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BEFORE THE
FLORIDA PUBLIC SERVICE COMMISSION

In The Matter of	:	DOCKET NO. 891194-TL
Proposed tariff filings by	:	
SOUTHERN BELL TELEPHONE AND	:	<u>SECOND DAY</u>
TELEGRAPH COMPANY clarifying	:	
when a non-published number	:	<u>AFTERNOON SESSION</u>
can be disclosed and intro-	:	
ducing Caller ID to	:	<u>VOLUME V</u>
TouchStar Service.	:	

Pages 739 through 934

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 Florida Public Service Commission

FPSC, Hearing Room 106
 Fletcher Building
 101 East Gaines Street
 Tallahassee, Florida 32399
 Thursday, November 29, 1990

Met pursuant to adjournment at 1:00 p.m.

BEFORE: COMMISSIONER MICHAEL MCK. WILSON, Chairman
 COMMISSIONER GERALD L. GUNTER
 COMMISSIONER THOMAS M. BEARD
 COMMISSIONER BETTY EASLEY
 COMMISSIONER FRANK MESSERSMITH

APPEARANCES:
 (As heretofore noted.)

REPORTED BY: CAROL C. CAUSSEAU, CSR, RPR
 JOY KELLY, CSR, RPR
 SYDNEY C. SILVA, CSR, RPR
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1 unchanged, and a slightly greater percentage of the
2 speakers at the public hearings generally favored
3 Caller ID"?

4 A That's what it states.

5 MR. FALGOUST: Thank you. Thank you, Mr.
6 Chairman.

7 COMMISSIONER WILSON: Let me ask one question
8 and see if I understand what the posture of this
9 Maryland case was, and I sort of glean that from
10 reading the dissenting opinion by Bill Badger on the
11 last two pages. It was that in Maryland they had
12 permitted Caller ID and they had allowed certain
13 agencies, public service agencies and law enforcement,
14 to have blocking. And the subject of this Order is the
15 extension of the blocking to all parties, is that
16 correct?

17 WITNESS COOPER: Well, the Commission
18 concluded that -- they ordered the company to provide
19 per-call blocking at no charge.

20 COMMISSIONER WILSON: They had previously
21 allowed Caller ID?

22 WITNESS COOPER: Unblocked Caller ID.

23 COMMISSIONER WILSON: Unblocked Caller ID,
24 yes.

25 WITNESS COOPER: I mean, frankly, they could

1 have revoked Caller ID; I mean, there were witnesses
2 who appeared to --

3 COMMISSIONER WILSON: I'm not interested in
4 that, just what the posture of this case was before the
5 Commission.

6 WITNESS COOPER: That's what they did, yes,
7 sir.

8 COMMISSIONER WILSON: All right, counselor,
9 go ahead.

10 CROSS EXAMINATION

11 BY MR. DORAN:

12 Q Doctor, my name is Richard Doran, I am
13 Assistant Attorney General for the State of Florida,
14 and I would just like to take you through a couple of
15 items that I don't think have been addressed today in
16 terms of focusing on your background in sociology.

17 Am I correct that the field of sociology is
18 different from the field of marketing, is it not?

19 A The field of sociology is a distinct
20 discipline that exists within the general liberal arts
21 category, yes.

22 Q And what would be the focus of a study of
23 sociology?

24 A Well, for these purposes, the origin or
25 survey research is, in fact, in sociology in this

1 country coming out of studies of soldiers in World War
2 II. So sociology is sort of the parent discipline of
3 survey research.

4 Q I would like to refer you to your direct
5 testimony, Page 9, to a section that is included called
6 "Problems With Caller ID," where you identify
7 essentially three categories of problems: disruption
8 of routine communication, commercial abuses of the
9 telephone number, and special situations.

10 I don't believe I have heard you explain how
11 did you come up with identifying these problems and
12 what weight do these concerns have in your overall
13 opinion on Caller ID?

14 A Well, there's actually a fourth category on
15 the next page as well. These are based on a priori
16 analysis on survey evidence, on discussions with people
17 who had thought about Caller ID, lived with Caller ID,
18 et cetera. I mean, these have evolved over the last 18
19 months or so.

20 When you analyze the service, you can say
21 this could happen, could happen. Some telephone
22 companies asked people questions that sounded like
23 there was a concern about this, and people gave answers
24 that identified kinds of problems. Categorizing them
25 and grouping them is simply to organize and sort this

1 out. But this is an interactive process between
2 thinking about the problem, looking at survey evidence,
3 listening to real-world experiences, and so forth.

4 Q Let me ask you about, under "commercial
5 abuses of the telephone" on Page 9, you define a
6 problem known as "red-lining." What type of data or
7 experience do you have that you can share with this
8 Commission regarding that problem?

9 A Well, the possibility of red-lining -- let me
10 start in a different fashion.

11 When you get a call as a called call, you see
12 the number. If you are a business, you would like to
13 find ways when you pick it up to handle it quickly, to
14 see if you can develop a better market prospect or not.

15 One of the fears was that if you are a bank,
16 and you are in the loan department of a bank, or a
17 Mercedes Benz dealer, you might identify fairly
18 homogeneous segments of a city which are defined by the
19 NNX, as described yesterday, that three-digit code, and
20 just not answer those because the likelihood that you
21 are going to develop sales prospects on that basis is
22 fairly low given the origin of the call. Now, that's a
23 guess about an unknown number but we heard that people
24 would make those kinds of guesses and seeing that NNX
25 is a possibility.

1 There is also an example that has been
2 recounted to me in the long distance area in which I am
3 told that from certain locations such as airports, to
4 other locations such as third-world countries, the long
5 distance provider does not honor credit cards. They
6 use that NNX, the two NNXs, to identify a set of credit
7 cards and say, "We are not going to honor that because
8 of the high probability of default."

9 So that's the kind of view. You take this
10 piece of information and engage in some activity that
11 would deny the caller an opportunity.

12 Q In reviewing --

13 COMMISSIONER WILSON: Is there something
14 wrong with the last example that you gave?

15 WITNESS COOPER: Well, if it unfairly
16 disadvantages an individual who was going to --
17 perfectly willing to pay his bill and he's denied the
18 ability to use the credit card that he was issued, it
19 does create a problem.

20 Is it legal or illegal? In some cases it
21 could be illegal; in this case it casts some question
22 on the representations of the company to the customer.

23 Q (By Mr. Doran) During your opening remarks
24 you indicated that the Caller ID system has certain
25 benefits, and I think you discussed them in general

1 terms. But as I have sat through the testimony the
2 last couple of days, the question that has come into my
3 mind is that if a system made available the other CLASS
4 options, and you had available those options and the
5 ability to own a telephone answering machine, what does
6 Caller ID offer the residential customer that is not
7 offered by either an answering machine or these other
8 systems?

9 A Well, there are obviously some call
10 management functions that seeing the number without
11 having to ask the person who has called you for the
12 number may provide. In my testimony I do argue that
13 you get similarities and overlaps. There's no perfect
14 substitute for Caller ID. The answering machine does
15 one thing, for anybody who is willing to forward their
16 number, the answering machine can essentially
17 accomplish the same thing; they will lose a number.

18 Automatic Return Call gives you the
19 possibility of returning the call to the last number.

20 One difference, perhaps, is that if it is not
21 the last call and you are out and the person didn't
22 leave the number, then Caller ID lets you get back to
23 that person. Why you would want to if they were
24 unwilling to leave the number on the answering machine,
25 I don't know.

1 And there are, obviously, some very specific
2 instances in which you can claim a unique benefit for
3 Caller ID. By cross-tabulating all of the other
4 services and finding those little holes that they might
5 not --

6 Q Let me follow up then, because I think a
7 witness yesterday gave a similar answer, that
8 individuals refuse to give their number. Wouldn't that
9 suggest that, despite what a lot of these market
10 analysts are suggesting to us, that people do, in fact,
11 believe they have a right of privacy in their number
12 and are refusing to share it, as a practical matter?

13 A Well, I quite agree with that. If someone
14 reached an answering machine and chooses not give the
15 number, there might be a variety of reasons; they may
16 want to control the timing of the return of the call,
17 and so forth.

18 Q And those would be legitimate reasons,
19 wouldn't they?

20 A They could be entirely legitimate reasons. I
21 try not to second guess the reason the people do or
22 don't leave their phone number, or would or would not
23 block the forwarding of the number. But I believe
24 there that is a significant overlap of functions so
25 that you cover most of the things that Caller ID can

1 do.

2 Q Can I stop you for a minute?

3 We have been discussing -- and forgive me
4 because I am not an expert in this area, but we have
5 been discussing the New Jersey experience. Is there
6 anything in the New Jersey experience that indicates
7 that Caller ID provides some bright shining example of
8 a service that would otherwise be unavailable?

9 A Well, the company will repeatedly point to
10 the bomb threat where, if it were blocked, then the
11 school would not have the number and what would they do
12 about it without Caller ID. I have a response to that
13 in the sense that if the company were thinking hard
14 about answering that, they could construct an
15 alternative with Call Trace. Would it be identical to
16 Caller ID? No. Would it take a little bit longer than
17 Caller ID? Perhaps. But the differences get to be
18 fairly small between what the Caller ID can do for you
19 and what other things can do for you.

20 Q Okay. That brings me to my next point.
21 Beyond these fairly small differences, it appears to
22 me, again from a layman's view, that the one difference
23 is the ability that Caller ID provides to businesses to
24 capture information about potential customers. Would
25 you agree with that?

1 MR. PARKER: I object to the characterization
2 in that question. I think it's a misconstruction of
3 the evidence in this record.

4 COMMISSIONER WILSON: You need to rephrase
5 your question and ask the witness more directly.

6 MR. DORAN: Ask him more directly. (Pause)

7 Q (By Mr. Doran) All right, I'll ask you this
8 way: In your opinion, does Caller ID offer to a
9 business customer the potential to record telephone
10 numbers of potential customers?

11 A It does, and in the surveys I have seen that
12 is major source of interest in the service among
13 businesses.

14 Q And that is not an activity that the other
15 CLASS offerings would provide?

16 A No. The other CLASS offerings do not provide
17 that ability.

18 Q In your opinion, would that be a significant
19 reason for a business customer to purchase Caller ID?

20 A I have observed a correlation between
21 interest in that function and interest in subscription
22 to Caller ID.

23 Q Are you familiar with, through your own
24 examinations or any data regarding surveys of the
25 public, where the public was specifically asked, "Do

1 you wish to have that information captured for purposes
2 of business treatment"?

3 A Well, in the testimony we routinely see one
4 of the sources of concern in responses to survey
5 questions that have been posed being called back by
6 businesses or being on telemarketing lists. And
7 although Caller ID would be only one way to get on a
8 telemarketing list, there would obviously be -- there
9 are others that is a possibility. Call-backs would be
10 directly linked to Caller ID.

11 MR. DORAN: I don't have any further
12 questions for the witness.

13 COMMISSIONER WILSON: Let me ask you
14 something: You, in response to a question by counsel
15 from an example that he cited yesterday about the
16 reluctance of a customer to give their telephone number
17 to someone, is it your opinion that someone has,
18 basically, an absolute privacy right to that telephone
19 number?

20 WITNESS COOPER: Well, the current
21 expectation among telephone callers is that when they
22 dial someone up, they know they can be asked "What is
23 your number," and they choose whether or not to give it.
24 And that expectation is pervasive and it has enabled a
25 pattern of communication, calls for information, et

1 cetera, to develop which is useful, and the loss of
2 that I see as a problem.

3 Is there an absolute right? I don't know.
4 But there is an expectation and a pattern of behavior
5 that is beneficial official, which has grown up around
6 that practice.

7 COMMISSIONER WILSON: So the expectation is
8 for any individual customer that that number is theirs
9 and should be disclosed or used only consonant with
10 what their decision is as to the use of that number?

11 WITNESS COOPER: In the context of a specific
12 conversation. Obviously, most customers -- we have
13 heard maybe 80% -- know it's in the phone book and no
14 other people can get it in that fashion.

15 But in the context of a specific
16 conversation, if I call you up to transact some
17 business and I haven't given you my name, in that
18 context the phone book doesn't do you any good. If you
19 ask me for the number, you say, "Well, I can't answer
20 you now, let me call you back." I've got that choice,
21 and I think they have that expectation. Once I have
22 told you my name, I then know that you might look it up
23 in the phone book and you can get back to me.

24 But I have control over the pieces, the
25 building block, that can enable you to get back to me.

1 and I think that people do realize and understand.

2 COMMISSIONER WILSON: Do you think it's a
3 reasonable option for a called party -- we have had
4 some discussion about this technology here -- to be
5 able to block the blocker; to block the use of their
6 phone by someone who refuses to disclose their number?

7 WITNESS COOPER: I have no problem with that,
8 and have testified as such in Delaware. As long as we
9 keep adding options, that's fine. People may become a
10 bit overwhelmed with all of the different
11 possibilities, but keeping the options open is fine.

12 Obviously, you know, certain individuals may
13 simply say, "I'm not going to -- if you want to talk to
14 me, don't send me a P." And I think that's fair. And
15 don't even let my phone ring because you, obviously,
16 don't have to pick the phone up, you can exercise that.

17 But that's basically all you are doing there
18 is saying, "I don't even want to hear it ring if you're
19 not going to send me your number."

20 COMMISSIONER WILSON: And that gives
21 virtually complete freedom of choice to both the
22 calling and the called party? The calling party wants
23 to reach you and the called party says, "If you want to
24 do so, you must disclose your number"?

25 WITNESS COOPER: Yes, sir.

1 COMMISSIONER WILSON: The choice is purely
2 that of the calling party?

3 WITNESS COOPER: The calling party, yes.

4 COMMISSIONER WILSON: The called decides that
5 the only people they want to talk to are those who will
6 disclose the number, and that gives the called party
7 the maximum amount of choice or decision over the use
8 of the telephone?

9 WITNESS COOPER: As I said, the difference is
10 basically they could do that without any central office
11 technology; they could simply could not answer Ps and
12 then they have to listen to rings.

13 COMMISSIONER WILSON: But if you want to give
14 consumers a maximum choice or convenience, or whatever
15 --

16 WITNESS COOPER: Yes, sir.

17 COMMISSIONER WILSON: -- then this kind of
18 technology could be useful for that?

19 WITNESS COOPER: Yes. And the suggestion, I
20 have heard the suggestion that if the telephone company
21 doesn't do it in the switch, someone is going to do it
22 in CPE. So, again, I'm not opposed to enhancing call
23 management capabilities.

24 COMMISSIONER BEARD: If I understand you,
25 then, the expectations that you believe consumers

1 currently have today should be maintained?

2 WITNESS COOPER: No. Well, this technology
3 has destroyed those expectations to some extent. If
4 you let any of the services go forward, you have
5 changed the expectations, no doubt about it. Because
6 the average person today realizes that if they call
7 someone and hang up without saying the number, they
8 can't get back to them. Automatic Return Call is going
9 to change that forever. So that, I mean, you have
10 changed the expectations. What I am suggesting with
11 per-call blocking is that you preserve a big piece of
12 it by giving people the option of whether or not to
13 forward their number.

14 COMMISSIONER BEARD: When, many moons ago,
15 when you would pick up the phone and you would get the
16 operator and you would ask the operator to be connected
17 to Tom Beard and she would connect me and say, "So and
18 so is on the line," or they refused to say who they
19 are, at that point in time I had the expectation that I
20 controlled the privacy of my home, is that not correct?

21 WITNESS COOPER: Well, you had the
22 expectation that you control the privacy of your home,
23 but not in your phone conversation because the operator
24 could be listening in.

25 COMMISSIONER BEARD: If I chose to accept the

1 call.

2 WITNESS COOPER: If you chose to accept the
3 call.

4 COMMISSIONER BEARD: So I maintain control.
5 But technology basically took that away from me.

6 WITNESS COOPER: As I understand it, about 50
7 years ago.

8 COMMISSIONER BEARD: Well, it depends on
9 where you live, now.

10 WITNESS COOPER: Depending upon where live,
11 yes.

12 COMMISSIONER WILSON: Commissioner Gunter
13 probably remembers that. (Laughter)

14 WITNESS COOPER: Well, but, you see, it is
15 relevant where this half a century of experience for
16 most of us.

17 COMMISSIONER BEARD: Well, for some of us
18 over in Worthington Springs and Raiford, it has not
19 been quite that long.

20 WITNESS COOPER: It may not have been quite
21 that long.

22 COMMISSIONER EASLEY: You guys are staring to
23 get personal.

24 WITNESS COOPER: Well, the question is --

25 COMMISSIONER BEARD: Well, let me finish,

1 okay? It's your position then that time determines the
2 degree of relevancy?

3 WITNESS COOPER: No, no, time builds up
4 patterns of communication, which are generally good
5 because society adopts them and propagates them.

6 COMMISSIONER BEARD: So then it would be your
7 position that it's not a matter of changing privacy
8 rights, but a matter of the timing in sequence where
9 customers' expectations can change along with those,
10 and it's not a flash cut situation?

11 WITNESS COOPER: You could change customers'
12 expectations about privacy, in which case every time
13 someone does not want to forward their number, you
14 would compel them to do something else, which is what
15 the phone company is advocating; let them use an
16 operator or go to a phone booth. And if there is a
17 significant cost to revealing their number, which I
18 believe they have expressed, then they will change
19 their behavior. The questions, is it better to force
20 them to go to a phone booth? Were you better off when
21 you had to tell the operator who you were calling, who
22 you wanted to call. I mean, we have all seen the bits
23 where the operator says to someone else, "So-and-so is
24 seeing so-and-so." Was that a better world where you
25 did not have the anonymity of that conversation? That

1 is the question. We know the world we've got today has
2 anonymity; was that a better world?

3 CHAIRMAN WILSON: Well, was that a better
4 world?

5 WITNESS COOPER: I don't know.

6 CHAIRMAN WILSON: Let's take a vote.

7 (Laughter)

8 It may not have been because of the
9 telephone.

10 COMMISSIONER BEARD: For the record, from
11 your home phone if you dial 1 plus the number, it won't
12 go through, and if you dial 0 plus the number, it won't
13 go through. So from your home you would do 0-minus for
14 current per-call blocking. I ran a little experiment
15 and I accumulated some data and then I analyzed that
16 data last night. That was a question that arose
17 yesterday.

18 WITNESS COOPER: Well, I am not a technical
19 expert on that.

20 COMMISSIONER BEARD: I'm not, either. I just
21 used the phone and it worked; or didn't work, as the
22 case may be.

23 CHAIRMAN WILSON: Well, expectations of
24 privacy can change gradually, or society's expectations
25 of privacy and other things can change gradually, or

1 abruptly. And what I have in mind is the Supreme
2 Court's decision about the expectations of privacy from
3 using a hand-held remote phone in your home, which I
4 would have thought would have held the same
5 expectations of privacy as a land line would, but
6 apparently doesn't, which makes absolutely no sense
7 whatsoever. But people's expectations of privacy were
8 abruptly changed from that one decision of the Supreme
9 Court, and sometimes that happens.

10 WITNESS COOPER: Their expectations are
11 changed. The questions is how quickly will their
12 behaviors change. I suspect a lot of the people who
13 will be impaled by that may or may not be aware that
14 those conversations are not private.

15 CHAIRMAN WILSON: Counsel?

16 CROSS EXAMINATION

17 BY MR. RAMAGE:

18 Q I am Michael Ramage, Deputy General Counsel
19 with the Florida Department of Law Enforcement, and I
20 would like to pick up, initially, on what has just been
21 discussed.

22 If you will turn to Page 20 of your prefilled
23 direct, there's the chart there that indicated
24 respondent concern about number forwarding and
25 willingness to block specific types of calls. I would

1 like to just take an example there. As I read the
2 chart, 40% of the respondents indicated concern about
3 displaying their originating phone number to a car
4 dealer, is that correct?

5 A Yes, sir.

6 Q Okay. I think whether --

7 CHAIRMAN WILSON: 40% of 84% expressed that
8 concern, right or wrong?

9 WITNESS COOPER: 40% of all respondents
10 expressed a concern, and then 84% of those.

11 CHAIRMAN WILSON: Okay.

12 Q (By Mr. Ramage) Whether that's based on
13 proprietary information or not, I think it reflects
14 common sense. But would you agree that a person making
15 a phone call to a salesperson working on a commission
16 basis might be inclined to be reluctant to reveal his
17 or her originating phone number if he could voluntarily
18 refuse to reveal it?

19 Q Yes, and I think that is what this data show?

20 A Okay. The example that was given a moment
21 ago by you was that to a certain extent present
22 technology may have infringed upon that, and you gave
23 the example of Return Call, is that correct?

24 A As I understand it, Return Call has taken one
25 bite out of that.

1 Q But doesn't Return Call differ significantly
2 from Caller ID in that the car salesman can initiate
3 Return Call, redial a number, but he doesn't know what
4 number was redialed?

5 A He does not know the number, and he has to do
6 it before he receives another incoming call.

7 Q So all he could do is call the caller back,
8 and if the caller chooses voluntarily not to reveal his
9 originating phone number to the return call sales
10 person, he can still maintain the anonymity of his
11 originating number, is that correct?

12 A That is correct.

13 Q Caller ID would not allow that, is that
14 correct.

15 A Caller ID would give him control over the
16 number so he could call back whenever he wants.

17 COMMISSIONER EASLEY: Could I ask a question
18 on that? I have a telephone in my office. When I dial
19 a number, a little thing comes across and I see
20 displayed the number I just dialed. If I had the
21 redial feature on that, would the number that called me
22 last and I punched redial, would that number be
23 displayed as my phone is dialing that number?

24 WITNESS COOPER: My understanding, and this
25 is a technical -- may be beyond my technical expertise,

1 but that number is not resident in your CPE; it's
2 resident in the switch. So when you -- what would show
3 up is the star 4 or 7 or whatever you hit to activate
4 the feature, because that's what's resident in your CPE.

5 COMMISSIONER EASLEY: Thank you.

6 COMMISSIONER BEARD: Before he leaves the car
7 dealer, the net effect of what I read from this,
8 correct me if I'm wrong, is that only one out of three
9 people would use call blocking if it were free in this
10 instance?

11 WITNESS COOPER: This is one of the no-price
12 stated questions, yes. Well, I have not been told a
13 price, they said they would -- one out of --

14 COMMISSIONER BEARD: Yes, I'm accepting the
15 free; I'm not quibbling with that. I'm just saying
16 given what's there, what I see on this chart, two out
17 of three wouldn't institute it and one out of three
18 would.

19 WITNESS COOPER: Yes, and I believe it turns
20 out that 6 out of 10 will give you at least one
21 instance where they will block.

22 Q (By Mr. Ramage) Before we move from that
23 particular chart, just looking at the top three percentage
24 reports there, the car dealer, the real estate agent and
25 the department store and then looking at the bottom levels

1 of concern, would you agree that it appears that those
2 expressing a concern seem to be most concerned about
3 displaying their telephone numbers to commercial
4 interests, merchants and similar types of interests?

5 A Yes, and that's consistent with the evidence
6 that says telemarketing calls are the single largest
7 source of annoyance.

8 Q Based upon your general understanding of the
9 technology that's implementing the Caller ID systems
10 around the country, would you agree that this
11 technology is very flexible to be configured as a phone
12 company might wish to program it?

13 A I believe that once the switch has control of
14 the pair, the numbered pair, calling and called, it
15 becomes quite flexible. It can do a great deal. It
16 can manipulate that in a variety of ways.

17 The vendors right now are controlling that.
18 I mean you will hear phone company after phone company
19 say, "The vendors have to change the program, the
20 vendors have to do that." But, that is within their
21 control.

22 Q As you understand the technology if for
23 example, this Commission were to decide to allow
24 per-call blocking but at the same time require certain
25 entities to be identified to receive all calls, whether

1 or not the caller attempted to block or not, would the
2 technology be able to be configured to provide that
3 type of a service?

4 A Again, I believe it's possible. I do not
5 know exactly how difficult it is, where it would have
6 to occur so that the P would be then taken off and so
7 forth, but it seems to me it is doable.

8 Q I think you've mentioned, and we've heard
9 previously through the written testimony and comments
10 today and yesterday, that one possible negative effect
11 of allowing per-call blocking would be that someone
12 inclined to make a bomb threat, say, to a school, could
13 block the display of his number.

14 Assuming that we had per-call blocking
15 available, and you had a dim witted deviant who fails
16 to block the display of his number so that it's
17 reported to the school on the Caller ID box, would the
18 use of that Caller ID box, even in that situation,
19 represent, in your opinion, the best way to handle the
20 problem?

21 A Well, I mean, it's an interesting situation,
22 because what is the school going to do with it? It has
23 an unrecognized -- one assumes, unrecognized number.
24 It then has to report that number to the police who
25 will then, I suspect call the phone company or call up

1 their own data base and do a reverse directory search
2 and find the address and presumably dispatch a unit to
3 the address or the site of the origin of the call.

4 Now, in my testimony I argue that if that's
5 what goes on with a school receiving a Caller ID, Id'd
6 number, then maybe an equally effective way to respond
7 is to set up a rapid response trap and trace. School
8 gets an incoming number, traces the call, calls the
9 police, "We received a bomb threat. Here's our
10 number," the police call the phone company. We've
11 still got almost the same number of interactions to a
12 specific office and says, "We've got this trace; find
13 it and give us the address."

14 Now, the second approach may be a little bit
15 different than the first, but if phone companies and
16 police departments were trying to do that, it wouldn't
17 look that different. So I'm not sure that giving the
18 school the number in all cases is going to be that much
19 better than using Call Trace and being organized to
20 deal with it. The interesting thing is that if you set
21 up the phone company that way, this whole range of
22 possibilities, even obscene phone calls, if you get a
23 particularly threatening obscene phone call and trace
24 it and call the police and say, "I need help. This is
25 a 911 emergency," convince the police to treat it as

1 such, you could have the same support possibility.
2 Whereas the Caller ID'd number still goes back into
3 their own process of figuring out where it is. So in a
4 certain sense I'm saying is that people decided Caller
5 ID was the way to do it, and they didn't think about
6 Call Trace and getting the human supports around Call
7 Trace to get you rapid responses.

8 COMMISSIONER EASLEY: Then why do we have
9 enhanced 911 if Call Trace would work?

10 WITNESS COOPER: Well, if someone calls me
11 with an obscene phone call, that's not an E911 service.
12 But you're absolutely right, if you call the police and
13 report a crime, it doesn't matter, the police don't
14 need Caller ID, they've got your number.

