



U.S. Department of Justice

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

MAY 14 2009

Dear Requester:

Your request for records under the Freedom of Information Act/Privacy Act was processed several months ago; however, additional material has been located. This letter constitutes a supplemental 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.

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 denial. The enclosed material, consisting of 70 pages, is responsive to category one of your request.

Enclosed please find:

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

The withheld information is not appropriate for discretionary release. The exemption(s) cited for withholding records or portions of records are marked below. An enclosure to this letter explains the exemptions in more detail.

Section 552

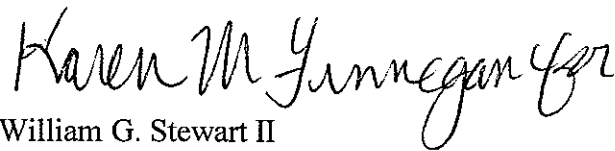
Section 552a

<input type="checkbox"/> (b)(1)	<input type="checkbox"/> (b)(4)	<input type="checkbox"/> (b)(7)(B)	<input checked="" type="checkbox"/> (j)(2)
<input checked="" type="checkbox"/> (b)(2)	<input type="checkbox"/> (b)(5)	<input type="checkbox"/> (b)(7)(C)	<input type="checkbox"/> (k)(2)
<input type="checkbox"/> (b)(3)	<input type="checkbox"/> (b)(6)	<input type="checkbox"/> (b)(7)(D)	<input type="checkbox"/> (k)(5)
_____	<input type="checkbox"/> (b)(7)(A)	<input checked="" type="checkbox"/> (b)(7)(E)	<input type="checkbox"/> _____
_____		<input type="checkbox"/> (b)(7)(F)	

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 Policy**,

**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,

A handwritten signature in black ink that reads "Karen M. Ginnegan for". The signature is written in a cursive, flowing style.

William G. Stewart II  
Assistant Director

Enclosure(s)

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN THE MATTER OF THE	§	
APPLICATION OF THE UNITED	§	
STATES OF AMERICA FOR AN	§	Magistrate No.
ORDER: (1) AUTHORIZING THE	§	
INSTALLATION AND USE	§	
OF A PEN REGISTER AND A	§	APPLICATION
TRAP AND TRACE DEVICE; AND	§	
(2) AUTHORIZING RELEASE OF	§	(UNDER SEAL)
CUSTOMER RECORDS AND OTHER	§	
INFORMATION PERTAINING TO A	§	
MOBILE COMMUNICATIONS DEVICE	§	

[NAME], an Assistant United States Attorney for the Southern District of Texas

("Applicant"), applies to the court for an order authorizing the installation and use of a pen register and trap and trace device and requiring disclosure of customer records and other information. In support of this application, Applicant states the following:

1. Applicant is an "attorney for the Government" as defined in Rule 1(b)(1)(B) of the Federal Rules of Criminal Procedure; and, pursuant to 18 U.S.C. Section 3122, may apply for an order authorizing the installation and use of pen registers and trap and trace devices, and, pursuant to 18 U.S.C. Section 2703(d), may apply for an order requiring the disclosure of "a record or other information pertaining to a subscriber to or customer of" an electronic communications service provider.

2. Applicant certifies that the United States Marshals Service ("Investigative Agency") is conducting a criminal fugitive investigation of [FUGITIVE(S)] ("Suspect"), in connection with violations of [LIST VIOLATIONS]; it is believed that the Suspect [or Suspect's known associate] is using [or has immediate access to] a mobile communications device identified by

EIF

Mobile Identification Number ("MIN") [AREA CODE/PHONE NUMBER] ("Target Device"), a wireless telephone believed to be issued and/or serviced by [NAME OF CARRIER, IF KNOWN] and to be subscribed to by [SUBSCRIBER'S NAME AND BILLING ADDRESS, IF KNOWN; IF PREPAID ACCOUNT, STATE "PREPAID ACCOUNT"]; and that the information likely to be obtained from the pen register and trap and trace device is relevant and material to an ongoing criminal investigation.

3. In accordance with Title 18, United States Code, Section 3121(c), Applicant has informed the Investigative Agency and its agents conducting this investigation that they shall use

[ b7E ]  
[ b7E ]  
[ b7E ]

4. Applicant requests that the court issue an order, pursuant to 18 U.S.C. Sections 3122 & 3123, authorizing the installation and use of a pen register to record or decode dialing, routing, addressing, or signaling information transmitted from the Target Device, [ b7E ]

[ b7E ]  
[ b7E ]  
[ b7E ]

[ b7E ] and attempts for a period of sixty days.

5. Applicant further requests that the Court issue an order, pursuant to 18 U.S.C.

RIP

Sections 3122 & 3123, authorizing the installation and use of a trap and trace device on the

Target Device to capture

b7E

C

b7E

C

b7E

C

b7E

for a period of sixty days.

6. Applicant further requests, pursuant to 18 U.S.C. Section 3123(b)(1)(C), the requested installation and use of a pen register and trap and trace device permit the use of such a pen register and trap and trace device

b7E

b7E

b7E

b7E

b7E

C

b7E

within the

60-day period authorized by this order.

7. Applicant further requests that the court direct the Target Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic

RIP

communication service in the United States whose assistance may facilitate the execution of the order, to notify agents of the Investigative Agency, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the Target Device, including telephone numbers and subscriber information associated with these service changes.

8. Applicant further requests, pursuant to 18 U.S.C. Sections 3123(a)(1), 3123(b)(2), and 3124, that the order direct that the furnishing of information, facilities, and technical assistance necessary to accomplish the installation and operation of the pen register and trap and trace device by the service provider, and all other telecommunications providers, persons, or entities providing wire or electronic communication service in the United States whose assistance may facilitate the execution of the order, occur unobtrusively and with a minimum of interference with the services that are accorded the persons with respect to whom the installation and use is to take place with reasonable compensation to be paid by the Investigative Agency for reasonable expenses incurred in providing such facilities and assistance.

9. In support of its request for an order under 18 U.S.C. Section 2703(d) directing the furnishing of customer records and other information (specifically cell site activations), pursuant to 18 U.S.C. Sections 2703(c)(1)(B), 2703(c)(2) and 2703(d), and based upon discussions with Deputy U.S. Marshal [CIDUSM'S NAME], the government sets forth the following specific and articulable facts showing that there are reasonable grounds to believe that the customer records and other information pertaining to both the Target Device and the telephone numbers likely to be identified through the pen register and trap and trace device on the Target Device are relevant and material to an ongoing criminal investigation:

a. [INSERT BRIEF, YET SPECIFIC, FACTUAL STATEMENT

CONCERNING YOUR INVESTIGATION AND INFORMATION INDICATING THAT

RIF

FUGITIVE(S) IS USING/HAS USED/HAS IMMEDIATE ACCESS TO THE SUBJECT  
TELEPHONE(S).]

b. [INSERT CONCISE EXPLANATION AS TO WHY SUBSCRIBER AND  
OTHER INFORMATION IS RELEVANT AND MATERIAL TO YOUR INVESTIGATION.]

c. Deputy [AGENT'S NAME] has further advised Applicant of the following:

That the device characteristics [

b7E ]

b7E

b7E

b7E

b7E

b7E

b7E ]

C

b7E ]

d. Based upon the above facts, and pursuant to 18 U.S.C. Sections 2703(c)(1)(B),  
2703(c)(2), and 2703(d), because there are reasonable grounds to believe that such information is  
relevant and material to an ongoing criminal investigation, Applicant requests that the Target

RIP

Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic communications service in the United States whose assistance may facilitate the execution of the order, be ordered to supply the following information: (A) name; (B) address; (C) local and long distance telephone connection records, and records of session times and durations; (D) length of service (including start date) and types of service utilized; (E) telephone or instrument number or other subscriber number or identity, [ b7E ] b7E

[ b7E ] and (F) means and source of payment for such service (including any credit card or bank account number) of a subscriber to or customer of an electronic

communication service or remote computing service, for the Target Device and for published, non-published, or unlisted dialing, routing, addressing, or signaling information captured by the pen register or trap and trace device on the Target Device, upon oral or written demand by agents of the Investigative Agency, for a period of 60 days prior to and 60 days after the date of this order, and that all entities providing communications service to the Target Device also be ordered to provide the following customer records and information with respect to the Target Device:

a.

b.

c.

d.

e.

f.

b7E

b7E

10. Applicant further requests, pursuant to 18 U.S.C. Section 3123(d), that the court

21P



direct the Target Device's service provider, and all other telecommunications providers, persons or entities providing service to the Target Device who are obligated by the order to provide assistance to the Investigative Agency, not to disclose in any manner, directly or indirectly, by any action or inaction, to the subscriber(s) for the Target Device, the occupant of said premises, the subscriber of the incoming calls to or outgoing calls from the Target Device, or to any other person, the existence of this order, in full or redacted form, the existence of the pen register or trap and trace device, or the existence of this investigation unless otherwise ordered by this court, and further that this application and order be SEALED.

11. Applicant further requests that, upon request of the Investigative Agency, all records and information required to be provided pursuant by this order be provided in a commercially reasonable electronic format specified by the Investigative Agency, and that those records be delivered forthwith via electronic mail (unless delivery under the current CALEA delivery protocol is possible and requested) to the email address specified by the agent serving this order.

