



Steven of Cherokee Creek, Pennsylvania

American Liberties Union

On

The Geographical Privacy and Surveillance Act

Before the House of Representatives on the Committee on Crime and Terrorism

and

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II. Current Technologies Allow for Detailed Tracking of Americans' Movements.

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5,500 pages of documents from over 200 local law enforcement agencies. The responses show that while cell phone tracking is routine, agencies consistently obtain judicial warrants. The overwhelming majority of the more than 200 law enforcement agencies that provided documents engaged in at least some cell phone tracking. Most law enforcement agencies explained that they track cell phones to investigate crimes. Some said they tracked cell phones only in emergency cases, for example to locate a missing person. Only ten said they have never tracked cell phones.

Many law enforcement agencies track cell phones frequently. For example, based on invoices from cell phone companies, it appears that Raleigh, N.C. tracks hundreds of cell phones a year. The practice is so common that cell phone companies have manuals for police explaining what data the companies store, how much they charge police to access that data, and what officers need to get it.

Most law enforcement agencies do not obtain warrants to track cell phones, and the legal standards used vary widely. For example, police in Lincoln, Neb obtain GPS location data on telephones without demonstrating probable cause. Police in Wilson County, N.C. obtain historical cell tracking data where it is "relevant and material" to an ongoing investigation, a standard lower than probable cause. Yet some police departments do protect privacy by obtaining warrants based upon probable cause when tracking cell phones. For example, police in the City of Hawaii, Wichita, and Lexington, Ky. demonstrate probable cause and obtain a warrant when tracking cell phones. If these police departments can protect public safety and privacy by meeting the warrant and probable cause requirements, then other agencies can as well.

Moreover, it is not just state and local law e78439()JTJ -213.9()-0.479431(o)-0.9565557(e)3

without eroding the privacy rights of innocent Americans. We urge the committee to support H.R. 2168 and report it favorably from the committee.

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