



City of Asheville
Office of the City Attorney

P.O. Box 7148
Asheville, NC 28802
828-259-5610
fax: 828-259-5475
www.ashevillenc.gov

September 15, 2011

VIA FACSIMILE 866-511-1344 AND US MAIL

Ms. Katherine Lewis Parker
Legal Director
American Civil Liberties Union of North Carolina Foundation
Post Office Box 28004
Raleigh, NC 27611-8004

Re: Request Regarding Cell Phone Location Records

Dear Ms. Parker:

This will acknowledge receipt of your letter dated August 3, 2011 identified as a "Request Regarding Cell Phone Location Records."

Item #1: *Policies, procedures and practices you follow to obtain cell phone location records,*

Please see the enclosed Asheville Police Department Policy #1101, entitled "Computer Search and Seizure".

Item #2: *Data retention policies, detailing how long cell phone location records are kept, databases in which they are placed, and agencies (federal, state and local) with which they are shared*

Retention of records is governed by the Records Retention and Disposition Schedule for Municipal Governments issued by the North Carolina Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records Branch. The most recent copy is dated May 19, 2009 and is located at: http://www.records.ncdcr.gov/local/municipal_2009.pdf

Item #3: *The use of cell phone location records to identify "communities of interest (detailing those persons who have been called, or called by a target)" in investigations.*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #4: *The use of cell phone location records to identify all of the cell phones at a particular location.*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1.

The City of Asheville is committed to delivering an excellent quality of service to enhance your quality of life.

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Ms. Katherine Lewis Parker
September 15, 2011

Item #5: *Your use of "digital fences" (systems whereby you are notified whenever a cell phone comes within a specific geographic area).*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #6: *The legal standard (e.g. probable cause, relevance) you proffer to obtain cell phone location records.*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #7: *Judicial decisions and orders ruling on your applications to obtain cell phone location records.*

Any such documents in the possession of the Asheville Police Department are enclosed except for any such documents that have been sealed by court order, that are protected by Article 16 of Chapter 15A of the North Carolina General Statutes, Electronic Surveillance Act, protected from disclosure by N.C. Gen. Stat. § 132-1.4, have not yet been served and returned to the Clerk of Court pursuant to statute, or are copies of unreturned search warrants.

Item #8: *Statistics regarding your use of cell phone location records, including the number of emergency requests for which no court order was obtained.*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1. The Asheville Police Department has not previously compiled a list of such "statistics"; therefore, none are enclosed.

Item #9: *The form in which cell phone location records are provided (hard copy, through specific online databases).*

This is not a request for a "public record" as defined in N.C. Gen. Stat. § 132-1.

Item #10a: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including company manuals, pricing, and data access policies.*

The Asheville Police Department has no such items in its possession; therefore, none are enclosed.

Item #10b: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including invoices reflecting payments for obtaining cell phone location record.*

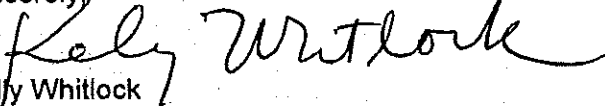
Page 3
Ms. Katherine Lewis Parker
September 15, 2011

A copy of an invoice which is in possession of the Asheville Police Department is enclosed. To the extent any such "communications" or invoices are not subject to disclosure pursuant to Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, such information is not enclosed.

Item #10c: *Communications with cell phone companies and providers of location-based services regarding cell phone location records, including instances in which cell phone companies have refused to comply with a request or order*

The Asheville Police Department has no such items in its possession; therefore, none are enclosed. To the extent any such "communications" are not subject to disclosure pursuant to Article 16 of Chapter 15A of the General Statutes, Electronic Surveillance Act, such information is not enclosed.

Sincerely,


Kelly Whitlock
Assistant City Attorney

cc: Interim Chief Wade Wood
Dawa Hitch, Public Information Officer

Asheville Police Department Policy Manual

[◀ Previous Policy](#)[■ Home](#)[▲ Up](#)[Next Policy ▶](#)

Policy Number: 1101

Effective Date: March 25, 2002

Subject: Computer Search and Seizure

Last Revision Date: April 20, 2011

INTRODUCTION

The increasing involvement of computers and high tech devices in criminal activity means that law enforcement must be prepared to seize and recover computer equipment in investigations. Computers and high tech devices may be contraband, fruits of the crime, a tool of the offense or a means of storing information concerning criminal activity. It is imperative that seizures involving computers and high tech devices be conducted in compliance with established constitutional law, policies and in accordance with best practices and guidelines.

Due to the complexities of all aspects of computer and high tech devices search and seizure and the volatile nature of electronic evidence, all questions, issues and concerns should be addressed with the Department Computer Forensics Analyst or members of the Computer Crimes Unit prior to any actions performed by first responders.

PROCEDURE

I. Initial Scene Scan

- A. As with all crime scenes, officer safety should be the first concern. After securing the scene, ensure that the suspect is removed from the computer and power supply and is not allowed access to them. If the computer to be searched is on a network, ensure that all computers on the network are secured and that no one is allowed access to these computers until the crime scene search is completed.
- B. Regardless of the power status of the computer, remove any external communications devices (modems, routers or switches) or network cables from the computer. NOTE: cellular telephones and other smart devices can be used as "hot spots" or internet access devices for computer laptops.
- C. If the computer is turned off, do NOT switch it on. Note that a black screen saver or a computer's "sleep mode" may give a false impression that the computer is turned off. Instead, look for lights on the computer case to indicate power status.
- D. If the computer is turned on, the officer, investigator or technician should photograph or make note of what appears on the monitor screen, including documents, open programs, and/or images. A computer actively operating has the potential to hold important evidence in volatile memory. Volatile memory is

information that is stored in a temporary state and may be lost with a computer shutdown. For this reason, the Department Computer Forensic Analyst or Computer Crimes Unit Investigators should be contacted in the event that an operating computer is encountered during a search.