12. Applicant further requests, because it is necessary to advance the purposes of this investigation, that the Court's Order direct the Target Device's service provider(s) [b7E]

[ b7E ] b7E

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on \_\_\_\_\_

210

**[YOUR NAME]**  
**Assistant United States Attorney**  
**[Phone number]**

RIF

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN THE MATTER OF THE	§	
APPLICATION OF THE UNITED	§	
STATES OF AMERICA FOR AN	§	Magistrate No.
ORDER: (1) AUTHORIZING THE	§	
INSTALLATION AND USE	§	
OF A PEN REGISTER AND A	§	ORDER
TRAP AND TRACE DEVICE; AND	§	
(2) AUTHORIZING RELEASE OF	§	(UNDER SEAL)
CUSTOMER RECORDS AND OTHER	§	
INFORMATION PERTAINING TO A	§	
MOBILE COMMUNICATIONS DEVICE	§	

This matter having come before the Court pursuant to an application under Title 18, United States Code, Sections 3122, 3123, and 2703(c) and (d), by Assistant United States Attorney [NAME], an attorney for the Government as defined by Fed. R. Crim. P. 1(b)(1)(B), requesting an order authorizing the installation and use of a pen register and a trap and trace device on the mobile communications device identified by Mobile Identification Number ("MIN") ("Target Device"), a wireless telephone believed to be issued and/or serviced by [NAME OF CARRIER, IF KNOWN] and to be subscribed to by [SUBSCRIBER'S NAME AND BILLING ADDRESS, IF KNOWN; IF PREPAID ACCOUNT, STATE "PREPAID ACCOUNT"] and used by, or immediately accessible to, [FUGITIVE(S) NAME] ("Suspect");

Upon review of the application, the Court finds that, pursuant to 18 U.S.C. Section 3123, Applicant has certified that the information likely to be obtained by such use is relevant to an ongoing criminal investigation being conducted by the United States Marshals Service ("Investigative Agency") into violations of [STATUTE(S)] by the Suspect.

RIF

The Court further finds, pursuant to 18 U.S.C. Sections 2703(c)(1)(B), 2703(c)(2) and 2703(d), that Applicant has offered specific and articulable facts showing that there are reasonable grounds to believe that the subscriber information and other records for dialing, routing, addressing, and signaling information transmitted to and from the Target Device is relevant and material to an ongoing criminal investigation of the specified offenses;

Pursuant to 18 U.S.C. Sections 2703(c)(1)(B) and 2703(d), Applicant has further established that there are specific and articulable facts showing that there are reasonable grounds to believe that customer records and information regarding the Target Device are relevant and material to an ongoing criminal investigation of the specified offenses; and,

The Court further finds that [

[ b7E ]  
[ b7E ]  
[ b7E ]  
[ b7E ]

IT IS ORDERED, pursuant to 18 U.S.C. Section 3123, that agents of the Investigative Agency may install, or cause to be installed, and use a pen register to record or decode dialing, routing, addressing, or signaling information transmitted from the Target Device, including [ b7E ]

[ b7E ]  
[ b7E ] for a period of sixty days from

the date this Order is filed by the court;

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. Section 3123, that agents of the Investigative Agency may install, or cause to be installed, and use a trap and trace device on the Target Device to capture and record the incoming electronic or other impulses which identify the

RIP

originating number, or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, and to record the date, time, and duration of calls created by such incoming impulses, for a period of sixty days from the date this Order is filed by the court;

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. Sections 2703(c)(1)(B), 2703(e)(2) and 2703(d), that the Target Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic communications service in the United States whose assistance may facilitate the execution of this Order, shall supply the following information: (A) name; (B) address; (C) local and long distance telephone connection records and records of session times and durations; (D) length of service (including start date) and types of service utilized; (E) telephone or instrument number or other subscriber number or identity, (F) and (F) means and source of payment for such service (including any credit card or bank account number) of a subscriber to or customer of an electronic communication service or remote computing service, for the Target Device and for published, non-published, or unlisted dialing, routing, addressing, or signaling information for all calls originating or terminating at the Target Device, upon oral or written demand by agents of the Investigative Agency, for a period of 60 days prior to and 60 days after the date of this Order.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. Sections 2703(c)(1)(B) and 2703(d), that all entities providing wire or electronic communications service to the Target Device shall provide the following additional customer records and information with respect to the Target Device for a period of 60 days prior to and 60 days after the date of this Order:

a.  
b.  
c.

b7E

b7E

RIP

d.

e.

b7E

b7E

IT IS FURTHER ORDERED that this authorization for the installation and use of a pen register and trap and trace device applies not only to the Mobile Identification Number ("MIN") listed above, [ b7E ]

b7E

b7E

b7E

b7E

[ b7E ] within the 60-day period authorized by this Order,

IT IS FURTHER ORDERED, that the Target Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic communication service in the United States whose assistance may facilitate the execution of this Order, shall notify agents of the Investigative Agency, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the Target Device, including telephone numbers and subscriber information associated with these service changes.

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. Section 3123(a)(1) and (b)(2), that upon service of this Order upon it, the Target Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic communication

RIP

service in the United States whose assistance may facilitate execution of this Order, shall furnish agents of the Investigative Agency forthwith, 24 hours-a-day if requested by the Investigative Agency, all information, facilities, and technical assistance necessary to accomplish the installation and use of the pen register and trap and trace device unobtrusively and with minimum interference with the services that are accorded the persons with respect to whom the installation and use is to take place;

IT IS FURTHER ORDERED that the Target Device's service provider, and all other telecommunications providers, persons or entities carriers providing assistance pursuant to this Order, be reasonably compensated by the Investigative Agency for reasonable expenses incurred in providing facilities and assistance hereunder; and,

IT IS FURTHER ORDERED that the Target Device's service provider(s) shall not

[ b7E ] b7E

IT IS FURTHER ORDERED that, upon request of the Investigative Agency, all records and information required to be provided pursuant to this Order shall be provided in a commercially reasonable electronic format specified by the Investigative Agency; and that those records be delivered forthwith via electronic mail (unless delivery under the current CALEA delivery protocol is possible and requested) to the email address specified by the agent serving this Order;

RIP

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. Section 3123(d), that this Order and the application be sealed until otherwise ordered by the court, that the identity of any suspect(s) of the underlying criminal investigation may be redacted from any copy of this Order to be served on any service provider or other person, and that the Target Device's service provider, and all other telecommunications providers, persons or entities providing wire or electronic communication service in the United States whose assistance may facilitate execution of this Order, their representatives, agents and employees shall not disclose in any manner, directly or indirectly, by any action or inaction, the existence of this Order, the existence of the pen register or trap and trace device, or the existence of the above-described investigation, to the listed subscriber(s) for the Target Device, the occupant of said premises, the subscribers of the incoming calls to or outgoing calls from the Target Device, or to any other person, in full or redacted form, unless or until otherwise ordered by the court.

DATED: \_\_\_\_\_

\_\_\_\_\_  
United States Magistrate Judge

RIF



IN THE MATTER OF THE  
APPLICATION OF THE UNITED  
STATES OF AMERICA FOR AN  
ORDER: (1) AUTHORIZING THE  
INSTALLATION AND USE  
OF A PEN REGISTER AND TRAP  
AND TRACE DEVICE;  
(2) AUTHORIZING RELEASE  
OF SUBSCRIBER AND OTHER  
INFORMATION; AND,  
(3) AUTHORIZING THE DISCLOSURE  
OF WIRELESS LOCATION DATA

§ 87(2)(b)

Case No. \_\_\_\_\_

(UNDER SEAL)

The United States of America, by and through the undersigned Assistant United States Attorney, applies for a multi-part order authorizing (i) the installation and use of a pen register and trap & trace device; (ii) the disclosure of stored wire and electronic transactional records; and, (iii) disclosure of wireless location data. In support of this application, Applicant states the following:

1. AUTHORITY TO SEEK ORDER. Applicant is an “attorney for the Government” as defined by Fed. R. Crim. P. 1(b)(1)(B) and, therefore, may apply for an order authorizing the installation and use of a pen register and trap & trace device; the disclosure of stored wire and electronic transactional records; and the ongoing disclosure of wireless device location data. 18 U.S.C. §§ 3122(a)(1), 3127(5) and 2703(c)(1)(B) & (d); FED. R. CRIM. P. 41.

## 2. CERTIFICATION OF MATERIALITY AND FACTUAL BACKGROUND.

Applicant certifies that the United States Marshals Service [ADD THE FOLLOWING FOR  
STATE CASES: and the Gulf Coast Violent Offenders Task Force, under special

RIF

apprehension authority of the United States Attorney General as delegated to the United States Attorney pursuant to the National Anti-Violent Crime Initiative,] (hereafter, the "Investigative Agency") is conducting an ongoing criminal investigation regarding [Offense Description, such as: 18 U.S.C. § 751 (Escape) OR SPECIFY STATE STATUTE)] by

---

[SUBJECT'S NAME IN CAPS] (hereafter, "Subject"), a fugitive from justice; that it is believed that Subject uses, has ready access to, or is occasionally in close proximity with the electronic communications device bearing telephone number [(xxx) xxx-xxxx] (hereafter, the "Target Device"), which is believed to receive communications service through [Choose One

---

~~or Verify with ESU before submitting if something else: Celco Partnership d/b/a Verizon~~  
Wireless; Sprint Spectrum, L.P. d/b/a Sprint-Nextel; Cingular Wireless; T-Mobile USA, Inc.] (hereafter, "Provider") and to be subscribed to by [Subscriber's Name, if known-if

---

unknown, state "an unknown subscriber"] at [Service Address, if known-if unknown, state

---

"an unknown location"]; and that the information likely to be obtained from the pen register

and trap & trace device is relevant to the aforementioned investigation and will assist in securing

Subject's apprehension. 18 U.S.C. § 3122(b)(1) & (2). By way of specific and articulable facts

necessary to substantiate a request for stored wire and electronic transactional records under 18

U.S.C. § 2703(d), and a statement of probable cause to substantiate a request for the required

---

disclosure of wireless device location data under Fed. R. Crim. P. 41(d)(1), Applicant offers the

---

Affidavit of Deputy United States Marshal [NAME] (hereafter, "Affiant"), which is attached

hereto and incorporated by reference into this Application.

