

MINNESOTA DEPARTMENT OF PUBLIC SAFETY



Alcohol
and Gambling
Enforcement

Bureau of Criminal
Apprehension

Driver
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Services

Emergency
Communication
Networks

Homeland
Security and
Emergency
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Minnesota
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445 Minnesota Street • Suite 1000 • Saint Paul, Minnesota 55101
Phone: 651.201.7160 • Fax: 651.297.5728 • TTY: 651.282.6555
Website: dps.mn.gov

January 6, 2014

D. Scott Dibble, Chair
Senate Transportation and Public Safety Committee
State Senator, District 61
75 Rev. Dr. Martin Luther King Jr. Blvd.
State Capitol, Room 111
Saint Paul, MN 55155

Re: Letter Dated December 12, 2013 – Use of Cellular Exploitation Equipment

Dear Senator Dibble:

Thank you for your recent letter regarding the Minnesota Department of Public Safety's use of cellular exploitation equipment.

As the Commissioner of Public Safety, I am committed to protecting the privacy and rights of all Minnesotans, as new technologies emerge and are used to keep our citizens safe.

The Minnesota Bureau of Criminal Apprehension (BCA) possesses cellular exploitation equipment, which is operated lawfully and with data privacy protections in place. This equipment is only used in criminal investigations to locate the specific cell phone of a suspect or a victim and in missing person cases where there is concern for the missing person's safety. This technology has been vitally important in our efforts to locate people quickly, mitigate further criminal actions, and save lives.

This technology does not allow the BCA to listen to phone conversations, read text messages, or indiscriminately collect cellular phone data.

Proper legal process is followed at all times while using this equipment.

Each of your specific questions is addressed below.

1. *What is the type of cellular exploitation equipment currently used by the department and which DPS Divisions?*

The BCA owns and operates one Stingray II and one Kingfish. The BCA is the only DPS division that operates this equipment.

Specific technical details have been classified by DPS as deliberative process data that would reveal investigative techniques and has not been disclosed in prior requests. (See Minn. Stat. §13.82, Subd. 25)

2. *How much has the department spent on the equipment and what was the source of the funding?*

Since 2005, the following amounts have been expended by category:

Equipment	\$424,114.18
Equipment repair/Maintenance	\$ 73,855.00
Software	\$105,969.50
Employee Development	\$ 27,600.00
Misc-supplies/freight	<u>\$ 1,234.60</u>

Total \$632,773.28

State Funds	\$621,619.28
Federal Funds	\$ 11,154.00

<u>FISCAL YEAR</u>	<u>GENERAL FUND</u>	<u>SPECIAL REVENUE FUND</u>	<u>FEDERAL FUND</u>	<u>TOTAL</u>
2005	183,793.00			183,793.00
2006	14,884.50		1,554.00	16,438.50
2007	68,579.00			68,579.00
2008	23,029.00		9,600.00	32,629.00
2009	19,397.00			19,397.00
2010	18,000.00			18,000.00
2011	194,817.00			194,817.00
2012	236.78	38,918.00		39,154.78
2013	32,287.50	27,677.50		59,965.00
	<u>\$ 555,023.78</u>	<u>\$ 66,595.50</u>	<u>\$ 11,154.00</u>	<u>\$ 632,773.28</u>

3. *What are the capabilities and function of the equipment?*

The equipment is used in conjunction with cellular towers and wireless carriers (e.g., Sprint, Verizon, AT&T, T-Mobile) to reduce the area of location probability in order to assist investigators in locating a specific phone.

This equipment has NO capability of listening or monitoring content such as voice conversations, text messaging, email, data, etc. No specific personal identification data is viewed, only a number (similar to a serial number) is observed by operators when using the equipment. BCA agents search for a target telephone and do not monitor or observe other cellular phones on the network when searching for a target phone.

Specific technical details have been classified by DPS as deliberative process data that would reveal investigative techniques and has not been disclosed in prior requests. (See Minn. Stat. §13.82, Subd. 25.) This classification ensures the continued effectiveness of the technology in criminal investigations and prevents criminal suspects from learning the exact capabilities of the equipment, which would render it significantly less effective.

4. *Is a warrant obtained prior to accessing cell phone data or locations?*

A court order is obtained in the vast majority of cases when cellular exploitation technology is used. This process involves review, approval, and authorization by a Minnesota District Court Judge. An example of a court order is attached.

In a small number of cases involving an immediate and serious threat to life, or exigent circumstances, an order is not obtained. Examples include an abducted child or a murder suspect who is still armed and dangerous.

