Cell Phone Records – Training Materials

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Cell Phone Records

Training Materials

California District Attorneys Association
ADVANCED ASSET FORFEITURE UPDATE COURSE
March 16-18, 2010
Embassy Suites, Napa

Tuesday, March 16, 2010

8:00- 9:00	REGISTRATION/ROSTER SIGN IN (*All course participants*)
9:00- 9:15	WELCOMING REMARKS
9:15-10:15	CASE LAW UPDATE
10:15-10:30	Break
10:30-11:30	JOINT FINANCIAL INVESTIGATIONS WITH CDCR
11:30- 1:00	Lunch Break
1:00-3:00	CELL PHONE EVIDENCE
3:00-3:15	Break
3:15- 5:00	CHINA CONNECTION: AN EMERGING MONEY LAUNDERING TREND

****Attorneys & Paralegals required to sign out for MCLE credit****

Cell Phone Class

How to get the Good Stuff

Typical Cell Phone Questions

- What do I need to get a cell site tower location?
- How can I see if a phone is registered on the network?
- Can I look at a phone w/o a search warrant
  - for the purpose of determining its number
  - for the further purpose
    - of writing a search warrant for the service provider
- What if provider drags its feet complying w/ SW
  - Any recourse
  - Any recourse after the fact
- Costs of records

Cell Phone Records

- Where is the Evidence
  - Cell Phone
    - Search Warrant
    - Search Incident to Arrest
  - Cell Phone Historical Records
    - Search Warrant
    - Subpoena
  - Cell Phone Real-Time Information
    - Tracking
      - Search Warrant
      - Subpoena
    - Wiretap
      - Search Warrant ?
      - Subpoena ?
- Billing

Olmstead v. United States

Q. when was this written

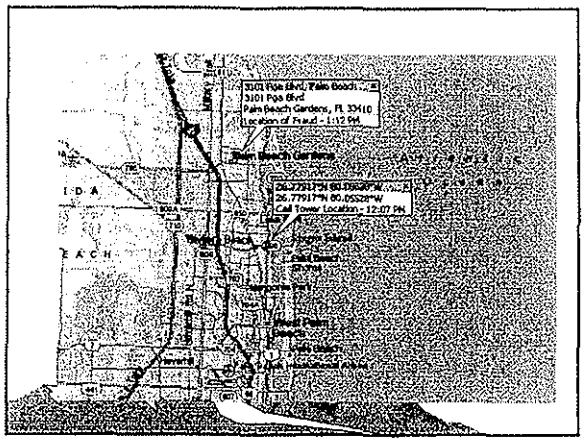
- Subtler and more far-reaching means of invading privacy have become available to the Government.
- Discovery and invention have made it possible for the Government . . . to obtain disclosure in court of what is whispered in the closet.

Searches

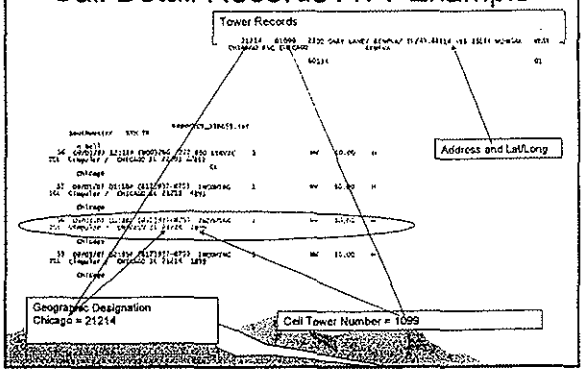
- 4th Amendment "Search" requires
  - Search Warrant
  - Exception to need for Search Warrant
    - Exigent circumstances
    - Consent
    - Search Incident to Arrest

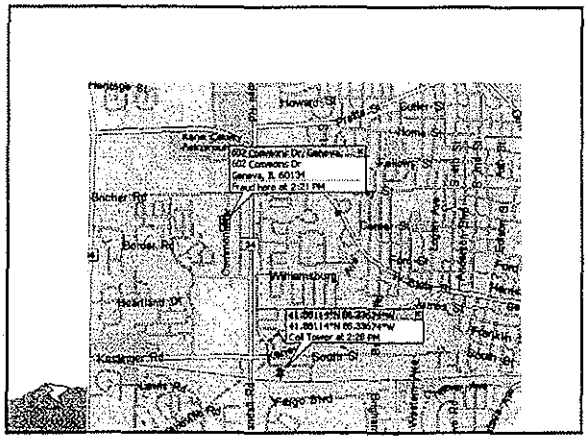
Search Incident to Arrest

- Chimmel – Search incident to arrest must be justified by
  - Danger to arresting officer – reaching distance
  - Preserving evidence
- Belton
  - In a car: reaching distance = interior of car
  - Predominantly understood to mean
    - area reachable by arrestee b4 arrest,
      - Brennan dissent: rests on "fiction ... that interior of car is always within the immediate control of an arrestee who has recently been in the car"
    - even if currently in back of police car



Call Detail Records ATT Example





How Much Does All This Cost

$$$$$$$$

You want it, You Gotta

metroPCS

Law Enforcement Agencies:
Welcome to metroPCS!
Please read for new information!!

metroPCS charges a fee for some services:

- $50 for call detail more than 15 days.
- $50 for each voicemail password reset.
- $200 for call detail reports extending beyond the court order date.
- Pen Registers are $200 set up fee plus $20 per day maintenance with a minimum fee of $500.
- Wire Taps are $400 set up fee plus $40 per day maintenance.
- Court Order requests for On-going Weekly Call Detail Reports are $200 per number (e.g., fugitive situations) [in place of $200 for call detail reports extending beyond the court order date.]
- $200 for CFID changes for pen registers and/or wire taps

Or Do

metroPCS

Billing Practices of ISPs

- Federal
  - ECPA
  - requires reimbursement for costs reasonably necessary for producing the records.
  - All orders are treated as a form of compulsory process under the ECPA
- But
  - Ca. Evid 1563
  - An argument can be made that because of California has foreclosed the recovery of [illegible] production costs [illegible] original

A memorandum on billing and [illegible] of [illegible] letter [illegible] available

2703(d) Articulable Facts Order ECPA Requirements

- Order
  - Notice to Subscriber, unless ....
  - Signed by a Court,
    - includes State Judges
    - "specific and articulable facts showing
    - reasonable grounds to believe that the ...
    - records or other information sought, are
      - relevant and
      - material to an ongoing criminal investigation."

Keep Your Investigation Secret 2705 Non-Disclosure Order

NON-DISCLOSURE ORDER

It is further ordered that cellular service provider not to notify any person (including the subscriber or customer to which the materials relate) of the existence of this order for 90 days in that such a disclosure could give the subscriber an opportunity to destroy evidence, notify confederates, or flee or continue his flight from prosecution

18 USC 3123 Pen/Trap, 18 USC 2705

Provider Records
Stored Transactional Information

- A search warrant or a 2703(d) order will get you:
  - Basic Subscriber Information
  - Complete audit trails/logs
  - Web sites visited
  - Identities of e-mail correspondents

Basic Subscriber Information

- A search warrant or subpoena will get you:
  - Name & address
  - Local and LD telephone toll billing records
  - Means and source of payment used to pay for the account
  - Telephone number or other account identifier (such as username or "screen name")
  - Length & type of service provided
  - Records of session times and durations
  - Any temporarily assigned network addresses

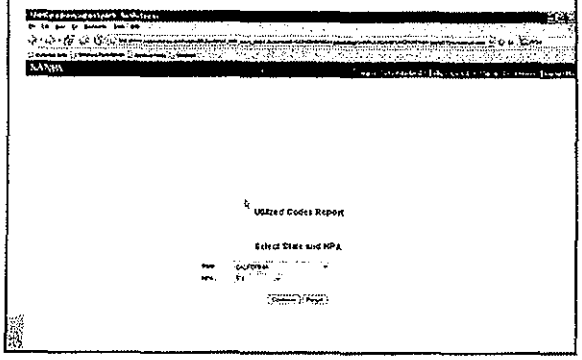
So What Can I Ask For?

- **Billing Records**
  - *do not ask for toll information; that is a landline term for long distance.*
  - *Specify period desired.*
- **Outbound and Inbound Call Detail**
  - *this is the real time, current activity that is not yet on the customer's bill.*
  - *"Inbound" is usually available for only a limited time (45 days) which gives other cellular phones calling the target number.*

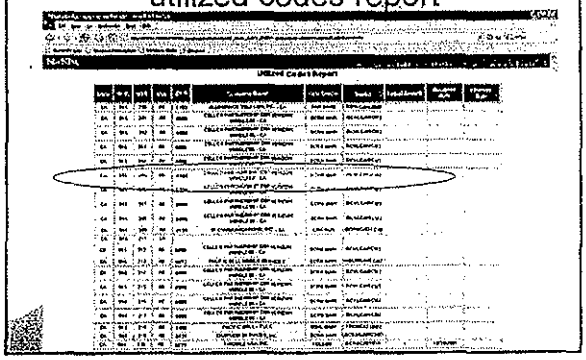
So What Can I Ask For?

- **Call origination / termination location.**
  - *Available for a limited time (45 days) and gives location information on cell sites used, length of call, date, time, numbers dialed.*
  - *With a GPS enabled phone gives location of phone.*

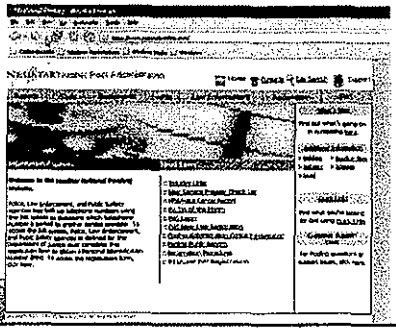
NANPA



NANPA
utilized codes report



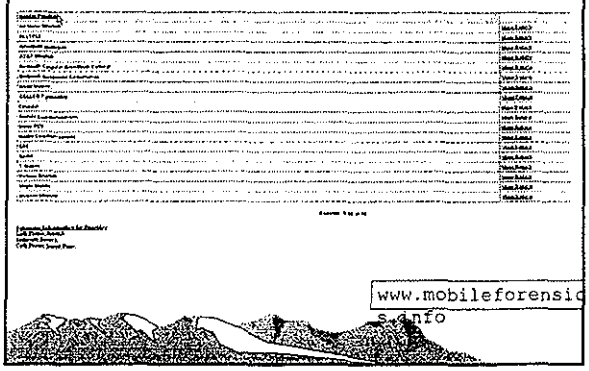
Has the Number Been "Ported"
www.nationalpooling.com



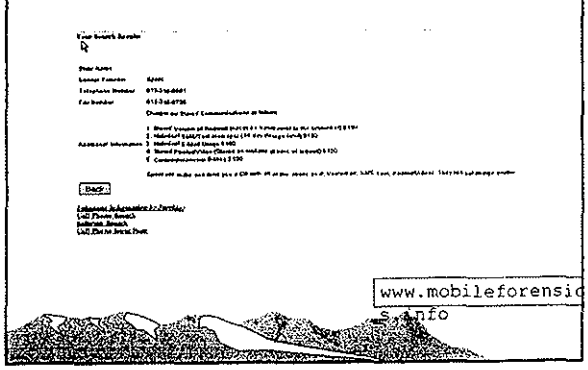
Now that We Know the Carrier

- Where do we serve the paper
- Resources
  - www.mobileforensics.info
  - www.search.org/programs/hightech/isp/default.asp

SW/SDT's



SW/SDT's



Monitoring Tracking Device

- Monitoring
  - Public Places
    - No SW b/c reveals nothing not apparent to naked eye. U.S. v Knotts (1983) 460 U.S. 276
  - Private Places
    - I.E. beeper reveals info not avail. to naked eye
    - Needs a SW
  - Question
    - How do we know where an the tracker is going to go in advance?

Using a phone as Tracking Device

- Pen/Trap Trace
  - legal standard, articulable facts (Pen Register)
    - Pen registers are available upon "articulable facts." 18 U.S.C. 2703 (aka ECPA), 3127(3) aka (patriot act)
    - **But**, pen register information "shall not include physical location of the subscriber." 47 U.S.C. 1002(a)(2)(B) (Communications Assistance for Law Enforcement Act aka CALEA)
  - **Therefore, need Probable Cause, - SW**
    - See In Re Application of the U.S. for a Pen Register (Aug 25, 2005) 2005 U.S. Dist. LEXIS 18019, 2005 WL 2043543
  - California, cell phone specifically exempted from pen/trap

Tracking Summary

- Pen Trap/Trace or Register – (this # is calling that #)
  - Residential Phone, Articulable Facts 2703 order, Pen/Trap Register
  - Cellular Phone,
    - Federal – Articulable Facts
    - California - SW
- Location information of cellular phone – (that phone is there)
  - Real Time (Trap Trace) –
    - SW
  - Historical Records –
    - SW, or possibly
    - 2703(d) maybe
- Contents of communication
  - Call = wiretap
  - Text/E mail
    - California SW
    - Federal SW
      - articulable facts order for "opened" e-mail

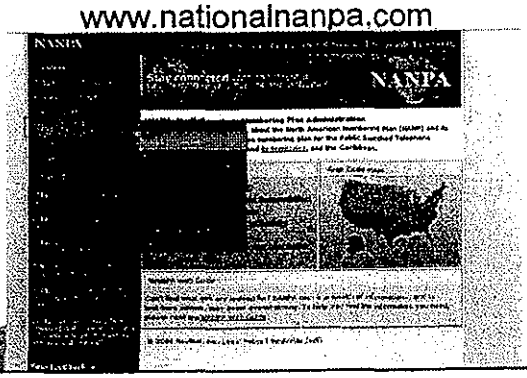
What are the Steps to Get the Stuff

- Identify the target phone number
- Identify the ECSP (Cell Carrier)
- Locate where to serve the SW
- Write the SW
- Serve/Pay for the SW/Records

Who is the ECSP

- 1. What carrier is the phone number assigned to?
  - NANPA – North American Number Pooling Admin
  - *www.nationalnanpa.com*
- 2. Has the number been ported?
  - National Pooling Administration
    www.nationalpooling.com

NANPA
www.nationalnanpa.com



So What Can I Ask For?

- Physical address of cell sites.
  - *Needed to determine where cell site is located when you receive: inbound & outbound or call origination & termination location.*
- Any other cellular telephone numbers that dial the same numbers as (xxx) xxx-xxxx.
  - *If you want to know who calls the same number the target calls (for example a pager or landline number).*
  - *Available for only a limited time (45 days).*

So What Can I Ask For?

- Subscriber information on any cellular numbers that (xxx) xxx-xxxx dials.
  - *Subscriber information on the carrier's network that is dialing the target.*
- *All of the above records whether possessed by cellular service provider [target of warrant] or any other cellular service provider.*
  - *If you anticipate the suspect may be roaming or if the number is roaming in the providers market, you may be able to obtain information from other cellular carriers if you include this language in your description of records.*

So What Can I Ask For?

- All stored communications or files, including voice mail, email, digital images, buddy lists, and any other files associated with user accounts identified as: account(s) xxxxxx, mobile numbers (xxx) xxx-xxxx, or e-mail account roe1234@sprint.net.
  - *Cellular service providers now offer similar services to an internet service provider (ISP)and maintain the same type of records such as text messaging, e-mail, and file storage for the transfer of data including digital pictures. Limit your request to what you need.*

Is a phone a Tracking Device

- Enhanced 911
  - By the End of 2005 Providers must pinpoint
    - 67% of calls within 100 meters
    - 95% of calls within 300 meters
  - 47 C.F.R. 20.18(h)(1)

Location/Tracking

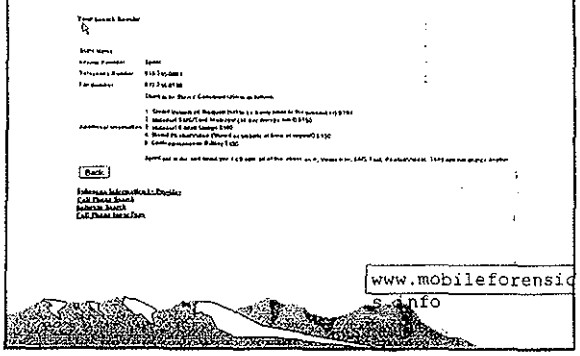
SW v. Articulable Facts

- Installing
- Monitoring
- Use of Cell Phones to Track

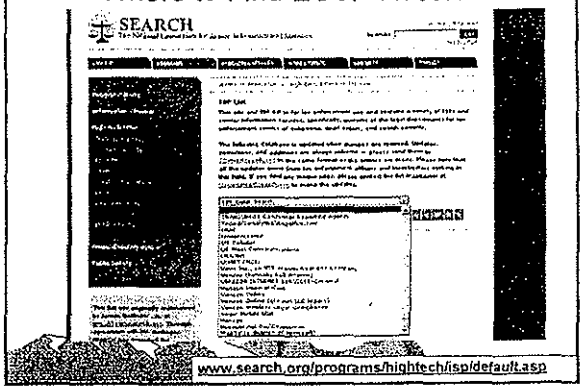
Installing Tracking Device

- Installing
  - Particularity – hard to specify where beeper will go
    - Describe object beeper placed in
    - Describe circumstances which led to installation
    - Describe length of time beeper will be monitored
  - Inside Items, w/o SW
    - Consent of "current" owner to be sold to 3d party target
      - O.K. U.S. v. Knotts (1983) 460 U.S. 276
    - Placed inside a lawfully opened mail parcel with drugs
      - O.K. P. v Sabih (1985) 173 Cal.App.3d 1009, 1016 ("opening" SW did not have any language regarding placing a beeper)
  - Into/Onto Vehicles
    - Onto
      - No SW necessary
      - Interestingly, 9th Cir. Says yes SW needed, but 9th Cir and Cal. say no SW needed. See People v. Zichwic, 94 Cal. App. 4th 944
    - Inside
      - Requires a SW

SW/SDT's



Where to Find ECSP Records



Where to Find Records SEARCH.ORG

Verizon Wireless Legal Compliance

Online Service: CellCo Partnership d/b/a/ Verizon Wireless,
Online Service Address: 180 Washington Valley Road
Bedminster, NJ 07921

Phone Number:
Fax Number:
Note(s):

for Mailing addresses; opt 2 for subpoenas/search warrants, opt 3 for court ordered surveillance, opt 4 for court orders

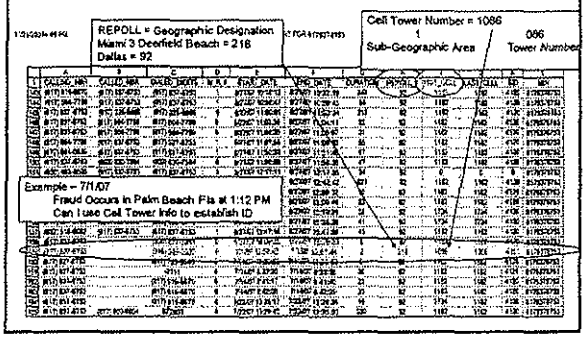
Fax for Court Order & Search Warrant requests:
908-306-7491 or 908-306-7492

Last Updated: November 2007

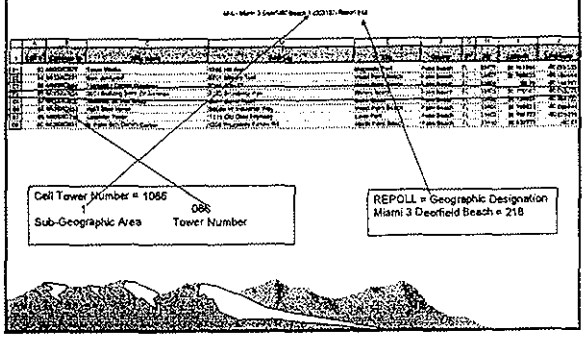
What Do the Records Look Like

- Call Detail Report
- Tower Records
- How to interpret
- Sprint Example – 7/1/07
  - Fraud Occurs in Palm Beach Fla at 1:12 PM
  - Q - Can I use Cell Tower Info to establish ID

What Do the Records Look Like Call Detail Report



Tower Records



Belton

- Lower courts began to treat ability of police to search interior of car incident to arrest as an "entitlement"
- Indeed, arresting officer in Arizona v. Gant
  - Q. Why was the search conducted
  - A. "Because the law says we can do it."

Search Incident to Arrest
Arizona v. Gant 173 L.Ed.2d 485

- Search Incident to Arrest OK
  - 1. Danger to Arresting Officer
    - But, no danger if arrestee is handcuffed in back of car
    - I.E. danger is measured at time of search, does not relate back to earlier time of arrest.
  - 2. For Evidence Related to Crime of Arrest
    - "when it is reasonable to believe evidence relevant to the crime of arrest might be found in the vehicle"
    - Q. isn't that the same as
      - Probable cause
      - Escalating probable cause

Using a Search Warrant

- SW requires
  - Particularity of place and items searched for
    - How do you describe a cellphone
    - How do you articulate what you want
      - For the court
      - For the electronic communications service provider (ECSP)
  - Describe evidentiary relevance
  - State the training/experience relied upon
    State conclusion
    - "I believe, based upon my training and experience, that relevant information is contained within the telephone"

Getting the Phone Itself

- Describing the Phone
  - Physical Description – color, manufacturer, model, etc
  - IMEI Number - ###### / ###### / #
  - ESN
  - SIM Number

described cellular telephone.

2. YOU ARE HEREBY AUTHORIZED and DIRECTED to search the Grey Motorola cellular telephone, IMEI 010086672933210, currently in the possession of the New York City Police Department.

3. This Court hereby specially determines that adequate grounds exist for authority

Getting Info From the Phone Company

- 1st Step "freeze" the records
  - 18 U.S.C. 2703(d and f) orders, direct 3d party ECSP
    - Maintain records for 90 days
    - Not disclose the investigation to suspect
- 2d Step Search Warrant for the records
  - Feds and some other states allow some records to be obtained with less than probable cause
  - California, basically requires a SW
  - SW will get records, stored communications etc...
  - Include "Non-Disclosure" language in SW affidavit

§ 2703(f) Requests to Preserve

- Can ask for anything (content or non-content) to be preserved for 90 days
- Does not have prospective effect
  - Applies only to materials in the possession of the provider at the time of the request

ECPA Billing Contd.
What is a "Reasonable Amount"

- ECPA states the amount of the fee is to be mutually agreed upon.
  - If no agreement, amount to be determined by the court that issued the order.
- What is a reasonable cost in California, see E.C. 1563(b)(1)
  - $.10 per 8 ½ by 11 sheet of paper
  - 10.00 per hour of clerical time
  - Actual costs if provider reimburses a 3d party for records held by 3rd
    - Does not apply if 3rd is a division of the provider *In re Marriage of Stephens*
  - 0.00 for computer costs *In re Marriage of Stephens* (1984) 156 Cal.App.3d 909,917

ECPA Billing Continued

- Record holder will either
  - Produce for free
  - produce the records with a bill or
  - withhold the production of the records until payment is received.
- If there is a fee dispute
  - If the provider chooses to challenge the non-payment, then the court that issued the ordered for production will make a determination as to the proper fees
  - the losing party in this fee dispute may have to pay reasonable expenses including attorney fees.
    - But an investigative agency could not recover attorney's fees without the court expressly finds
    - the witness not only charged excessive costs, and
    - acted in bad faith. See In re Marriage of Stephens (1984) 156 Cal.App.3d 909, 91219.)
- If the provider withholds pending payment,
  - then the requesting party may petition the court for order to show cause on the grounds that the cost are excessive
  - Be aware that the losing party in this dispute may have to pay reasonable expenses including attorney fees.

Sample OSC is Available

Thank You

- Questions

Tel-Tales

January 15, 2007

Text Messaging aka SMS

Why do people need text messaging on cell phones? I don't need it. I can send text messages on my cell phone if I want, but I don't want. I do realize that it has become a sort of life support system for kids; if they're not talking on their cell phone, they are holding it and text-messaging up a storm. An investigator's life would be so much better if there were no such thing. Since text messaging (aka SMS-Short Message Service) appears to be here to stay and some (lots of?) bad guys use it, we'd better learn what it is, how it's used, and how we can legally obtain information about its use to support our investigations.

What Short Message Service (SMS) is: It's called "Short" because there is a limitation on how many characters you can put in a message. This is necessary so that the cell companies can easily handle the traffic. If you have SMS service on your cell phone, you type an alphanumeric message using your keypad and then "send" it to your intended recipient. If the recipient's phone is on, s/he can view the text you have sent. Obviously, text messaging is a one-way affair, much like push-to-talk.

Where and how it's stored and for how long: This is probably the most misunderstood issue regarding SMS. I have received many calls from investigators who have been informed that a particular text message was sent last week/month/year – you name it - which could have a major impact on a case. If only they could somehow subpoena the text of that message, the case could be resolved. They don't like it when the cell company tells them that the text message is long gone and irretrievable. This is usually when the call me and ask if there is some way they can get the contents of that message; I have to tell them the bad news and verify that what the cell company told them was correct. The life of a text message is, sadly, very short; here's the sad tale...

When a text message is sent, it goes to the cell company's text message server where it is temporarily (for seconds) stored. The cell company communication system checks if the recipient's telephone is turned on. If it is, the text message is sent and, within a short period of time (typically minutes or seconds) is deleted from the cell company server. The message is now resident on the recipient phone's memory. It will stay on the recipient's phone until s/he deletes it or it gets automatically "bumped off" when the phone's text message storage memory is exceeded and the phone needs to make space for a new message.

If the intended recipient's phone is turned off, obviously the message cannot be sent and it is retained for a short period (most cell company systems hold it for 72 hours - three days) on the server while it is waiting for the recipient phone to be turned on. If 72 hours has passed and the recipient phone has not been turned on, most cell companies delete it permanently and it is lost forever. At least one company representative told me that in their system, the message would be

transferred after 72 hours to an archival system where it will wait for an unspecified period (around a month or so) for the recipient phone to be turned on. After that period has passed, it will be deleted. I have not been able to verify if this information is accurate; you should assume that it is kept for only three days and then deleted. As always, I recommend that before you write your legal demand, call the cell company compliance department and find out their policy.

Getting SMS traffic and content: You might think of SMS information as being analogous to telephone call information. You can get tolls (aka call detail records – CDRs) for telephone calls. CDRs give you information such as the date, time and duration of a call and what number called what other number. If you want to know what the people talked about, i.e. you want to listen to the conversation, this requires additional justification, legal paper, and equipment, but Title II intercepts can be and are regularly done on both landline and cell phones.

With an SMS text message, you can get the equivalent of CDRs – who sent a message to whom and when. Remember the comment I made earlier – text messaging is only one way. Consider this. If you introduce subpoenaed information at a trial that shows Subject A sent 35 text messages to Subject B on a given day, and you didn't subpoena Subject B's SMS records, couldn't Subject B's attorney argue that Subject B's phone was off for several days and he never received them? Or couldn't learned counsel argue that his client might have seen the messages, but didn't recognize the sender and just deleted them? You're on the stand; it's too late to serve another subpoena! Lesson: get both sides.

If you want the actual message content – the equivalent to Title III, and you can generate the appropriate legal paper, you can get it only in real time in a Title III CALEA intercept. On all occasions where I have had to get text message information, each and every cell company has stated emphatically that the only way to get content is via a CALEA intercept and only in real time.

Remember that if you want to show that two people were communicating via text messaging, it will be necessary to subpoena or otherwise legally capture both sides of the SMS "conversation" and put them together to show the extent of the dialog. Otherwise, if you only look at only one subject's SMS information, you will just be able to establish a monologue in court.

Bottom line is, if you want SMS traffic information, you have all kinds of time. If you want SMS content, i.e. the actual text of the message, you have to plan ahead for the necessary legal paper and grab it real time.

Of course, if you can get your hands on that cell phone and you have the appropriate legal paper, you can read any messages that have not been deleted. Even if a message has been deleted by the recipient and not much time has passed, you may be able to recover some or even possibly the entire message forensically.

OK, OK, OK, there are a couple of other options. The above discussion covered the 99+ situations you will encounter. There are two circumstances that could occur. Both possibilities are unlikely, but I would be amiss if I didn't mention them.

- Way out possibility #1: **If** you know an SMS was sent to a particular cell phone on a certain date/time and **if** you know that the message was never received because the recipient cell phone was turned off, and **if** it has been less than 72 hours since the message was sent, that SMS is still sitting on the cell company's server. Even if you have a court order for a CALEA Title III, you still can't read the message because the recipient cell phone is off so the SMS will never be sent and will die a natural death after the 72 hours is up. Your only solution is get the cell company to copy, extract, freeze, or do whatever they have to do to retrieve that message before it dies. Thy will tell you it can't be done or they may tell you

they just won't do it. Don't believe them; it can be done; you just have to exert the proper amount of legal and "other" force (refer to your telephone force continuum training) to make it happen. Just do what you have to do before the 72 hours is up. (Idea... have them set up a clone cell phone to the one that's turned off. When the clone is turned on, the SMS will be sent.)

- Way out possibility #2: **If** "Way out possibility #1" happens and, **if** the 72 hours has passed but only by a very short time (minutes or maybe just an hour or so), and **if** the situation is exigent, and **if** you have the mental fortitude, legal paper, and determination, you could always execute a search warrant at the cell company office, grab their SMS server and possibly recover the deleted SMS forensically. Actually, if the cell company wanted to help, they could do all that for you, but as you know, their first responsibility is to their shareholders. If you do exercise this option, let me know how it turned out!

If you like the clone phone idea mentioned above and you are a covert operator with a "Mission Impossible" bent; a great trick is to remotely "shut down" a subject's cell phone by using a Triggerfish-type unit (the latest man-portable version is the "Kingfish"). Appropriate legal paper should get the cell company to build you a clone of the shut-down phone. Then you could receive all the text messages that would have been sent to that subject (and you could even respond to them). Just be sure you keep his phone shut down.

Selected short subjects:

You don't forget your buddies; don't forget the bad guy's buddies: Sprint, to name one, and lots of other cell companies offer special deals to customers who have a small, select group of people that talk to each other a lot. The advertising types call it the "buddy" plan, "friends and family" plan or some other catch phrase, but they all basically work the same. I guess they do it to encourage groups of people to all sign up together and all stay with their company. For example, when you and a group of friends apply for Sprint cell phone service, you can ask that you and your buddies be put on the "buddy plan so that calls between any two members of the group are at the bargain rate. Some cell companies allow free calls among members of a "buddy" plan. What a great way to find out quickly who all your target's close associates are! Not all bad guys are stupid enough to put a list of their co-conspirators on file, but enough of them do it to make it worthwhile for you to include a request for a target's "buddy list" in your subpoena. Note that this doesn't work for Verizon Wireless – they don't charge minutes for "in-calling", communication between any Verizon Wireless customers.