---

---

3. PEN/TRAP REQUEST. Pursuant to 18 U.S.C. § 3123(a)(1), Applicant requests the Court issue an order authorizing the installation and use of a pen register<sup>3</sup> (including "post-cut-through dialed digits")<sup>4</sup> and trap and trace<sup>5</sup> device. In accordance with 18 U.S.C. § 3121(c) and express Department of Justice Policy, Applicant has informed the **Investigative Agency** and its agents conducting this investigation that they shall use technology reasonably available [ b7E ]

[

b7E

[

b7E

b7E

[

b7E

[

b7E

4. TRANSACTIONAL AND STORED RECORDS REQUEST. Pursuant to 18 U.S.C. §§ 2703(c) & 2703(d) and 47 U.S.C. § 1002, Applicant requests the Court issue an order directing **Provider** to disclose or provide the following to **Investigative Agency**:

<sup>3</sup> A "pen register" is a "device or process which records or decodes dialing, routing, addressing, or signaling information transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication ..." 18 U.S.C. § 3127(3). This includes dialing, routing, addressing, or signaling information transmitted over the communication service provider's network by a two-way radio feature (including, but not limited to, Nextel's "Direct Connect/Direct Dispatch," Verizon Wireless' "Push to Talk," or Sprint's "ReadyLink"). Information transmitted by the two-way radio feature will not disclose content of the call.

[

b7E

]

b7E

<sup>5</sup> A "trap and trace device" is "a device or process that captures the incoming electronic or other impulses which identify the originating number" or other identifiers "reasonably likely to identify the source of a wire or electronic communication, provided, however, that such information not include the contents of any communication." 18 U.S.C. § 3127(4). As with a pen register, this includes information captured for any two-way radio feature.

a. Subscriber records and other information for the **Target Device** and for all published, non-published, or unlisted dialing, routing, addressing, or signaling information identified pursuant to the proposed order, being limited to:

- (A) name;
- (B) address;
- (C) local and long distance telephone connection records, or records of session times and durations;
- (D) length of service (including start date) and types of service utilized;
- (E) [REDACTED] b7E b7E b7E ] b7E
- (F) date of birth;
- (G) social security number;
- (H) driver's license (state and number);
- (I) contact names and numbers, and
- (J) employment information;

b. Any and all changes (including additions, deletions, and transfers) in service regarding the **Target Device**, including [REDACTED] b7E ]

[REDACTED] b7E ] b7E

[REDACTED] b7E ]

b7E

b7E

c. For the **Target Device**, records or other information pertaining to its subscriber or customer, including historical call detail records<sup>7</sup> and cell-site information<sup>8</sup> (including any two-way radio feature mode) and the means and source of payment for service.

5. Wireless Location Data. Pursuant to Fed. R. Crim. P. 41, 18 U.S.C. § 2703(c)(1)(A),

and the probable cause set forth in the attached Affidavit, Applicant requests the Court issue an Order requiring **Provider** to disclose to the **Investigative Agency** prospective location information, including [

b7E

b7E

b7E

] Specific disclosure of location

information will assist law enforcement in identifying the approximate physical location of the

**Target Device** and will not disclose content of the calls. This includes the request for an order

directing **Provider** to employ and to disclose the results (through any means reasonably

available) of any and all [

b7E

b7E

C

b7E

C

b7E

] The requested order should contain a provision,

b7E

b7E

b7E

b7E

identical to that found at 18 U.S.C. § 2703(e), that no suit shall lie against Provider for complying with the Court's order and should be valid for a period of sixty (60) days, consistent with the duration authorized by the pen register.

6. PROVIDER ASSISTANCE & COMPENSATION. Applicant requests further that

**Provider** and all other providers of wire or electronic communication service, landlord, custodian, or other person furnish the Investigating Agency—unobtrusively and with a minimum of interference to services—all information, facilities, and technical assistance necessary to accomplish the installation of the pen register, trap & trace and wireless data disclosure order; and that such providers be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance. 18 U.S.C. § 3124(a), (b) & (c).

7. DELIVERY OF RECORDS. Applicant further requests that, upon request of the Investigative Agency, all records and information required to be provided pursuant to the proposed order be provided in a commercially reasonable electronic format specified by the Investigative Agency; and that those records be delivered forthwith via electronic mail (unless delivery under the current CALEA delivery protocol is possible and requested) to the email address specified by the agent serving the proposed order. 47 U.S.C. § 1002(a).

8. CONTINUATION OF SERVICES. Applicant further requests, because it is necessary to advance the purposes of this investigation, that the proposed order direct **Provider**

[ b7E ]  
[ b7E ] b7E  
[ b7E ]  
[ b7E ]

ME

WTE

## Applicant

facilitate its execution

b7E

37E

C

UNE

5

attorney for the Government or law enforcement or investigative officer that is serving the order

served. 18 U.S.C. 3123(a)(1). Applicant requests that, pursuant to 18 U.S.C. § 3123(b)(1)(C),

ME

b7E

67E

me

612

7 Applicant requests, further, that the proposed order be

effective in all respects for the thirty (30) days following its execution and, with respect to stored and transactional records, effective also for the sixty (60) days preceding its execution. 18 U.S.C. §§ 3123(c) and 2703(d).

10. NONDISCLOSURE & SEALING. Pursuant to 18 U.S.C. §§ 2705(b), 3123(d), and 3103a(b), Applicant further requests that the proposed order direct the **Provider**, and all other telecommunications providers, persons or entities providing service to the **Target Device** who are obligated by the proposed order to provide assistance to the **Investigative Agency**, not to disclose in any manner, directly or indirectly, by any action or inaction, to the subscriber(s) for the **Target Device**, the occupant of said premises, the subscriber of the incoming calls to or outgoing calls from the **Target Device**, or to any other person, the existence of the proposed order, in full or redacted form, the existence of the pen register, trap and trace device, or the existence of this investigation, unless otherwise ordered by this Court; and that the identity of the **Subject** may be redacted from any copy of the proposed order to be served on any service provider or other person; and further that this application any order entered in connection therewith be SEALED for a period extending at least to the date of **Subject's** arrest or dismissal of the underlying arrest warrant, whichever comes first. Specifically, disclosure of the requested order and investigation would likely result in continued flight from prosecution, a modification of the **Subject's** activities or the activities of those with whom **Subject** communicates and associates, or the destruction or tampering of evidence; and would otherwise seriously jeopardize the investigation.



I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on [INSERT DATE], at Houston, Texas.

**[BEFORE FILING, SEARCH FOR ALL BRACKETS IN THE APPLICATION AND ORDER AND MAKE SURE THAT THEY HAVE BEEN FILLED IN OR DELETED AND UNBOLDED EXCEPT FOR "Target Device," "Investigative Agency," "Subject," "Provider," "Applicant," or "Affiant"]**

**[AUSA'S NAME]**

Assistant U.S. Attorney – S.D. Texas

**[AUSA'S TELEPHONE NUMBER]**

[

b7E

] b7E

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

IN THE MATTER OF THE	§	
APPLICATION OF THE UNITED	§	
STATES OF AMERICA FOR AN	§	Case No. _____
ORDER: (1) AUTHORIZING THE	§	
INSTALLATION AND USE	§	
OF A PEN REGISTER AND TRAP	§	
AND TRACE DEVICE;	§	
(2) AUTHORIZING RELEASE	§	(UNDER SEAL)
OF SUBSCRIBER AND OTHER	§	
INFORMATION; AND,	§	
(3) AUTHORIZING THE DISCLOSURE	§	
OF WIRELESS LOCATION DATA	§	

**AFFIDAVIT IN SUPPORT OF APPLICATION**

1. I, [AGENT'S NAME], am a Deputy United States Marshal with the United States Marshals Service and, as such, I am charged with enforcing all laws in all jurisdictions of the United States, its territories and possessions. My primary duty and assignment obligates me to apprehend state and federal felony fugitives. I submit this Affidavit in support of the attached application for an order authorizing the installation and use of a pen register and trap and trace device, authorizing release of subscriber and other information, and authorizing the ongoing disclosure of wireless device location data. I set forth the following facts showing that there are sufficient grounds to believe that the cell-site and other subscriber records and information pertaining to telephone number [(xxx) xxx-xxxx] (as defined in the Application and herein, the "Target Device") and records or other information identifying subscribers (but not including the contents of communications) for telephone numbers calling or receiving calls from the Target Device will likely be relevant and material to an ongoing criminal investigation:

a. [INSERT SUMMARY OF FACTS relating to the investigation and, without unnecessarily identifying sources (because this affidavit will someday be unsealed), how this telephone number was identified. Set forth SPECIFIC facts regarding the investigation, why you think the target is using or has access to the target device, or that the location of the target device will lead to apprehension; and why getting subscriber information/cellsite information is relevant to the investigation]

b. In my experience, information identifying the subscribers of telephone numbers calling to or from a fugitive [ b7E J7E ] has yielded information that is relevant and material to fugitive investigations. Such information includes investigative leads relating to:

- (A) the names of individuals associated with, and businesses relevant to, the fugitive;
- (B) the location of "safe-houses" and other places of refuge or assistance;
- (C) the identity of family members, friends and those who have gained a fugitive's affection;
- (D) the locations of money transfers, modes and means of transportation, businesses used by fugitives, and even the identity of pizza or other fast-food delivery services providing fugitive nourishment and sustenance;
- (E) the geographic breadth and frequency of a fugitive's movements;
- (F) the identities of those knowingly providing safe-harbor or assistance to a fugitive, who may themselves be charged with concealing a person from arrest or accessory after the fact.

