August 31, 2011

VIA EMAIL AND U.S. MAIL

Mr. Peter Bibring
ACLU of Southern California
1313 West Eighth Street
Los Angeles, CA 90017
pbibring@aclu-sc.org

Re: Response to Public Records Act Request Regarding Surveillance Technologies

Dear Mr. Bibring:

Pursuant to your Public Records request dated August 3, 2011, and without waiving any objections, the City responds as follows. To evaluate a Public Records Act request under the California Public Records Act, California Government §§6250 et seq., the threshold question is whether the document is a public record subject to disclosure governed by Government Code §§6254 et seq. and §6255.

Mobile Phone Location Records

Request A1: All policies, procedures, training and practices related to and/or governing any efforts by the department to obtain mobile location records.

Response to A1: We have no records responsive to your request.

Request A2: All policies, procedures, training, and practices governing and/or limiting the purposes for which mobile location records are or may be used by the department

Response to A2: We have no records responsive your request.

Request A3: All data retention polices relating to mobile location records, including but not limited to polices detailing how long mobile phone location records are kept, databases in which they are placed, government agencies (federal, state and local) or non-governmental entities with which they are or may be shared.

Response to A3: We have no records responsive to your request.

Request A4: The use of mobile location records to identify "communities of interest" (i.e., those persons who have communicated with a target) in investigations.

Response to A4: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.
Request A5: The use of mobile location records to identify all of the mobile phones at a particular location.

Response to A5: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Request A6: The use of "digital fences" (systems whereby your agency is notified whenever a mobile phone comes within a specific geographic area).

Response to A6: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Request A7: The legal standard or level of suspicion (e.g., probable cause, reasonable suspicion, relevance) the department requires or proffers prior to obtaining mobile location records.

Response to A7: Governed by federal law and case law.

Request A8: Statistics regarding the departments use of mobile location records, including the number of emergency requests for which no court order was obtained.

Response to A8: We have no records responsive to your request.

Request A9: Any applications by the department to internal or external entities (including but not limited to magistrates or other judicial officers) seeking mobile location records, and any decisions or orders ruling on such applications.

Response to A9: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Request A10: Communications with mobile companies and providers of location-based services regarding mobile location records, including

Policies and procedures of mobile companies and providers of location based services regarding release of consumer mobile location records to third-parties, including law enforcement;

- Requests, court orders or subpoenas sent to mobile companies or providers of location based services for mobile location records;
- Responses by mobile companies and providers of location based services to any such requests, court orders or subpoenas;
- Invoices reflecting payments for obtaining mobile location records;
- Instances in which mobile companies have refused to comply with a request or order.
Response to A10: We do not have any records of policies and procedures of mobile companies and providers of location-based services regarding release of consumer mobile location records to third-parties, including law enforcement.

Records of requests, court orders or subpoenas sent to mobile companies or providers of location-based services for mobile location records are considered investigative records and are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Records of responses by mobile companies and providers of location-based services to any such requests, court orders or subpoenas are considered investigative records and are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Records of invoices reflecting payments for obtaining mobile location records are considered investigative records and are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Internet, Social Network, and Book Service Investigations

Request B1: Policies, procedures, and practices governing any efforts by the department to obtain information about suspects, targets of investigations, witnesses or persons of interest through the internet, including through social networking and book service sites.

Response to B1: We have no records responsive to your request.

Request B2: Training material provided to department personnel by the department (or by outside trainers contracted by the department) that provide training, guidance or information on how to obtain information about suspects, targets of investigations, witnesses, or persons of interest through the internet, including through social networking and book services sites.

Response to B2: We have no records responsive to your request.

Request B3: Policies, procedures, training, and practices governing and/or limiting that purposes for which information obtained through the internet, including through social networking sites, are or may be used by the department.

Response to B3: We have no records responsive to your request.

Request B4: Policies, procedures, training, and practices governing and/or limiting the sharing of information obtained through the internet, including through social networking sites and book services sites, with other (federal, state and local) government or law enforcement agencies, or non-governmental entities or individuals.

Response to B4: We have no records responsive to your request.

Request B5: All policies, procedures, training, and practices relating to the maintenance and retention of data or information obtained through the internet, including through networking sites, including but not limited to policies detailing how records of such information are kept, databases in which they are placed,
limitations on who may access the records and for what purposes, and circumstances under which they are deleted.

Response to B5: We have no records responsive to your request.

Request B6: The legal standard or level of suspicion (e.g., probable cause, reasonable suspicion, relevance) the department requires or proffers prior to engaging in such investigations.

Response to B6: Governed by federal law and case law.