15 COMMISSIONER EASLEY: No, that's not my
16 point. My point is that if Call Trace is going to work
17 so well that for a bomb threat in a school or one of
18 these other things, that it can be used in that manner.
19 If the telephone company and the police work together
20 they can do almost as well, that's what I heard you
21 say. Then why have we gone to the expense and the time
22 and trouble of E911?

23 WITNESS COOPER: It's my understanding that
24 schools are not part of the E911 network.

25 COMMISSIONER EASLEY: That isn't my question.

1 My question is if Call Trace, if the telephone company
2 and law enforcement will work together so well that
3 Call Trace can emulate the results, why do we even
4 bother with 911, the technology of 911?

5 WITNESS COOPER: Call Trace can emulate the
6 results of Caller ID for people who aren't on the E911
7 network. But I quite agree with you. You put in E911
8 so that emergency dispatch will get automatic display
9 of incoming phone numbers.

10 COMMISSIONER EASLEY: I don't know how else
11 to ask that question, so I'll just --

12 CHAIRMAN WILSON: The question is, if you
13 have Caller ID --

14 WITNESS COOPER: If the police have Caller ID.

15 CHAIRMAN WILSON: -- no blocking, Caller ID,
16 no blocking, right?

17 COMMISSIONER EASLEY: I guess that's the
18 other way to come at it.

19 WITNESS COOPER: Okay.

20 CHAIRMAN WILSON: Why do you need E911?

21 WITNESS COOPER: If the police have Caller ID
22 and have a computerized reverse directory, or even --
23 let's just say, absolutely Caller ID replaces E911.

24 COMMISSIONER EASLEY: Aren't they the same
25 thing?

1 WITNESS COOPER: For that specific purpose of
2 delivering the phone number, yes.

3 COMMISSIONER BEARD: Let me -- maybe you
4 understand a little better than I do, your description
5 of Call Trace and the rapidity with which it will work.

6 When you use Call Trace and assume a local
7 call that's something about a bomb threat, okay, and
8 you punch those digits in, it's stored at the switch.

9 WITNESS COOPER: It's stored in the switch.

10 COMMISSIONER BEARD: Okay, along potentially
11 with other phone numbers that are stored there for
12 whatever purpose.

13 WITNESS COOPER: Yes.

14 COMMISSIONER BEARD: Okay. Do you have any
15 idea how rapidly that number can be researched and
16 brought out?

17 WITNESS COOPER: Well, it's my understanding
18 that the primary constraint is human, not computer.
19 That is, if there were someone sitting there when you
20 called and said, "I've just traced a call, here's my
21 number," they could find it very quickly. The number
22 in Delaware was a minute.

23 COMMISSIONER BEARD: So I've got a human
24 intercept factor there?

25 WITNESS COOPER: Yes.

1 COMMISSIONER BEARD: If I'm the school and
2 I've got Caller ID and I've got the number and I call
3 straight to the sheriff's office or police department
4 and they program that number, they know I'm the
5 principal, and they program that number into their
6 E911, get a location and move, I have at least removed
7 one potential human bottleneck?

8 WITNESS COOPER: If the police have the
9 capacity to do that, have the E911 and can punch it in
10 and pull it up, then you have removed one -- that
11 additional step, yes.

12 COMMISSIONER BEARD: Okay.

13 Q (By Mr. Ramage) Just as a follow-up to that,
14 if a school were not equipped with Caller ID or the
15 school received a blocked phone number, bomb threat,
16 the Call Trace procedure you've previously outlined
17 would still be available if the Call Trace is
18 available?

19 A Yes.

20 Q From your understanding of the technology
21 available to implement the CLASS services, including
22 Call Trace, do you think it would be possible that a
23 phone company could provide a message to the calling
24 party that his number has just been traced and provided
25 to phone security in response to a customer activating

1 Call Trace?

2 A It probably could. You'll hear the question
3 of time and process use.

4 Q Would a message such as that have, in your
5 opinion, a deterrent effect upon recalls or continued
6 calling conduct?

7 A It seems to me it would. It would certainly
8 get the message out that the technology is there.

9 Q If you could -- let me find the page --

10 COMMISSIONER BEARD: While he's looking, let
11 me ask you a question. You made a statement just a few
12 minutes ago, you and I were talking about the car
13 dealer and 40% times 84% is 33%, one out of three. You
14 made a statement to the effect of ultimately six out of
15 ten. Where is that in here and how do I arrive at that
16 number?

17 WITNESS COOPER: Well, it should be in here.
18 Let me say that the number is six out of ten. It's in
19 Pennsylvania; it might or might not be in here.

20 The way you would arrive at it is look at all
21 the underlying data and identify those people who said
22 "no" to the "block for free" question on every
23 possibility. And it turns out that only 40% of the
24 people said no. That's the purpose of the cross-
25 tabulation.

1 COMMISSIONER BEARD: You're saying that six
2 out of ten people could find an instance in their daily
3 lives that they might block.

4 WITNESS COOPER: Identified at least one on
5 this list that they would block.

6 COMMISSIONER BEARD: They would block. And
7 four out of ten couldn't find any instance whatsoever
8 in which they would block.

9 WITNESS COOPER: On this list that said "no",
10 yes.

11 COMMISSIONER BEARD: Oh, okay.

12 Q (By Mr. Ramage) Turning to Page 36 of your
13 prefiled testimony, Lines 10 through 15, particularly
14 Lines 10 through 12, you make the point that "Second,
15 any measurable decline in the reports of annoying calls
16 to the telephone company may simply reflect one, the
17 way the phone company handles complaints."

18 Regarding the implementation of Call Trace,
19 we've heard comments that law enforcement may be
20 inundated by Call Trace annoyance complaints if Call
21 Trace is implemented. Wouldn't this be in part a
22 function of an individual telephone Company's policy
23 regarding how to screen or handle Call Trace
24 activations?

25 A Well, that seems apparent from yesterday's

1 testimony that if you simply bounce everybody off to
2 the police, a bunch of them are going to go there. But
3 if you maintain current procedures of presenting them
4 with options such as a letter, a change of number and
5 so forth, you're much less likely, I think, to bounce
6 all those people off.

7 Q Would it not also be predictable that if the
8 phone customer was referred to the police agency with
9 what is a noncriminal, nonpolice matter, that the
10 agency, the police agency, would likely refer them
11 right back to the phone company?

12 A I guess. I mean, obviously if it's an
13 annoyance call as we saw advertised, and it's not
14 illegal, it depends on the -- laws vary state by state
15 dramatically on what's considered illegal in the
16 telephone network.

17 Q On what's been marked as Exhibit 22, this
18 most recent New Jersey CLASS calling six-month report
19 for the period of November '89 through April 30, 1990,
20 Tab 2, Page 2. Are you there?

21 A Yes.

22 Q Last paragraph. "Mover, overduring the six-
23 month period covered by this report the number of traps
24 and call tracing investigations, two methods of collecting
25 telephone call data for possible prosecution, declined 18%

1 in CLASS capable areas statewide."

2 Would it be possible that a declining number
3 of requests for Call Trace could be attributed to a
4 more effective prosecution of annoying callers that is
5 derived from the implementation of the very Call Trace
6 system that's being referred to?

7 A It's possible insofar as the automatic Call
8 Trace is more effective at generating evidence than the
9 old style trap and trace.

10 COMMISSIONER EASLEY: Tell me that page again.

11 MR. RAMAGE: That's Tab 2, Page 2, about 6
12 pages in from the front of that exhibit.

13 COMMISSIONER EASLEY: Thank you.

14 Q (Mr. Ramage) Mr. Parker was asking you
15 questions about the difference between data based on
16 actual experience versus predicted experience. We've
17 been presented after the lunch break with the Public
18 Service Commission's order out of Maryland which is
19 Exhibit 23. Are you familiar with the initial position
20 taken in Maryland prior to the entry of this order?

21 A The initial position was unblockable Caller ID.

22 Q Was that based upon actual track record
23 experience or predicted impact, conclusions by the
24 Maryland Commission, or both?

25 A My understanding is that there was no

1 hearing. It was a tariff filed in -- it went into
2 effect. I don't think there was an order, a rationale,
3 et cetera, to the best of my knowledge.

4 Q Would you turn to Page 19 of that Order, on
5 Exhibit 23? Last paragraph, first sentence indicates,
6 "Experience with Caller ID with per-call blocking in
7 other jurisdictions has been positive." Would this
8 indicate that at least in part the order of the Public
9 Service Commission of Maryland is based on its
10 interpretation of actual experience?

11 A Yes. And the experience referred to there in
12 the hearing were the Rodchester Tel and the US West
13 trials.

14 Q Regarding those US West trials, are you
15 familiar with those trials yourself?

16 A I've seen accounts of them and heard the
17 numbers that have been available to the public.

18 Q Yesterday we heard testimony that there are
19 approximately 75 million phone calls placed daily in
20 the Bell system here in Florida. We also heard
21 references to that US West trial. Are you familiar
22 with the US West trial in terms of its findings
23 regarding the rate of the number of call blocks, the
24 number of Call Traces and the numbers of follow-up
25 contacts to phone companies after Call Trace has been

1 implemented?

2 MR. FALGOUST: Objection, Mr. Chairman, he's
3 already testified that he's not familiar, personally,
4 with the trial.

5 Q (By Mr. Ramage) Based on your understanding
6 of that trial and the testimony -- first of all, did
7 you hear the comments of the testimony that was given
8 here yesterday?

9 A Yes. Yesterday the assertion was that there
10 were 143 blocks per a million calls.

11 Q Based upon that assertion as you heard
12 yesterday, could you extrapolate and convert that
13 figure over to a telephone company receiving 75 million
14 calls per day?

15 MR. PARKER: Objection. There is no
16 foundation laid in this --

17 CHAIRMAN WILSON: I think what you're doing
18 is asking him to multiply 75 times 143, aren't you?

19 WITNESS COOPER: 75 times 143.

20 CHAIRMAN WILSON: I think the Commission is
21 capable of doing that itself. (Laughter) Well, at
22 least some Commissioners are capable of doing that
23 themselves. (Laughter)

24 Q (By Mr. Ramage) If you were to apply that
25 assertion you received yesterday and convert those

1 calculations, how many blocks daily would you expect?

2 MR. PARKER: Objection. There's no
3 foundation that you can apply US West experience into
4 Florida.

5 MR. FALGOUST: Southern Bell joins the
6 objection.

7 MR. RAMAGE: My response to that is that it
8 doesn't effect the admissibility or the answer to the
9 question. It may effect the weight of the question.
10 I'm asking him basically to project --

11 CHAIRMAN WILSON: May I suggest that you ask
12 the question that if the experience in Florida were to
13 be similar to the experience with US West, would, in
14 fact, that relationship obtain?

15 Q (By Mr. Ramage) Hypothetically speaking, if
16 the experience in Florida were to track the experience
17 in the US West study as you understand it, how many
18 expected blocks daily would you anticipate?

19 A If the people of Florida were to block at the
20 rate of 143 calls per million, you would expect 10
21 million 700 -- 10,725 blocks per day.

22 COMMISSIONER BEARD: Hypothetical blocks.

23 WITNESS COOPER: Hypothetical blocks per day.

24 CHAIRMAN WILSON: Now, you do have to assume
25 that that relative proportion is going to remain

1 constant with an increase in calls. You really don't
2 have any knowledge of whether --

3 WITNESS COOPER: You don't have -- I would
4 add that the numbers in Rodchester can lead you to
5 roughly the same order of magnitude, the Rodchester
6 trial as well. On that math it's almost 11,000 blocks
7 per day.

8 COMMISSIONER BEARD: With the common
9 knowledge that people who live in those two
10 jurisdictions would be more apt to block than the
11 kindly, laid-back people of southeast Florida, right?

12 WITNESS COOPER: Well, I'll tell you, the --

13 COMMISSIONER BEARD: I'm kidding.

14 WITNESS COOPER: No. But it's a good
15 question because the trials are very carefully chosen
16 and they're not average neighborhoods, so.

17 COMMISSIONER BEARD: Oh, it's not worth it to
18 bring to Starke, I see.

19 WITNESS COOPER: There may be places where
20 people don't block much rather than block a lot.

21 MR. FALGOUST: Mr. Chairman, he's testifying
22 as to the trials that he's previously testified he
23 didn't know anything about. I'm going to object to
24 that.

25 CHAIRMAN WILSON: I understand. It's an

1 appropriate objection. Go ahead.

2 Q (By Mr. Ramage) Just to follow up on that
3 hypothetical prediction, what would be the predicted
4 number of Call Traces if the data held up?

5 A Well, in Florida we know the actual number of
6 Call Traces per day is about 1,000 based on numbers
7 yesterday.

8 Q That's in the Southern Bell area?

9 A That's in the Southern Bell area where Call
10 Trace is available.

11 Q Assuming that these predictions were to hold
12 true to Florida Southern Bell, how would per-call
13 blocking impact this prediction or these figures?

14 A Well, if the rate applies from -- US West
15 applies here you have roughly 11 times as many blocks
16 as traces. And what that tells you -- I mean it just
17 shows you a level of activity that people are engaging
18 in. They are willing to protect their number 11 times
19 more frequently than they trace down other people's
20 numbers.

21 Q Yesterday we heard GTE testimony regarding a
22 CLASS market trial follow-up study. I think it was
23 referred to as Wave III. Are you familiar that that
24 study?

25 A I received a copy this morning.

1 Q In that study is there a reference or a
2 conclusion that only 23% of the customers would block?

3 MR. PARKER: Objection. Before he answers
4 that, can we lay a foundation since he's been on the
5 stand since 9:00, that he's even read the document?

6 WITNESS COOPER: I've read the document --
7 I've looked at the document.

8 MR. PARKER: When did you read it?

9 WITNESS COOPER: This morning when it was
10 handed to me.

11 MR. PARKER: What time was it handed to you?

12 WITNESS COOPER: It was handed to me at about
13 8:00.

14 MR. PARKER: Quick reader.

15 CHAIRMAN WILSON: Go ahead.

16 Q (By Mr. Ramage) Dr. Cooper, is there a
17 reference in that study that indicates 23% of the
18 customers would block?

19 A There was a reference to 23% yesterday, and
20 there is a table or a figure which shows 23%, and a
21 question, No. 40, from which that figure was derived.

22 Q Based on your review of that study, can you
23 tell whether that was a free or a no charge to the
24 customer-type blocking option that was being discussed?

25 A No, that was a charge blocking option of

1 \$3.00 per month.

2 Q That chart to which you refer is on what page
3 of the study?

4 A The pages aren't numbered. It's an exhibit
5 entitled, "Most Likely Choice to Avoid Forwarding of
6 Your Number."

7 Q Is that Exhibit D on that study; is it
8 labeled Exhibit D?

9 COMMISSIONER EASLEY: What is the exhibit?

10 CHAIRMAN WILSON: What is the exhibit? Has
11 that been distributed to everyone? What is that?

12 WITNESS COOPER: No. I just have a cover
13 letter.

14 CHAIRMAN WILSON: What is it?

15 WITNESS COOPER: The cover letter is from
16 Thomas Parker to Charlie Beck, dated November 20, 1990,
17 and the document is entitled, "CLASS Market Trial
18 Follow Up, Elizabethtown, Kentucky."

19 COMMISSIONER EASLEY: Is it something that's
20 been entered into evidence, counselor?

21 MR. RAMAGE: It was my understanding it was,
22 but apparently it has not been.

23 COMMISSIONER BEARD: The figure was 23% if it
24 was a \$3-a-month charge for blocking?

25 WITNESS COOPER: It was 23% among nontest

1 participants if there was a \$3 per month and 30% among
2 test participants.

3 COMMISSIONER BEARD: I hate to interrupt, but
4 this is right to the point. On Page 25 of your
5 testimony there's a chart where we talk about the
6 percent. Percent of concern, which, if we think back,
7 was 40% who would block for free -- I'm talking about
8 the car dealer, for example, there at 84%, and if you
9 raise it from free to a nickel, 63% of that 84% of that
10 40% would block. That translates to 21%. If I
11 understand this, if you raise the price to a nickel per
12 block, only one out of five would block the nefarious
13 crowd of car dealers who were only superseded by
14 lawyers and school teachers.

15 WITNESS COOPER: Yes. Actually the number
16 that's interestingly comparable is the number on Page
17 24 where people were presented with a \$5 per month fee
18 in Pennsylvania, for blocking, and you had 25% of the
19 people said they would take it for \$5 per month. The
20 point is that -- I mean, it's that blocking is
21 meaningful to a substantial minority of the people.

22 COMMISSIONER BEARD: Okay, I was kind of
23 shocked.

24 WITNESS COOPER: But in the 21% -- but again,
25 remember now, if you're to multiply down you would find

1 more than 21% who said at least once. And so that's how
2 you're going to get the people who are willing to pay.

3 COMMISSIONER BEARD: well, the six out of
4 ten, I thought, was on the --

5 WITNESS COOPER: Concern.

6 COMMISSIONER BEARD: Well, yes. And now that
7 we've raised the ante to a nickel. Do you have a
8 figure that replaces that \$600?

9 WITNESS COOPER: I could calculate it but I
10 couldn't tell you, because it's in the underlying data.

11 COMMISSIONER BEARD: Well, obviously it's not
12 in this data.

13 WITNESS COOPER: It's not in this data.

14 COMMISSIONER BEARD: We agree on that. Okay.

15 Q (By Mr. Ramage) Based upon your overall
16 studies and reviews of various reports or whatever,
17 have you detected a pattern of consumer preference
18 regarding the blocking option and the cost associated
19 with it?

20 A Well, it's clear that --

21 MR. FALGOUST: Objection, Mr. Chairman, could
22 he restate the question?

23 CHAIRMAN WILSON: Would you clarify your
24 question on what that opinion is to be based?

25 MR. RAMAGE: It's based upon his general

1 studies and understanding of the Caller ID proposals,
2 not a particular one, just his general understanding of
3 the various studies, whether or not he's formed an
4 opinion as to whether or not there is a pattern of
5 consumer preference regarding the cost of per-call
6 blocking.

7 CHAIRMAN WILSON: You're asking him to draw a
8 conclusion from the studies that have been submitted
9 and referred to in the testimony before this Commission,
10 from which we are also to draw a conclusion?

11 MR. RAMAGE: Yes. And it's my understanding
12 too, that an expert witness can rely upon evidence
13 that's not necessarily introduced in order to form the
14 basis of a conclusion and an opinion. And that's what
15 I'm asking is has he formed an opinion as an expert
16 regarding whether or not there's a pattern of consumer
17 preference.

18 MR. FALGOUST: Mr. Chairman, I understand
19 that question. I'm not sure I understand the reference
20 to cost of per-call blocking.

21 MR. RAMAGE: Let me see if I can rearticulate
22 my question.

23 COMMISSIONER BEARD: Or say it another way.

24 MR. RAMAGE: Both. (Laughter)

25 Q (By Mr. Ramage) Dr. Cooper --

1 CHAIRMAN WILSON: Let me take this opportunity
2 to remind everyone that we have a number of witnesses to
3 get through and the only time limit that we have is that
4 we have another hearing that begins at 9:30 in the
5 morning, and we're going to stay here until we finish.

6 Q (By Mr. Ramage) Dr. Cooper, have you formed
7 a professional opinion regarding whether there is a
8 pattern of consumer preference regarding utilization of
9 the blocking option in Caller ID systems based upon the
10 cost to the consumer of utilizing that system?

11 A Yes. By and large consumers will express the
12 strongest preference for the lowest cost alternatives.

13 CHAIRMAN WILSON: That's startling.

14 WITNESS COOPER: Lowest prices.

15 MR. RAMAGE: No further questions.

16 CROSS EXAMINATION

17 BY MS. KURLIN:

18 Q Pat Kurlin on behalf of the Commission Staff.

19 Good afternoon, Dr. Cooper.

20 A Good afternoon.

21 Q If you'd refer to Page 43 of your direct
22 testify.

23 A I have it.

24 Q On Line 7, you recommend that a vigorous
25 educational campaign be instituted when Caller ID is

1 made available, is that correct?

2 A Yes.

3 Q Is it true then that you believe that at this
4 time most consumers are not sufficiently educated
5 regarding Caller ID?

6 A Well, sufficiently -- what is sufficient or
7 insufficient is -- I can't say. Consumers given the
8 publicity that the issue has had would -- are probably
9 getting the idea that there's something out there
10 that's liable to bite them or help them, depending on
11 the point of view.

12 The educational campaign I was referring to
13 here was to make it clear that people understood that
14 they now could and had to take action to -- if per-call
15 blocking is implemented, to block the forwarding of the
16 number when they want it. It can be simple and
17 straightforward. Because in my recommendation, Caller
18 ID and the other services are for a price, the
19 Company's liable to advertise them. Per-call blocking,
20 as I recommend, will not be charged. The company's not
21 likely to advertise it and I think people need to
22 receive a level of information so that they know that
23 they now have to do something if they want to preserve
24 the anonymity of their phone number.

25 Q So the educational campaign that you're

1 referring to is basically advertising by the phone
2 company?

3 A Yes. Basically advertising to inform people
4 of the change in the nature of their service and what
5 they can do.

6 Q So would it be true that while Caller ID is
7 receiving a lot of publicity at this time that the
8 availability of per-call blocking may not be common
9 knowledge to most consumers at this time?

10 A It's not -- it's certainly not, and if it
11 were ordered, if people didn't make it clear, if they
12 didn't advertise it, then the public might well not
13 know that per-call blocking is available.

14 Q Then wouldn't this apparent lack of knowledge
15 at this time tend to make survey results regarding
16 blocking ability unreliable?

17 A Most of the people who you've seen the
18 answers to on blocking questions are introduced to it
19 and asked for their reactions to it. So, in that
20 sense, most of it is concept research with the
21 exception of the trials where subsequently people were
22 interviewed about their use of the service or some of
23 the evidence you've heard about the actual use of the
24 service. But most of it's concept service, concept
25 analysis.

1 Q On Page 20 of your direct testimony, if
2 you'll refer to Lines 1 through 4, you make reference
3 to hearings conducted in Florida by the Office of
4 People's Counsel. What hearings are you referring to?

5 A The hearings therein identified as a set of
6 written, I reviewed the transcripts of those
7 proceedings.

8 Q What proceedings were those?

9 A Those proceedings were hearings conducted by
10 the People's Counsel and summarized in the record of
11 proceedings re Southern Bell Caller ID Docket No.
12 891194-TL.

13 Q Were any Commissioners present at those
14 hearings?

15 A I --

16 COMMISSIONER BEARD: Let Mr. Beck help us
17 real quick.

18 CHAIRMAN WILSON: Mr. Beck, help us out.

19 WITNESS COOPER: Having seen the names, I
20 don't recognize the names from the --

21 MR. BECK: No. That was the meeting held by
22 Public Counsel in Miami on the date listed. There was
23 a transcription of that meeting, that's what Dr. Cooper
24 is referring to.

25 COMMISSIONER BEARD: That's separate from the

1 hearings we held?

2 MR. BECK: Yes.

3 COMMISSIONER BEARD: Okay.

4 CHAIRMAN WILSON: Is that transcript a part
5 of this record?

6 MR. BECK: No, it's not.

7 COMMISSIONER BEARD: Were any of the parties
8 present besides Public Counsel?

9 MR. BECK: Commission Staff was there,
10 Southern Bell was there and made a presentation.

11 COMMISSIONER BEARD: Okay. We don't have it,
12 I was just curious.

13 MR. BECK: We will be glad to provide it to
14 you if you would like it.

15 COMMISSIONER BEARD: Probably would be a good
16 idea.

17 MS. KURLIN: Thank you, Dr. Cooper.

18 CHAIRMAN WILSON: Is that all?

19 MS. KURLIN: Yes.

20 CHAIRMAN WILSON: Any questions,
21 Commissioners?

22 COMMISSIONER BEARD: Yes. Real quick, if I
23 can, do you think that per-call blocking should be
24 offered universally at no charge?

25 WITNESS COOPER: Yes.

1 COMMISSIONER BEARD: And how would you
2 suggest the cost of universal no-cost blocking be
3 recouped by the telephone company to --

4 WITNESS COOPER: I believe it should be
5 attributed as a cost of Caller ID and would thereby
6 diminish the rate of profit on Caller ID, which would,
7 I believe, remain a profitable service.

8 COMMISSIONER BEARD: Then it's your opinion
9 that all costs associated with Call Blocking are as a
10 result of Caller ID?

11 WITNESS COOPER: Yes, just as -- yes.

12 COMMISSIONER BEARD: And therefore, for a
13 person who wants to attain some further privacy rights,
14 they should have to pay for the privacy rights of
15 everybody else?

16 WITNESS COOPER: All right. Well, the way I
17 would phrase it is the cost of preserving the current
18 privacy rights of all subscribers should be borne by
19 those who want to see the incoming numbers, which they
20 don't today see. They're getting a new benefit and
21 they should pay all the costs associated with that.

22 COMMISSIONER BEARD: Then we would assume
23 that the current balance of privacy rights in your
24 opinion is appropriate?

25 WITNESS COOPER: Well, no. I would say that

1 under the new technology, we've realigned those,
2 inevitably; and that under that, there's a balance in
3 that instance.

4 COMMISSIONER BEARD: I'm not sure I
5 understand that.

6 WITNESS COOPER: We're not comparing privacy
7 rights today to privacy rights tomorrow with only
8 Caller ID, we have all the other things that have
9 balanced privacy rights.

10 COMMISSIONER BEARD: Okay. Then, if I follow
11 that, let's see, Automatic Call Return -- in other
12 words, you call me, I punch the button, it calls you
13 back -- there is some diminution of privileges there?

14 WITNESS COOPER: Yes. And if I advocated a
15 way of preventing that service, I would also advocate
16 -- if I advocated Automatic Return Call blocking, if
17 you will, I would argue that those costs should be
18 absorbed by the new benefits.

19 COMMISSIONER BEARD: So to the extent that
20 any privacy rights were altered, given your perfect
21 world where you could do something in that instance,
22 but to the extent that any privacy rights are altered
23 as a result of advancement in technology, the
24 individual or individuals who achieve greater privacy
25 as a result of that should pay the cost, all costs,

1 associated with that?

