



CITY OF PORTLAND, OREGON



Bureau of Police

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Integrity • Compassion • Accountability • Respect • Excellence • Service

PUBLIC RECORDS REQUEST / RESPONSE

July 16, 2012

TO: ACLU of Oregon

RE: Public Records request pertaining to cell phone location records

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1. Policies, procedures and practices you follow to obtain cell phone location records.
 - Please see the provided Drugs and Vice Division Standard Operating Procedure.
 2. Policies or records regarding whether cell phones are a “mobile tracking device” as defined in ORS 133.617.
 - The Portland Police Bureau has no responsive documents.
 3. Records regarding whether the PPB follows the procedures set out in ORS 133.619 when obtaining cell phone location information.
 - The Portland Police Bureau has no responsive documents.
 4. Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared.
 - The City of Portland Charter (Section 2-504) authorizes the Office of the City Auditor's Archives and Records Management Division to function as a public records administrator, ensuring the management of city records complies with state law and administrative rules (ORS 192 and OAR 166). By consulting the Oregon Secretary of State, Archives Division, the division develops and distributes records retention and disposition schedules for all city agencies. SOURCE: City Auditor, Records Management, Police 8000 Series.

- **8011-04 CRIMINAL INTELLIGENCE RECORDS**

Series is created to gather from various sources about suspected criminal activity. Records include investigative reports, correspondence, background data photos, and other related records. Records may contain information on suspects, activities, locations, source of intelligence information, etc.

Note: Some records contained in these files may be exempt from disclosure under ORS 192.501 through 192.502. Consult your agency's legal counsel for assistance before releasing information.

RETENTION: 5 years or as defined in OAR 137-90-080 and OAR 137-90-160

- When this information is incorporated in a criminal case file, 8016 Series is used.

- **8016-01 POLICE INCIDENT RECORDS**

Series is created to document police incidents and crime cases that have been reported to or investigated by the Police Bureau. Records may include case number, investigative reports, arrest reports, follow-up reports and correspondence, fingerprints, photographs, teletypes, computer printouts, background checks, court orders, court dispositions, notes, laboratory reports, Driving Under Influence of Intoxicants (DUII) records including analysis, copies of warrants, property/evidence receipts, custody reports, alleged activity, location, date, validity of source, etc. Examples of incidents may include but are not limited to felonies, misdemeanors, robberies, shop lifting, burglaries, car thefts, gang designation, homicides, DUII's and other similar reports.

Note: Some records contained in these files may be exempt from disclosure under ORS 192.501 through 192.502. Consult your agency's legal counsel for assistance before releasing Information.

RETENTION: Incident Reports: 20 years; Outstanding Stolen Guns: 20 years or until cleared, whichever is longer; Homicides: Permanent (see 8016-02)

- **8016-02 POLICE INCIDENT RECORDS – SELECTED CRIMES**

Series is created to document police incidents and crime cases that have been reported to or investigated by the Police Bureau. Records include cases such as homicides and certain other cases that have value for investigative purposes or historical perspectives. Records may include case number, investigative reports, arrest reports, follow-up reports and correspondence, fingerprints, photographs, teletypes, computer printouts, background checks, court orders, court dispositions, notes, laboratory reports, laboratory analysis, copies of warrants, property/evidence receipts, custody reports, and other related material. Information usually includes suspect information, case number, alleged activity, location, date, validity of source, etc.

RETENTION: Homicides: Permanent; Retain other case files as indicated by 8016-01 or as needed, whichever is longer.

5. The use of cell phone location records to identify “communities of interest (detailing those persons who have been called, or called by a target)” in investigations.
 - The Portland Police Bureau has no responsive documents.

6. The use of cell phone location records to identify all of the cell phones at a particular location.
 - The Portland Police Bureau has no responsive documents.
7. Your use of “digital fences” (systems whereby you are notified whenever a cell phone comes within a specific geographic area).
 - The Portland Police Bureau has no responsive documents.
8. The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records.
 - Please see the provided Drugs and Vice Division Standard Operating Procedure.
9. Judicial decisions and orders ruling on your applications to obtain cell phone location records.
 - The Portland Police Bureau has no responsive documents.
10. Statistics regarding your use of cell phone location records, including the number of emergency requests for which no court order was obtained.
 - The Portland Police Bureau has no responsive documents.
11. The form in which cell phone location records are provided (hard copy, through specific online databases).
 - The Portland Police Bureau receives cell phone location information in the form of emails and faxes.
12. Communications with cell phone companies and providers of location-based services regarding cell phone location records, including:
 - Company manuals, pricing, and data access policies.
 - The Portland Police Bureau has no responsive documents.
 - Invoices reflecting payments for obtaining cell phone location records.
 - Current or recent invoices are currently exempt from disclosure. Per ORS 192.501(3) Criminal Investigative Material, these records may include information that is part of an ongoing investigation. Historical invoices are currently located at the City of Portland’s Bureau of Financial Services. These invoices would be paid for by a City-provided Procurement Card, which is a credit card assigned to a specific division within the Portland Police Bureau, used by supervisory-level personnel. The paid invoice is then sent to the Fiscal Division to be processed and sent to Accounts Payable of the City of Portland’s Office of Management and Finance.

These records at Accounts Payable are entered into the City’s SAP system. They are identified as purchases with a procurement card. Unfortunately they are not identified as what was specifically purchased with the procurement card. A scan can be accomplished to determine the user of the procurement card and the dates the procurement card was used. A manual search of the invoices would follow to locate the specific purchases.

The Portland Police Bureau's Drugs and Vice Division has been identified as the users of such tactics requested in your public records request. The officers of the Drugs and Vice Division would have the expertise to identify the invoices you are requesting. This would require the use of 3 officers assigned to the Drugs and Vice Division to search through the thousands of records that are maintained at the Office of Management and Finance. Payment is required before this search is to commence.

A sergeant with the Drugs and Vice Division (DVD) advised that to search these records would require him and at least 2 DVD officers for 8 hours. A DVD sergeant's hourly rate for handling a public records request such as this would be \$56.78. A DVD officer's hourly rate would be \$48.69. For these 3 DVD officers taking time to handle this request for 8 hours, the total would \$1,233.28. $(\$56.78 + (\$48.69 \times 2) \times 8 = \$1233.28)$

Please refer to the provided City of Portland's Uniform Response to Public Records Requests for more information regarding fees and the required down payment.

- Instances in which cell phone companies have refused to comply with a request or order.
 - The Portland Police Bureau has no responsive documents.