Some telcos will email you a spreadsheet instead of paper if you request it? Isn't that great! Now you can easily dump the calls into your analytical system or at least sort and study them on the spreadsheet. No more fat-fingering for you. Don't you wish all telcos would send all info this way? So far, I'm in agreement with you. Electronically-delivered tolls do save a lot of time. But you need to be aware of a possible disaster that could blow your case. Let's look at a scenario. You take the stand at the trial and testify that the defendant called his alleged co-conspirator (whom he claimed he did not know) 237 times during the past four months. You sit there all smug while the defense attorney springs his planned strategy on you. He claims that his review of the discovery information ***that you provided*** revealed that the telco you subpoenaed emailed you the tolls on his client's cell phone in a Microsoft Excel spreadsheet. How, he asks, can you expect the jury to believe that 237-call figure you quoted when anyone knows that you could have easily edited that spreadsheet to show anything you wanted in your efforts to frame his poor, innocent client? You may want to think twice about introducing evidence that could be challenged in this manner. Sure, get spreadsheet format call and/or subscriber records for your analytical/investigative

convenience, but when you go to court; be sure you have a parallel set of original, from-the-telco paper or read-only, graphic subscriber and call detail record information to introduce as evidence. For all practical purposes, if you have a CD from the telco with some sort of "official" telco logo on it, you're good for court.

The only thing we have to fear is fear itself... Here is an email I received recently:

> *JUST A REMINDER!!! .... 9 days from today, all cell phone numbers are being released to telemarketing companies and you will start receiving sale calls.*
>
> *..YOU WILL BE CHARGED FOR THESE CALLS - To prevent this, call the following number from your cell phone: . It is the National DO NOT CALL list. It will only take a minute of your time. It blocks your number for five (5) years. You must call from the cell phone number you are wanting to have blocked. You cannot call from a different phone number.*
> *Thought you may want to know this...*
> *~Nora*

Fear not: this has all the earmarks of an urban legend. I think you are wasting your time registering. No one will be releasing cell numbers to telemarketers. If you do register your number I don't think it will make much difference; FCC does not enforce the Do Not Call law! In fact, no one enforces this law and the telemarketers know this. The only reason any of them honor this list is because they are afraid of more stringent laws that *will* be enforced if they don't act honorably. FCC does, however, release the Do Not Call list to telemarketers so they'll know what numbers they are forbidden to call. Many unscrupulous (are there any un-unscrupulous telemarketers?) telemarketers use this list to make calls, particularly those from safe, overseas telemarketing boiler rooms.

This being said, if/when a national 411 directory of cell phone numbers is published, it will not be distributed as such, but will be only given out on a specific query basis – i.e. you give them a name and they give you the number.

My advice... if you're worried about such a release ask that your number be non-published. As far as telemarketers are concerned, wait until you get a call – then register. Never call a telemarketer back.

Search Warrant Language For Cellular Phones[1] (4/11)

Cellular phones have become the virtual biographer of our daily activities. It tracks who we talk to and where we are. It will log calls, take pictures, and keep our contact list close at hand. In short it has become an indispensable piece of evidence in a criminal investigation.

Want to know where your suspect was last Saturday? The cellular service provider can provide you the location information of the cellular phone as it relates to the provider's network. What about the last person your victim called? Both the cellular phone and the cellular provider will keep a record of this. How about finding gang member photos associated with their gang moniker? It will be located within their cellular phones.

Information relating to a cellular phone will be found in two places. In the records possessed by the cellular service provider and in the cellular device itself.

Getting Information From The Cellular Provider

The following is offered to provide guidance on drafting a search warrant for the production of records maintained by the cellular provider.

The first step in obtaining records from a cellular service provider is to identify the provider. A cellular phone carrier can be queried directly to ascertain if they provide service to a known number. Information on legal contacts for cellular service providers may be found at http://www.search.org/programs/hightech/isp/ The North American Numbering Plan Administration also tracks the numbers that have been assigned to service providers. (http://www.nationalnanpa.com) Since a cellular phone number may now be ported (transferred) by a consumer to another cellular service provider, law enforcement should make a number porting check. Law enforcement may sign up for the service at (http://npac.com/lawenforcement/ivr.shtml)

The second step in obtaining records from a cellular service provider is a preservation request to "freeze" stored records and communications pursuant to 18 U.S.C. § 2703(f). Many cellular service providers maintain records for only a short period of time. This request can be used as a directive to third-party providers to preserve records and not disclose the investigation to the suspect. This is an important tool to use to prevent third-party providers from writing over or deleting data you need while you obtain a warrant. Currently there are no laws which govern how long a third-party provider must retain log or other information. Sample preservation orders can be found at (Appendix C).

It is also recommended that you contact the cellular service provider to ascertain the type and nature of records kept and any special terms or definitions that the carrier uses to describe those records. Any request for records should be limited to only the records that are needed. Do not request all of the categories of records listed unless it is truly needed for your case. Cellular phone records can be described in the warrant as follows:

A.) Subscriber information

Note: This should give you the name, address, phone numbers, and other personal identifying information relating to the subscriber.

B.) Account comments

Note: Anytime the provider has contact with the customer or modifies the customer's account a notation will be made by a service representative on the account.

C.) Credit information

Note: Most providers run a credit report on customer prior to activating the account

D.) Billing records

Note: Do not ask for toll information; that is a landline term for long distance. Specify period desired.

E.) Outbound and inbound call detail

Note: This is the real time, current activity that is not yet on the customer's bill. "Inbound" is usually available for only a limited time (45 days) which gives other cellular phones calling the target number.

F.) Call origination / termination location

Note: Available for a limited time (45 days) and gives location information on cell sites used, length of call, date, time, numbers dialed. With a GPS enabled phone it gives location of phone.

G.) Physical address of cell sites and RF coverage map

Note: Needed to determine where cell site is located when you receive inbound & outbound or call origination & termination location. The RF coverage map models the theoretical radio frequency coverage of the towers in the system. You will want to limit this request to a specified geographical area.

H.) Any other cellular telephone numbers that dial the same numbers as (xxx) xxx-xxxx

Note: If you want to know who calls the same number the target calls (for example a pager or landline number). Available for only a limited time (45 days).

I.) Subscriber information on any cellular numbers that (xxx) xxx-xxxx dials

Note: Subscriber information on the carrier's network that is dialing the target.

J.) All of the above records whether possessed by cellular service provider [target of warrant] or any other cellular service provider

Note: If you anticipate the suspect may be roaming or if the number is roaming in the providers market, you may be able to obtain information from other cellular carriers if you include this language in your description of records.

K.) All stored communications or files, including voice mail, email, digital images, buddy lists, and any other files associated with user accounts identified as: account(s) xxxxxx, mobile numbers (xxx) xxx-xxxx, or e-mail account

Note: Cellular service providers now offer similar services to an internet service provider (ISP)and maintain the same type of records such as text messaging, e-mail, and file storage for the transfer of data including digital pictures. Limit your request to what you need.

L.) All connection logs and records of user activity for each such account including:

1. Connection dates and times.
2. Disconnect dates and times.
3. Method of connection (e.g., telnet, ftp, http)
4. Data transfer volume.
5. User name associated with the connections.
6. Telephone caller identification records.
7. Any other connection information, such as the Internet Protocol address of the source of the connection.
8. Connection information for the other computer to which the user of the above-referenced accounts connected, by any means, during the connection period, including the destination IP address, connection time and date, disconnect time and date, method of connection to the destination computer, and all other information related to the connection from cellular service provider.

Note: The above is a standard request made to ISP to track connection information. Remember with the type of cellular service offered today the user can send a message from the phone or from the associated account via a computer or other access device.

M.) Any other records or accounts, including archived records related or associated to the

above referenced names, user names, or accounts and any data field name definitions that describe these records.

Note: This is the catch all to use when you want everything. This request also includes "archived" information. Many companies now "archive" records thus allowing for the preservation of subscriber records for a significant time. Archived records are usually stored in a spread sheet format encompassing a variety of data fields. You must request the data field name definitions in order to understand the spreadsheet.

N.) PUK for SIM card # _____

Note: Subscriber Identity Module (SIM) is a smart card inside of a GSM cellular phone that encrypts voice and data transmissions and stores data about the specific user so that the user can be identified and authenticated to the network supplying the service. The SIM also stores data such as personal phone settings specific to the user and phone numbers.

SIM cards can be password protected by the user. Even with this protection SIM cards may still be unlocked with a personal unlock key (PUK) that is available from the service provider. Note that after ten wrong PUK codes, the SIM card locks forever.

O.) All connection logs and records of user activity for the cellular tower identified as (*describe cell towers location and identification #*) for the time period between (*list time period*).

Note: Often referred to as a "tower dump," this request allows you to review all users that connect to a specific tower during a specified time frame. This search warrant of last resort is used to see if the tower data can provide possible suspects that were in the area when a crime occurred. Data from a tower may consist of a list of telephone numbers, call start times and end times.

Cellular service providers maintain the physical address of their cell sites. (See "G.") Multiple carriers may share a tower. In that each carrier maintains its own records, a search warrant would have to be served on each carrier that uses the identified tower. You will want to request that these records be produced to you in an electronic format such as excel or txt.

A search warrant for the production of records held by a cellular service provider should always include an order for non-disclosure. The cellular service provider will notify the customer of the search warrant unless there is a non-disclosure order. This order will delay notification for 90 days and can be extended for an additional 90 days. (See California Public Utilities Commission decision No. 93361 (7/21/1981).) A non-disclosure order may be phrased as follows:

ORDER FOR NON-DISCLOSURE OF SEARCH WARRANT

It is further ordered that cellular service provider not to notify any person (including the subscriber or customer to which the materials relate) of the existence of this order for 90 days in that such a disclosure could give the subscriber an opportunity to destroy evidence, notify confederates, or flee or continue his flight from prosecution

Now that we have listed what records we are seeking, probable cause must be shown in the affidavit for each of the listed items. The following is sample language justifying the need for the production of specified records that can be used as a starting point for drafting the search warrant affidavit:

P.) Through experience and training, your affiant knows cellular service providers maintain records related to subscriber information, account registration, credit information, billing and airtime records, outbound and inbound call detail, connection time and dates, Internet routing information (Internet Protocol numbers), and message content, that may assist in the identification of person/s accessing and utilizing the account.

Q.) Through experience and training, your affiant knows that the cellular service provider maintains records that include cell site information and GPS location. Cell site information shows which cell site a particular cellular telephone was within at the time of the cellular phone's usage. Some model cellular phone are GPS enabled which allows the provider and user to determine the exact geographic position of the phone. Further, the cellular service provider maintains cell site maps that show the geographical location of all cell sites within its service area. Using the cell site geographical information or GPS information, officers would be able to determine the physical location of the individual using the cell phone number (xxx) xxx-xxxx, which according to corroborating sources listed above was/is in use by the suspect. That information is necessary to the investigating officers in order to _____

R.) Cellular tower (describe location and tower #) is located approximately _____ from the location where John Does body was discovered, Through experience and training, your affiant knows that cell towers maintained by cellular service providers contain records that include connection logs and records of user activity that have accessed the cell tower. These records may include telephone numbers, call start times and end times. Accessing this information would enable officers to identify individuals who cellular device accessed this cellular tower during the time period of the crime. That information is necessary to identify possible witnesses and or suspects.

It is also recommended that you include within the affidavit the authority which allows a search warrant to be served by facsimile (fax) for the production of records maintained outside of California.

S.) Your affiant is aware that cellular service provider is located within the State of _____. Pursuant to Penal Code section 1524.2 and Corporations Code section 2105 a California search warrant may be served upon them and they have requested that this warrant be

served by facsimile to the attention of _____ at (xxx) xxx-xxxx.

Note: Some judges question their authority to authorize out-of-state service of the warrant. Please refer them to Corporation Code section 2105(5)(B). The term "properly served" includes delivery to a person or entity listed in Corporation Code section 2110. Corporation Code section 2110 allows service on any "natural person designated by it as agent for service of process." The above paragraph is the corporation designating an agent for the service of process.

A word of caution. If you use the cellular subscriber records to attempt to determine the specific physical location of an individual's position there are a couple of questions that must be answered.

First question is call overloading. When the maximum call processing capacity of a specified cell tower is reached it may be designed to hand off calls to other cell towers. Thus, a tower that the records reflect handled a call may have off-loaded the call to another cellular tower. The cellular provider will be able to check the cellular traffic on a specified cellular tower to determine whether or not any calls were off loaded.

Second question is whether the records reflecting the placement of a specified cellular tower's directional antenna is accurate. Occasionally the cellular provider may make adjustments to the cellular towers directional antenna that is not reflected in the records. Since the physical location of an individual's position will be based upon this directional antenna, its placement should be confirmed prior to trial.

Getting Information From The Cellular Device

The cellular device (the cell phone) is simply a container of information. The same rules for computer search warrants apply to cellular devices. For the purposes of this paper we are assuming that the affiant officer has previously legally obtained the cellular device and has already propounded appropriate language/facts within the warrant denoting that any desired digital evidence is either:

- An instrumentality of the crime investigated; or
- A storage container for illegal "contraband" such as child pornography; or
- A storage container for evidence relating to the crime such as "records," "address books," "call logs," "photos," other items that could be recovered from the cellular device.

Furthermore, for purposes of this paper, we are assuming that the cellular device will be examined by a forensic examiner. This means that the cellular device or other container containing digital media will be removed from its current location (evidence locker) for search.

The following is presented within the search warrant.

YOU ARE THEREFORE COMMANDED TO SEARCH:

One (describe cellular device), Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "Cell Phone").

Note: The above language assumes that you are in possession of the cellular device. When you have the device it only needs to be described with sufficient particularity that anyone would recognize it..

Located at (list current location of the device)

Note: This may be your agency

FOR THE FOLLOWING PROPERTY:

A.) Describe the records that you have probable cause to believe will be recovered from the cellular phone.

Note: Description of records must be "reasonable particular." (Pen. Code, §§ 1525, 1529.) As opposed to trying to describe the record by its type, describe the item as it pertains to a specified person or between specified dates. For example, any and all records showing communication between suspect John Doe and any other party relating to the sale of methamphetamine occurring between July 1, 2008 and December 30, 2009.

B.) The terms "records," "information," and "property" includes all of the foregoing items of evidence in whatever form and by whatever means that may have been created or stored , including records, whether stored on paper, on magnetic media such as tape, cassette, disk, diskette or on memory storage devices such as optical disks, programmable instruments such as telephones, electronic address books, calculators, or any other storage media, or any other form of "writing" as defined by Evidence Code section 250, together with indicia of use, ownership, possession, or control of such "records," "information," and "property".

Note: This language expands the definition of property and follows the description of specific records to be searched for and seized. Currently, the courts have been inclined to treat computers and other electronic storage devices as ordinary containers. Thus, warrants describing specified information are generally held to permit searches of containers capable of storing that information. (See New York v. Loorie (1995) 630 N.Y.S.2d 483 (finding police did not exceed scope of warrant by searching contents of computer's internal drive and external disks when warrant only authorized taking possession of property).) However, since this issue has not been directly addressed by any California court, an affiant officer should still include the above language.

C.) Investigating officers are authorized, at their discretion, to seize all "computer systems," "computer program or software," and "supporting documentation" as defined by Penal Code section 502, subdivision (b), including any supporting hardware, software, or documentation that is necessary to the use the system or is necessary to recover digital evidence from the system and any associated peripherals that are believed to contain some or all of the evidence described in the warrant, and to conduct an offsite search of the seized items for the evidence described. Investigating officers and those agents acting under the direction of the investigating officers are authorized to access all computer data to determine if the data contains "records," "information," and "property" as described above. If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve computer data. The investigating officer has (insert current forensic turnaround time + 10 days) days from the date of seizure to determine if the seized computer systems and associated peripherals contain some or all of the evidence described in the warrant. *[or you may want to consider the following: Any digital evidence found during the execution of this search warrant will be seized, transported from the scene, and analyzed in a reasonably prudent time]* If no evidence of criminal activity is discovered relating to the seized computer systems and associated peripherals, the system will be returned promptly.

Note: When confronted with a computer or cellular device at a search scene, searching officers have one of two choices; either search the computer at the scene or justify its removal in the search warrant for a subsequent search off scene. The above language in conjunction with the below language (E-M) is suggested to justify removing computersor cellular devices for a subsequent search off scene. (See United States v. Kufrovich (1997)

997 F. Supp. 246 [upholding warrant language authorizing removal of computer for latter search]; United Sates v. Gawrysiak (1997) 972 F.Supp. 853.) Note that the last three sentences state that the forensic examination will be completed within a specified time period. This is in response to federal magistrate specifying short turn around times of forensic examinations. (See U.S. v. Brunnette (D. Me. 1999) 76 F.Supp.2d 30. [suppression grated with investigator failed to comply with court ordered forensic completion date]. The time period specified will reflect the current forensic completion cycle at the issuing agency plus 10 days.

D.) "It is hereby ordered that Apple Inc. assist law enforcement agents in the search of one Apple iPhone Telephone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "Cell Phone").

It is hereby further ordered that Apple shall assist law enforcement agents in searching the cell phone, assistance that shall include, but is not limited to, bypassing the Cell Phone user's passcode so that the agents may search the Cell Phone."

or

"It is hereby ordered that Google Inc. provide the username for the cellular device identified as T-Mobile HTC/G-1 Android platform cell phone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "cellular device") by providing the associated user name and by resetting the cellular devices password.

It is hereby further ordered that Google shall reset the pass code for this cellular device and provide the pass code to law enforcement.

Note: Some corporations will voluntarily provide officers with technical assistance in gaining access to the devices. Although the language in "Section C" above allows " the use of outside experts" some corporations may require greater specificity.

The affidavit still is required to support the above listed requests. The following is sample language justifying the need for the removal of the item for subsequent examination and search by the forensic examiner:

Pursuant to SW # _____, which is attached and incorporated by reference (Attachment A), your affiant has been tasked to do a forensic examination of a T-Mobile HTC/G-1 Android platform cell phone.

The device is identified as T-Mobile HTC/G-1 Android platform cell phone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "cellular device").

Upon examination the cellular device is locked and requires a Google/Gmail user name and password to unlock the device. At this time we do not have the technology to bypass this lock. We have been unable to download the contents of the phone onto a CellBrite, a cellular forensic tool, because the cellular device is not USB-Debugging enabled.

Your affiant has have spoken to T-Mobile and Google. I am told the only way to unlock the phone is to have the Gmail user name and password, which was required when the device was setup. We obtained the user name from Google via a exigent request, but was informed that they do not have access to particular email account passwords, as they are encrypted. Google can reset the password thus allowing access.

Therefore to be able to search this cellular device we are requesting the Gmail user name associated with the cellular device and that Google resets the password and further provides the reset pass word to law enforcement.

E.) Affiant interviewed (insert law enforcement expert's name) employed as a (agent / computer examiner) in the Sacramento Valley High Technology Crimes Task Force (SVHTC) Based upon information related to me on, I know that digital evidence can be stored on a variety of systems and storage devices including, but not limited to, Electronic data processing and storage devices, computers and computer systems including central processing units: internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drive and tapes, optical storage devices or other memory storage devices: peripheral input/output devices such as keyboards, printers, video display monitors, optical readers, and related communications devices such as cellular devices and PDAs.

F.) (insert law enforcement expert's name) informed affiant that in connection with his employment, he uses computer systems as well as conducting computer-related investigations. In the past two years, (insert law enforcement expert's name) has supervised or participated in (insert number) executions of search warrants for digital stored records and evidence. (insert law enforcement expert's name) informed affiant that conducting a search of a cellular device or computer storage system, documenting the search, and making evidentiary and discovery copies is a lengthy process. It is necessary to determine that no security devices are in place, which could cause the destruction of evidence during the search; in some cases it is impossible even to conduct the search without expert technical assistance. Since digital evidence is extremely vulnerable to tampering or to destruction through error, electrical outages, and other causes, removal of the system from the premises will assist in retrieving the records authorized to be seized, while avoiding accidental destruction or deliberate alteration of the records. It would be extremely difficult to secure the system on the premises during the entire period of the search.

G.) (insert law enforcement expert's name) also stated that whether records are stored on cellular device or computer storage system, even when they purportedly have been erased or deleted, they may still be retrievable. (insert law enforcement expert"s name) is

familiar with the methods of restoring "lost" data commonly employed by computer users, and has used those methods himself.(insert law enforcement expert"s name) has also obtained the assistance of a computer expert in several cases, in order to obtain the contents of computer-stored evidence where normal methods were unsuccessful. He stated that should such data retrieval be necessary, it is time-consuming, and would add to the difficulty of securing the system on the premises during the search.

H.) (insert law enforcement expert's name) stated that the accompanying software and docking / charging equipment must also be seized, since it would be impossible without examination to determine that it is standard, commercially available software. It is also may be necessary to have the software used to create data files and records in order to read the files and records. It is also necessary to the ability to charge the device.

I.) (insert law enforcement expert's name) informed affiant that the system documentation, instruction manuals, and software manuals are also necessary to properly operate that specific system in order to accurately obtain and copy the records authorized to be seized.

J.) (insert law enforcement expert's name) informed affiant that the systems pass words or keys must also be seized, since it may be impossible to access the system if it is pass word protected or other encryption devices are in place. (insert law enforcement expert's name) informed affiant that users often record pass words or keys on material found near the computer system. These pass words or keys could be names or a combination of characters or symbols.

K.) (insert law enforcement expert's name) informed affiant that conducting a search of a computer system, documenting the search, and making evidentiary and discovery copies for a standard computer can take over 3 business days. Complex systems or recover tasks can require an excess of 45 business days to complete. Due to the back load of computers waiting to be examined and the limited number of trained examiners (insert law enforcement expert's name) informed affiant that the Sacramento Valley High Tech Crime Task Force is currently conducting searches of computer system within (insert current forensic turnaround time) days of receipt. (insert law enforcement expert's name) informed affiant that the Sacramento Valley High Tech Crime Task Force would process any computer system seized pursuant to this warrant within (insert current forensic turnaround time + 10 days) days of receipt.

L.) It is respectfully requested that I be allowed to seize all original digital evidence, in whatever form it currently resides, and transport this original digital evidence to a secure Evidence Storage Facility for a proper forensic examination.

M.) Your affiant has spoken with (insert technician's name here) and he/she has agreed to provide assistance in bypassing the pass code (encryption) and any other assistance as required to conduct a search of this device.

Note: This is only required when a *corporations voluntarily provide officers with*

technical assistance in gaining access to the devices and desires greater specifity then the normal order. (See Section D.)

Discovering Evidence Not Listed In Warrant During Search of a Computer or Cellular Device

If records which are not authorized to be seized, or which relate to crimes not under investigation, are discovered in the course of analysis, the searching officer must obtain supplemental warrant to expand the scope of the original search warrant. (See *U.S. v. Grey* (1999) 78 F.Supp.2d 524) While there is a argument that such records were lawfully discovered in "plain view," in light of current case law it is prudent that when the records are first discovered that the search warrant be expanded to encompass them.

Search Warrant Language For Cellular Phones[1] (8/10)

Cellular phones have become the virtual biographer of our daily activities. It tracks who we talk to and where we are. It will log calls, take pictures, and keep our contact list close at hand. In short it has become an indispensable piece of evidence in a criminal investigation.

Want to know where your suspect was last Saturday? The cellular service provider can provide you the location information of the cellular phone as it relates to the provider's network. What about the last person your victim called? Both the cellular phone and the cellular provider will keep a record of this. How about finding gang member photos associated with their gang moniker? It will be located within their cellular phones.

Information relating to a cellular phone will be found in two places. In the records possessed by the cellular service provider and in the cellular device itself.

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The second step in obtaining records from a cellular service provider is a preservation request to "freeze" stored records and communications pursuant to 18 U.S.C. § 2703(f). Many cellular service providers maintain records for only a short period of time. This request can be used as a directive to third-party providers to preserve records and not disclose the investigation to the suspect. This is an important tool to use to prevent third-party providers from writing over or deleting data you need while you obtain a warrant. Currently there are no laws which govern how long a third-party provider must retain log or other information. Sample preservation orders can be found at (Appendix C) or

It is also recommended that you contact the cellular service provider to ascertain the type and nature of records kept and any special terms or definitions that the carrier uses to describe those records. Any request for records should be limited to only the records that are needed. Do not request all of the categories of records listed unless it is truly needed for your case. Cellular phone records can be described in the warrant as follows:

A.) Subscriber information

Note: This should give you the name, address, phone numbers, and other personal identifying information relating to the subscriber.

B.) Account comments

Note: Anytime the provider has contact with the customer or modifies the customer's account a notation will be made by a service representative on the account.

C.) Credit information

Note: Most providers run a credit report on customer prior to activating the account

D.) Billing records

Note: Do not ask for toll information; that is a landline term for long distance. Specify period desired.

E.) Outbound and inbound call detail

Note: This is the real time, current activity that is not yet on the customer's bill. "Inbound" is usually available for only a limited time (45 days) which gives other cellular phones calling the target number.

F.) Call origination / termination location

Note: Available for a limited time (45 days) and gives location information on cell sites used, length of call, date, time, numbers dialed. With a GPS enabled phone it gives location of phone.

G.) Physical address of cell sites and RF coverage map

Note: Needed to determine where cell site is located when you receive inbound & outbound or call origination & termination location. The RF coverage map models the theoretical radio frequency coverage of the towers in the system. You will want to limit this request to a specified geographical area.

H.) Any other cellular telephone numbers that dial the same numbers as (xxx) xxx-xxxx

Note: If you want to know who calls the same number the target calls (for example a pager or landline number). Available for only a limited time (45 days).

I.) Subscriber information on any cellular numbers that (xxx) xxx-xxxx dials

Note: Subscriber information on the carrier's network that is dialing the target.

J.) All of the above records whether possessed by cellular service provider [target of warrant] or any other cellular service provider

Note: If you anticipate the suspect may be roaming or if the number is roaming in the providers market, you may be able to obtain information from other cellular carriers if you include this language in your description of records.

K.) All stored communications or files, including voice mail, email, digital images, buddy lists, and any other files associated with user accounts identified as: account(s) xxxxxx, mobile numbers (xxx) xxx-xxxx, or e-mail account

Note: Cellular service providers now offer similar services to an internet service provider (ISP)and maintain the same type of records such as text messaging, e-mail, and file storage for the transfer of data including digital pictures. Limit your request to what you need.

L.) All connection logs and records of user activity for each such account including:

1. Connection dates and times.
2. Disconnect dates and times.
3. Method of connection (e.g., telnet, ftp, http)
4. Data transfer volume.
5. User name associated with the connections.
6. Telephone caller identification records.
7. Any other connection information, such as the Internet Protocol address of the source of the connection.
8. Connection information for the other computer to which the user of the above-referenced accounts connected, by any means, during the connection period, including the destination IP address, connection time and date, disconnect time and date, method of connection to the destination computer, and all other information related to the connection from cellular service provider.

Note: The above is a standard request made to ISP to track connection information. Remember with the type of cellular service offered today the user can send a message from the phone or from the associated account via a computer or other access device.

M.) Any other records or accounts, including archived records related or associated to the above referenced names, user names, or accounts and any data field name definitions that describe these records.

Note: This is the catch all to use when you want everything. This request also includes "archived" information. Many companies now "archive" records thus allowing for the preservation of subscriber records for a significant time. Archived records are usually stored in a spread sheet format encompassing a variety of data fields. You must request the data field name definitions in order to understand the spreadsheet.

N.) PUK for SIM card # _____

Note: Subscriber Identity Module (SIM) is a smart card inside of a GSM cellular phone that encrypts voice and data transmissions and stores data about the specific user so that the user can be identified and authenticated to the network supplying the service. The SIM also stores data such as personal phone settings specific to the user and phone numbers.

SIM cards can be password protected by the user. Even with this protection SIM cards may still be unlocked with a personal unlock key (PUK) that is available from the service provider. Note that after ten wrong PUK codes, the SIM card locks forever.

O.) All connection logs and records of user activity for the cellular tower identified as (*describe cell towers location and identification #*) for the time period between (*list time period*).

Note: Often referred to as a "tower dump," this request allows you to review all users that connect to a specific tower during a specified time frame. This search warrant of last resort is used to see if the tower data can provide possible suspects that were in the area when a crime occurred. Data from a tower may consist of a list of telephone numbers, call start times and end times.

Cellular service providers maintain the physical address of their cell sites. (See "G.") Multiple carriers may share a tower. In that each carrier maintains its own records, a search warrant would have to be served on each carrier that uses the identified tower. You will want to request that these records be produced to you in an electronic format such as excel or txt.

A search warrant for the production of records held by a cellular service provider should always include an order for non-disclosure. The cellular service provider will notify the customer of the search warrant unless there is a non-disclosure order. This order will delay notification for 90 days and can be extended for an additional 90 days. (See California Public Utilities Commission decision No. 93361 (7/21/1981).) A non-disclosure order may be phrased as follows:

ORDER FOR NON-DISCLOSURE OF SEARCH WARRANT

It is further ordered that cellular service provider not to notify any person (including the subscriber or customer to which the materials relate) of the existence of this order for 90 days in that such a disclosure could give the subscriber an opportunity to destroy evidence, notify confederates, or flee or continue his flight from prosecution

Now that we have listed what records we are seeking, probable cause must be shown in the affidavit for each of the listed items. The following is sample language justifying the need for the production of specified records that can be used as a starting point for drafting the search warrant affidavit:

P.) Through experience and training, your affiant knows cellular service providers maintain records related to subscriber information, account registration, credit information, billing and airtime records, outbound and inbound call detail, connection time and dates, Internet routing information (Internet Protocol numbers), and message content, that may assist in the identification of person/s accessing and utilizing the account.

Q.) Through experience and training, your affiant knows that the cellular service provider maintains records that include cell site information and GPS location. Cell site information shows which cell site a particular cellular telephone was within at the time of the cellular phone's usage. Some model cellular phone are GPS enabled which allows the provider and user to determine the exact geographic position of the phone. Further, the cellular service provider maintains cell site maps that show the geographical location of all cell sites within its service area. Using the cell site geographical information or GPS information, officers would be able to determine the physical location of the individual using the cell phone number (xxx) xxx-xxxx, which according to corroborating sources listed above was/is in use by the suspect. That information is necessary to the investigating officers in order to _____

R.) Cellular tower (describe location and tower #) is located approximately _____ from the location where John Does body was discovered, Through experience and training, your affiant knows that cell towers maintained by cellular service providers contain records that include connection logs and records of user activity that have accessed the cell tower. These records may include telephone numbers, call start times and end times. Accessing this information would enable officers to identify individuals who cellular device accessed this cellular tower during the time period of the crime. That information is necessary to identify possible witnesses and or suspects.

It is also recommended that you include within the affidavit the authority which allows a search warrant to be served by facsimile (fax) for the production of records maintained outside of California.