Request B7: Statistics regarding the department's use of social networking or book service records, including the number of requests for which no court order was obtained.

Response to B7: We have no records responsive to your request.

Request B8: Any applications by the department to internal or external entities (including but not limited to magistrates or other judicial officers) seeking social networking or book service records, and any decisions or orders ruling on such applications.

Response to B8: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

Request B9: Communications with social networking or book services providers regarding records, including
- Policies and procedures of social networking or book service providers regarding release of consumer records to third-parties, including law enforcement;
- Requests, court orders or subpoenas sent to social networking or book service providers;
- Responses by social networking or book service providers to any such requests, court orders or subpoenas;
- Invoices reflecting payments for obtaining social networking or book service records;
- Instances in which social networking or book service providers have refused to comply with a request or order.

Response to B9: Release of the records you seek has the potential to endanger the successful completion of ongoing investigations. Consequently, the records you seek are exempt from disclosure per Government Code §6254(f). Additionally, this disclosure exemption extends indefinitely, even after the investigation is closed. Rivero v. Superior Court (1997) 54 Cal. App. 4th 1048; Williams v. Superior Court (1993) 5 Cal. 4th 337.

GPS Tracking Devices and Automatic License Plate Readers

Request C1: All records relating to the acquisition, purchase, and deployment of GPS Tracking Devices and/or ALPRs, including but not limited to all records relating to the number of such devices owned by the department, their location, and the unit or division of the department given primary use of the devices.

Response to C1: Enclosed please find fourteen (14) pages labeled C1 that are responsive to your request.
Request C2: All records relating to GPS Tracking Devices and/or ALPRs owned or operated by other
government agencies (including non-law enforcement) and private entities within the Department’s
jurisdiction, for which the Department can access any or all data collected.

Response to C2: We have no records responsive to your request.

Request C3: All policies, procedures, and practices governing use by the department of GPS Tracking
Devices and/or ALPRs.

Response to C3: Enclosed please find Policy No. 462 from the Santa Monica Police
Department’s Policy Manual.

Request C4: All training materials provided by to department personnel by the department (or by outside
trainers contracted by the department) that provide training, guidance or information the use of GPS
Tracking Devices and/or ALPRs.

Response to C4: We have no records responsive to your request.

Request C5: All policies, procedures, training, and practices governing and/or limiting the purposes for
which information obtained through use of GPS Tracking Devices and/or ALPRs may be used by the
department or shared with other (federal, state or local) government agencies or non-governmental
entities.

Response to C5: See response to C3.

Request C6: All data polices relating to the maintenance and retention of information obtained through
GPS Tracking Devices and/or ALPRs, including but not limited to polices detailing how records of such
information are kept, databases in which they are placed, limitations on who may access the records and
for what purposes, and circumstances under which they are deleted.

Response to C6: See response to C3.

Request C7: The legal standard or level of suspicion (e.g. probable cause, reasonable suspicion,
relevance) the department requires or proffers prior to using GPS Tracking Devices and/or ALPRs.

Response to C7: We have no record responsive to your request.

Public Video Surveillance Cameras and Facial Recognition Technology

Request D1: The number and location of public video surveillance cameras currently in the jurisdiction of
the Department.

Response to D1: We currently have 175 public video surveillance cameras in the City. They
are located in the areas of the 3rd Street Promenade and the Santa Monica Pier. Enclosed
please find a Staff Memorandum to the Landmarks Commission dated July 10, 2006 that is
responsive to your request.

Request D2: The number and location of public video surveillance cameras currently proposed for
installation in the jurisdiction of the Department.

Response to D2: We have no records responsive to your request.

Request D3: Which public department or departments control, or will control, the use of public video
surveillance cameras, and which public department or departments have access to, or will have access to,
the camera footage and for what purposes.
Response to D3: Enclosed please find an Information Item dated January 13, 2006 and a Staff Report to the City Council dated June 27, 2006 that are responsive to your request.

Request D4: Polices or procedures regarding the public video surveillance cameras located in the Department's jurisdiction or planned to be installed in the Department's jurisdiction, including but not limited to: access to camera footage, the provision of camera footage to the public, retention of camera footage, purging of camera footage, the sharing of camera footage with other agencies, and evaluating the video surveillance camera program.

Response to D4: Enclosed please find Policy No. 378 from the Santa Monica Police Department's Policy Manual.

Response to D5: The use or proposed use of "facial recognition" technology, in conjunction with either any public video surveillance cameras or any other video or image data.

Response to D5: We have no records responsive to your request.

Request D6: Programs, policies or procedures (or proposals for programs, polices or procedures) relating to real-time access by the Department, for law enforcement or other government purposes, to video cameras installed on private property or controlled by private businesses or individuals.

