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IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

AMERICAN CIVIL LIBERTIES UNION OF
FLORIDA, INC., and MICHAEL BARFIELD,

Petitioners,

v.

Case No. 2014-CA-_____

CITY OF SARASOTA, and
MICHAEL JACKSON,

Respondents.

_____ /

VERIFIED EMERGENCY PETITION FOR WRIT OF MANDAMUS

Petitioners, through counsel, sue Respondents, and file this emergency petition for writ of mandamus alleging the following:

Introduction

1. This is an action seeking a writ of mandamus to compel the production from Detective Michael Jackson of the Sarasota Police Department of public records related to the application for and orders approving the using of Stingray devices. In an effort to shield records relating to this controversial tool used to spy on Floridians without a warrant, the City and Detective Jackson transferred public records to the federal government within days after Petitioners' records request and despite the clear statutory command under § 119.07(1)(h), Fla. Stat., to preserve records in their possession pending the Court's determination of this controversy. The transferred records also constitute records of the judicial branch and included applications and orders submitted to a state court judge without any copies provided to the Clerk of the Court or otherwise retained by the judiciary.

Jurisdiction

2. This Court has jurisdiction under Art. I, Sec. 24(a), of the Florida Constitution, and section 119.07, Florida Statutes. This Court has jurisdiction to issue a writ of mandamus under Art. V, section 5(b), Fla. Const., and Rule 1.630, Fla. R. Civ. P. This Court also has jurisdiction under Rule 2.420, Fla. R. Jud. Admin.

Parties

3. Petitioner, American Civil Liberties Union of Florida, Inc. (“ACLU-FL”), is the Florida affiliate of the American Civil Liberties Union, a nationwide, nonprofit, nonpartisan organization with nearly 500,000 members, approximately 18,000 in the State of Florida, dedicated to defending the Bill of Rights embodied in the United States Constitution and the declaration of rights embodied in the Florida Constitution. It has litigated hundreds of cases in Florida’s state and federal courts, both as a Petitioner, or on behalf of a Petitioner, and as *amicus curiae*. The ACLU is frequently involved in litigation involving issues of constitutional protections and access to governmental records.

4. Petitioner, MICHAEL BARFIELD, is a citizen of the State of Florida and is the Vice President of the ACLU-FL. Barfield submitted the records request in his capacity as vice president.

5. Respondent, CITY OF SARASOTA, (“City”), is a Florida municipal corporation. The Sarasota Police Department (“SPD”) is an administrative agency of the City and has possession of certain public records sought by Petitioners.

6. Respondent, MICHAEL JACKSON, (“Detective Jackson”), is a detective employed at SPD.

General Allegations

7. In connection with the transaction of official agency business of SPD, Detective Jackson has made or received certain records relating to applications tendered to the Circuit Court of the Twelfth Judicial Circuit, in and for Sarasota County, and the judicial orders entered pursuant to the provisions of §§ 934.32 and 934.33, Fla. Stat. (“the records” or “requested records”).

8. Based on information and belief, the records are titled “Application Under Seal” and seek authorization from a judge of the Twelfth Judicial Circuit for the installation and use of a pen register and a trap and trace device.

9. Based on information and belief, the orders authorizing the use of a trap and trace device are utilized by law enforcement officers, including Detective Jackson, to collect information in criminal investigations, including, but not limited to, cell phone records and cell site information both historical and prospectively in real-time.

10. In addition, trap and trace orders are used to obtain authority to use another device known as a cell site simulator, or “Stingray,” to conduct live location tracking of cell phones, collect identifying information about cell phones including their electronic serial numbers, and intercept certain information pertaining to cell phone communications.

11. Stingray devices are manufactured and sold to law enforcement agencies by the Melbourne, Florida, based Harris Corporation. Stingrays mimic cell service providers’ towers and broadcast electronic signals that force cell phones in the area to register their identifying information and location. Stingrays collect information not only about specific targets of investigations, but also about hundreds or thousands of innocent third parties.