2 WITNESS COOPER: The beneficiaries of new
3 service should not be allowed to impose costs on
4 existing subscribers.

5 COMMISSIONER BEARD: I think perhaps you
6 don't agree with this, but to the extent I take Caller
7 ID and to some limited degree Commissioner Wilson
8 benefits from one less obscene phone call, which
9 Commissioners never get (Laughter). But to the extent
10 that he benefits from that by even one less call,
11 although he didn't take it, he just benefits and I pay?

12 WITNESS COOPER: You could seek to identify
13 that externality and ask him to make the contribution,
14 that would be consistent. The measurement of the value
15 of that externality would be, I think, extremely
16 difficult and the service, the straightforward analysis
17 of letting the beneficiaries bear the cost, the service
18 is being priced at a very profitable level as it is.

19 COMMISSIONER GUNTER: Well, you don't --

20 COMMISSIONER BEARD: Let me finish.

21 Let's go back 50 years ago perhaps where you
22 lived and three years ago perhaps where I lived -- or
23 five or 10 or whatever. And we have the operator and
24 we're now going to migrate to automatic switching, and
25 there's either cost causation or cost savings that

1 occurs from that.

2 If I were to follow your position, in that
3 circumstance, whomever received the benefits of that
4 change in privacy -- and I understand there could be
5 debate on that -- should pay for that benefit?

6 WITNESS COOPER: That was a universal change
7 rather than an optional change, so that became, that
8 came into general ratemaking, and the position at the
9 time was probably that beneficiaries pay.

10 COMMISSIONER BEARD: I thought everybody
11 paid.

12 WITNESS COOPER: Well, but everybody, yeah,
13 that was a universal change, yeah.

14 COMMISSIONER BEARD: Per-call blocking, isn't
15 it a universal change, if it's universal per-call
16 blocking for free?

17 WITNESS COOPER: No, no. It's a universal
18 change -- yes, it's Caller ID that is selective.
19 Elective beneficiaries of Caller ID receive the benefit
20 of Caller ID; and in so doing, if we take the phone
21 company's model, they force me to spend 75 cents to not
22 send them my number. They have imposed a cost on me if
23 I want to preserve my anonymity, they are getting the
24 benefit of seeing my phone number which they didn't
25 have.

1 We have universal per-line blocking today,
2 basically.

3 CHAIRMAN WILSON: Let me ask you a question,
4 draw an analogy between White Page availability and
5 nonpub/nonlisted. Now, the public switch network, the
6 way it has operated as custom has dictated and practice
7 has arisen over the years and the expectations of
8 customers, is that everybody's number is available --

9 WITNESS COOPER: Yes.

10 CHAIRMAN WILSON: -- and it is printed in the
11 White Pages. And those who choose to remain anonymous
12 by having an unpublished, unlisted number pay for the
13 cost of doing so?

14 WITNESS COOPER: Yes.

15 CHAIRMAN WILSON: And that is what has gone
16 on with directory listings. Now, how is that different
17 from the kind of expectation that maybe ought to be
18 created from the use of the public switch telephone
19 network, which is that callers would identify
20 themselves when they make calls and choose to either
21 answer the phone or not answer the phone based on that
22 information?

23 WITNESS COOPER: The calls, the fundamental
24 difference, of course, is that the expectation is that
25 in the interpersonal transaction -- remember, the phone

1 book is an impersonal book. In that interpersonal
2 transaction, my phone number was under my control, I
3 did not have to give it to you. And I was able to
4 conduct a variety of kinds of business in probably, or
5 at least if you believe these answers, because I did
6 not have to give it to you.

7 Now you have come and said, "Your number will
8 be universally available," but you're not giving it to
9 everybody, you're only giving it to those people who
10 are willing to pay.

11 You're selling my number to people. People
12 who are willing to pay for my number get that benefit.
13 And I also now suffer the additional consequence, not
14 only is the phone company selling my number but, if I
15 don't want them to sell my number, I have to buy back
16 my anonymity. So I see that as different.

17 CHAIRMAN WILSON: Well, you've characterized
18 that a little differently and I really don't know that
19 that's really correct. But isn't the underlying
20 theoretical basis for publication of White Pages
21 Directory listings is that you have a public switch
22 network and the publication of people's numbers and
23 names in that facilitates the kind of public
24 communication interaction that has been characteristic
25 of the telephone network in this country ever since it

1 came on line? That is the theory that unlies it, and
2 there is something else I'd like to go into.

3 WITNESS COOPER: No, it facilitates the
4 general availability of names and numbers. It does not
5 -- again, I go back to concretes. It does not
6 facilitate the necessary exchanges of personal
7 information in specific context. So that if I call the
8 BMW dealer and ask about the most expensive car and my
9 number is given out in that context, it has a much
10 different qualitative value. That's why these
11 businesses are interested in it. I'm liable to get
12 myself on the up-scale telemarketing list, so that that
13 personal conversation gives the phone number a
14 qualitative difference.

15 COMMISSIONER GUNTER: Well, you'd have a
16 better class of calls (Laughter). Well, that's, you
17 know, that's an upgrade, an ego trip.

18 CHAIRMAN WILSON: I appreciate the example
19 but you've not answered my question.

20 WITNESS COOPER: I'm trying.

21 CHAIRMAN WILSON: What I tried to do is,
22 looking at the experience with the public network and
23 the publication of directories, articulate what seems
24 to me to be the policies that underlay that. I'm
25 asking you whether that's the wrong or right perception

1 of what that policy is?

2 WITNESS COOPER: I believe the policy of
3 making numbers generally available was to facilitate
4 the general communication. But those numbers are in an
5 ungrounded context.

6 CHAIRMAN WILSON: And more or less assume
7 that everybody participated in that, everybody was in
8 the pie, unless you paid to get out?

9 WITNESS COOPER: That's been the policy;
10 although, obviously, there are certain circumstances in
11 which you don't have to pay to get out. It depends, it
12 varies from place to place.

13 CHAIRMAN WILSON: I don't know what you're
14 referring to, but in general, as far as I know --

15 WITNESS COOPER: In general, you have to pay
16 to get out.

17 CHAIRMAN WILSON: In nonpub or unlisted --

18 WITNESS COOPER: You have to pay to get your
19 name out --

20 CHAIRMAN WILSON: -- you have to pay to get
21 out.

22 How is that particularly different with
23 Caller ID? I mean, what we're doing is, when you call
24 out of the network, somebody who receives the call and
25 wants to control the use of their telephone would

1 receive the number of the calling party. The general
2 expectation -- well, general expectation, I don't know.
3 The way my Mama raised me, you call somebody on the
4 phone, you say, "Hello, this is Mike Wilson, can I
5 speak with so-and-so?" You identify yourself first.
6 The same as with a return address on an envelope. The
7 same as knocking on the front door.

8 WITNESS COOPER: Yes. And if you have a
9 nonpub number, giving them your name won't let them get
10 back to you.

11 CHAIRMAN WILSON: That's right. And if this
12 system allowed the transmittal of names, maybe it would
13 be better than numbers.

14 WITNESS COOPER: And so the difference is if
15 I call you, I don't tell you who I am, and we have an
16 exchange and you are upset about the exchange and I
17 haven't given you my name or number, you can't get back
18 to me. You can't say, "Wait a minute," I -- you know,
19 if you're a businessman, you can't say, "Did you buy
20 the house yet? Did you buy the car yet?" Whereas any
21 businessman can go down the phone book and dial people
22 up and sell them stuff, which people don't like.

23 CHAIRMAN WILSON: But you still haven't
24 answered my question as to why the Caller ID scenario
25 is any different than the one that I painted for the

1 publication of directory listings and the participation
2 of people who are on the network in the public switch
3 network.

4 WITNESS COOPER: Because it's personal, it's
5 you in context. You have called them up, you have had
6 whatever exchange of information, and today they cannot
7 call you back unless you have given them the phone
8 number.

9 COMMISSIONER EASLEY: Or you have Return
10 Call.

11 WITNESS COOPER: Or you do Automatic Return
12 Call. Well, that's tomorrow; today, they can't do that
13 either. Is that -- I don't know if it's available.
14 It's not available yet. But you have fundamentally
15 changed your ability to call someone up -- and I don't
16 know whether your number is published or not. But if
17 it's not published --

18 CHAIRMAN WILSON: It is, I'm just never there
19 to answer the phone.

20 WITNESS COOPER: So is mine, and every time I
21 testify, I get a lot of harassing calls. The answer is
22 that -- but when I give someone out my phone number, --

23 CHAIRMAN WILSON: You might put yourself in
24 Caller ID.

25 WITNESS COOPER: Now that we have blocking in

1 Maryland, I'll take it.

2 When I call Macy's today, I don't have to say
3 who I am.

4 COMMISSIONER BEARD: You sure don't because
5 they already know who you are.

6 WITNESS COOPER: What?

7 COMMISSIONER BEARD: I said they usually know
8 who you are because of ANI.

9 WITNESS COOPER: Not local Macy's.

10 COMMISSIONER BEARD: Okay, local.

11 WITNESS COOPER: Not local Macy's. I would
12 take back ANI, too, if I could. But when I call, they
13 can't call me back and say, "Did you buy those venetian
14 blinds?"

15 CHAIRMAN WILSON: If they did call you back
16 and you had Caller ID, you would know who it was and
17 you wouldn't have to answer the phone.

18 WITNESS COOPER: They'll identify themselves.

19 CHAIRMAN WILSON: You can tell them, "If you
20 ever call me again -- and I know who you are because
21 you just called me and I have your number on Caller ID
22 -- I will never shop in your store again." I bet that
23 would stop them.

24 WITNESS COOPER: Well, Macy's will call you
25 back and tell you right away, that's why Caller ID

1 doesn't discourage telemarketing. They believe they're
2 legitimate. They don't have any problem. If Macy's
3 calls you and you say, "I got your number," they say,
4 "What do you mean? I just called and told you I'm
5 calling from Macy's." They want you to know who they
6 are.

7 COMMISSIONER BEARD: You missed the point.

8 CHAIRMAN WILSON: Yeah, you missed it
9 entirely.

10 COMMISSIONER BEARD: If you called me from
11 Macy's to ask me did I buy the blinds? And I say,
12 "Look, I didn't buy the blinds. And if you ever want
13 me to buy anything again, don't call me back." You're
14 telling me that Macy's is going to call me right back
15 anyway?

16 WITNESS COOPER: Well, they've called you
17 back once, which is exposure.

18 COMMISSIONER BEARD: I expect once. I don't
19 normally have any trouble because I'm the call
20 suppressor in my house and I don't have any trouble
21 after the first time suppressing the second call.

22 WITNESS COOPER: Well, that being the case,
23 then you don't need Caller ID.

24 COMMISSIONER BEARD: I know that. I know
25 that.

1 WITNESS COOPER: The point is that there is a
2 personal quality here and that is what people are
3 reacting to, I think. They perceive it as that
4 personal communication.

5 COMMISSIONER BEARD: I need to go back if I
6 can and finish where I was trying to get.

7 A person buys Caller ID and they pay for that
8 service, which increases their, I guess, privacy.
9 Okay? And it decreases someone else's anonymity,
10 potentially. Now, you think they should pay for that.
11 You think they should also pay to reinstate through
12 universal free per-call blocking, reinstate the
13 anonymity of everybody else on the network, which, in
14 turn, decreases, at least in theory, the value of the
15 service they purchased; and that's all okay?

16 WITNESS COOPER: They end up at net winners
17 if you believe that the Company can sell the service at
18 the price they've stated, because the value they charge
19 far exceeds the cost and people are willing to pay --

20 COMMISSIONER BEARD: See, I don't really know
21 that one because all I've heard is about this cost
22 aggregation, which is a concept I'm going to pursue in
23 other venues as we get out of Caller ID. I'm
24 interested in cost aggregation that has been proposed
25 here by so many people and I think it has some

1 interesting application in the aggregation of costs for
2 intrastate and local calls that we can look at in a lot
3 of ways. But we'll cross that bridge.

4 If you will, go to Page 17 of your testimony.

5 WITNESS COOPER: Yes, sir.

6 COMMISSIONER BEARD: And the chart there,
7 take the nonpublished side, if you will, for a minute.
8 And there's 59% very or somewhat concerned, and 51%
9 very or somewhat interested.

10 WITNESS COOPER: Yes.

11 COMMISSIONER BEARD: I hope there's some
12 crossover, because that's 110% and not only on the
13 football do you get that --

14 WITNESS COOPER: No, no, these are pieces of
15 a different table to show you two different -- to
16 juxtapose two different things. Yes, the columns don't
17 sum in there and they don't show a sum.

18 COMMISSIONER BEARD: Help me then. 59% of
19 the nonpublished numbers/people/access lines are very
20 or somewhat concerned, is that correct?

21 WITNESS COOPER: About revealing their
22 numbers, yes.

23 COMMISSIONER BEARD: And 51% are very or
24 somewhat interested?

25 WITNESS COOPER: Yes.

1 COMMISSIONER BEARD: What I can take from
2 that, since they came from different tables, is
3 absolutely nothing, right?

4 WITNESS COOPER: Well, what you can take from
5 that is that nonpubs who are repeatedly said by the
6 Company to be the most interested in the service are
7 also the most concerned about forwarding their number.
8 Or, alternatively, the ideal world for a nonpub is not
9 only to not have his number published but also not to
10 be forced to give his number out on a per-call basis
11 and also be able to see incoming numbers. That way, he
12 gets the most control over his number and everybody
13 else's number.

14 COMMISSIONER BEARD: When I look at this, I'm
15 taking numbers that have to overlap --

16 WITNESS COOPER: No, no, they're separate.

17 COMMISSIONER BEARD: Well, they can't be
18 because they add to excess of 100%. Now, unless you're
19 telling me that 51% of the 59%?

20 WITNESS COOPER: No. 59% of the nonpubs said
21 they were very or somewhat concerned. 41% said they
22 are not.

23 COMMISSIONER BEARD: 51%?

24 WITNESS COOPER: No, no, 41%, the missing 41,
25 said they're not concerned at all or very concerned.

1 Okay?

2 COMMISSIONER BEARD: They're not concerned at
3 all?

4 WITNESS COOPER: They're not concerned at
5 all.

6 COMMISSIONER BEARD: Okay, they're gone.

7 WITNESS COOPER: And then a separate
8 question, "Are you interested in the service?" 51%
9 said they were interested in the service, 49% said they
10 were not interested in the service.

11 You are particularly interested in those
12 people who said both, and that is in the underlying
13 document. It is public and I could provide that for
14 the record.

15 COMMISSIONER BEARD: Do I -- you can?

16 WITNESS COOPER: I can. If you want to say --

17 COMMISSIONER BEARD: This is a proprietary or
18 not?

19 WITNESS COOPER: No, no, that was probably in
20 the original testimony and I could produce that. That
21 is, you seem to be particularly interested in these people
22 who said both, "I'm very concerned and very interested."

23 COMMISSIONER BEARD: You can produce a
24 document for me that shows the relationship of the 51
25 to 59? Because I can't automatically assume, okay, I

1 can't assume that there aren't populations in the 51%
2 that weren't in the 59.

3 WITNESS COOPER: Yes.

4 COMMISSIONER BEARD: They could be a part of
5 that 41% that aren't --

6 WITNESS COOPER: You're absolutely correct.

7 And the best of my recollection is that I can produce
8 the full cross tabulation. That's the best of my
9 recollection.

10 COMMISSIONER BEARD: If I follow GTE, it says
11 you can't.

12 WITNESS COOPER: What?

13 COMMISSIONER BEARD: If I follow --

14 WITNESS COOPER: No, no. If it's in the
15 Pennsylvania public record, I can copy it out of the
16 public record. I didn't put all of Pennsylvania in
17 here or the thing would be twice as long as it is now.

18 COMMISSIONER BEARD: I see.

19 MR. PARKER: I would just like to state for
20 the record that the response says that -- the question
21 says, "Please provide this item in its entirety along
22 with all documents in your possession, custody or
23 control mentioning, analyzing, evaluating, or
24 discussing this item."

25 And the answer is, "Document No. 68 is

1 proprietary." and Document No. 68 is the source
2 document set forth on Page 17 of his testimony.

3 WITNESS COOPER: Well, the Pennsylvania
4 testimony is not proprietary.

5 CHAIRMAN WILSON: Any more questions?

6 COMMISSIONER GUNTER: No, sir.

7 CHAIRMAN WILSON: Redirect?

8 MR. BECK: No redirect.

9 CHAIRMAN WILSON: Move exhibits?

10 MR. BECK: Move exhibits.

11 MR. FALGOUST: Move Exhibit 22, Mr. Chairman.

12 MR. BECK: Move 19 and 23.

13 CHAIRMAN WILSON: Without objection, 19, 22
14 and 23 are admitted into evidence.

15 MR. PARKER: 20 and 21, please.

16 CHAIRMAN WILSON: Without objection, 20 and
17 21 are admitted into evidence.

18 (Exhibits Nos. 19, 20, 21, 22 and 23 received
19 in evidence.)

20 CHAIRMAN WILSON: We'll take a five-minute
21 break and hopefully proceed with greater speed through
22 the balance of the witnesses and the afternoon.

23 (Brief recess.)

24 CHAIRMAN WILSON: All right, call your next
25 witness.

1 MR. RAMAGE: We call Mr. Tudor.

2 CHAIRMAN WILSON: Let me swear him in, not
3 that we have any doubt that everything he says would
4 not be the truth.

5 (Witness Tudor sworn.)

6 RONALD TUDOR

7 was called as a witness on behalf of Florida Department
8 of Law Enforcement and, having been first duly sworn,
9 testified as follows:

10 DIRECT EXAMINATION

11 BY MR. RAMAGE.

12 Q State your name and business address for the
13 record.

14 A My name is Ronald Tudor, T-u-d-o-r, and my
15 business address is Post Office Box 1489, Tallahassee,
16 Florida 32302.

17 Q By whom are you employed and in what
18 capacity?

19 A I'm a Special Agent with the Florida
20 Department of Law Enforcement.

21 Q Did you prefile direct and rebuttal testimony
22 in this matter?

23 A Yes, sir, I did.

24 Q At this time do you have any changes,
25 additions or deletions to that testimony, other than

1 those that have been reflected on the errata sheet that
2 has been filed?

3 A No, sir.

4 Q Does your prefiled testimony have one exhibit
5 attached thereto?

6 A Yes, sir.

7 MR. RAMAGE: At this point I would ask that
8 that exhibit be marked.

9 CHAIRMAN WILSON: That would be marked as
10 Exhibit No. 24.

11 (Exhibit No. 24 marked for identification.)

12 Q (By Mr. Ramage) Mr. Tutor, would your
13 testimony today be the same if I were ask to you the
14 same questions that were posed to you in the prefiled
15 direct and rebuttal testimony?

16 A Yes, sir, they would.

17 MR. RAMAGE: I would move at this time that
18 the direct testimony and rebuttal testimony, as filed,
19 and the exhibit be entered into the record.

20 CHAIRMAN WILSON: Without objection, it will
21 be so entered into the record. Well, the exhibit will
22 be later.

23

24

25

1 I. BACKGROUND AND OVERVIEW

2

3 Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

4 A. Ronald P. Tudor, P.O. Box 1489, Tallahassee, Florida
5 32302; Special Agent, Florida Department of Law Enforcement.6 Q. PLEASE BRIEFLY SUMMARIZE YOUR RELEVANT EMPLOYMENT
7 TRAINING AND EXPERIENCE.8 A. Since becoming employed in law enforcement, a career
9 of over 18 years, I have received approximately 2400 hours
10 of training. This training includes courses on criminal
11 investigations, investigating organized crime, covert
12 evidence gathering, narcotic and drug law enforcement,
13 covert investigations, technical equipment utilization,
14 electronic surveillance and wiretap, advanced telephone
15 countermeasures, counter terrorism, and cellular telephone
16 intercepts. My experience in organized crime investigation
17 includes working on a task force investigating the New
18 Jersey Mob, and cases involving identified organized crime
19 members and associates involved in loansharking, extortion,
20 corruption, bookmaking and illegal lottery, pornography and
21 prostitution, narcotics and controlled substances, contract
22 murder, labor law violations, violations of the federal and
23 Florida Racketeer Influenced Corrupt Organizations (RICO)
24 laws, fencing, terrorism, as well as numerous cases
25 involving strategic intelligence gathering. I have been

1 involved in providing operational assistance and planning
2 for technical surveillance and investigations, in providing
3 research and development on telephone intercept
4 investigations, providing technical support in the areas of
5 surveillance equipment and techniques and providing
6 assistance regarding the procedures to be followed in such
7 intercepts or surveillances. I have written or assisted in
8 the writing of training programs for law enforcement
9 officers involved in wiretap and electronic surveillance
10 operations. I have formulated and assisted others in
11 formulating the written policy and procedures of the Florida
12 Department of Law Enforcement as they apply to investigative
13 uses of wiretaps and electronic surveillance. I have served
14 as an instructor for the Organized Crime Institute's
15 training programs on electronic intercepts and technical
16 aspects of covert surveillance and have designed and taught
17 on several occasions an 80 hour course on telephone
18 intercept techniques for law enforcement agencies. During
19 my career in law enforcement I have set up and maintained
20 technical supervision on over 150 court-ordered wire and/or
21 oral electronic intercepts and have set up and maintained
22 technical supervision on over 1,000 consensual oral
23 intercepts. In addition, I have provided training on
24 undercover operations conducted by or through the Florida
25 Statewide Grand Jury Panel in 1975, State Attorneys and

1 their investigators in 15 Florida judicial circuits, more
2 than 700 police investigators from over 30 states, federal
3 agents from investigative operations of the U.S. Army
4 Intelligence, U.S. Air Force O.S.I., U.S. Customs, U.S.
5 Postal Service, the Drug Enforcement Administration,
6 Alcohol, Tobacco and Firearms; Office of Naval
7 Investigations, Naval Investigative Service, General
8 Services Administration, the U.S. Immigration Service and
9 the Federal Bureau of Investigations. I have also trained
10 and assisted law enforcement or military representatives
11 from numerous foreign countries, including Canada,
12 Australia, Germany, Italy, New Zealand, Taiwan, Israel and
13 Mexico.

14 Q. WHAT RELEVANT PROFESSIONAL AFFILIATIONS DO YOU
15 MAINTAIN?

16 A. Founder (1984-85) and Chairman (1984, 85, 88, and 90),
17 Southeast Technical Investigators Association; National
18 Liaison to the Mid-Atlantic Technical Investigators
19 Association (1986-present); Training Director, National
20 Technical Investigators Association (1988-1990); Co-
21 Chairman, New Technology Committee for the National
22 Technical Investigator's Association (1990); Member of the
23 "Caller-ID Committee" for the National Technical
24 Investigators Association (1990).

25 Q. OTHER THAN YOUR APPEARANCES ON THE "CALLER ID" ISSUE,

1 HAVE YOU PREVIOUSLY TESTIFIED IN TELEPHONE CASES?

2 A. No.

3 Q. ARE YOU AUTHORIZED TO TESTIFY ON BEHALF OF, AND STATE
4 THE POSITION OF, THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT
5 ON THIS MATTER?

6 A. Yes.

7 Q. ARE YOU AUTHORIZED TO TESTIFY ON BEHALF OF, AND STATE
8 THE POSITION OF, THE LAW ENFORCEMENT TASK FORCE THAT WAS
9 CREATED IN AN ATTEMPT TO RESOLVE THE ISSUES BETWEEN LAW
10 ENFORCEMENT AND SOUTHERN BELL REGARDING THIS MATTER?

11 A. Yes.

12 Q. WHO MAKES UP THIS TASK FORCE?

13 A. This Committee is made up of members of law
14 enforcement throughout the state of Florida at the
15 municipal, county, state and federal level. It includes
16 undercover officers, investigators, technical specialists,
17 and supervisors from front line to senior management.
18 Agencies represented on the Task Force include municipal
19 police departments, sheriff`s departments, and included
20 personnel who were multi-agency drug task force members, a
21 Florida Assistant State Attorney, and federal agents from
22 the FBI, DEA, ATF, IRS, U.S. Customs, and the U.S. Secret
23 Service. The Task Force representation reflected the needs
24 of small municipalities, large metropolitan areas, and
25 multi-jurisdictional teams. All members were either based

1 in a Southern Bell service area or had law enforcement
2 duties and responsibilities that involved operating in
3 Southern Bell service areas. In addition, members of the
4 Florida Police Chiefs Association, the Florida Sheriffs
5 Association, the Florida State Law Enforcement Chiefs
6 Association, the Fraternal Order of Police, and the Police
7 Benevolent Association contacted the Task Force and
8 expressed their concerns regarding Southern Bell's "Caller
9 ID" proposal and indicated their support for the position of
10 the Task Force.

11 Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

12 A. To express the continued significant concern of the
13 Florida Department of Law Enforcement and the Task Force
14 that "Caller ID" as proposed by Southern Bell presents a
15 clear and present danger to the safety and even the lives of
16 undercover law enforcement officers and operatives in
17 Florida.

18 Q. WHAT IS YOUR CONCLUSION REGARDING THIS MATTER?

19 A. It is predictable that criminals will immediately
20 begin using the "Caller ID" system as proposed by Southern
21 Bell to screen the calls they receive while engaged in their
22 illegitimate acts. It is equally predictable that the
23 safety of undercover law enforcement officers or operatives
24 will be jeopardized by such use of Southern Bell's proposed
25 system.

1 Q. WHAT IS YOUR RECOMMENDATION TO THE PUBLIC SERVICE
2 COMMISSION?

3 A. First, if "Caller ID" should be allowed in Florida at
4 all, it must be offered only with universal per-call
5 blocking made available to the public at large. Second, if
6 "Caller ID" is implemented in Florida, Southern Bell must be
7 mandated to work with law enforcement to continue making
8 available other special technical considerations that will
9 allow undercover officers and operatives to convince their
10 adversaries that they are being truthful in their undercover
11 role as fellow criminals. Third, there should be at least a
12 120 day delay in implementing any "Caller ID" system so that
13 law enforcement training programs can be developed and
14 delivered at a statewide level. This is important to help
15 identify and communicate the dangers to law enforcement
16 officers produced by implementation of any "Caller ID"
17 system.

