



September 22, 2011

FOIA Deputy
Delaware Department of Justice
Carvel State Office Building
820 N. French Street
Wilmington, DE 19801

Re: FOIA Request

Dear Sir or Madam:

Pursuant to the Delaware Freedom of Information Act, *29 Del. C. § 10001 et seq.*, I request access to and copies of the public records referred to in the Exhibit to this letter in the possession, custody, or control of the Delaware Department of Justice.

If you believe that any of the requested records are exempt and need not be disclosed, and intend to withhold documents on that basis, please explain the basis for your belief, and for each document or portion withheld state its date, send, recipient and author, and describe its contents sufficiently to enable an independent evaluation of the possible exemption, so that I may decide whether a judicial challenge is appropriate.

I also request a waiver of all fees for this request. Disclosure of the requested information is in the public interest because it is likely to contribute significantly to the public understanding of the operations or activities of the government and is not primarily in a commercial interest. The information is being requested on behalf of the American Civil Liberties Union of Delaware, a public interest organization that seeks the information for use in the public interest.

Please produce the documents within 21 days of the date of this letter. If you have any questions regarding the scope of the request or any other matters, please contact me at (302) 654-5326, ext. 103 or rmorse@aclu-de.org.

Sincerely yours,

A handwritten signature in black ink that reads "Richard H. Morse". The signature is written in a cursive style with a large, prominent "R" and "M".

Richard H. Morse

AMERICAN CIVIL LIBERTIES
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NORMAN M MONHAIT
PRESIDENT

KATHLEEN M MacRAE
EXECUTIVE DIRECTOR

RICHARD H MORSE
LEGAL DIRECTOR

Exhibit

Copies of records relating to your acquisition of cell phone location records, encompassing records regarding real-time tracking and records regarding where cell phones have been in the past, and all available methods of locating cell phones, including “cell site,” triangulation, and GPS, as follows:

- Records stating the policies, procedures and practices you follow in determining how to obtain cell phone location records
- Records sufficient to show the dates when these policies, procedures and practices for obtaining cell phone records were first put into place
- Records sufficient to show the data retention policies you use, including how long cell phone location records are kept, the databases in which they are placed, and the agencies (federal, state and local) with which you share those records or have agreed to share those records they are shared
- Records sufficient to show your 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
- Records sufficient to show your use of cell phone records to identify all of the cell phones at a particular location
- Records sufficient to show your use of “digital fences” (systems whereby you are notified whenever a cell phone comes within a specific geographic area)
- Records stating the legal standard (e.g. probable cause, relevance) you use to decide whether to issue or use subpoenas to obtain cell phone location records, or otherwise indicating the legal standard you use
- All judicial decisions and orders you have received in response to your use or issuance of subpoenas to obtain cell phone location records
- Records sufficient to show the number of occasions on which you have used or issued subpoenas to obtain cell phone location records
- Records sufficient to show the forms in which cell phone location records are provided (hard copy, through specific online databases)
- Records reflecting your communications with cell phone companies and providers of location-based services regarding cell phone location records, including

- The company manuals, pricing, and data access policies you have received
- The invoices reflecting payments you made for cell phone location records
- Records reflecting the instances in which cell phone companies have refused to comply with a request or subpoena for cell phone location records