S.) Your affiant is aware that cellular service provider is located within the State of _____. Pursuant to Penal Code section 1524.2 and Corporations Code section 2105 a California

search warrant may be served upon them and they have requested that this warrant be served by facsimile to the attention of _____ at (xxx) xxx-xxxx.

Note: Some judges question their authority to authorize out-of-state service of the warrant. Please refer them to Corporation Code section 2105(5)(B). The term "properly served" includes delivery to a person or entity listed in Corporation Code section 2110. Corporation Code section 2110 allows service on any "natural person designated by it as agent for service of process." The above paragraph is the corporation designating an agent for the service of process.

A word of caution. If you use the cellular subscriber records to attempt to determine the specific physical location of an individual's position there are a couple of questions that must be answered.

First question is call overloading. When the maximum call processing capacity of a specified cell tower is reached it may be designed to hand off calls to other cell towers. Thus, a tower that the records reflect handled a call may have off-loaded the call to another cellular tower. The cellular provider will be able to check the cellular traffic on a specified cellular tower to determine whether or not any calls were off loaded.

Second question is whether the records reflecting the placement of a specified cellular tower's directional antenna is accurate. Occasionally the cellular provider may make adjustments to the cellular towers directional antenna that is not reflected in the records. Since the physical location of an individual's position will be based upon this directional antenna, its placement should be confirmed prior to trial.

Getting Information From The Cellular Device

The cellular device (the cell phone) is simply a container of information. The same rules for computer search warrants apply to cellular devices. For the purposes of this paper we are assuming that the affiant officer has previously legally obtained the cellular device and has already propounded appropriate language/facts within the warrant denoting that any desired digital evidence is either:

- An instrumentality of the crime investigated; or
- A storage container for illegal "contraband" such as child pornography; or
- A storage container for evidence relating to the crime such as "records," "address books," "call logs," "photos," other items that could be recovered from the cellular device.

Furthermore, for purposes of this paper, we are assuming that the cellular device will be examined by a forensic examiner. This means that the cellular device or other container containing digital media will be removed from its current location (evidence locker) for search.

The following is presented within the search warrant.

YOU ARE THEREFORE COMMANDED TO SEARCH:

One (describe cellular device), Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "Cell Phone").

Note: The above language assumes that you are in possession of the cellular device. When you have the device it only needs to be described with sufficient particularity that anyone would recognize it..

Located at (list current location of the device)

Note: This may be your agency

FOR THE FOLLOWING PROPERTY:

A.) Describe the records that you have probable cause to believe will be recovered from the cellular phone.

Note: Description of records must be "reasonable particular." (Pen. Code, §§ 1525, 1529.) As opposed to trying to describe the record by its type, describe the item as it pertains to a specified person or between specified dates. For example, any and all records showing communication between suspect John Doe and any other party relating to the sale of methamphetamine occurring between July 1, 2008 and December 30, 2009.

B.) The terms "records," "information," and "property" includes all of the foregoing items of evidence in whatever form and by whatever means that may have been created or stored , including records, whether stored on paper, on magnetic media such as tape, cassette, disk, diskette or on memory storage devices such as optical disks, programmable instruments such as telephones, electronic address books, calculators, or any other storage media, or any other form of "writing" as defined by Evidence Code section 250, together with indicia of use, ownership, possession, or control of such "records," "information," and "property".

Note: This language expands the definition of property and follows the description of specific records to be searched for and seized. Currently, the courts have been inclined to treat computers and other electronic storage devices as ordinary containers. Thus, warrants describing specified information are generally held to permit searches of containers capable of storing that information. (See New York v. Loorie (1995) 630 N.Y.S.2d 483 (finding police did not exceed scope of warrant by searching contents of computer's internal drive and external disks when warrant only authorized taking possession of property).) However, since this issue has not been directly addressed by any California court, an affiant officer should still include the above language.

C.) Investigating officers are authorized, at their discretion, to seize all "computer systems," "computer program or software," and "supporting documentation" as defined by Penal Code section 502, subdivision (b), including any supporting hardware, software, or documentation that is necessary to the use the system or is necessary to recover digital evidence from the system and any associated peripherals that are believed to contain some or all of the evidence described in the warrant, and to conduct an offsite search of the seized items for the evidence described. Investigating officers and those agents acting under the direction of the investigating officers are authorized to access all computer data to determine if the data contains "records," "information," and "property" as described above. If necessary, investigating officers are authorized to employ the use of outside experts, acting under the direction of the investigating officers, to access and preserve computer data. The investigating officer has (insert current forensic turnaround time + 10 days) days from the date of seizure to determine if the seized computer systems and associated peripherals contain some or all of the evidence described in the warrant. *[or you may want to consider the following: Any digital evidence found during the execution of this search warrant will be seized, transported from the scene, and analyzed in a reasonably prudent time]* If no evidence of criminal activity is discovered relating to the seized computer systems and associated peripherals, the system will be returned promptly.

Note: When confronted with a computer or cellular device at a search scene, searching officers have one of two choices; either search the computer at the scene or justify its removal in the search warrant for a subsequent search off scene. The above language in conjunction with the below language (E-M) is suggested to justify removing computersor cellular devices for a subsequent search off scene. (See United States v. Kufrovich (1997)

997 F. Supp. 246 [upholding warrant language authorizing removal of computer for latter search]; United Sates v. Gawrysiak (1997) 972 F.Supp. 853.) Note that the last three sentences state that the forensic examination will be completed within a specified time period. This is in response to federal magistrate specifying short turn around times of forensic examinations. (See U.S. v. Brunnette (D. Me. 1999) 76 F.Supp.2d 30. [suppression grated with investigator failed to comply with court ordered forensic completion date]. The time period specified will reflect the current forensic completion cycle at the issuing agency plus 10 days.

D.) "It is hereby ordered that Apple Inc. assist law enforcement agents in the search of one Apple iPhone Telephone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "Cell Phone").

It is hereby further ordered that Apple shall assist law enforcement agents in searching the cell phone, assistance that shall include, but is not limited to, bypassing the Cell Phone user's passcode so that the agents may search the Cell Phone."

or

"It is hereby ordered that Google Inc. provide the username for the cellular device identified as T-Mobile HTC/G-1 Android platform cell phone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "cellular device") by providing the associated user name and by resetting the cellular devices password.

It is hereby further ordered that Google shall reset the pass code for this cellular device and provide the pass code to law enforcement.

Note: Some corporations will voluntarily provide officers with technical assistance in gaining access to the devices. Although the language in "Section C" above allows " the use of outside experts" some corporations may require greater specificity.

The affidavit still is required to support the above listed requests. The following is sample language justifying the need for the removal of the item for subsequent examination and search by the forensic examiner:

Pursuant to SW # _____, which is attached and incorporated by reference (Attachment A), your affiant has been tasked to do a forensic examination of a T-Mobile HTC/G-1 Android platform cell phone.

The device is identified as T-Mobile HTC/G-1 Android platform cell phone, Model #_____, on the _____ network with access number _____, serial number _____, and FCC ID#_____ (the "cellular device").

Upon examination the cellular device is locked and requires a Google/Gmail user name and password to unlock the device. At this time we do not have the technology to bypass this lock. We have been unable to download the contents of the phone onto a CellBrite, a cellular forensic tool, because the cellular device is not USB-Debugging enabled.

Your affiant has have spoken to T-Mobile and Google. I am told the only way to unlock the phone is to have the Gmail user name and password, which was required when the device was setup. We obtained the user name from Google via a exigent request, but was informed that they do not have access to particular email account passwords, as they are encrypted. Google can reset the password thus allowing access.

Therefore to be able to search this cellular device we are requesting the Gmail user name associated with the cellular device and that Google resets the password and further provides the reset pass word to law enforcement.

E.) Affiant interviewed (insert law enforcement expert's name) employed as a (agent / computer examiner) in the Sacramento Valley High Technology Crimes Task Force (SVHTC) Based upon information related to me on, I know that digital evidence can be stored on a variety of systems and storage devices including, but not limited to, Electronic data processing and storage devices, computers and computer systems including central processing units: internal and peripheral storage devices such as fixed disks, external hard disks, floppy disk drives and diskettes, tape drive and tapes, optical storage devices or other memory storage devices: peripheral input/output devices such as keyboards, printers, video display monitors, optical readers, and related communications devices such as cellular devices and PDAs.

F.) (insert law enforcement expert's name) informed affiant that in connection with his employment, he uses computer systems as well as conducting computer-related investigations. In the past two years, (insert law enforcement expert's name) has supervised or participated in (insert number) executions of search warrants for digital stored records and evidence. (insert law enforcement expert's name) informed affiant that conducting a search of a cellular device or computer storage system, documenting the search, and making evidentiary and discovery copies is a lengthy process. It is necessary to determine that no security devices are in place, which could cause the destruction of evidence during the search; in some cases it is impossible even to conduct the search without expert technical assistance. Since digital evidence is extremely vulnerable to tampering or to destruction through error, electrical outages, and other causes, removal of the system from the premises will assist in retrieving the records authorized to be seized, while avoiding accidental destruction or deliberate alteration of the records. It would be extremely difficult to secure the system on the premises during the entire period of the search.

G.) (insert law enforcement expert's name) also stated that whether records are stored on cellular device or computer storage system, even when they purportedly have been erased or deleted, they may still be retrievable. (insert law enforcement expert"s name) is

familiar with the methods of restoring "lost" data commonly employed by computer users, and has used those methods himself.(insert law enforcement expert"s name) has also obtained the assistance of a computer expert in several cases, in order to obtain the contents of computer-stored evidence where normal methods were unsuccessful. He stated that should such data retrieval be necessary, it is time-consuming, and would add to the difficulty of securing the system on the premises during the search.

H.) (insert law enforcement expert's name) stated that the accompanying software and docking / charging equipment must also be seized, since it would be impossible without examination to determine that it is standard, commercially available software. It is also may be necessary to have the software used to create data files and records in order to read the files and records. It is also necessary to the ability to charge the device.

I.) (insert law enforcement expert's name) informed affiant that the system documentation, instruction manuals, and software manuals are also necessary to properly operate that specific system in order to accurately obtain and copy the records authorized to be seized.

J.) (insert law enforcement expert's name) informed affiant that the systems pass words or keys must also be seized, since it may be impossible to access the system if it is pass word protected or other encryption devices are in place. (insert law enforcement expert's name) informed affiant that users often record pass words or keys on material found near the computer system. These pass words or keys could be names or a combination of characters or symbols.

K.) (insert law enforcement expert's name) informed affiant that conducting a search of a computer system, documenting the search, and making evidentiary and discovery copies for a standard computer can take over 3 business days. Complex systems or recover tasks can require an excess of 45 business days to complete. Due to the back load of computers waiting to be examined and the limited number of trained examiners (insert law enforcement expert's name) informed affiant that the Sacramento Valley High Tech Crime Task Force is currently conducting searches of computer system within (insert current forensic turnaround time) days of receipt. (insert law enforcement expert's name) informed affiant that the Sacramento Valley High Tech Crime Task Force would process any computer system seized pursuant to this warrant within (insert current forensic turnaround time + 10 days) days of receipt.

L.) It is respectfully requested that I be allowed to seize all original digital evidence, in whatever form it currently resides, and transport this original digital evidence to a secure Evidence Storage Facility for a proper forensic examination.

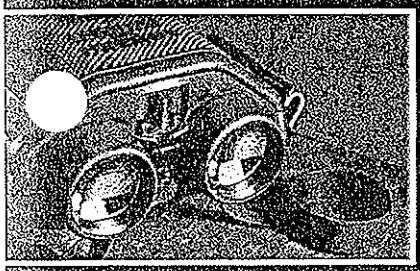
M.) Your affiant has spoken with (insert technician's name here) and he/she has agreed to provide assistance in bypassing the pass code (encryption) and any other assistance as required to conduct a search of this device.

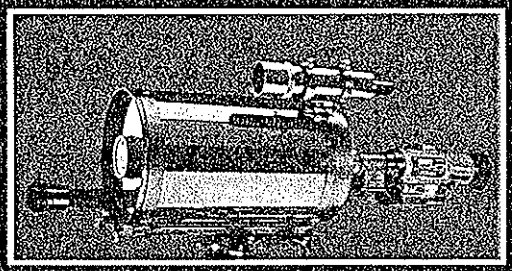
Note: This is only required when a *corporations voluntarily provide officers with*

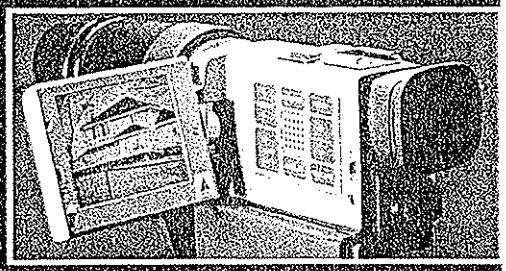
technical assistance in gaining access to the devices and desires greater specifity then the normal order. (See Section D.)

Discovering Evidence Not Listed In Warrant During Search of a Computer or Cellular Device

If records which are not authorized to be seized, or which relate to crimes not under investigation, are discovered in the course of analysis, the searching officer must obtain supplemental warrant to expand the scope of the original search warrant. (See *U.S. v. Grey* (1999) 78 F.Supp.2d 524) While there is a argument that such records were lawfully discovered in "plain view," in light of current case law it is prudent that when the records are first discovered that the search warrant be expanded to encompass them.







SPECIALIZED SURVEILLANCE

EQUIPMENT AND TECHNIQUES

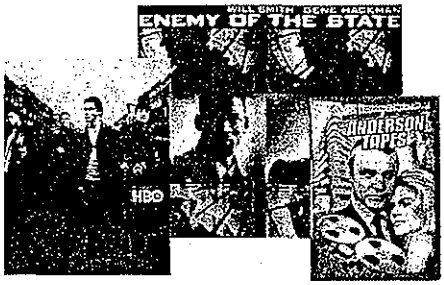
I SPY

LEGAL ASPECTS OF ADVANCED SURVEILLANCE

JEFF FERGUSON
Sr. DEPUTY DISTRICT ATTORNEY
ORANGE COUNTY, CA

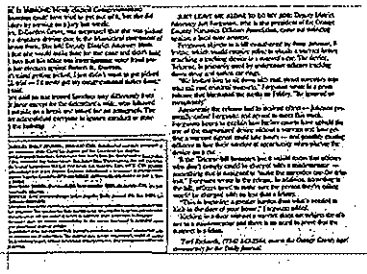
IS IT REAL OR MEMOREX?

- *PERCEPTIONS MATTER*



IS IT REAL OR MEMOREX?

CA PENAL CODE 637.7



IS IT REAL OR MEMOREX?

- *BATTERIES FAIL*
- *EQUIPMENT BREAKS*
- *OPERATORS SCREW UP*
- *ANALOG EVIDENCE LOST OR DAMAGED*
- *DIGITAL EVIDENCE IS CORRUPTED*
- *DIGITAL EVIDENCE ERASED/MISPLACED*
- *PROBLEMS WITH AUTHENTICATION*

SURVEILLANCE TOOLS

- *PHOTOGRAPHY & VIDEOGRAPHY*
- *AUDIO RECORDING (WIRES & BUGS)*
- *TRACKING DEVICES & TECHNIQUES*
- *THERMAL IMAGING*
- *AERIAL SURVEILLANCE*
- *SNEAK & PEEK SEARCH WARRANTS*
- *CUSTODIAL MONITORING*
- *ELECTRONIC INTERCEPTS (WIRETAPS)*
- *COMPUTERS & THE INTERNET*
- *PROTECTING YOUR TOOLS & TECHNIQUES*

EXPECTATION OF PRIVACY

EXPECTATION OF PRIVACY

FOURTH AMENDMENT
UNITED STATES CONSTITUTION

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the placed to be searched, and the persons or things to be seized."

EXPECTATION OF PRIVACY

- **DOES THE TARGET HAVE A *GENUINE SUBJECTIVE* EXPECTATION OF PRIVACY?**
- **HAS THE TARGET EXHIBITED AN *ACTUAL* EXPECTATION OF PRIVACY?**
- **IS THIS EXPECTATION OF PRIVACY *OBJECTIVELY REASONABLE?***

SURVEILLANCE TOOLS

- ***ENHANCING YOUR SENSES***
- ***PHOTOGRAPHY & VIDEOGRAPHY***
- ***AUDIO RECORDING (WIRES & BUGS)***
- ***TRACKING DEVICES & TECHNIQUES***
- ***THERMAL IMAGING, X-RAYS, ETC.***
- ***AERIAL SURVEILLANCE***
- ***SNEAK & PEEK SEARCH WARRANTS***
- ***CUSTODIAL MONITORING***
- ***ELECTRONIC INTERCEPTS (WIRETAPS)***
- ***COMPUTERS & THE INTERNET***
- ***PROTECTING YOUR TOOLS & TECHNIQUES***

ENHANCING YOUR SENSES

- ***SIGHT***
  - *BINOCULARS, TELESCOPES*
  - *NIGHT VISION EQUIPMENT*
  - *FLASHLIGHTS*
  - *INFRARED? THERMAL? WHAT ELSE?*
- ***HEARING***
  - *SHOTGUN & DISH MICROPHONES*
  - *SPIKE MICROPHONES, LASER DEVICES*
- ***SMELL***
  - *DOGS*
  - *"SNIFFS" OF OBJECTS OKAY GENERALLY*
  - *"SNIFFS" OF PEOPLE MAY REQUIRE PC*
  - *TRACKING OF HUMANS OKAY IF TRAINING MET*

PHOTOGRAPHY & VIDEO

- ***TARGET IN A PUBLIC AREA***
  - *ROLLING SURVEILLANCE PHOTOS & VIDEO*
  - *POLE CAMERAS ~ CONCEALED "HIDES"*
  - *PUBLIC SECURITY SURVEILLANCE*
  - *PRIVATE SECURITY SURVEILLANCE*
  - *NO EXPECTATION OF PRIVACY*
  - *BUT NO DETENTIONS FOR THE PHOTOGRAPHY*


PHOTOGRAPHY & VIDEO

- ***TARGET IN A PRIVATE AREA***
  - *BEWARE REASONABLE EXPECTATION OF PRIVACY*
  - *UNDERCOVER PHOTOGRAPHY OR VIDEOS OK*
    - *OFFICER OR INFORMANT PRESENT*
  - *PEERING THROUGH RESIDENTIAL WINDOWS*
  - *CONCEALED STILL OR VIDEO CAMERAS*
  - *GET A SEARCH WARRANT – AUDIO EXCLUDED*
  - *BEWARE "TWO-WAY MIRRORS"*
    - *CA PC 653(n) misdemeanor – bathrooms, showers, locker rooms, motel and hotel rooms. Warrant?*
    - *PENAL INSTITUTIONS EXEMPT FROM STATUTE*

AUDIO RECORDING

- CA PENAL CODE 630 ~ 632.7
- INVASION OF PRIVACY
- EAVESDROPPING ON CONVERSATIONS
- 631 PC FELONY WOBBLER – WIRETAPS
  - CONNECTION PHYSICALLY, ELECTROCALLY, ACOUSTICLY, BY INDUCTION, OR OTHERWISE
- 632 PC FELONY WOBBLER
  - ELECTRONICALLY AMPLIFIES OR RECORDS
  - PHYSICAL CONVERSATIONS BY TELEPHONE
  - RADIO EXCLUDED
  - PUBLIC GATHERING MAY BE EXCLUDED

AUDIO RECORDING

- 632.5 PC FELONY WOBBLER
  - CELLULAR TELEPHONES
- 632.6 PC FELONY WOBBLER
  - CORDLESS TELEPHONES
- 642.7 PC FELONY WOBBLER
  - INTERCEPTS & RECORDS
  - LANDLINE, CELLULAR CORDLESS TELEPHONES

AUDIO RECORDING

- 633 PC LAW ENFORCEMENT EXCEPTION
  - ATTORNEY GENERAL
  - DISTRICT ATTORNEY
  - CALIFORNIA HIGHWAY PATROL
  - POLICE CHIEF
  - SHERIFF
  - PERSON ACTING AT LAW ENFORCEMENT DIRECTION
- DOES NOT APPLY TO WIRETAPS!
- 634 PC FELONY WOBBLER
  - TRESPASSING FOR INVASION PROHIBITED
  - SEARCH WARRANT?

AUDIO RECORDING

- UNDERCOVER WIRES
  - WORN BY U/C OR INFORMANTS
  - GENERAL RULE = NO SEARCH
- HIDDEN RECORDING DEVICES ~ "BUGS"
  - PERMITTED IN FEDERAL INVESTIGATIONS
  - BANNED FOR CALIFORNIA LAW ENFORCEMENT
- BACK OF THE POLICE CAR
- PUBLIC PLACE?

TRACKING DEVICES

- PUBLIC ROUTES & AREAS
- PRIVATE RESIDENCES & AREAS
  - SHUTTING OFF SENDING DEVICE
  - SHUTTING OFF RECEIVER
  - SEARCH WARRANT
- EXPECTATION OF PRIVACY

TRACKING DEVICES

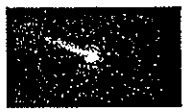
- VEHICLES & AIRCRAFT
  - INSTALLING ON EXTERNAL FRAME
  - INSTALLING INSIDE VEHICLE
  - HOOKING UP TO VEHICLE BATTERY
  - WHERE IS VEHICLE DURING INSTALLATION?
  - LOANING TRACKED VEHICLE
  - LOSING TRACKING DEVICE – THEFT & DESTRUCTION

TRACKING DEVICES

- *PACKAGES*
  - *TRACKER*
  - *BEEPER ALERT*
- *STOLEN PROPERTY*
- *KNOWN CONTRABAND*

AERIAL SURVEILLANCE

- *OVERFLIGHTS OKAY GENERALLY*
- *"LEGALLY NAVIGABLE AIRSPACE"*
- *PHOTOGRAPHY & VIDEO OKAY*
- *OBSERVATIONS WITH NAKED EYE*
- *ENHANCED SENSES PROBABLY OKAY*
  - *TELESCOPES, BINOCULARS, ARTIFICIAL LIGHT*
  - *NIGHT VISION PROBABLY OKAY*
  - *NON-SENSORY ENHANCEMENT REQUIRES WARRANT*



HIGH TECHNOLOGY

- *THERMAL IMAGING (FLIR) = SEARCH!*
- *INADVERTENT THERMAL IMAGING?*
- *SEARCH WARRANT BASED ON PC*

- *"BUSTER" RADIOLOGICAL DENSITOMETER*
- *HIGH ENERGY SENSORS*

SNEAK & PEEK WARRANTS

- *JUSTIFY REASONS ~ GOOD CAUSE*
  - *ONGOING INVESTIGATION*
  - *LARGER CONSPIRACY*
  - *SAFETY OF OFFICERS OR INFORMANTS*
- *SURREPTITIOUS ENTRY*
- *NO KNOCK-NOTICE (NOBODY IS HOME!)*
- *OFTEN AT NIGHT ~ GOOD CAUSE*
- *DELAYED NOTICE & EXTENSIONS*
- *SEIZE NOTHING*
- *NOTE ~ PHOTOGRAPH ~ COPY ~ RECORD*

ANTICIPATORY WARRANTS

- CONDITIONAL WARRANTS LEGAL
- DEPEND ON A *TRIGGERING* EVENT

- "FAIR PROBABILITY" EVIDENCE WILL BE FOUND AT A PARTICULAR PLACE... *AND*
- PROBABLE CAUSE TO BELIEVE TRIGGERING EVENT WILL ACTUALLY OCCUR

- DECLARE CONDITION ON WARRANT'S FACE
- USE OF TRACKERS – ALERTING DEVICES

PEN REGISTERS

- *EXPECTATION OF PRIVACY*
- *PEN REGISTERS ~ #'S DIALED OUT*
- *TRAP & TRACE ~ #'S FROM CALLERS*
- *NOT WIRETAPS ~ NO CONTENT*
- *COURT ORDERS or SEARCH WARRANT?*
- *18 USC 3121 ~ 3127 COURT ORDER OK*
  - *"Relevant to an ongoing criminal investigation."*
  - *Federal Court MUST issue the order*
- *CA ATTY GENERAL OPINION 03-406*
- *COURT ORDER or SEARCH WARRANT?*

ELECTRONIC INTERCEPTS
aka WIRETAPS

- *FEDERAL vs STATE WIRES - PRACTICALITY*
- *CA PC 629.50 et. seq.*
- *INTERCEPTION OF WIRE, TELEPHONE, ELECTRONIC DIGITAL PAGER, ELECTRONIC CELLULAR PHONE*

ELECTRONIC INTERCEPTS
aka WIRETAPS

- *QUALIFYING CRIMES*
  - *IMPORTATION, POSS'N FOR SALE, SALE, TRANSPORTATION, MANUFACTURE OF HEROIN, COCAINE, METHAMPHETAMINE, PCP, OVER 10 GALLONS OR 3 POUNDS.*
  - *MURDER AND SOLICITATION FOR MURDER*
  - *BOMBING OF PUBLIC OR PRIVATE PROPERTY*
  - *GANG CRIMES 186.22 PC*
  - *AGGRAVATED KIDNAPPING*
  - *WEAPONS OF MASS DESTRUCTION*
  - *CRIMES INVOLVING CERTAIN BIOLOGICAL AGENTS*
  - *CONSPIRACY FOR ANY OF THE ABOVE*

ELECTRONIC INTERCEPTS
aka WIRETAPS

- *PROBABLE CAUSE*
  - *CRIMES HAVE BEEN, ARE, OR ABOUT TO BE COMMITTED*
  - *WIRE COMMUNICATION UTILIZED TO FACILITATE*
  - *CONNECT PHONES TO TARGETS*
- *EXHAUSTION OF NORMAL INVESTIGATIVE TECHNIQUES – NECESSITY OF WIRETAP*
  - *NORMAL TECHNIQUES TRIED & FAILED*
  - *NORMAL TECHNIQUES LIKELY TO FAIL*
  - *NORMAL TECHNIQUES TOO DANGEROUS*
  - *NECESSITY – ONLY WAY TO GET INCRIMINATING EVIDENCE*

ELECTRONIC INTERCEPTS
aka WIRETAPS

- *OPERATORS MUST BE SPECIALLY TRAINED*
- *PEN REGISTER ~ TRAP & TRACE*
  - *IDENTIFY PHONES & CONFEDERATES*
- *COVERT ENTRY UNLAWFUL*
  - *GET SEARCH WARRANT IF ENTRY REQUIRED*
- *MUST LISTEN LIVE TO STATE WIRE*
  - *STOP LISTENING IF NO CRIMINAL TALK*
  - *OVERHEAR NON-QUALIFIED CRIMES*
- *MUST NOTICE*
  - *90 DAYS OF WIRE'S TERMINATION OR DENIAL*
  - *10 DAYS TO DEFENDANT BEFORE TRIAL OR PRELIM*

PROTECTING YOUR TOOLS

- *CA EVIDENCE CODE 1040, 1041, 1042*
  - *"OFFICIAL INFORMATION" means information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.*
  - *A public entity has a privilege to refuse to disclose official information ...if...disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interests of justice.*
- *PROTECTING TOOLS & TECHNIQUES*
- *PROTECTING LOCATIONS*

JEFFREY M. FERGUSON

Jeffrey M. Ferguson is Senior Deputy District Attorney with the Orange County (CA) Office of District Attorney. A 27-year veteran trial prosecutor, he served fourteen years with the Narcotics Enforcement Team and is now assigned to the Felony Strike Team.

He is Deputy Director for the National Security Executive (NSX), an intelligence and policy analysis "think tank" on terrorism, transnational crime, and strategic studies.

He also served as OCDA liaison for the California Department of Justice "California Anti-Terrorism Information Center" (CATIC).

In 1990 he led the federally-funded Probation Offender Search and Seizure Enforcement (POSSE) task force, of thirty separate state and local police agencies. The program's spectacular success was praised before the United States Congress by the Office of President of the United States.

From 1994-1998 he was the Major Narcotics Vendor Program (MNVP) prosecutor, handling multi-kilo drug cases, complex conspiracies, and clandestine methamphetamine lab cases exclusively. He was also lead prosecutor for OPERATION BUYER BEWARE, an undercover clandestine methamphetamine lab penetration task force consisting of more than twenty state and local law enforcement agencies that arrested and prosecuted over 65 criminals from San Diego to Fresno. Police seized almost two hundred pounds of methamphetamine and shut down more than two dozen high-producing labs.

In 1998 he joined OPERATION ORION, targeting street gang-related narcotics trafficking, gun-running and car theft rings. Spearheaded by the Santa Ana Police Department, it included agents from the California Department of Justice and the Federal Bureau of Investigation. Ferguson personally indicted 128 criminal street gang members. Of those police located and arrested 112. More than one hundred of those went to state prison.

In 2000 he became prosecutor for OPERATION GEMINI, a deep penetration investigation of the VAGOS outlaw motorcycle gang in three states: California, Nevada, and Hawaii. He was the first prosecutor in California to convict an outlaw motorcycle gang member under California's "Street Terrorism Act."

He has received several commendations from the U.S. Drug Enforcement Administration, the California Department of Justice, the International Narcotics Enforcement Officers Association, and the Orange County Narcotic Officers Association.

Ferguson holds a Bachelor of Science degree in biology and a Bachelor of Arts degree in social ecology, both from the University of California at Irvine. He obtained his Doctorate degree in law from Western State University College of Law in Fullerton.

Specialized Surveillance, Equipment and Techniques

Specialized Surveillance, Equipment and Techniques

Robert J. Saria
Attorney at Law
rjsaria@sariaattorneys.net

1

Specialized Surveillance & Techniques

2

Specialized Surveillance & Techniques

3

Intercepted Communications

- Wire Intercepts
- Pager Intercepts
- Cellular/Digital Telephones
- Answering Machines
- Voice Mail Systems
- Pen Registers
- Custodial Situations
- Undercover Officers and Agents

Surveillance Techniques

- Photographic and Video
- Stationary Cameras
- Tracking Devices
- Thermal Imaging
- Sneak & Peek Warrants

Communicati on Intercepts

Wire Intercept Statute

- Penal Code § 629.50
  The interception of a wire, electronic digital pager, or electronic cellular telephone communication shall only be made by Court Order pursuant to this statute.

Wire Intercepts

- "Electronic Digital Pager Communications" means any tone or digital display or tone and voice pager communication.
- "Electronic Cellular Telephone Communication" means any cellular or cordless radio telephone communication.

Qualifying Crimes

- Importation, possession for sale, transportation, manufacture or sale of 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5 or 1379.6 for heroin, cocaine, PCP, Meth. or analogs when 10 gals or 3 lbs;
- Murder or solicitation to commit murder;
- Bombing of public or private property;
- Aggravated Kidnapping;
- Conspiracy;
- Step Act Crimes (Prop 21)

Illegal Intercepts

Any person's wire, electronic digital pager or electronic cellular telephone communication may sue anyone who intercepts, discloses, uses or procures any other person to intercept, disclose or use the communication.

