



U.S. Department of Justice

*Executive Office for United States Attorneys
Freedom of Information & Privacy Staff
600 E Street, N.W., Suite 7300, Bicentennial Building
Washington, DC 20530-0001
(202) 616-6757 FAX: 616-6478 (www.usdoj.gov/usao)*

Requester: Catherine Crump Request Number: 07-4132

Subject of Request: Mobile Phone Tracking (Items 1-4)/DNJ

OCT 15 2008

Dear Requester:

Your request for records under the Freedom of Information Act was processed some months ago. This letter constitutes a supplemental reply from the Executive Office for United States Attorneys, the official recordkeeper for all records located in this office and the various United States Attorney's offices. The United States Attorney's Office for the District of New Jersey conducted a second search for records responsive to item number one of your request and located 32 pages of material. On one page of the enclosed material, certain information is marked "non-responsive." This material pertains to internal discussions regarding the processing of your request and is not responsive to your request for specific information pertaining to mobile phone location.

Enclosed please find:

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

The exemption(s) cited for withholding information are marked below. An enclosure to this letter explains the exemptions in more detail.

Section 552

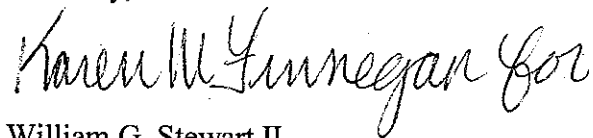
Section 552a

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|---------------------------------|--|---|--|
| <input type="checkbox"/> (b)(1) | <input type="checkbox"/> (b)(4) | <input type="checkbox"/> (b)(7)(B) | <input checked="" type="checkbox"/> (j)(2) |
| <input type="checkbox"/> (b)(2) | <input checked="" type="checkbox"/> (b)(5) | <input checked="" 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 and Privacy, United States Department of Justice, 1425 New York Avenue, Suite 11050, Washington, D.C.**

Sincerely,

A handwritten signature in cursive script, appearing to read "William G. Stewart II".

William G. Stewart II
Assistant Director

Enclosure(s)

Requester: Catherine Crump
FOIA #: 07-4132

Continuation Sheet:

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

This response is to FOIA No. 07-4132 only and does not include search results associated with the other requests listed above.

EXPLANATION OF EXEMPTIONS

FOIA: TITLE 5, UNITED STATES CODE, SECTION 552

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

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

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

Finnegan, Karen (USAEO)

From: Mckenna, Charles (USANJ)
Sent: Wednesday, October 08, 2008 4:45 PM
To: Finnegan, Karen (USAEO)
Subject: FW: Cell site issue

Karen:

non-responsive

Charlie

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

From: Percell, Marion (USANJ)
Sent: Monday, September 29, 2008 2:25 PM
To: Mckenna, Charles (USANJ)
Subject: FW: Cell site issue

non-responsive

MP

Marion Percell
Senior Litigation Counsel
United States Attorney's Office for the District of New Jersey 970 Broad Street Newark, New Jersey 07102 office (973) 645-2733 fax (973) 297-2094

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

From: Percell, Marion (USANJ)
Sent: Sunday, March 19, 2006 7:19 PM
To: Buchanan, Michael (USANJ)
Subject: RE: Cell site issue

I'm delighted to hear that. If you have anything available now, I'd be happy to take it home with me; I'm still here. I'm looking forward to working on this.

MP

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

From: Buchanan, Michael (USANJ)
Sent: Sunday, March 19, 2006 6:16 PM
To: Percell, Marion (USANJ)
Subject: RE: Cell site issue

Marion,

I've been gathering some written materials prepared by Main Justice that I think are really well done and very persuasive. Plus, there was another favorable opinion issued. We'll talk when you return to the office. Enjoy your time off.

MB

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

From: Percell, Marion (USANJ)
Sent: Sun Mar 19 17:35:49 2006
To: Buchanan, Michael (USANJ)
Subject: RE: Cell site issue

4/17 would be fine for the chat. As to the brief, I've done most of the research, but I don't yet have a draft brief. I'm out on A/L on Monday and Tuesday. I don't think I'll have a draft until 3/27 or 3/28.

Marion

From: Buchanan, Michael (USANJ)
Sent: Friday, March 17, 2006 4:13 PM
To: Percell, Marion (USANJ)
Subject: Cell site issue

Marion,

How about 4/17 for the Monday Night Chat? Also, please send me a copy of the draft brief that you've been working on.

Thanks,

Michael F. Buchanan
Deputy Chief, Criminal Division
U.S. Attorney's Office, District of New Jersey 970 Broad Street Newark, NJ 07102
(973) 645-2778 (direct dial)
(973) 645-3316 (fax)