Based upon my training and experience, one of the most useful, undetectable and reliable ways to identify the foregoing information and to quickly and safely arrest fugitives is to evaluate the pattern of calls made to and from the Target Device [ b7E J7E ] and to then conduct an investigation concerning those individuals. [ b7E J7E ]

[ b7E ] at b7E  
[ b7E ]

c. Obtaining the subscriber name, address, date of birth, social security number, driver's license information, contact names and numbers, employment information; and method of payment is critical to accurately identifying such subscribers because, among other things:

(A) [ b7E ]  
(B) [ b7E ] b7E  
(C) [ b7E ]  
(B) [ b7E ]

d. [ b7E ]

[ b7E ]  
[ b7E ] b7E

RIP

b7E

b7E

b7E

b7E

b7E

b7E

b7E

2.

b7E

b7E

b7E

b7E

b7E

b7E

precise. I seek an order to compel disclosure of these records. [

b7E ]

[ b7E ] b7E

3. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on [INSERT DATE], at  
Houston, Texas.

[BEFORE FILING, SEARCH FOR ALL BRACKETS IN THE APPLICATION AND ORDER AND MAKE SURE THAT THEY HAVE BEEN FILLED IN OR DELETED AND UNBOLDED EXCEPT FOR "Target Device", "Investigative Agency", etc.]

[AGENT'S NAME], Deputy  
United States Marshals Service

b7E

b7E

] b7E

IN THE MATTER OF THE  
APPLICATION OF THE UNITED  
STATES OF AMERICA FOR AN  
ORDER: (1) AUTHORIZING THE  
INSTALLATION AND USE  
OF A PEN REGISTER AND TRAP  
AND TRACE DEVICE;  
(2) AUTHORIZING RELEASE  
OF SUBSCRIBER AND OTHER  
INFORMATION; AND,  
(3) AUTHORIZING THE DISCLOSURE  
OF WIRELESS LOCATION DATA

§ 87(2)(b)

Case No. \_\_\_\_\_

(UNDER SEAL)

This matter comes before the Court pursuant to written and sworn application under 18 U.S.C. §§ 3122(a)(1), 3127(5) and 2703(c)(1)(B) & (d) and Fed. R. Crim. P. 41 by Assistant United States Attorney [Name] (hereafter, “**Applicant**”), an Attorney for the Government as defined by Federal Rule of Criminal Procedure Rule 1(b)(1)(B), and accompanying affidavit of Deputy United States Marshal [Name] (hereafter, “**Affiant**”), applying for a multi-part order authorizing (i) the installation and use of a pen register and trap & trace device; (ii) the disclosure of stored wire and electronic transactional records; and, (iii) the disclosure of wireless device location data.

1. PEN/TRAP AUTHORIZED. Pursuant to 18 U.S.C. § 3123(a)(1), **Applicant** has certified that the information likely to be obtained by a pen register and trap and trace device installed on ~~[Provider's Legal Name]~~ telephone number ~~[(xxx) xxx-xxxx]~~ is relevant to an ongoing criminal investigation being conducted by the United States Marshals Service (hereafter,

214

[Offense Description, such as: 18 U.S.C. § 751 (Escape) OR SPECIFY STATE STATUTE]]

by [SUBJECT'S NAME IN CAPS] (hereafter, "Subject"), a fugitive from justice.

1  
b7E  
b7E  
b7E  
2  
b7E  
b7E  
b7E  
b7E



2. TRANSACTIONAL AND STORED RECORDS ACCESS. Pursuant to 18 U.S.C. §§ 2703(c)(1)(B) and 2703(d), Applicant and Affiant have offered specific and articulable facts showing that there are reasonable grounds to believe that records or other information identifying subscribers or customers (but not including the contents of communications) for telephone numbers identified through the pen register and trap and trace device on the **Target Device**, changes in service regarding the **Target Device**, cell site information regarding the **Target Device**, and records or other information pertaining to subscriber(s) or customer(s) (but not including the contents of communications) for the **Target Device** are relevant and material to an ongoing criminal investigation of the specified offenses.

Therefore, pursuant to 18 U.S.C. § 2703(d), **Provider** shall disclose or provide the following, upon oral or written demand of the **Investigative Agency**:

a. Subscriber records and other information for the **Target Device** and for all published, non-published, or unlisted dialing, routing, addressing, or signaling information identified pursuant to the proposed order, being limited to:

- (A) name;
- (B) address;
- (C) local and long distance telephone connection records, or records of session times and durations;
- (D) length of service (including start date) and types of service utilized;
- (E) [REDACTED] b7E ] 7E
- (F) date of birth;
- (G) social security number;
- (H) driver's license (state and number);
- (I) ~~contact names and numbers, and~~
- (J) employment information;

b. Any and all changes (including additions, deletions, and transfers) in service regarding the **Target Device**, including [ b7E ]

[ b7E ] subscriber information changes (published, non-published, listed, or unlisted);

c. For the **Target Device**, records or other information pertaining to its subscriber or customer, [ b7E ]

[ b7E ] and the means and source of payment.

3. Future wireless location data. Pursuant to Fed. R. Crim. P. 41 and 18 U.S.C. §

2703(c)(1)(A), the Court finds that **Affiant** has offered sufficient evidence, amounting to probable cause, to believe that a crime has been committed, that **Subject** committed that crime, and that the information likely to be received concerning the location of the wireless phone used by **Subject** constitutes evidence of the crime or will otherwise assist law enforcement in apprehending **Subject**.

Therefore, **Provider** shall employ and disclose the results (through any means reasonably available) of any and all available location-based services, including but not limited to real-time cell-site data [ b7E ]

[ b7E ] It is further ordered, consistent with the provisions of 18 U.S.C. § 2703(e), that no cause of action shall lie against **Provider** for complying with this Order.

4. PROVIDER ASSISTANCE & COMPENSATION. Pursuant to 18 U.S.C. § 3124(a),

(b) & (c), **Provider** and any other provider of wire or electronic communication service, landlord, custodian, or other person, shall furnish the **Investigative Agency**—unobtrusively and

with a minimum of interference to services—all information, facilities, and technical assistance necessary to accomplish the installation of the pen register and trap & trace devices; and such providers shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.

5. DELIVERY OF RECORDS. Pursuant to 47 U.S.C. § 1002(a) and by Order of this Court, upon request of the **Investigative Agency**, all records and information required to be provided pursuant to this Order shall be provided in a commercially reasonable electronic format specified by the **Investigative Agency**; and those records shall be delivered forthwith via electronic mail (unless delivery under the current CALEA delivery protocol is possible and requested by the **Investigative Agency**) to the email address specified by the agent serving the proposed order.

6. CONTINUATION OF SERVICES. Applicant has requested, and this Court so Orders, that Provider [ b2 b7E ]

[ b2 b7E ] b2 b7E  
[ b2 b7E ] b2 b7E  
[ b2 b7E ]

7. APPLICABILITY AND DURATION OF ORDER. Pursuant to 18 U.S.C. § 3124,

this Order, upon service, shall apply to any person or entity providing wire or electronic

communication service in the United States whose assistance may facilitate its execution

[ b7E ] and that, whenever served on any person or entity not specifically named therein, upon request of such person or entity, the **Applicant** or **Investigative**

**Agency** that is serving the order shall provide written or electronic certification that the order applies to the person or entity being served. 18 U.S.C. 3123(a)(1). Further, pursuant to 18 U.S.C. § 3123(b)(1)(C), this Order shall apply not only to the **Target Device**, [ b7E ]

[ b7E ]

[ b7E ] within the period authorized by the order. Further, this Order shall be effective in all respects for the thirty (30) days following its execution and, with respect to stored and transactional records, effective also for the sixty (60) days preceding its execution. 18 U.S.C. §§ 3123(c) and 2703(d).

8. NONDISCLOSURE & SEALING. Finally, pursuant to 18 U.S.C. §§ 2705(b), 3123(d), and 3103a(b), the Court finds that **Applicant** has articulated sufficient concern based on the interests of protecting law-enforcement sensitive investigative technique and the jeopardy posed to this investigation should this Order or Investigation be disclosed. Therefore, the Court orders that **Provider**, and all other telecommunications providers, persons or entities providing service to the **Target Device** who are obligated by this Order to provide assistance to the **Investigative Agency**, shall not disclose in any manner, directly or indirectly, by any action or

inaction, to the subscriber(s) for the **Target Device**, the occupant of said premises, the subscriber of the incoming calls to or outgoing calls from the **Target Device**, or to any other person, the existence of this Order, in full or redacted form, the existence of the pen register, trap and trace or the existence of this investigation, unless and until otherwise ordered by this Court; and, further, that the identity of the **Subject** may be redacted from any copy of this Order to be served on any service provider or other person; and further that **Applicant's** Application (and Affidavit) and this Order are herewith SEALED for a period extending at least to the date of **Subject's** arrest or dismissal of the underlying arrest warrant, whichever comes first.

---

**[BEFORE SUBMITTING, SEARCH FOR ALL BRACKETS IN THE APPLICATION AND ORDER AND MAKE SURE THAT THEY HAVE BEEN FILLED IN OR DELETED AND UNBOLDED EXCEPT FOR "Target Device," "Investigative Agency," "Subject," "Provider," "Applicant," or "Affiant"]**

Signed on \_\_\_\_\_ 2005, at Houston Texas.

