

**Subject:** Letter from the Electronic Frontier Foundation regarding New Mexico Subpoenas  
**From:** Dave Maass <dm@eff.org>  
**Date:** 11/7/14, 2:53 PM  
**To:** leaquestions@metropcs.com  
**CC:** Nate Cardozo <nate@eff.org>

Dear telecommunications provider,

As you may already be aware, the District Attorney's office for the Eighth Judicial District in New Mexico is facing disciplinary proceedings after sending dozens of improper and unauthorized subpoenas to telecommunications providers across the country, demanding telephone records in violation of state law.

We are attaching both a court order quashing an indictment in a criminal case and two sets of charges leveled by the Disciplinary Board of the Supreme Court of New Mexico against the DA's office as a result of the improper subpoenas.

Unfortunately, your company has a role in this controversy too because, as indicated by judge's order, you complied with facially invalid subpoenas issued by the District Attorney and turned over records despite the fact that no New Mexico law authorized the subpoenas. You're not alone. The Electronic Frontier Foundation ("EFF") has reviewed the subpoenas and determined that the following companies complied with improper requests for customer information:

- Verizon
- AT&T (Cingular)
- T-Mobile
- Commnet Wireless
- Cricket
- Sprint/Nextel
- Level 3 Metro PCS

EFF strongly believes that part of a telecommunication company's cost of doing business in any particular state is to ensure that local law enforcement requests for customer data comply with state law. That is particularly true when state law contains stronger legal protections than those that exist under the Fourth Amendment to the U.S. Constitution or the federal Stored Communications Act.

EFF intends to write a blog post next week about the subpoenas, naming these entities, and calling upon telecommunications providers to do the following:

- Review all subpoenas from the District Attorney for the Eighth Judicial District of New Mexico and release the actual number of subpoenas the company processed that were submitted by the prosecutor without the authorization of

a court or grand jury and that do not reference a unique case or case number. For help in your search, these subpoenas were often labeled with non-unique titles such as State of New Mexico v. John Doe or CS-2013-1.

- Review company legal process to identify how in house counsel and/or your company's legal compliance team assesses the validity of the subpoenas and institute new policies to ensure that your company does not turn over records in response to subpoenas—such as these—that are invalid on their face.
- Confirm whether the company has informed the customers targeted by the subpoenas of the existence of the subpoenas. If customers have not been informed, please do so.

If your company disputes the accuracy of the attached documents or our characterizations of the situation, or would like to provide further information for our consideration, please contact us no later than Friday, November 14, 2014.

We can be reached at [dm@eff.org](mailto:dm@eff.org) and [nate@eff.org](mailto:nate@eff.org) and by phone at 415-436-9333 x151.

Sincerely,

Dave Maass  
Investigative Researcher

Nate Cardozo  
Staff Attorney  
Electronic Frontier Foundation

— Attachments: —

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2014.04.08 Decision on mtn to quash.pdf	655 KB
2014.10.01 Specification of Charges (D Gallegos).pdf	1.3 MB
2014.10.01 Specification of Charges (E Chavez).pdf	1.2 MB