18 Q. UPON WHAT EVIDENCE OR CONSIDERATIONS DO YOU BASE YOUR
19 CONCLUSIONS AND RECOMMENDATIONS?

20 A. My training and experience as a law enforcement
21 officer, my discussions of these issues with other law
22 enforcement officers working within Florida, and my
23 discussion of problems and the "track record" of experience
24 of other law enforcement officers and agencies in parts of
25 the nation in which "Caller ID" has already been

1 implemented. I have learned that criminals do utilize
2 "Caller ID" to return calls and confirm the origin of the
3 caller. According to law enforcement officers I have
4 contacted, such experiences have resulted in cases being put
5 into direct jeopardy, with some investigations being
6 compromised. For example, the drug task force in Maryland
7 has arrested a heroin dealer who was using his "Caller ID"
8 display to force customers to call from specific phone
9 numbers in order to transact business. A common factor in
10 law enforcement's concerns is the loss of control over
11 undercover operations that "Caller ID" promotes. When
12 "Caller ID" is utilized by criminals to force the screening
13 of calls and to help identify the origin of callers, the
14 balance of control is shifted to the criminal. Any such
15 shift increases jeopardy to an undercover law enforcement
16 officer or an operative's life.

17 II. THE POSITIVE AND NEGATIVE EFFECTS OF "CALLER ID" FROM A
18 LAW ENFORCEMENT PERSPECTIVE.

19 Q. PLEASE DESCRIBE "CALLER ID" AS YOU UNDERSTAND THE
20 SYSTEM AS PROPOSED BY SOUTHERN BELL.

21 A. As I understand it, Southern Bell's proposal would be
22 that a customer could subscribe to the service for \$7.50 a
23 month, \$90.00 per year. If one subscribes to the service, a
24 digital signal containing the dialed number of a calling
25 party will be delivered to the called party's telephone

1 between the first and second ring. If the called party has
2 the proper digital display box connected to the party's
3 phone line, the caller's telephone number would be displayed
4 even if the caller is utilizing an unpublished or unlisted
5 telephone number. If, for some reason, the digital signal
6 is not transmitted, the display box will display "out of
7 area" or a similar display. As proposed by Southern Bell,
8 general members of the dialing public would not have the
9 option to "block" the display of the caller's phone number.
10 This is in contrast to "Caller ID" systems proposed or
11 implemented by companies such as CENTEL, Southwestern Bell,
12 U.S. West, and Pacific Telesis Group, and the NYNEX
13 Corporation's New England Telephone that allow "Caller ID"
14 "blocking" free on a per call, universal basis.

15 Q. WHAT BENEFIT MIGHT BE ENJOYED BY FLORIDA LAW
16 ENFORCEMENT AGENCIES BY REASON OF THE IMPLEMENTATION OF
17 "CALLER ID" AS PROPOSED BY SOUTHERN BELL?

18 A. There might be a perceived drop in obscene or
19 harassing phone calls, although phone company statistics
20 suggesting this are open to criticism and challenge. Also,
21 law enforcement may, at least for a limited time, be able to
22 utilize "Caller ID" to identify from where calls from
23 criminal suspects to law enforcement undercover telephones
24 are coming.

25 Q. DOES IMPLEMENTATION OF "CALLER ID" AS PROPOSED BY

1 SOUTHERN BELL CONCERN FDLE AND THE TASK FORCE?

2 A. Yes.

3 Q. WHAT ARE THOSE CONCERNS?

4 A. FDLE and the Task Force are concerned that violent
5 criminals will begin to use "Caller ID" to screen and even
6 set up calls with unknowing undercover operatives. Our
7 concern is that undercover officers or operatives may
8 unintentionally display a phone number assigned to a law
9 enforcement agency, and thereby jeopardize investigations
10 and personal safety. Since occasionally, one's personal
11 phone might be utilized in placing an undercover capacity
12 phone call, our concern extends to the families of
13 undercover officers, operatives and cooperating citizens.
14 Once an originating phone number has been displayed, a call
15 back to that number might catch the recipient off guard,
16 with an answer being made that would be inconsistent with
17 one's undercover identity or role. Once an originating
18 phone number has been displayed, the address from which the
19 call originated can be easily ascertained by using a phone
20 number to address phone directory commonly available for
21 sale or for review at public libraries. Family members
22 could become targets of retribution or revenge. These
23 concerns are valid even if the undercover operative is not
24 identified as being associated with law enforcement. In
25 addition, the concept of members of the public utilizing

1 "Caller ID" to conduct their own investigation or
2 intervention into the problem of receiving abusive calls is
3 troubling. With self initiated investigation comes the
4 possibility of personal intervention to address the problem.
5 This could well turn a misdemeanor class of crime into a
6 potentially violent confrontation between the call
7 recipient/victim and the caller/perpetrator.

8 Q. DOES THE SOUTHERN BELL "CALLER ID" PROPOSAL INCLUDE
9 OFFERING A UNIVERSALLY-AVAILABLE ABILITY TO BLOCK THE
10 DISPLAY OF ONE'S NUMBER WHEN PLACING A CALL?

11 A. No.

12 Q. HOW WOULD THE OFFERING OF UNIVERSALLY-AVAILABLE
13 BLOCKING OF THE DISPLAY OF ONE'S NUMBER AFFECT FDLE AND THE
14 TASK FORCE'S CONCERNS YOU HAVE IDENTIFIED?

15 A. Although universally-available blocking of the
16 display of a number on a "Caller ID" unit is not a panacea,
17 it would allow for a higher level of safety for undercover
18 officers, confidential informants, and cooperating victims
19 and witnesses when making calls to criminals than the system
20 proposed by Southern Bell. If the blocking option is
21 available to the public at large, then a criminal who
22 receives a blocked telephone call would not become overly
23 suspicious. This is in sharp contrast to what Southern Bell
24 proposes. Under Southern Bell's proposal, which would allow
25 blocking for only a limited portion of the telephone using

1 public, the very fact that blocking has occurred will serve
2 to suggest to the criminal that a law enforcement officer or
3 one acting on behalf of law enforcement may be the person
4 making the call. FDLE and the Task Force's primary position
5 is that we prefer not to have to cope with the jeopardy to
6 safety that "Caller ID" represents at all. As a compromise,
7 however, the option of universally-available blocking offers
8 a balance of benefits while minimizing the clear and present
9 threat "Caller ID" without blocking presents. While "Calle
10 ID" with universal blocking will represent a complication
11 and inconvenience to law enforcement operations, it will be
12 much preferred than a "Caller ID" system with a limited or
13 no blocking option.

14 Q. DO THE BENEFITS THAT MIGHT BE ENJOYED BY FLORIDA LAW
15 ENFORCEMENT AGENCIES BY REASON OF IMPLEMENTATION OF "CALLER
16 ID" AS PROPOSED BY SOUTHERN BELL OUTWEIGH THE CONCERNS YOU
17 HAVE IDENTIFIED?

18 A. No.

19 Q. WHILE NOT ADDRESSING LEGAL OBJECTIONS TO "CALLER ID"
20 THAT ARE TO BE CONSIDERED IN BRIEFS FILED BY THE VARIOUS
21 PARTIES, WHAT IS THE POSITION OF FDLE REGARDING THE "CALLER
22 ID" PROPOSAL OFFERED BY SOUTHERN BELL?

23 A. Not even taking into account any legal objections to
24 "Caller ID" that may be raised, as currently proposed by
25 Southern Bell, the "Caller ID" tariff is insufficient to

1 eliminate or even reduce the significant and serious
2 concerns regarding the safety and security of those involved
3 in working either in an undercover investigative capacity,
4 or working in cooperation with police during a criminal
5 investigation. FDLE remains opposed to implementation of
6 "Caller ID" as proposed by Southern Bell.

7 Q. WHAT IS THE POSITION OF THE TASK FORCE REGARDING THE
8 "CALLER ID" PROPOSAL OFFERED BY SOUTHERN BELL?

9 A. The Task Force insists that law enforcement should
10 remain "whole," with the ability to continue to convince
11 criminal suspects that undercover operatives are being
12 truthful in their undercover roles. "Caller ID" as proposed
13 by Southern Bell shifts the balance of control toward the
14 criminal, giving a distinct advantage to the often violent
15 law breaker, who has time and time again proved that he is
16 willing to kill those posing a threat to the success of his
17 criminal enterprise. The Task Force continues to oppose the
18 "Caller ID" as proposed by Southern Bell.

19 III. THE "TRACK RECORD" OF "CALLER ID" FROM A LAW
20 ENFORCEMENT PERSPECTIVE

21 Q. ARE YOU AWARE OF DIFFICULTIES THAT HAVE BEEN
22 ENCOUNTERED BY LAW ENFORCEMENT AGENCIES OPERATING IN AREAS
23 WHERE "CALLER ID" HAS BEEN IMPLEMENTED?

24 A. Yes.

25 Q. DID YOU AND FDLE IN PART RELY UPON THOSE DIFFICULTIES

1 IN FORMULATING THE CONCERNS YOU HAVE EXPRESSED ON BEHALF OF
2 FDLE REGARDING SOUTHERN BELL'S "CALLER ID" PROPOSAL?

3 A. Yes.

4 Q. DID YOU AND THE TASK FORCE IN PART RELY UPON THOSE
5 DIFFICULTIES IN FORMULATING THE CONCERNS YOU HAVE EXPRESSED
6 ON BEHALF OF TASK FORCE REGARDING SOUTHERN BELL'S "CALLER
7 ID" PROPOSAL?

8 A. Yes.

9 Q. PLEASE ENUMERATE THE DIFFICULTIES ENCOUNTERED BY LAW
10 ENFORCEMENT AGENCIES IN AREAS WHERE "CALLER ID" HAS BEEN
11 IMPLEMENTED THAT HAVE BEEN RELIED UPON BY YOU, FDLE, AND THE
12 TASK FORCE IN REACHING A POSITION ON THIS MATTER.

13 A. In March, 1988, I received a call from an FDLE agent
14 in Orlando, Florida. This was one of the areas where
15 Southern Bell was testing the "Caller ID" system. The agent
16 was extremely concerned because every time he called one of
17 his confidential informants, the informant would tell the
18 agent the number of the telephone from which the agent was
19 calling. This concerned the agent, and demonstrated how the
20 criminal element of society was among the first to realize
21 how the "Caller ID" technology could further criminal
22 enterprises.

23 I have spoken to detectives in New Jersey that have advised
24 that certain undercover calls to suspects have been returned
25 by the suspect, only to have the calls directed by the phone

1 system to a receptionist answering the phone of the specific
2 agency. In other words, the suspect dialed a number
3 obtained from a "Caller ID" display, and that number rang to
4 the law enforcement agency's central desk phone system.

5 In August, 1990, I met with an undercover narcotic detective
6 from the Arlington County Police Department in northern
7 Virginia. He advised me that he recently had a multi-kilo
8 drug deal exposed because the suspect is reported to have
9 dialed back the number from which the informant called, only
10 to have the call answered by someone not familiar with the
11 undercover case.

12 A 1990 newspaper article from the Baltimore, Maryland area
13 tells of a drug task force which, while investigating a
14 heroin trafficking case, found that the suspects were using
15 "Caller ID" display units to verify that drug buyers were
16 calling the suspects from phones chosen for business by the
17 suspects. Again, this is an indication of how the criminal
18 element will seize upon the new technology to improve their
19 method of doing business, reduce risk of discovery and
20 exposure, and to gain control of situations. Any loss of
21 control suffered by law enforcement operatives in an
22 undercover capacity directly compromises the safety of the
23 operative.

24 *[A copy of the newspaper article is attached as Exhibit #1.]*

25 Q. IN YOUR OPINION, BASED UPON YOUR TRAINING AND

1 EXPERIENCE AS A LAW ENFORCEMENT OFFICER, WILL SIMILAR
2 DIFFICULTIES BE ENCOUNTERED BY LAW ENFORCEMENT AGENCIES
3 OPERATING IN SOUTHERN BELL'S FLORIDA SERVICE AREAS IF
4 SOUTHERN BELL'S "CALLER ID" PROPOSAL IS IMPLEMENTED?

5 A. Absolutely.

6 Q. WOULD THESE ANTICIPATED DIFFICULTIES BE REDUCED OR
7 ELIMINATED IF UNIVERSALLY-AVAILABLE BLOCKING IS MADE A PART
8 OF ANY APPROVED "CALLER ID" SYSTEM IN FLORIDA?

9 A. I believe the potential for such difficulties will be
10 significantly reduced if universally-available blocking is
11 made a part of any "Caller ID" system implemented in this
12 state.

13 Q. EXPLAIN HOW THIS REDUCTION OR ELIMINATION WOULD BE
14 REALIZED.

15 A. By offering a relatively simple means of blocking the
16 delivery of the caller's number to the called party,
17 "Caller ID" with universally available blocking would help
18 the undercover operative fall under the "umbrella" of the
19 public at-large, and thus assist the operative's efforts to
20 "blend in" with society. One alternative proposed by
21 Southern Bell would require the use of agency specific, or
22 limited availability call block, which would immediately
23 identify the caller as being from an agency entitled to
24 utilize blocking. Other alternatives proposed require the
25 use of more cumbersome special dialing arrangements with

1 calling cards or remote access units, or the use of more
2 expensive extra telephone lines or cellular telephones.
3 The availability of a simple means to avoid exposure would
4 be especially important for those people involved in
5 undercover investigations who must return calls after
6 receiving messages via a digital pager message, a method
7 commonly utilized by drug traffickers. In these cases, the
8 identity of the original caller is not known. If such a
9 call was to be returned from the individual's personal
10 phone, or that of an unknowing friend or relative, and the
11 call was indeed to a criminal suspect, then the number of
12 the telephone from which the return call was placed would
13 then be delivered to the criminal suspect. As indicated
14 earlier, determining the address to which a number
15 corresponds is a relatively simple task. Even if the nature
16 of the number revealed does not create suspicion by a
17 criminal, the criminal will easily be able to determine the
18 address from which the return call has been made.

19 IV. ABUSIVE OR HARASSING PHONE CALLS - THE SHORTCOMINGS OF
20 "CALLER ID" FROM A LAW ENFORCEMENT PERSPECTIVE

21 Q. AS A LAW ENFORCEMENT OFFICER AND AS SPOKESMAN FOR FDLE
22 AND THE TASK FORCE, DO YOU HAVE CONCERNS REGARDING THE
23 EFFECTIVENESS OF "CALLER ID" AS A MEANS OF ADDRESSING THE
24 PROBLEM OF ABUSIVE OR HARASSING PHONE CALLS?

25 A. Yes.

1 Q. WHAT ARE THOSE CONCERNS?

2 A. First, I believe that other than the typical juvenile
3 prank calls, most truly abusive calls will be placed by
4 someone who is intent on completing the call. This person
5 will certainly be able to make use of the calling cards,
6 cellular phones, or other alternatives identified by
7 Southern Bell that will not reveal the identity or location
8 of the caller. By moving from one pay phone to another, an
9 abusive caller can "mask" his identity when placing a call,
10 too.

11 Second, most people will not know the telephone number of
12 the anonymous abusive caller, and therefore will be likely
13 to accept the initial call even if they have a "Caller ID"
14 unit. Advising the abusive caller that the recipient now
15 knows the caller's number is likely to cause the abusive
16 caller to utilize a different phone the next time. This
17 creates a "loop" pattern where the abusive caller can be
18 successful since the recipient will be unable to identify
19 from an unknown number whether it is the abusive caller or
20 some other person calling.

21 Third, merely advising an abusive caller that his phone
22 number is known will not necessarily stop the caller's
23 behavior. This type of caller may continue to make calls
24 until he attains his satisfaction, or is apprehended. While
25 I am aware that some phone company studies suggest that

1 there has been a vast reduction of abusive calls when
2 "Caller ID" and other systems are introduced, I believe
3 those studies more accurately indicate there has been a
4 reduction in the reports of a receipt of abusive calls.
5 There is a faulty assumption that the reduction of reports
6 of abusive calls corresponds to an actual reduction in
7 criminal calling activity. In fact, what may be reflected
8 is an increased tendency for recipients to take matters into
9 their own hands in one way or another, so that reporting the
10 call becomes, in the recipient's mind, unnecessary.
11 Fourth, I don't think that the evidence obtained by a user
12 of "Caller ID," specifically the digital display of a
13 telephone number, will be found to be sufficient to justify
14 a prosecution of an abusive caller, and many times would not
15 even constitute enough evidence to provide probable cause
16 for arrest. Involvement of phone security or law
17 enforcement agencies in investigating abusive calls provides
18 the corroboration necessary for effective functioning of the
19 criminal justice system.
20 Fifth, and most importantly, persons who receive abusive
21 calls are often upset and angry. I'm afraid that many will
22 feel it is up to them to handle the situation since the
23 phone company has provided them the means to begin to
24 identify a caller. Once a recipient believes the identity
25 of an abusive caller is known, the tensions and

1 dangerousness of the situation can escalate. This could
2 result in confrontations between victims and potentially
3 deranged individuals. The danger of such confrontations, of
4 course, is the potential for "vigilante" justice, something
5 our civilized society has tried to avoid. What begins as a
6 misdemeanor obscene phone call could likely turn into a
7 serious assault, or worse.

8 Such recipient-to-caller contact is contrary to all
9 recommendations that telephone companies and police
10 departments have traditionally given to victims of abusive
11 calls. In fact, phone companies have always instructed
12 recipients of such calls not to even converse with the
13 caller, let alone attempt to recontact them. To even call
14 an abusive caller back and inform him that you know his
15 phone number is to establish a link of communication with
16 the abusive caller that could very well encourage the caller
17 to continue making calls. This is much greater "contact"
18 than simply hanging up on the caller. Yet "Caller ID" seems
19 to promote the call-backs by its very nature.

20 Q. ARE THERE OTHER PHONE SERVICE OPTIONS AVAILABLE TO
21 PHONE CUSTOMERS IN THE SOUTHERN BELL FLORIDA SERVICE AREAS
22 THAT WOULD, FROM A LAW ENFORCEMENT PERSPECTIVE, ADDRESS THE
23 PROBLEM OF ABUSIVE OR HARASSING PHONE CALLS AS WELL AS, OR
24 BETTER THAN, "CALLER ID"?

25 A. Yes.

1 Q. WHAT ARE THOSE OPTIONS, AND WHY, FROM A LAW
2 ENFORCEMENT PERSPECTIVE, WOULD THEY ADDRESS THE PROBLEM OF
3 ABUSIVE OR HARASSING PHONE CALLS AS WELL AS, OR BETTER THAN,
4 "CALLER ID"?

5 A. One option is "Call Trace." This is a customer
6 activated system, not to be confused with the phone company
7 activated "call tracing," or a "trap and trace." This
8 option allows a recipient of a troubling call to press a
9 three digit code on the recipient's phone at the conclusion
10 of a call. This code signals the phone company computer to
11 "trap" the number from the previous call, date and time
12 stamp it, and log it into a special data file at the central
13 office. The recipient of the call then must advise the
14 phone company security office of the nature of the received
15 call and an investigation of the incident can occur. Phone
16 company business records such as the printout of the time
17 and date the call was placed are available as evidence if a
18 criminal prosecution occurs.

19 While presently customers of Southern Bell must presubscribe
20 to Call Trace at a rate of \$4 per month, I am aware that the
21 Office Of Public Counsel has petitioned the PSC to require
22 Call Trace to be offered to all phone customers in Florida
23 on a "pay as you use it" basis, with a suggestion that each
24 use result in a charge not to exceed \$1. If such a system
25 were implemented, it would represent a terrific deterrent to

1 abusive callers, because any recipient anywhere in the state
2 could have the called "traced" by the phone company. Not to
3 mention that the "pay as you use it" system would be less
4 expensive, so it would be available to most everyone who
5 needs to use it.

6 A second option is customer activated "Call Blocking". This
7 allows the recipient of a troubling call to enter a three
8 digit code on the phone at the conclusion of the call which
9 codes the phone company central switch to not put calls from
10 the previous caller through to the recipient's phone. While
11 the abusive caller might move to another phone, this
12 scenario is no worse than what could occur with the "Caller
13 ID" system.

14 The use of "Call Blocking" in conjunction with "Call Trace"
15 provides a very effective weapon against abusive calls, but
16 does not endanger the physical safety of law enforcement
17 operatives like the "Caller ID" system does.

18 A third option, "Selective Call Acceptance", would allow
19 recipients to program up to, I believe, six identified
20 numbers that the recipient's phone would receive. Other
21 numbers would not be connected to the recipient's phone
22 while the program is in effect. This would be helpful, for
23 example, to parents who leave their children with a baby
24 sitter. Only "known" numbers would ring into the home
25 phone, so no abusive caller could connect.

1 A fourth option is "Return Call". This allows a recipient
2 to call back a caller even though the caller's number is not
3 known. This is not a preferred option, however, since it
4 promotes contact with abusive callers, contrary to phone
5 company and law enforcement suggestions, and encourages
6 escalation or "vigilante" intervention discussed earlier.
7 A fifth option is "Caller ID" but with universal per call
8 blocking available. By allowing the option of per call
9 blocking to everyone, law enforcement security concerns are
10 better addressed. Customers will still have the option of
11 choosing to answer or not answer a "blocked" phone call. If
12 an abusive caller chooses to "block" his number, the
13 recipient need not answer the "blocked" phone call.
14 Southern Bell has analogized "Caller ID" to a peephole
15 viewer in one's front door. Well, if a caller "blocks" his
16 number, a recipient can respond just like a home owner who
17 sees that the person at the door has covered the peephole:
18 just don't "open the door."
19 Again, the main point from a law enforcement perspective is
20 that many options offer as much or better ability to address
21 abusive phone calls, but do not endanger the personal safety
22 of law enforcement operatives like Southern Bell's "Caller
23 ID" proposal does.

24 V. ATTEMPTS BY SOUTHERN BELL TO ADDRESS LAW ENFORCEMENT
25 CONCERNS

1 Q. HAVE YOU, ON BEHALF OF FDLE AND/OR THE TASK FORCE,
2 ENGAGED IN DISCUSSIONS WITH SOUTHERN BELL REPRESENTATIVES
3 REGARDING SOUTHERN BELL'S PROPOSALS FOR REDUCING OR
4 ELIMINATING LAW ENFORCEMENT CONCERNS ABOUT ITS "CALLER ID"
5 PROPOSAL?

6 A. Yes.

7 Q. DURING WHAT PERIOD OF TIME DID THESE DISCUSSIONS
8 OCCUR?

9 A. Between February, 1990, and June, 1990.

10 Q. WERE FDLE'S AND THE TASK FORCE'S CONCERNS RESOLVED BY
11 REASON OF THESE DISCUSSIONS?

12 A. No.

13 Q. PLEASE ENUMERATE SOUTHERN BELL'S PROPOSALS AND FOR
14 EACH PROPOSAL ENUMERATED, INDICATE FDLE AND THE TASK FORCE'S
15 RESPONSE AND CONCERNS.

16 A. The main options suggested to law enforcement by
17 Southern Bell were: (1) use of cellular phones, which do not
18 currently generate "Caller ID" number displays; (2) use of
19 operator-assisted calling, at a per call charge, whereby the
20 caller places the call through an operator and avoids
21 generating the caller's number on a "Caller ID" display; (3)
22 use of calling cards in placing calls, at a per call charge,
23 a method that does not currently generate "Caller ID" number
24 displays; (4) continued and greater use of pay phones for
25 investigative calls, which will produce "Caller ID" displays

1 of the pay phone numbers; (5) continued use of undercover
2 phone lines serving police agencies, which will produce
3 "Caller ID" display of the undercover line's number; (6) use
4 of "outgoing calls only" lines, designed not to be answered;
5 and (7) remote access to a limited number of unassigned
6 phone numbers predetermined by Southern Bell for use by law
7 enforcement agencies. All of these options proposed by Bell
8 proved to be objectionable for one reason or another. Even
9 the suggestions of value cannot be considered the sole
10 answer to FDLE and the Task Force's concerns about "Caller
11 ID" as proposed by Southern Bell.

12 First, many options suggested actually served to identify
13 the undercover caller as being someone special since calls
14 placed by law enforcement operatives utilizing the suggested
15 option would register on "Caller ID" units with notations
16 not normally received. For example, if "out of area" was
17 indicated on a "Caller ID" display unit, but the undercover
18 operative was supposed to be in the community, the
19 criminal's suspicions would be aroused. Use of "outgoing
20 only" lines still runs the risk that the location to which
21 such a line is assigned is identified by the criminal, or is
22 determined to be a location inconsistent with where the
23 person acting in the undercover capacity is supposed, in the
24 criminal's mind, to be calling from. Such an incident will
25 give rise to suspicion on the part of the criminal. Even a

1 little suspicion could jeopardize an investigation and
2 terminate law enforcement efforts even if the matter never
3 reaches the stage where the personal safety of operatives is
4 endangered. Unfortunately, however, when suspicions are
5 aroused in undercover operations, the potential for a
6 violent confrontation to resolve suspicions increases.
7 Second, the options would increase the cost of conducting
8 investigations. Suggestions like using only outgoing lines,
9 cellular phones, calling cards, operated assisted calling or
10 pay phones are out of the ordinary options, and cost more
11 than the present cost of doing investigative business. At a
12 time when law enforcement agencies are increasingly strapped
13 for funds, any increase of cost is unwelcome.
14 Third, the proposals were too cumbersome, and ignore the
15 practical realities of conducting undercover investigations.
16 To give a citizen informant undercover operative a calling
17 card or cellular phone makes a complex task of coordinating
18 the informant's efforts even more complex. It is
19 unrealistic to expect undercover informants to understand,
20 accept, and utilize complex options such as a remotely
21 dialed transfer systems and placing local calls through
22 calling cards or operators. The complexity of such options
23 will also add to delay in undercover operatives' placing of
24 calls. In the area of drug trafficking, investigations are
25 often fast-moving, changing at a moment's notice. Law

1 enforcement must maintain flexibility and the capacity to
2 adjust or respond simply and quickly.

3 Fourth, proposals were often "short term solutions" to the
4 "Caller ID" problem. The "out of area" readout will become
5 increasingly rare as technology improves and the ability to
6 provide caller numbers for other areas increases. In the
7 not too distant future, cellular phone numbers as well as
8 calling card numbers may be displayed via "Caller ID." FDLE
9 and the Task Force does not want to have to revisit this
10 problem four or five years down the road when "out of area"
11 readouts have all but been eliminated.