**[INSERT DUTY JUDGE'S NAME]**  
United States Magistrate Judge  
Southern District of Texas

Application for Order Permitting Government To Use Its Own Pen Register/Trap and Trace Equipment (Triggerfish/Digital Analyzer or Similar Device)

UNITED STATES DISTRICT COURT  
DISTRICT OF \_\_\_\_\_

IN THE MATTER OF THE )  
APPLICATION OF THE )  
UNITED STATES OF AMERICA )  
FOR AN ORDER AUTHORIZING )  
THE INSTALLATION AND USE )  
OF A PEN REGISTER )  
\_\_\_\_\_ )

APPLICATION

\_\_\_\_\_, an Assistant United States Attorney, being duly sworn, hereby applies to the Court for an order authorizing the installation and use of a pen register to identify the Electronic Serial Number (ESN) and Mobile Identification Number (MIN) of a cellular telephone (being used by (if known) (within a (color, make, model of vehicle) (bearing \_\_\_\_\_ state license plate number \_\_\_\_\_)). In support of this application I state the following:

1. Applicant is an "attorney for the Government" as defined in Rule 54(c) of the Federal Rules of Criminal Procedure, and, therefore, pursuant to Section 3122 of Title 18, United States Code, may apply for an order authorizing the installation of a trap and trace device and pen register.

2. Applicant certifies that the United States Drug Enforcement Administration is conducting a criminal investigation of (name targets (if known) and others as yet unknown), in connection with possible violations of Title \_\_, United States Code, Section(s)\_\_\_\_; it is believed that the subjects of the investigation are using a cellular telephone within a (color, make, model of vehicle) (bearing \_\_\_\_\_ state license plate number \_\_\_\_\_)) in furtherance of the subject offenses; and that the information likely to be obtained from the pen register is relevant to the ongoing criminal investigation.

3. Applicant requests that the Court issue an order authorizing the installation and use of a pen register for a period of (enter time period, not to exceed 60) days.

WHEREFORE, it is respectfully requested that the Court grant ~~an order for (enter time period, not to exceed 60) days~~  
~~authorizing the installation and use of a pen register.~~

RIF

Applicant

21K

Order Permitting Government To Use Its Own Pen Register/Trap and  
Trace Equipment (Triggerfish/Digital Analyzer or Similar Device)

UNITED STATES DISTRICT COURT  
DISTRICT OF \_\_\_\_\_

IN THE MATTER OF THE )  
APPLICATION OF THE )  
UNITED STATES OF AMERICA )  
FOR AN ORDER AUTHORIZING )  
THE INSTALLATION AND USE )  
OF A PEN REGISTER )  
\_\_\_\_\_ )

ORDER

This matter having come before the Court by an application under oath pursuant to Title 18, United States Code, Section 3122 by \_\_\_\_\_, an attorney for the Government, which requests an order under Title 18, United States Code, Section 3123, authorizing the installation and use of a pen register to identify the Electronic Serial Number (ESN) and Mobile Identification Number (MIN) assigned to a cellular telephone (being used by \_\_ (if known) \_\_) (within a (color, make, model of vehicle), bearing (\_\_\_\_ state license plate number \_\_\_\_)), the Court finds that the applicant has certified to the Court that the information likely to be obtained by such installation and use is relevant to an ongoing criminal investigation into possible violations of Title \_\_, United States Code, Sections \_\_\_\_ by (list targets (if known) and others as yet unknown).

IT IS ORDERED, pursuant to Title 18, United States Code, Section 3123, that the (investigative agency) is authorized to install and use, anywhere within the United States, a pen register to identify the ESN and MIN of a cellular telephone (being used by \_\_ (if known) \_\_) (within a (color, make, model of vehicle), bearing (\_\_\_\_ state license plate number \_\_\_\_)), for a period of (enter time period, not to exceed 60) days; and

IT IS ORDERED FURTHER, pursuant to Section 3123(d) of Title 18, that this order and the application be sealed until otherwise ordered by the Court.

UNITED STATES MAGISTRATE (or DISTRICT) JUDGE \_\_\_\_\_

\_\_\_\_\_ Date

RIF



RIF

Combined 3123/2703 Application

[NAME]

United States Attorney

[NAME]

Assistant United States Attorney  
Chief, Criminal Division

[YOUR NAME]

Assistant United States Attorney

[ ] Section

[ ] State Bar No. [ ]

[ADDRESS]

Telephone: ( ) X-[ ]

Facsimile: ( ) X-[ ]

Attorneys for Applicant  
United States of America

UNITED STATES DISTRICT COURT

FOR THE [ ] DISTRICT OF [ ]

IN THE MATTER OF THE )  
APPLICATION OF THE UNITED )  
STATES OF AMERICA FOR AN )  
ORDER: (1) AUTHORIZING THE )  
INSTALLATION AND USE )  
OF A PEN REGISTER AND A )  
TRAP AND TRACE DEVICE; AND )  
(2) AUTHORIZING RELEASE OF )  
SUBSCRIBER INFORMATION )  
AND/OR CELL SITE INFORMATION )

No. \_\_\_\_\_

A P P L I C A T I O N

(UNDER SEAL)

[YOUR NAME], an Assistant United States Attorney for the

[ ], hereby applies to the court for an order:

1. Pursuant to 18 U.S.C. §§ 3122 and 3123, authorizing the  
installation and use of a pen register and the use of a trap and  
trace device

WTE

J 67E

<sup>1</sup> A "pen register" is a "device or process which records or decodes dialing, routing, addressing or signaling information transmitted by an instrument or facility from which a wire or electronic

RIP

FOLLOWED BY ADDRESS] [NOTE TO AGENTS:

[ b7E

b7E

b7E ] and used by [TARGET'S NAME] (hereinafter the "Subject Telephone Number" [OR, IF YOU PLAN TO GET PENS ON OTHER PHONES AT A LATER DATE, YOU CAN KEEP TRACK BETTER BY NUMBERING, SUCH AS "Subject Telephone Number One"]]);

2. Pursuant to 18 U.S.C. §§ 2703(c)(1)(B), 2703(c)(2) and 2703(d), directing disclosure of subscriber information for all published, non-published, or unlisted numbers dialed or otherwise transmitted to and from the **Subject Telephone Number**, upon oral or written demand by special agents of the [LIST AGENCY/IES]<sup>3</sup>; and

3. [FOR WIRELESS TELEPHONE ONLY]: Pursuant to 18 U.S.C. §§ 2703(c)(1)(B) and 2703(d), directing disclosure of the location of cell site/sector (physical address) at call origination (for outbound calling), call termination (for incoming calls), and, if reasonably available, [ b7E ] b7E

<sup>3</sup>"Subscriber Information" includes:

(A) name; (B) address; (C) local and long distance telephone connection records, or records of session times and durations; (D) length of service (including start date) and types of service utilized; (E) b7E b7E and (F) means and source of payment for such service (including any credit card or bank account number) of a subscriber to or customer of an electronic communication service or remote computing service. 18 U.S.C. § 2703(c)(2).

b7E

RIP

Subject Telephone Number. 4 [

b7E

] b7E

{ b7E

] b7E

In support of this application, I state the following:

A. CERTIFICATION FOR A PEN REGISTER AND A TRAP AND TRACE DEVICE

1. I am an "attorney for the Government" as defined in Rule 54(c) of the Federal Rules of Criminal Procedure, and therefore, pursuant to 18 U.S.C. § 3122, may apply for an order authorizing the installation and use of pen registers and trap and trace devices.

2. I certify that the information likely to be obtained from the pen register and trap and trace device is relevant to an ongoing criminal investigation being conducted by the Federal Bureau of Investigation (FBI) in connection with possible violations of federal criminal offenses, including [CITE STATUTE(S)]; and that it is believed that [LIST MAIN TARGET(S)], and others known and unknown, have and will continue to use the Subject Telephone Number in furtherance of the subject offense.

b7E

b7E

RIP

3. Wherefore, based upon the above Certification,<sup>5</sup> I request that the court issue an order authorizing:

a. The installation and use of a pen register to record or decode dialing, routing, addressing, or signaling information<sup>6</sup> transmitted from the Subject Telephone Number, to record the date

<sup>5</sup> Section 3122 "was not intended to require independent judicial review of relevance; rather, the reviewing court need only verify the completeness of the certification." In re United States, 10 F.3d 931, 935 (2d Cir. 1993) (citing S. Rep. No. 541, 99th Cong., 2d Sess. 47 (1986), reprinted in 1986 U.S.C.A.N. 3555, 3601); see also United States v. Fregoso, 60 F.3d 1314, 1320 (8th Cir. 1995) (holding that the judicial role under Section 3123(a) is ministerial in nature because a proper application under Section 3122 mandates entry of the order); Brown v. Waddell, 50 F.3d 285, 290 (4th Cir. 1995) (Section 3122 does not require the government to establish probable cause to obtain a pen register or trap and trace device); United States v. Newman, 733 F.2d 1395, 1398 (10th Cir. 1984) ("[N]o showing of probable cause -- or even 'sufficient cause,' as defendant suggests -- is necessary to justify authorization of a pen register.")

