

Subject: Letter from the Electronic Frontier Foundation regarding New Mexico Subpoenas
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BY EMAIL

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Subj: Letter from the Electronic Frontier Foundation regarding New Mexico Subpoenas

Gentlemen:

Thank you for your recent email, bringing to our attention the April 8, 2014, district court decision in New Mexico regarding certain subpoenas issued by the Taos County prosecutor. T-Mobile is pleased to respond to your email in regard to any specific T-Mobile obligations arising from the decision.

First, to be clear at the outset, the New Mexico court did not find that any legal process served on T-Mobile or the other providers named in your email was "facially invalid." While the court did find that the prosecuting attorney lacked the authority to issue the legal process at issue and that the resulting records obtained thereby from providers were not proper before the grand jury, the court made no finding as to whether a provider could reasonably rely upon any process it received. Indeed, the court assumes that the providers that received legal process acted properly in responding to what appeared to be facially valid process. The subpoenas in question contained a case caption, docket number, issue date, hand signature of the issuing attorney on both subpoena and certification of service, stamp and initials of the clerk of court indicating that the process was filed (as the court itself confirmed in reviewing its records) and a valid government email for return of records.

Second, T-Mobile protects the privacy of its customers by carefully reviewing all legal process it receives. When legal process is facially defective, T-Mobile rejects it or seeks to have the defect corrected before it complies. T-Mobile is pleased to see the New Mexico court take action to correct improper use of legal process, but again, we note that the court did not criticize any provider for acting in good faith in reliance upon legal process that otherwise was facially valid.

Third, it is T-Mobile's policy neither to confirm nor deny receipt of specific legal process. We trust that the court will exercise whatever remedial measures are appropriate.

In closing, we would not expect to see a prosecutor in New Mexico use subpoenas like these again in a criminal investigation before convening a grand jury and we expect that the judicial system in New Mexico is well capable of correcting the problem.

Sincerely,

Patricia A. Cauldwell

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