12 Fifth, many of the Bell proposed solutions completely ignore
13 the need of law enforcement to use confidential informants.
14 The use of cellular phones, credit card calling, etc. by
15 such informants would not be fiscally responsible due to the
16 potential for abuse. It will be a logistic nightmare to try
17 to coordinate and control access to such mechanisms by such
18 informants. Since undercover operations frequently involve
19 numerous law enforcement agencies, coordination between them
20 would also be difficult when it comes to limiting use of the
21 Southern Bell proposed options. Informants cannot be
22 expected to master these complexities, and to thrust them
23 into dangerous situations without assuring that we have done
24 all we can to protect them would be irresponsible. Failure
25 to adequately preserve the ability of all undercover

1 operatives to operate without detection could carry with it
2 grave consequences. Even knowledge that the potential risk
3 has increased by reason of "Caller ID" systems may have a
4 chilling effect on the willingness of many informants to
5 continue to cooperate with law enforcement.

6 Sixth, allowing remote access by undercover law enforcement
7 investigators to numbers preselected by Southern Bell is a
8 cumbersome process and carries with the inherent delays of
9 having to utilize Southern Bell "work orders" or other
10 processes to obtain such a number. As pointed out earlier,
11 investigations are often fast-moving, and law enforcement
12 may have the need to utilize multiple, quickly changing,
13 unassigned numbers to assist in the investigation.

14 Additionally, the use of unassigned numbers could jeopardize
15 investigations when the recipient of a call in which an
16 unassigned number is utilized calls the "Caller ID"
17 displayed number back and continually gets no answer, or
18 worse yet, obtains a recording that the number dialed is
19 "not in service."

20 Q. IF "CALLER ID" IN ANY FORM IS IMPLEMENTED, DOES FDLE
21 AND THE TASK FORCE SEEK ADDITIONAL SERVICES OR
22 CONSIDERATIONS FROM SOUTHERN BELL?

23 A. Yes.

24 Q. WHAT ADDITIONAL SERVICES OR CONSIDERATIONS ARE SOUGHT,
25 AND WHY ARE THEY SOUGHT?

1 A. A couple of documented situations come to mind that
2 require additional considerations. Frequently in kidnapping
3 cases, the kidnapers will utilize phones as a means of
4 communicating with the victim`s family. In a case related
5 to me by a member of the Task Force, the victim`s family was
6 required to call from certain phone locations identified by
7 the kidnapers. If "Caller ID" is implemented in any form,
8 law enforcement would need the ability to generate a display
9 of the expected originating phone number to the criminal
10 regardless of whether the phone expected to be used is
11 actually being utilized or not, since in many cases a
12 secure, controlled phone will be utilized instead of the
13 "selected" phone.

14 In another crime situation with similarities to the
15 kidnapping example, it has been documented that drug
16 traffickers are currently using "Caller ID" in areas where
17 it is being offered to verify that calls received are from
18 phones predetermined by the traffickers. Again, not only in
19 the examples I have provided, but in any undercover
20 investigation, law enforcement may wish to place calls from
21 phones other than those expected or preselected by the
22 criminals. It is essential that law enforcement agencies in
23 Florida have the ability to generate the phone numbers on
24 the "Caller ID" units of the criminals that the criminals
25 are expecting. As a result, a flexible, easily utilized

1 method of generating phone numbers must be provided to law
2 enforcement. This method must encompass generating assigned
3 phone numbers that are relevant to the investigation.
4 I have been assured by telephone company representatives
5 that technology currently exists to allow the delivery to a
6 "Caller ID" unit of such a surrogate number in lieu of the
7 actual caller's number.
8 The Task Force and FDLE recognizes that utilizing this
9 option and technology must be done responsibly. We are
10 prepared to implement safeguards to assure this occurs.
11 FDLE can, by internal policy and procedural safeguards, take
12 the steps to assure such an ability is not abused. For
13 example, no one on the Task Force or with FDLE would suggest
14 utilizing randomly selected phone numbers actually assigned
15 to innocent citizens. Generally, the numbers to be used as
16 surrogates for "Caller ID" display would have to have
17 immediate relevance to the investigation, such as a number
18 the criminal expects to be displayed. If a private number
19 assigned to an innocent party must be utilized as a
20 surrogate in lieu of the actual caller's number, guidelines
21 of the agency can assure that this is done with the
22 knowledge and consent of the party to whom the number is
23 assigned. For example, in a particular investigation a
24 source may have no objection to the use of his phone number
25 as a law enforcement surrogate display number.

1 As a point of clarification, let me point out that there
2 would be no need for a tool such as surrogate number
3 generating but for the implementation of "Caller ID" to
4 begin with. This special consideration is necessitated by
5 the display of caller`s numbers the "Caller ID" system will
6 produce. This is a situation which, up until today, has not
7 been a problem that Florida law enforcement has had to
8 address.

9 There may be other law enforcement needs that develop as we
10 begin to cope with the criminal element`s utilization of
11 "Caller ID" to its benefit. As these needs develop, we will
12 expect continued assistance from Southern Bell or any other
13 phone company offering "Caller ID."

14 It is our position that since these needs are generated
15 solely by reason of Southern Bell`s proposal, then Southern
16 Bell ought to be obligated to make such additional services
17 or considerations available on a continuing basis.

18 Q. IF EACH PROPOSAL OF SOUTHERN BELL TO ELIMINATE OR
19 REDUCE LAW ENFORCEMENT`S CONCERNS ABOUT "CALLER ID" AS
20 PROPOSED BY SOUTHERN BELL WERE IMPLEMENTED, WOULD FDLE AND
21 THE TASK FORCE STILL MAINTAIN THEIR OBJECTION TO "CALLER ID"
22 AS PROPOSED?

23 A. Yes, because Southern Bell`s solutions do not
24 adequately address the primary concern of law enforcement,
25 which is the protection of the safety of undercover

1 operatives.

2 Q. IN CONCLUSION, WOULD YOU BRIEFLY SUMMARIZE THE MAJOR
3 POINTS OF FDLE AND THE TASK FORCE'S OPPOSITION TO "CALLER
4 ID" AS PROPOSED BY SOUTHERN BELL?

5 A. First, and foremost, it endangers the safety of law
6 enforcement personnel. Second, the options offered by
7 Southern Bell are short term, costly, cumbersome, raise
8 their own concerns about safety of operatives, and could
9 have a net chilling effect on informants willingness to
10 assist in investigations. Third, the purported benefits to
11 citizens that can be obtained by "Caller ID" can be obtained
12 equally well or better by other phone system options such as
13 "Call Trace." These other options do not endanger the
14 safety of law enforcement personnel or operatives in an
15 undercover capacity. In undercover investigations, control
16 of the situation must remain with the law enforcement
17 agency. "Caller ID" as proposed by Southern Bell makes a
18 dangerous shift of that control to the criminal element.

19 Q. DOES THIS CONCLUDE YOUR TESTIMONY?

20 A. Yes.

21

22

23

24

25

1. Q. PLEASE STATE YOUR NAME, ADDRESS, AND OCCUPATION.

2. A. Ronald P. Tudor, P.O. Box 1489, Tallahassee, Florida,
3. 32302, Special Agent, Florida Department of Law Enforcement.

4. Q. WHAT IS THE PURPOSE OF THIS SUPPLEMENTAL TESTIMONY?

5. A. To clarify matters addressed in response to my direct
6. testimony as originally filed in this matter, and to rebut
7. certain assertions or matters asserted by others providing
8. direct testimony in this matter.

9. Q. ARE YOU FAMILIAR WITH THE DIRECT FILED TESTIMONY OF
10. LARRY K. RADIN, GTE TELEPHONE OPERATIONS SOUTH AREA SECURITY
11. DIRECTOR, AS HAS BEEN FILED IN THIS MATTER?

12. A. Yes.

13. Q. ON PAGE 10 OF MR. RADIN'S TESTIMONY, REGARDING GTE'S
14. PROPOSED PROTECTED NUMBER SERVICE, KNOWN AS PNS, HE STATES:
15. "MY CONTACTS WITH LAW ENFORCEMENT OFFICIALS HAVE LED TO A
16. RECOGNITION THAT PNS WILL ADDRESS THE MAJORITY OF THEIR
17. CONCERNS REGARDING THE NEED FOR CONFIDENTIALITY"---DOES MR.
18. RADIN'S STATEMENT ACCURATELY REFLECT THE POSITION OF FDLE
19. AND THE TASK FORCE?

20. A. No it does not. PNS, like other phone company
21. options, will assist in addressing law enforcement's need
22. for confidentiality but will not alleviate the majority of
23. FDLE or the Task Force's concerns. Our primary concern is
24. the safety of undercover operatives. PNS and similar
25. options will not alleviate our concern in this regard.

1. PNS as an option has its own drawbacks. It is a
2. presubscribed service, meaning only previously-identified
3. phones could be utilized to generate the "fictitious,
4. unpublished" number. As I pointed out in my direct exam
5. testimony, undercover investigations, particularly narcotics
6. investigations, are anything but predictable. Law
7. enforcement will not always have the option of utilizing a
8. phone from which we have secured PNS service ahead of time.
9. Like the other options suggested by Bell and other phone
10. companies, the lack of easily available use on a moment's
11. notice could result in the PNS option not being a viable
12. alternative.

13. PNS generates a phone number to be displayed upon a
14. "Caller ID" unit box. While that number is not published,
15. there is a possibility that records generated somewhere
16. within the phone system could link the number to the law
17. enforcement agency. While this risk might be reduced by
18. generating fictitious address and name records, this
19. requires creating such records for each PNS site, and will
20. require the ability to change, on very short notice, the
21. fictional name, the fictional address, etc. as demanded by
22. the investigation. Frequently in an investigation, numerous
23. law enforcement operatives may be called upon to utilize the
24. same undercover phone line. It should be obvious that the
25. same number could not be delivered to the criminal under

1. investigation each time a different operative utilizes the
2. undercover phone.

3. Since the numbers assigned to our undercover lines
4. are presently not being displayed, this has never been a
5. concern. Should "Caller ID" be implemented without
6. universal blocking, there is created a risk of detection
7. that simply is not a concern if no number is displayed.
8. This risk would be reduced in the case when law enforcement
9. "blocks" the display as part of universally-available
10. "Caller ID" blocking.

11. The PNS displayed number could be called back by a
12. criminal, thereby creating additional concerns about a
13. "slip-up" that could have severe and even fatal
14. consequences. For example, one could accidentally answer a
15. call placed to the "PNS-generated" phone number, even though
16. a distinctive ring has been occurring. Any unusual or
17. unexpected response could serve to "tip" a criminal that the
18. undercover operative he has been dealing with is someone
19. other than who he claims to be. The dire consequences of
20. such a revelation are obvious.

21. PNS should be considered an option that certainly is
22. welcome as law enforcement attempts to address our security
23. concerns if "Caller ID" is implemented, but it not a cure-
24. all as GTE seems to suggests.

25. Law enforcement's consideration of all these phone-

1. suggested options to address "Caller ID" problems would not
2. even be necessary but for the implementation of "Caller ID"
3. at the phone company's requests. Our basic position remains
4. unchanged: if you put law enforcement officers in jeopardy
5. through your proposed system, then it is your responsibility
6. to do everything possible to eliminate that jeopardy and
7. allow law enforcement to continue with its investigative
8. function with a minimum of administrative, bureaucratic, or
9. procedural interference.

10. Q. ON THE SAME PAGE OF MR. RADIN'S PREFILED TESTIMONY,
11. HE INDICATES "THE PRINCIPAL OBJECTION TO PNS RAISED BY LAW
12. ENFORCEMENT OFFICIALS HAS BEEN THEIR DESIRE FOR UNIFORMITY
13. IN THE WAY CALLING NUMBER IDENTIFICATION FEATURES ARE
14. OFFERED THROUGHOUT FLORIDA." DOES THIS ACCURATELY STATE THE
15. POSITION OF FDLE AND THE TASK FORCE?

16. A. No. The principal objection to PNS or any other
17. alternative to "Caller ID" offered by phone companies in
18. Florida is that they are being offered as a substitute for
19. the universally-available blocking option instead of being
20. offered as a supplement to the blocking option. As stated
21. in my prefiled direct testimony, there are numerous reasons
22. why, in order to protect the safety of undercover
23. operatives, universally-available blocking should be made a
24. part of any "Caller ID" offering. Law enforcement's
25. principal concern remains the safety of our officers and

1. operatives.

2. Obviously, it is important to law enforcement,
3. particularly to FDLE which has statewide enforcement
4. responsibilities, that a uniform and consistent system that
5. offers the universally-available blocking be offered
6. statewide. As a matter of operations, FDLE investigations
7. may begin at one end of the state and move throughout the
8. state as the investigation progresses. Consistency of
9. approach to "Caller ID" on a statewide basis, with statewide
10. universally-available blocking, is what is preferred. That
11. universally-available per call blocking should be the
12. uniform statewide Florida standard for any implemented
13. "Caller ID" system is further supported by the fact that at
14. least two phone companies providing service in Florida,
15. CENTEL and United Telephone Company of Florida, have
16. indicated they intend to offer some form of per call
17. blocking.

18. When PNS is viewed in the context of one of many
19. alternatives for addressing "Caller ID" related concerns, it
20. would be the desire of FDLE that (1) all the other
21. alternatives suggested by phone companies be offered in
22. addition to universally-available blocking; and (2) that
23. "Caller ID" with call blocking and the other options be
24. instituted in a consistent fashion statewide as long as such
25. consistency works to resolve law enforcement safety

1. concerns.

2. Q. ARE YOU FAMILIAR WITH THE PREFILED DIRECT TESTIMONY
3. OF SOUTHERN BELL WITNESS NANCY SIMS?

4. A. I am.

5. Q. ON PAGE 13 OF HER TESTIMONY, MS. SIMS INDICATES THAT
6. WITH REGARD TO THE SPECIAL NEEDS OF LAW ENFORCEMENT, "MANY
7. NEW AND CREATIVE ALTERNATIVES THAT ADEQUATELY MEET THE NEEDS
8. OF LAW ENFORCEMENT HAVE BEEN DEVELOPED AS A RESULT OF THE
9. JOINT COLLABORATION BETWEEN LAW ENFORCEMENT AND THE COMPANY
10. OVER THE PAST MONTHS." WHAT IS THE POSITION OF FDLE AND THE
11. TASK FORCE IN THIS REGARD?

12. A. The alternatives suggested by Southern Bell, and
13. similar alternatives such as PNS as suggested by GTE, do not
14. "adequately" meet the needs of law enforcement in that,
15. standing alone, they do not resolve the ultimate concern for
16. safety and integrity of investigations that has motivated
17. FDLE and the Task Force's opposition to Southern Bell's
18. proposal. As has been stated time and time again, the
19. options should not be considered substitutes for
20. implementing "Caller ID" with universally-available
21. blocking. They should be considered as additional ways of
22. protecting undercover operatives and law enforcement
23. officers. Concerns for the safety of law enforcement
24. undercover operatives will continue even with "Caller ID"
25. offered with universally-available blocking and even with

1. the additional options being made available.

2. The more options made available to law enforcement
3. above and beyond universally-available "Caller ID" blocking,
4. the better. In our opinion, what is adequate in resolving
5. our concerns should include every available alternative,
6. since in practice an inadequate option could result in the
7. death of a law enforcement officer or operative.

8. I also want to clarify that in my opinion, and in the
9. opinion of the Task Force, Southern Bell merely suggested
10. options for purposes of discussion. At no meeting of the
11. Task Force did a Southern Bell representative indicate he
12. was authorized to commit the Company to a position. In
13. fact, just the opposite was true. Whenever the Task Force
14. indicated a willingness to consider an option, the typical
15. response was, "I'll have to run this by Atlanta offices."
16. At least with regard to the discussion of display of numbers
17. selected by law enforcement, the issue became moot by reason
18. of indications from Southern Bell representatives that there
19. was "no way" Southern Bell's legal staff would approve the
20. program. To the extent that Ms. Sims suggests there was
21. closure and agreement on any area discussed between the Task
22. Force and the Southern Bell representatives, such a
23. suggestion is inaccurate.

24.

25.

1. Q. ON PAGE 13 OF MS. SIMS` TESTIMONY, SHE INDICATES THAT
2. BELL OFFERED THE OPTIONS AT NO COST. IS THIS AN ACCURATE
3. SUMMARY OF BELL`S POSITION IN YOUR OPINION?

4. A. Like I just indicated, Southern Bell suggested many
5. options, but never formally offered them. To my knowledge,
6. no person with authority to bind Southern Bell to a position
7. ever made an "offer" to the Task Force. Furthermore, Mark
8. Long, a staff member of the Public Service Commission,
9. indicated at a meeting of the Task Force that some of the
10. suggestions that services be offered without cost would
11. require PSC approval and were not things Southern Bell could
12. unilaterally commit to.

13. Q. ALSO ON PAGE 13 OF MS. SIMS` TESTIMONY, SHE
14. INDICATES, "SOUTHERN BELL, HOWEVER, IS NOT WILLING TO MEET
15. LAW ENFORCEMENT`S REQUEST THAT THEY BE PROVIDED WITH THE
16. ABILITY TO DELIVER ANYONE`S NUMBER SINCE IT COULD JEOPARDIZE
17. THE GENERAL PUBLIC." DOES THIS ACCURATELY REFLECT WHAT
18. FDLE AND THE TASK FORCE SUGGESTED IN THIS REGARD?

19. A. No. FDLE and the Task Force did indicate a desire to
20. be able to generate displays of phone numbers that were
21. relevant to the investigation. For example, if a criminal
22. expected a return call from a phone located in the bus
23. station and for security purposes we needed to place that
24. call from a more controlled location, we would like to be
25. able to generate the phone number of the bus station phone

1. when we make the call. It would be irresponsible to suggest
2. law enforcement wants the ability to pull a number that does
3. not relate to an investigation and display that on a "Caller
4. ID" display box.

5. In this regard, we indicated that if a court order
6. would be preferred to allow such displays, law enforcement
7. would agree to the same. As indicated above, after Southern
8. Bell representatives indicated there was "no way" Southern
9. Bell would accept this option, the issue became moot.
10. We also sought a listing of pay phone numbers in the
11. communities, with the suggestion that we display the number
12. of the pay phone rather than individual business or
13. residential numbers, but Southern Bell's representatives
14. indicated such numbers would not be provided.

15. Q. WAS THE "GENERATE A NUMBER" OPTION A MAJOR DESIRE OF
16. FDLE AND THE TASK FORCE?

17. A. It was, and remains, only one of numerous options we
18. considered of value in addition to universally-available
19. "Caller ID" blocking. In fact, the volume of options
20. discussed serves to underscore another major concern of FDLE
21. and the Task Force, which is that to the greatest extent
22. possible, a uniform approach to "Caller ID" and the options
23. for addressing problems associated therewith should be
24. implemented in Florida.

25.

1. Q. REGARDING MS. SIMS`S TESTIMONY AT PAGES 24 AND 25,
2. WHERE SHE DETAILS SOUTHERN BELL`S SUGGESTED CRITERIA FOR
3. ALLOWING BLOCKING, IS THERE ANY CONCERN ON YOUR PART WITH
4. THAT CRITERIA?

5. A. First, and most obvious, is our objection to limited
6. blocking in any form. It must be universally-available.

7. Second, if limited blocking were all that is offered,
8. and the Southern Bell criteria is applied, it would appear
9. that criteria item number three would assure that blocking
10. would rarely, if ever, occur. Since Southern Bell would be
11. "judge and jury" on whether criteria was met, Southern Bell
12. could, for example, take the position that "utilizing a pay
13. phone" is a "reasonable offering" in lieu of blocking that
14. will protect desired anonymity.

15. In fact, Ms. Sims indicated the real possibility of
16. such an response when, on page 11, she indicated that
17. customers with nonpublished numbers or "any other Southern
18. Bell subscriber", which presumably would include law
19. enforcement, who does not wish a certain party to have his
20. number can (1) choose not to call the person; (2) call from
21. a different number; (3) or use a method such as calling
22. through an operator.

23. Third, what is "reasonable" from Southern Bell`s
24. perspective is not "reasonable" from law enforcement`s
25. perspective. To imply that utilization of "alternatives"

1. will be an occasional task is unrealistic. It ignores the
2. reality that the caller often will not know if a person
3. called has "Caller ID" or not. From a law enforcement
4. perspective this means undercover investigators should act
5. under the assumption that "Caller ID" will be a factor in
6. virtually any call made. This is precisely the type of
7. complexity referred to by me in my direct testimony, and
8. which forms at least part of our objection to Southern
9. Bell's proposal.

10. Fourth, the posture taken by the phone companies
11. regarding blocking as reflected in Ms. Sims' testimony seems
12. to be the reverse of what is most appropriate. Rather than
13. trying to limit the persons for whom blocking is made
14. available to a very small portion of the phone using
15. population, why not make blocking universally available, but
16. then define those entities or persons that should have their
17. phone service configured so as to allow delivery of the
18. caller's number on all calls received regardless of whether
19. the caller has attempted to block.

20. Since the blocking function is done by computer, this
21. would be merely a task of reprogramming software or
22. implementing new commands to the computer. This would allow
23. for example, schools, law enforcement agencies, emergency
24. service providers, crisis intervention programs, and similar
25. entities to utilize "Caller ID" to display the numbers of

1. all received calls, regardless of whether the caller tried
2. to block or not. This is very similar to the Enhanced 911
3. capability already in place.

4. Classes of phones to which the blocking option would
5. not be made available could be identified. For example, the
6. numbers assigned to pay phones and phones in jails and
7. correctional institutions could be programmed to disallow
8. the blocking option.

9. By viewing the blocking question from this
10. perspective, I believe the law enforcement security
11. concerns, and the privacy concerns raised by those opposed
12. to "Caller ID" without universal blocking can be met. At
13. the same time, the concerns of many of those who might be
14. opposed to receiving blocked calls could be addressed by
15. defining those classes of customers or types of phones as
16. indicated above.

17. I submit that this represents an innovative
18. alternative that better addresses the large number of
19. concerns about blocking of "Caller ID." Blocking as
20. approached from this perspective, coupled with "Call Block",
21. "Call Trace" and the other CLASS type features would appear
22. to address the concerns of virtually every phone user which
23. have been voiced in the hearings and testimony regarding
24. this matter.

25.

1. While this last suggestion may not be the answer to
2. all "Caller ID" blocking concerns, it certainly is an
3. alternative that deserves serious consideration.

4. Q. ARE THERE ANY LIMITATIONS TO TODAY`S TESTIMONY ON
5. YOUR PART?

6. A. I want to make it clear that the Department of Law
7. Enforcement will be addressing Issues #2, #3, and #4, the
8. legal issues, in its post-hearing brief and my comments in
9. no way are intended to limit FDLE`s posture in that regard.

10. Q. DOES THIS CONCLUDE YOUR SUPPLEMENTARY TESTIMONY?

11. A. Yes.

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1 Q (By Mr. Ramage) Mr. Tudor, would you
2 summarize your testimony for us, please?

3 A In my testimony, first and foremost, it is
4 the position of the Florida Department of Law
5 Enforcement and the Law Enforcement Committee that I
6 was working with that, as currently proposed, Caller ID
7 endangers the safety of law enforcement personnel.

8 Second, the options offered by Southern Bell
9 were short-term, costly and cumbersome, and in
10 theirself raise concerns about the safety of our
11 operatives. We feel that they have a net chilling
12 effect on an informant's willingness to assist us in
13 investigations.

14 Third, the reported benefits to citizens that
15 can be obtained by Caller ID we feel could be obtained
16 equally well, or perhaps even better, by other phone
17 system options, such as Call Trace. These other
18 options do not endanger the safety of law enforcement
19 personnel or our operatives in any of their undercover
20 work.

21 In undercover investigations we feel that the
22 control of that situation most remain with the law
23 enforcement agency. It is our feeling that Caller ID,
24 as proposed by Southern Bell, makes a shift of that
25 control, a very dangerous shift to that control, to the

1 criminal, our adversaries.

2 In the last ten months I have had the
3 opportunity to meet with many of the representatives of
4 various phone companies, and out of all of these
5 meetings there's two conversations that stick in my
6 mind as significant indicators of our problem. The
7 first was a statement made by a Bell representative at
8 one of the committee meetings in Miami, and I quote:

9 "Ron, it doesn't matter which way this thing goes, we
10 are going to make a lot of money on these features."

11 The second conversation was a response to a
12 question that I posed to Mr. Dale Cross of Centel of
13 Florida, and when I asked Mr. Cross how Centel could
14 have proposed free universal per-call blocking, Mr.
15 Cross replied, "Custom call features generate a great
16 deal of revenue, and Centel realizes that free per-call
17 blocking may decrease that revenue. However, Centel
18 was unable to place a cost figure on the life of a
19 police officer."

20 It just seems to me that the second
21 explanation more accurately states the position of
22 providing a service to the public because it escapes me
23 how a nonessential telephone feature, such as Caller
24 ID, which poses life-threatening risk to innocent
25 parties can be considered a benefit to society.

1 MR. RAMAGE: Tender the witness for cross
2 examination

3 CROSS EXAMINATION

4 BY MR. PARKER:

5 Q Hi, Mr. Tudor. My name is Tom Parker,
6 General Telephone, just a few questions.

7 CHAIRMAN WILSON: You'll notice I'm not
8 following the friendly cross examination rule in order
9 of attorneys.

10 MR. PARKER: Okay. (Laughter)

11 Q (By Mr. Parker) The two conversations that
12 stuck in your mind, Mr. Tudor, that you just related to
13 us in your summary, those are not in either your direct
14 or rebuttal testimony, is that correct?

15 A No, sir. That's just a summary of my
16 testimony.

17 Q So while they stuck in your mind, I take it
18 they weren't important enough to put in your prefiled
19 testimony?

20 A Well, he asked me to summarize and those were
21 just things that stuck in my mind, overall, this whole
22 issue. That summarizes my feelings of what the major
23 problems were.

24 Q Okay. Now, you would agree with me, Mr.
25 Tudor, wouldn't you, that criminals are astute at

1 finding ways to get around technology?

2 A Yes, sir, I would.

3 Q And they are some of the first people to take
4 advantage of technology as they deem appropriate, is
5 that correct?

6 A I'm sorry, I didn't hear the last part of
7 that.

8 Q And they are one of the first segments of the
9 population that take advantage of technology if it's to
10 their advantage, is that correct?