6. [REDACTED] b7E b7E b7E

Section 3121(c), as amended by the USA Patriot Act, P.L. 107-56 (2001) affirmed the requirement to "use technology reasonably available" that restricts the collection of information "so as not to include the contents of any wire or electronic communications." This provision implicitly recognizes that the incidental collection of some content may occur despite the use of reasonably available technology to avoid such capture. With regard to the requirement of Section 3121(c) to use technology reasonably available so as not to include the contents of any wire or electronic communications, [REDACTED] b7E b7E

[REDACTED] b7E b7E

RIP

and time of such dialings or transmissions, and to record the length of time the telephone receiver in question is "off the hook" for incoming or outgoing calls for a period of sixty days.

b. The installation and use of a trap and trace device on the Subject Telephone Number to capture and record the incoming electronic or other impulses which identify the originating numbers or other dialing, routing, addressing, or signaling information reasonably likely to identify the sources of wire or electronic communications and to record the date, time and duration of calls created by such incoming impulses, for a period of sixty days, and that the tracing operations be without geographical limits.

c. That, pursuant to 18 U.S.C. § 3123(b)(1)(C), the requested installation and use of a pen register and trap and trace device (

b7E

b7E

b7E

b7E

b7E

b7E

b7E

60-day period authorized by this order.<sup>7</sup>

5. Applicant further requests that the court direct the local, long distance, and wireless carriers listed in the proposed order, filed concurrently herewith, and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the order to notify special agents of the FBI, upon oral or written request, [ 1 b7E ]

[ b7E ]

[ b7E b7E ]

[ b7E s. ]

6. Pursuant to 18 U.S.C. § 3123(a)(1) and § 3123(b)(2), I further request that the court direct that upon service of the order upon it, the local, long distance, and wireless carriers, and any other person or entity providing wire communication service in the United States whose assistance may facilitate execution of the order, furnish the information, facilities, and technical assistance necessary to accomplish unobtrusively the installation and use of the pen register and trap and trace device with

<sup>7</sup> Section 3123(b)(1)(C) has been amended to require the Court to specify in the order "the attributes of the communications to which the order applies, including the number or other identifier . . . ." 18 U.S.C. § 3123(b)(1)(C). The account number, when combined with the same subscriber name for the **Subject Telephone Number** sufficiently specifies "the attributes of the communications to which the order applies, including the number or other identifier . . . ." as required by

§ 3123(b)(1)(C). Cf. United States v. Duran, 189 F.3d 1071, 1083-1086 (9th Cir. 1999) (holding interception of wire communications on a cellular telephone with a changed telephone number followed by a changed ESN were covered by the order authorizing the interception of wire communications even though the court order authorizing the wiretap only anticipated a changed telephone number but did not anticipate a changed ESN).

RIP

compensation to be paid by the investigative agency for reasonable expenses directly incurred in providing such facilities and assistance.

7. Applicant further requests that the order direct the ~~local, long distance, and wireless carriers, and any other person~~ or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the order, furnish the results of the pen register and trap and trace installations to Agents of the Federal Bureau of Investigation as soon as practicable twenty four (24) hours a day for the duration of the order.

B. SPECIFIC AND ARTICULABLE FACTS ESTABLISHING REASONABLE GROUNDS TO BELIEVE THAT SUBSCRIBER RECORDS [AND CELL SITE INFORMATION] ARE RELEVANT AND MATERIAL TO AN ONGOING CRIMINAL INVESTIGATION

1. In support of its request for an order under 18 U.S.C. § 2703(d) directing the furnishing of subscriber information [~~FOR WIRELESS PHONE~~: and cell site information] pursuant to 18 U.S.C. §§ 2703(c)(1)(B), 2703(c)(2) and 2703(d), and based upon discussions with SA [AGENT'S NAME], the government hereby sets forth the following specific and articulable facts showing that there are reasonable grounds to believe that the subscriber information pertaining to telephone numbers identified through the pen register and trap and trace device on **the Subject Telephone Number** [~~FOR WIRELESS PHONE~~: and cell site information regarding the **Subject Telephone Number**] will be relevant and material to an ongoing criminal investigation:

RIF



a. [INSERT BRIEF, YET SPECIFIC, FACTUAL STATEMENT RE:  
YOUR INVESTIGATION AND INFORMATION INDICATING THAT TARGET(S) IS  
USING THE SUBJECT TELEPHONE(S); TRY TO LIMIT THIS SECTION TO 3  
PARAGRAPHS. **FOR A CONTINUATION OF A PEN REGISTER:** ADD THE DATE,  
MISC. NUMBER AND SIGNING JUDGE OF ALL PRIOR PEN REGISTER ORDERS AND  
SOME JUDGES MIGHT REQUIRE SOME INFORMATION REGARDING THE RESULTS OF  
THE PEN REGISTER(S)/TRAP AND TRACE(S) DURING THE MOST RECENT 60-DAY  
PERIOD.]

b. [INSERT CONCISE EXPLANATION AS TO WHY SUBSCRIBER  
INFORMATION IS RELEVANT AND MATERIAL TO YOUR INVESTIGATION. **IF  
~~DRUG TRAFFICKING CASE, ADAPT THE FOLLOWING PARAGRAPH:~~** In [AGENT'S  
NAME's] experience, subscriber information, including toll data  
from numbers obtained from numbers captured by the pen register and  
the trap and trace has yielded information that is relevant and  
material to narcotics trafficking investigations. [ b7E ]

[ b7E ] [IF YOU HAVE NEED FOR TOLL DATA ADD THE  
FOLLOWING OR OTHER FACTS THAT SUPPORT THE REQUEST : [ b7E ]

c. [FOR WIRELESS TELEPHONE ONLY] : SA [AGENT'S NAME] has

RIP

further advised[

b7E

b7E

b7E

b7E

b7E ]

5. Accordingly, based upon the above proffer, and pursuant to 18 U.S.C. §§ 2703(c)(1)(B), 2703(c), and 2703(d), because there are reasonable grounds to believe that such information is relevant and material to the ongoing investigation, I request that the providers listed in the proposed order, filed concurrently herewith, and any other person or entity providing wire or electronic communications service in the United States whose assistance may facilitate execution of the order be ordered to supply subscriber information (including the names and addresses, whether listed or unlisted, billing information, and periods of telephone activation) for dialing, routing, addressing, or signaling information captured by the pen register on the **Subject Telephone Number**, and for dialing, routing, addressing, or signaling information reasonably likely to identify the source of a wire or electronic communication transmitted to the **Subject Telephone Number** as captured by the trap and trace device on the **Subject Telephone Number** upon oral or written demand by agents of the [AGENCY/IES]

b7E

b7E

R10

b7E  
b7E  
b7E  
b7E

C. REQUEST THAT APPLICATION AND ORDER BE FILED UNDER SEAL AND THAT THE ORDER PRECLUDE NOTICE

1. Based upon the information provided in this application, I believe that the disclosure of the requested court order may result in the flight from potential prosecution, may result in the destruction of or tampering with evidence, or may otherwise seriously jeopardize the investigation. Therefore, pursuant to 18 U.S.C. §§ 2705(b) and 3123(d), I further request that the court direct the local, long distance and wireless carriers listed in the proposed order, and any other local, long distance or wireless carrier servicing the **Subject Telephone Number** who is obligated by the order to provide assistance to the applicant not to disclose in any manner, directly or indirectly, by any action or inaction, to the listed subscriber[s] for the **Subject Telephone Number**, the occupant of said premises, the subscriber of the incoming calls to or outgoing calls from the **Subject Telephone Number**, or to any other person, the existence of this order, in full or redacted form, of the pen register or trap and trace devices, or of this investigation unless otherwise ordered by this court and further

RIP

that this application and order be SEALED.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief, and that this declaration was executed on [DATE] at [\_\_\_\_\_].

[YOUR NAME]  
Assistant United States Attorney  
[ ] Section

RIF

Combined 3123/2703 Order

[NAME]  
United States Attorney  
[NAME]  
Assistant United States Attorney  
Chief, Criminal Division  
[YOUR NAME]  
Assistant United States Attorney

[ ] Section  
State Bar No. [ ]  
[ADDRESS]  
Telephone: (XXX) [ ]-[ ]  
Facsimile: (XXX) [ ]-[ ]

Attorneys for Applicant  
United States of America

UNITED STATES DISTRICT COURT

FOR THE [ ] DISTRICT OF [ ]

IN THE MATTER OF THE	)	
APPLICATION OF THE UNITED	)	No. _____
STATES OF AMERICA FOR AN	)	
ORDER: (1) AUTHORIZING THE	)	
INSTALLATION AND USE	)	<u>[PROPOSED] ORDER</u>
OF A PEN REGISTER AND A	)	
TRAP AND TRACE DEVICE,	)	<u>(UNDER SEAL)</u>
AND (2) AUTHORIZING RELEASE	)	
OF SUBSCRIBER INFORMATION	)	
AND/OR CELL SITE INFORMATION	)	
_____	)	

This matter having come before the court pursuant to an  
application under Title 18, United States Code, Sections 2703(c)  
and (d), 3122 and 3123, by Assistant United States Attorney [YOUR  
NAME], an attorney for the Government as defined by Fed. R. Crim.  
~~P. 54(c), requesting an order authorizing the installation and use~~  
of a pen register and the use of a trap and trace device, on the  
following telephone number:

RIF

(a) [AREA CODE AND PHONE NUMBER], a [TYPE OF PHONE, E.G., "HARD-LINE TELEPHONE," "CELLULAR TELEPHONE," OR "DIGITAL TELEPHONE"] issued by [NAME OF CARRIER, E.G., AT&T WIRELESS SERVICES], with Electronic Serial Number ("ESN") [FILL IN ESN] ~~[if Nextel:~~

instead of ESN, insert International Mobile Subscriber Identifier ("IMSI"), which is preferred, but not required; ~~[if Cingular Wireless:~~ ESN and/or Subscriber Identity Module ("SIM") [FILL IN ESN AND/OR SIM]], subscribed to by [SUBSCRIBER'S NAME AND BILLING ADDRESS, IF KNOWN; IF PREPAID ACCOUNT, STATE "PREPAID ACCOUNT," FOLLOWED BY ADDRESS] and used by [TARGET'S NAME] (hereinafter the "Subject

Telephone Number"; and

UPON REVIEW OF THE APPLICATION, THE COURT HEREBY FINDS THAT:

Pursuant to 18 U.S.C. § 3123, Applicant has certified that the information likely to be obtained by such use is relevant to an ongoing criminal investigation being conducted by the Federal Bureau of Investigation into possible violations of [STATUTE(S)] by [MAIN TARGETS], and others.

