

## POLICY 49. CELL PHONE PINGS

### 1. Legal requirements and reporting requirements

- a. Penal Code 1546 and its subsections, also known as the CalECPA (California Electronic Communications Privacy Act), provides a uniform warrant rule for accessing electronic and digital information including cell phone location information or "ping."
- b. A cell phone "ping" is the act of determining the estimated current location of a cell phone. This may be accomplished via GPS data or by using cell tower triangulation. Obtaining a cell phone ping is a valuable technique that may be utilized for a variety of emergency situations.
- c. Pinging a cell phone is a search and seizure of the cell phone subscriber's location records. As such, pinging a cell phone is subject to established search and seizure laws including Penal Code 1546. This includes the exigent circumstance exception. When a deputy determines that the location of a cell phone is needed due to exigent circumstances, the requesting deputy must be able to articulate exigent circumstances to include the immediate danger of death or serious bodily injury to any person. This policy outlines the circumstances under which an emergency cell phone ping may be requested, the proper procedures for doing so, and the written documentation required when an emergency cell phone ping is conducted.

### 2. Cell phone ping procedures

- a. Upon determining that an emergency ping may be needed a deputy will notify the Communication's Center. The deputy must be able to articulate the exigent circumstance(s) for the ping and the reasonable surety of the target phone number. The watch commander or patrol sergeant may deny the emergency ping request based on the established criteria.
- b. Exigent circumstances will generally follow under two categories:
  1. When necessary to save someone's life, for example: a lost hiker or missing juvenile at-risk. In these situations, the deputy will notify the Communication's Center (CC) of the request. The CC will transmit the exigent circumstance request to the applicable cell phone provider. Upon compliance with the request, the cell phone provider will provide the requested location information to the CC and the information will be relayed to the deputy. At the conclusion of the event the primary deputy shall articulate that an exigent ping was requested in his or her crime/incident report. The deputy **shall** also complete a court order titled: "Order Authorization to Retain Electronic Communication Information Voluntarily Provided: Emergency Law

Enforcement Request." This form can be located in the forms folder in the Sheriff's Intranet site.

2. When necessary to locate a fugitive/criminal who poses an immediate danger of death or serious bodily injury to any person. In this instance the deputy or patrol sergeant must first contact the detective sergeant of the investigating unit that will ultimately take responsibility for the case. That unit may assign a detective to the task of obtaining cell phone ping or delegate the task to the Fugitive Task Force. The detective unit responsible shall complete the "Emergency Law Enforcement Request" court order process.
  - c. If a deputy is seeking a cell phone ping for non-exigent circumstances the deputy must obtain a search warrant.
3. Court order procedure
- a. Anytime a member of this department requests an emergency ping of a cell phone pursuant exigent circumstances a court order must follow within three court days.
  - b. The template for the order mentioned above can be found on the Sheriff's Intranet in the forms folder and it is titled: "ORDER Authorization to Retain Electronic Communication Information Voluntarily Provided: Emergency Law Enforcement Request."
  - c. Once completed, the form shall be emailed to the Deputy District Attorney Liaison to the Sheriff's Department. The deputy shall document in his/her crime/incident report that this process was completed thereby fulfilling the requirement mandated by Penal Code 1546.
  - d. The reviewing sergeant shall ensure that the deputy who requested the emergency ping completed the court order form and routed it to the Deputy District Attorney Liaison to the Sheriff's Department and documented this process in the crime/incident report.
  - e. Once received, the District Attorney's Office will process the order through the court and return a signed copy to the deputy via email. The deputy and/or the assigned detective shall ensure that the signed order are scanned and attached to the case in NetRMS. The deputy and/or the assigned detective shall ensure that notice is provided to the service provider and the identified target of the cell phone ping as specified in Penal Code section 1546, et seq.