- E. In the event of active digital evidence destruction - If at any point while securing the computer, the officer, investigator or technician believes that evidence may be being destroyed on a desktop PC, a "hard shut-down" should be employed. A hard shut-down is when the power cable is pulled from the back of the computer. The date and time of the hard shut-down should be recorded in any notes being taken at the crime scene.

Indications of data destruction include, but are not limited to, the following:

- i. Data deletion program running;
 - ii. Disk wipe program running;
 - iii. Windows Add or remove programs dialog box open or application running;
 - iv. Windows Disk Defragmenter dialog box open or application running; or
 - v. An unusual delay in the shut down of the computer.
- F. In the event of networked computer (s) - If computers are connected to an external network, safely remove any computer to be searched from the network. Because unplugging a suspect computer from a network can cause data loss and damage to the network, assistance in safely removing the computer from the network should be sought from the System Administrator as long as the System Administrator is not a suspect in the case. If the System Administrator is a suspect in the case, assistance should be sought from other personnel knowledgeable in the network's operations.
- G. In all instances, should questions arise, the Department Computer Forensics Analyst or designee should be consulted for guidance.

II. Scene Assessment and Search

- A. Scene Assessment: Document the condition of all relevant computers with notes and/or photographs. Note the hardware connections to the computer, including mouse, keyboard, phone cable, network cable, external data storage drives, print devices, scanners, other peripheral devices, etc.
- B. Scene and Suspect Search: The suspect, area around the computer and wider crime scene should be searched for the following items.
- i. Other digital evidence such as smart devices, digital cameras, video recorders, CD/DVD duplicators or labelers, GPS devices, mobile

telephones, web cameras, gaming devices and external communication devices.

- ii. Removable storage media such as personal servers, external hard drives, loose (disconnected) internal hard drives, CD's, DVD's, removable media (floppy disk, etc.) flash memory cards and devices, multimedia cards, memory sticks, thumb drives, and mp3 players.
 - iii. Passwords, account numbers, login names, user ID's, or other pertinent information that may be written down. Also search for diaries or notebooks with notations that may be related to this type of information. Note: passwords are often written down and kept within close reach of computers and high tech devices by the user.
 - iv. "Hard copy" evidence contained don/in peripheral devices such as print devices, fax machines, and scanners.
 - v. Software or hardware manuals, owners' guides, quick set-up guides, etc.
- C. In all instances, should questions arise, the Department Computer Forensics Analyst or Computer Crimes Unit Investigators should be consulted for guidance.

III. Evidence Packaging and Transport

A. Evidence Seizure:

1. Computers, cellular telephones and other high tech devices contain components that are extremely sensitive to electro-static discharge (ESD) and other influences, including magnetic influence, radio transmissions, water and other liquids, heat and cold. Care should be taken in all cases to protect seized items from exposure to damaging influences. Should questions arise, the Department Computer Forensics Analyst or designee should be consulted for guidance.
2. The power cable to the seized computer should be seized and packaged with the seized computer.
3. The seizure of keyboards, mice, monitors, and peripheral devices that do not store data (e.g. print devices, scanners, speakers, web cams, modems, wireless routers) is left to the discretion of the officer, investigator or technician. However, the officer, investigator or technician should document what devices were present and not seized in the event that their later seizure becomes necessary. This documentation should include all identifying characteristics for the item: type, version, produce name, produce number and serial number.
4. Seized computers and other high tech devices should be marked and packaged in the following manner:
 - i. Assign an individual number to each cable attached to the back of

the computer and list those numbers and their corresponding cables in the officer, investigator or technician notes (example: 1-keyboard; 2-mouse).

- ii. If the cable is to be seized along with the computer, write each cable number on two stickers. Wrap the first sticker securely around the cable that it identifies. Place the second sticker across the cable's connection port on the back of the seized computer. A sticker marked "MTY" should be placed across each connection port on the back of the seized computer that had no cable attached to it at the time of the seizure.
- iii. If the cable is not seized along with the computer, do not place a sticker around the cable. Instead place a sticker with the cable number across that cable's connection port on the back of the seized computer. A sticker marked "MTY" should be placed across each connection port on the back of the seized computer that had no cable attached to it at the time of the seizure.
- iv. Evidence tape should be placed across each drive slot in such a way that media can neither be removed nor added without breaking the tape.
- v. Evidence tape should be placed across each end of the computer's power cable in such a way that the cable cannot be plugged into the wall or plugged into a computer without breaking the tape.
- vi. Evidence tape should be placed across the computer case in such a way that it cannot be opened without breaking the tape (e.g. taping the locking rings together, taping the removable case cover shut, etc.).
- vii. The computer and power cable should be bagged in paper or wrapped in paper, sealed, and marked consistent with policy 1100, Evidence and Found Property, for securing and handling of evidentiary property. To reduce the possibility of exposure to ESD, items containing electronic evidence may be packaged in electro-static resistance anti-static bags, if available.
- viii. If the computer and/or power cable has been contaminated with body fluids or any other hazardous material, the outer packing should be marked appropriately.

