



CRIMINAL DEFENSE – LOCATION DATA

Case Study: Early Assessment and the use of Cell Site Records



Location data from previously overlooked cell site records was used to exonerate a man after 17 years in jail.

In 2000, teenager Vernon Horn was convicted for a January 1999 robbery and murder at a New Haven neighborhood convenience store. 17 years later cell site records were used to set aside the conviction.

A study of the following case identifies:

- 1) The need for early assessment, collection and examination of cellular service provider records.
- 2) The effective use of historical cell site records from service providers to show location data.

On January 24, 1999, at 3:28 a.m., a masked gunman entered the convenience store and immediately opened fire, followed by two other masked accomplices. A customer was shot and later died and store worker's cell phone was stolen along with \$2,000 from the cashier's pocket. Four minutes later, the robbers fled. 17 year old Horn went to the deli just after the robbery and voluntarily spoke with police sometime after 4:00 a.m.

The primary evidence allegedly linking Horn to the crime scene was a record of calls made from a cell phone stolen during the robbery.

At 4:14 a.m., the stolen phone was used to place a call — the first of five — to a Bridgeport man, just 42 minutes after the robbery.

At the trial in 2000, the State's cooperating witness, an admitted perpetrator testified he used the stolen cell phone to make two more calls from Bridgeport on January 24th and 25th. He said he



made the third call from Bridgeport at 10:40 a.m. January 25th and then gave the phone to Horn on Stratford Avenue in Bridgeport. Another trial witness testified that he made the fourth call 26 minutes later from New Haven after Horn lent him the phone.

The state introduced a one-page call detail record from the stolen cell phone's service provider with the cell site origination information. The stolen cell phone evidence was critical at Mr. Horn's criminal trial because it placed a phone taken from the crime scene in Horn's hands only one day after the crimes were committed, and was the only evidence that put Horn in the company of the State's cooperating witness. It was also critical because the State had no physical evidence linking Horn to the crime scene.

During the trial Horn's defense attorney failed to rebut the prosecution's cell phone evidence and conceded to the jury during closing arguments that the stolen cell phone had been used by Horn's acquaintance to make a call from New Haven. Both he and the prosecution also contended that records of where the calls were made—the cell towers from which the calls were launched—were not available anymore because they were destroyed 30 days after the calls.

New evaluation of the cell phone call record established that, based on the location of the cell phone at the time of the calls, combined with which cell site towers they used, Horn could not have committed the robbery and homicide. The new evaluation showed the first call was made from Bridgeport while Horn was in New Haven speaking with a police officer. The cell site evidence also showed all of the five phone calls were made from Bridgeport.

Also, 137 pages of telephone records from a retired New Haven police detective's basement that were never logged into police evidence or disclosed to Horn's defense lawyers were discovered in 2017. The newly discovered records include handwritten notes as well as a chart of 16 calls between an alternative suspect and one of the numbers that received a call from the stolen cell phone. The records were not mentioned in any police reports, and the police department had no record of them ever being logged into evidence.

Conclusion

The physical address of each cell site and its orientation could have been obtained by the original defense team at the time simply by requesting that information through a subpoena to the cellular service provider, specifically the call detail and cell site records. This case is a good example of the need for early assessment and collection cellular service provider records and the need for defense teams to have an up to date cellular service provider subpoena guide and retention schedule.

Practical Use of Cell Site Records

Historical cell site records are not as accurate as GPS for location information. They can't be reliably used to pinpoint the location of a mobile device because of the way the technology works. However, these records can effectively provide a more general location data point based off which cell site tower was used to handle the call. In this case the 5 calls in question all used cell sites in Bridgeport and none in New Haven and is a good example of the effective use of



historical cell site records to show general location data. For more information about the effective use and limitations of cell site records, see the IRIS Digital Evidence Toolbox: [Call Detail and Cell-Site Analysis](#) drawer.

Service Provider Retention Schedule

Knowing what records are available and how long they are kept are critical in the practical application of using location data records from cellular service providers. IRIS LLC has recently published a brand new [Cell Phone Service Provider Retention Schedule](#) for the five major providers with a link to their subsidiaries and leased service providers.

Updated Cellular Subpoena Guide

IRIS LLC also recently published an updated [Cellular Telephone Provider Subpoena Guide](#) in our Digital Evidence Toolbox.

For more topics and information on digital evidence, see our toolbox at: <http://www.irisinvestigations.com/wordpress/iris-digital-evidence-toolbox/>



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