$100/day or $1000 whichever is greater – Punitive damages & costs

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Prop 21 Amendments

- Mobile Telephone Use
  - Coverage of intercept order
  - Permits intercepts from telephone conversations that originate from the county identified in the Order

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Statutory Prohibitions

- Prohibition of covert entry
- Exclusionary Rule
  - Statements
  - Evidence derived thereof
- Third Party Intercepts
- Impeachment Evidence

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Pagers

- General Rule
  - Interception requires intercept order
- Broadcast Pagers
  - Transmit neither communication nor information

Answering Machine

- Expectation of Privacy
- Probable Cause Standard
- Search Warrant

Voice Mail Systems

- Subject to Wire Intercept Statutes
- Third Party Retrieval

Pen Registers/DNR

- Expectation of Privacy
- Search Warrant or Court Order

Off-the-Shelf Products

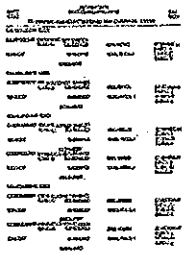
$130.00

This amazing Voice controlled 8 Hour Dialed Number Recorder not only records both sides of your telephone conversation with the utmost clarity, but also stores and displays all outgoing numbers.

Perfect for your home or office, this recorder is easy to install and records automatically when you pick up the phone, or start it manually at any time during the conversation without annoying clicks or beeps.

The built in multi-segment LED will show you the outgoing dialed number. The number will also be stored on the cassette for viewing during play back.

Pen Register Data



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Secure Internet/WWW

- Expectation of Privacy
- Secure Web Sites
- Subscriber Information

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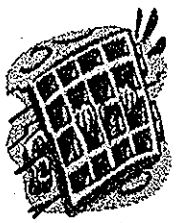
Custodial Situations



Expectation of Privacy

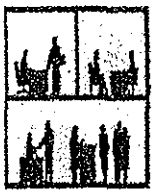
As a general rule, "the recognition of privacy rights for prisoners in their individual cells simply cannot be reconciled with the concept of incarceration and the needs and objectives of penal institutions."

Hudson v. Palmer (1984) 468 U.S. 517, 528

Custodial Situations

- Individual Cells
- Police Vehicles
- Jail Areas
  - General Rule
  - Penal Code § 636(a)
  - Uncle
  - Brother & Sister
  - Codefendants
  - Husband & Wife

Creating an Expectation of Privacy



- *North v. Superior Court*
  Private conversations between spouses in police department office without police present

1/2/2002 25

Custodial Mail Intercepts

- Evidence
  - Identity
  - Intent
  - Continuing Conspiracy
- Rule
  Most policy and procedures established for the purpose of preserving jail security, to include the monitoring of mail must yield to the Fourth Amendment reasonable expectation of privacy. *People v. McCaslin* (1985) 176 Cal.App.3d 1, 7.

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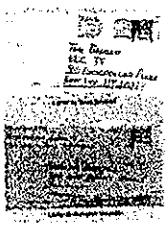
Expectation of Privacy?



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What bad guys can buy.

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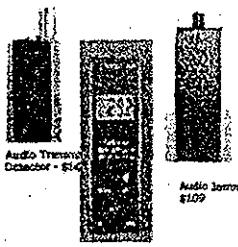
Off-the-Shelf Products



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Penal Code §§ 630 et seq.

Invasion of Privacy Act

1/06/2008 33

Penal Code § 632

- "Every person who, intentionally and without the consent of all parties to a confidential communication, by means of any electronic amplifying or recording device, eavesdrops upon or records the confidential communication, whether the communication is carried on among the parties or by means of a telegraph, telephone, or other device, except a radio..." [Wobbler]

Penal Code § 632

- Confidential Communication
  - Any communication carried on in circumstances as may reasonably indicate that any person to the communication desires it to be confined to the parties hereto ... excluding communications in public, legislative, judicial, executive or administrative proceedings ... or other circumstance which may lead parties to reasonably expect to be overheard..."

Actions Barred

- Taping of Conversations
- Note taking
- Videotaping of Conversations
- Use of a Telephone Extension is NOT included

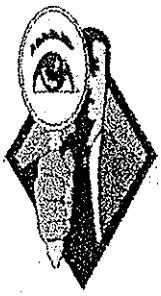
Law Enforcement Exception

- Limited to Scope of Employment
  - Attorney General
  - District Attorney
  - Investigator thereof
  - CHP
  - Police
  - Sheriff

Other Exceptions

- Public Utilities
- Tariffs
- Communication s exclusively within a state, county, city and county or city correctional facility

Surveillance Techniques



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Fourth Amendment Analysis

- Does the target have an honest subjective expectation of privacy?
- Is this expectation of privacy objectively reasonable?

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Stationary/Pole Cameras

- Public Area
- Private Area
- Enhanced Physical Abilities
  - Binoculars
  - Artificial Lighting
  - Ultraviolet Light
  - Sophisticated Equipment

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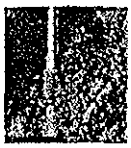
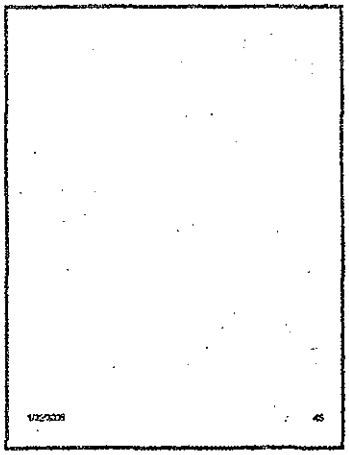
New Technology

- Facial Recogniti on Software

Sophisticated Surveillance

www.mapquest.com





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Governmental Privilege for "Official Information"

- Evidence Code § 1040
  - "Official information" means information acquired in confidence by a public employee in the course of his or her duties and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.
  - Disclosure is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice;

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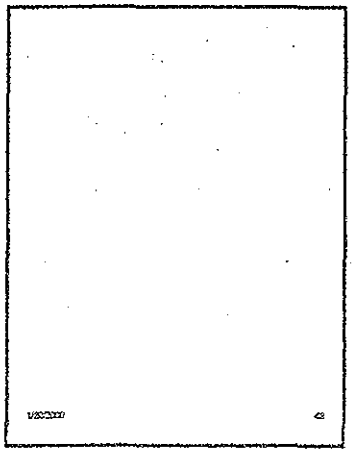

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Tracking Devices

- Constitutional Limitations

Public Roadways
Government Property
Stolen Property

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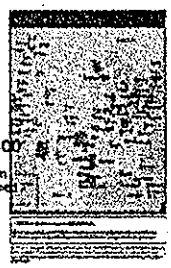
GPS Tracking Systems



GPS-5 $1,399.00
Real time tracking
System with modem
To send time stamped
Information

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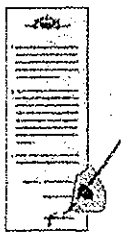
Thermal Imaging

- Expectation of Privacy
- Probable Cause Standard

Sneak & Peek Search Warrants

- A search warrant authorizing the entry into a protected area for the purpose of inspecting and recording the contents of the area.



Sneak & Peek Warrants -- How Different.

- Knock-Notice
- Cover or Surreptitious Entry
- Permit Recordation Without Leaving a Receipt
- Affidavit Requirements
  - Statement of Probable Cause
  - Need for Covert Entry
    - Requisite Necessity
  - Nighttime Service
  - Justification for Delay Notice and Extension

For Future Assistance

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Rothenfeld & Sana
(916) 447-2070

RJSana@sbcglobal.net

Legal Update

SAN DIEGO COUNTY DISTRICT ATTORNEY

PROTOCOL FOR PRESERVING DIGITAL MEDIA

The San Diego District Attorney's Legal Policy Committee has considered the impact of digital media issues and has adopted the following protocol.

PROTOCOL FOR PRESERVING DIGITAL MEDIA IN CONNECTION WITH CASE INVESTIGATION OR TRIAL PREPARATION

A. AUDIO AND VIDEO DIGITAL MEDIA

1 All video records (VHS, S-VHS, DVC (mini digital video cassettes), 8mm, Hi8mm and Digital 8mm) submitted by law enforcement or the public to the District Attorney's Office must be on VHS or S-VHS video tape or in a usable digital format (video for Windows w/Microsoft codec – 640 or 720x480 - .avi) that can be converted for editing and duplicating purposes to create prosecution work product and defense discovery.

2. All audio records originating from law enforcement agencies must be submitted to the District Attorney's Office on standard size cassette tape in "normal" speed or in .wav format on CD No micro-cassettes or other audio formats will be accepted, unless the materials constitute original evidence seized during the investigation.

B. PHOTOGRAPHIC DIGITAL IMAGES

1 When digital images are saved from a camera they will be stored temporarily on a computer hard disk drive or copied directly to a non-rewritable compact disc ("CD").

2. No alterations of the images whatsoever may be made while on the hard disk or in the camera.

3. The images saved to the hard disk will immediately and in their entirety be copied to a non-rewritable CD by the person who saved the images to the hard disk drive.

4 The person who saved or copied the images to the CD will immediately confirm that all files were completely and accurately copied, by comparing the file name, date and size for each digital image on the CD with those previously copied to the hard disk.

5. The person who saved or copied the images to a CD, or to the hard disk drive and copied the same images to the CD, will permanently initial and date the original CD.

6. That person will also log a permanent record of the name of the photographer, the date the images were made, and the case number

7 The original CD will be maintained as any other evidence gathered by the investigator assigned.

8. Additional CDs may thereafter be copied and similarly marked for discovery, for the use of the trial team, and for any other necessary use.

9. The files saved to the hard disk drive will then be deleted.

10. The files on the camera memory card will then be deleted.

11 No digital image files will be permanently stored on the DA LAN if they are collected for use as evidence in a case.

12. All photographs will be made from the original CD and a chain of custody will be maintained for authentication purposes.

Index

I. Requirements for Admissibility

A. Relevancy

The evidence code provides that "relevant evidence means evidence, including evidence relevant to the credibility of a witness or hearsay declarant, having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." Evidence Code § 210.

Under this most basic principle of evidence, the trier of fact (the jury) may only hear evidence that is *relevant* to an issue in the case. In all criminal prosecutions, this will include:

1. The criminal act;
2. The criminal intent;
3. The identity of the defendant.

In some prosecutions, evidence of conduct of the defendant subsequent to the commission of the crime tending to show *consciousness of guilt* is often relevant and admissible. This type of evidence is commonly of the type of:

1 Flight from the scene of a crime;
2. Refusal to provide certain bodily fluids;
3. Intentional acts to suppress the collection of evidence;
4. Intentionally false statements.

Additionally, evidence of motive is generally relevant as evidence of the reasoning process of the defendant to explain the conduct of the defendant. *People v. De La Plane* (1979) 88 Cal.App.3d 223.

Photographic evidence provides circumstantial and demonstrative evidence. In a homicide, the particularly gruesome autopsy photographs may be relevant to prove malice (intent to kill) by the killer. *People v. Bowen* (1982) 137 Cal.App. 3d 1020. The photographs may be used to corroborate and coroner's testimony. *People v. Allen* (1986) 42 Cal.3d 1222.

B. Authentication

Under the rules of evidence, "writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or

combinations thereof. Evidence Code § 250. Graffiti constitutes a writing under the code. Evidence Code § 1410.5

In order for any "writing" to be admissible, it must be determined to be authenticated. This means that there must be sufficient proof that the document is actually the item the party offering the document claims that it is. Evidence Code §§ 1400-1401. The manner of satisfying the authentication requirement may be accomplished in any different manner. The law recognizes the following:

1. Authenticated by a witness. Evidence Code § 1413.
2. Authentication by admission of a party to the case. Evidence Code § 1414.
3. Comparison by Expert Witness. Evidence Code § 1418.
4. Authentication by content when the content refers to or states matters not known by anyone but the author. Evidence Code § 1421.
5. Authentication by of Public Document by Seal. Evidence Code § 1452.

C. Secondary Evidence

1. Evidence Code § 1520

(a) The content of a writing may be proved by otherwise admissible secondary evidence. The court shall exclude secondary evidence of the content of a writing if the court determines either of the following:

(1) A genuine dispute exists concerning material terms of the writing and justice requires the exclusion.

(2) Admission of the secondary evidence would be unfair.

2. Evidence Code § 1522

(a) In addition to the grounds for exclusion authorized by Section 1521, in a criminal action the court shall exclude secondary evidence of the content of a writing if the court determines that the onginal is in the proponent's possession, custody, or control, and the proponent has not made the original reasonably available for inspection at or before trial. This section does not apply to any of the following:

(1) A duplicate as defined in Section 260.

(2) A writing that is not closely related to the controlling issues in the action.

(3) A copy of a writing in the custody of a public entity.

(4) A copy of a writing that is recorded in the public records, if the record or a certified copy of it is made evidence of the writing by statute.

D. Chain of Custody

The concern regarding "chain of custody" issues is the likelihood that the evidence offered as evidence is the same evidence seized and has not been altered. In *People v. Lucas* (1995) 12 Cal.4th 415, 444, the court stated "the rules for establishing chain of custody of evidence are as follows: the burden on the party offering the evidence is to show to the satisfaction of the trial court that, taking all the circumstances into account including the ease or difficulty with which the particular evidence could have been altered, it is reasonably certain that there was no alteration. The requirement of reasonable certainty is not met when some vital link in the chain of possession is not accounted for, because then it is as likely as not that the evidence analyzed was not the evidence originally received. Left to such speculation the court must exclude the evidence. Conversely, when only the barest speculation supports an inference of tampering, it is proper to admit the evidence and let what doubt remains go to its weight."

E. Hearsay Issues

In the case of intercepted communications, the admissibility of the intercepts will depend upon its inclusion within an exception of the hearsay rule. As a general rule, statements of the defendant will be admissible as a party admission. Evidence Code § 1220. In those situations where the actual speaker is not a defendant at the trial, the statement may be admissible as a co-conspirator's statement. Evidence Code § 1223. In either situation, the credible identification (authentication) of the party is critical.

II. Legal Issues by Technique

A. Intercepted Communications

1 Wire Communications

A. Penal Code § 629.50

Under California Law, the interception of a wire, electronic digital pager, or electronic cellular telephone communication shall only be made by Court Order pursuant to this statute.

"Electronic digital pager communication" means any tone or digital display or tone and voice pager communication. Penal Code § 629.51 (a).

"Electronic cellular telephone communication" means any cellular or cordless radio telephone communication. Penal Code § 629.51 (b).

B. Qualifying Crimes

The Order to intercept wire communication can only be issued for the investigation of the following crimes:

1. Importation, possession for sale, transportation, manufacture, or sale of controlled substances in violation of Section 11351, 11351.5, 11352, 11378, 11378.5, 11379, 11379.5 or 11379.6 with respect to heroin, cocaine, PCP, methamphetamine, or analogs when amount exceeds 10 gallons by liquid volume or 3 pounds by weight;

2. Murder, solicitation to commit murder, the commission of a crime involving the bombing of private or public property or aggravated kidnapping;

3. Conspiracy to commit any of the above crimes.

C. Civil Penalties for Illegal Intercept
Penal Code § 629.86

Any person's wire, electronic digital pager or electronic cellular telephone communication may sue anyone who intercepts, discloses, uses or procures any

other person to intercept, disclose or use the communication.

The plaintiff can receive actual damages at a rate of $100 a day for each day of the violation or $1,000 whichever is greater.

Punitive damages and reasonable attorney's fees and other litigation costs.

D. Prohibition of Covert Entry
Penal Code § 629.89

No order shall permit either directly or indirectly authorize covert entry into or upon the premises of a residential dwelling, hotel room, or motel room for installation or removal of any device or for other purpose.

E. POST Certification
Penal Code § 629.94

Investigative and Law Enforcement Officers must complete a certification course to apply for intercept orders, conduct intercepts, and to use the communications or evidence derived from the intercept

F Exclusionary Rule

1. General Rule

Exclusionary Rule prohibits the use of any statements or evidence derived from an unauthorized wire intercept.

2. Third Party Interception

The unauthorized interception of wire communications by third parties, without law enforcement knowledge, is subject to exclusion in any subsequent legal proceeding. *People v. Otto* (1992) 2 Cal.4th 1088.

3. Impeachment Exception

It is unclear whether courts will permit the use of unauthorized wire intercepts for impeachment purposes; however, the court did permit the use of unauthorized wire

intercepts accomplished by coconspirators on the basis that they should not profit from their own illegality. *Traficant v. C.I.R* (6th Cir. 1989) 884 F.2d 258; *United States v. Nieupski* (C.D.Ill. 1990) 731 F.Supp. 881; *People v. Otto* (1992) 2 Cal.4th 1088, 1114-5.

However, it should be assumed until clarified by the courts that illegal intercepts are inadmissible in all proceedings for all purposes.

2. Pagers

A. General Rule

The interception of electronic pager requires the authorization of and compliance with Penal Code § 629.50 et seq.

B. Broadcast or Tone-Only Pagers

Broadcast pagers that transmit neither conversations nor information are subject to Wiretap statutes. *People v. Valenzuela Medina* (1987) 189 Cal.App.3d 39.

3. Cellular/Digital Telephones

A. General Rule

The interception of cellular and digital telephones requires the authorization of and compliance with Penal Code § 629.50 et seq.

4. Answering Machines

A. Expectation of Privacy

As a general rule, people have an expectation of privacy in their telephone calls and answering machines. *People v. Harwood* (1977) 74 Cal.App.3d 460.

B. Probable Cause Standard

Upon a showing of probable cause, search warrants may include the authority to answer telephone calls and

seize the tapes from telephone answering machines. *People v. Vanvalkenburgh* (1983) 145 Cal.App.3d 163.

5. Voice Mail Systems

A. Interception under Title III

Unconsented retrieval of recorded voice mail messages constituted an interception under the federal Wiretap statutes. *United States v. Smith*, 155 F.3d 1051 (9th Cir. 1998)

B. Third Party Retrieval

Federal Wiretap statutes precludes the use of unauthorized intercepted communications and any evidence derived therefrom. Thus, even the innocent third party retrieval of voice mail messages are excluded under the statute. *United States v. Smith*, 155 F.3d 1051 (9th Cir 1998)

6. Pen Registers

A. Device

The Pen Register records the number(s) dialed from a specific telephone and records the number for identification. The device is connected to the telephone line and records numbers dialed and when the telephone is picked up and replaced.

B. Expectation of Privacy

An individual does not have an expectation of privacy in the numbers dialed from their telephone that go out into the world. *Smith v. Maryland* (1979) 442 U.S. 735. *People v. Larkin* (1987) 194 Cal.App.3d 650

C. Rational

When an individual dials a telephone the number they dial is transferred throughout the communication system until it locates the subscriber desired. The person dialing has no control over this activity thus they cannot have an

expectation of privacy over the information transmitted: the number dialed.

D. Search Warrant or Court Order

As a practical matter, most agencies obtain search warrants, or court orders, for the placement of a pen register. Although there is no expectation of privacy in the number dialed, the utility companies will not participate without some court authorization. Should you decide to use a Search Warrant, the utility company may only participate for the time period prescribed in Penal Code § 1534. In *People v. Larkin* (1987) 194 Cal.App.3d 650, the court did not suppress evidence collected on a warrant 30 days old.

7 Custodial Situations

A. Expectation of Privacy

Courts will recognize an expectation of privacy in those areas which society is prepared to recognize as reasonable. As a general rule, "the recognition of privacy rights for prisoners in their individual cells simply cannot be reconciled with the concept of incarceration and the needs and objectives of penal institutions. *Hudson v. Palmer* (1984) 468 U.S. 517, 526.

B. Individual Cells

There is no expectation of privacy in the individual prison cells of a penal institution. *Hudson v. Palmer* (1984) 468 U.S. 517.

C. Back Seat of Police Vehicle

Arrestees do not have an expectation of privacy in the back seat of a police vehicle that they could conduct a conversation with a suspected accomplice free from police eavesdropping. *People v. Crowson* (1983) 33 Cal.3d 623.

D. Jail Visiting Areas

1. General Rule

Jail officials are permitted to intercept conversations between prisoners and visitors. *Lanza v. New York* (1962) 370 U.S. 139.

2. Privileged Communication

Penal Code § 636(a) states it is a felony to eavesdrop upon the privileged communication between an incustody individual and their attorney, religious advisor or licensed physician.

3. Not Privileged Situations

A. Conversation with Uncle not privileged and protected. *In re Joseph A.* (1973) 30 Cal.App.3d 880, 885-6.

B. Conversation with Brother and Sister not privileged and protected. *People v. Martinez* (1978) 82 Cal.App.3d 1, 15.

C. Conversation between Codefendants in interview room not privileged. *People v. Dominguez* (1981) 121 Cal.App.3d 481, 505.

D. Conversation between husband and wife not confidential in general visiting area. *People v. Hill* (1974) 12 Cal.3d 731, 765 (overruled on other grounds); *People v Von Villas* (1992) 11 Cal.App.4th 175.

4. Creating the Expectation of Privacy

In *North v. Superior Court* (1972) 8 Cal.3d 301, the court held that the private conversation between an in-custody husband and his wife was illegally seized as a violation of a reasonable expectation of privacy.

The court noted that:

1. Detective offered his private office for the location of the conversation.
2. The detective left the office and left the two alone.

3. The detective closed the door after he left.

The *North* Court reasoned that the officers lulled the defendant and his wife into believing that their conversation would be confidential. *8 Cal.3d at 311-2.*

E. Mail Intercepts

1. General Rule

Most policy and procedure established for the purpose of preserving jail security, to include the monitoring of mail must yield to the Fourth Amendment reasonable expectation of privacy. *People v. McCaslin* (1986) 178 Cal.App.3d 1, 7.

2. Specific Situations

A. Internal Mail between Inmates

Reasonable to intercept and read the mail between inmates. *People v. McCaslin* (1986) 178 Cal.App.3d 1, 7.

B. Internal Mail between Spouses

Reasonable to intercept and read the mail between two spouses in custody *People v. Rodriquez* (1981) 117 Cal.App.3d 706

C. Inspection of Mail for Escape Plans

Reasonable to inspect an inmate's incoming and outgoing mail who has history of escape. *Conklin v. Hancock* (D.N.H. 1971) 334 F.Supp. 1119; *People v. Phillips* (1985) 41 Cal.3d 29, 81.

9. Undercover Officers and Agents

It is legal and permitted to place a "wire" on an undercover civilian agent who enters a private location. *United States v. White* (1971) 401 U.S. 745.

It may be a violation of a codefendant's Fifth and Sixth Amendment rights to wire an informant for the purpose to collecting evidence. *Miassiah v United States* (1964) 377 U.S. 201.

B. Surveillance Techniques

1 Photographic Evidence

A. Relevancy

Photographic evidence will be admissible in court when it will assist the jury in determining a factual issue in the trial. Any type of demonstrative evidence is admissible so long as the it is properly authenticated prior to admission. *People v Rodriquez* (1994) 8 Cal.4th 1060.

B. Authentication

1 Physical Dimension of Crime Scene

Daytime videotaping of the physical dimensions of a crime scene held admissible even though the crime occurred at night. *People v Rodriquez* (1994) 8 Cal.4th 1060

2. Lighting Conditions During Crime

Photographs of crime scene at 7:30 pm many months after the crime for the purpose showing the lighting conditions at 2:00 am is inadmissible.

Court reasoned it was incumbent upon the prosecution to lay a proper foundation at least by having the pictures taken at the same hour of the morning as the incident. *People v Vaiza* (1966) 244 Cal.App.2d 121, 127.

3. Reaction Times of Parties

In lawsuit over train crossing collision with vehicle, party offered color film of train approaching crossing. Film made in daylight of a nighttime collision and using different type of engine.

Court held film admissible on issue of reaction time of the train crew and differences did not make file irrelevant. *Greeneich v Southern Pacific Company* (1961) 189 Cal.App.2d 100.

4. Photos 3 Years After Event

The fact that the photos were taken 3 years after the event is not dispositive when they are otherwise authenticated. Court held "passage of time alone ... will not warrant its exclusion from evidence, if the other factors of necessary authentication are present." *La Gue v. Delgaard* (1956) 138 Cal.App.2d 346, 348.

2. Stationary Camera

A. Expectation of Privacy

1. Plain View Doctrine

Officers are permitted to conduct a visual search of their surroundings from a location where they have a legal right to be present. *Guidi v Superior Court* (1973) 10 Cal.3d 1

Forest Service officers discover an outdoor marijuana site, they place motion activated cameras on the site; defendants are photographed tending to plants. Court holds "we reject the notion that the visual observations of the site became unconstitutional merely because law enforcement chose to use a more cost-effective 'mechanical eye' to continue the surveillance." Further, "the use of photographic equipment to gather evidence that could be lawfully observed by a law enforcement officer does not violate the Fourth Amendment. The use of a motion activated camera under these circumstances appears to us to be a purdent and efficient use of modern technology." *United States v. McIver* (9th Cir. 1999) ___ F.3d ___ (Decided 8-6-99)

2. No Independent Grounds of Privacy

News photographer who videotaped judge for news story while walking to his car from his house did not invade the protected

privacy of the judge when the photographs were taken in the public view. *Aisenson v. American Broadcast Company* (1990) 220 Cal.App.3d 146.

3. Enhanced Physical Abilities

A. General Rule

The use of binoculars or aural aids is not itself an invasion of expectation of privacy so long as the officer is in a location where they may legally be. *Cooper v. Superior Court* (1981) 118 Cal.App.3d 499.

The use of binoculars is permissible so long as the item viewed is something that could have been seen with the naked eye. *Dow Chemical v United States* (1986) 476 U.S. 731, 748.

B. Use of Artificial Lighting

Use of flashlight into a car is permissible and not an invasion of privacy. *People v. Rogers* (1978) 21 Cal.3d 542.

C. Ultraviolet Light

Use of ultraviolet light to inspect hands for powder is a search under the Fourth Amendment. *United States v Kenaan* (1st Cir) 496 F.2d 181

2. Use of Sophisticated Equipment

EPA use of aerial surveillance equipment from the navigable airspace over a 2000 acre industrial plant is not a search prohibited by the Fourth Amendment. *Dow Chemical Company v. United States* (1986) 476 U.S. 227

3. Official Government Privilege (Evidence Code § 1040)

A. Governmental Privilege

(a) As used in this section, "official information" means information acquired in confidence by a public employee in the course of his or her duty and not open, or officially disclosed, to the public prior to the time the claim of privilege is made.

(b) A public entity has a privilege to refuse to disclose official information, and to prevent another from disclosing official information, if the privilege is claimed by a person authorized by the public entity to do so and:

(1) Disclosure is forbidden by an act of the Congress of the United States or a statute of this state; or

(2) Disclosure of the information is against the public interest because there is a necessity for preserving the confidentiality of the information that outweighs the necessity for disclosure in the interest of justice; but no privilege may be claimed under this paragraph if any person authorized to do so has consented that the information be disclosed in the proceeding. In determining whether disclosure of the information is against the public interest, the interest of the public entity as a party in the outcome of the proceeding may not be considered.

B. Applies to Surveillance Locations

Covert surveillance location used by police to investigate narcotics sales was information that could be protected from disclosure by statutory privilege for information acquired in confidence by public employee in course of their duties.

Officer only had to disclose that he was 50 yards away on an overcast day with an unobstructed view. *Hines v Superior Court* (1988) 203 Cal.App.3d 1231

Exact location not disclosed when testimony of officer was that from less the 100 yards away he used 35 power binoculars and observed the defendant who was dressed uniquely *In re Sergio M.* (1993) 13 Cal.App.4th 809

3. Tracking Devices

A. Expectation of Privacy

Retrieval of tracking signal from the inside of a location where a party has an expectation of privacy without a search warrant is unreasonable.

The placement of a tracking device in legally purchased ether being sold to defendant was unreasonable especially when the signals were monitored while the device was inside the defendant's residence. *United States v. Karo* (1984) 468 U.S. 705.

B. Public Roadways

Tracking devices placed on vehicles and tracked on pubic roadways do not involve a violation of the unsuspecting driver of a right to privacy. *United States v. Knotts* (1983) 460 U.S. 276

C. Government Property

Placement of a tracking device in federal mail pouches of carrier suspected of mail theft okay insofar as the defendant had no recognizable privacy interest in the governmental property *United States v Jones* (4th Cir 1994) 31 F.3d 1304.

D. Stolen Property

Payless private agents placed tracking devices in bank deposits bags. The bags were tracked to a motel room where officers made a warrantless entry to recover the stolen property. Court held the defendants did not have a recognizable expectation of privacy in the stolen private merchandise. *People v. Erwin* (1997) 55 Cal.App.4th 15.

4. Thermal Imaging

A. Technology

The infrared thermal scan is a non-intrusive device which emits no rays or beams and shows a crude visual image of the heat being radiated from the outside of a location. The device cannot show any people or acitivity within the walls of a structure and records only the heat emitted from a structure. *United States v. Kyllo* (9th Cir 1999) __ F.3d __

B. Expectation of Privacy

So long as the technology does not reveal the intimate details of the activities inside the structure, there is no invasion of the reasonable expectation of privacy via use of the thermal imager *United States v Kyllo.*

Other Federal Courts in Accord:

United States v Cusumano (10th Cir 1996) 83 F.3d 1247

United States v Robinson (11th Cir. 1995) 62 F.3d 1325
United States v. Ishmael (5th Cir. 1995) 48 F.3d 850
United States v. Myers (7th Cir 1995) 46 F.3d 668
United States v. Pinson (8th Cir 1994) 24 F.3d 1056

5. Sneak and Peak Search Warrants

During an investigation, investigators may seek to enter and search a location surreptitiously for the purpose of noting, photographing and/or recording objects without the knowledge of the targets.

The court may, based upon a factually basis good cause:

1 Authorize covert or surreptitious entry
2. Delay the giving of notice to the occupants of the location
3. Permit the recordation of specific objects identified in the warrant affidavit without seizure.

Dalia v. United States, 441 U.S. 238 (1978).
United States v. Freitas, 800 F.2d 1451 (9th Cir. 1988)

Affidavit must include:

1 Statement of probable cause for search and recording of objects;
2. Needs for surreptitious entry
Other investigatory avenues failed
Other investigatory avenues unavailable
3. Need for nighttime service
4. Justification for need to delay notice and extension

Warrant must include:

1. Description of premises
2. Authorization of surreptitious entry
3. Authorize exemption of notice and receipt
4. Specific acts authorized
Search but no seizure
Search for objects to include listening to messages
Photograph, videotaping, etc of items

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August 7, 2002

TO ALL CALIFORNIA DISTRICT ATTORNEYS

RE: Amended Advisory letter on *People* v *Loyd*

On June 3, 2002, I sent out an advisory letter on the recent California Supreme Court decision in *People* v *Loyd* (2002) 27 Cal.4th 997. In that advisory, I noted that there remained an issue as to the monitoring of a jail detainee's outgoing telephone calls and that "California is a state which severely limits the offenses for which a prosecutor may obtain a judicially authorized wiretap order (see Penal Code § 629.52) and requires two-party consent before calls (on other than intra-jail telephone systems) may be monitored."

