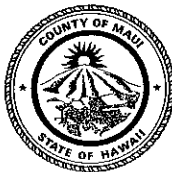


ALAN M. ARAKAWA  
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September 19, 2011

Ms. Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii  
P.O. Box 3410  
Honolulu, HI 96801

**Re: Inquiry regarding cell phone records.**

Dear Ms. Temple:

Thank you for extending the time in which I needed to respond to your inquiry. Below you will find the responses to your inquiries.

1. Inquiry: Policies, procedures and practices you follow to obtain cell phone location records.

Response: The Fourth Amendment of the Constitution is the underlying policy regarding procedures. This is our formal policy with regard to obtaining cell phone location records. We primarily utilize a search warrant based upon probable cause to obtain cell phone location records. We also obtain such information via consent, court order or subpoena.

2. Inquiry: 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.

Response: Any location records received as a result of a search warrant or other method described above are retained within the official police report record. This information is part of the report-record that is used by the charging agency (Prosecutor) and also may be part of the official court record. Outside of that, any information received is not shared with any other agencies. Copies of our reports are kept with and maintained by the Department's records section.

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3. The use of cell phone location records to identify "communities of interest" (detailing those persons who have been called, or called by a target) in investigations.

Response: None. We do not and have not used cell phone location records in the above described manner.

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

Response: Our department has not used cell phone location records in the above-described manner.

5. Your use of "digital fences" (systems whereby you are notified whenever a cell phone comes within a specific geographic area.

Response: We have not attempted to use "digital fences" in the above described manner. Currently, we do not have the technology to perform this function.

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

Response: Legal standard is probable cause.

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

Response: All search warrants are submitted to the Court for approval or denial. Once approved the search warrant is then executed and the cell phone records obtained.

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

Response: No statistics are kept.

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

Response: Any records obtained are received through email, written or printed form, compact disc or verbally.

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10. Communications with cell phone companies and providers of location based services regarding cell phone location records, including

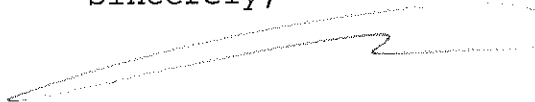
- ▶ Company manuals, pricing and data access policies
- ▶ Invoices reflecting payments for obtaining cell phone location records.
- ▶ Instance in which cell phone companies have refused to comply with a request or order.

Response: The Department does not possess any cell phone company manuals, pricing and /or data access policies. To date we have not been charged by any company for obtaining cell phone location records. So far cell phone companies have complied with a request or order for cell phone location records.

The Department utilizes this tool only as part of a legitimate investigation. As stated earlier, we obtain these records via search warrant, consent, subpoena or court order. At this current time the department does not possess the technological equipment to obtain cell phone records on its own.

Please do not hesitate to contact me with any questions or comments.

Sincerely,



SCOTT K. HANANO  
Deputy Corporation Counsel

SKH:tll  
Enclosure

cc: Chief Gary A. Yabuta, Maui Police Department  
Assistant Chief Danny Matsuura, Maui Police Department