5. Seized Cellular Telephones

- i. Seized cellular telephones should be marked in the same manner a seized computer and high tech devices (refer to policy number 1100, Evidence and Found Property).
- ii. If the cellular telephone is on, do not turn it off. Data can be lost. If

the cell phone is off, leave it off. If at all possible, seize any charging equipment that is available and keep the item charged. If a charger is not available, contact the Department Computer Forensics Analyst as appropriate charging equipment may be available.

- iii. Cellular telephones and other communication devices often contain additional storage media. Maintain the media with the device and ensure its safe handling and packaging as outlined above. a way that media can neither be removed or added without breaking the tape.

B. Evidence Transport:

Place the computer (and monitor if applicable) on the floor of the vehicle, not on the seat, to minimize the potential for damage. DO NOT place the computer or any data storage devices near magnets, radio transmitters or areas where exposure to extreme heat, cold or liquids is possible.

- C. In all instances, should questions arise, the Department Computer Forensics Analyst or Computer Crimes Unit Investigator should be consulted for guidance.

IV. Accreditation Standard:

This policy covers the following accreditation standard: 83.2.5

YAHOO!Direct Pay
sent on 7/28/11 CO

June 21, 2011

Via Facsimile and U.S. Mail
828-350-0095Detective Martinez
Asheville Police Department
100 Court Plaza
Asheville, NC 28801Re: Request for Subscriber Information: [REDACTED]
(Internal Reference No. 181266)

Dear Detective Martinez:

Yahoo! is sending you this invoice in order to recover its costs incurred in responding to the legal process that Yahoo! recently received from you. Pursuant to 18 U.S.C. § 2706 and other relevant legal authorities, Yahoo! may request reimbursement for reasonable costs incurred in responding to legal process from government entities or private litigants in civil litigation. This policy was also noted on the form you may have received upon making an emergency disclosure request.

In accordance with Yahoo!'s Policy on Requests for Reimbursement of Costs Associated with Subpoena Compliance, Yahoo! has incurred the following costs for which it requests reimbursement:

Fees:	Paralegal Time	\$20.00
Costs:	Shipping	\$.44
Total:		\$20.44

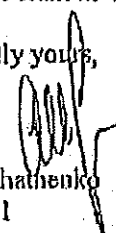
Your timely payment of this invoice is important to enable Yahoo! to continue responding expeditiously to future legal process. Accordingly, Yahoo! asks that you remit payment within 30 days of receipt of this invoice.

Please Remit To:
Yahoo! Custodian of Records
701 First Avenue
Sunnyvale, CA 94089
Tax ID - 77-0398689

Wire Information:
Citibank N.A., New York, NY
Account: 30525078
ABA/Routing # 021000089

If you have any questions about this invoice or methods of payment, please contact the Yahoo! Legal compliance team at 408-349-3687.

Respectfully yours,



Svetlana Shathenko
Paralegal II



Film No. ▶ File No.

SEARCH WARRANT

In the matter of T-Mobile Wireless number [REDACTED]

Date Issued: December 3, 2009 Time Issued: 11:00 AM PM

Name of Applicant:
Detective Yvonne Coburn

Name of Additional Affiant:

Name of Additional Affiant:

RETURN OF SERVICE

I certify that this Search WARRANT was received and executed as follows:

Date Received 12/3/09	Time Received 11:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
Date Executed 12/3/09	Date and Time Returned 12/15/09 5:41 PM

I made a search of _____

_____ as commanded.

I seized the items listed on the attached inventory

I did not seize any items

This warrant was not executed within 48 hours of the date of issuance and I hereby return it not executed.

Signature of Officer Making Return:
Yvonne Coburn

Department or Agency of Officer:

AOC-CR-119 Rev 5/83

STATE OF NORTH CAROLINA

BUNCOMBE COUNTY

In the General Court of Justice
District Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as describe in the application.

You are commanded to search the premises, vehicle, person, and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and the keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make dne return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person or persons shown.

Date 12/3/09	Signature <i>[Signature]</i>
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk of Superior Court <input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> District Ct. Judge <input type="checkbox"/> Superior Ct. Judge	

This Search Warrant was returned to me on the date and time shown below

Date 12/15/09	Time 5:41 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM
Signature <i>Dimitris Fisher</i>	
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk of Superior Court Magistrate	

Film No.	File No.
SEARCH WARRANT	
In the matter of T-Mobile Wireless number [REDACTED]	
Date Issued December 3, 2009	Time Issued 12:00 AM <input checked="" type="checkbox"/> PM <input type="checkbox"/>
Name of Applicant Detective Yvonne Coburn	
Name of Additional Affiant	
Name of Additional Affiant	
RETURN OF SERVICE	
I certify that this Search WARRANT was received and executed as follows:	
Date Received 12/3/09	Time Received 11:00 AM <input checked="" type="checkbox"/> PM <input type="checkbox"/>
Date Executed 12/3/09	Date and Time Returned 12/15/09 5:10pm
<input type="checkbox"/> I made a search of _____	
_____ as commanded.	
<input checked="" type="checkbox"/> I seized the items listed on the attached inventory	
<input type="checkbox"/> I did not seize any items	
<input type="checkbox"/> This warrant was not executed within 48 hours of the date of issuance and I hereby return it not executed.	
Signature of Officer Making Return <i>U. Coburn</i>	
Department or Agency of Officer North Carolina Police	

AOC-CR-119
Rev 3/85

STATE OF NORTH CAROLINA

In the General Court of Justice

BUNCOMBE COUNTY

District Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as describe in the application.

You are commanded to search the premises, vehicle, person, and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and the keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person or persons shown.