11 A Yes, sir.

12 Q Now, two elements of telephony that have
13 become available to criminals in the recent past are
14 beepers and cellular telephones, is that correct?

15 A Yes, sir.

16 Q And those technologies have not been outlawed --

17 CHAIRMAN WILSON: Not just available to
18 criminals.

19 MR. PARKER: That is correct.

20 Q (By Mr. Parker) And those two technologies
21 have not been restricted in their deployment, is that
22 correct?

23 A Not to my knowledge.

24 Q Okay. Now, am I correct in my understanding
25 of your testimony, Mr. Tudor, that your purpose in

1 appearing here today is to represent concerns regarding
2 undercover officers?

3 A Yes, sir. Undercover officers and those that
4 are working with undercover officers in a cooperating
5 effort.

6 Q Okay, thank you for that clarification.

7 Now, you define the term "public interest" as
8 that which helps the public, is that correct?

9 A Yes, sir.

10 Q And your definition of "the public" is not
11 any particular segment but somewhere in between, is
12 that correct?

13 A If I understand your question correctly, I
14 would say that's generally a true statement, yes, sir.

15 Q Okay. Now, you are aware of General
16 Telephone's proposed PNS solution, is that correct?

17 A Yes, sir, I am.

18 Q And is PNS a technology or option that
19 provides you an increased level of comfort regarding
20 Caller ID?

21 A It would be better than no PNS offering, yes,
22 sir.

23 Q Okay. Now, Mr. Tudor, have you ever heard of
24 the International Association of Chiefs of Police?

25 A Yes, sir.

1 Q And what is that organization?

2 A To the best of my understanding, and I don't
3 belong to it, it is exactly, as the name applies, an
4 association that various Chiefs of Police belong to. I
5 would just tender that from the name.

6 Q Do you have any knowledge as to whether the
7 Florida Police Chiefs Association is a member of the
8 International Association of Chiefs of Police?

9 A I do not have any direct knowledge of that,
10 no, sir.

11 Q Okay.

12 I would like to have an exhibit marked,
13 please, Commissioner Wilson. I believe it would be 25.

14 CHAIRMAN WILSON: Yes, 25.

15 (Exhibit No. 25 marked for identification.)

16 Q (By Mr. Parker) And the exhibit which is
17 being handed out, and I will note and I did it, that
18 the title on the cross examination page is wrong. It
19 should read "International Association of Chiefs of
20 Police Resolution."

21 MR. RAMAGE: The Department of Law
22 Enforcement would object to any questioning about this
23 exhibit. There has been no foundation for questioning
24 at this point.

25 MR. PARKER: I haven't asked a question yet.

1 CHAIRMAN WILSON: I don't think he has asked
2 any questions yet.

3 MR. RAMAGE: He has established that Mr.
4 Tudor knows very little about the International
5 Association of Chiefs of Police.

6 CHAIRMAN WILSON: We will see what the
7 question is first and then if it's objectionable, you
8 can object. (Pause)

9 Q (By Mr. Parker) Have you ever seen this
10 document before, Mr. Tudor?

11 A No, I have not.

12 Q Would you just take a moment and review it,
13 please?

14 A I just did.

15 Q You have reviewed it?

16 A Yes, sir.

17 Q All right. Now, I would like to ask you,
18 sir, whether you agree or disagree with some of the
19 statements that are contained in this document.

20 A I agree and I disagree with some of the
21 statements contained in the document.

22 Q All right. Let's take them one by one and
23 see.

24 In the first paragraph it says, "The
25 telephone is frequently used by criminals to carry out

1 illegal activities, and in the cases of obscene,
2 threatening or harassing telephone calls is the
3 instrument of the offense." Do you agree or disagree
4 with that statement? (Pause)

5 A Yes, sir, I agree with that statement.

6 Q All right. Now, in the second paragraph it
7 says, "The ability to rapidly identify the telephone
8 from which these calls are originate, as well as calls
9 that are part of other crimes such as kidnapping and
10 terrorist actions, would provide crucial leads to law
11 enforcement personnel investigating these crimes." Do
12 you agree or disagree with that statement?

13 A In a limited context, I agree with that
14 statement.

15 Q And in the next paragraph it says --

16 MR. RAMAGE: I would ask that the witness be
17 given an opportunity to explain his answer.

18 CHAIRMAN WILSON: The witness always has an
19 opportunity to explain his answer. I didn't --

20 COMMISSIONER BEARD: There was a long pause.

21 CHAIRMAN WILSON: I didn't realize that he
22 had anything more to say about it.

23 MR. RAMAGE: Well, he prefaced it by "in a
24 limited context," and to me that implied a need to
25 explain his answer.

1 WITNESS TUDOR: I didn't know that I could
2 elaborate there.

3 CHAIRMAN WILSON: Witnesses can always
4 explain their answers here at the Commission.

5 WITNESS TUDOR: In the context in which the
6 paragraph is written there, specifically, yes.
7 However, I am satisfied that "the ability to rapidly
8 identify" could mean other means than Caller ID that
9 would be just as effective.

10 Q (By Mr. Parker) Okay. In the next paragraph
11 it says, "The ability to determine the originating
12 telephone number of incoming calls received by
13 emergency services can be critical in providing rapid
14 response to requests for assistance, particularly when
15 stress, injury or ongoing attack prevents the person
16 requesting assistance from providing all of the
17 information needed to dispatch responding units." Do
18 you agree or disagree with that statement?

19 A The same answer would apply to the previous
20 question: Yes, with qualifiers. And the qualifiers
21 there, again, if this is in reference to Caller ID
22 services, as the document indicates, I am not satisfied
23 that it can be done with the E911 just as effectively,
24 if not more so. And that the fact that Caller ID with
25 the number alone, I am not satisfied would give enough

1 information in an emergency response to just have that
2 number as to do a lot of good if, from what it says
3 here, the person requesting assistance, the attack
4 prevents them from providing all of the information
5 needed. Well, having the number alone and merely
6 calling them back, the attacker, whatever is causing
7 him not to give the information the first time, the
8 chances are that they still can't give it.

9 So, again, with that understanding, yes.

10 Q Okay. So if I understood your explanation,
11 Mr. Tudor, E911 provides an adequate or an equivalent
12 solution, is that correct?

13 A I would say that E911, enhanced version, is.

14 Q Call Trace would have no applicability to
15 providing an enhanced response to this type of
16 situation?

17 A I would say that Call Trace in this case, if
18 you are calling in an emergency situation, I don't have
19 any problem -- I mean, calls received by emergency
20 services, no. I think that E911 is much more
21 appropriate for emergency services to have enhanced
22 911.

23 Q Okay. In the next paragraph it says, "The
24 ability to identify the originating number of incoming
25 calls will increase the control citizens have over

1 receiving unwanted calls or calls from telephones in
2 the past have been used for harassing, threatening or
3 obscene calls, thereby protecting their privacy." Do
4 you agree or disagree with that statement?

5 A I disagree, and can explain if you'd like.

6 I don't see how knowing a number, seeing it
7 on my screen and not recognizing the number, if you can
8 identify the originating number of an incoming call,
9 how that is going to keep you from getting an unwanted
10 call if you don't know who the person was. All you
11 have is a number. So, basically, I disagree that that
12 is a true statement.

13 Q Okay. Let's skip the next paragraph and go
14 to the one on the bottom of this exhibit. It says,
15 "Technological advances also make it possible to meet
16 the needs of police agencies and certain other public
17 service providers, such as rape crisis counseling
18 services or shelters for battered spouses, to provide
19 'cover' telephone number displays when there are
20 legitimate security or confidentiality reasons not to
21 display the true originating telephone number of the
22 calls they place." Do you agree or disagree with that
23 statement?

24 A I understand the context of the statement.
25 In a limited fashion, that's true, if it's at the

1 location that that service is provided, that the
2 telephone call was provided.

3 Q Okay. Let's turn to Page 2 of this exhibit
4 and go to the last paragraph. It says, "Resolved that
5 the International Association of Chiefs of Police
6 opposes any legislation, state or federal, requiring
7 telecommunications companies to offer call blocking, as
8 this effectively negates the major benefits to be
9 derived from caller ID." Do you agree or disagree with
10 that statement?

11 A I disagree with it.

12 MR. PARKER: Thank you, Mr. Tudor. That's
13 all I have.

14 CROSS EXAMINATION

15 BY MR. KEENER:

16 Q Mr. Tudor, my name is Barlow Keener, and I
17 represent Southern Bell Telephone and Telegraph
18 Company. I believe we have met before.

19 A Yes, sir.

20 Q Mr. Tudor, do you agree that Caller ID would
21 benefit law enforcement if, for instance, when the
22 police arrested a criminal and recovered the criminal's
23 Caller ID device with other criminals' numbers stored
24 in the Caller ID device?

25 A I don't necessarily know that it would offer

1 any more of a benefit than we currently have with other
2 means. We are currently doing that in our major
3 investigations now. Through court-ordered trap and
4 trace procedures, we have all of their incoming calls,
5 for the most part, anyway; certainly, the ones that
6 could be captured through a CPE with using Caller ID.

7 Q Do you agree that Caller ID would benefit law
8 enforcement if undercover police always knew the number
9 of the criminal calling on a police hello-line equipped
10 with Caller ID?

11 A Yes, sir. Again, it's something we can do
12 now but, yes, it would benefit them.

13 Q Do you agree that Caller ID would benefit law
14 enforcement if a person with Caller ID could report to
15 police the telephone number of a person threatening
16 suicide?

17 A I'm sorry, could you repeat the question?

18 Q Do you agree that Caller ID would benefit law
19 enforcement if a person with Caller ID could report to
20 the police the telephone number of a person threatening
21 to commit suicide?

22 A Yes, sir.

23 Q Do you agree that Caller ID would benefit law
24 enforcement if fire departments could immediately
25 report to police the telephone number of a person

1 making a false fire alarm? (Pause)

2 A I'm not satisfied it would benefit that much
3 quicker than Call Trace but I guess it would be a
4 benefit, yes, sir.

5 Q Do you agree that Caller ID would benefit law
6 enforcement if schools and hospitals could immediately
7 report to police the telephone numbers associated with
8 bomb threats?

9 A The same answer applies: Yes, sir, but I
10 believe that we could also do it with Call Trace
11 capability.

12 Q Do you agree that Caller ID would benefit law
13 enforcement if persons with Caller ID could report to
14 police the telephone numbers of individuals making
15 threatening and harassing telephone calls?

16 A That's one that I'm not satisfied would
17 benefit nearly as much as Call Trace because I don't
18 think the evidentiary value of that CPE device is quite
19 as great as would be the evidence coming out of a Call
20 Trace record.

21 Q If that person received a life-threatening
22 telephone call, do you believe that it would benefit
23 law enforcement?

24 A Under basically the same circumstances, I'd
25 still say the same thing could be done with Call Trace

1 capability.

2 Q Okay.

3 A Provide better evidence.

4 - - - - -

5 Q Mr. Tudor, in your direct testimony on Page
6 5, Line 4, you stated that the Florida Sheriffs'
7 Association supported the position of the Task Force.
8 Did the Florida Sheriffs' Association approve the Task
9 Force position as stated in your testimony?

10 A Well, they contacted me both before then, as
11 I stated, in their discussion at deposition. Mr. Buddy
12 Phillips personally advised me that it was -- Caller
13 ID, as currently proposed, was not acceptable until all
14 of the safety and security needs had been met.

15 Q Did you confirm with the Florida Sheriffs'
16 Association, with Buddy Phillips, for instance, prior
17 to filing your testimony to confirm that the Florida
18 Sheriffs' Association supported your position as set
19 forth in your testimony?

20 A No, sir. Once these people had contacted me
21 and expressed these things I did not necessarily go
22 out, unless they had a -- been going to all these
23 meetings, I did not seek everyone's approval over and
24 over. I expected them to contact me and let me know
25 there was a change of position.

1 Q I'm going to move on to another subject.

2 COMMISSIONER BEARD: Then don't. Stop. Help
3 me understand. The Florida Sheriffs' Association told
4 you that they could not support Southern Bell's
5 position until all their safety concerns were taken
6 care of.

7 WITNESS TUDOR: Safety and security needs had
8 been taken care of. And at that time the documents
9 that we had discussed, the positions of the committee
10 that had been discussed, they said -- I won't say
11 "they", I will say Mr. Buddy Phillips specifically,
12 told me that he supported what we were doing.

13 COMMISSIONER BEARD: What's Buddy Phillips'
14 position?

15 WITNESS TUDOR: I don't know what his
16 position today is. I'm saying that at that time he
17 supported the position that the Law Enforcement
18 Committee was --

19 COMMISSIONER BEARD: Then Buddy Phillips
20 supported the position. I have a little familiarity
21 with the Florida Sheriffs' Association and how they
22 worked.

23 WITNESS TUDOR: Yes, sir. I'm just telling
24 you that he contacted me and asked me to speak before
25 the Florida Sheriffs' Association and expressed that to

1 me. I did not get a written resolution from the
2 Sheriffs' Association, if that's what we're looking
3 for.

4 COMMISSIONER BEARD: No. Did Buddy Phillips
5 represent to you that either they could not support
6 Southern Bell's petition until the safety security
7 measures were met or they supported FDLE's position,
8 they are different, I think.

9 WITNESS TUDOR: He said he supported what the
10 committee was doing, and that they agreed that they
11 could not accept Caller ID until the safety and
12 security needs were met. That was the end of the
13 conversation.

14 COMMISSIONER BEARD: Never mind.

15 COMMISSIONER EASLEY: What was interesting to
16 me in the public hearings was that law enforcement came
17 to the public hearings but we heard different things
18 from different law enforcement agencies. And it seemed
19 like local police, if I can make that distinction,
20 whether it was a sheriff or municipal organization,
21 seemed to have less problem with it than FDLE, or DEA,
22 or state or national types. Can you explain that to
23 me?

24 WITNESS TUDOR: Well, I'm not certain that
25 that's all a complete answer, ma'am, and the reason I

1 say that is I do have a fairly good stack of letters
2 from several municipal-type agencies in Dade County
3 that did support it.

4 CHAIRMAN WILSON: I'll bet your stack of
5 letters isn't as big as my stack of letters.

6 COMMISSIONER EASLEY: I didn't mean to imply
7 it was an absolute difference because there are some
8 that disagree with you from your own group, or from
9 your own type of group.

10 WITNESS TUDOR: But to further answer your
11 question, if I might, the major and significant
12 difference that we see is the way that we run the
13 operations and the way that we have to cross geographic
14 boundaries, and the fact that state and federal
15 agencies are by and large a much more transient type of
16 operation.

17 Many of the municipalities, by their very
18 nature, are operating in a much smaller geographic
19 region. Therefore, some of the alternatives -- that
20 we've not opposed these alternatives, we just said they
21 have not encompassed enough of our concerns, would work
22 under the local basis, and we accept that. We've never
23 disputed that those things would work in certain
24 situations in a narrow set of operating conditions.

25 We just feel that on the whole where you have

1 mobile people, you've got undercover operatives that
2 work a little different in the state and Federal level
3 than they do on the local level when it comes to
4 dealing with informants, that we pass out pagers to and
5 are expected to be in contact with the criminal
6 adversary, we don't feel we're working in quite the
7 same restrictive geographic boundaries that these
8 municipal agencies are.

9 COMMISSIONER BEARD: See, you could tell me
10 what agency you are with, where you are located, and
11 the approximate size of your community and I could
12 predict your position. In Starke they are probably
13 more interested in obscene phone calls and things along
14 those lines and would probably support it, and drug
15 interdiction and those kinds of things, I can
16 understand there is a position. It's not hard to
17 figure it out the differences and why those differences
18 are there.

19 WITNESS TUDOR: That would, in fact, be part
20 of it, and I don't dispute that. But we're saying they
21 don't operate in the same arena as far as the
22 undercover and we accept that and we're not disputing
23 that many of the alternatives offered by the various
24 phone companies will, in fact, work for their
25 operations.

1 CHAIRMAN WILSON: The other distinction I had
2 heard drawn was -- I don't know if I have these terms
3 right, one was first-line response agencies versus
4 either investigative or undercover, that the needs that
5 you have are much different.

6 WITNESS TUDOR: They are, sir. And as far as
7 Mr. Beard's comment in reference to maybe Starke and
8 being concerned with the abusive and obscene phone
9 call, we accept that as a problem. We also were trying
10 to weigh the balance, the threat as far as someone
11 being seriously injured from that type of call versus
12 what could happen if the identity is divulged through
13 the Caller ID, the potential for a serious injury. So
14 there is a lot to be considered there and I understand
15 what you're saying and we acknowledge that fully.

16 COMMISSIONER EASLEY: The level of
17 agree/disagree with the statement you just went
18 through, particularly when it came to the idea that
19 Call Trace could substitute, might be true for certain
20 agencies, might not be the solution for other agencies.
21 So you were speaking from your agency's perspective on
22 agree and disagree.

23 WITNESS TUDOR: That's correct. The agencies
24 and the committee that I represented, that's true.

25 COMMISSIONER EASLEY: Would the solutions

1 then to the problems that you see with Caller ID for
2 your type of agency as opposed to local law enforcement
3 also potentially -- finding the solutions be easier if
4 you recognized those differences?

5 WITNESS TUDOR: I think that through my
6 rebuttal testimony we have offered a proposed change to
7 this whole idea of Caller ID and call blocking that
8 would certainly expand the usefulness of the system to
9 all parties involved. And it's a little bit different
10 and innovative than what we have been discussing so
11 far.

12 COMMISSIONER EASLEY: Is it necessary to have
13 the same solution in order to meet your criteria? Is
14 it necessary to have the same solution for all users
15 with lesser degrees of difficulty?

16 WITNESS TUDOR: I think if we struck the
17 balance, ma'am, for instance, if I can pick one of our
18 solutions being the universal per-call blocking, for
19 instance, if we struck that balance where we did not do
20 harm to such agencies as schools that might be
21 receiving bomb threats or the hospitals that might be
22 receiving the bomb threats, and we protected them from
23 blocked calls preventing them from identifying such
24 calls, but yet had the universal anonymity of a blanket
25 per-call blocking, the balance has been struck where

1 both capabilities are met, and we've reduced
2 significantly the dangers, the risks involved.

3 COMMISSIONER BEARD: You said universal
4 per-call blocking. You didn't put the word "free" in
5 front of that.

6 WITNESS TUDOR: I have to qualify that, sir,
7 by stating it's the law enforcement's position from
8 Jump Street, if you'll excuse my terminology, that cost
9 is really not our main concern. I mean it's obviously
10 a concern because we work for the taxpayers; we want to
11 keep our costs down. But I'm not going to sit here and
12 sell out officers over 10 cents versus 95 cents for
13 something -- that's a very, very far back concern for
14 our position.

15 COMMISSIONER BEARD: Let me dissect that for
16 just a moment. If per-call blocking is offered at an
17 exorbitant rate such that the general population simply
18 is not going to use it, then the inherent masking you
19 are looking for is gone. To the extent we put some
20 cost on that that would prevent the arbitrary and
21 capricious use of that service, okay. And sometimes we
22 just saw testimony that perhaps a nickel will decrease
23 that significantly, that just prevents that casual use
24 of it, but doesn't present the masking effect for you,
25 even if we gave separate or distinctive treatment to

1 law enforcement and/or abuse agencies in that cost,
2 then the protective and masking device you need is
3 still there?

4 WITNESS TUDOR: As far as I'm concerned I'm
5 very neutral on that, we just need the availability.
6 As long as you don't water down, as you term it so
7 adequately, a masking effect, I can't oppose it. It's
8 not the scope of my responsibility to argue price. I
9 just want the protection.

10 COMMISSIONER BEARD: We had a lot of
11 discussions yesterday about technically what you do
12 with Ps and Os and use for undercover. D for drug
13 dealer, we'll have caller identification in its purest
14 sense.

15 If you had further masking utilization by one
16 letter, that just further blends you into the crowd.

17 WITNESS TUDOR: I'm not certain I fully
18 understand the mechanics what we're talking about
19 there.

20 COMMISSIONER BEARD: O+, O- and cellular
21 phones, as I understand it, we create an O or out of
22 service. Out of area, excuse me. Out of service is
23 what I do.

24 A blocked call would create a P, which then
25 creates a class of customers, the call blocker that's

1 separate from these over here. You are in effect
2 blocking the call through a different mechanism but
3 they are masking in a more diverse group of 0+, 0- and
4 cellular; more difficult to identify who is doing what
5 to whom. To the extent you took this call blocker
6 group and put an 0 there, now you have four populations
7 all showing the same signal, and it further masks and
8 makes more difficult the drug dealer identifying you,
9 the undercover agent?

10 WITNESS TUDOR: Again, if the database was
11 large enough and that enough people had the
12 availability of the blocking. I'm not satisfied that
13 it would be, significant as to what the blocking
14 indicator would be. From my own experience, as long as
15 it was available to everybody to do.

16 The major concern I have with the 0 or out of
17 service is through the data I collected in this project
18 since February, reading various trade journals, is we
19 don't know how long "out of service" is going to remain
20 a viable term; how much meaning it will have in a year
21 or so when we're afraid we have to readdress this whole
22 issue because out of service for calling cards wouldn't
23 be available, or out of service for the cellular phone
24 wouldn't be available, and the next thing you know it's
25 being delivered and does out of service mean anything?

1 I'm not personally concerned with P for
2 "private" being delivered. The whole original
3 connotation of P being police we fel' was because it
4 was a limited audience that had blocking, i.e. police
5 agencies or social agencies. That was the big concern
6 on the P being delivered.

7 CHAIRMAN WILSON: That's because your concern
8 is not privacy but anonymity.

9 WITNESS TUDOR: Yes, sir, in that case. I'll
10 be very frank with you, yes, we're all looking for
11 anonymity.

12 CHAIRMAN WILSON: Nothing to be embarrassed
13 or ashamed about.

14 WITNESS TUDOR: No, sir. That's our safety
15 valve.

16 COMMISSIONER BEARD: Carry on your business
17 in undercover, that sort of thing, you want to be able
18 to submerge yourself among the general population so --

19 WITNESS TUDOR: I would object to a U being
20 delivered. If we're going to say that's undercover,
21 we'd prefer the P for privacy.

22 COMMISSIONER BEARD: P for politician. It
23 would be even worse.

24 WITNESS TUDOR: Okay. Whatever. We have a
25 lot of those, too. So again a big audience.

1 Q (By Mr. Keener) Mr. Tudor, isn't it true
2 that local law enforcement agencies in Florida carry
3 out their own major undercover operations without the
4 intervention or assistance of FDLE?

5 A Absolutely.

6 Q Okay. Mr. Tudor, referring to your rebuttal
7 testimony, on Page 7 you stated that Southern Bell
8 never formally offered the Task Force alternative
9 options that could address certain concerns of law
10 enforcement. Did Southern Bell formally offer to law
11 enforcement, subject to this Commission's approval, the
12 use of a credit card to display a zero at no charge?

13 A Mr. Keener, if you for just one second back
14 up and tell me what page again. I did not have that
15 document.

16 Q Page 7 and going on to Page 8, but starting
17 on Page 7.

18 A Okay. If you would please restate your
19 question.

20 Q Okay. In your rebuttal testimony you stated
21 that Southern Bell never formally offered the Task
22 Force certain alternative options that address certain
23 concerns of law enforcement.

24 Did Southern Bell formally offer to law
25 enforcement, subject to this Commission's approval, the

1 use of a credit card to display a zero at no charge?

2 MR. RAMAGE: I want to interpose an objection
3 or at least a request for clarification. I don't see
4 the phrase "formally offered" on the page that's being
5 referred to here. If that's a paraphrase, then the
6 record needs to reflect that's a paraphrase of his
7 testimony.

8 MR. KEENER: I was actually referring to Line
9 10 on Page 7, where it states "At no meeting of the
10 Task Force did a Southern Bell representative indicate
11 that he was authorized to commit the company to a
12 position."

13 MR. RAMAGE: Okay.

14 MR. KEENER: And I was also referring to on
15 Page 8, Line 4 where it states "Like I just indicated,
16 Southern Bell suggested many options but never formally
17 offered them. To my knowledge no person with authority
18 to bind Southern Bell to a position ever made 'offer'
19 to the Task Force."

20 A And your original question was in reference
21 to using a calling card at zero charge, is that
22 correct?

23 Q Did Southern Bell ever formally make an offer
24 to law enforcement, subject to this Commission's
25 approval, to allow law enforcement to use a credit card

1 to display a zero at no charge?

2 A I believe there was a document sent out by
3 Mr. Lombardo that said that. I'm not satisfied that it
4 was a formal offering at any one of the Commission
5 meetings. I know it was discussed at one of the
6 committee meetings, and Mr. Mark Long, I believe, said
7 that -- basically objected, if you will, said that he
8 did not think Bell was authorized to make such an offer
9 because it would have to go before the Commission; if
10 that's your question, yes.

11 Q Is that an answer "yes", to my question?

12 A I don't consider that a formal offer, all
13 right, because at the time it was discussed it was in
14 question as to whether or not they could even do that.
15 And it was kind of left at it would have to be checked
16 into. There was discussion. It started out at 95
17 cents, it dropped. I saw one document at 17 cents.
18 I'll be quite honest, I lost track after a while
19 because it was not my main interest as to what the cost
20 was going to be. That particular option was not overly
21 attractive, so where it wound up as far as zero, 17
22 cents or 75 cents, I really don't recall.

23 Q Commissioner, I'd like to mark a cross
24 examination exhibit for identification. This would be
25 Exhibit 26.

1 CHAIRMAN WILSON: That's correct, Exhibit 26.

2 (Exhibit 26 marked for identification.)

3 Q (By Mr. Keener) Mr. Tudor, do you have a
4 copy of the exhibit?

5 A Yes, sir, I do.

6 Q Do you recognize the exhibit, Mr. Tudor?

7 A Yes, I do.

8 Q And what's the exhibit, can you tell me?

9 A It's a letter to me from Mr. Lombardo.

10 Q And Mr. Tudor, could I refer you to Page 2 of
11 that exhibit, Paragraph 6.

12 A Okay.

13 Q Where it states "In addition to the above
14 public coin telephone arrangement, I've also
15 recommended and received approval from Southern Bell to
16 waive charges on three of the options we've previously
17 proposed, including one, the per-call charge of 17
18 cents for use of a calling card to transmit a zero
19 out-of-area signal to the Caller ID box. The Florida
20 Public Service Commission, PSC's, recent Staff
21 recommendation has also proposed a waiver of this
22 charge."

