

“TRAP AND TRACE CONFIDENTIALITY” AND NATIONAL DRAGNETS

As a number of outlets are reporting, ACLU liberated some emails catching Florida cops agreeing to lie about the Stingray devices used to capture suspects.

As you are aware for some time now, the US Marshalls and I believe FDLE have had equipment which enables law enforcement to ping a suspects cell phone and pin point his/her exact location in an effort to apprehend suspects involved in serious crimes. In the past, and at the request of the U.S. Marshalls, the investigative means utilized to locate the suspect have not been revealed so that we may continue to utilize this technology without the knowledge of the criminal element. In reports or depositions we simply refer to the assistance as “received information from a confidential source regarding the location of the suspect.” To date this has not been challenged, since it is not an integral part of the actual crime that occurred.

The email goes on to instruct that “it is unnecessary to provide investigative means to anyone outside of law enforcement.”

But i’m most interested in the subject line for this email: “Trap and Trace Confidentiality.”

That seems to confirm what ACLU and WSJ have reported earlier this month. Law enforcement are obtaining location data under Pen Register or Trap and Trace orders, meaning they’re claiming that location data are simply metadata.

That (and the arrogant parallel construction) is problematic for a lot of reasons, but given two

developments on the national dragnet, I think we should be newly concerned there, too.

As I have noted, several months after NSA's Pen Register/Trap and Trace authority was shut down, FBI still had an active PRTT program from which NSA was obtaining data.

2.19. (TS//SI//NF) The fact that NSA receives or requests from FBI Pen Register Trap Trace (PR/TT) FISA warrants in order to get data about terrorist groups.	TOP SECRET//SI//NOFORN	1.4(c)*	25 Years*	(TS//SI//NF) The classification level is TOP SECRET//SI//NOFORN regardless of whether the terrorist group is specified for which NSA is seeking or obtaining FISA PR/TT authority.
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And not only does it seem that the government plans to resume some kind of PRTT dragnet, but there's reason to believe they're still hiding one.

The thing is, I have perhaps mistakenly always assumed these PRTT programs involved the collection of Internet metadata off telecom backbones. While I'm sure they collect large amounts of Internet metadata somehow, I realize now that they might also be operating (or planning to operate) large scale PRTT location programs. Remember, too, that Ron Wyden was asking provocative questions about the intelligence community's use of cell location data just days before this classification guide.

Mind you, the Quartavious decision might make that impossible now.

But given the USM apparently concerted effort to hide the fact that PRTT equates to cell location orders, we should at least consider whether the government operates more systematic location programs.