Pursuant to 18 U.S.C. §§ 2703(c)(1)(B), 2703(c)(2) and 2703(d), Applicant has offered specific and articulable facts showing that there are reasonable grounds to believe that subscriber information for dialing, routing, addressing, and signaling information (not including the contents of any

RIF

communication) transmitted to and from the **Subject Telephone Number** is relevant and material to an ongoing criminal investigation of the specified offenses;

[FOR WIRELESS TELEPHONE ONLY] Pursuant to 18 U.S.C. §§ 2703(c)(1)(B) and 2703(d), Applicant has further established that there are specific and articulable facts showing that there are reasonable grounds to believe that cell site information is relevant and material to an ongoing criminal investigation of the specified offenses;

~~THEREFORE, IT IS HEREBY ORDERED, pursuant to 18 U.S.C.~~  
§ 3123, that agents of the Federal Bureau of Investigation may install, or cause to be installed, and use a pen register to record or decode dialing, routing, addressing, or signaling information transmitted from the **Subject Telephone Number**,<sup>1</sup> to record the date and time of such dialings or transmissions, and [ b7E ]  
[ b7E ] b7E  
[ b7E ] for a period of sixty days from the date this order is filed by the court;<sup>2</sup>

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. § 3123, that agents of the Federal Bureau of Investigation may install, or cause to be installed, and use a trap and trace device on the **Subject**

<sup>1</sup> [ b7E ] b7E  
<sup>2</sup> As used herein, "the date this order is filed by the court" is the date indicated by the clerk's file stamp on the first page of this order.

RIP

**Telephone Number** to capture and record the incoming electronic or other impulses which identify the originating number, or other dialing, routing, addressing, and signaling information reasonably likely to identify the source of a wire or electronic communication, and to record the date, time, and duration of calls created by such incoming impulses, for a period of sixty days from the date this order is filed by the court, and that the tracing operations be without geographical limits;

IT IS FURTHER ORDERED, pursuant to 18 U.S.C.

~~§§ 2703(c)(1)(B), 2703(c)(2) and 2703(d), that~~ [NAME PROVIDER(S)] Pacific Bell Telephone Company, Southwestern Bell Telephone Company (SBC), Verizon California, Inc., AT&T Broadband, Allegiance Telecom, MPower Communications, Ameritech, Cox Communications (hereinafter "the local carriers"); AT&T, U.S. Sprint, WorldCom (hereinafter "the long distance carriers"); Cellco Partnership, dba Verizon Wireless, AT&T Wireless Services, Cingular Wireless, Sprint Spectrum L.P., and Nextel Communications (hereinafter "the wireless carriers"); and any other local, long distance or wireless carrier servicing the **Subject Telephone**

**Number**, shall supply subscriber information (including the names and addresses, whether listed or unlisted, billing information, and periods of telephone activation) for dialing, routing, addressing, or signaling information captured by the pen register on the

**Subject Telephone Number**, and for dialing, routing, addressing, or signaling information reasonably likely to identify the source of

RIF



a wire or electronic communication transmitted to the **Subject Telephone Number** as captured by the trap and trace device on the **Subject Telephone Number**, upon oral or written request by special agents of the FBI;

~~[FOR WIRELESS TELEPHONE ONLY AND CELL SITE HAS BEEN REQUESTED:~~

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. §§ 2703(c)(1)(B), 2703(c)(2) and 2703(d), that the wireless carriers shall provide the [E b7E

b7E

b7E

b7E

b7E

IT IS FURTHER ORDERED that this authorization for the installation and use of a pen register and trap and trace device applies not only to the telephone number listed above for the **Subject Telephone Number**, [E b7E

b7E

b7E

b7E

b7E

RIP

ME 167E  
ME ] within  
the 60-day period authorized by this order;

IT IS FURTHER ORDERED, that the local, long distance, and the  
~~wireless carriers, and any other person or entity providing wire~~  
communication service in the United States whose assistance may  
facilitate execution of the order, notify special agents of the  
FBI, upon oral or written request, of any and all changes  
(including additions, deletions, and transfers) in service  
~~regarding the Subject Telephone Number to include telephone numbers~~  
and subscriber information (published and non-published) associated  
with these service changes;

IT IS FURTHER ORDERED, pursuant to 18 U.S.C. §  
3123(a)(1) and (b)(2) and § 2703(c) and (d), that upon service of  
this order upon it, the local, long distance, and the wireless  
carriers, and any other person or entity providing wire  
communication service in the United States whose assistance may  
facilitate execution of the order, shall furnish agents of the  
[AGENCY/IES] forthwith all information, including but not limited  
to telephone subscriber information, facilities, and technical  
assistance necessary to accomplish the installation and use of the  
pen register and trap and trace device unobtrusively and with  
~~minimum interference with the services that are accorded the~~  
persons with respect to whom the installation and use is to take  
place;

RIP

IT IS FURTHER ORDERED that the local, long distance, and the wireless carriers, and any other person or entity providing wire or electronic communication service in the United States whose assistance is used to facilitate execution of the order, furnish ~~the results of the pen register and trap and trace installations to~~ special agents of the FBI as soon as practicable twenty four (24) hours a day for the duration of the order.

IT IS FURTHER ORDERED that the local, long distance and the wireless carriers be compensated by the investigative agency for ~~reasonable expenses directly incurred in providing technical~~ assistance; and,

Good cause having been shown, IT IS FURTHER ORDERED, pursuant to 18 U.S.C. §§ 2705(b) and 3123(d), that this order and the application be sealed until otherwise ordered by the court, that the identity of any target(s) of the underlying criminal investigation may be redacted from any copy of this order to be served on any service provider or other person, and that the local, long distance and the wireless carriers and their representatives, agents and employees shall not disclose in any manner, directly or indirectly, by any action or inaction, the existence of this order or the existence of the above-described investigation, to the listed subscriber[s] for the **Subject Telephone Number**, the occupant ~~of said premises, the subscribers of the incoming calls to or~~ outgoing calls from the **Subject Telephone Number**, or to any other person, in full or redacted form, unless or until otherwise ordered

AIF

by the court.

DATED: \_\_\_\_\_ [NOTE TO AGENTS/ASSISTANT UNITED STATES

ATTORNEY'S: LEAVE ENTIRE DATE BLANK FOR COURT TO FILL IN; IF WRONG

~~MONTH OR YEAR IS LEFT IN (I.E., DUPING AN OLD ORDER), PHONE COMPANY~~

MAY REJECT, DESPITE CLERK'S DATE/TIME STAMP ON FACE PAGE]

\*\*\*: BEFORE FILING, SEARCH FOR ALL BRACKETS "[" TO MAKE SURE THAT  
ALL BRACKETS AND BRACKETED PHRASES HAVE BEEN DELETED\*\*\*\*\*

---

UNITED STATES MAGISTRATE JUDGE

Presented by:

---

[YOUR NAME]

Assistant United States Attorney

[\_\_\_\_\_] Section

---

---

---

RIF

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

- - - - -X  
IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : SEALED APPLICATION  
FOR AN ORDER AUTHORIZING DISCLOSURE :  
OF GPS COORDINATES OF A SPECIFIED :  
WIRELESS TELEPHONE :  
- - - - -X

[YOUR NAME], an Assistant United States Attorney in the  
Office of Roslynn R. Mauskopf, United States Attorney for the  
Eastern District of New York, hereby applies to the Court for an  
Order pursuant to the All Writs Act, 28 U.S.C. § 1651(a), directing  
Sprint/Nextel (the "Carrier") to disclose certain information,  
further defined below as "GPS Coordinates," relating to the  
wireless telephone assigned telephone number [TELEPHONE NUMBER] and  
[ESN/IMSI/IMEI], issued by the Carrier and subscribed to in the  
name of [SUBSCRIBER NAME AND ADDRESS, if any] (the "SUBJECT  
WIRELESS TELEPHONE") for use by law enforcement agents assigned to  
effect an arrest warrant that was issued on or about [DATE OF  
WARRANT], in the Eastern District of New York, by [NAME OF JUDGE]  
commanding that [NAME OF FUGITIVE] (the "SUBJECT FUGITIVE") be  
brought before the Court to be arraigned on a [COMPLAINT OR  
INDICTMENT] charging a violation of [STATUTE VIOLATED] (the  
"SUBJECT ARREST WARRANT").

