

Stingray, Cell Tower Records and Location Tracking
John Sawicki

- I. GPS Tracking
 - a. *United States v. Jones*
- II. Cell Phone Tracking
 - a. 3 ways of obtaining info
 - i. Historical CSLI - From Carrier
 - ii. Real Time CSLI - From Carrier
 - iii. Real Time Tracking - Cell Site Simulator (Stingray)
 - b. Location Information = a search
 - i. Location information of longer duration
 - 1. Reveals private information about activities, therefore infringes on reasonable expectation of privacy
 - a. *Jones* concurrences
 - b. *Weaver*
 - ii. Cell phone location information reveals otherwise undiscoverable facts about private spaces - whether a phone is a home/car/business, and even location of a phone(s) w/in a home/car/business
 - 1. *United States v. Karro*
 - a. Tracking device to follow car on a roadway is not a search, but tracking into a home is and requires a warrant
 - 2. *Kyllo v. United States*
 - a. Thermal imaging camera to learn about activity inside a home is a search
 - 3. *State v. Tracey* (Florida)
 - c. 3rd Party Doctrine (Historical Data)
 - i. Disclosing data to a 3rd party gives your 4th amendment right
 - 1. *United States v. Miller* (Bank Records)
 - 2. *Smith v. Maryland* (Pen Register)
 - 3. *United States v. Quartavious Davis* (11th Circuit)
 - d. Cell site simulators (Stingray) are a search
 - i. Precision tracking
 - 1. *Jones* concurrences
 - 2. *Weaver*
 - ii. Signals penetrate through walls, into private spaces
 - 1. *Karo, Kyllo*
 - iii. Forces phones to transmit information they otherwise wouldn't
 - 1. *Riley v. California*
 - e. Pen Register / Trap and Trace Order
 - i. Sec. 934, Florida Statutes
 - 1. Used to get data from cell carriers
 - 2. Lower Standard
 - a. "Relevant to an ongoing criminal investigation"
 - ii. TPD Hybrid
 - 1. Section 934 + "PC"
 - iii. Court order/"Warrant"
 - 1. Sealed
 - 2. Authorization for "Pen Register/Trap and Trace Device"
 - 3. Lower Standard
 - 4. Authorizes Cellco to furnish to TPD/FDLE

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- a. Information
- b. Facilities
- c. Technical Assistance
5. Trap and Trace Devices (GPS Location)
 - a. 60 days
6. FDLE/TPD pay Cell Co's reasonable charges/expenses
7. Info Provided
 - a. Subscriber Info
 - i. Names/Addresses
 - ii. Billing & Credit Information
 - iii. Traced #'s
 - iv. Cell site activation locations
 - v. Origination
 1. Landline
 2. Cellular
 3. Other
 - vi. Names/Addresses for subscribers of traced calls
 - vii. Dates/Times/Durations of traced calls
 - viii. Billing information for traced calls
 - b. Other features
 - i. Call Forwarding
 - ii. Speed calling/dialing
 - iii. Touch star
 - iv. Ring master
 - c. Examine phone line
 - i. Add caller id if not already there
 - d. Notify of changes to mobile dialed number
 - i. Subscriber ID or Equipment ID - 30 days prior, 60 days prospective
 - e. Notify of any attempts to change subscriber telephone # on handset
 - f. Do Not Disconnect
 - i. TPD/FDLE will pay for service
 - g. Provide
 - i. Call Detail Records (cell cite data for all inbound/outbound communication)
 1. Voice
 2. SMS/Text/MMS
 3. Data
 - h. Provide, at request of TPD/FDLE:
 - i. Geo-precision information
 1. GPS
 2. Location tools
 3. Lat/Long
 4. Locations
 5. E-911
 - ii. Signaling & Communications Processing Information
 - iii. Control Channels used

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- i. NO GEOGRAPHICAL BOUNDARIES
- 8. Problems
 - a. General Warrant
 - b. Lacks Particularity of Search Warrant
 - c. Lack of Candor
 - i. Fails to specify Stingray
 - ii. Fails to describe capabilities or privacy invasion
- 9. Cell tower records
 - a. Can be mapped
 - b. Limitations
 - i. Call load
 - ii. Geography
 - iii. Weather
 - iv. Power of tower
 - v. Power of handset