Shortly after this letter was sent out, Alameda County District Attorney Tom Orloff contacted me to express his concern about the position I had taken regarding the requirement for two-party consent. I agreed to reexamine this question, and I have now concluded that my opinion on the need for two-party consent was too conservative. I agree with District Attorney Orloff that, although there are no cases directly on point, a strong argument can be advanced that, under the law enforcement exception of Penal Code § 633, two-party consent is not required for a designated law-enforcement officer to monitor and record a jail detainee's outbound telephones calls. This position is viable because there is sufficient case law to support an argument that, prior to 1967 when the two-party consent restriction in Penal Code § 632 was enacted, law enforcement could have monitored and recorded such calls without the need for two-party consent, either on a theory that there was no reasonable expectation of privacy in such calls, or under a theory that the implied consent of one party was sufficient.

I apologize for any confusion that my original advisory letter may have caused.

Sincerely,

ROBERT R. ANDERSON
Chief Assistant Attorney General

For BILL LOCKYER
Attorney General

THE PEOPLE, Plaintiff and Respondent,
v.
CHRISTINE LOYD, Defendant and Appellant.

No. S092653.

Supreme Court of California

May 6, 2002.

SUMMARY

Defendant was convicted by jury of two counts of first degree murder and one count of arson. While defendant was in jail awaiting trial, the prosecutor requested the recording of defendant's conversations with her nonattorney visitors. The trial court denied defendant's motions to suppress the recorded conversations. (Superior Court of Alameda County, No. 127214, Philip V. Sarkisian, Judge.) The Court of Appeal, First Dist., Div. Four, No. A080542, affirmed, finding no federal constitutional violation, and thus no basis for remedy.

The Supreme Court affirmed the judgment of the Court of Appeal. The court held that the prosecutor's request to secretly monitor and record defendant's unprivileged jail conversations with her visitors solely for the purpose of gathering evidence, and the prosecutor's subsequent use of the tape, did not constitute misconduct under state law. Although a 1982 opinion by the California Supreme Court held that monitoring inmate conversations was barred unless necessary for security purposes, that opinion had been superseded by statute at the time of the surveillance challenged by defendant. Under Pen. Code, § 2600, as amended in 1994, a person sentenced to imprisonment may be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests. The amendment reflected the Legislature's desire to repeal the expansive protections afforded California inmates and replace them with the more limited protections available under federal law. This standard permits restrictions on inmates' activities whenever they are reasonably related to proper goals. (Opinion by Brown, J., with George, C. J., Baxter, Chin, and Moreno, JJ., concurring. Concurring opinion by Kennard, J. (see p. 1010). Concurring opinion by Werdegar, J. (see p. 1011). Concurring opinion by Moreno, J., with Kennard, J., concurring (see p. 1013).) *998

HEADNOTES

Classified to California Digest of Official Reports

(1a, 1b) Penal and Correctional Institutions § 16--Prisons and Prisoners--Right to Privacy--Recording Conversations of Inmate:Criminal Law § 359--Evidence--Intercepted Communications.

The prosecutor's request to secretly monitor and record a murder suspect's unprivileged jail conversations with her visitors solely for the purpose of gathering evidence, and the prosecutor's subsequent use of the tape, did not constitute misconduct under state law. Although a 1982 opinion by the California Supreme Court held that monitoring inmate conversations was barred unless necessary for security purposes, that opinion had been superseded by statute at the time of the surveillance of defendant. Under Pen. Code, § 2600, as amended in 1994, a person sentenced to imprisonment may be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests. The amendment reflected the Legislature's desire to repeal the expansive protections afforded California inmates and replace them with the more limited protections available under federal law. This standard permits restrictions on inmates' activities whenever they are reasonably related to proper goals. The Legislature intended to restore the former law regarding inmates' rights. Any restrictions on inmates' rights that were lawful prior to the Supreme Court's 1982 opinion, such as the recording of an inmate's conversation as took place in this case, are lawful under the current test.

[See 4 Witkin & Epstein, Cal. Criminal Law (3d ed. 2000) Illegally Obtained Evidence, § 352; West's Key Number Digest, Prisons k. 4(6).]

(2) Penal and Correctional Institutions § 16--Prisons and Prisoners--Right to Privacy--Monitoring Conversations--Conversations in Jail and Police Cars.

Police officers may monitor conversations in jail as they may monitor conversations in police cars. There is no distinction between the two locations

regarding an individual's reasonable expectations of privacy in his or her communications.

COUNSEL

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Alan L. Schlosser for American Civil Liberties Union of Northern California as Amicus Curiae on behalf of Defendant and Appellant.

John T Philipsborn for California Attorneys for Criminal Justice as Amicus Curiae on behalf of Defendant and Appellant.

Bill Lockyer, Attorney General, David P Druliner, Chief Assistant Attorney General, Ronald A. Bass, Assistant Attorney General, Rene A. Chacon, Bridget Billeter and William Kuimelis, Deputy Attorneys General, for Plaintiff and Respondent.

George Palmer; Thomas J. Orloff, District Attorney (Alameda) and A. Mark Hutchins, Deputy District Attorney, for California District Attorneys Association as Amicus Curiae on behalf of Plaintiff and Respondent.

BROWN, J.

In this case we consider whether secretly monitoring and recording an inmate's unprivileged jail conversations with her visitors, solely for the purpose of gathering evidence, constituted prosecutorial misconduct by violating *De Lancie v. Superior Court* (1982) 31 Cal.3d 865 [183 Cal.Rptr. 866, 647 P.2d 142] (*De Lancie*). Because we decide *De Lancie* had been superseded by statute at the time of the taping, we find the prosecutor's request for and use of the tape did not constitute misconduct under state law.

I. Factual and Procedural Background

Christine Loyd was convicted by jury of two counts of first degree murder (Pen. Code, § 187) [FN1] and one count of arson (§ 451, subd. (c)), and was sentenced to prison for a term of 55 years to life.

FN1 Unless otherwise indicated, all further statutory references are to the Penal Code.

Before her trial began, defendant sought a ruling on the legality of the taping of defendant's personal visits and telephone calls. [FN2] After the prosecution noted defendant's motion failed to request a remedy, defendant formally moved for dismissal of the charges or recusal of the prosecutor. Defendant ***1000** alleged the prosecutor violated the rule of *De Lancie, supra*, 31 Cal.3d 865, which bars monitoring of inmate conversations unless necessary for security purposes.

FN2 Our decision today concerns the effect of only California law. As Justice Moreno's concurring opinion observes, there may be a federal basis, the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. § 2510 et seq.), for suppressing the tapes of the telephone conversations. The federal law, however, has not been the basis of defendant's motions or appeals, the Court of Appeal decision or our grant of review. We therefore express no opinion on its applicability.

The parties stipulated to certain facts. Defendant was in jail awaiting trial for the murder of Virginia Baily. The prosecutor requested the recording of defendant's conversations with her nonattorney visitors. In response to this request, the sheriff's department provided the prosecutor with tapes of conversations between defendant and three visitors, Kristen Albertson, Dave DeWolf and Ann Argabrite. The prosecutor also requested and received tapes of telephone conversations defendant had with her brother, Philip Loyd, and with Ann Argabrite. The recorded communications occurred between March 26, 1996, and June 30, 1996. There was no taping of any conversation between defendant and her attorney or anyone retained by her attorney The prosecutor requested this taping to gather evidence for the prosecution of Virginia Baily's murder, and to gain an indictment and subsequently prosecute defendant for the murder of her mother, Myrtle Loyd.

The trial court denied defendant's suppression motions. The jury convicted defendant on both counts of murder and one count of arson. Defendant appealed.

The Court of Appeal discussed our *De Lancie* decision at length. The court noted *De Lancie* arose out of a civil suit seeking declaratory and injunctive relief from what had been the routine practice of recording conversations between inmates and visitors. Prior to *De Lancie*, we had recognized a right of confidentiality only for protected communications, like those between an inmate and counsel. (*North v. Superior Court* (1972) 8 Cal.3d 301, 308-311 [104 Cal.Rptr. 833, 502 P.2d 1305, 57 A.L.R.3d 155] (*North*); see also § 636 [forbidding eavesdropping on communications between inmate and attorney, religious adviser or physician].) In *De Lancie*, *supra*, 31 Cal.3d at page 868, however, we concluded former sections 2600 and 2601 extended the protection of confidentiality to unprivileged communications, unless monitoring was necessary for the security of the institution or the public.

The Court of Appeal noted the difficulty involved in applying *De Lancie*. "The decision in *De Lancie* may well have raised more questions than it answered, including the nature and origin of the right protected, the extent to which it depends on the subjective expectations of prisoners and visitors, the extent to which it is subject to modification or abolition by legislative action, ***1001** and of foremost importance here the nature of the remedy, if any, to be granted by a trial court presiding over a criminal prosecution in which the prosecutor has recorded the defendant's conversations in violation of *De Lancie*."

The Court of Appeal opinion also noted the concerns of the *De Lancie* dissenters. "[T]he practice of monitoring an inmate's conversations is (1) reasonably necessary to maintain jail security, and (2) that a person incarcerated in a jail or prison possesses no justifiable expectation of privacy." (*De Lancie*, *supra*, 31 Cal.3d 865, 879 (dis. opn. of Richardson, J.); see *id.* at p. 882 (dis. opn. of Mosk, J.).) Justice Richardson also quoted our opinion in *North*, *supra*, 8 Cal.3d at page 309: " ' "A man detained in jail cannot reasonably expect to enjoy the privacy afforded to a person in free society. His lack of privacy is a necessary adjunct to his imprisonment ...." ' " (*De Lancie*, at p. 881 (dis. opn. of Richardson, J.).)

The Court of Appeal held the tape recording did not violate the Fourth, Fifth or Sixth Amendment to the United States Constitution, and thus suppression was not an available remedy. The court thus stated that defendant's "only coherent theory of error is that the prosecutor's misconduct was such an egregious violation of her rights as to 'shock the conscience' and effect a denial of due process under the federal Constitution." The opinion cited Proposition 8 (Cal. Const., art. I, § 28, subd. (d)), "which prohibits the suppression of evidence except where it is compelled by federal authority." [FN3] Finding no federal constitutional violation, and thus no basis for remedy, whether suppression, dismissal or recusal, the Court of Appeal noted that the unresolved *De Lancie* issues "may deserve the attention of the Supreme Court, especially in light of recent statutory amendments [to section 2601]."

FN3 The court refused to find that the federal Omnibus Crime Control and Safe Streets Act of 1968 compelled suppression.

Justice Poche dissented, disagreeing with the majority's conclusion that there was no available remedy. The dissent construed the taping as a denial of defendant's right to due process of law, warranting reversal and retrial. Justice Poche also found that the telephone taping violated federal wiretap law.

We granted review on the limited question of whether the trial court erred in not dismissing the information or recusing the prosecutor for the asserted *De Lancie* violation.

II. Discussion

(1a) Defendant contends the surreptitious tape recording of conversations between her and her visitors violated *De Lancie* and warranted a ***1002** remedy-either dismissal, recusal or suppression. Our analysis of the issue persuades us that the amendments noted by the Court of Appeal have abrogated the statutory basis for *De Lancie*. Indeed, the Legislature has acted to restore the pre-*De Lancie* state of the law. Accordingly, we find the taping of the conversations between defendant and her visitors did not violate California law.

A. *The Legacy of Lanza: Jail Inmates Do Not Enjoy a Justifiable Expectation of Privacy*

The United States Supreme Court addressed this issue 40 years ago in *Lanza v. New York* (1962) 370 U.S. 139 [82 S.Ct. 1218, 8 L.Ed.2d 384] (*Lanza*). Jail officials secretly tape-recorded a conversation between Lanza and his brother, an inmate, without their knowledge. (*Id.* at p. 141 [82 S.Ct. at pp. 1219-1220].) The court rejected Lanza's contention that the tape was the product of a Fourth Amendment violation. It distinguished the jail from those other settings that could implicate the right to be free from unreasonable search and seizure. "[T]o say that a public jail is the equivalent of a man's 'house' or that it is a place where he can claim constitutional immunity from search or seizure of his person, his papers, or his effects, is at best a novel argument ..., [W]ithout attempting either to define or to predict the ultimate scope of Fourth Amendment protection, it is obvious that a jail shares none of the attributes of privacy of a home, an automobile, an office, or a hotel room. In prison, official surveillance has traditionally been the order of the day." (*Lanza*, at p. 143 [82 S.Ct. at pp. 1220, 1221], fns. omitted.)

The *Lanza* doctrine shaped Congress's creation of the Omnibus Crime Control and Safe Streets Act of 1968. Title 18 United States Code section 2510(2), part of the wiretap law, defines a protected oral communication as one "uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation." The legislative history indicates that although Congress did not intend that the place of the communication determine the justifiability of the expectation, "[n]evertheless, such an expectation would clearly be unjustified in certain areas; for example, a jail cell (*Lanza v. New York*, 82 S.Ct. 1218, 370 U.S. 139 (1962))...." (Sen.Rep. No. 1097, 90th Cong., 2d Sess. (1968), reprinted at 1968 U.S. Code Cong. & Admin. News, p. 2178.)

We embraced the principle that a suspect's custodial conversations did not enjoy a justifiable expectation of privacy. Although we protected a defendant's right to privacy regarding his communications with counsel (*In re Jordan* (1972) 7 Cal.3d 930, 937-938, fn. 3 [103 Cal.Rptr. 849, 500 P.2d ***1003** 873]; *People v. Lopez* (1963) 60 Cal.2d 223, 248 [32 Cal.Rptr. 424, 384 P.2d 16]) or where jail officers acted so that the suspect "and his wife were lulled into believing that their conversation would be confidential" (*North, supra*, 8 Cal.3d at p. 311), we affirmed the general rule that "[a]bsent such unusual circumstances, [inmates and their visitors] can have no reasonable expectation that their jailhouse conversations will be private." (*People v. Hill* (1974) 12 Cal.3d 731, 765 [117 Cal.Rptr. 393, 528 P.2d 1], overruled on other grounds in *People v. DeVaughn* (1977) 18 Cal.3d 889, 896, fn. 5 [135 Cal.Rptr. 786, 558 P.2d 872].) Accordingly, prior to *De Lancie*, the Courts of Appeal uniformly rejected defense claims of privacy for custodial conversations, regardless of whether the claim was based on the federal Constitution (the Fourth Amendment) (see, e.g., *People v. Finchum* (1973) 33 Cal.App.3d 787 [109 Cal.Rptr. 319]; *In re Joseph A.* (1973) 30 Cal.App.3d 880 [106 Cal.Rptr. 729]), the state Constitution (Cal. Const., art. I, §§ 1, 13; see, e.g., *People v. Dominguez* (1981) 121 Cal.App.3d 481, 505 [175 Cal.Rptr. 445]; *People v. Owens* (1980) 112 Cal.App.3d 441, 449 [169 Cal.Rptr. 359] (*Owens*); *People v. Estrada* (1979) 93 Cal.App.3d 76, 98 [155 Cal.Rptr. 731] (*Estrada*)), federal statutory law (18 U.S.C. § 2510(2)) or state statutory law (Pen. Code, § 632). (*Estrada*, at pp. 98-99.)

B. *The Lawfulness of Inmate Monitoring and Recording Prior to De Lancie*

Prior to our 1982 *De Lancie* opinion, inmate monitoring and recording as occurred below was lawful in California and the rest of the country. In addition to rejecting the claims that monitoring violated an inmate's justifiable expectation of privacy, California courts also rejected former section 2600 as a basis for insulating custodial conversations from oversight. We described the import of that statute: "In this state we have long since abandoned the medieval concept of strict 'civil death' and have replaced it with statutory provisions seeking to insure that the civil rights of those convicted of crime be limited *only in accordance with legitimate penal objectives*. The 1968 amendments ... which resulted in the enactment of section 2600 in its present form, represent the most recent legislative effort in this direction." (*In re Harrell* (1970) 2 Cal.3d 675, 702 [87 Cal.Rptr. 504, 470 P.2d 640] (*Harrell*), italics added.)

The *Harrell* standard allowed the secret recording of custodial conversations. In *Estrada*, *supra*, 93 Cal.App.3d 76, the defendant's sister, and, on another occasion, his brother-in-law, visited him in

jail. Jail officials monitored and taped the conversations. (*Id.* at pp. 86, 98.) The Court of Appeal found this surveillance complied with *Harrell*. (*Estrada*, at pp. 99-100.) *1004 "While the deprivation of a prisoner's rights or privileges requires penological objectives, the legitimacy of jailhouse monitoring of inmate conversations is based on precisely these objectives, and is in no way *restricted* to the *maintenance* of institutional security. Even assuming that in this case the security of the institution was not the interest of the officials in monitoring the instant conversations, a wide range of concerns remain to justify the imposition of certain restrictions upon the rights of prisoners." (*Ibid.*)

Most apposite to the instant case is *Owens*, *supra*, 112 Cal.App.3d 441. Police arrested Owens and another suspect, who offered conflicting statements. They were placed together in an interview room where they made inculpatory statements that were secretly recorded. (*Id.* at p. 444.) The Court of Appeal affirmed the validity not only of the taping but also of what we later characterized as the "public interest in detecting a suspect's fabrication." (*Donaldson v. Superior Court* (1983) 35 Cal.3d 24, 33, fn. 6 [196 Cal.Rptr. 704, 672 P.2d 110] (*Donaldson*) (plur. opn. of Broussard, J.).) "The monitoring system ... was used to overhear a discussion between two recently arrested felony suspects who had just made factually divergent statements in separate interviews. Thus, in addition to the compelling interest in maintaining jail security we must consider the public interest in acting on a well-founded suspicion that the detainees would take the opportunity to get their stories straight and that their conversation would touch on criminal activity " (*Owens*, at p. 449.)

Therefore, prior to *De Lancie*, the prevailing law recognized as legitimate the "interest in ferreting out and solving crimes." (*People v. Seaton* (1983) 146 Cal.App.3d 67, 81, fn. 11 [194 Cal.Rptr. 33], citing *Owens*, *supra*, 112 Cal.App.3d at pp. 449-450.) We thus observed that "[p]rior to *De Lancie*, the fact that a particular conversation was monitored not for security purposes but to gather evidence did not argue against admissibility " (*Donaldson*, *supra*, 35 Cal.3d at p. 33, fn. omitted.) This principle conformed to federal law, which also found this motive legally insignificant. The Ninth Circuit Court of Appeals approved taping in a case where police placed two codefendants in a room "in the hope that the two would discuss the crime and make some incriminating admissions." (*Williams v. Nelson* (9th Cir. 1972) 457 F.2d 376, 377 (*Nelson*).) [FN4] Had the taping in this case occurred prior to *De Lancie*, there would have been no valid basis for objection. *1005

FN4 *Nelson* adopted an even more deferential position toward jailhouse taping than *Owens*, inasmuch as the room in which the *Nelson* defendants were placed was "apparently private" (*Nelson*, *supra*, 457 F.2d at p. 377) which, under California law, could have been grounds for invalidating the taping. (See *North*, *supra*, 8 Cal.3d at p. 311.)

C. *Procunier and the Demise of Harrell*

The *Harrell* standard had a limited lifespan, thanks to prodding from the United States Supreme Court. Although the Court of Appeal, citing *Harrell*, had allowed the censoring of inmate mail to parties other than counsel (*Yarish v. Nelson* (1972) 27 Cal.App.3d 893, 898 [104 Cal.Rptr. 205]), the high court restricted this practice in *Procunier v. Martinez* (1974) 416 U.S. 396 [94 S.Ct. 1800, 40 L.Ed.2d 224] (*Procunier*)), [FN5] which found former section 2600 inadequate to protect the constitutional rights at stake. (*Procunier*, at pp. 403-404 [94 S.Ct. at pp. 1806-1807].) The *Procunier* court, considering the First Amendment rights involved, barred censorship of mail for the purpose of suppressing criticism of prison authorities. Instead, the court required that prison officials "must show that a regulation authorizing mail censorship furthers one or more of the substantial governmental interests of security, order, and rehabilitation. Second, the limitation of First Amendment freedoms must be no greater than is necessary or essential to the protection of the particular governmental interest involved." (*Procunier*, at p. 413 [94 S.Ct. at p. 1811].) Thus, prison regulations involving mail had to be "generally necessary" to protect security, order or rehabilitation. (*Id.* at p. 414 [94 S.Ct. at pp. 1811-1812].) [FN6] Notably, the decision rested not on the free speech rights of the inmate (the court declined to decide the extent to which these rights survived incarceration) but on the rights of those relatives and friends outside the prison who wished to correspond with the inmate. (*Procunier*, at pp.

408-409 [94 S.Ct. at pp. 1808-1809].)

FN5 As we indicate in part II.E. (*post*, at p. 1008), the United States Supreme Court narrowed *Procunier* in *Turner v. Safely* (1987) 482 U.S. 78 [107 S.Ct. 2254, 96 L.Ed.2d 64] (*Turner*) and formally overruled it in *Thornburgh v. Abbott* (1989) 490 U.S. 401 [109 S.Ct. 1874, 104 L.Ed.2d 459].

FN6 Significantly, the high court barred censorship of inmate correspondence, not monitoring: "[F]reedom from censorship is not equivalent to freedom from inspection or perusal." (*Wolff v. McDonnell* (1974) 418 U.S. 539, 576 [94 S.Ct. 2963, 2984, 41 L.Ed.2d 935].) Monitoring of inmate correspondence is now expressly authorized under 28 Code of Federal Regulations part 540.14(c)(2) (2002). (See *Altizer v. Deeds* (4th Cir. 1999) 191 F.3d 540, 549, fn. 15.)

The *Procunier* court also addressed the state rule that limited defense investigators' access to the prisoner-clients whom they served. This restriction inhibited prisoners' access to the courts. The rule did not flatly infringe on a federal constitutional right (like the mail rule), however, and the standard for evaluating the rule was more deferential. "[P]rison administrators are not required to adopt every proposal that may be thought to facilitate prisoner access to the courts. The extent to which that right is burdened by a particular regulation or practice must be weighed against the legitimate interests of penal administration ...." (*Procunier, supra*, 416 U.S. at *1006 p. 420 [94 S.Ct. at pp. 1814-1815].) *Procunier* thus required a strict scrutiny standard for the infringement of rights protected by the United States Constitution, but affirmed the *Harrell* standard to protect other prisoner interests.

After *Procunier*, the state Legislature amended section 2600 to provide that "A person sentenced to imprisonment ... may, during any such period of confinement, be deprived of such rights, and only such rights, as is necessary in order to provide for the reasonable security of the institution in which he is confined and for the reasonable protection of the public." (Stats. 1975, ch. 1175, § 3, p. 2897.) The Legislature answered the question expressly reserved by *Procunier*, namely to what extent the rights of *inmates* could be infringed. The amendment generally followed the *Procunier* standard except in two respects: (1) the statute omitted rehabilitation from the list of permitted goals; [FN7] and (2) the statute provided for the same strict scrutiny regardless of whether the right was protected by the United States Constitution. Additionally, the Legislature added section 2601, which, in former subdivision (d), granted prisoners the right to have personal visits, subject to reasonable security restrictions. [FN8] (Stats. 1975, ch. 1175, § 3, pp. 2897-2898.) These statutory amendments formed the basis for *De Lancie*'s invalidation of the formerly lawful practice of monitoring and recording custodial conversations.

FN7 Additionally, whereas *Procunier* recognized the propriety of curtailing speech to protect "order" (*Procunier, supra*, 416 U.S. at p. 413 [94 S.Ct. at p. 1811], overruled on other grounds by *Thornburgh v. Abbott, supra*, 490 U.S. 401), the statute focused on "the reasonable protection of the public" (former § 2600, as amended by Stats. 1975, ch. 1175, § 3, p. 2897). These two interests may be similar.

FN8 The former statute did not insulate these visits from monitoring, in contrast to section 2600, subdivision (b), which, since 1975, has protected the right "[t]o correspond, confidentially, with any member of the State Bar or holder of public office."

D. *De Lancie*

De Lancie was the result of a suit for declaratory and injunctive relief from the practice of monitoring and recording inmates' [FN9] conversations for the purpose of gathering evidence for use in prosecutions. (*De Lancie, supra*, 31 Cal.3d at p. 867.) [FN10] The *De Lancie* court recalled the *Harrell* standard, under which inmate rights could " 'be limited only in accordance with *1007 legitimate penal objectives,' " (*De Lancie*, at p. 871, quoting *Harrell, supra*, 2 Cal.3d at p. 702) but found that standard was superseded by the 1975 amendment to section 2600. We quoted the amended provision, italicizing the words " 'necessary in order to provide for the reasonable security of the institution' " to emphasize the shift in the law away from the former standard. (*De Lancie*, at p. 870.) [FN11] The *De Lancie* majority observed the recordings violated this standard if, as the complaint alleged, they "are intended not to enhance or preserve prison security, but rather to obtain evidence for use by investigatory

and prosecuting agencies in search of convictions." (*Id.* at p. 873.)

FN9 The *De Lancie* suit concerned pretrial county jail detainees rather than convicted prisoners in state institutions. We reasoned, however, that pretrial detainees deserved "rights at least equivalent" to those enjoyed by convicted felons. (*De Lancie, supra,* 31 Cal.3d at p. 872.)

FN10 Because the respondent sheriff filed a demurrer, we had no opportunity to determine the factual question of whether and to what extent the monitoring and taping was for security or investigative purposes. (*De Lancie, supra,* 31 Cal.3d at p. 868.)

FN11 The court thus rejected dictum in *North, supra,* 8 Cal.3d at page 312, approving comparable recording, because *North* predated the 1975 section 2600 amendment. (*De Lancie, supra,* 31 Cal.3d at p. 874.)

Although the plaintiffs had alleged violations of the federal and California Constitutions, as well as the federal wiretap law (18 U.S.C. §§ 2510- 2520), we based our ruling solely on a ground omitted from the complaint: sections 2600 and 2601. "[T]he provisions of Penal Code sections 2600 and 2601 are dispositive of the issues presented [here]." (*De Lancie, supra,* 31 Cal.3d at p. 870.) Nothing in the decision otherwise altered the traditional understanding that inmates do not enjoy a justifiable expectation of privacy in their custodial conversations. On the contrary, as Justice Mosk's dissent observed, "The concept of one purporting to enjoy privacy while he is under legally authorized supervision would appear to be a monumental anomaly." (*De Lancie, supra,* 31 Cal.3d 865, 882 (dis. opn. of Mosk, J.).) [FN12]

FN12 *De Lancie* expressly declined to consider a constitutional basis for its holding (*De Lancie, supra,* 31 Cal.3d at p. 877, fn. 13). We have usually, but not uniformly, recalled the holding's limited basis. (Compare *People v. Champion* (1995) 9 Cal.4th 879, 912 [39 Cal.Rptr.2d 547, 891 P.2d 93] [*De Lancie* "held that sections 2600 and 2601 prohibit police from monitoring"]; *People v. Gallego* (1990) 52 Cal.3d 115, 169 [276 Cal.Rptr. 679, 802 P.2d 169] ["[r]elying on statutory grounds, we held ... the police may not monitor"]; *People v. Carrera* (1989) 49 Cal.3d 291, 326 [261 Cal.Rptr. 348, 777 P.2d 121] [describing *De Lancie* as "holding that the monitoring ... was barred by sections 2600 and 2601"]; *People v. Phillips* (1985) 41 Cal.3d 29, 79 [222 Cal.Rptr. 127, 711 P.2d 423] [*De Lancie* "expressly declined to base our decision on federal or state constitutional grounds, finding it sufficient to rest it on section 2600 ... and section 2601"]; *People v. Crowson* (1983) 33 Cal.3d 623, 630 [190 Cal.Rptr. 165, 660 P.2d 389] (plur. opn. of Kaus., J.) ["In *De Lancie* we held that sections 2600 and 2601 accord ... a statutory right to privacy"]; with *People v. Edelbacher* (1989) 47 Cal.3d 983, 1004 [254 Cal.Rptr. 586, 766 P.2d 1] [court gave "full recognition of both the statutory and constitutional bases of [*De Lancie*]"]; *Donaldson, supra,* 35 Cal.3d at p. 37 (plur. opn. of Broussard, J.) ["*De Lancie* was clearly not a simple application of the statutory language"]; *id.* at p. 41, fn. 1 (dis. opn. of Reynoso, J.) [issue implicates "constitutional right of privacy"].)

We thus decided in *De Lancie* that the 1975 statutory amendments "established a policy that prisoners retain the rights of free persons, including the right of privacy, except to the extent that restrictions are necessary to insure *1008 the security of the prison and the protection of the public." (*De Lancie, supra,* 31 Cal.3d at p. 868.) [FN13] We have also recognized that the decision shifted the law: "[U]nder settled federal precedent and under the California decisions prior to *De Lancie* ... the secret monitoring and recording of unprivileged conversations in prisons, jails, and police stations did not constitute an unlawful search." (*Donaldson, supra,* 35 Cal.3d at p. 27.)

FN13 Even if prisoners enjoyed the same degree of legal protection as free persons, it is not evident that the surveillance was unlawful. In *People v. Kaaiena pua* (1977) 70 Cal.App.3d 283 [138 Cal.Rptr. 651], the Court of Appeal found there was no privacy violation where police, suspecting unlawful activity in a boardinghouse room, entered, with the building manager's permission, the vacant room adjacent to the suspected crime site and overheard incriminating evidence. "We do not believe ... the California ... right to privacy ... give[s] to criminals any greater right to privacy than that enjoyed by ordinary citizens who daily assume the risk that their neighbors may listen to their conversations through a common wall." (*Id.* at p. 288.)

E. *Restoring Harrell*

Just as the establishment of *Procunier's* strict

standard led to the abolition of the *Harrell* standard, the abandonment of *Procunier* led to *Harrell*'s restoration. In *Turner*, *supra*, 482 U.S. 78, the United States Supreme Court formally determined the question reserved in *Procunier* by concluding that case protected the First Amendment rights of only the civilians with whom the inmates were corresponding. The rights of prisoners enjoyed less stringent protection; "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." (*Turner*, at p. 89 [107 S.Ct. at p. 2261].) The state Legislature adopted this standard in its 1994 amendment to section 2600, which now reads, "A person sentenced to imprisonment in a state prison may ... be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests."

