

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN  
DIANNE FEINSTEIN, CALIFORNIA  
CHARLES E. SCHUMER, NEW YORK  
RICHARD J. DURBIN, ILLINOIS  
SHELDON WHITEHOUSE, RHODE ISLAND  
AMY KLOBUCHAR, MINNESOTA  
AL FRANKEN, MINNESOTA  
CHRISTOPHER A. COONS, DELAWARE  
RICHARD BLUMENTHAL, CONNECTICUT

CHARLES E. GRASSLEY, IOWA  
ORRIN G. HATCH, UTAH  
JON KYL, ARIZONA  
JEFF SESSIONS, ALABAMA  
LINDSEY O. GRAHAM, SOUTH CAROLINA  
JOHN CORNYN, TEXAS  
MICHAEL S. LEE, UTAH  
TOM COBURN, OKLAHOMA

## United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*  
KOLAN L. DAVIS, *Republican Chief Counsel and Staff Director*

May 10, 2012

The Honorable Eric Holder  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Attorney General Holder:

In January, the Supreme Court unanimously decided in *United States v. Jones* that the tracking of an individual's movements through the use of a GPS tracking device was a search subject to Fourth Amendment scrutiny. I applaud the Court's decision and believe that it was a watershed for Americans' privacy and civil liberties.

I was very concerned to read recent reports suggesting that state and local law enforcement agencies may be working around the protections of *Jones* by requesting the location records of individuals directly from their wireless carriers instead of tracking the individuals through stand-alone GPS devices installed on their vehicles. I was further concerned to learn that in many cases, these agencies appear to be obtaining precise records of individuals' past and current movements from carriers *without first obtaining a warrant for this information*. I think that these actions may violate the spirit if not the letter of the *Jones* decision.

I am writing to ask you about the Department of Justice's own practices in requesting location information from wireless carriers. I am eager to learn about how frequently the Department requests location information and what legal standard the Department believes it must meet to obtain it. I would also like to know how the Department may have changed these practices since the *Jones* decision.

I therefore request that you or your staff provide answers the following questions:

- (1) How many requests for location information has the Department of Justice filed with wireless carriers in each of the past five calendar years and from January to April of this year? How many individuals' location information was asked for in these requests?
- (2) How many of these requests were complied with partially or entirely? How many individuals' location information did the Department receive as a result of these requests?

- (3) What historical and prospective (i.e. real-time) location information do you request from wireless carriers (e.g., cell site data, GPS data)?
- (4) What legal standard does the Department of Justice believe applies to a request for historical location data (e.g., subpoena, court order, warrant, etc.)?
- (5) Is this standard different or the same for prospective data?
- (6) Is the standard different or the same for GPS data as opposed to cell-site data?
- (7) Have these standards changed since the *Jones* decision? If so, how?
- (8) Have any of the Department's practices with respect to location information requests from wireless carriers changed since the *Jones* decision?
- (9) How much money has the Department of Justice paid wireless carriers to offset expenses for their retrieval of this data in each of the past five years and from January to April of this year?

I respectfully request that you or your staff provide responses to these questions by June 11, a month from the date of this letter. I believe that this is an urgent matter and one that will provide critical information for policymakers and privacy advocates alike.

Thank you for your prompt attention to this matter.

Sincerely,



Al Franken  
Chairman, Subcommittee on Privacy,  
Technology and the Law