



Second Interim Reply

Executive Office for United States Attorneys
Freedom of Information/Privacy Act Staff
600 E Street, N.W., Room 7300
Washington, D.C. 20530
202-616-6757 Fax 202-616-6478

Requester: Catherine Crump Request Number: 07-4130

Subject of Request: Mobile Phone Tracking (Item 1-4)/LAM

SEP -4 2008

Dear Requester:

Your request for records under the Freedom of Information Act/Privacy Act has been processed. This letter constitutes a **second interim reply** from the Executive Office for United States Attorneys, the official record-keeper for all records located in this office and the various United States Attorneys' Offices. To provide you the greatest degree of access authorized by the Freedom of Information Act and the Privacy Act, we have considered your request in light of the provisions of both statutes.

The records you seek are located in a Privacy Act system of records that, in accordance with regulations promulgated by the Attorney General, is exempt from the access provisions of the Privacy Act, 28 C.F.R. § 16.81. We have also processed your request under the Freedom of Information Act.

This letter constitutes a partial release of material, which is responsive to item number one of your request. EOUSA reviewed the withheld material to determine if any information could be segregated for release.

Enclosed please find:

 page(s) are being released in full (RIF);
 1 page(s) are being released in part (RIP);
 153 page(s) are withheld in full (WIF). **The redacted/withheld documents were reviewed to determine if any information could be segregated for release.**

The exemption(s) cited for withholding records are marked below. An enclosure to this letter explains the exemptions in more detail. EOUSA is also asserting Exemption b5, the deliberative process privilege, to withhold certain information on behalf of the Department of Justice, Criminal Division.

Section 552

Section 552a

(b)(1) (b)(4) (b)(7)(B)
 (b)(2) (b)(5) (b)(7)(C)
 (b)(3) (b)(6) (b)(7)(D)
 (b)(7)(A) (b)(7)(E)
 (b)(7)(F)

(j)(2)
 (k)(2)
 (k)(5)

Although I am aware that this request is the subject of ongoing litigation and that appeals are not ordinarily acted on in such situations, I am required by statute and regulation to inform you that if you consider my response to be a denial of your request, you have the right to file an administrative appeal by writing within 60 days from the date of this letter to the **Office of Information and Privacy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington, D.C. 20530-0001**. In light of the fact that this is an interim response, I would ask that you wait until the EOUSA has issued its final response in this request before you file an appeal.

Sincerely,

William G. Stewart II
Assistant Director

Enclosure(s)

Requester: Catherine Crump
FOIA #: 07-4130

Continuation Sheet:

Please note that your original letter has been split into nineteen separate files ("requests"), for processing purposes, depending on the nature of what you sought. Each file will have a separate Request Number (listed below), for which you will receive a separate response: 07-4120 through 07-4138.

This response is to FOIA No. 07-4130 only and does not include search results associated with the other requests listed above.

EXPLANATION OF EXEMPTIONS

FOIA: TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by and Executive order to be kept secret in the in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual.
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

PRIVACY ACT: TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to Executive Order 12356 in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability eligibility, or qualification for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his identity would be held in confidence.

Bourgeois, Richard

From: Judish, Nathan
Sent: Friday, June 04, 2004 2:31 PM
To: Bourgeois, Richard
Subject: RE: Obtaining Cell Site Locator Information

b5 per Crim Div.

Thanks,
Nathan Judish
Computer Crime and Intellectual Property Section



Cell Phone Location
Memo.wpd

(b)(5)
W.F.F.
per
CRIM DIV

-----Original Message-----

From: Bourgeois, Richard
Sent: Friday, June 04, 2004 2:15 PM
To: Judish, Nathan
Subject: Obtaining Cell Site Locator Information

Thank you very much for your help on the phone. Please let me know if you are able to find out anything regarding the interpretation of the "ongoing criminal investigation" language in 2703(d).

Rich

RIF
per
EOUSA

Richard L. Bourgeois, Jr.
Assistant United States Attorney
Russell B. Long Federal Courthouse
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Baton Rouge, Louisiana 70801
Tel: 225-389-0443
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~~This Case is in Litigation~~

U.S. Department of Justice

Executive Office for United States Attorneys
Freedom of Information/Privacy Act Staff
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202-616-6757 Fax 202-616-6478

District: Middle District of Louisiana

FOIA/PA Contact: AUSA John Gaupp

Request No.: 07-4130 (2nd Interim Release)

Requester: Catherine Crump

Subject: Mobile Phone Tracking (1-4)

Dear AUSA Gaupp:

Attached, for your information, is a copy of our final response to the above requester who sought records from your District.

Please maintain the records in your District, for **120** days from the date of this letter as the requester may exercise his/her appeal rights.

In the event the requester does appeal to the Office of Information and Privacy (OIP), you will be notified. In that event, you will be required to maintain the records in your district for an additional period of time.

The records may be returned to their permanent resting place.

I appreciate your cooperation in the processing of this request. If you have questions, please call the analyst listed below.

Sincerely,


William G. Stewart II
Acting Assistant Director

FOIA/PA Unit Analyst: Manizheh Boehm

Attachment(s)