The amendment reflected the Legislature's desire to repeal the expansive protections afforded California inmates and replace them with the more limited protections available under federal law as described in *Turner*, *supra*, 482 U.S. 78. In *Thompson v. Department of Corrections* (2001) 25 Cal.4th 117, 130 [105 Cal.Rptr.2d 46, 18 P.3d 1198], we observed the 1994 amendment abrogated the standard we had followed in *In re Arias* (1986) 42 Cal.3d 667 [230 Cal.Rptr. 505, 725 P.2d 664]. *Thompson* recognized prison restrictions on inmate liberties that might have been invalid prior to 1994 could now be valid. (*Thompson*, at pp. 129-130 [restriction on practice of religion that might have been invalid under pre-1994 standard was valid under new law].) We hold the monitoring of inmates' conversations with visitors to be another such regulation that has become valid after the 1994 amendment. *1009

Construing the "legitimate penal objectives" in *Harrell*, *supra*, 2 Cal.3d at page 702, and "legitimate penological interests" in the current section 2600 and finding them comparable phrases, we conclude the current standard is less restrictive than the *Harrell* test. Our former standard permitted restrictions on inmates' activities "only in accordance" (*Harrell*, at p. 702) with the proper goals, whereas the current standard permits such restrictions whenever they are "reasonably related" to the goals (*Turner*, *supra*, 482 U.S. at p. 89 [107 S.Ct. at p. 2261]). We therefore conclude the Legislature, in restoring the legitimate penological objectives/interests standard of *Harrell*, intended to restore the former law regarding inmates' rights. (2) (See fn. 14.) Any restrictions on inmates' rights that were lawful prior to *De Lancie*, a fortiori, will be lawful under the current test. [FN14] Because the current standard was operative during the surveillance challenged below, and such surveillance was lawful prior to *De Lancie*, we find it was lawful in this case, and therefore not misconduct. [FN15]

FN14 Our decision today allows police officers to monitor conversations in jail as they may monitor conversations in police cars, in accordance with *People v. Crowson* (1983) 33 Cal.3d 623 [190 Cal.Rptr. 165, 660 P.2d 389]. There is no longer a distinction between the two locations regarding an individual's reasonable expectations of privacy in her communications. (See *People v. Califano* (1970) 5 Cal.App.3d 476, 481-482 [85 Cal.Rptr. 292]; *People v. Chandler* (1968) 262 Cal.App.2d 350, 356 [68 Cal.Rptr. 645].)

FN15 In 1996, the Legislature further distanced statutory law from *De Lancie* by repealing the section 2601, subdivision (d), right to visits. (Stats. 1996, ch. 132, § 1.) The Legislature has thus completely "delete [d] the language quoted" in *De Lancie*. (4 Witkin & Epstein, Cal. Criminal Law (3d. ed. 2000) Illegally Obtained Evidence, § 352, p. 1037.)

(1b) Although we base our decision on our own precedent, our conclusion draws support from other jurisdictions. We note other jurisdictions permit the monitoring and recording of custodial conversations, without expressly requiring a noninvestigative purpose. (See, e.g., *Angel v. Williams* (8th Cir. 1993) 12 F.3d 786, 790; *U.S. v. Willoughby* (2d Cir. 1988) 860 F.2d 15, 22; *United States v. Harrelson* (5th Cir. 1985) 754 F.2d 1153, 1168-1171; *Allen v. State* (Fla. 1994) 636 So.2d 494, 496-497; *State v. Wilkins* (1994) 125 Idaho 215 [868 P.2d 1231, 1237-1238]; *State v. Strohl* (1999) 255 Neb. 918 [587 N.W.2d 675, 682]; *Belmer v. Commonwealth* (2001) 36 Va.App. 448 [553 S.E.2d 123, 129].) The result is the same even where the express purpose is to gather evidence to support the prosecution. (*Nelson*, *supra*, 457 F.2d at p. 377; *State v. Ryan* (1976) 145 N.J.Super. 330 [367 A.2d 920, 922].) [FN16] *1010

FN16 Defendant cites the mapposite case of *United States v. Cohen* (2d Cir. 1986) 796 F.2d 20],

where the Second Circuit Court of Appeals suppressed documents discovered during a search of the defendant's cell conducted to gather evidence. Because *Cohen* was decided before *Turner, supra*, 482 U.S. 78, the Second Circuit followed the "rule that when a prison restriction infringes upon a specific constitutional guarantee, it should be evaluated in light of institutional security." (*Cohen*, at p. 22.) It is far from certain that the Second Circuit Court of Appeals would have reached the same result after *Turner* announced its more deferential test. In any event, because the evidence seized was paperwork located in the inmate's cell, rather than statements made during conversations with visitors, it is factually distinguishable.

Similarly inapposite is defendant's reference to *Ferguson v. Charleston* (2001) 532 U.S. 67 [121 S.Ct. 1281, 149 L.Ed.2d 205], for the proposition that the instant investigative purpose rendered the monitoring unlawful. The *Ferguson* court invalidated hospital personnel's searching and seizing patients' urine to analyze for evidence of criminal activity. The court found the search and seizure served only general law enforcement purposes, and not "special needs," which would justify dispensing with traditional Fourth Amendment protections. (*Id.* at p. 77 [121 S.Ct. at p. 1288].) By contrast, the instant monitoring implicates no Fourth Amendment protections. The interest of public safety is so compelling that it may be relevant when determining the scope of constitutional protections (see, e.g., *New York v. Quarles* (1984) 467 U.S. 649 [104 S.Ct. 2626, 81 L.Ed.2d 550]), but this hardly means police must show a public safety purpose to investigate crime where no constitutional prohibition exists.

Conclusion

We therefore conclude that *De Lancie, supra*, 31 Cal.3d 865, no longer correctly states California law regarding inmate rights. Following the 1994 amendment to section 2600, California law now permits law enforcement officers to monitor and record unprivileged communications between inmates and their visitors to gather evidence of crime. Accordingly, we affirm the judgment of the Court of Appeal.

George, C. J., Baxter, J., Chin, J., and Moreno, J., concurred.

KENNARD, J.

I concur in the majority's result, but would analyze the matter differently.

Our decision in *De Lancie v. Superior Court* (1982) 31 Cal.3d 865 [183 Cal.Rptr. 866, 647 P.2d 142], held that surreptitious recording of conversations between an inmate in jail awaiting trial and his visitors, unless justified by security concerns, violated the inmate's right of privacy. *De Lancie* was based on Penal Code section 2600, which from 1975 until 1995 provided: "A person sentenced to imprisonment ... may, during any such period of confinement, be deprived of such rights, and only such rights, as is necessary in order to provide for the reasonable security of the institution in which he is confined and for the reasonable protection of the public." (Stats. 1975, ch. 1175, § 3, p. 2897.) *De Lancie* held that pretrial detainees enjoyed at least the same rights as convicted inmates, and observed that recording conversations between inmates and visitors would violate section 2600 if the recordings were "undertaken for the purpose of gathering evidence for use in criminal proceedings, rather than to maintain the security of the jail." (*De Lancie*, at p. 877.)

The 1994 Legislature, however, amended section 2600 to provide as it does today: "A person sentenced to imprisonment in a state prison may ... *1011 be deprived of such rights, and only such rights, as is reasonably related to legitimate penological interests." In *Thompson v. Department of Corrections* (2001) 25 Cal.4th 117, 130 [105 Cal.Rptr.2d 46, 18 P.3d 1198], we concluded that this amendment adopted the view of the United States Supreme Court in *Turner v. Safely* (1987) 482 U.S. 78 [107 S.Ct. 2254, 96 L.Ed.2d 64], under which the monitoring of inmate conversations with visitors to gather evidence against the inmate is justified as reasonably related to a legitimate penological goal. As interpreted in *Thompson*, the 1994 amendment effectively abrogated this court's holding in *De Lancie*.

Consequently, there is no need for the majority to discuss pre-*De Lancie* California decisions, to determine whether or not *De Lancie* was correctly decided in the first place, or to consider whether the 1994 Legislature intended not only to adopt the standard of *Turner v. Safely, supra*, 482 U.S. 78, but also to resurrect *In re Harrell* (1970) 2 Cal.3d 675 [87 Cal.Rptr. 504, 470 P.2d 640]. The majority's sweeping assertion that "[a]ny restrictions on inmates' rights that were lawful prior to *De*

Lancie ... will be lawful under the current test" (maj. opn., *ante*, at p. 1009) remains to be tested when the courts examine specific restrictions.

Law enforcement authorities in California are required to comply with state restrictions on the gathering of evidence, even when those restrictions cannot be enforced by excluding that evidence from admission. Thus, the prosecution here took a considerable risk in instituting a surveillance practice this court had condemned in *De Lancie* at a time when no court decisions had construed the 1994 amendment to Penal Code section 2600. But because the majority concludes that the 1994 amendment does support the prosecution's action and effectively abrogated the holding in *De Lancie,* it correctly affirms the Court of Appeal decision rejecting the imposition of sanctions on the prosecution.

WERDEGAR, J., Concurring.

I agree with the majority that the monitoring and recording of defendant's personal visits did not violate California law, despite our decision in *De Lancie v. Superior Court* (1982) 31 Cal.3d 865 [183 Cal.Rptr. 866, 647 P.2d 142] (*De Lancie*). In my view, however, this is true *not* because the holding of *De Lancie* has been abrogated by intervening amendments to Penal Code section 2600, [FN1] but because *De Lancie* was erroneously decided.

FN1 All further statutory references are to the Penal Code.

In *De Lancie*, this court assumed that an incarcerated person had a reasonable expectation of privacy in his or her conversations, creating a privacy right upon which jail officials could, under section 2600, infringe *1012 only as necessary for institutional security. (*De Lancie, supra*, 31 Cal.3d at pp. 873-876.) Our error, as the dissenting justices explained, was in assuming that either the common law or constitutional right to conversational privacy persisted when a person entered prison or jail and became subject to the pervasive official surveillance that traditionally characterizes those environments. (See *id.* at p. 881 (dis. opn. of Richardson, J.) [" ' "A man detained in jail cannot reasonably expect to enjoy the privacy afforded to a person in free society. His lack of privacy is a necessary adjunct to his imprisonment" ' "]; *id.* at p. 882 (dis. opn. of Mosk, J.) ["The concept of one purporting to enjoy privacy while he is under legally authorized supervision would appear to be a monumental anomaly"].)

Though the court's opinion in *De Lancie* displays some confusion on this point, that the versions of sections 2600 and 2601 then in force did not *confer* on prisoners a right of conversational privacy is clear; at most the statutes limited the extent to which jail officials could curtail an otherwise existing right. Section 2600 simply provided that prisoners could be "deprived of such rights, and only such rights," as was necessary for institutional security. (*De Lancie, supra*, 31 Cal.3d at p. 870.) Of course, no deprivation can occur if no right exists. Section 2601 guaranteed certain enumerated rights, including personal visits, but these did *not* include the right to conduct such visits, or other jailhouse conversations, in privacy. (*De Lancie*, at p. 870.)

As sections 2600 and 2601 did not themselves confer a right of privacy in jailhouse conversations, and as the court did not cite any other statutory basis, the right of privacy the *De Lancie* majority recognized could only have derived from the common law, the California Constitution's privacy guarantee (art. I, § 1), or the constitutional prohibitions against unreasonable searches (U.S. Const., 4th Amend.; Cal. Const., art. I, § 13). But all these sources require as a predicate to establishing an invasion of privacy or unreasonable search that the person had an objectively reasonable expectation of privacy in the invaded place, conversation or data source. (See *Shulman v. Group W Productions, Inc.* (1998) 18 Cal.4th 200, 232 [74 Cal.Rptr.2d 843, 955 P.2d 469]; *Hill v. National Collegiate Athletic Assn.* (1994) 7 Cal.4th 1, 36-37 [26 Cal.Rptr.2d 834, 865 P.2d 633]; *Donaldson v. Superior Court* (1983) 35 Cal.3d 24, 28-30 [196 Cal.Rptr. 704, 672 P.2d 110].) Courts have generally found no reasonable expectation of privacy in jailhouse conversations for purposes of search and seizure law (see *Donaldson v. Superior Court*, at pp. 30-34; *U.S. v. Peoples* (8th Cir. 2001) 250 F.3d 630, 636-637), and this court itself had, prior to *De Lancie*, recognized the general rule that "an inmate of a jail or prison has no reasonable expectation of privacy" in conversations while incarcerated (*North v. Superior Court* *1013 (1972) 8 Cal.3d 301, 311 [104 Cal.Rptr. 833, 502 P.2d 1305, 57 A.L.R.3d 155]).

Nevertheless, the *De Lancie* majority rejected the rule stated in *North v. Superior Court*, *supra*, and other cases, because in its view "[t]o deny a right of privacy on the ground that inmates, disabused by prior decisions, have lost their normal expectation of privacy would defeat the purposes of the statutes." (*De Lancie*, *supra*, 31 Cal.3d at p. 876.) This reasoning simply begged the question. The effect of prior decisions on prisoners' *subjective* expectations aside, no *objectively* reasonable expectation of conversational privacy can be maintained in prison or jail because of the pervasive and constant monitoring to which incarcerated persons are subject. The *De Lancie* majority, unlike the dissenters, closed its eyes to that fundamental fact. In so doing, it erred.

For these reasons, I concur in the judgment.

MORENO, J., Concurring.

I agree with the majority that our decision in *De Lancie v. Superior Court* (1982) 31 Cal.3d 865 [183 Cal.Rptr. 866, 647 P.2d 142] (*De Lancie*) was superseded by the 1994 amendment to Penal Code section 2600 such that, subject to Penal Code section 636, [FN1] "California law now permits law enforcement officers to monitor and record unprivileged communications between inmates and their visitors to gather evidence of crime." (Maj. opn., *ante*, at p. 1010.) In this case, however, the Alameda County prosecutor, without a warrant, asked the Santa Rita jail authorities to monitor and record defendant's in-house jail conversations *and* her outbound telephone calls. I write separately to underscore that *federal* law, specifically, title III of federal Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. §§ 2510-2520) (the Act), still restricts the warrantless monitoring [FN2] of an inmate's outbound telephone calls.

FN1 Penal Code section 636, subdivision (a), makes it a felony to eavesdrop on, or secretly record, a detainee's or prisoner's conversation with his or her "attorney, religious adviser, or licensed physician."

FN2 Where authorities have the right to monitor, they also have the right to record. (See, e.g., *People v. Murphy* (1972) 8 Cal.3d 349, 360 [105 Cal.Rptr. 138, 503 P.2d 594].)

I

In *People v. Otto* (1992) 2 Cal.4th 1088 [9 Cal.Rptr.2d 596, 831 P.2d 1178], we recognized that the Act governs wiretapping violations in California. We stated: " 'The purpose of the [Act] ... was effectively to prohibit ... *all* interceptions of oral and wire communications, *except those specifically provided for in the Act* ....' " (*Otto*, *supra*, at p. 1100, quoting *United States v. Giordano* (1974) 416 U.S. 505, 514 [94 S.Ct. 1820, 1826, 40 *1014 L.Ed.2d 341].) The Act defines a " 'wire communication' " as "any aural transfer ... by the aid of wire, cable, or other like connection between the point of origin and the point of reception ... furnished or operated by a [common carrier] ...." (18 U.S.C. § 2510(1).) As common carriers operate outbound telephones, calls over such telephones are "wire communications." Internal jail phones, on the other hand, are not part of any public telephone system and are not furnished by a common carrier. As such, they are not covered by the Act. (See, e.g., *People v. Santos* (1972) 26 Cal.App.3d 397, 401-402 [102 Cal.Rptr. 678].)

The Act requires that a judicially authorized warrant be obtained before wiretapping can take place. (18 U.S.C. § 2518.) There are two exceptions to the warrant requirement: (1) where the interception is "by an investigative or law enforcement officer in the ordinary course of his duties" (18 U.S.C. § 2510(5)(a)(ii)); or (2) where "a person acting under color of law" wiretaps, and one party to the communication has given prior consent. (18 U.S.C. § 2511(2)(c).) Where the Act is violated, the remedy is suppression of the intercepted communication. (18 U.S.C. § 2515.)

In the seminal case of *United States v. Paul* (6th Cir. 1980) 614 F.2d 115, 61 A.L.R.Fed. 816 (*Paul*), the government took the broad view that the Act did not apply to the secret recording of outbound telephone calls originating from prison. (*Id.* at p. 116.) The *Paul* court rejected this argument and held that the Act did apply, but found that the prison wiretap was permissible under 18 United States Code section 2510(5)(a)(ii), the Act's "ordinary course of duties" exception, because (1) the monitoring was done pursuant to a policy statement issued by the Federal Bureau of Prisons; and (2) posted telephone rules gave the inmates "reasonable notice" that such monitoring might occur. (*Paul*,

supra, at p. 117)

In *U.S. v. Sababu* (7th Cir. 1989) 891 F.2d 1308, 1328-1329, the court found the ordinary course of duties exception applied where (1) the monitoring was conducted pursuant to an established prison policy; (2) monitoring notices were posted over each outbound telephone in English and Spanish; and (3) during orientation, the inmates were told that their outbound telephone conversations were subject to monitoring.

The federal courts have also found, under similar facts, that jailhouse wiretapping falls within 18 United States Code section 2511(2)(c) under an "implied consent" theory. For example, in *U.S. v. Amen* (2d Cir. 1987) 831 F.2d 373, 378-379, the court found "implied consent" where (1) the prisoner attended a lecture that outlined the prison's monitoring policy; (2) he received a copy of a handbook that stated that outbound telephone calls *1015 would be monitored; and (3) monitoring notices, in English and Spanish, were placed on each outbound telephone.

In *U.S. v. Van Poyck* (9th Cir. 1997) 77 F.3d 285, 291-292, the court found "implied consent" where (1) the defendant signed a form that warned him of the prison's monitoring and taping policy; (2) he was given a prison manual explaining possible recording; and (3) monitoring notices were posted by the outbound telephones.

It thus appears that the warrantless monitoring of an inmate's outbound telephone calls is prohibited by the Act, unless the inmate is given meaningful notice, such as by a signed acknowledgement form, a monitoring notice posted by the outbound telephone, or a recorded warning that is heard by the inmate through the telephone receiver, prior to his or her making the outbound telephone call.

II

In the case at bar, from March 26, 1996 through June 30, 1996, the Alameda County prosecutor requested that jail officials at the Santa Rita jail secretly record all of defendant's outbound phone calls to her friend, Ann Argabrite, and her brother, Philip Loyd. The prosecutor also requested that all of defendant's in-house nonattorney jail conversations be recorded. The prosecutor made these requests without the benefit of a warrant. There were no warning signs in the outbound telephone area indicating that calls might be recorded. While the outbound phone system was configured to play a taped warning, the system was malfunctioning in March and April of 1996 and became operative sometime in June of 1996. It was established in the trial court that, upon arrival, each inmate was given a copy of jail rules and regulations, but it was unknown whether Loyd actually received a pamphlet that contained a warning about the monitoring policy. However, the pamphlet typically contained such a warning. Finally, jail officials operated the telephone monitoring system according to an established monitoring policy

The Act was given short shrift at the trial court level. As stated by the Court of Appeal, "defendant placed no emphasis on it and never specifically informed the trial court that it might supply authorization to exclude the tapes." A review of the briefs before this court supports the Court of Appeal's statement. The trial court apparently made no factual findings as to specific dates that defendant's outbound calls were secretly recorded. Nor did the trial court determine if any particular recording was a product of an in-house jail conversation or an outbound telephone call. I therefore agree with the Court of Appeal that the Act was not properly raised. *1016

III

In *People v. Riel* (2000) 22 Cal.4th 1153 [96 Cal.Rptr.2d 1, 998 P.2d 969], we refused to exclude a secretly recorded in-house jail conversation, obtained in violation of *De Lancie*, under the truth-in-evidence provision (Cal. Const., art. I, § 28, subd. (d)), because " 'federal law [did] not bar its admission.' " (*Riel, supra*, at p. 1184, quoting *People v. Hines* (1997) 15 Cal.4th 997, 1043 [64 Cal.Rptr.2d 594, 938 P.2d 388].) A question left open in *Riel*, and resolved here, is whether a prosecutor's warrantless request for in-house jail monitoring constitutes prosecutorial misconduct. As noted, where this request is limited to the secret monitoring of internal jail phones, the request is appropriate. Where a prosecutor requests the monitoring of outbound telephone calls, however, any monitoring must comply with the provisions of the Act. Prosecutors who request such monitoring

have, at a minimum, an ethical obligation to ensure that such monitoring is in compliance with the Act. The demise of *De Lancie* does not signal a death knell for the protections afforded under federal law.

Kennard, J., concurred. *1017

Cal. 2002.

THE PEOPLE, Plaintiff and Respondent, v. CHRISTINE LOYD, Defendant and Appellant.

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Client Identifier: SARIA
Date of Request: 01/09/2003
e Current Database is CA-CS

Court of Appeal, First District, Division 5, California.

The PEOPLE, Plaintiff and Respondent,
v.
Tshombe KELLEY, Defendant and Appellant.

No. A093862.

Oct. 18, 2002.
Certified for Partial Publication. [FN*]

FN* Pursuant to California Rules of Court, rule 976(b)(1) and (3) the court orders publication of the introductory paragraph, Background, part III of the Discussion, and the Disposition of its opinion in People v. Kelley, A093862.

Rehearing Denied Nov 18, 2002.

Defendant was convicted in the Superior Court, Alameda County, No. C139184, Vernon Nakahara, J., of murder. Defendant appealed. The Court of Appeal, Gemello, J., held that wiretap of defendant's prison telephone conversations was not unlawful.

Affirmed.

West Headnotes

[1] Telecommunications ⇐493
372k493

Title III of the Omnibus Crime Control and Safe Streets Act protects an individual from all forms of wiretapping except when the statute specifically provides otherwise; the protections apply to prisoners and prison monitoring. 18 U.S.C.A. § 2511(2)(c).

[2] Telecommunications ⇐495
372k495

The legislative history of Title III of the Omnibus Crime Control and Safe Streets Act, which protects an individual from all forms of wiretapping except when the statute specifically provides otherwise, shows that Congress intended the consent requirement to be construed broadly 18 U.S.C.A. § 2510 et seq.

[3] Telecommunications ⇐495
372k495

Wiretap of defendant's telephone conversations while defendant was in prison was not unlawful; defendant had meaningful notice that telephone calls over the prison phones were subject to monitoring, his decision to engage in conversations over those phones constituted implied consent to that monitoring and made any wiretap lawful, and no judicial approval was required, as defendant "consented" to the recording of his conversations. 18 U.S.C.A. § 2511(2)(c); West's Ann.Cal.Penal Code §§ 629.50, 631(a).

****203 *854** Bill Lockyer, Attorney General, Robert R. Anderson, Chief Assistant Attorney General, Ronald A. Bass, Assistant Attorney General, Laurence K. Sullivan and Aileen Bunney, Deputy Attorneys General, for Plaintiff and Respondent.

Matthew Zwerling and J. Bradley O'Connell, under appointments by the Court of Appeal, for Defendant and Appellant.

***855** GEMELLO, J.

Tshombe Kelley appeals his conviction for first degree murder and sentence of 52 years to life, raising a variety of issues. Only one has merit: we agree that the prosecution should not have been permitted to cross- examine Kelley concerning prior unproven crimes. However, because any error in this regard was harmless in light of the considerable evidence against ****204** Kelley, we affirm the judgment in its entirety. [FN1]

FN1. Kelley has also filed a petition for writ of habeas corpus (A093862) related to this appeal. By separate order filed on this same date, we deny the petition.

BACKGROUND

On May 21, 2000, at 6:31 p.m., a 911 operator received a call that a man had been shot in the 4100 block of Mera Avenue in Oakland. The call came from Kelley's next-door neighbors, who heard shots coming from Kelley's house at 4126 Mera. While

the husband was on the phone, the wife saw the victim, Aaron Stewart, stooped over, walking up to a neighbor's porch. She went out to Stewart. He was unable to respond to questions. He died from multiple gunshot wounds in the back. The neighbors saw no one else in the area.

Another neighbor heard shots. She awakened the father of her children. He saw Stewart slumped outside their house, went outside, and saw Kelley outside in his yard. When he asked what happened, Kelley replied, "Dude tried to rob me. Give dude back his keys," and held out a set of keys.

Police arrived within two minutes. A few minutes later, an officer saw Kelley, sweating, through the screen door of Kelley's house. When the officer asked Kelley to talk to him, Kelley began to shake and announced, "I didn't shoot anybody "

Forensics tests found blood inside Kelley's gate. The blood was consistent with Stewart's. A bullet hole in the gate indicated that a shot had been fired from Kelley's doorway or porch. Kelley's right hand tested positive for gunshot residue, though in a quantity insufficient to establish that he had recently fired a gun. Neither the murder weapon nor any spent shells were found.

*856 The three adults at 4126 Mera were Kelley, his girlfriend Corrie Tridente, and Tridente's cousin, Cassandra Bugnatto. They were detained and questioned separately Bugnatto, who was away at a laundromat during the shooting, said that Stewart and Kelley had had a falling out over an affair between Tridente and Stewart. After initially denying that she knew Stewart, Tridente admitted that she had had an affair with Stewart. She said that when Stewart came by, Kelley got a gun and went out to meet him. She heard yelling and then gunshots. Kelley refused to speak with police without an attorney present. Early on the morning of the 22nd, he was charged with murder.

In September 2000, shortly before trial, the prosecution asked for Kelley's outbound calls from prison to be taped. Based on these tapes, the prosecution obtained a search warrant for Kelley's prison cell and Tridente's residence, which at the time of trial was her grandmother's home. The search yielded numerous letters between Kelley, Tridente, and others that formed a central part of the prosecution's case. In these letters, Kelley coached Tridente on what actions and testimony would be favorable and suggested testimony for Bugnatto. In an October 3 letter, he asked Tridente to refuse to testify, notwithstanding any court order, in the hope of suppressing her May 21 taped statements.

At trial, the prosecution introduced testimony from numerous witnesses that Tridente and Stewart had had an affair in 1999, and that Kelley threatened to harm or kill Stewart as a result. Stewart and Kelley were one-time friends; at some point after the affair, they partially reconciled.

In the spring of 2000, Kelley bought a car from Stewart. When it broke down **205 shortly thereafter, Kelley held off on paying Stewart. In late April, according to prosecution witnesses, Kelley went to Stewart's house, argued with Stewart, fired a gun in the air, and left. Kelley returned that day and aimed a gun at Stewart; according to some witnesses, the gun jammed, while according to another, it was not loaded and Kelley was just trying to scare Stewart. Kelley made further threats on Stewart's life.

On May 21, the day of the shooting, Bugnatto, a friend of both Stewart and Kelley, was babysitting Stewart's son at Kelley's house. Another mutual friend of Stewart and Kelley who was with Stewart that day, David Maldonado, testified that Stewart received a call to come pick up his son from Kelley's apartment. Stewart used Maldonado's car. Maldonado called Kelley immediately after Stewart left. Kelley asked whether Maldonado was with Stewart; Maldonado said no, implying that Stewart was coming alone.

Tridente was unwilling to testify and did so only after the court granted her immunity and ordered her to testify She repudiated her May 21 statements.

*857 Kelley testified in his own defense. He denied that he shot Stewart. Though he knew about the affair, he denied any lasting problems with Stewart. On the evening of the shooting, he and Tridente were at home when they heard shots. Kelley saw what looked like a white male go past his window He went outside, recognized Maldonado's car, and thought that someone must have tried to rob Maldonado. He said to his neighbor, not "Dude tried to rob me," but "

Someone tried to rob him." Only later, when he saw the body being taken away, did he realize that it was Stewart who had been shot.

A jury convicted Kelley of first degree murder (Pen.Code, § 187) and personal use of a firearm resulting in great bodily injury or death (Pen.Code, § 12022.53, subds.(c) and (d)), based on the Stewart shooting, as well as willfully discharging a firearm in a grossly negligent manner (Pen.Code, § 246.3), based on the late April incident where Kelley fired a gun in the air at Stewart's house. The court sentenced Kelley to 52 years to life.

Kelley has timely appealed.

DISCUSSION

I.-II. [FN**]

FN** See footnote *, *ante*.

III. *The Prosecution's Wiretap of Kelley's Jailhouse Conversations Was Legal*

The prosecution recorded Kelley's jailhouse telephone conversations and introduced portions of the transcripts, as well as evidence seized based on those conversations. Kelley challenges the wiretap under Title III of the Omnibus Crime Control and Safe Streets Act of 1968, 18 United States Code section 2510 et seq. ("Title III") and state law. We review these issues de novo. (*U.S. v. Van Poyck* (9th Cir.1996) 77 F.3d 285, 291.) We find no violation of either federal or state law.

[1] With certain limited exceptions, Title III prohibits the unauthorized interception of "any wire, oral, or electronic communication." (18 U.S.C. § 2511, subd. (1)(a).) Thus, "[i]t protects an individual from all forms of wiretapping except when the statute specifically provides otherwise." (*Abraham v. County of Greenville, S.C.* (4th Cir.2001) 237 F.3d 386, 389.) Those protections apply to prisoners and prison monitoring. (See, e.g., *U.S. v. Amen**858 (2d Cir.1987) 831 F.2d 373, 378.) Therefore, the recordings of Kelley were **206 obtained legally only if one of the statutory exceptions to the prohibition applies. The People argue that two of the specified exceptions, the consent and law enforcement exceptions, render its use of the recordings proper in this case. Because we agree that the consent exception applies, we need not address the law enforcement exception.

[2] Under Title III, "it shall not be unlawful ... for a person acting under color of law to intercept a wire, oral, or electronic communication, where ... one of the parties to the communication has given prior consent to such interception." (18 U.S.C. § 2511, subd. (2)(c).) "The legislative history of [Title III] shows that Congress intended the consent requirement to be construed broadly." (*Amen, supra,* 831 F.2d at p. 378; see S.Rep. No. 1097, 90th Cong., 2d Sess., reprinted in 1968 U.S.C.C.A.N. 2112, 2182.) Consistent with this intent, every federal circuit court to address the question has concluded that a prisoner who, while on notice that his telephone conversation is subject to taping, proceeds with the conversation, has given implied consent to that taping. (*U.S. v. Footman* (1st Cir.2000) 215 F.3d 145, 155; *U.S. v. Workman* (2d Cir.1996) 80 F.3d 688, 693-694; *U.S. v. Horr* (8th Cir.1992) 963 F.2d 1124, 1125-1126; *Van Poyck, supra,* 77 F.3d at p. 292; but see *U.S. v. Daniels* (7th Cir.1990) 902 F.2d 1238, 1244-1245 [criticizing other courts' broad views of consent but deciding case on another ground].)