Date	12/3/09
Signature	<i>[Signature]</i>
<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk of Superior Court <input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> District Ct. Judge <input type="checkbox"/> Superior Ct. Judge	

This Search Warrant was returned to me on the date and time shown below

Date	Time
	<input type="checkbox"/> AM <input type="checkbox"/> PM
Signature	

Deputy CSC Asst. CSC Clerk of Superior Court

APPLICATION FOR SEARCH WARRANT

I, Detective Yvonne Cobourn, Asheville Police Department

(Insert name and address; or if law enforcement officer, name, rank, and agency)

being duly sworn, request that the court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that information obtained from T Mobile Wireless number [REDACTED]

(Describe property to be seized; or if search warrant is to be used for searching a place

to serve an arrest warrant or other process, name person to be arrested)

constitutes evidence of a crime and the identity of a person participating in a **Assault w/ Deadly Weapon with Intent to Kill Inflicting Serious Injury NCGS 14-32**, and is located

(Name Crime)

(check appropriate box(es) and fill-in specified information)

T-Mobile Online Service 4 Sylvan Way Parsippany, NJ 07054

in the following premises

(Give address and if useful, describe premises)

(and)

on the following person(s)

(Give name(s) and, if useful, describe person(s))

(and)

in the following vehicle(s)

(Describe vehicle(s))

(and)

(Name and/or describe other places or items to be searched, if applicable)

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

***See Attachment "CONTINUATION OF PROBABLE CAUSE"**

To comply with this search warrant, all information can be mailed to the Asheville Police Department,

P.O. Box 7148, Asheville, North Carolina, 28802, Attention Detective Yvonne Cobourn. Or you can fax this information to 828-350-0093, Attention Detective Yvonne Cobourn.

SWORN TO AND SUBSCRIBED BEFORE ME

Date

12/3/09

Signature

Signature of Applicant

Det. Y. Cobourn

Deputy CSC Ass't. CSC Clerk of Superior Court Mag. Judge

In addition to the affidavit included above, this application is supported by additional affidavit(s) attached, made by:

In addition to the affidavit included above, this application is supported by sworn testimony, given by:

This testimony has been (check appropriate box) reduced to writing tape recorded and I have filed each with the Clerk,

*If a continuation is necessary, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

Continuation Page 1, Attached to the Search Warrant Application of Detective Yvonne Cobourn dated December 3, 2009, in the matter of T Mobile Wireless account belonging to subscriber telephone number 828-215-0285.

Attachment 1 "Affiant"

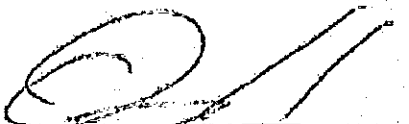
I, Yvonne Cobourn, being duly sworn, depose and say that I am a sworn Law Enforcement Officer in the State of North Carolina, employed by the Asheville Police Department, Asheville, North Carolina. I have been employed in the field of law enforcement for fourteen years. I am currently assigned to the Criminal Investigations Division functioning as a Detective. Before becoming employed with the Asheville Police Department, I attended Central Carolina Technical College in the field of Veterinary Medicine Technology and Asheville Buncombe Technical College in the field of Criminal Justice. I have assisted in numerous homicide investigations and sexual assault investigations. I have attended numerous schools during my tenure to enhance my expertise in the field of law enforcement, more particularly Criminal Investigations. I have successfully completed training in the fields of, Criminal Investigations, Criminal Evidence, Interview and Interrogations and Hate Crimes. While as a patrol officer I worked as a Patrol Evidence Technician. Then as a fulltime Forensic Officer, as well as serving on the public housing ACET Team. I am currently enrolled in the Criminal Investigator's Certificate Program at the North Carolina Justice Academy. I have remained abreast of the current legal updates forwarded to our department through both the North Carolina Supreme Court and the United States Supreme Court.


Paragraph One

On November 25, 2009, at 305pm the Asheville Police Department responded to a 911 call regarding a shooting at [REDACTED]. Upon arrival officers learned that [REDACTED] had been shot and was subsequently transported to [REDACTED] Hospital. Recovered at the scene was a cell phone belonging to [REDACTED]. Later that same day [REDACTED]'s girlfriend, [REDACTED] contacted police and stated that [REDACTED] had met [REDACTED] at [REDACTED] and that an argument between them resulted in gunshots.

Paragraph Two

Also on November 25, 2009 APD Detective Matt Davis spoke with [REDACTED] and [REDACTED] acknowledged that he had met with [REDACTED] at [REDACTED] regarding a drug deal. [REDACTED] further stated that an acquaintance known as [REDACTED] was with him when he drove to [REDACTED] to meet [REDACTED]. [REDACTED] stated that during the drug deal [REDACTED] and [REDACTED] both pulled out guns and started shooting. [REDACTED] stated he immediately fled the scene and was not involved in the shooting. [REDACTED] claimed that he was only an acquaintance of [REDACTED] and did not know his real name.


 (Judge / Magistrate)
 12/3/09
 (Date)


 (Affiant)
 12/3/09
 (Date)

Continuation Page 2, Attached to the Search Warrant Application of Detective Yvonne Cobourn dated December 3, 2009, in the matter of T Mobile Wireless account belonging to subscriber telephone number [REDACTED]

Paragraph Three

On November 30, 2009 during a follow-up interview [REDACTED] stated that his cell phone number was [REDACTED]. [REDACTED] acknowledged that he had phone communication with [REDACTED] just prior to the arranged drug deal on [REDACTED]. [REDACTED] continued to maintain however that he did not know the identity of [REDACTED].

Paragraph Four

A search warrant conducted on the Verizon Wireless account of [REDACTED], the cell phone of [REDACTED] showed that [REDACTED] received several phone calls from T Mobile number [REDACTED] on November 23, 2009, both prior to and after the shooting.