RIF

A. The Information Sought

1. GPS is a worldwide radio-navigation system based on a network of satellites in orbit around the earth and their ground stations. GPS-enabled equipment uses signals communicated from the satellites ("GPS signals") as reference points to estimate the geographic position of a given electronic device. [ b7E ]

2. I have been informed that, when it was manufactured the SUBJECT WIRELESS TELEPHONE was pre-equipped with a GPS-enabled chip. Further, [ b7E ]

[ b7E ]  
[ b7E ]

[ b7E ]

b2

b7E

b2

b7E

3. Under the order proposed herein, agents of [NAME OF AGENCY] would be authorized orally to request the Carrier to use its Precision Locate Service unobtrusively to acquire the current GPS Coordinates of the Subject Wireless Telephone [

b7E ]

b7E ]

b7E

b7E

b7E

17]

b2

b7E

b2

b7E

RIP

B. BASIS OF REQUESTED ORDER

4. The Court has authority pursuant to the All Writs Act, 28 U.S.C. § 1651, to order disclosure of GPS Coordinates on a showing of probable cause to believe that a federal fugitive is ~~using a specified wireless telephone.~~ Under 28 U.S.C. § 1651(a), such disclosure is of appropriate aid to the Court's extant jurisdiction over an open arrest warrant because it assists agents to find the fugitive so that the warrant can be executed and he can be brought before the Court to be arraigned.<sup>3</sup>

5. I have discussed the investigation of the SUBJECT FUGITIVE fully with the ICE agents involved in it. Based upon those discussions, the government respectfully submits that the following demonstrates probable cause to believe that the SUBJECT FUGITIVE is using the SUBJECT WIRELESS TELEPHONE:<sup>4</sup>

[INSERT PROBABLE CAUSE TO BELIEVE FUGITIVE IS USING PHONE]

6. Based on the foregoing, I respectfully request that the Court issue an Order pursuant to the All Writs Act, 28 U.S.C. § 1651(a):

---

<sup>3</sup> See, e.g., In re Application of the United States for an Order (1) Authorizing the Use of a Pen Register and a Trap and Trace Device and (2) Authorizing Release of Subscriber Information and/or Cell Site Information, 396 F. Supp.2d 294, 325-26 (E.D.N.Y. 2005). (James Orenstein, M.J.) (approving same).

<sup>4</sup> Because the purpose of this affirmation is to establish the requisite probable cause, I have not set forth each and every fact of which I am aware.



a. Directing the Carrier [

ME ]

b7E

b7E

b. Directing the Carrier to [

b7E ]

b7E

b7E

b7E

within

the period authorized by this order;

c. Directing the Carrier to notify [NAME OF AGENCY] agents, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the SUBJECT WIRELESS TELEPHONE to include telephone numbers and subscriber information (published and non-published) associated with these service changes;

d. Directing the Carrier not to disclose to the listed subscriber of the SUBJECT WIRELESS TELEPHONE or to any other person, (a) ~~the existence of the authorizing order, in full or~~ redacted form and (b) the disclosure of GPS Coordinates with respect to the SUBJECT WIRELESS TELEPHONE, unless and until otherwise ordered by the Court. Any such disclosure would severely jeopardize this investigation by alerting [NAME OF FUGITIVE] to the existence of an investigation and likely lead to flight and/or destruction or concealment of evidence of the SUBJECT FUGITIVE's location.

7. No prior request for the relief set forth herein has been made except to the extent set forth above. The foregoing is affirmed under the penalties of perjury. See 28 U.S.C. § 1746.

Dated: Brooklyn, New York  
DATE

\_\_\_\_\_  
[YOUR NAME]  
Assistant United States Attorney  
[YOUR TEL. NUMBER]

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

---

IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : SEaled ORDER OF  
FOR AN ORDER AUTHORIZING DISCLOSURE : AUTHORIZATION  
OF GPS COORDINATES OF A SPECIFIED :  
WIRELESS TELEPHONE :  
- - - - -X

---

This matter having come before the court pursuant to an application by Assistant United States Attorney [YOUR NAME], requesting an Order pursuant to the All Writs Act, 28 U.S.C. § 1651(a), directing Sprint/Nextel (the "Carrier") to disclose certain information, further defined below as "GPS Coordinates," relating to the wireless telephone assigned telephone number [TELEPHONE NUMBER] and [ESN/IMSI/IMEI], issued by the Carrier and subscribed to in the name of [SUBSCRIBER NAME AND ADDRESS, if any] (the "SUBJECT WIRELESS TELEPHONE") for use by law enforcement agents assigned to effect an arrest warrant that was issued on or about [DATE OF WARRANT] in the Eastern District of New York, by Magistrate Judge Steven M. Gold commanding that [NAME OF FUGITIVE] (the "SUBJECT FUGITIVE") be brought before the Court to be arraigned on a [COMPLAINT OR INDICTMENT] charging a violation of [STATUTE VIOLATED] (the "SUBJECT ARREST WARRANT"), now therefore, UPON REVIEW OF THE APPLICATION, THE COURT HEREBY FINDS THAT:

---

~~Applicant has established probable cause to believe that~~  
[NAME OF FUGITIVE] is presently using the SUBJECT WIRELESS TELEPHONE and, accordingly, pursuant to the All Writs Act, 28

RIF

U.S.C. § 1651, disclosure of the approximate coordinates, [ b7E ]

[ b7E ]

b7E

] b7E

← b7E ]

b7E

] would be of appropriate

aid of the Court's jurisdiction with respect to the pending warrant

to arrest the SUBJECT FUGITIVE because that information will aid agents in locating [NAME OF FUGITIVE], executing the SUBJECT ARREST WARRANT and bringing [NAME OF FUGITIVE] before the Court to answer charges; now therefore,

IT IS HEREBY ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651, that upon oral request by agents of [NAME OF AGENCY], the Carrier shall, at any times specified by the agents,

[

b7E

]

[

b7E

] b7E

[

b7E

b7E

]

[

b7E

] and upon their

computation, immediately report them to [NAME OF AGENCY];

IT IS FURTHER ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651, that this Order for the disclosure of GPS Coordinates applies [

b7E

]

[

b7E

] b7E

[ ] b7E  
E b7E  
[ ] b7E  
[ ] b7E  
[ ] b7E ] within the period authorized by this order;

IT IS FURTHER ORDERED, that the local, long distance, and the wireless carriers, and any other person or entity providing wire communication service in the United States whose assistance may facilitate execution of the order, notify [NAME OF AGENCY] agents, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the SUBJECT WIRELESS TELEPHONE to include telephone numbers and subscriber information (published and non-published) associated with these service changes;

IT IS FURTHER ORDERED that the local, long distance and the wireless carriers be compensated by the investigative agency for reasonable expenses directly incurred in providing technical assistance; and,

Good cause having been shown, IT IS FURTHER ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), that this order and the application be sealed until otherwise ordered by the court, and that the Carrier shall not disclose in any manner, directly or indirectly, by any action or inaction, (a) the existence of this order, or (b) the disclosure of the GPS Coordinates of the SUBJECT

WIRELESS TELEPHONE, to the listed subscriber for the SUBJECT  
WIRELESS TELEPHONE, the occupant of said premises, the subscribers  
~~of the incoming calls to or outgoing calls from the SUBJECT~~  
WIRELESS TELEPHONE, or to any other person, in full or redacted  
~~form, unless or until otherwise ordered by the Court.~~

Dated: Brooklyn, New York  
[DATE]

UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
IN THE MATTER OF AN APPLICATION :  
OF THE UNITED STATES OF AMERICA : SEALED ORDER TO  
FOR AN ORDER AUTHORIZING DISCLOSURE : SERVICE PROVIDER  
OF GPS COORDINATES OF A SPECIFIED :  
WIRELESS TELEPHONE :  
-----X

WHEREAS this Court has, upon the application of the United States of America, entered an order pursuant to the All Writs Act, 28 U.S.C. § 1651(a), directing Sprint/Nextel (the "Carrier") to disclose certain information, further defined below as "GPS Coordinates," relating to the wireless telephone assigned telephone number [TELEPHONE NUMBER] and [ESN/IMSI/IMEI], issued by the Carrier and subscribed to in the name of [SUBSCRIBER NAME AND ADDRESS, if any] (the "SUBJECT WIRELESS TELEPHONE") for use in connection with an on-going criminal investigation of a fugitive, now therefore, it is hereby

ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651, pursuant to the All Writs Act, 28 U.S.C. § 1651, that upon oral request by agents of [NAME OF AGENCY], the Carrier shall, [b7E]

[b7E] and upon their computation, immediately report them to [NAME OF AGENCY];

IT IS FURTHER ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651, that this Order for the disclosure of GPS

Coordinates [ b7E ]

[ b7E ]

[ b7E ]

[ b7E ]

[ b7E ]

[ b7E ]

[ b7E ]

[ b7E ]

[ b7E ] within the period

authorized by this order;

IT IS FURTHER ORDERED, that the Carrier shall, notify [NAME OF AGENCY] agents, upon oral or written request, of any and all changes (including additions, deletions, and transfers) in service regarding the SUBJECT WIRELESS TELEPHONE to include telephone numbers and subscriber information (published and non-published) associated with these service changes;

IT IS FURTHER ORDERED that the Carrier shall be compensated by the investigative agency for reasonable expenses directly incurred in providing technical assistance; and,

Good cause having been shown, IT IS FURTHER ORDERED, pursuant to the All Writs Act, 28 U.S.C. § 1651(a), that this order and the application be sealed until otherwise ordered by the court, and that the Carrier shall not disclose in any manner, directly or

RIP



indirectly, by any action or inaction, (a) the existence of this order, or (b) the disclosure of the GPS Coordinates of the SUBJECT

~~WIRELESS TELEPHONE, to the listed subscriber for the SUBJECT~~

WIRELESS TELEPHONE, the occupant of said premises, the subscribers of the incoming calls to or outgoing calls from the SUBJECT

WIRELESS TELEPHONE, or to any other person, in full or redacted form, unless or until otherwise ordered by the Court.

Dated: Brooklyn, New York  
DATE

UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK