watch?v=JqQmVUCKi4A>



SALT LAKE CITY — Have you ever wondered about your digital trail? How easily you could be tracked? Whether or not the information that’s out there could be used against you?

Many people would not consent to wearing a tracking device, but those same people carry around a cell phone with them all day long. That device has the capability of tracking your every move, your every search online, and more.

“From somebody on the criminal justice side, I absolutely want as many tools in my toolbelt to use,” Chris Bertram worked in law-enforcement 31 years, and now runs Bertram and Associates private investigations and consulting. He says he tells his clients if you don’t ever want something to be public, don’t have it on your phone.

High profile cases like the search for Gabby Petito and now Brian Laundrie are reminders that police can and do use our digital trails.

“We leave a huge digital footprint of where we’re going and what we’re doing all the time,” Bertram told Fox 13.

He said the ability to track someone has evolved quickly in recent years.

In the summer of 2020, the bodies of missing children JJ Vallow and Tylee Ryan were found by investigators, buried in the backyard of Chad Daybell, a man married to their mother Lori. Both are now charged in connection with their murders.

“You know, that was something that I think the FBI had in their back pocket, and had been doing that for quite a time, but it wasn’t public. I think that case came out to really tell you that the capacity of law enforcement, and really the FBI, to take a cellphone and to put it within seconds and feet. The cellphone

moved 3 feet and then 3 feet and that became a critical piece of the puzzle as to where they were missing and in fact was key to finding them,” Bertram said.

“The expectation of privacy and the right to privacy does sometimes have reasonable, often reasons a good reason as law enforcement to overcome that,” John Mejia, legal director with the ACLU of Utah says he believes information accessed after a judge agrees and officers prove probable cause for that suspect and his or her involvement in a case, or in an emergency situation, it is warranted. But when so much information from our personal lives is available to anyone in law-enforcement to access it in a bit of a fishing expedition, that’s a different story, “This is an issue that we have been actively working on for years.”

in 2013, an officer investigating ambulance drug theft searched for all Salt Lake County firefighters in the state’s prescription drug database. Charges were filed against several firefighters under suspicion they were abusing controlled substances, even though they were not suspects in the case he was originally investigating. Charges were later dismissed and countersuits filed.

Mejia told Fox 13, “People have a legitimate expectation that the government will not be prying into their lives through this digital information without probable cause.”

The case helped push lawmakers in 2015 to pass a law requiring police officers get a warrant first to search that database.

“ I don’t know how much privacy any of us have, especially online, really.”

Seasoned local attorney Peter Stirba now with Clyde Snow and Sessions in Salt Lake said that should be made obvious to all of us when targeted advertising pops up online or while scrolling social media.

“It’s like how many times, I don’t know, do you get some advertisement or something just out of the blue and you go how did they know that!!! I mean, come on. They do! I mean that’s the nature of commerce. And it’s all electronic and it’s all neat and it’s all available.”

Stirba says there was a clear precedent dictating how much access to information the government has if you have not been implicated in a crime.

“There’s a Supreme Court case, which is 2018, I have it right here, which answers that very question. There was not probable cause. There had not been a charge, and so the Supreme Court said no, you can’t do that.”

Going even further than the federal law, the ACLU of Utah helped fight for HB57 which passed in the state in 2019.

Mejia said, “We worked to pass a bill that made that clear for Utah law enforcement that before you even start accessing third party records – held by your cellphone company or other tech companies – that you would need a warrant.”

Stirba said it would be very hard to completely go off the grid and not leave any information behind, “Most of us now know, there’s very little privacy left, if you participate electronically in the world.”