



Lincoln Police Department
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MAYOR CHRIS BEUTLER

lincoln.ne.gov

January 19, 2012

Ms. Amy Miller
ACLU Nebraska Foundation
941 "O" Street, Suite 706
Lincoln, Ne 68508

Re: Public Records Request: Cell Phone Tracking

Dear Ms. Miller,

This letter is in regards to your letter dated December 23, 2011 for public records maintained by the City of Lincoln's Police Department. Thank you again for allowing the City of Lincoln more time to respond. In this request, you have narrowed the ACLU's original request for public records to three specific items. The following is the City's response to each of the items:

1. *Our request asked for statistics regarding the frequency with which Lincoln tracks cell phones. Rather than counting up the investigative files, it would suffice if you were able to give us an estimate of how many times per month Lincoln obtains cell phone location information, including both historic and real-time records.*

It is roughly estimated that the Lincoln Police Department applies for search warrants or other court orders for historical or real-time records from cellular service providers between 10-15 times per year. These are more than likely nonemergency situations. The manager of the Lincoln Police Department's Service Desk, Cheri Marti, estimates that they facilitate requests for emergency "pings" approximately 10 times per month. The Lincoln Police Department does not have a form for emergency requests. Most cellular service providers have their own forms. Some cellular service providers will provide the information after receiving their form, but require law enforcement to follow-up with a court order. Thus, a few of the search warrants or court orders referenced above may be follow-ups to an emergency situation.

2. *We asked about policies, practices and procedures for tracking cell phones. If the Lincoln Police Department has any template forms that officers fill out to obtain cell phone records, either through the court system or on an emergency basis, we would like a copy of the template(s); a blank or redacted sample one is sufficient.*

The Lincoln Police Department created the enclosed three templates: preservation letter, application and affidavit for a court order, and a court order. These are examples of the broadest



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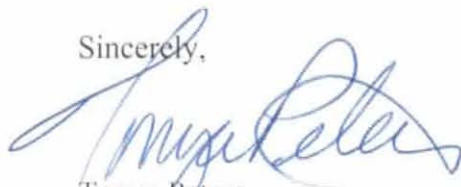
requests made by law enforcement officers to cellular service providers. Officers will often alter these templates to reduce the amount of information requested. As discussed above, the Lincoln Police Department does not have its own form for emergency requests. Most cellular service providers require a law enforcement officer to complete and sign their forms. Enclosed with this letter is a sample form from a cellular service provider.

3. Finally, we asked specifically about the use of cell phone records to identify communities of interest, to identify all of the cell phones at a particular location, and also the use of "digital fences" (notification that a phone has entered a particular area). If you would be willing to simply confirm whether any of these techniques are in use, we can withdraw that part of our request.

The Lincoln Police Department works with numerous law enforcement agencies. It is possible that another agency has used a "digital fence" and the Lincoln Police Department provided assistance in an arrest. However, the Lincoln Police Department has not made use of "digital fences" in its investigations.

If you have any questions, please feel free to contact me either by email tpeters@lincoln.ne.gov or at 402-441-7200.

Sincerely,



Tonya Peters
Police Legal Advisor

cc:

Chief Peschong, Lincoln Police Department
Marcee Brownlee, City Attorney's Office
Joan Ross, City Clerk's Office