

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

_____)	
ELECTRONIC PRIVACY)	
INFORMATION CENTER,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 18-1814 (TNM)
)	
UNITED STATES DEPARTMENT)	
OF JUSTICE,)	
)	
Defendant.)	
_____)	

DECLARATION OF CHRISTOPHER J. WILSON

I, Christopher J. Wilson, declare as follows:

1. I am the First Assistant United States Attorney (FAUSA) for the United States Attorney’s Office for the Eastern District of Oklahoma (USAOKE). I have served as FAUSA since February 2019. Prior to becoming FAUSA, I served as Chief of the Criminal Division from October 2013 to February 2019. I have been an Assistant United States Attorney in the Eastern District of Oklahoma since April 2006.

2. I have relied upon my personal knowledge and also consulted with qualified information technology personnel in the United States Attorney’s Office for the Eastern District of Oklahoma to make this declaration.

3. Depending upon the nature of the criminal investigation, the Assistant United States Attorney directing that investigation may choose to apply to the District Court for an order pursuant to 18 U.S.C. § 2703(d) to obtain certain records from an electronic communication service or remote commuting service in furtherance of that investigation. The order may or may not include cell-site data of cellular telephone.

4. The USAOKE does not maintain a log or database of the applications submitted to or orders obtained from the Court. A hard copy of each application and order should be located in the relevant case file. An electronic version of the application and order should exist in the USAOKE network.

5. In order to comply with the Freedom of Information request submitted by the Electronic Privacy Information Center (“EPIC”) for “the first page of all 2703(d) orders for production of cell site location information” for various timeframes, an electronic search of the network drive would have to be conducted. The USAOKE computer network files are not maintained in document management system as they are created. Files are stored in a folder/subfolder tree structure. Open files are maintained on the network drive and closed files are uploaded into the cloud for archiving. Because our electronic case files are not indexed by

year, the search would have to include the entire network and the cloud storage. The USAOKE currently has approximately 952,200 files which comprises approximately 1TB of data.

6. The USAOKE has keyword index search capability through the Perceptive Workgroup Search software program, but the reliability of the search software is not foolproof and is indexed to search the shared criminal folder and cloud storage. It is not currently indexed to search the individual electronic folders of each AUSA or legal assistant that could have possibly prepared an § 2703(d) application and order from 2016 to present.

7. To determine a potential field of documents to be reviewed, I, with the assistance of USAOKE IT personnel, performed a Perceptive Workgroup Search query of the indexed and searchable electronic files utilizing the query terms "2703" and "cell-site" for the period 2016 to present. The search produced 445 documents. It would require approximately 1 hour to thoroughly review these electronic documents.

8. Because the electronic search does not query all possible locations where an application or order could be located, the search is not complete. To re-index the electronic files for an exhaustive search would require approximately 80 hours. The re-indexing could be performed outside of normal business hours. It is uncertain, however, whether the Perceptive Workgroup Search software is capable of searching all of the files which we need to be re-indexed without crashing the system.

9. In order to ensure the search is complete, a manual search would have to be conducted of the paper case files. The USAOKE's open paper files are not centrally located. Each AUSA maintains his/her own files. A manual search would require personnel to go to each of the twelve AUSA offices or the ten trial prep rooms to conduct the manual search. Moreover, once a file is closed, it is centrally stored in the main file room until sent to the Federal Records Center for archiving. A search of the closed paper files would be conducted in the main file room. During the time period of 2016 to present, the USAOKE has opened 654 case files. Of that number, 382 are currently open files.

10. All documents in hard copy format matching the search query would then have to be reviewed by an AUSA to determine if the document is an order, if the document is regarding cell site location, and if the document falls within the specific requested timeframe. Placing an estimate of 10 minutes per file, it would require 109 hours to locate, retrieve and search the files for pertinent § 2703(d) orders.

11. Generally, § 2703(d) orders would be obtained in covert criminal investigations and are filed under seal to protect the integrity of the investigations. If orders are identified which meet the parameters of the FOIA request, the AUSA involved in each particular matter would then have to review each order to determine if the order is the subject of a pending criminal investigation and whether the order is filed under seal. As a result, most, if not all, § 2703(d) would be exempt from disclosure.

12. It is difficult to estimate the total number of hours that would be required to complete the requested search, but it would likely require approximately 190 hours and would still be incomplete, as described above. This number presumes the electronic file search can be accomplished as discussed in paragraph 8 above. Dedicating this number of hours would subject the USAOKE to a greater hardship because of our limited manpower and resources.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13th day of November, 2019, in Muskogee, Oklahoma.



Christopher J. Wilson
First Assistant United States Attorney
Eastern District of Oklahoma