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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

October 24, 2011

The Honorable Eric H. Holder, Jr.
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

The Honorable Jon Liebowitz
Chairman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Dear Attorney General Holder and Chairman Liebowitz:

We are writing to express our urgent concern about the proliferation and use of so-called "stalking apps"—mobile apps for cell phones and smartphones that allow a domestic abuser or stalker to continuously and secretly monitor a victim's movements and whereabouts. Based on 2006 data, the Bureau of Justice Statistics has estimated that more than 26,000 persons are victims of GPS stalking annually, including by cell phone. Reports from advocates—and the boom in mobile technology—strongly suggest that this figure is much higher in 2011. We ask that your agencies investigate whether the developers and distributors of stalking apps are in compliance with all applicable federal criminal and consumer protection laws.

In testimony submitted for a May 2011 hearing before the Senate Judiciary Subcommittee on Privacy, Technology and the Law, the Minnesota Coalition for Battered Women and the National Network to End Domestic Violence recounted the disturbing experience of a Minnesota woman who was stalked through her smartphone:

> In a recent case in Northern St. Louis County, MN, an advocate reported that a woman who entered the domestic violence program located within a county building received a text message from her abuser within five minutes of entering the building. The abuser asked why she was in the county building. The woman was extremely frightened and the advocate helped her obtain an Order for Protection (OFP) at the local courthouse. After filing the OFP, the woman received another text message asking why she went to the courthouse and if she was filing an OFP against him. The only device the woman had on her was her smart phone and they later concluded that her abuser was tracking her via a location tracking application or service on her phone.

This excerpt reflects just one example of numerous cases of stalking through mobile devices.

Stalking applications are widely available and simple to install, usually by a spouse or intimate partner. Anyone who leaves their mobile phone alone for five minutes could have stalking software installed without their knowledge. *See* Ben Goldacre, "How I Stalked My Girlfriend," *The Guardian* (Jan. 31, 2006). Once installed, stalking apps can allow an abuser to listen to his victim's phone calls, read her emails and text messages, and track her real-time GPS location—entirely without the victim's knowledge or consent.

These apps are openly marketed to individuals who are trying to stalk or "spy" on an unwitting victim. "Worried about your spouse cheating?" one app's website asks. "Track EVERY text, EVERY call and EVERY Move They make Using our EASY Cell Phone Spy Software."[1] Another app brags that its software will "turn a mobile into a secret gps [sic] tracking device."[2] Still another site advertises that it will allow a user to "[t]rack her movements throughout the day," "[k]now what number she is calling or receiving," and even "tap her actual phone call."[3]

Location-based services (LBS) offer consumers numerous benefits. They help users navigate commutes and avoid traffic, help locate lost or stolen wireless devices, and also help parents keep track of their families. Indeed, most major wireless carriers offer their customers legitimate services that allow them to track the locations of the users of their calling plans—especially minor children. While these services can be abused by individual customers, all major carriers take precautions pursuant to voluntary industry guidelines to notify a wireless user that he or she is being tracked through one of these services.

In contrast, stalking apps abuse and misuse LBS to affirmatively facilitate stalking. Indeed, these apps are designed to run secretly on a victim's phone and are actually marketed to abusers as being "undetectable."[4] While many of these apps also advertise themselves as a mechanism for parents to keep tabs on their minor children, their design and marketing suggests that this is an attempt to legitimize an otherwise suspect activity. We believe that in most cases, stalking apps' intrusion into victims' privacy and their potential for abuse will far outweigh any legitimate purpose that these apps may serve.

Stalking apps are dangerous. We ask that you quickly determine if they are also illegal. If so, we ask that the Department of Justice and the Federal Trade Commission use their full force to investigate and prosecute those behind the development and marketing of these products for illegal stalking.

Sincerely,

Al Franken
Chairman, Subcommittee on Privacy, Technology and the Law

Chuck Grassley
Ranking Member, Committee on the Judiciary

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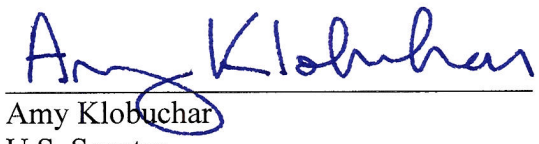
[1] *See* ePhoneTracker: Stealth Phone Spy Software, *available at* http://ephonetracker.com/index.html.

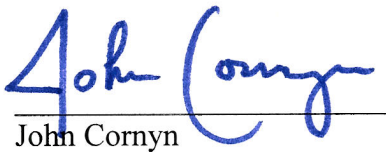
[2] *See* FlexiSPY, "how mobile cell id location tracking works" *available at* http://www.flexispy.com/cellID-gps-mobile-location-tracking.htm.

[3] *See* Spyera: The Best Spyphone Software, "Is Your Wife Cheating," *available at* http://spyera.com/is-your-wife-cheating.html.

[4] *See* Spyera: The Best Spyphone Software, "Buy Now," *available at* http://spyera.com/buy-now-spy-phone-software.

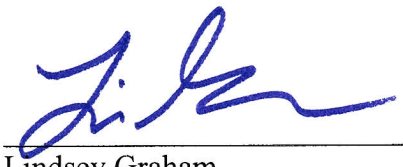


Amy Klobuchar
U.S. Senator



John Cornyn
U.S. Senator

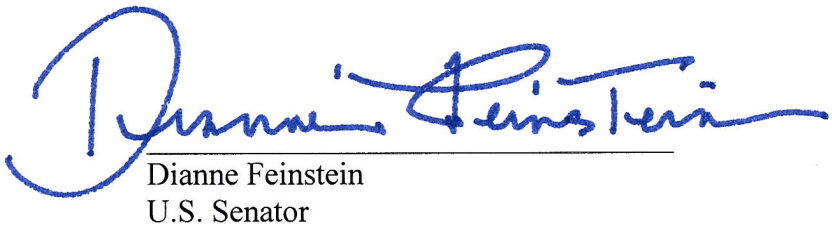
Richard Blumenthal
U.S. Senator



Lindsey Graham
U.S. Senator

Sheldon Whitehouse
U.S. Senator

Charles E. Schumer
U.S. Senator



Dianne Feinstein
U.S. Senator