

High court to rule on TV indecency, GPS tracking

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(AP) -- The Supreme Court has added a couple of high-profile constitutional challenges to its lineup of cases for next term: One looking at governmental regulation of television content and the other dealing with the authority of police to use a GPS device to track a suspect's movements without a warrant.

The court's action Monday agreeing to review the two cases foreshadows what could be an extraordinary year for the justices. Gay marriage, immigration and the health care overhaul all are working their way to the [court](#) and could arrive in the term that begins on the first Monday in October.

The court's look at what broadcasters can put on the airwaves when young children may be [watching television](#) could be the most important treatment of the issue in more than 30 years.

The justices said they will review [appeals court](#) rulings that threw out the Federal Communications Commission's rules against the isolated use of expletives as well as fines against broadcasters who showed a woman's nude buttocks on a 2003 episode of ABC's "NYPD Blue."

The Obama administration objected that the appeals court stripped the FCC of its ability to police the airwaves.

The U.S. television networks argue that the policy is outdated, applying only to broadcast television and leaving unregulated the same content if

transmitted on cable TV or over the Internet. "Responsible programming decisions by network and local station executives, coupled with program blocking technologies like the V-chip and proper guidance of children by parents and caregivers, are far preferable to government regulation of program content," the National Association of Broadcasters said.

Parents Television Council president Tim Winter called on the court to uphold the FCC policy, saying that to do otherwise "would open the floodgates for graphic nudity" on television.

In a landmark 1978 decision, the court upheld the FCC's authority to regulate both radio and television content, at least during the hours when children are likely to be watching or listening. That period includes the prime-time hours before 10 p.m.

The "NYPD Blue" episode led to fines only for stations in the Central and Mountain time zones, where the show aired at 9 p.m., a more child-friendly hour than the show's 10 p.m. time slot in the East. The administration included a DVD of the episode with its filing.

The U.S. 2nd Circuit Court of Appeals in New York noted that ABC said the scene was intended to portray the awkwardness between a child and his parent's new romantic partner, and the difficulty of adjusting to the situation.

A second part of the FCC case involves the use of curse words on awards shows on television, which has been to the high court before.

Three years ago, the justices narrowly upheld the policy, but in a ruling that pointedly avoided dealing with First Amendment issues. Instead, the court directed the appeals court to undertake a constitutional review.

Justice Sonia Sotomayor is not taking part in the case because she served

on the appeals court during its consideration of some of the issues involved.

But Justice Samuel Alito, who sold his Walt Disney Co. stock last year, will participate. Disney owns ABC.

Alito recently acknowledged he should not have taken part in the "fleeting expletives" case that the court decided in 2009.

In the GPS case, the court will decide whether the police need a warrant before using the device to track a suspect's movements.

The justices agreed to hear the Obama administration's appeal of a court ruling that favored a criminal defendant. The federal appeals court in Washington overturned a criminal conviction because the police had no warrant for the [GPS device](#) they secretly installed on a man's car.

Other appeals courts have ruled that search warrants aren't necessary for GPS tracking.

The Justice Department argued that warrantless use of GPS devices does not violate the Fourth Amendment's ban on unreasonable searches. It also said prompt resolution of the divergent court opinions is critically important to law enforcement.

A three-judge panel of Democratic and Republican appointees unanimously threw out the conviction and life sentence of Antoine Jones of Washington, D.C., a nightclub owner convicted of operating a cocaine distribution ring.

Police put the GPS device on Jones' Jeep and tracked his movements for a month. The judges said the prolonged surveillance was a factor in their decision.

The high court directed both sides to address whether a warrant or consent is needed, regardless of how long the surveillance might last.

The government has argued that using a GPS device is no different from a beeper authorities used, with the high court's blessing in 1983, to help track a suspect to his drug lab. The court said then that people on public roads have no reasonable expectation of privacy.

The Justice Department said GPS devices are especially useful in early stages of an investigation, when they can eliminate the use of time-consuming stakeouts as officers seek to gather evidence.

Four other appellate judges in Washington said the entire appeals court should have heard the case, faulting their colleagues for the ruling in favor of Jones.

In another case, from California, a three-judge panel in San Francisco upheld the use of a GPS device without a warrant, saying it was no different from having officers tail a suspect.

That decision provoked a blistering dissent from Judge Alex Kozinski, who said the court handed "the government the power to track the movements of every one of us, every day of our lives."

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