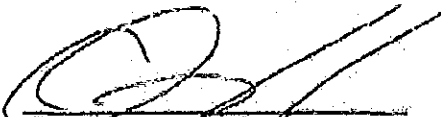
Paragraph Five

Based upon the above statement of facts the affiant believes that probable cause exists to search the T Mobile account of [REDACTED]. These records may help to confirm the statement of [REDACTED] as well as possibly establish the identity of [REDACTED].

Property to be Seized:


Records concerning the T Mobile Wireless account [REDACTED] to consist of subscriber information, cell site location information, incoming and outgoing calls (date, time and phone numbers), text message activity (date, time, sender and recipient), text message content, photos, video and internet activity from November 24, 2009 to the date of this warrant. This evidence would be of material value in the investigation of the shooting of [REDACTED]. Upon seizure the information will be retained by the affiant and held for any future court proceedings that may develop.

IT IS REQUESTED THAT T MOBILE WIRELESS NOT DISCLOSE THIS SEARCH WARRANT TO THE INDIVIDUAL IN CONTROL OF THE T MOBILE WIRELESS ACCOUNT BELONGING TO [REDACTED] AT IT COULD HINDER THE CRIMINAL INVESTIGATION.



(Judge/Magistrate)
12/3/09

(Date)



(Affiant)
12/3/09

(Date)

File No. File No.

SEARCH WARRANT

In the matter of T-Mobile Wireless number [REDACTED]

Date Issued: December 3, 2009 Time Issued: 11:00 AM PM

Name of Applicant: Detective Yvonne Cobourn

Name of Additional Affiant: _____

Name of Additional Affiant: _____

RETURN OF SERVICE

I certify that this Search WARRANT was received and executed as follows:

Date Received: 12/3/09	Time Received: 11:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM
Date Executed: 12/3/09	Date and Time Returned: 12/15/09 8:10 AM

I made a search of _____ as commanded.

I seized the items listed on the attached inventory

I did not seize any items

This warrant was not executed within 48 hours of the date of issuance and I hereby return it not executed.

Signature of Officer Making Return: *W. Cohen*

Department or Agency of Officer: *Rockwell Police*

AOC-CR-119 Rev 5/85

STATE OF NORTH CAROLINA In the General Court of Justice

BUNCOMBE COUNTY District Court Division

To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:

I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as describe in the application.

You are commanded to search the premises, vehicle, person, and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and the keep the property subject to Court Order and process the person according to law.

You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.

This Search Warrant is issued upon information furnished under oath by the person or persons shown.

This Search Warrant was returned to me on the date and time shown below

Date	Time
	<input type="checkbox"/> AM <input type="checkbox"/> PM

Signature

Deputy CSC Asst. CSC Clerk of Superior Court

Date: 12/3/09
Signature: <i>[Signature]</i>
<input type="checkbox"/> Deputy CSC <input checked="" type="checkbox"/> Asst. CSC <input type="checkbox"/> Clerk of Superior Court
<input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> District Ct. Judge <input type="checkbox"/> Superior Ct. Judge

APPLICATION FOR SEARCH WARRANT

I, Detective Yvonne Cobourn, Asheville Police Department

(Insert name and address, or if law enforcement officer, name, rank, and agency)

being duly sworn, request that the court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that information obtained from T Mobile Wireless number [redacted]

(Describe property to be seized, or if search warrant is to be used for searching a place

to serve an arrest warrant or other process, name person to be arrested)

constitutes evidence of a crime and the identity of a person participating in a Assault w/ Deadly Weapon with Intent to Kill Inflicting Serious Injury NCGS 14-32, and is located

(Name Crime)

(check appropriate box(es) and fill-in specified information)

T-Mobile Online Service 4 Sylvan Way Parsippany, NJ 07054

in the following premises

(Give address and if useful, describe premises)

(and)

on the following person(s)

(Give name(s) and, if useful, describe person(s))

(and)

in the following vehicle(s)

(Describe vehicle(s))

(and)

(Name and/or describe other places or items to be searched, if applicable)

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

****See Attachment "CONTINUATION OF PROBABLE CAUSE"**

To comply with this search warrant, all information can be mailed to the Asheville Police Department,

P.O. Box 7148, Asheville, North Carolina, 28802, Attention Detective Yvonne Cobourn. Or you can fax this information to 828-350-0093, Attention Detective Yvonne Cobourn.

SWORN TO AND SUBSCRIBED BEFORE ME

Date

12/3/09

Signature

[Handwritten Signature]

Signature of Applicant

[Handwritten Signature]

Deputy SAC Asst. SAC Clerk of Superior Court Mag. Judge

In addition to the affidavit included above, this application is supported by additional affidavit(s) attached, made by:

In addition to the affidavit included above, this application is supported by sworn testimony, given by:

This testimony has been (check appropriate box) reduced to writing tape recorded and I have filed each with the Clerk.

