



August 15, 2011

Mr. Doug Bonney
Chief Counsel & Legal Director
ACLU Legal Department
3601 Main Street
Kansas City, MO 64111

Re: Open Records Request Regarding Cell Phone Location Records

Mr. Bonney:

This is in response to your letter dated August 4, 2011, regarding Open Records request regarding cell phone location records. Below is an itemization of your request along with our response to each request:

“1. Policies, procedures and practices you follow to obtain cell phone location records.”

No set policies exist to seek cell phone records. These are handled through affidavits alleging probable cause in each individual case and submitted for court review and potential approval.

“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.”

Phone records are only retained within case files. Therefore, State and federal statutes governing case record retention would be controlling.

“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.”

No records exist as this is not a Wichita Police Department practice.

Department of Law

Gary E. Rebenstorf, Director of Law and City Attorney
Jay C. Hinkel, Deputy City Attorney

City Hall • 13th Floor • 455 North Main • Wichita, Kansas 67202-1635

T 316.268.4681 F 316.268.4335

www.wichita.gov

"4. The use of cell phone location records to identify all of the cell phones at a particular location."

No records exist as this is not a Wichita Police Department practice.

"5. Your use of "digital fences" (systems whereby your (sic) are notified whenever a cell phone comes within a specific geographical area)."

No records exist as this is not a Wichita Police Department practice.

"6. The legal standard (e.g. probable cause, relevance) you use to obtain cell phone location records."

No set policies exist to seek cell phone records. These are handled through affidavits alleging probable cause in each individual case and submitted for court review and potential approval.

"7. Judicial decisions and orders ruling on your applications to obtain cell phone location records."

None exist because no such blanket request has been sought.

"8. Statistics regarding your use of cell phone location records, including the number of emergency requests for which no court order was obtained."

No records exist as this is not a Wichita Police Department practice.

"9. The form in which cell phone location records are provided (hard copy, through specific online databases)."

If a phone record request has been granted in investigation of a case, the provider has determined the form in which disclosure is made of the individual records provided.

"10. Communications with cell phone company and providers of location-based services regarding cell phone location records including

- a. company manuals, pricing, and data access policies

WPD has no such documents. The department would access current manuals and pricing at such time as they would be needed.

b. invoices reflecting payments for obtaining cell phone location records

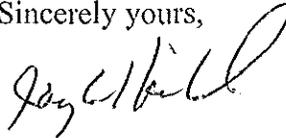
These invoices exist but only within the individual case records. These invoices would contain confidential information, such as information identifying confidential informants. Therefore, it is likely that the records would require wholesale redactions.

c. instances in which cell phone companies have refused to comply with a request or order.

None exist

My expectation is that a search of individual cases for redacted records, which would exist only after a probable cause order had entered, will be of no interest to you. Please contact me if you wish a search of individual case files, and to arrange for an appropriate deposit towards fees.

Sincerely yours,



Jay C. Hinkel
Deputy City Attorney

JCH/cr