23 A Okay.

24 Q Mr. Tudor, does this exhibit refresh your
25 recollection as to whether or not Southern Bell

1 formally offered to law enforcement, subject to this
2 Commission's approval, the use of a credit card calling
3 card to present a zero at no charge?

4 A Quite honestly it does.

5 Q And Mr. Tudor, did Southern Bell formally
6 offer to law enforcement the use of a remote access
7 dialing arrangement?

8 A Yes, sir.

9 Q And calling party number revision option at
10 no charge in order to meet the concerns of law
11 enforcement?

12 A Again, I don't recall on the no charge
13 because that was another one that we got into a debate
14 over, how it would work, and there was back and forth
15 -- I don't recall what the final thing on charge was.
16 As I stated earlier, that was not a predominant part of
17 the discussion.

18 Q Again, Mr. Tudor, if I could refer you back
19 to Paragraph 6, and I won't read the whole paragraph
20 again but it states that Southern Bell formally waives
21 charges, and then refer you down to the No. 2, which is
22 located below that paragraph where it states "Southern
23 Bell waives the charges for the installation and
24 monthly recurring charges related to the remote access
25 dialing arrangement and calling party number revision

1 options. See attachment 1 for the previously proposed
2 prices and descriptions."

3 Mr. Tudor, does this fresh your recollection
4 as to whether or not Southern Bell formally offered to
5 law enforcement, subject to this Commission's approval,
6 the ability to use remote access dialing arrangements
7 and calling party revisions at no charge?

8 A Yes, it does.

9 Q Mr. Tudor, in your role as the spokesman of
10 the Task Force representing all of law enforcement in
11 Florida, and certain federal agencies as well, did you
12 inform the FDLE, your own agency, or other agencies of
13 Southern Bell's offer as set forth in this letter?

14 A I'd like to qualify that. I don't think I
15 stated that I was representing all of law enforcement
16 in the state of Florida. I believe that was your
17 statement, not mine.

18 Q I'm sorry, Mr. Tudor. As the spokesman for
19 the Task Force who were you representing?

20 A I was representing the members of the Law
21 Enforcement Committee that were meeting on that matter.
22 Primarily agencies in South Florida where the original
23 tariff was proposed to take effect, and the Department
24 of Law Enforcement, and I never proposed to represent
25 all of law enforcement in the state of Florida.

1 Q Okay. Well, just with regard to the
2 Department of Law Enforcement, Mr. Tudor, did you
3 explain to them Southern Bell's offers as set forth in
4 Mr. Lombardo's letter?

5 A The documents I received were passed through
6 the chain to the various people in my chain of command,
7 and the offers that were made at the committee meetings
8 were discussed as either being complete or incomplete.
9 Yes, they were discussed within the -- within FDLE and
10 at the committee meetings.

11 Q And prior to my refreshing your recollection
12 today you do not remember if Southern Bell made these
13 offers, is that correct?

14 A As far as the free part, I probably didn't
15 because again, as far as we were concerned, it was
16 irrelevant and the cost was not the concern. So no, I
17 probably did not tell them it was free.

18 MR. KEENER: I'm moving on to another
19 subject.

20 COMMISSIONER EASLEY: What did you mean by
21 the discussion of whether the offers, or whatever your
22 term was, were complete or not complete. I don't
23 understand that?

24 WITNESS TUDOR: We did not feel the offers
25 that were being made at the committee meetings by the

1 Southern Bell representatives were complete enough to
2 cover our overall safety and security concerns. We
3 felt that they were, yes, an alternative that could be
4 used on occasion, but we're not fully encompassing
5 enough to cover all of our needs. It still left holes
6 in the dike, so to speak, that needed to be plugged.

7 COMMISSIONER GUNTER: That unlimited call
8 blocking would plug all those holes.

9 WITNESS TUDOR: Not all those holes, no,
10 ma'am, but we felt that would be a safety valve. By
11 that I might explain safety valve. Primarily the first
12 call to an unknown party, we don't know -- many times
13 again I'm relating instances of using a pager as my
14 primary means of communication. My pager goes off, the
15 number comes on the pager. I don't know at that point
16 who that number belongs to. Somebody has entered the
17 number in there and said call it.

18 The initial call back, if I had the Call
19 Block capability, I could block the call, call, and at
20 least determine is this a call that is relevant to the
21 criminal investigation I'm conducting or is it an
22 irrelevant personal call or my supervisor calling or
23 something. So it provided a safety valve so at least
24 that first return call, which by and large are not
25 going to be to bad guys, doesn't divulge me in case it

1 was.

2 COMMISSIONER EASLEY: How do they have the
3 number to call you to begin with?

4 WITNESS TUDOR: They had a pager number.

5 COMMISSIONER EASLEY: They are calling the
6 pager number.

7 WITNESS TUDOR: Yes, ma'am.

8 COMMISSIONER EASLEY: But the number they
9 offered to put in as the dummy number, could that have
10 been the pager number so that if you called back they
11 would have gotten the same number they called to begin
12 with?

13 WITNESS TUDOR: Yes, ma'am. But again it did
14 not cover all the scenarios of being able to call back
15 from the location. Now, the remote access, if you're
16 referring to the remote access dialing, I'm not sure
17 which alternative we're talking about. We've got
18 several here.

19 COMMISSIONER EASLEY: Well, whatever would
20 get them the same number they already had, I can't
21 figure out where the hole is in that. If they have
22 already got the number to call the pager and the pager
23 number is what shows up on Caller ID, where is the
24 hole?

25 WITNESS TUDOR: And if we're talking about

1 remote access dialing arrangement.

2 COMMISSIONER EASLEY: Whatever.

3 WITNESS TUDOR: We weren't going to be able
4 to offer that to our confidential informants. We felt
5 we had an obligation to protect those people. We
6 operate off the same pager system, if you will, as many
7 of the undercover agents do. And we were not going to,
8 for security purposes, give them the availability of
9 that remote access dialing capability. That was an
10 agreement that even Bell agreed that we would want to
11 protect that and control that to just agents and not
12 participating witnesses or confidential informants.

13 COMMISSIONER EASLEY: If there is a
14 discussion of a combination of these things, you use
15 the remote dial and give the credit cards to the ones
16 you didn't want to be able to use that?

17 WITNESS TUDOR: We felt that the credit card
18 for cooperating witnesses particularly and even for the
19 informant, since it required 14 digits to make every
20 phone call, we just felt it was too big a margin of
21 error; it was enough for us to try to train agents.
22 They go through a continuous rigorous training on how
23 to do things. We felt eventually we would possibly be
24 able to retrain them. We did not feel that the average
25 citizen who may be working with us for a couple of

1 weeks or a month or so is going to take a lifetime of
2 local dialing habits, and because they are working for
3 us for the next couple of weeks, if their pager went
4 off or whatever, that they are going to go through that
5 whole credit card rigamarole. If they made a mistake
6 and returned the call without going through that whole
7 14 digit dialing process for the credit card, we felt
8 they were going to subject themselves to a potential
9 threat and risk. And still do.

10 COMMISSIONER BEARD: The 14 digits, the zero
11 plus, a credit card number, right, just like I use a
12 credit card number.

13 WITNESS TUDOR: Yes, sir, that plus the phone
14 call.

15 COMMISSIONER BEARD: Sure. Just exactly --
16 it's exactly as though you make a 0+ long distance
17 phone call today using a credit card. And your concern
18 is that they won't be able to do that.

19 WITNESS TUDOR: No, sir, that's not my
20 concern. My concern is that they would do that for a
21 long distance call because most people have been
22 ingrained and trained for long distance calls that's
23 the norm. But a lifetime of dialing local calls does
24 not require going through and pulling your credit card
25 out and most people do not remember that credit card

1 number so that they would do it for every local call.

2 COMMISSIONER GUNTER: These people are
3 witnesses or informers. Don't you think they are going
4 to be nervous enough about their own welfare that they
5 ain't going to forget that credit card number?

6 COMMISSIONER BEARD: Their lifetime of
7 dialing might be a lot shorter if they didn't do it.

8 WITNESS TUDOR: That is your interpretation.
9 I would venture to say that if you have been in that
10 position, you're right. You're going to be nervous and
11 you're going to have so many other things going through
12 your mind that you're going to respond and react to
13 what you have been doing for a lifetime and that one is
14 not going to be the foremost thing in your mind.

15 COMMISSIONER EASLEY: They'd call 911 because
16 that's what I do.

17 WITNESS TUDOR: Again, the potential threat
18 there was something that we had to consider.

19 COMMISSIONER BEARD: I guess the alternative
20 is it might be easier then, if you would, to retrain to
21 dial 0- and they have to take the time to stop and
22 think.

23 WITNESS TUDOR: I would like to have an
24 explanation of what the 0- is. I'm still trying to
25 figure that one out.

1 COMMISSIONER BEARD: 0- is the mechanical
2 variation of 0+. 0+ is I dial 0 and the phone number
3 I'm going to try to reach and I get the "bong" and I
4 enter the credit card. 0- is, 0 will get the "bong"
5 and I sit there and wait and the operator comes on,
6 says, "Yoa," and you say, "I want to call this number
7 and I want to put in -- I want to charge it to this
8 credit card number."

9 WITNESS TUDOR: See, I was not familiar with
10 the 0-.

11 COMMISSIONER BEARD: And if nothing else, it
12 causes them to stop long enough to think that "My life
13 is at stake here so maybe I ought to give the credit
14 card number instead of just dialing locally." I don't
15 know. I'm asking.

16 A Well, again, the overall concern there is the
17 vast majority of the calls people are going to be
18 making on this pager probably won't be criminal in
19 nature, and so we're putting this burden on them for
20 every call. We felt that the compromise -- none of
21 this would be necessary, were it not for Caller ID in
22 the first place -- we're feeling that the compromise is
23 Caller ID with Call Blocking is the compromise. It
24 minimizes the steps, it minimizes the complexity of
25 making these calls and still provides the security, the

1 little safety net there.

2 So we felt that there had been a compromise,
3 and as far as inconvenience, by accepting Caller ID
4 with Call Blocking. We felt the other one was the
5 inconvenience definitely going too far. It's not a
6 matter of no inconvenience, Caller ID in itself is an
7 inconvenience as far as we're concerned even with the
8 Call Blocking. So it's not the matter of the
9 inconvenience, it's beyond that. It starts to becoming
10 inconvenient enough that it's now much more likely to
11 make a mistake with it.

12 COMMISSIONER EASLEY: You know, I can't help
13 but observe that, when you get that number displayed on
14 your pager, do you know any more about it?

15 WITNESS TUDOR: Nope. That's exactly why we
16 are afraid of returning the call to that person.

17 COMMISSIONER BEARD: In a few instances you
18 surely would recognize your home number --

19 WITNESS TUDOR: Yes, sir.

20 COMMISSIONER BEARD: -- or your supervisor's
21 phone number?

22 WITNESS TUDOR: Maybe. Maybe the supervisor.
23 Again, there's a few levels of my supervisors I don't
24 recognize because they don't call me on a regular
25 enough basis. I probably would not recognize General

1 Counsel's, there are other people within my agency that
2 page me that I don't know their phone number when it
3 comes over, and that does quite often happen. We have
4 a lot of people.

5 So yes, some of the phone numbers I would
6 recognize and I wouldn't have any problem with it. But
7 by and large, most of my page calls as well as many of
8 the people out there carrying pagers in a pure
9 undercover capacity are not always to a criminal; so
10 every call you wouldn't go through that step.

11 Q (By Mr. Keener) Mr. Tudor, isn't it also true
12 that the task force, in their working with Southern
13 Bell, requested that Southern Bell give them the
14 ability to cause a Southern Bell public telephone
15 number to be placed on a quote/unquote "bad guy's"
16 Caller ID device?

17 A That's correct.

18 Q And isn't it also true, Mr. Tudor, that
19 Southern Bell formally offered the task force, subject
20 to this Commission's approval, that ability at Southern
21 Bell's cost?

22 A To my best recollection of this, and I would
23 say you would have to call another witness in, I was
24 told by the Chairman of the committee that such an
25 offer was withdrawn shortly after it was made with the

1 stipulation that the attorneys for Southern Bell would
2 probably not approve of it. And that was the last I
3 heard of that issue. That witness that heard that is
4 in this room.

5 Q Mr. Tudor, if I could refer you to Page 1 of
6 Exhibit 26?

7 A Yes, sir.

8 Q Where it states, beginning at about the third
9 line down, I'm just going to read this portion to you,
10 Mr. Tudor. "As I recall," this is Tony Lombardo
11 speaking, "As I recall, John Hastings, DEA, said that
12 if we had resolved 98% of the problems associated with
13 Caller ID and if we could work out the coin telephone
14 arrangement, he believed that law enforcement's
15 problems with Caller ID would be satisfied. Within a
16 week following our meeting, we were able to structure
17 an arrangement through our attorneys which would
18 address the liability issue and enable us to provide a
19 variation of your request, i.e., using Southern Bell
20 public coin telephone numbers and a Southern Bell
21 employee to input the telephone number. At that time,
22 I advised John Hastings of this arrangement. We would
23 provide this public coin telephone arrangement at our
24 cost."

25 Q Mr. Tudor, does this refresh your

1 recollection?

2 A It absolutely does. Because I called Mr.
3 Hastings on that and was told that that offer had been
4 rescinded by the time I had gotten that letter, that
5 that was no longer a valid offer. So I went by the
6 Chairman of the committee's indication that he had got
7 back with Mr. Lombardo and that that was no longer a
8 valid offer.

9 Q Did Mr. Hastings tell you -- he told you he
10 spoke with Mr. Lombardo about that?

11 A I believe he said -- he just, if I recall
12 correctly, he said the offer had since been rescinded.

13 Q Did he not tell you, as spokesman for the
14 task force, who rescinded that offer?

15 A I don't recall specifically the conversation.
16 Since there had been so many offers made and backed off
17 on, made and backed off on, I didn't pursue it. I
18 figured well, it was another one that something has
19 come up.

20 We had several issues at several committee
21 meetings where, when we thought we had made ground, we
22 thought we had a compromise worked out, the next thing
23 we knew, Bell says, "Well, we talked to Atlanta" or
24 whoever the magical decisionmakers were, "and they
25 could not come up with an agreement and we're going to

1 have to back off on that." So to me it was just
2 business as usual.

3 CHAIRMAN WILSON: Are you going to dwell much
4 longer on stalled negotiations?

5 MR. KEENER: That's it.

6 CHAIRMAN WILSON: Okay.

7 Q (By Mr. Keener) Mr. Tudor, is the task force
8 requesting the ability to display any number, to be
9 able to display any number on the Caller ID CPE device
10 with that number chosen at the discretion of law
11 enforcement as one of their options?

12 A Any number relevant to the ongoing
13 investigation.

14 COMMISSIONER BEARD: What does that mean?

15 WITNESS TUDOR: In other words, I would have
16 no need to go down a telephone book and pick a number
17 and put it in, or I would have no, it would not serve
18 my investigative goals and objectives to at random pick
19 somebody's phone number. If it was not a number that
20 my adversary expected to see indicating perhaps a
21 geographic area that he expected me to be calling from,
22 then I don't know what benefit I would have in just
23 randomly going through a phone book and putting a
24 number in there.

25 COMMISSIONER BEARD: If you were doing an

1 investigation in Tallahassee and you were wherever and
2 it was your impression that this criminal, potential
3 criminal, whatever, expected to see a 386 number show
4 up, would it then be your desire to be able to plop in
5 a 386 number or a very specific 386 number
6 preidentified?

7 WITNESS TUDOR: Generally speaking, it would
8 be specific number for --

9 COMMISSIONER BEARD: "Generally speaking"
10 scares me, because the prefix at my home is 386 and
11 "generally speaking" would be okay but not quite good
12 enough. That's why I'm asking the question. I need to
13 understand that.

14 WITNESS TUDOR: Do you understand right now
15 that undercover officers will, because somebody says,
16 "Where are you calling from?" will tell them they're
17 calling from the bus station or airport or whatever?

18 COMMISSIONER BEARD: Uh-huh.

19 WITNESS TUDOR: So we basically would be
20 doing something similar.

21 COMMISSIONER BEARD: Do they normally now go
22 to the phone number and find a phone number or make up
23 a fictitious phone number?

24 WITNESS TUDOR: That's why we were willing to
25 work out some arrangement like that. That was a

1 compromise that we said we would be willing to make.
2 We thought we were on to a negotiated track of doing
3 that when it was in fact pulled.

4 COMMISSIONER BEARD: I'm trying to
5 understand, "a negotiated track"?

6 WITNESS TUDOR: Of being able to get that
7 list of those pay phones so we could do exactly that,
8 use public phones; that was a compromise that was
9 seriously discussed.

10 Yes, we wanted the first option, I don't deny
11 that. Yes, we offered whatever audit trails were
12 necessary to trace who made the call, when they made
13 the call and for what purpose they made the call. We
14 had members of management say, "We will gladly follow
15 up and closely scrutinize the use of any such systems."
16 Because of the concerns you've expressed, we did say
17 we're willing to work out something less. It did not
18 come to fruition. Bell, in one meeting that I was at,
19 said they just don't think their attorneys will go for
20 that.

21 COMMISSIONER BEARD: Okay. I'm sorry.

22 Q (By Mr. Keener) Mr. Tudor, during your
23 deposition we discussed several examples set forth in
24 your direct testimony where you claim that Caller ID in
25 other states has jeopardized law enforcement

1 investigations. You don't have any firsthand knowledge
2 of any of these examples, do you, Mr. Tudor?

3 A No, sir, I've never worked in those states.

4 Q Mr. Tudor, isn't it true that if law
5 enforcement used Caller ID without blocking and
6 followed the proper procedures, given the options
7 offered by Southern Bell, that they would be as safe as
8 they are today in carrying out their undercover duties?

9 A No. Your question is based on the premise
10 that that's possible. I don't think it's possible.

11 MR. KEENER: That's all my questions. Thank
12 you, Mr. Tudor.

13 CHAIRMAN WILSON: Questions? Questions?

14 CROSS EXAMINATION

15 BY MR. MATHUES:

16 Q Good afternoon, Mr. Tudor. I'm Steve
17 Mathues, representing the Department of General
18 Services.

19 Since you filed your direct and rebuttal
20 testimony, are you aware of any new security concerns
21 being made public regarding Caller ID?

22 A I know of at least one that I have been told
23 I can state here.

24 Q What is that, sir?

25 A There is definitely one of the members of our

1 committee has discussed in private and has finally said
2 that I can go ahead and make the statement here: there
3 is a concern for national security in the matters
4 investigating foreign criminal intelligence or
5 espionage that Caller ID without the availability of
6 the per-call blocking could, in fact, pose some serious
7 threats to those types of investigations.

8 Q Are you familiar with Chapter 934 and the
9 trap and trace provisions therein?

10 A Yes, sir, I believe I am.

11 Q Do you have an opinion as to whether Caller
12 ID as proposed by Southern Bell constitutes a trap and
13 trace device?

14 MR. PARKER: Objection, calls for a legal
15 conclusion. I think it's a matter properly reserved
16 for brief.

17 CHAIRMAN WILSON: Argument?

18 MR. MATHUES: Simply his opinion for what
19 it's worth.

20 MR. PARKER: It's worthless.

21 CHAIRMAN WILSON: With all due respect, I
22 think it's probably an appropriate objection.

23 MR. DORAN: May I be heard on that?

24 In the Pennsylvania case, the Barasch case
25 which is referred to throughout the pleadings, the

1 Pennsylvania Public Service Commission utilized a
2 factfinder, made that determination that a trap and
3 trace was done through witnesses such as this witness.
4 As a practical matter, I think it would have some
5 weight to hear from a witness as to the practical
6 aspects of trap and trace as a distinct issue as to
7 whether or not it might violate the statute.

8 CHAIRMAN WILSON: I think if the inquiry
9 were, "How does trap and trace work? How does Caller
10 ID work? Do they appear to be the identical thing and
11 produce identical conclusions," might be one thing.
12 But to ask him for his legal conclusion as to whether
13 it constitutes basically a wire tap I don't think would
14 carry any weight at all here.

15 MR. DORAN: I appreciate that.

16 CHAIRMAN WILSON: I mean, I could be wrong
17 but I don't think so.

18 Q (By Mr. Mathues) Special Agent Tudor, are you
19 familiar with how a traditional trap and trace device
20 works?

21 A I believe so.

22 Q Is that a yes?

23 A Yes, sir.

24 Q Are you familiar with how Caller ID as
25 proposed by Southern Bell works?

1 A Yes, sir.

2 Q Are there any significant differences between
3 the two?

4 A The digital switch trap and trace and the
5 Caller ID, the end results in my opinion are the same.

6 MR. PARKER: I think that answer was
7 unresponsive. He asked if there was a technical
8 difference and he said the end result was the same. I
9 move to strike that answer.

10 CHAIRMAN WILSON: I don't think that is
11 really responsive to the question, either.

12 Q (By Mr. Mathues) Can you complain how those
13 devices work in the capture of the information?

14 A Both of them, to the best of my
15 understanding, the technical aspects of the digital
16 trap and trace and the technology involved in the
17 Caller ID type of device is a programming of the switch
18 through a terminal to look for a certain number. And
19 in that respect, I believe they both do the same thing.
20 The switch is programmed to look for that number and
21 display that number. It's either displayed in a little
22 box called a CP, it's passed down the wire and
23 displayed in that box, or it's displayed in the central
24 office on a recorded device.

25 COMMISSIONER EASLEY: Excuse me.

1 CHAIRMAN WILSON: Today, does a calling party
2 have a reasonable expectation that trap and trace may
3 be placed on his call? His or her call?

4 WITNESS TUDOR: I'm sorry, could you say
5 that, sir?

6 CHAIRMAN WILSON: Does the calling party,
7 someone using the telephone today, have any reasonable
8 fear or expectation that a trap and trace device is
9 going to be placed on his line?

10 WITNESS TUDOR: It's been my training under
11 the recent statutes in Florida regarding trap and trace
12 and wiretap that absent due process and court orders
13 that they do have a expectation that that won't happen.

14 CHAIRMAN WILSON: That that will not happen?
15 If Caller ID were permitted without blocking -- and
16 there were advertisements, it was a known service, it's
17 in the phone book and everything -- would a person have
18 a reasonable expectation that in fact his number may be
19 displayed on any telephone which he calls, he or she
20 calls?

21 WITNESS TUDOR: I have very mixed emotions on
22 that, Mr. Chairman, because I raised that question a
23 few years ago of why couldn't law enforcement put a
24 broad statement in the phone book that everyone's phone
25 is subject to being tapped and therefore remove the

1 consent problem because everybody would know their
2 phone was tapped right up front? So I'm wondering if
3 that's not --

4 CHAIRMAN WILSON: Somebody probably said,
5 "Nice try."

6 WITNESS TUDOR: Exactly. I'm wondering if
7 that isn't basically the same thing, that we're telling
8 them up front that it can be done, does that remove the
9 privacy issue?

10 CHAIRMAN WILSON: Well, part of the argument
11 that I've heard is that the person can choose to either
12 make a call or not make a call, knowing that whoever is
13 on the other end of that call can, as a matter of
14 technology in the telephone network, determine what
15 that number is as it's incoming. So there's a tacit
16 permission to read your number by the making of that
17 call.

18 Which, do you agree with me there's a certain
19 qualitative difference between that and having a
20 reasonable expectation that somebody out there has
21 gotten a warrant and has gotten permission from the
22 court to go in and install trap and trace --

23 WITNESS TUDOR: I would say obviously if it's
24 well-documented enough that it exists, then yes, there
25 is a tacit approval.

1 COMMISSIONER BEARD: In the Tallahassee area --

2 WITNESS TUDOR: Forced. I'm sorry, forced
3 tacit approval.

4 COMMISSIONER BEARD: In the Tallahassee area
5 where per-use Call Trace exists, I have teenagers, I
6 get calls periodically where if I answer the phone,
7 there's silence and a click. I suspect it's probably
8 some rascal trying to talk to my daughter. And,
9 conversely, I may decide, well, I'll show that little
10 so-and-so, and I punch in Call Trace.

11 So conversely, when my slightly older son
12 does the same thing to somebody else's sweet daughter,
13 then they might do the same thing to me. So I really
14 have no, no -- I shouldn't have any fear in one sense
15 or feeling of safety that my number isn't being traced,
16 probably on a regular basis, depending on how many
17 phone calls my son makes.

18 WITNESS TUDOR: Under those circumstances
19 where we're not talking about a court order trap and
20 trace that I was referring to, if you're talking about
21 the instituted star-dot-whatever trace, Call Tracing, I
22 feel that the answer there is not in the technology but
23 in the management of the technology, what do we do? I
24 feel that proper pricing structure on offering that and
25 I feel that proper followup by those that are receiving

1 the requests to trace -- i.e., the star number -- could
2 prevent such abuse as you're talking about. If
3 everybody is going to do it and they're not going to be
4 punished for abusing it, why, certainly.

5 I believe also that Ms. Sims made a statement
6 yesterday the mere fact that a service might be abused
7 does not warrant not offering the service. So she said
8 that yesterday and I would say it probably applies here
9 also, the fact that somebody might abuse that.

10 Now if your point is that somebody could be
11 traced without court orders, this whole CLASS service
12 to me subrogates the whole point of --

13 COMMISSIONER BEARD: My only point is that
14 there is supposedly some security in people's minds
15 that they have some privacy that in fact they really
16 don't have already; it's already gone, okay? Through
17 Ring Back, through Call Trace, because of -- I mean, in
18 Southern Bell's case, if I can show two or three calls
19 and his minor discomfort might be my severe annoyance,
20 I could maybe even convince Southern Bell to write a
21 letter.

22 WITNESS TUDOR: You're not going to get any
23 argument from me because all these services you
24 describe to me I consider CLASS services and the
25 initial position of the people that discussed this in

1 law enforcement was you can flush the whole CLASS
2 service system as far as we're concerned as far as the
3 value it provides versus the removal of privacy issues
4 and privacy concerns that we had; and we were willing
5 to flush the whole CLASS service from the beginning.
6 So I'm not going to argue with you on that point, I
7 agree with you. We're saying we're accepting the
8 lesser of the evils.