*If a continuation is necessary, continue the statement on an attached sheet of paper with a notation saying "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

Continuation Page 1, Attached to the Search Warrant Application of Detective Yvonne Cobourn dated December 3, 2009, in the matter of T Mobile Wireless account belonging to subscriber telephone number [REDACTED]

Attachment 1 "Affiant"

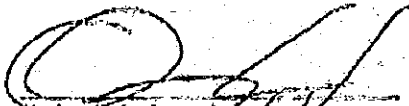
I, Yvonne Cobourn, being duly sworn, depose and say that I am a sworn Law Enforcement Officer in the State of North Carolina, employed by the Asheville Police Department, Asheville, North Carolina. I have been employed in the field of law enforcement for fourteen years. I am currently assigned to the Criminal Investigations Division functioning as a Detective. Before becoming employed with the Asheville Police Department, I attended Central Carolina Technical College in the field of Veterinary Medicine Technology and Asheville Buncombe Technical College in the field of Criminal Justice. I have assisted in numerous homicide investigations and sexual assault investigations. I have attended numerous schools during my tenure to enhance my expertise in the field of law enforcement, more particularly Criminal Investigations. I have successfully completed training in the fields of, Criminal Investigations, Criminal Evidence, Interview and Interrogations and Hate Crimes. While as a patrol officer I worked as a Patrol Evidence Technician. Then as a fulltime Forensic Officer, as well as serving on the public housing ACET Team. I am currently enrolled in the Criminal Investigator's Certificate Program at the North Carolina Justice Academy. I have remained abreast of the current legal updates forwarded to our department through both the North Carolina Supreme Court and the United States Supreme Court.

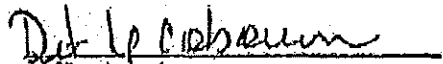
Paragraph One

On November 25, 2009, at 3:05pm the Asheville Police Department responded to a 911 call regarding a shooting at [REDACTED]. Upon arrival officers learned that [REDACTED] had been shot and he was subsequently transported to [REDACTED] Hospital. Recovered at the scene was a cell phone belonging to [REDACTED]. Later that same day [REDACTED] s girlfriend, [REDACTED] contacted police and stated that [REDACTED] had met [REDACTED] at [REDACTED] and that an argument between them resulted in gunshots.

Paragraph Two

Also on November 25, 2009 APD Detective Matt Davis spoke with [REDACTED] and [REDACTED] acknowledged that he had met with [REDACTED] at [REDACTED] regarding a drug deal. [REDACTED] further stated that an acquaintance known as [REDACTED] was with him when he drove to [REDACTED] to meet [REDACTED]. [REDACTED] stated that during the drug deal [REDACTED] and [REDACTED] both pulled out guns and started shooting. [REDACTED] stated he immediately fled the scene and was not involved in the shooting. [REDACTED] claimed that he was only an acquaintance of [REDACTED] and did not know his real name.


 (Judge/Magistrate)
 12/3/09
 (Date)


 (Affiant)
 12/3/09
 (Date)

Continuation Page 2, Attached to the Search Warrant Application of Detective Yvonne Cobourn dated December 3, 2009, in the matter of T Mobile Wireless account belonging to subscriber telephone number [REDACTED]

Paragraph Three

On November 30, 2009 during a follow-up interview [REDACTED] stated that his cell phone number was [REDACTED]. [REDACTED] acknowledged that he had phone communication with [REDACTED] just prior to the arranged drug deal on [REDACTED]. Blair continued to maintain however that he did not know the identity of [REDACTED].

Paragraph Four

A search warrant conducted on the Verizon Wireless account of [REDACTED], the cell phone of [REDACTED] showed that [REDACTED] received several phone calls and text messages from T Mobile number [REDACTED] on November 23, 2009 both prior to and after the shooting.

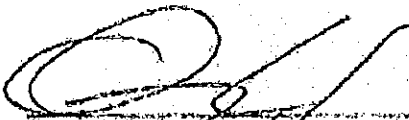
Paragraph Five

Based upon the above statement of facts the affiant believes that probable cause exists to search the T Mobile account of [REDACTED]. These records may help to confirm the statement of [REDACTED] as well as possibly establish the identity of [REDACTED].

Property to be Seized:


Records concerning the T Mobile Wireless account [REDACTED] to consist of subscriber information, cell site location information, incoming and outgoing calls (date, time and phone numbers), text message activity (date, time, sender and recipient), text message content, photos, video and internet activity from November 24, 2009 to the date of this warrant. This evidence would be of material value in the investigation of the shooting of [REDACTED]. Upon seizure the information will be retained by the affiant and held for any future court proceedings that may develop.

IT IS REQUESTED THAT T MOBILE WIRELESS NOT DISCLOSE THIS SEARCH WARRANT TO THE INDIVIDUAL IN CONTROL OF THE VERIZON WIRELESS ACCOUNT BELONGING TO [REDACTED] AT IT COULD HINDER THE CRIMINAL INVESTIGATION.



(Judge / Magistrate)
12/3/09

(Date)



(Affiant)
12/3/09

(Date)

