

House Judiciary Committee
February 26, 2013

HB 887 – Criminal Procedure – Search Warrants – Location Privacy

SUPPORT

The undersigned organizations believe that since the enactment of the current laws surrounding communications technology there have been fundamental changes in communications technology and the way people use it, including the way Americans use email, cell phones, cloud computing and social networking.

HB 887 would require law enforcement or agent of the State to obtain a search warrant based upon probable cause prior to obtaining cell phone location tracking information. The bill provides that a warrant is not required: in order to respond to a user's call for emergency services; with the express consent of the owner or user of the communications device; or if the agent of the State believes that an emergency involving immediate danger of death or serious physical injury to a person requires obtaining without delay information relating to the emergency. Further, the bill provides that a copy of the search warrant and notice be served on the customer. However, this notice can be deferred if it would have an adverse result on an investigation.

Cell phones and mobile Internet devices constantly generate location data that supports both the underlying service and a growing range of location-based services of great convenience and value. This location data can be intercepted in realtime, and is often stored in easily accessible logs files. Location data can reveal a person's movements, from which inferences can be drawn about activities and associations. Location data is augmented by very precise GPS data being installed in a growing

The murky legal landscape that exists today does not serve the government, customers or service providers well. Customers are, at best, confused about the security of their data in response to an access request from law enforcement. Companies are uncertain of their responsibilities and unable to assure their customers that subscriber data will be uniformly protected. The current state of the law does not well serve law enforcement interests either as resources are wasted on litigation over applicable standards, and prosecutions are in jeopardy should the courts ultimately rule on the Constitutional questions.

The solution is a clear set of rules for law enforcement access that will safeguard end-user privacy, provide clarity for service providers, and enable law enforcement officials to conduct effective and efficient investigations.

For the foregoing reasons, the undersigned support HB 887.