Response to D6: We have no records responsive to your request.

Response to D7: The funding used to purchase existing video surveillance cameras or allocated for the purchase of future cameras, including general funds allocated by local government, drug forfeiture or other diverted funds and any applications, proposals, or award letters from federal state funding sources.

Response to D7: Enclosed please find a Staff Report to the City Council dated February 14, 2006 that is responsive to your request.

Response to D8: The number of times each year for the last five years that video surveillance camera footage from the video cameras has been requested, by whom, and for what purpose.

Response to D8: We have no records responsive to your request.

Response to D9: The number of times each year for the last five years that video surveillance camera footage was used in the investigation of any crime, including the role, if any, it played in identifying or arresting suspects.

Response to D9: We have no records responsive to your request.

Request D10: Communications from vendors, contracts, specifications, requests for proposals, responses to requests for proposals, or other information related to the purchase, installation, or technological capabilities of the existing public video surveillance cameras or additional video cameras that are being considered for installation in the city. We are requesting all such communication even if <<Department>> does not already have a public video surveillance program.

Response to D10: Enclosed please find a copy of the City's contract with Federal Network Services, Inc. Please note we have removed Exhibits 2-9 due to the City concern for safety and the our right to refuse to disclose official information, and to prevent another from disclosing official information, if disclosure of the information is against the public interest because preservation of the confidentiality of the information outweighs the necessity for disclosure. Gov. Code §6254, 6254(k) and §6255.
Request D11: All records, data, analyses or statistics relating to the effect (or lack thereof) of video surveillance cameras on crime rates or rates of clearance for prosecution of crimes.

Response to D11: We have no records responsive to your request.

Mobile Forensic Data Extraction

Request E1: The number of Mobile Forensic Data Extraction devices currently owned by the Department or proposed for purchase by the Department, and the unit or division of the Department given primary use of each device.

Response to E1: We have no records responsive to your request.

Request E2: All policies, procedures, training and practices governing use by Department personnel of any such Mobile Forensic Data Extraction devices.

Response to E2: We have no records responsive to your request.

Request E3: All policies, procedures, training and practices governing, limiting or relating to the purposes for which Mobile Forensic Data Extraction devices may be used.

Response to E3: We have no records responsive to your request.

Request E4: All data policies relating to the maintenance and retention of information obtained through Mobile Forensic Data Extraction devices, including but not limited to policies detailing how records of such information are kept, databases in which they are placed, limitations on who may access the records and for what purposes, circumstances under which they are deleted, and circumstances under which they may be shared with other government agencies or non-governmental entities.

Response to E4: We have no records responsive to your request.

Request E5: The legal standard or level of suspicion (e.g. probable cause, reasonable suspicion, relevance) the department requires or proffers prior to using such devices.

Response to E5: Governed by federal law and case law.

Other Surveillance Technology

Request F1: The purchase, proposed purchase, requests to purchase, or application for funding to purchase all technology and/or devices, other than those specifically enumerated in the Requests A through E, designed to accomplish the following:

a. gather and retain information on specific individuals and/or vehicles without any basis to believe that they are involved in a particular crime.

b. capture digital information on the location of a person or vehicle;

c. copy and/or intercept electronic data on mobile devices or computers (not including voice transmissions)

Response to F1(a): We have no records responsive to your request.

Response to F1(b): We have no records responsive to your request.

Response to F1(c): We have no records responsive to your request.

Request F2: All policies, procedures, training and practices related to the use of any devices and/or technology purchased by the Department as disclosed in response to request F1.
Response to F2: We have no records responsive to your request.

Request F3: All policies, procedures, training and practices governing, limiting or relating to the purposes for which such devices and/or technology may be used.

Response to F3: We have no records responsive to your request.

Request F4: All data policies relating to the maintenance and retention of information obtained through such devices and/or technology, including but not limited to polices detailing how records of such information are kept, databases in which they are placed, limitations on who may access the records and for what purposes, circumstances under which they are deleted, and circumstances under which they may be shared with other government agencies or non-governmental entities.

Response to F4: We have no records responsive to your request.

Request F5: The legal standard or level of suspicion (e.g. probable cause, reasonable suspicion, relevance) the department requires or proffers prior to using such devices and/or technology.

Response to F5: We have no records responsive to your request.

Please note that we have waived all copying fees for the enclosed records. The City will provide reasonable access to any documents which are readily identifiable and available for disclosure if any exist. Government Code §6253.1 and §6254(k).

Sincerely,

[Signature]

Brigette Garay
Public Records Coordinator

Enclosures