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Via electronic mail and first-class mail

Ms. Linda Lye
American Civil Liberties Union Foundation
of Northern California
39 Drumm Street
San Francisco, CA 94111
llye@aclunc.org

Re: *American Civil Liberties Union of Northern California, et al. v. Department of Justice* (N.D. Cal. No. 12-cv-4008-MEJ)

Dear Ms. Lye:

I am writing regarding the above-referenced matter. It has recently come to our attention that a portion of the USABook was disclosed in 2008 by the Executive Office for United States Attorneys in response to a FOIA request. The Department of Justice's Criminal Division has compared that previous release to the USABook materials being withheld in this lawsuit. Based on that review, the Criminal Division has determined that one page of the portion of the USABook at issue in this lawsuit is identical, or nearly identical, to the material that has been previously released. Accordingly, and attached to this letter, is that page from the USABook.

Very truly yours,

Brad P. Rosenberg

Enclosure

USABook > Criminal Procedure > Electronic Surveillance > Electronic Surveillance Manual > **XIV.**
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XIV. Cell Site Simulators/Digital Analyzers/Triggerfish

A cell site simulator, digital analyzer, or a triggerfish can electronically force a cellular telephone to register its mobile identification number ("MIN," *i.e.*, telephone number) and electronic serial number ("ESN," *i.e.*, the number assigned by the manufacturer of the cellular telephone and programmed into the telephone) when the cellular telephone is turned on. Cell site data (the MIN, the ESN, and the channel and cell site codes identifying the cell location and geographical sub-sector from which the telephone is transmitting) are being transmitted continuously as a necessary aspect of cellular telephone call direction and processing. The necessary signaling data (ESN/MIN, channel/cell site codes) are not dialed or otherwise controlled by the cellular telephone user. Rather, the transmission of the cellular telephone's ESN/MIN to the nearest cell site occurs automatically when the cellular telephone is turned on. This automatic registration with the nearest cell site is the means by which the cellular service provider connects with and identifies the account, knows where to send calls, and reports constantly to the customer's telephone a read-out regarding the signal power, status and mode.

If the cellular telephone is used to make or receive a call, the screen of the digital analyzer/cell site simulator/ triggerfish would include the cellular telephone number (MIN), the call's incoming or outgoing status, the telephone number dialed, the cellular telephone's ESN, the date, time, and duration of the call, and the cell site number/sector (location of the cellular telephone when the call was connected).

Digital analyzers/cell site simulators/triggerfish and similar devices may be capable of intercepting the contents of communications and, therefore, such devices must be configured to disable the interception function, unless interceptions have been authorized by a Title III order.

Because section 3127 of Title 18 defines pen registers and trap and trace devices in terms of recording, decoding or capturing dialing, routing, addressing, or signaling information, a pen register/trap and trace order must be obtained by the government before it can use its own device to capture the ESN or MIN of a cellular telephone, even though there will be no involvement by the service provider. See discussion below in Chapter XV.