In 2010, the legislature passed a bill that allows law enforcement agencies, in an emergency situation, to access cellular location information from the company, upon written request, without first obtaining a warrant.¹

5. *What evidentiary extrapolations does the department make and what methodology is used from the data extracted by these devices?*

This technology is used to locate a specific phone; NO data is extrapolated with this device from the phone. BCA agents only search for the target phone and do not record or retain any data related to other phones on the network.

¹ See Minn. Stat. §237.83

NO data is permanently retained in association with this equipment. Data are continuously overwritten as the equipment is used to search for a subsequent target phone number.

6. *Please provide a few examples of closed (non-active) investigations where such equipment was used and why you felt it was necessary.*
- **Missing Person Located**
The BCA assisted in locating a person who had been missing approximately 24 hours. The BCA was provided the cell number of the missing person and, using this technology, was able to locate him in a wooded area behind his house. The subject was deceased. Because of the remote location, it is highly unlikely that his body would have been recovered without the cellular technology and the assistance provided by the BCA.
 - **Burglary: Firearms Stolen and Recovered**
The BCA assisted in locating a suspect in a burglary where multiple firearms had been stolen. The BCA located the cell phone in a residence in St. Paul and, as a result, police were able to arrest the suspect and recovered the stolen weapons.
 - **Juvenile Female Located, Sexual Abuse Prevented**
Police were attempting to locate a 14-year-old female who was believed to be in danger and in the company of an unknown adult male. A phone located at a hotel was linked to the parties. Using the technology, the BCA was able to assist police in finding the missing girl and a male subject in a hotel room. The adult male subject was arrested prior to committing sexual abuse. Without the use of this technology, it is believed girl would have been sexually exploited and abused by the adult male.
 - **Home Invasion Murder Suspect Identified**
A female was killed in her home and her purse and cellular phone taken during a home invasion. Using this technology, police were able to locate the cell phone which then led to a suspect who was ultimately tried and convicted for the murder. In this case, it is unlikely that the suspect would have been identified using more traditional investigative techniques.

- **Murder Suspect with Hit List Located**

A woman was murdered, and the suspect also attempted to kill her daughter. The suspect was known to police, but he fled the scene. There was no information on his whereabouts, but using cellular exploitation technology, he was found. Police had no information that would have led them to that location. He was armed at the time of his arrest in a hotel and had a hit list of additional victims he planned to kill after he had rested. Use of this technology allowed investigators to apprehend him before he carried out the rest of his planned murders.

- **Abduction**

A parental abduction occurred in which there was grave concern for the welfare of the child. Through cellular exploitation technology, the father was found in Pennsylvania. Through coordination of law enforcement authorities in Minnesota, the location information was provided to the police in that state and the child was recovered safely. Without this technology, the child could have been harmed since it is unlikely police would have discovered them prior to arriving at their destination.

7. *Have these devices been used in or near the state Capitol to surveil people on the Capitol grounds?*

No, they are not used as surveillance tools. They are utilized to reduce the area of location probability for a target phone when attempting to locate a specific person.

8. *What type of cellular phone data is kept by the department and how many records are currently held?*

Data obtained using this equipment is NOT in any way related to the reported program used by the NSA. The BCA follows proper legal process and only targets specific phone numbers. The data obtained using this technology is held temporarily until it is overwritten in each subsequent use of the equipment.

The BCA does, however, obtain records from cellular phone companies through call detail records, pen registers, and wire taps. This information is only obtained through proper legal process such as a subpoena, pen register order, or search warrant, depending on the type of records requested.

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These records are maintained as part of a criminal investigation. Once these records are obtained they are placed in the case file and are maintained in accordance with our data retention schedule.

9. How long is cellular data kept and who has access to it?

The data obtained using this technology is held temporarily until it is overwritten in each subsequent use of the equipment. Only authorized agents who have been trained in the use of this technology have access to the data on the equipment while it is in use.

Records obtained from cell phone companies, as described above, are criminal investigative data under Minn. Stat. §13.82. Access to the data is also governed by this statute. The data is kept in accordance with our data retention schedule that is based on the type of case for which it is gathered.

10. Have there been any data breaches of information gathered from such equipment? If so, please describe who accessed the information and what type of data was accessed.

There is limited access to this data by agents assigned to this function and it is not maintained on a server. There have been no data breaches in relation to this equipment.

The cellular exploitation equipment described here is a valuable tool for law enforcement in their efforts to protect the public and apprehend dangerous criminals in our state. It is used following proper legal process and in accordance with state and federal law.

Please contact me if you have additional questions.

Sincerely,

A handwritten signature in black ink that reads "Ramona L. Dohman". The signature is written in a cursive style with a large, looped initial "R".

Ramona L. Dohman, Commissioner