Our Supreme Court's recent decision in *People v. Loyd* (2002) 27 Cal.4th 997, 119 Cal.Rptr.2d 360, 45 P.3d 296 demonstrates that at least two members of that court would agree with the views of these federal courts. While the majority found it unnecessary to reach the issue, Justice Moreno, joined by Justice Kennard, spelled out his agreement with the consensus interpretation of the circumstances sufficient to find implied consent by prisoners. (*Id.* at pp. 1014-1015, 119 Cal.Rptr.2d 360, 45 P.3d 296 [conc. op. of Moreno, J.].) We agree as well. So long as a prisoner is given meaningful notice that his telephone calls over prison phones are subject to monitoring, his decision to engage in conversations over those phones constitutes implied consent to that monitoring and takes any wiretap outside the prohibitions of Title III.

Kelley relies on two passages from earlier California Supreme Court decisions to argue that that court would take a different view of Title III than the federal courts. (*People v. Otto* (1992) 2 Cal.4th 1088, 1098-1099, fn. 7, 9 Cal.Rptr.2d 596, 831 P.2d 1178; *Halpin v. Superior Court* (1972) 6

Cal.3d 885, 900, fn. 21, 101 Cal.Rptr. 375, 495 P.2d 1295.) *Otto* and *Halpin* each suggest in footnotes that the protections of Title III apply even if a telephone caller has no reasonable expectation of privacy. While this may be so, it has *859 little bearing on our inquiry. The issue is not whether Kelley's calls were within the ambit of Title III as an initial matter; both sides agree that they were. Instead, the issue is whether any of the limited exceptions spelled out in Title III remove those calls from Title III's protections. On that point, *Otto* and *Halpin* are not instructive. We rely instead on *Loyd* and the developed federal consensus on the scope of the consent exception.

[3] That consent exception applies here. Kelley's housing unit had a warning sign above its telephones, which stated, "Telephone calls may be monitored and recorded." In addition, the prison phone system contained a warning at the beginning of each call stating that all calls were subject to monitoring or recording. Meaningful notice includes "a monitoring notice posted by the outbound telephone, or a **207 recorded warning that is heard by the inmate through the telephone receiver, prior to his or her making the outbound telephone call." (*Loyd, supra,* 27 Cal.4th at p. 1015, 119 Cal.Rptr.2d 360, 45 P.3d 296 [conc. op. of Moreno, J.].) Such notice is precisely the sort of notice previously found sufficient to hold that a prisoner has impliedly consented to monitoring. (See *Amen, supra,* 831 F.2d at p. 379; *Workman, supra,* 80 F.3d at p. 693; *Van Poyck, supra,* 77 F.3d at p. 292; *Horr, supra,* 963 F.2d at p. 1126.) Because Kelley had notice that his calls were subject to monitoring, he consented when he used the prison's phone system.

It is true that this rule presents prisoners with "a choice between unattractive options," limiting their contact with the outside world or submitting to government eavesdropping. (*Langton v. Hogan* (1st Cir.1995) 71 F.3d 930, 936.) However, there is no reason to believe Congress intended to draw the statute so narrowly as to exclude such prisoner choices from the notion of consent. (*Footman, supra,* 215 F.3d at p. 155.) The use of prison telephones is a privilege, not a right.

With respect to state law, our Supreme Court recently held that a prosecutor does not commit misconduct when he seeks the surreptitious recording of conversations between an imprisoned defendant and third parties, as the deputy district attorney did here. (*Loyd, supra,* 27 Cal.4th 997, 119 Cal.Rptr.2d 360, 45 P.3d 296.) Twenty years earlier, the same court held that such actions constituted misconduct. (*DeLancie v. Superior Court* (1982) 31 Cal.3d 865, 183 Cal.Rptr. 866, 647 P.2d 142.) However, *Loyd* concluded that intervening statutory amendments have abrogated *DeLancie.* (*Loyd, supra,* 27 Cal.4th at p. 1010, 119 Cal.Rptr.2d 360, 45 P.3d 296.)

Kelley concedes that *Loyd* disposes of his state law challenge to the wiretapping based on *DeLancie.* However, he raises a second state law challenge based on Penal Code section 629.50. We find no violation of that *860 statute either. Section 629.50 governs applications for judicial approval of wiretapping. No such approval was required here. California's wiretapping statutes, like Title III, do not apply to the monitoring and recording of conversations where one party consents. (Pen.Code, § 631, subd. (a) [prohibiting only "unauthorized" wiretap]; *People v. Canard* (1967) 257 Cal.App.2d 444, 463-464, 65 Cal.Rptr. 15.) Because Kelley consented to have his conversations monitored, the deputy district attorney did not need to seek judicial approval, and section 629.50 is inapplicable. The admission of tapes of Kelley's conversations, as well as the fruits of those tapes, was proper.

IV. *The Prosecution's Questioning About Unproven Prior Crimes Was Harmless Beyond a Reasonable Doubt in Light of All the Evidence* [FN***]

FN*** See footnote *, *ante.*

DISPOSITION

The judgment is affirmed.

We concur. JONES, P.J., and STEVENS, J.

127 Cal.Rptr.2d 203, 103 Cal.App.4th 853, 2 Cal. Daily Op. Serv 11,239, 2002 Daily Journal D.A.R. 13,031

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24-Hour State News

ACLU asks California to monitor FBI spying

Published 1:20 p.m. PDT Saturday, July 6, 2002

SAN FRANCISCO (AP) - The American Civil Liberties Union has urged state Attorney General Bill Lockyer to prevent FBI spying on political dissidents after recent revelations the agency had done so in the past.

In an open letter to Lockyer the ACLU's three state chapters urged Lockyer to enforce the state's right to privacy, adopted by voters in 1972.

The ACLU cited a recent story by the San Francisco Chronicle which detailed that the FBI had spied on student activists at the University of California, Berkeley in the 1960s.

U.S. Attorney General John Ashcroft announced guidelines May 30 allowing FBI agents to conduct surveillance in places that are open to the public, without evidence that those being watched have committed or are planning to commit crimes.

"California has drawn a line with respect to privacy, political and associational rights that government must not cross even with the best of intentions," the ACLU letter said. "Yet, some of the intelligence practices now openly encouraged by the new federal guidelines cross that long-standing state line."

The guidelines repealed rules imposed by President Gerald Ford that allowed FBI surveillance only during criminal investigations and after evidence of wrongdoing. President Bush claimed that those restrictions gave terrorists and advantage and pledged that the new FBI powers would not stifle speech or dissent.

The ACLU letter asked Lockyer to advise state and

local police that they were still bound by California's privacy law even when working with federal agents. Although the FBI is not bound by state laws, Lockyer should still "strongly encourage" federal agents to abide by the state's privacy laws when collecting information in the state.

Lockyer's office promised a prompt reply and said it was complying with state law in its post-Sept. 11 anti-terrorism projects, including the establishment of an information-sharing central database accessible to local, state and federal law enforcement.

"We have no intention of trampling Californians' privacy," spokeswoman Hallye Jordan told the San Francisco Chronicle.

The database includes only the names of those suspected of terrorism-related crimes or who are being investigated for such crimes based on evidence, Jordan said.

Information from: San Francisco Chronicle

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Office of the Attorney General
Washington, D.C. 20530

May 30, 2002

MEMORANDUM FOR THE HEADS AND INSPECTORS GENERAL
OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: THE ATTORNEY GENERAL

SUBJECT: Procedures for Lawful, Warrantless Monitoring of Verbal Communications

By Memorandum dated October 16, 1972, the Attorney General directed all federal departments and agencies to obtain Department of Justice authorization before intercepting verbal communications without the consent of all parties to the communication. This directive was clarified and continued in force by the Attorney General's Memorandum of September 22, 1980, to Heads and Inspectors General of Executive Departments and Agencies. It was then superseded, with new authorization procedures and relevant rules and guidelines, including limitations on the types of investigations requiring prior written approval by the Department of Justice, in the Attorney General's Memorandum of November 7, 1983.[1]

The Attorney General's Memorandum of January 20, 1998, superseded the aforementioned directives. It continued most of the authorization procedures established in the November 7, 1983, Memorandum, but reduced the sensitive circumstances under which prior written approval of senior officials of the Department of Justice's Criminal Division is required. At the same time, it continued to require oral authorization from Department of Justice attorneys, ordinarily local Assistant United States Attorneys, before the initiation of the use of consensual monitoring in all investigations not requiring prior written approval. In addition, that Memorandum reduced and eventually eliminated the reporting requirement imposed on departments and agencies. These changes reflected the results of the exercise of the Department's review function over many years, which showed that the departments and agencies had uniformly been applying the required procedures with great care, consistency, and good judgment, and that the number of requests for consensual monitoring that were not approved had been negligible.

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[1]As in all of the prior memoranda except for the one dated October 16, 1972, this memorandum only applies to the consensual monitoring of oral, nonwire communications, as discussed below. "Verbal" communications will hereinafter be referred to as oral.

This Memorandum updates and in some limited respects modifies the Memorandum of January 20, 1998. The changes are as follows:

First, Parts III.A.(8) and V. of the January 20, 1998, Memorandum required concurrence or authorization for consensual monitoring by the United States Attorney, an Assistant United States Attorney, or the previously designated Department of Justice attorney responsible for a particular investigation (for short, a "trial attorney"). This Memorandum provides instead that a trial attorney must advise that the monitoring is legal and appropriate. This continues to limit monitoring to cases in which an appropriate attorney agrees to the monitoring, but makes it clear that this function does not establish a supervisory role or require any involvement by the attorney in the conduct of the monitoring. In addition, for cases in which this advice cannot be obtained from a trial attorney for reasons unrelated to the legality or propriety of the monitoring, this Memorandum provides a fallback procedure to obtain the required advice from a designated attorney of the Criminal Division of the Department of Justice. Where there is an issue as to whether providing the advice would be consistent with applicable attorney conduct rules, the trial attorney or the designated Criminal Division attorney should consult with the Department's Professional Responsibility Advisory Office.

Second, Part V. of the Memorandum of January 20, 1998, required that an agency head or his or her designee give oral authorization for consensual monitoring, and stated that "[a]ny designee should be a high-ranking supervisory official at headquarters level." This rule was qualified by Attorney General Order No. 1623-92 of August 31, 1992, which, in relation to the Federal Bureau of Investigation (FBI), authorized delegation of this approval function to Special Agents in Charge. Experience has shown that the requirement of Special Agent in Charge approval can result in a loss of investigative opportunities because of an overly long approval process, and indicates that allowing approval by Assistant Special Agents in Charge would facilitate FBI investigative operations. Assistant Special Agents in Charge are management personnel to whom a variety of supervisory and oversight responsibilities are routinely given; generally, they are directly involved and familiar with the circumstances relating to the propriety of proposed uses of the consensual monitoring technique. Part V. is accordingly revised in this Memorandum to provide that the FBI Director's designees for purposes of oral authorization of consensual monitoring may include both Special Agents in Charge and Assistant Special Agents in Charge. This supersedes Attorney General Order No. 1623-92, which did not allow delegation of this function below the level of Special Agent in Charge.

Third, this Memorandum omits as obsolete Part VI. of the Memorandum of January 20, 1998. Part VI. imposed a reporting requirement by agencies concerning consensual monitoring but rescinded that reporting requirement after one year.

The Fourth Amendment to the United States Constitution, Title III of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (18 U.S.C. §2510, et seq.), and the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. §1801, et seq.) permit government agents,

acting with the consent of a party to a communication, to engage in warrantless monitoring of wire (telephone) communications and oral, nonwire communications. See United States v. White, 401 U.S. 745 (1971); United States v. Caceres, 440 U.S. 741 (1979). Similarly, the Constitution and federal statutes permit federal agents to engage in warrantless monitoring of oral, nonwire communications when the communicating parties have no justifiable expectation of privacy.[2] Because such monitoring techniques are particularly effective and reliable, the Department of Justice encourages their use by federal agents for the purpose of gathering evidence of violations of federal law, protecting informants or undercover law enforcement agents, or fulfilling other, similarly compelling needs. While these techniques are lawful and helpful, their use in investigations is frequently sensitive, so they must remain the subject of careful, self-regulation by the agencies employing them.

The sources of authority for this Memorandum are Executive Order No. 11396 ("Providing for the Coordination by the Attorney General of Federal Law Enforcement and Crime Prevention Programs"); Presidential Memorandum ("Federal Law Enforcement Coordination, Policy and Priorities") of September 11, 1979; Presidential Memorandum (untitled) of June 30, 1965, on, inter alia, the utilization of mechanical or electronic devices to overhear nontelephone conversations; the Paperwork Reduction Act of 1980 and the Paperwork Reduction Reauthorization Act of 1986, as amended; and the inherent authority of the Attorney General as the chief law enforcement officer of the United States.

I. DEFINITIONS

As used in this Memorandum, the term "agency" means all of the Executive Branch departments and agencies, and specifically includes United States Attorneys' Offices which utilize their own investigators, and the Offices of the Inspectors General.

As used in this Memorandum, the terms "interception" and "monitoring" mean the aural acquisition of oral communications by use of an electronic, mechanical, or other device. Cf. 18 U.S.C. § 2510(4).

As used in this Memorandum, the term "public official" means an official of any public entity of government, including special districts, as well as all federal, state, county, and municipal governmental units.

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[2]As a general rule, nonconsensual interceptions of wire communications violate 18 U.S.C. § 2511 regardless of the communicating parties' expectation of privacy, unless the interceptor complies with the court-authorization procedures of Title III of the Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. § 2510, et seq.) or with the provisions of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. § 1801 et seq.).

II. NEED FOR WRITTEN AUTHORIZATION

A. Investigations Where Written Department of Justice Approval is Required

A request for authorization to monitor an oral communication without the consent of all parties to the communication must be approved in writing by the Director or Associate Director of the Office of Enforcement Operations, Criminal Division, U.S. Department of Justice, when it is known that:

(1) the monitoring relates to an investigation of a member of Congress, a federal judge, a member of the Executive Branch at Executive Level IV or above, or a person who has served in such capacity within the previous two years;

(2) the monitoring relates to an investigation of the Governor, Lieutenant Governor, or Attorney General of any State or Territory, or a judge or justice of the highest court of any State or Territory, and the offense investigated is one involving bribery, conflict of interest, or extortion relating to the performance of his or her official duties;

(3) any party to the communication is a member of the diplomatic corps of a foreign country;

(4) any party to the communication is or has been a member of the Witness Security Program and that fact is known to the agency involved or its officers;

(5) the consenting or nonconsenting person is in the custody of the Bureau of Prisons or the United States Marshals Service; or

(6) the Attorney General, Deputy Attorney General, Associate Attorney General, any Assistant Attorney General, or the United States Attorney in the district where an investigation is being conducted has requested the investigating agency to obtain prior written consent before conducting consensual monitoring in a specific investigation.

In all other cases, approval of consensual monitoring will be in accordance with the procedures set forth in part V. below.

THE CITY OF
RALEIGH, NORTH CAROLINA

POST OFFICE BOX 590 • RALEIGH, NORTH CAROLINA 27602 • 919-996-3385

HARRY P. DOLAN
CHIEF OF POLICE

September 21, 2011

Katherine Lewis Parker
Legal Director
American Civil Liberties Union of North Carolina Foundation
Post Office Box 28004
Raleigh, North Carolina 27611-8004

Re: Request regarding cell phone location records

Dear Ms. Parker:

This will acknowledge receipt of your letter dated August 3, 2011 identified as a "Request Regarding Cell Phone Location Records."

Item #1: *Policies, procedures and practices you follow to obtain cell phone location records*

Any such items in the possession of our office in writing, if any, are enclosed with this letter. If no such items are enclosed, this office does not have any such items in writing.

Item #2: *Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared*

Retention of records is governed by the Records Retention and Disposition Schedule for Municipal Governments issued by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch. The most recent copy is dated May 19, 2009 and is located at:

http://www.records.ncdcr.gov/local/municipal_2009.pdf

Item #3: *The use of cell phone location records to identify "communities of interest (detailing those persons who have been called, or called by a target)" in investigations*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #4: *The use of cell phone location records to identify all of the cell phones at a particular location*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #5: *Your use of "digital fences" (systems whereby you are notified whenever a cell phone comes within a specific geographic area)*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #6: *The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #7: *Judicial decisions and orders ruling on your applications to obtain cell phone location records*

If any such documents are in the possession of our office, they are enclosed, except for any such documents that: (1) have been sealed by court order, (2) are protected by Article 16 of Chapter 15A of the North Carolina General Statutes, Electronic Surveillance Act, or (3) are search warrants that have not yet been served and returned to the Clerk of Court.

Item #8: *Statistics regarding your use of cell phone location records, including the number of*

emergency requests for which no court order was obtained

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1. If our office has previously compiled a list of such "statistics," the previously compiled statistics are enclosed. If none have been previously compiled, none are enclosed.

Item #9: *The form in which cell phone location records are provided (hard copy, through specific online databases)*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #10a: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including company manuals, pricing, and data access policies*

Any such items in the possession of our office are enclosed. If no such documents are enclosed, our office has no such items in our possession.

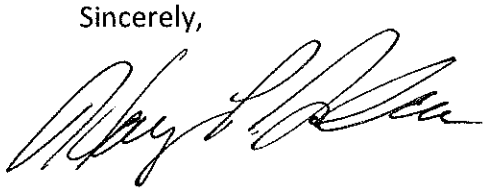
Item #10b: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including invoices reflecting payments for obtaining cell phone location records*

If any such "communications" or invoices are in our possession and not prohibited from disclosure by Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, they are enclosed but may have been redacted to remove any information pursuant to N.C. Gen. Stat. § 132.1.4 that is a "record of criminal investigation" or a "record of criminal intelligence information." If no such documents are enclosed, our office has no such items in our possession.

Item #10c: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including instances in which cell phone companies have refused to comply with a request or order*

If any such "communications" are in our possession and not prohibited from disclosure by Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, they are enclosed but may have been redacted to remove any information pursuant to N.C. Gen. Stat. § 132.1.4 that is a "record of criminal investigation" or a "record of criminal intelligence information." If no such documents are enclosed, our office has no such items in our possession.

Sincerely,



Harry P. Dolan

enclosure

Invoice Date: August 01, 2011

Invoice Number: 70787

Bill To:

RALEIGH PD 27616
[redacted]
4501-120 ATLANTIC AVE
RALEIGH NC 27616

at&t

National Compliance Center

Phone: 1-800-635-6840

Fax: 1-888-938-4715

EFT (Electronic Fund Transfer)
Tax ID Number - 91-1379052
D&B Number - 130598238 SUPO
Bank Name - Bank Of America
Bank Routing Number - 111000012
Bank Account Number - 3751632054

Cage Code
Cage Code - 3L6E3
D&B Number - 130598238 SUPO

Invoice

LEA TRACKING NUMBER(S).

File Code

962306.002

Court Issued Number:
LEA Tracking Number:

Component	Target Number	Description/Duration	Units/Days	Price	Amount
Surveillance Activation Fee	8581	7/22/11 - 7/26/11	1.0	$325.00	$325.00
Daily Surveillance Fee for Data Order	8581	7/22/11 - 7/26/11	4.0	$5.00	$20.00

Subtotal	**$345.00**
Payments Received	**- $0.00**
Total Due	**$345.00**

LME

deltacom™

Office of General Counsel
7037 Old Madison Pike
Suite 400
Huntsville, AL 35806

INVOICE

VIA: Email Attachment/U.S. Postal Mail
Deltacom Inc.
Attn: Doris Robinson
Legal Department
7037 Old Madison Pike, Suite 400
Huntsville, AL 35806
Phone: 256-382-3811

DATE: October 20, 2008
INVOICE # 112008

Bill To:

Re: Case No. PO8-119084

Attn: Madeline Fowler
Raleigh Police Department
Detective Division
110 South McDowell Street
Raleigh, NC 27606

DESCRIPTION	HOURS	RATE	AMOUNT
SERVICE:			$55
12788683 [redacted]			
Incoming/outgoing call details (LOC/LD) - above account (#s listed) - October 16, 2008 from 2030 hrs to 2130 hrs			
Requested by: **Detective** [redacted]			
		TOTAL	**$ 55.00**

Make all checks payable to Deltacom Inc.
Payments are accepted by Credit Cards.

THANK YOU!

phone 256 382 3843
fax 256 382 3936
www.deltacom.com
1 800 239 3000

INVOICE

verizon wireless

REMIT PAYMENT TO:
P.O. BOX 64498
BALTIMORE, MD 21264-4498

BILL TO:

Raleigh Police Dept
Det [redacted]
110 S. McDowell St
Raleigh, NC 27602

CONTACT INFO:

919-369-2534

CUSTOMER #	INVOICE #	INVOICE DATE:	INVOICE TOTAL
Pursuant to c/o0908	(CO) 8/14/08-187607	9/30/2008	$ 62.00

ITEM / DESCRIPTION	QTY	UNIT	NET PRICE
Cell site information on the following from 7/15-8/14/08			$ -
[redacted]	31	$ 1.00	$ 31.00
	31	$ 1.00	$ 31.00
Information sent 8/19/08			
Reference 18 U.S.C. 2518 for wire tap Reference 18 U.S.C. 3124 for pen register ***Description of service provided pursuant to court order***			

Comments:		
ANY QUESTIONS, PLEASE CALL: LAUREL O'ROURKE (908) 306-7538 (fax 908-306-7492)	*INVOICE TOTAL*	$ 62.00

Send This Stub Along With Payment

CUSTOMER #	INVOICE #		AMOUNT
Pursuant to c/o0908	(CO) 8/14/08-187607	REMIT PAYMENT TO: Verizon Wireless P.O. BOX 64498 BALTIMORE, MD 21264-4498	$ 62.00

INVOICE

verizon wireless

REMIT PAYMENT TO:
P.O. BOX 64498
BALTIMORE, MD 21264-4498

BILL TO:

Raleigh Police Dept
Det [redacted]
110 S McDowell St
Raleigh, NC 27602

CONTACT INFO:

919-890-3938
fax 3004

CUSTOMER #	INVOICE #	INVOICE DATE:	INVOICE TOTAL
Pursuant to c/o0908	(CO) 8/21/08-188586	9/30/2008	$ 45.00

ITEM / DESCRIPTION	QTY	UNIT	NET PRICE
Cell site information on [redacted] from 6/20-8/3/08 RPD case report [redacted] Information sent 8/25/08 Reference 18 U.S.C. 2518 for wire tap Reference 18 U.S.C. 3124 for pen register ***Description of service provided pursuant to court order***	45	$ 1.00	$ 45.00

Comments:		
ANY QUESTIONS, PLEASE CALL: LAUREL O'ROURKE (908) 306-7538 (fax 908-306-7492)	*INVOICE TOTAL*	$ 45.00

Send This Stub Along With Payment

CUSTOMER #	INVOICE #		AMOUNT
Pursuant to c/o0908	(CO) 8/21/08-188586	REMIT PAYMENT TO: Verizon Wireless P.O. BOX 64498 BALTIMORE, MD 21264-4498	$ 45.00

MetroPCS, Inc.
2250 Lakeside Blvd.
ATTN: Accounts Receivable
Richardson, TX 75082

Invoice Total: 50.00
Invoice Number: 29466
Invoice Date: 08-DEC-08
Customer ID: 5766

Attn: Accounts Payable
Raleigh Police Department
4501 Atlantic Ave.
Raleigh, NC 27604

Terms: DUE ON RECEIPT
Case Number: [redacted]
Request ID: 101245

Description	Target Number	Start Date	End Date	Quantity	Unit Price	Total
1 Detail Records	[redacted]	07/10/2008	08/22/2008	1	50.00	50.00

Make Checks Payable To / Remit To:
MetroPCS Wireless, Inc. (Please note the new Remit Address)
P.O. Box 842067
Dallas, TX 75284-2067

Customer ID	5766
Invoice Number	29466
Invoice Date	08-DEC-08
Invoice Total	50.00

Invoices are generated only after requested information has been sent to the agent by the preferred means of delivery. If you have not received the information for which you have been invoiced or have billing questions please contact Cheryl Browning at 214-570-4819. Please reference the Case/LERMS number for better assistance.

When Remitting a Payment, Please Reference the Case/LERMS Number Above.

THE CITY OF
RALEIGH, NORTH CAROLINA

POST OFFICE BOX 590 • RALEIGH, NORTH CAROLINA 27602 • 919-996-3385

HARRY P. DOLAN
CHIEF OF POLICE

September 21, 2011

Katherine Lewis Parker
Legal Director
American Civil Liberties Union of North Carolina Foundation
Post Office Box 28004
Raleigh, North Carolina 27611-8004

Re: Request regarding cell phone location records

Dear Ms. Parker:

This will acknowledge receipt of your letter dated August 3, 2011 identified as a "Request Regarding Cell Phone Location Records."

Item #1: *Policies, procedures and practices you follow to obtain cell phone location records*

Any such items in the possession of our office in writing, if any, are enclosed with this letter. If no such items are enclosed, this office does not have any such items in writing.

Item #2: *Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared*

Retention of records is governed by the Records Retention and Disposition Schedule for Municipal Governments issued by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch. The most recent copy is dated May 19, 2009 and is located at:

http://www.records.ncdcr.gov/local/municipal_2009.pdf

Item #3: *The use of cell phone location records to identify "communities of interest (detailing those persons who have been called, or called by a target)" in investigations*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #4: *The use of cell phone location records to identify all of the cell phones at a particular location*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #5: *Your use of "digital fences" (systems whereby you are notified whenever a cell phone comes within a specific geographic area)*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #6: *The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1. If it is intended to be a request for a public record, it is insufficiently specific to identify what record is being requested. Records relating to this issue that are a "record of criminal investigation" or a "record of criminal intelligence information" are not subject to public access under N.C. Gen. Stat. § 132-1.4 and do not have to be disclosed. If the request is revised to describe the specific records requested, we will review any records that correspond to the revised request to determine whether or not they may be released.

Item #7: *Judicial decisions and orders ruling on your applications to obtain cell phone location records*

If any such documents are in the possession of our office, they are enclosed, except for any such documents that: (1) have been sealed by court order, (2) are protected by Article 16 of Chapter 15A of the North Carolina General Statutes, Electronic Surveillance Act, or (3) are search warrants that have not yet been served and returned to the Clerk of Court.

Item #8: *Statistics regarding your use of cell phone location records, including the number of*

emergency requests for which no court order was obtained

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1. If our office has previously compiled a list of such "statistics," the previously compiled statistics are enclosed. If none have been previously compiled, none are enclosed.

Item #9: *The form in which cell phone location records are provided (hard copy, through specific online databases)*

This is a request for information and does not describe a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #10a: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including company manuals, pricing, and data access policies*

Any such items in the possession of our office are enclosed. If no such documents are enclosed, our office has no such items in our possession.

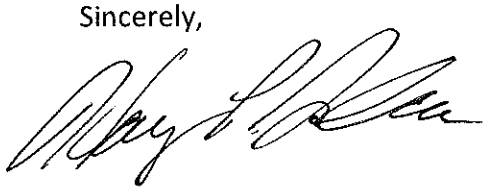
Item #10b: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including invoices reflecting payments for obtaining cell phone location records*

If any such "communications" or invoices are in our possession and not prohibited from disclosure by Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, they are enclosed but may have been redacted to remove any information pursuant to N.C. Gen. Stat. § 132.1.4 that is a "record of criminal investigation" or a "record of criminal intelligence information." If no such documents are enclosed, our office has no such items in our possession.

Item #10c: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including instances in which cell phone companies have refused to comply with a request or order*

If any such "communications" are in our possession and not prohibited from disclosure by Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, they are enclosed but may have been redacted to remove any information pursuant to N.C. Gen. Stat. § 132.1.4 that is a "record of criminal investigation" or a "record of criminal intelligence information." If no such documents are enclosed, our office has no such items in our possession.

Sincerely,



Harry P. Dolan

enclosure

Invoice Date: August 01, 2011

Invoice Number: 70787

Bill To:

RALEIGH PD 27616
[redacted]
4501-120 ATLANTIC AVE
RALEIGH NC 27616

at&t

National Compliance Center

Phone: 1-800-635-6840

Fax: 1-888-938-4715

EFT (Electronic Fund Transfer)
Tax ID Number - 91-1379052
D&B Number - 130598238 SUPO
Bank Name - Bank Of America
Bank Routing Number - 111000012
Bank Account Number - 3751632054

Cage Code
Cage Code - 3L6E3
D&B Number - 130598238 SUPO

Invoice

LEA TRACKING NUMBER(S).

File Code

962306.002

Court Issued Number:
LEA Tracking Number:

Component	Target Number	Description/Duration	Units/Days	Price	Amount
Surveillance Activation Fee	8581	7/22/11 - 7/26/11	1.0	$325.00	$325.00
Daily Surveillance Fee for Data Order	8581	7/22/11 - 7/26/11	4.0	$5.00	$20.00

Subtotal	**$345.00**
Payments Received	**- $0.00**
Total Due	**$345.00**

LME

deltacom

Office of General Counsel
7037 Old Madison Pike
Suite 400
Huntsville, AL 35806

VIA: Email Attachment/U.S. Postal Mail
Deltacom Inc.
Attn: Doris Robinson
Legal Department
7037 Old Madison Pike, Suite 400
Huntsville, AL 35806
Phone: 256-382-3811

DATE: October 20, 2008
INVOICE # 112008

Bill To:

Re: Case No. PO8-119084

Attn: Madeline Fowler
Raleigh Police Department
Detective Division
110 South McDowell Street
Raleigh, NC 27606

DESCRIPTION	HOURS	RATE	AMOUNT
SERVICE:			$55
12788683 [redacted]			
Incoming/outgoing call details (LOC/LD) - above account (#s listed) - October 16, 2008 from 2030 hrs to 2130 hrs			
Requested by: **Detective** [redacted]			
		TOTAL	$ 55.00

Make all checks payable to Deltacom Inc.
Payments are accepted by Credit Cards.