File No.		STATE OF NORTH CAROLINA		In The General Court Of Justice District/Superior Court Division	
SEARCH WARRANT		Buncombe County			
IN THE MATTER OF		To any officer with authority and jurisdiction to conduct the search authorized by this Search Warrant:			
The Verizon account associated with [REDACTED]		I, the undersigned, find that there is probable cause to believe that the property and person described in the application on the reverse side and related to the commission of a crime is located as described in the application.			
Date Issued	Time Issued				
07/21/2011	1:55 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	You are commanded to search the premises, vehicle, person and other place or item described in the application for the property and person in question. If the property and/or person are found, make the seizure and keep the property subject to Court Order and process the person according to law.			
Name Of Applicant		You are directed to execute this Search Warrant within forty-eight (48) hours from the time indicated on this Warrant and make due return to the Clerk of the Issuing Court.			
Detective J.P. Allen		This Search Warrant is issued upon information furnished under oath by the person(s) shown.			
Name Of Additional Affiant					
Name Of Additional Affiant					
RETURN OF SERVICE					
I certify that this Search Warrant was received and executed as follows:					
Date Received	Time Received				
8/2/11	2:00 <input checked="" type="checkbox"/> AM <input type="checkbox"/> PM				
Date Executed	Time Executed				
07/31/2011	2:30 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM				
<input checked="" type="checkbox"/> I made a search of Verizon Wireless					
240 Triune Dr Asheville NC 28805					
180 Washington Valley Rd Belmonte NJ 07921		Date	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> CSC <input checked="" type="checkbox"/> Magistrate <input type="checkbox"/> District Ct. Judge <input type="checkbox"/> Superior Ct. Judge	
Legal Compliance Center		7-21-11	[Signature]		
180 Washington Valley Rd Belmonte NJ 07921 as commanded.					
<input checked="" type="checkbox"/> I seized the items listed on the attached inventory.					
<input type="checkbox"/> I did not seize any items.					
<input type="checkbox"/> This Warrant WAS NOT executed within forty-eight (48) hours of the date of issuance and I hereby return it not executed.					
Signature Of Officer Making Return		This Search Warrant was returned to me on the date and time shown below.			
Department Or Agency Of Officer	Incident Number	Date	Time	Signature	<input type="checkbox"/> Deputy CSC <input type="checkbox"/> Assistant CSC <input type="checkbox"/> Clerk Of Superior Court
Asheville Police Department	11-016485	8/2/11	2:00 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Ross Shergrey [Signature]	

APPLICATION FOR SEARCH WARRANT

1. Detective J. Philip Allen, Asheville Police Department
(insert name and address, or if law enforcement officer, name, rank and agency)

being duly sworn, request that the Court issue a warrant to search the person, place, vehicle, and other items described in this application and to find and seize the property and person described in this application. There is probable cause to believe that *(describe property to be seized, or if search warrant is to be used for searching a place to serve an arrest warrant or other process, name person to be arrested)*

Verizon Cell Phone Records from [REDACTED]

constitutes evidence of a crime and the identity of a person participating in a crime. *(Name crime)* Assault with a Deadly Weapon Inflicting Serious Injury, NCGS 14-1
First Degree Burglary NCGS 14-51

and is located *(check appropriate box(es) and fill-in specified information)*

in the following premises *(Give address and, if useful, describe premises)*
***See Attachment* In the Following Premises*

(and)
 on the following person(s) *(Give name(s) and, if useful, describe person(s))*

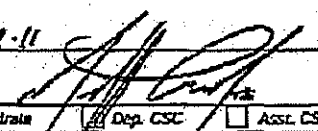

(and)
 in the following vehicle(s) *(Describe vehicle(s))*

(and)
 (Name and/or describe other places or items to be searched, if applicable)

The applicant swears to the following facts to establish probable cause for the issuance of a search warrant:

****See Attachment* CONTINUATION OF PROBABLE CAUSE***
To Comply with this search warrant, all information can be mailed to the Asheville Police Department, PO Box 7148, Asheville NC 28802, Attention Detective Phil Allen. The information can also be faxed to 828-350-0092, Attention Detective Phil

Allen.

SWORN AND SUBSCRIBED TO BEFORE ME	
Date <u>7-21-11</u>	Date <u>7/21/11</u>
Signature 	Signature of Applicant 
<input checked="" type="checkbox"/> Magistrate <input checked="" type="checkbox"/> Dep. CSC <input type="checkbox"/> Ass. CSC <input type="checkbox"/> Clerk of Superior Court <input type="checkbox"/> Judge	

In addition to the affidavit included above, this application is supported by additional affidavits, attached, made by _____

In addition to the affidavit included above, this application is supported by sworn testimony, given by _____

This testimony has been *(check appropriate box)* reduced to writing
 tape recorded and I have filed each with the clerk.

NOTE: If more space is needed for any section, continue the statement on an attached sheet of paper with a notation saying, "see attachment." Date the continuation and include on it the signatures of applicant and issuing official.

1 Attachment Page to search warrant application by Detective J.P. Allen, dated July 21, 2011, in the matter of the Verizon account attached to [REDACTED]

Description of Property to be Seized

1. The name, address, and other identifying information for the individual who has been issued the Verizon Wireless number [REDACTED] from June 20, 2011 to present, including the date the account was opened.
2. Call origination & termination locations including location information on cell sites used, length of calls, date, time, and numbers called.
3. All incoming and outgoing telephone numbers, text messages, photographs, and emails for the Verizon Wireless number [REDACTED] from June 20, 2011 to present.

"CRIMES"

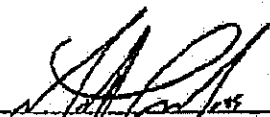
1. Assault with a Deadly Weapon with Intent to Kill Inflicting Serious Injury GS 14-32(C).
2. First Degree Burglary GS 14-51

IT IS REQUESTED THAT VERIZON WIRELESS NOT DISCLOSE THIS SEARCH WARRANT TO THE INDIVIDUAL IN CONTROL OF THE VERIZON ACCOUNT BELONGING TO [REDACTED], AS IT COULD HINDER THE CRIMINAL INVESTIGATION.

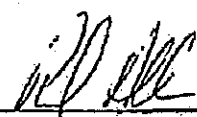
Description of the Premises to be Searched

Cellco Partnership DBA Verizon Wireless
Legal Compliance Center
Attn: Search Warrant Compliance
180 Washington Valley Road
Bedminster, NJ 07921
888-667-0028

Verizon Wireless
242 Tunnel Road
Asheville, NC 28805
828-251-2335



Judge/Magistrate
Date: 7-21-11



J.P. Allen
7/21/11

2 Attachment Page to search warrant application by Detective J.P. Allen, dated July 21, 2011, in the matter of the Verizon account attached to [REDACTED]

Probable Cause Affidavit

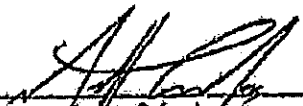
I, the affiant J.P. Allen, am a Sworn Law Enforcement Officer in the State of North Carolina employed by the Asheville Police Department since August 13, 2007. Prior to becoming a sworn officer I completed an Associate of Applied Science Degree in Law Enforcement Technology from A.B. Tech Community College. Prior to becoming a patrol officer, I received basic law enforcement training through the state of North Carolina. That training consisted of over 1000 hours of training in traffic law, domestic law, drug law, and various other situations a police officer will encounter throughout their career. In the spring of 2010, I received my certification to become a Field Training Officer for the Asheville Police Department. I have attended the Police Law Institute training offered by the NC Justice Academy which provides 80 hours of training dealing with Search and Seizure. Since September 2010, I have been assigned to the Criminal Investigations Division. During the affiant's 3 years experience as a law enforcement officer he has been involved in or assigned the investigation of residential, business and vehicular break-ins, felony and misdemeanor larcenies, fraud, prostitution, narcotics and other criminal violations cases. This has led to the arrest and conviction of numerous persons.

1. On 06/21/2011 at 1:04am, Asheville Police officers responded to a stabbing call at [REDACTED]. Upon arrival officers discovered that [REDACTED] had been stabbed numerous times and had to be transported to [REDACTED] Hospital. [REDACTED] who resides at the residence advised officers on the scene that the suspect was [REDACTED] and that he had fled the scene prior to officers arrival.
2. [REDACTED] had been in a prior relationship with [REDACTED] and informed officers that [REDACTED] had contacted her only a few minutes before the assault.
3. [REDACTED] showed Forensics Tech Leigh Kileen where [REDACTED] had contacted her on her cell phone number [REDACTED] from his number of [REDACTED]. The phone calls were received at 12:39am, 12:42am, 12:53am, 12:56am, and at 1:02am.

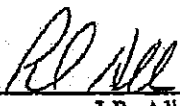
Based on the affiant's training, knowledge, and experience as a law enforcement officer in conjunction with the statements of [REDACTED] probable cause exists that [REDACTED] placed several calls to [REDACTED] the night of the Burglary and Assault.

The affiant request subscriber information and phone records to obtain investigative leads relating to the investigation, arrest, and conviction of the suspect

THEREFORE, THE AFFIANT RESPECTFULLY REQUESTS OF THE COURT THE ISSUANCE OF A SEARCH WARRANT:


 Judge/Magistrate
 Date: 7.21.11

2


 J.P. Allen
 7/21/11

STATE OF NORTH CAROLINA		<small>File No</small>
<u>Buncombe</u> County		In The General Court Of Justice <input checked="" type="checkbox"/> District <input type="checkbox"/> Superior Court Division
IN THE MATTER OF:		
<small>Name</small> The Verizon account associated with [REDACTED]	INVENTORY OF ITEMS SEIZED PURSUANT TO SEARCH <small>G.S. 15A-223, 15A-254, -257</small>	
I, the undersigned officer, executed a search of:		
<small>Person, Premises Or Vehicle Searched</small> Verizon Cell Phone records from [REDACTED] [REDACTED]	<small>Date Of Search</small> 07-21-2011	
This search was made pursuant to		
<input checked="" type="checkbox"/> 1. a search warrant issued by: <u>Matthew Moss of the Buncombe County Magistrates Office</u>		
<input type="checkbox"/> 2. consent to search given by: _____		
<input type="checkbox"/> 3. other legal justification for the search: _____		
The following items were seized:		
One Sony CD-R disc containing all incoming and outgoing telephone numbers for [REDACTED] from June 20, 2011 to July 21, 2011. Text Messaging from July 14, 2011 to July 21, 2011. MMS records from June 20, 2011 to July 21, 2011. The subscriber information for phone number [REDACTED]		
AOC-CR-206, Rev. 5/98 © 1998 Administrative Office of the Courts		(Over) Original - File Copy - Person Whose Property Seized

Items Seized Continued:

1. I left a copy of this inventory with the person named below, who is:

- a. the owner of the premises searched.
- b. the owner of the vehicle searched.
- c. the person in apparent control of the premises searched.
- d. the person in apparent control of the vehicle searched.
- e. the person from whom the items were taken.

2. As no person was present, I left a copy of this inventory:

- a. in the premises searched, identified on the reverse.
- b. in the vehicle searched, identified on the reverse.

Name And Address Of Person To Whom A Copy Of This Inventory Was Delivered, If Any

Verizon Wireless
242 Tunnel Road
Asheville NC 28805

The law enforcement agency identified below will hold the seized property subject to court order.

SWORN AND SUBSCRIBED TO BEFORE ME		<small>Signature Of Law Enforcement Officer</small> <i>[Signature]</i>
<small>Date</small> 9/12/11		<small>Title Of Law Enforcement Officer</small> Detective
<small>Signature</small> <i>[Signature]</i>		<small>Name And Address Of Agency</small> Asheville Police Department 100 Court Plaza Asheville NC 28801
<input type="checkbox"/> Deputy GSC	<input type="checkbox"/> Assistant GSC	
<input type="checkbox"/> Clerk Of Superior Court	<input type="checkbox"/> Magistrate	
ACKNOWLEDGMENT OF RECEIPT		
I, the undersigned, received a copy of this inventory.		
<small>Date</small>		<small>Signature Of Person Receiving Inventory</small>