THANK YOU!

phone 256 382 3843
fax 256 382 3936
www.deltacom.com
1 800 239 3000

INVOICE

verizon wireless

REMIT PAYMENT TO:
P.O. BOX 64498
BALTIMORE, MD 21264-4498

BILL TO:

Raleigh Police Dept
Det [redacted]
110 S. McDowell St
Raleigh, NC 27602

CONTACT INFO:

919-369-2534

CUSTOMER #	INVOICE #	INVOICE DATE:	INVOICE TOTAL
Pursuant to c/o0908	(CO) 8/14/08-187607	9/30/2008	$ 62.00

ITEM / DESCRIPTION	QTY	UNIT	NET PRICE
Cell site information on the following from 7/15-8/14/08			$ -
[redacted]	31	$ 1.00	$ 31.00
	31	$ 1.00	$ 31.00
Information sent 8/19/08			
Reference 18 U.S.C. 2518 for wire tap Reference 18 U.S.C. 3124 for pen register ***Description of service provided pursuant to court order***			

Comments:		
ANY QUESTIONS, PLEASE CALL: LAUREL O'ROURKE (908) 306-7538 (fax 908-306-7492)	*INVOICE TOTAL*	$ 62.00

Send This Stub Along With Payment

CUSTOMER #	INVOICE #		AMOUNT
Pursuant to c/o0908	(CO) 8/14/08-187607	REMIT PAYMENT TO: Verizon Wireless P.O. BOX 64498 BALTIMORE, MD 21264-4498	$ 62.00

INVOICE

verizon wireless

REMIT PAYMENT TO:
P.O. BOX 64498
BALTIMORE, MD 21264-4498

BILL TO:

Raleigh Police Dept
Det [redacted]
110 S McDowell St
Raleigh, NC 27602

CONTACT INFO:

919-890-3938
fax 3004

CUSTOMER #	INVOICE #	INVOICE DATE:	INVOICE TOTAL
Pursuant to c/o0908	(CO) 8/21/08-188586	9/30/2008	$ 45.00

ITEM / DESCRIPTION	QTY	UNIT	NET PRICE
Cell site information on [redacted] from 6/20-8/3/08 RPD case report [redacted] Information sent 8/25/08 Reference 18 U.S.C. 2518 for wire tap Reference 18 U.S.C. 3124 for pen register ***Description of service provided pursuant to court order***	45	$ 1.00	$ 45.00

Comments:		
ANY QUESTIONS, PLEASE CALL: LAUREL O'ROURKE (908) 306-7538 (fax 908-306-7492)	*INVOICE TOTAL*	$ 45.00

Send This Stub Along With Payment

CUSTOMER #	INVOICE #		AMOUNT
Pursuant to c/o0908	(CO) 8/21/08-188586	REMIT PAYMENT TO: Verizon Wireless P.O. BOX 64498 BALTIMORE, MD 21264-4498	$ 45.00

MetroPCS, Inc.
2250 Lakeside Blvd.
ATTN: Accounts Receivable
Richardson, TX 75082

Invoice Total: 50.00
Invoice Number: 29466
Invoice Date: 08-DEC-08
Customer ID: 5766

Attn: Accounts Payable
Raleigh Police Department
4501 Atlantic Ave.
Raleigh, NC 27604

Terms: DUE ON RECEIPT
Case Number: [redacted]
Request ID: 101245

Page: 1 of 1

Description	Target Number	Start Date	End Date	Quantity	Unit Price	Total
1 Detail Records	[redacted]	07/10/2008	08/22/2008	1	50.00	50.00

Make Checks Payable To / Remit To:
MetroPCS Wireless, Inc. (Please note the new Remit Address)
P.O. Box 842067
Dallas, TX 75284-2067

Customer ID	5766
Invoice Number	29466
Invoice Date	08-DEC-08
Invoice Total	50.00

Invoices are generated only after requested information has been sent to the agent by the preferred means of delivery. If you have not received the information for which you have been invoiced or have billing questions please contact Cheryl Browning at 214-570-4819. Please reference the Case/LERMS number for better assistance.

When Remitting a Payment, Please Reference the Case/LERMS Number Above.

MetroPCS, Inc.
2250 Lakeside Blvd.
ATTN: Accounts Receivable
Richardson, TX 75082

Invoice Total: 50.00
Invoice Number: 25606
Invoice Date: 05-SEP-08
Customer ID: 5766

Attn: Accounts Payable
Raleigh Police Department
601-104 Hutton St.
Raleigh, NC 27606

Terms: DUE ON RECEIPT
Case Number: [redacted]
Request ID: 89082

Description	Target Number	Start Date	End Date	Quantity	Unit Price	Total
ıll Detail Records	[redacted]	03/01/2008	04/01/2008	1	50.00	50.00

Make Checks Payable To / Remit To:
MetroPCS Wireless, Inc. (Please note the new Remit Address)
P.O. Box 842067
Dallas, TX 75284-2067

Customer ID	5766
Invoice Number	25606
Invoice Date	05-SEP-08
Invoice Total	50.00

nvoices are generated only after requested information has been sent to the agent by the preferred means of delivery. If you
ıave not received the information for which you have been invoiced or have billing questions please contact
Daryl Browning at 214-570-4819. Please reference the Case/LERMS number for better assistance.
When Remitting a Payment, Please Reference the Case/LERMS Number Above.

oice Date: July 17, 2009

Invoice Number: 40898

Bill To:

RALEIGH PD TARU 27602
[redacted]
110 S MCDOWELL ST
PO BOX 590
RALEIGH NC 27602

at&t

National Compliance Center

Phone: 1-800-635-6840

Fax: 1-888-938-4715

PO BOX 24679
WEST PALM BEACH, FL
33416-4679

EFT (Electronic Fund Transfer)
Tax ID Number - 91-1379052
D&B Number - 130598238 SUPO
Bank Name - Bank Of America
Bank Routing Number - 111000012
Bank Account Number - 3751632054

Cage Code
Cage Code - 3L6E3
D&B Number - 130598238 SUPO

Invoice

File Code

607043.001

Court Issued Number:

LEA Tracking Number:

Component	Target Number	Description/Duration	Units/Days	Price	Amount
Location Activation Fee	6690	7/16/09	1.0	$100.00	$100.00
Location Daily Fee	6690	7/16/09	1.0	$25.00	$25.00

Subtotal	**$125.00**
Payments Received	**- $0.00**
Total Due	**$125.00**

IMS

[redacted]

Invoice Date: June 23, 2009

Invoice Number: 40087

Bill To:

[redacted]ARU 27601
[redacted]
110 S MCDOWELL ST
RALEIGH NC 27601

at&t

National Compliance Center

Phone: 1-800-635-6840

Fax: 1-888-938-4715

PO BOX 24679
WEST PALM BEACH, FL
33416-4679

EFT (Electronic Fund Transfer)
Tax ID Number - 91-1379052
D&B Number - 130598238 SUPO
Bank Name - Bank Of America
Bank Routing Number - 111000012
Bank Account Number - 3751632054

Cage Code
Cage Code - 3L6E3
D&B Number - 130598238 SUPO

Invoice

File Code

585739

Court Issued Number:

LEA Tracking Number:

Component	Target Number	Description/Duration	Units/Days	Price	Amount
Surveillance Activation Fee	0561	5/26/09 - 6/15/09	1.0	$325.00	$325.00
Daily Surveillance Fee for Data Order	0561	5/26/09 - 6/15/09	20.0	$5.00	$100.00

Subtotal $425.00

Payments Received - $0.00

Total Due $425.00

YAB

Invoice Date: June 09, 2009

Invoice Number: 39740

Bill To:

RALEIGH PD 27602
[redacted]
110 S MCDOWELL ST
RALEIGH NC 27602

at&t

National Compliance Center

Phone: 1-800-635-6840

Fax: 1-888-938-4715

PO BOX 24679
WEST PALM BEACH, FL
33416-4679

EFT (Electronic Fund Transfer)
Tax ID Number - 91-1379052
D&B Number - 130598238 SUPO
Bank Name - Bank Of America
Bank Routing Number - 111000012
Bank Account Number - 3751632054

Cage Code
Cage Code - 3L6E3
D&B Number - 130598238 SUPO

Invoice

File Code

582784

Court Issued Number:

LEA Tracking Number:

Component	Target Number	Description/Duration	Units/Days	Price	Amount
Location Activation Fee	0561	5/18/09 - 6/9/09	1.0	$100.00	$100.00
Location Daily Fee	0561	5/18/09 - 6/9/09	22.0	$25.00	$550.00

Subtotal	$650.00
Payments Received	- $0.00
Total Due	$650.00

CDU

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

POLICE DEPT:RALEIGH
[redacted]
110 SOUTH MCDOWELL ST
RALEIGH, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST09058099
Bill Number:	GSB0905418
Date of Bill:	2009-5-26
Total Amount Due:	$50.00
Pay By:	2009-7-25

Please detach and return top portion with payment

at&t

AT&T Number: BST09058099 Bill Number: GSB0905418 Date of Bill: 2009-5-26

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

POLICE DEPT:RALEIGH
[redacted]
110 S MCDOWELL ST
RALEIGH, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST09057914
Bill Number:	GSB0905385
Date of Bill:	2009-5-22
Total Amount Due:	$50.00
Pay By:	2009-7-21

Please detach and return top portion with payment

at&t

AT&T Number: BST09057914 Bill Number: GSB0905385 Date of Bill: 2009-5-22

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

RALEIGH POLICE DEPT.
[redacted]
P.O. BOX 590
RALEIGH, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST09047139
Bill Number:	GSB0904571
Date of Bill:	2009-4-9
Total Amount Due:	$50.00
Pay By:	2009-6-8

Please detach and return top portion with payment

---

at&t

AT&T Number: BST09047139 Bill Number: GSB0904571 Date of Bill: 2009-4-9

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Department
[redacted]
1221 Front Street
Raleigh, NC 27609

Federal Tax number:	580436120
Subpoena Number:	BST09036303
Bill Number:	GSB0903076
Date of Bill:	2009-3-3
Total Amount Due:	$50.00
Pay By:	2009-5-2

Please detach and return top portion with payment

---

at&t

AT&T Number: BST09036303 Bill Number: GSB0903076 Date of Bill: 2009-3-3

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

POLICE DEPT:RALEIGH
[redacted]
110 S MCDOWELL ST
RALEIGH, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST09015297
Bill Number:	GSB0901448
Date of Bill:	2009-1-15
Total Amount Due:	$50.00
Pay By:	2009-3-16

Please detach and return top portion with payment

---

at&t

AT&T Number: BST09015297 Bill Number: GSB0901448 Date of Bill: 2009-1-15

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

VALID LEGAL PROCESS
NOTIFICATION OF CALL DETAIL REPORT CHARGES

AT&T Services, Inc. - Subpoena Center
One AT&T Plaza, 10th Floor
208 S. Akard
Dallas, Texas 75202

Jan 14, 2009 14:17:23

[redacted]
RALEIGH POLICE DEPT
PO BOX 590

RALEIGH, NC 27602

REF: S-2009-01-13-212 CASE NUMBER: ORDER/BST09015297
AT&T SOUTHEAST TAX ID#: 58-0436120

This is to acknowledge receipt of your legal process regarding the above referenced matter.

PHONE NUMBER	FROM DATE	THRU DATE	ORIG/TERM
[redacted]	11/29/2008	12/29/2008	BOTH

We do not maintain records of all incoming and local calls for all subscriber's accounts. In certain circumstances, such records could be created and maintained for a period of time, but the absence of a record of such a call will not be conclusive as to whether any call was or was not placed or received. We cannot know whether such records exist in this situation until we conduct such a search. The fee to conduct this search is $50.00 per hour or part thereof (minimum 1 hour billing).

If you wish AT&T SOUTHEAST to conduct this search, please remit payment for $ 50.00.

Please contact us within 24 hours at 800-291-4952 if you wish to narrow the scope of your request or cancel it.

Make check payable to AT&T, and mail to:
P.O. Box 16649, Atlanta, GA 30321
PLEASE INCLUDE REFERENCE# S-2009-01-13-212 AND INVOICE# WITH PAYMENT.

Should you have questions regarding this matter, please call our office at 2142682145.

Sincerely,

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Dept
[redacted]
P. O. Box 590
Raleigh, NC 27602

Federal Tax number: 580436120
Subpoena Number: BST08124727
Bill Number: GSB0812425
Date of Bill: 2008-12-26
Total Amount Due: $50.00
Pay By: 2009-2-24

Please detach and return top portion with payment

at&t

AT&T Number: BST08124727 Bill Number: GSB0812425 Date of Bill: 2008-12-26

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Dept
[redacted]
P. O. Box 590
Raleigh, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST08124641
Bill Number:	GSB0812392
Date of Bill:	2008-12-23
Total Amount Due:	$50.00
Pay By:	2009-2-21

Please detach and return top portion with payment

---

at&t

AT&T Number: BST08124641 Bill Number: GSB0812392 Date of Bill: 2008-12-23

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

[redacted]

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Dept
[redacted]
110 S. McDowell Street
Raleigh, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST08113995
Bill Number:	GSB0811719
Date of Bill:	2008-11-24
Total Amount Due:	$50.00
Pay By:	2009-1-23

Please detach and return top portion with payment

[redacted]

AT&T Number: BST08113995 Bill Number: GSB0811719 Date of Bill: 2008-11-24

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

[redacted]

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Department District 26
[redacted]
601-104 Hutton STreet
Raleigh, North Carolina 27606

Federal Tax number:	580436120
Subpoena Number:	BST08113546
Bill Number:	GSB0811151
Date of Bill:	2008-11-7
Total Amount Due:	$50.00
Pay By:	2009-1-6

Please detach and return top portion with payment

[redacted]

AT&T Number: BST08113546 Bill Number: GSB0811151 Date of Bill: 2008-11-7

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00
Total Amount Due:	$50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

COPY

at&t

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Department
[redacted]
1221 Front Street
Raleigh, NC 27609

Federal Tax number:	580436120
Subpoena Number:	BST08103015
Bill Number:	GSB0810429
Date of Bill:	2008-10-24
Total Amount Due:	$50.00
Pay By:	2008-12-22

Please detach and return top portion with payment

at&t

AT&T Number: BST08103015 Bill Number: GSB0810429 Date of Bill: 2008-10-24

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

Case # [redacted]

Assigned to [redacted]

[redacted]

Forward Payment To: AT&T Southeast
PO Box 16649
Atlanta, GA 30321

Raleigh Police Dept
[redacted]
PO Box 590
Raleigh, NC 27602

Federal Tax number:	580436120
Subpoena Number:	BST08103019
Bill Number:	GSB0810330
Date of Bill:	2008-10-18
Total Amount Due:	$50.00
Pay By:	2008-12-16

Please detach and return top portion with payment

[redacted]

AT&T Number: BST08103019 Bill Number: GSB0810330 Date of Bill: 2008-10-18

This is to bill you for research, retrieval, and reproduction of records pertaining to the above captioned subpoena.

ITEM	RATE
Processing Fee for 1 hours at $50/hour	50.00

Total Amount Due: $50.00

If you do not include a copy of the invoice or furnish the complete seven digit GSB number and/or complete eight digit BST number we cannot process your payment.

cricket

Another Leap Innovation

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 140157
Invoice Date: Tuesday, July 28, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept. Attn: [redacted] PO Box 590 Raleigh, NC 27602 P: [redacted] F: [redacted]
[redacted]

REMIT TO:
Cricket Communications, Inc.
P.O. Box 202650
Dallas, TX 75230-2650

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	

If you have any questions regarding this invc
Janet Schwabe at (858) 882-6258 or jschwabe@cri

PUT INVOICE NUMBER ON PAYMENT TO ENS

cricket
Another Leap Innovation

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 136496
Invoice Date: Wednesday, June 17, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
Attn: [redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 136471
Invoice Date: Wednesday, June 17, 2009

RE: [redacted]

BILL TO:
1 day exp
Raleigh Police Dept.
Attn: [redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	3	$5 per phone number or name look up	15.00
Call History	3	$50 per phone number for up to 2 months of records. Over two months billed at 2X	150.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
Expedite Fee			100.00
		TOTAL AMOUNT DUE	**$265.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 135469
Invoice Date: Tuesday, June 09, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 135294
Invoice Date: Monday, June 08, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 135276
Invoice Date: Monday, June 08, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
Attn: [redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 135046
Invoice Date: Friday, June 05, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
PO Box 590
Raleigh, NC 27602
P: 919-890-3972
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	100.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$105.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 135045
Invoice Date: Friday, June 05, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
PO Box 590
Raleigh, NC 27602
P: 919-890-3972
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 133828
Invoice Date: Wednesday, May 27, 2009

RE: [redacted]

BILL TO:
1 day expedite
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	2	$5 per phone number or name look up	10.00
Call History	2	$50 per phone number for up to 2 months of records. Over two months billed at 2X	100.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
Expedite Fee			100.00
		TOTAL AMOUNT DUE	**$210.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 132557
Invoice Date: Tuesday, May 12, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 130279
Invoice Date: Friday, April 17, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
4501 Atlantic Avenue
Raleigh, NC 27604

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

cricket

Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 130188
Invoice Date: Thursday, April 16, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or **jschwabe@cricketcommunications.com**.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 129624
Invoice Date: Monday, April 13, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept
[redacted]
PO Box 590
Raleigh, NC 27602
P 919-996-1065
F 919-996-7219
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 126614
Invoice Date: Tuesday, March 17, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	100.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$105.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 123916
Invoice Date: Wednesday, February 18, 2009

RE: [redacted]

BILL TO:
Reduced CDR Fee
Raleigh Police Department
[redacted]
1200 Front Street
Raleigh, NC
P: 919-854-2235
F: 919-854-2401
Robert.powell@ci.raleigh.nc.us

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	0	$5 per phone number or name look up	
Call History	2	$50 per phone number for up to 2 months of records. Over two months billed at 2X	30.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$30.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 123524
Invoice Date: Friday, February 13, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 123483
Invoice Date: Friday, February 13, 2009

RE: [redacted] SPECIAL CDR RATE SINCE ONLY 2 DAYS

BILL TO:

Raleigh Police Department
District 23
[redacted]
1501 Atlantic Avenue
Suite 124
Raleigh, NC 27604

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$10 per phone number for up to 2 months of records. Over two months billed at 2X	10.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$15.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

Case #
P08-140578

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 122605
Invoice Date: Thursday, February 05, 2009

RE: [redacted]

BILL TO:
Reduced CDR Fee
Raleigh Police Dept.
[redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	15.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$20.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 119896
Invoice Date: Wednesday, January 07, 2009

RE: [redacted]

BILL TO:
Raleigh Police Dept.
Attn: [redacted]
110 South McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or **jschwabe@cricketcommunications.com.**

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

owler, Madeline

From: [redacted]
Sent: Tuesday, December 09, 2008 1:43 PM
To: Fowler, Madeline
Subject: Cricket invoice for Case #[redacted]

cricket
Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 117270
Invoice Date: Tuesday, December 09, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept
[redacted]
8016 Glenwood Ave
Raleigh, NC 27612
P 919-420-2310
F 919-420-2405
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact
Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.
PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

12/9/2008

cricket

Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 117055
Invoice Date: Friday, December 05, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
PO Box 590
Raleigh, NC 27602
P: 919-890-3972
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 116900
Invoice Date: Thursday, December 04, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 115262
Invoice Date: Thursday, November 13, 2008

RE: [redacted]

BILL TO:
Raleigh Police Department
District 23
[redacted]
1501 Atlantic Avenue
Suite 124
Raleigh, NC 27604
P: 919-713-4247
F: 919-713-4196
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 113548
Invoice Date: Wednesday, October 22, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept
[redacted]
1601-30 Crosslink Rd
Raleigh, NC 27610
P 919-807-8541
F 919-857-4463
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	$55.00

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 110865
Invoice Date: Thursday, September 25, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-890-3939
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or **jschwabe@cricketcommunications.com**.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

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Another Leap Innovation™

Cricket Communications
10307 Pacific Center Court
San Diego, CA 92121-4340
(858)-882-9301

INVOICE
Invoice Number: 110081
Invoice Date: Wednesday, September 17, 2008

RE: [redacted]

BILL TO:
Raleigh Police Dept.
[redacted]
110 S McDowell Street
Raleigh, NC 27602
P: 919-524-3671
F: 919-890-3004
[redacted]

REMIT TO:
Subpoena Compliance Manager
Cricket Communications, Inc.
10307 Pacific Center Court
San Diego, CA 92121

Information/Service Requested	Quantity Requested	Unit Price	Amount
Subscriber Information Only	1	$5 per phone number or name look up	5.00
Call History	1	$50 per phone number for up to 2 months of records. Over two months billed at 2X	50.00
Wire Tap	0	$2200 per phone number per Court order or Court order renewal	
Pen Register	0	$2200 per phone number per Court order or Court order renewal	
		TOTAL AMOUNT DUE	**$55.00**

If you have any questions regarding this invoice, please contact Janet Schwabe at (858) 882-6258 or jschwabe@cricketcommunications.com.

PUT INVOICE NUMBER ON PAYMENT TO ENSURE PROPER CREDIT.

Sprint

Bill Date: 07/08/2009
Payment Due Date: 10/06/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-101449

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
ecision Location (L-Site GPS Pings) [redacted]	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

Sprint

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-035903
Bill Date: 07/08/2009
Reference # [redacted]

8000001028

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000066 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0359030 00000000030007

Subpoena Compliance

Invoice # LCI-035689
Bill Date: 07/07/2009
Payment Due Date: 10/05/2009
CBO: CORP
Reference # Q
Sprint Case # 2009-097666

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted]L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00
				Total Amount Due:	**$30.00**

Bill For [redacted].

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-035689
Bill Date: 07/07/2009
Reference # Q

8000001028

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000064 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0356899 0000000000030006

Sprint

Subpoena Compliance

Invoice # LCI-034016
Bill Date: 06/12/2009
Payment Due Date: 09/10/2009
CBO: CORP
Reference #
Sprint Case # 2009-100122

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
ATTN: WILLIAM NORDSTROM
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted](L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

[redacted]

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-034016
Bill Date: 06/12/2009
Reference #

800000103B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000060 01 SP 0.440
RALEIGH POLICE DEPARTMENT
ATTN: WILLIAM NORDSTROM
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0340166 00000000030003

Subpoena Compliance

Sprint

[redacted]

Invoice # LCI-033912
Bill Date: 06/11/2009
Payment Due Date: 09/09/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-091556

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245 [redacted]

scription	Flat Fee	Unit Rate	Units	UOM	Total
[redacted](L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00
			Total Amount Due:		**$30.00**

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-033912
Bill Date: 06/11/2009
Reference # [redacted]

8000001038

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000058 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0339122 0000000000030009

Sprint

Invoice # LCI-033946
Bill Date: 06/11/2009
Payment Due Date: 09/09/2009
CBO: CORP
Reference #
Sprint Case # 2009-069613

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted] Precision Location (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-033946
Bill Date: 06/11/2009
Reference #

8000001038

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000059 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0339465 0000000000030002

Sprint

Subpoena Compliance

Invoice # LCI-033718
Bill Date: 6/10/2009
Payment Due Date: 9/8/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-097088

Raleigh Police Department
Attn: Jerry Faulk
110 S. McDowell Street
Raleigh NC 27602

PLEASE MAKE CHECK PAYABLE TO:
SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID # 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
xt Message Retrieval : [redacted]	$30.00		1	Item	$30.00

Total Amount Due: $30.00

To insure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Sprint

Invoice # LCI-033718
Bill Date: 6/10/2009
Reference # P09-043821

Amount Due
$30.00

Amount Remitted

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Raleigh Police Department
Attn: Jerry Faulk
110 S. McDowell Street
Raleigh NC 27602

LCI0337188 0000000000030005

Subpoena Compliance

Sprint

Invoice # LCI-032460
Bill Date: 05/29/2009
Payment Due Date: 08/27/2009
CBO: CORP
Reference #
Sprint Case # 2009-089480

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

[redacted]

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Precision Location [redacted] (L-Site Pings)	$0.00	$30.00	1	ITEM	$30.00
Precision Location [redacted] (L-Site Pings)	$0.00	$30.00	1	ITEM	$30.00
				Total Amount Due:	$60.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-032460
Bill Date: 05/29/2009
Reference #

8000001018

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due $60.00

Amount Remitted

***SNGLP**MIXED AADC 956
000000143 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0324605 0000000000060009

Subpoena Compliance

Sprint

Invoice # LCI-032462
Bill Date: 05/29/2009
Payment Due Date: 08/27/2009
CBO: CORP
Reference # Q
Sprint Case # 2009-076908

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

[redacted]

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

escription	Flat Fee	Unit Rate	Units	UOM	Total
cision Location [redacted] (L-Site Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-032462
Bill Date: 05/29/2009
Reference # Q

800000101B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000144 01 SP 0.440
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0324623 0000000000030000

Sprint

Subpoena Compliance

Invoice # LCI-032346
Bill Date: 5/28/2009
Payment Due Date: 8/26/2009
CBO: CORP
Reference # NONE PROVIDED
Sprint Case # 2009-100766

Raleigh Police Department
110 S. McDowell Street
Raleigh NC 27602

[redacted]

PLEASE MAKE CHECK PAYABLE TO:
SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID # 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
cemail Access : [redacted]	$60.00		1	Item	$60.00
cemail Access : [redacted]	$60.00		1	Item	$60.00
t Message Retrieval: [redacted]		$30.00	1	Item	$30.00
t Message Retrieval: [redacted]		$30.00	1	Item	$30.00
t Message Retrieval : [redacted]		$30.00	1	Item	$30.00
t Message Retrieval : [redacted]		$30.00	1	Item	$30.00

Total Amount Due: $240.00

To insure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Sprint

Invoice # LCI-032346
Bill Date: 5/28/2009
Reference # NONE PROVIDED

Amount Due
$240.00

Amount Remitted

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Raleigh Police Department
110 S. McDowell Street
Raleigh NC 27602

LCI0323462 0000000000240006

Sprint

Invoice # LCI-030525
Bill Date: 05/06/2009
Payment Due Date: 08/04/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-068688

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
ATTN: RAUL CARDOZA
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Order: [redacted] (Call-in Single Ping)	$0.00	$20.00	1	ITEM	$20.00
Order: [redacted] (L-Site GPS Pings)	$30.00	$0.00	1	ITEM	$30.00
				Total Amount Due:	**$50.00**

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-030525
Bill Date: 05/06/2009
Reference # [redacted]

800000101B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$50.00	

***SNGLP**MIXED AADC 956
000000113 01 SP 0.420
RALEIGH POLICE DEPARTMENT
ATTN: RAUL CARDOZA
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0305255 0000000000050000

Subpoena Compliance

Sprint

Whitaker

Invoice # LCI-030247
Bill Date: 05/04/2009
Payment Due Date: 08/02/2009
CBO: CORP
Reference #
Sprint Case # 2009-062113

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
istoric Tower Search	$0.00	$50.00	1	ITEM	$50.00
recision Location (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00
rder: [redacted](03/27/09-04/27/09)	$0.00	$0.00	1	ITEM	$0.00
				Total Amount Due:	**$80.00**

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-030247
Bill Date: 05/04/2009
Reference #

800000101B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$80.00	

***SNGLP**MIXED AADC 956
000000111 01 SP 0.420
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0302474 0000000000080006

Subpoena Compliance

Sprint

Invoice # LCI-030239
Bill Date: 05/04/2009
Payment Due Date: 08/02/2009
CBO: CORP
Reference #
Sprint Case # 2009-080733

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

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KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Precision Location (L-Site GPS Pings): [redacted]	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-030239
Bill Date: 05/04/2009
Reference #

800000101B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000110 01 SP 0.420
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0302393 0000000000030000

Sprint

Invoice # LCI-030250
Bill Date: 05/04/2009
Payment Due Date: 08/02/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-065535

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

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KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Historic Tower Search	$0.00	$50.00	1	ITEM	$50.00
Precision Location (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00
Order: [redacted] 03/01/09-04/30/09)	$0.00	$0.00	1	ITEM	$0.00
		Total Amount Due:			**$80.00**

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-030250
Bill Date: 05/04/2009
Reference # [redacted]

8000001018

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$80.00	

***SNGLP**MIXED AADC 956
000000112 01 SP 0.420
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0302500 00000000008000 2

Sprint

Invoice # LCI-030198
Bill Date: 05/03/2009
Payment Due Date: 08/01/2009
CBO: CORP
Reference #
Sprint Case # 2009-070509

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Precision Location (L-Site GPS Pings)- Tel: [redacted]	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-030198
Bill Date: 05/03/2009
Reference #

8000001018

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000109 01 SP 0.420
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0301989 0000000000030006

Sprint

Subpoena Compliance

Invoice # LCI-028979
Bill Date: 04/21/2009
Payment Due Date: 07/20/2009
CBO: CORP
Reference #
Sprint Case # 2009-053071

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
ATTN: CHRIS TURNAGE
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted] (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00
		Total Amount Due:			$30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-028979
Bill Date: 04/21/2009
Reference #

8000001048

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000154 01 SP 0.420
RALEIGH POLICE DEPARTMENT
ATTN: CHRIS TURNAGE
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0289795 0000000000030002

Subpoena Compliance

Sprint

Invoice # LCI-028942
Bill Date: 04/20/2009
Payment Due Date: 07/19/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-039491

TECHNICAL ASSISTANCE RESPONSE UNIT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

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PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: **481165245**

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted] (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-028942
Bill Date: 04/20/2009
Reference # [redacted]

8000001048

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000153 01 SP 0.420
TECHNICAL ASSISTANCE RESPONSE UNIT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0289425 0000000000030002

Sprint

Subpoena Compliance

Invoice # LCI-028941
Bill Date: 04/20/2009
Payment Due Date: 07/19/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-039497

TECHNICAL ASSISTANCE RESPONSE UNIT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted] (L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-028941
Bill Date: 04/20/2009
Reference # [redacted]

800000104B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000152 01 SP 0.420
TECHNICAL ASSISTANCE RESPONSE UNIT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI028941G 00000000000030003

Sprint

Subpoena Compliance

Invoice # LCI-028940
Bill Date: 04/20/2009
Payment Due Date: 07/19/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-039511

TECHNICAL ASSISTANCE RESPONSE UNIT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
[redacted]L-Site GPS Pings)	$0.00	$30.00	1	ITEM	$30.00

Total Amount Due: $30.00

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-028940
Bill Date: 04/20/2009
Reference # [redacted]

800000104B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000151 01 SP 0.420
TECHNICAL ASSISTANCE RESPONSE UNIT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0289407 0000000000030004

Subpoena Compliance

Sprint

Invoice # LCI-028926
Bill Date: 04/20/2009
Payment Due Date: 07/19/2009
CBO: CORP
Reference # [redacted]
Sprint Case # 2009-049644

RALEIGH POLICE DEPARTMENT
110 S. MCDOWELL STREET
RALEIGH NC 27602

PLEASE MAKE CHECK PAYABLE TO:

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KANSAS CITY MO 64187-1197

Tax ID: 481165245

Description	Flat Fee	Unit Rate	Units	UOM	Total
Order: [redacted] (03/12/09-04/12/09)	$0.00	$0.00	1	ITEM	$0.00
Precision Location (L-Site pings)	$0.00	$30.00	1	ITEM	$30.00
			Total Amount Due:		**$30.00**

To ensure proper credit, please write the invoice number on your check.
Please detach and RETURN BOTTOM PORTION with payment.

Invoice # LCI-028926
Bill Date: 04/20/2009
Reference # [redacted]

800000104B

Sprint Corporate Security
PO Box 29234
Shawnee Mission, KS 66201-9234

Amount Due	Amount Remitted
$30.00	

***SNGLP**MIXED AADC 956
000000150 01 SP 0.420
RALEIGH POLICE DEPARTMENT
110 S MCDOWELL ST
RALEIGH NC 27601-1330

SPRINT
PO BOX 871197
KANSAS CITY MO 64187-1197

LCI0289263 0000000000030000