9 COMMISSIONER BEARD: I'm trying to understand
10 what people's expectations are. There's been a lot of
11 talk about that, and --

12 WITNESS TUDOR: I think they're being
13 diminished by the day with these services.

14 COMMISSIONER BEARD: Well, perhaps.

15 COMMISSIONER GUNTER: Let me ask you a
16 question. We start talking about people's
17 expectations, and what have you, and I read very
18 quickly through Exhibit No. 27, which was a position
19 statement by the Civil Liberties Union?

20 WITNESS TUDOR: Yes, sir.

21 COMMISSIONER BEARD: You know, there are a
22 lot of folks, 800 service has ANI, is that right?

23 WITNESS TUDOR: Yes, sir.

24 COMMISSIONER BEARD: And you can start with
25 Wildlife Alert and you can go right down, there are a

1 lot of activities encouraging people to turn in crooks,
2 what have you, and all those are 800s. And to those
3 agencies you have that number anyway.

4 WITNESS TUDOR: Mr. Gunter, I would have to
5 question how much of the American public knows that,
6 has an understanding of that.

7 COMMISSIONER BEARD: I'm not talking about
8 the American public, I'm talking about the perception
9 is, though, that that's a completely anonymous call
10 situation.

11 WITNESS TUDOR: Exactly.

12 COMMISSIONER BEARD: But in fact it is not an
13 anonymous call. In fact, I don't know if you all have
14 where people would call in and report or not, but you
15 have the phone numbers of people that call; and so,
16 being completely anonymous, that's somewhat of a myth
17 that's being put out that it will be completely
18 anonymous. And, you know, no need for you to ever
19 know, you give them a PIN number or something on one of
20 those award things but you know where the call came
21 from, don't you?

22 WITNESS TUDOR: On that 800 system on ANI, I
23 agree.

24 COMMISSIONER GUNTER: Well, what we're doing,
25 we're just talking about degrees.

1 WITNESS TUDOR: Yes, sir. And I'm not
2 satisfied that that was right, either.

3 COMMISSIONER GUNTER: I'm not either. It's
4 something that we've got.

5 WITNESS TUDOR: Yes, sir.

6 COMMISSIONER BEARD: But you all do have an
7 800 anonymous line that has tracking for cases so
8 people can anonymously keep up?

9 WITNESS TUDOR: Especially the runaway
10 children line.

11 COMMISSIONER BEARD: Yeah. Well, even where
12 you complain about, let's say, local government --

13 WITNESS TUDOR: Hotline? I'm not aware that
14 we use the ANI facility for it, I don't know one way or
15 the other.

16 COMMISSIONER GUNTER: Yeah, but it's
17 available.

18 WITNESS TUDOR: Yes, sir, it is. Absolutely.
19 We acknowledge that.

20 COMMISSIONER GUNTER: And I think where we're
21 at now is the degrees of where we are. There's
22 questions about privacy issues, wiretap issues, what
23 have you. And some of the folks that are making those
24 questions about Constitutional, and what have you, are
25 users of the service and that is sort of a little bit

1 tit-for-tat kind of thing. Maybe we can start our
2 CLASS III service and resolve all this that I suggested
3 at the break.

4 MR. MATHUES: Mr. Chairman, I have had
5 distributed by cross examination an exhibit which I
6 believe Commissioner Gunter has dubbed No. 27, could we
7 make that official?

8 CHAIRMAN WILSON: Yes, Exhibit 27.

9 (Exhibit No. 27 marked for identification)

10 WITNESS TUDOR: I apologize, Mr. Mathues,
11 mine is not, if you would refer to the document by
12 name, I don't have an exhibit on mine.

13 MR. MATHUES: "ACLU Position Statement" on
14 the cover sheet.

15 WITNESS TUDOR: Yes, sir.

16 Q (By Mr. Mathues) Have you seen this document
17 before?

18 A Yes, sir, I have.

19 Q Earlier, Mr. Keener asked you some questions
20 concerning benefits to law enforcement by using Caller
21 ID themselves. Is it your belief that this is an
22 unfettered benefit or use, or do you believe that
23 certain entities would take exception to that use?

24 A Well, as I stated in earlier prefiled
25 testimony, early on in this process I saw this document

1 and I believe there was even an article in the paper
2 referring to this document or something similar that
3 said that the American Civil Liberties Union, for one,
4 there would be basically a grassroots movement to
5 preclude government from being able to use Caller ID --
6 again, absent court-ordered documents -- because they
7 felt it was in fact a violation of the current laws.
8 So we don't feel that if we were allowed to use it from
9 an investigative standpoint it would be completely
10 forever. We feel that it will be immediately
11 challenged.

12 Q And does this document constitute some of the
13 basis for that belief?

14 A It is in fact one of the main reasons for
15 that belief, yes, sir.

16 Q Are you familiar with an organization known
17 by the State Law Enforcement Chiefs Association, Inc.?

18 A Yes, sir, I am.

19 Q Has the President of that Association ever
20 conveyed an opinion to you regarding Caller ID or the
21 position of any state agency on Caller ID?

22 A Yes, sir, they did. I was asked to speak to
23 that group.

24 Q Was the conveyance in writing to you?

25 A He sent me a letter specifically stating that

1 the group after my presentation had endorsed what the
2 law enforcement committee and specifically Mr. Glenn
3 Mayne from DGS's position on Caller ID would be.

4 Q Did you ever give Mr. Mayne a copy of that
5 letter?

6 A Yes. I did.

7 Q When did you give him that?

8 A I believe it was yesterday when I gave it to
9 him. And Mr. Mayne was also at the meeting when I
10 spoke to the State Law Enforcement Chiefs Association.

11 Q For purposes of the record, you've made
12 mention recently in your testimony of a task force.
13 Could you differentiate if you know the difference
14 between your use of that term "task force" and the
15 Joint Task Force on Statewide Law Enforcement
16 Communications?

17 A There is absolutely no relationship. And I
18 apologize for that term, loosely used term, of "task
19 force." I don't know where it came from. I'm using it
20 because everybody seems to accept it. What I mean when
21 I used the term "task force" was the original Law
22 Enforcement Committee on Caller ID that was
23 established. Somehow the term "task force" got coined
24 and everybody is using it.

25 The Joint Task Force on Communications that

1 you're referring to is a total separate entity.

2 Q Do you know which agencies comprise that task
3 force or have representatives on it?

4 A I know some of them. I am not personally on
5 that task force. One of my fellow workers is a member,
6 FDLE is represented, the Game and Fish Commission is
7 represented, Marine Patrol is represented, Highway
8 Patrol is represented. Off the top of my head, that
9 would be the ones I could name.

10 Q Would DABT also be represented?

11 A Yes. That was another one, the Beverage
12 Department, yes.

13 Q Are you familiar with the joint task force's
14 plan to implement a statewide 800 megahertz trunked
15 radio system for those five agencies?

16 A Yes, sir. That project is ongoing right now.

17 Q What effect, if any, will that project have
18 on your agency?

19 A Well, it's designed to replace our current, I
20 refer to it as a hodge-podge, radio system. We've got
21 low band systems and high band systems as well as the
22 other agencies having the same. Its ultimate goal is
23 to put us on a complementary system where we can
24 communicate amongst each other, it's a very new
25 advanced technology radio communications system.

1 Q Do you know whether it's intended for that
2 system to operate uniformly statewide when it's
3 implemented?

4 A Absolutely, that is one of the major goals of
5 that system.

6 Q Do you have an opinion on -- first of all, do
7 you know whether that system will have the capacity for
8 telephone patch-through communications whereby an agent
9 in the field could use his hand-held radio or his
10 mobile radio to place a telephone call?

11 A The information I received from our, FDLE's,
12 member of that task force is that is one of the
13 requirements in the contract that the system be able to
14 do such patches. We refer to them as a telephone
15 patch, and that is one of the requirements of the
16 contract.

17 Q If you as an agent in the field had a radio
18 with that capability, would you use it to make
19 telephone calls?

20 A Depends on whether or not Caller ID was
21 available, or blocking. Since the Caller ID thing, we
22 have a concern. General calls, no; I would definitely
23 use it for a general call, I wouldn't have any
24 reservations about using it for general calls back to
25 my office or things of that nature.

1 Some of the other values that we saw the
2 system having were being able to routinely make calls
3 from our automobile, especially being in remote areas;
4 we have more reservations about doing that now, there
5 is more of a security concern. Part of that concern,
6 if I might elaborate just a moment, is that there's a
7 lot of money being put into that system for privacy and
8 security of all the radio calls as well as the phone
9 calls. And it would in fact, as soon as it reached the
10 land line if it was delivered through Caller ID, much
11 of that privacy and security be negated.

12 Q Would uniform statewide per-call blocking
13 assuage your fears?

14 A Considerably.

15 Q Earlier, you were asked questions regarding
16 your personal knowledge of certain out-of-state
17 examples that you gave where investigations were
18 compromised, I believe, through Caller ID. Do you have
19 any reason to believe that any of those examples are
20 untrue or inaccurate?

21 MR. PARKER: I object to Mr. Mathues doing
22 redirect examination of Mr. Tudor.

23 MR. MATHUES: Excuse me, the question went to
24 what was asked him previously.

25 MR. PARKER: And I'm objecting to you

1 redirecting this witness on cross examination.

2 MR. KEENER: Southern Bell is objecting on
3 the grounds that earlier Mr. Tudor was asked whether or
4 not he had firsthand knowledge of those examples, which
5 he denied. That's all that was asked.

6 MR. MATHUES: And we had testimony earlier
7 today concerning other out-of-state situations where I
8 don't believe there was personal knowledge, but the
9 witness --

10 CHAIRMAN WILSON: Was there an objection?

11 MR. MATHUES: The witness was allowed to
12 testify.

13 CHAIRMAN WILSON: Was there an objection?

14 MR. MATHUES: No, sir, there was not.

15 CHAIRMAN WILSON: I'm going to sustain the
16 objection. I think we -- I'll sustain the objection.
17 Let's be mindful of the hour.

18 MR. MATHUES: In deference of the hour,
19 that's all I have, Mr. Chairman.

20 CHAIRMAN WILSON: Thank you. (Laughter)

21 CHAIRMAN WILSON: Mr. Beck?

22 CROSS EXAMINATION

23 BY MR. BECK:

24 Q Mr. Tudor, suppose the Commission were to
25 approve United Telephone Company of Florida's proposal

1 for per-call blocking in Winter Park but were to do
2 something else into Southern Bell in Orlando, would
3 that give the task force any problems?

4 A That would give us great problems. One of
5 the nightmares as I describe it that we have from an
6 undercover operating point is that we cannot be
7 operating out of a manual every time we make a phone
8 call. And specifically in the areas that you discuss
9 where the geographic boundaries of these phone
10 companies are just about overlapping and congruous in
11 many areas with GTE and Southern Bell and United and
12 various phone companies all merging in some of these
13 areas, we feel it's imperative that there be a
14 universal way of handling these calls and that we not
15 have to look up a manual that, "Oh, I'm in this
16 territory and I just crossed the street so I have to
17 make my undercover call in a different way."

18 Q Yesterday, Ms. Sims testified that all the
19 functions related to capturing information needed to
20 make a Caller ID operate occur in the telephone company
21 network, particularly the central office. Do you agree
22 with her characterization of Caller ID?

23 A All right, if you could restate that one more
24 time, please?

25 Q She said that all functions related to

1 capturing information needed to make Caller ID operate
2 occur in the telephone company network, particularly
3 the central office.

4 A The capture, the initial capture, I agree
5 with that statement.

6 Q Now, would the same be true for a traditional
7 trap and trace device in a digital office?

8 A Yes, sir. As far as my understanding of the
9 system, yes, it would all be done right there at the
10 central office.

11 Q Could you describe generally how a
12 traditional trap and trace is conducted?

13 A On the digital switch?

14 Q Yes. Isn't that what is normally done these
15 days is a digital switch?

16 A Right. To the best of my knowledge, the
17 majority, especially in the Bell System, the majority
18 of the state is on digital switches. I don't know how
19 many but it can't be very many analog switches left.
20 Several years ago I did a study and it was way over 70%
21 at that time.

22 So yes, the vast majority of them are done on
23 digital switches. And as long as we're talking about
24 that, my understanding of the way it's done is once the
25 proper court orders are issued identifying the number

1 that you are looking for incoming numbers to, then it
2 is programmed into the switch through a terminal, a
3 data terminal such as a computer terminal, the proper
4 codes to look for incoming numbers and capture those
5 numbers and date and time stamp them.

6 Q So is it the terminal then that displays the
7 captured number in a traditional trap and trace as you
8 described it?

9 A The terminal and it can be output to a
10 recording device, i.e., a printer, if you will. A
11 computer printer. Or it can be put on tape or a hard
12 storage. Whatever output device you want as a
13 computer.

14 Q Is the statement from Ms. Sims testimony that
15 I read equally true for the traditional trap and trace
16 device as you described it, that all functions related
17 to capturing information needed to make in this case
18 the trap and trace device occur in the telephone
19 company network? Would that be true?

20 A If we are describing the network as that
21 switch, yes.

22 Q And that would be true for the traditional
23 trap and trace as well as Caller ID, would it not?

24 A That's correct.

25 MR. BECK: That's all I have, thank you.

CROSS EXAMINATION

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BY MR. ADAMS:

Q Good afternoon, Mr. Tudor. Ms. Green is handing you a copy of an errata sheet for Staff Exhibit No. 4.

We would like to request that Staff Exhibit No. 4 be numbered for identification.

CHAIRMAN WILSON: Staff Exhibit 4 will be given the number 28.

(Exhibit No. 28 marked for identification.)

Q (By Mr. Adams) Mr. Tudor, my name is John Adams, and I am representing the Staff today, or this evening.

Have you had a chance to examine what has been identified as Exhibit No. 28?

A Are you referring specifically to the errata sheet, sir?

Q No, the combination.

A This and the deposition?

Q Yes.

A I received a copy of the deposition this morning, yes, sir.

Q What about the Staff Exhibit 4, which was just an excerpt from it?

A Yeah, I just received that.

1 Q All right. Well, subject to the corrections
2 in your errata sheet, can you accept that those are
3 true and correct to the best of your belief and
4 knowledge?

5 A I have not reviewed Exhibit 4. Taking your
6 word that it is excerpts from my deposition, then the
7 errata sheet is correct, as far as I'm concerned.

8 Q All right. Moving on to the questions, let's
9 start with this: You have stated that the size and
10 scope of undercover operations involving drug
11 interdiction posed peculiar problems in Florida, is
12 that correct?

13 A Where are you referring to?

14 Q I think earlier in your testimony today.

15 A Okay.

16 Q Is that correct?

17 A One more time, please.

18 Q You have stated that the size and scope of
19 Florida's undercover drug interdiction operations posed
20 peculiar problems, is that correct?

21 A That is a correct statement, yes.

22 Q All right. And that these operations might
23 be particularly susceptible to problems caused by
24 Caller ID, is that correct?

25 A Yes, sir, that's true.

1 Q Do you have any knowledge as to the size of
2 Florida's undercover operations in relation to any
3 other states?

4 A Specifically, no, I don't, other than the
5 fact that Florida is traditionally, and specifically
6 South Florida is specifically considered one of the
7 major import areas for narcotics; therefore, having an
8 extremely large interdiction task force. I know that I
9 believe -- I know that DEA's largest office is housed
10 in Miami.

11 Q All right. And on Page 3 you refer to being
12 involved in training with it looks like virtually any
13 major -- I don't see the U.S. Marshal's office -- but
14 other than that I think it looks like jus: about
15 everybody: The U.S. Air Force, OSI, U.S. Army
16 Intelligence, U.S. Customs, U.S. Postal Service, the
17 DEA, ATF, Office of Naval Investigations, Naval
18 Investigative Service, General Services Administration,
19 Immigration Service, FBI.

20 A You are saying Page 3 but --

21 Q You are very --

22 A Which document are you referring to now?

23 Q I'm sorry. This would be your direct
24 testimony. (Pause)

25 A Okay.

1 Q More than 700 from over 30 states. You have
2 a pretty good familiarity with what goes on in police
3 investigations throughout the country? Would that be
4 correct?

5 A I think so. I have trained quite a few of
6 them.

7 Q And you have just testified that we are very
8 large?

9 A Yes.

10 Q But you can't specifically testify as to how
11 we compare to, say, New Jersey or New York, bigger or
12 larger?

13 A I would say as far as an import and
14 interdiction problem, interdicting drugs coming in, we
15 are by far larger.

16 Q Do you know of any state that has a larger
17 force of undercover operatives, or a larger level?

18 A Again, I don't know collectively what the
19 state of Florida has. I know specifically that DEA's
20 largest operation is in the Miami area. So,
21 collectively, if we've got more than any other state, I
22 don't know.

23 Q All right. On Page 6 of your direct
24 testimony, Lines 10 through 14.

25 A Uh-huh.

1 Q You mentioned that you would need a 120 days'
2 delay before implementing Caller ID so that law
3 enforcement training programs could be developed. What
4 sort of training programs do you contemplate? Could
5 you elaborate?

6 A Developed and delivered. First of all,
7 making sure that in those training programs there is an
8 adequate definition of what the problems posed by
9 Caller ID would be. In my travels since February, I
10 have found amazingly there are an awful lot of law
11 enforcement agencies that still are not aware of what
12 this issue is or what problems it poses. So number one
13 would be a definition of what the problems are.

14 Number two, depending on the resolution of
15 this Commission of this issue, whatever alternatives
16 are made available to the law enforcement community, we
17 would to make sure that we fully study how they would
18 be implemented, under what circumstances they should be
19 implemented, and under what circumstances they
20 absolutely should not be implemented. And when I say
21 "put together," there would have to be handouts put
22 together; we would have to make sure we had adequate
23 experts from the various phone companies that were
24 offering the alternatives available to help us put
25 together these programs and speak on the topics. These

1 are what we are talking about.

2 Q So we are talking about a substantial
3 program?

4 A As far as I'm concerned, the threat is
5 substantial; therefore, the training would have to be
6 substantial.

7 Q All right. It's also my understanding that
8 you are proposing as an alternative to -- well, you're
9 proposing that universal per-call blocking also be
10 offered. Is that the general scope of your testimony?

11 A Yes, sir.

12 Q Would you tell us why universal, as opposed
13 to presubscribed per-call blocking, such as General
14 universal has proposed?

15 A Again, due to the transient nature of our
16 operatives, and "operatives" in the broad sense being
17 not only sworn agents but witnesses, cooperating
18 witnesses and/or confidential informants, not
19 necessarily being able to return a call from a
20 presubscribed blocked phone. Therefore, if they are
21 returning the call and they don't happen to be at a
22 phone that has that presubscription, then it would not
23 avail them of a lot of -- and they wouldn't necessarily
24 know until they got there and started making the call.
25 So we feel that --

1 COMMISSIONER EASLEY: Can I ask one?

2 WITNESS TUDOR: -- overall that -- I'm sorry.

3 COMMISSIONER EASLEY: I'm sorry, I didn't

4 mean to interrupt you.

5 WITNESS TUDOR: We feel overall it's going to
6 be a lot less likely that they are going to trip up and
7 make a mistake if they know that whatever phone they go
8 to that they are going to consistently apply the same
9 standard in making the phone call.

10 COMMISSIONER EASLEY: Do you see the need for
11 this elaborate training if you have universal call
12 blocking?

13 WITNESS TUDOR: Yes, ma'am. I still see,
14 once Caller ID goes into effect, I absolutely -- now,
15 it might not be quite as cumbersome, it might not have
16 quite as many hoops and loops to jump over -- but,
17 absolutely, we are still going to mount a training
18 effort statewide to make sure when this implemented in
19 this state that officers realize where it's effective
20 and what the threats are, and if they don't use and
21 control their informants and witnesses to use these
22 alternatives, that they are putting themselves in
23 jeopardy.

24 COMMISSIONER EASLEY: Would the same be true
25 in any area that you are operating that has the option

1 of Call Trace?

2 WITNESS TUDOR: Call Trace, we don't feel is
3 nearly as much of a threat, as far as our concern.

4 Now, the Call Return is part and parcel of this whole
5 thing, so Call Return, yes, and we have published
6 bulletins on that already. We are waiting, because it
7 is going to be a rather expensive endeavor, to put
8 together a formal training package. We are not going
9 to try to do it in two-piece, Call Return now and then
10 run out and do one for Caller ID.

11 COMMISSIONER EASLEY: So you are waiting to
12 do the training on those, and those are already being
13 offered?

14 WITNESS TUDOR: The Call Return, we have done
15 a preliminary training on that. I have published I
16 don't know how many bulletins; Mr. Ramage has published
17 bulletins. We have talked to various police groups to
18 advise them of these things; to please contact us for
19 more information, and we are giving it out as best as
20 we can and as quickly as we can. I receive almost
21 daily calls on the topic.

22 So we are in the process now, as far as I'm
23 concerned, of providing training on the existing CLASS
24 services. We feel Caller ID will be the greatest
25 threat of all the CLASS services offered, and that's

1 the one we are gearing up for the biggest training
2 package on, yes, ma'am.

3 COMMISSIONER EASLEY: Thank you.

4 MR. ADAMS: Thank you, Mr. Tudor. We have no
5 further questions.

6 CHAIRMAN WILSON: Redirect?

7 MR. RAMAGE: Real quick, I'm watching the
8 clock.

9 REDIRECT EXAMINATION

10 BY MR. RAMAGE:

11 Q I believe Commissioner Easley earlier was
12 asking you a question regarding the use of a pager. Do
13 you remember that line of questions?

14 A Basically, yes, sir.

15 Q If you have a pager on your person and you,
16 in an undercover capacity, have provided that pager
17 number to a dope dealer --

18 A Yes, sir.

19 Q -- if that dope dealer utilizes that pager
20 number, that results in your pager beeping or buzzing,
21 or whatever, and communicating a number that you are to
22 return and call back, is that correct?

23 A That's correct, sir.

24 Q When you return the call, whatever phone you
25 choose to utilize will be the phone number that could

1 be displayed to a Caller ID unit, is that correct?

2 A In my understanding of the system, that is
3 correct.

4 Q And your testimony is such that it's not
5 always predictable that you could utilize a
6 presubscribed RingMaster setup, or PNS setup type of
7 telephone that you might have to just pick a telephone
8 that's closest to wherever you might be, is that
9 correct?

10 A That's correct. I have other concerns with
11 the RingMaster and PNS, but, yes, sir, that's correct.

12 Q I just wanted to clarify that. Because, at
13 least as I heard the questions and answers, I thought
14 there might be some confusion regarding what was being
15 displayed to the bad guys' Caller ID phone. In fact,
16 that would be whatever the phone number is of the phone
17 that you were choosing to use to respond to the beeper
18 message?

19 A Yes, sir.

20 MR. RAMAGE: No further questions.

21 COMMISSIONER GUNTER: To follow that very
22 briefly. Yesterday we talked about penetration of
23 cellular telephones, and getting to be a proliferation
24 of them. A very large percentage of the population has
25 cellular phones. If you have got your beeper number

1 and you called on a cellular phone, based on Ms. Sims'
2 testimony yesterday, it wouldn't give the number
3 anyway.

4 WITNESS TUDOR: No, sir, that's true.

5 COMMISSIONER GUNTER: Okay.

6 WITNESS TUDOR: Our problem is we can't
7 afford to issue that many cellular phones. But that's
8 basically a true statement.

9 COMMISSIONER GUNTER: I understand. You give
10 them another three or four years and they are going to
11 be cheaper than the CPE you buy today anyway.

12 COMMISSIONER BEARD: Also, if you accessed --
13 if you used remote control access, you would have been
14 able to do, assuming that from what I read earlier in
15 that document that originally was offered --

16 WITNESS TUDOR: Yes, sir.

17 COMMISSIONER BEARD: -- with the utilization
18 of Southern Bell's pay phones, as an example, those
19 numbers, that would solve the undercover agent's
20 problems?

21 WITNESS TUDOR: That's correct.

22 COMMISSIONER BEARD: It would not solve the
23 problems, necessarily, of the informant?

24 WITNESS TUDOR: That's correct.

25 CHAIRMAN WILSON: I appreciate that you have

1 a lot of concern about all the CLASS services and about
2 Caller ID, and I think your concerns are legitimate.
3 But, in fact, doesn't a lot of the new technology, and
4 certainly some of the things that I have read about
5 that either you have proposed or telephone companies
6 have proposed or other parties have proposed, doesn't
7 some of that really represent an opportunity for law
8 enforcement?

9 WITNESS TUDOR: We don't deny that, Mr.
10 Chairman. We're just saying that in the greater scheme
11 of things that we wouldn't have to make those proposals
12 if it weren't for Caller ID, and that we're not
13 satisfied that the benefits derived from some of these
14 other items would outweigh the risk that Caller ID
15 proposes. So, again, we wouldn't need those
16 alternatives and offerings if it wasn't for Caller ID
17 in the first place.

18 CHAIRMAN WILSON: Some of those alternatives,
19 though, don't they give you an opportunity to really
20 fool some of the criminals that you are dealing with?

21 WITNESS TUDOR: Could you be more specific?

22 CHAIRMAN WILSON: Well, if you had the
23 opportunity to transmit --

24 WITNESS TUDOR: Another number?

25 CHAIRMAN WILSON: -- another number.

1 WITNESS TUDOR: We do that now. When they
2 ask us, we just lie, and we won't be able to lie with
3 Caller ID.

4 CHAIRMAN WILSON: Well, you will -- if you
5 are able to transmit a false number, you can.

6 WITNESS TUDOR: Yes, sir, that's what I am
7 saying. That's why, when we ask for that, all we are
8 asking for is status quo. In our estimate, we are
9 asking for status quo, being able to do what we can do
10 now through subterfuge.

11 COMMISSIONER BEARD: Actually, you could even
12 do it better then. It would be more --

13 WITNESS TUDOR: We could do it better then,
14 but we are not seeking that if it wasn't for Caller ID.

15 CHAIRMAN WILSON: Well, as you said, your lie
16 is much more convincing if you are reading it out there
17 on the telephone.

18 WITNESS TUDOR: Absolutely, and we don't deny
19 that.

20 CHAIRMAN WILSON: So there are some
21 opportunities here.

22 COMMISSIONER BEARD: It's kind of like
23 everything I see on computers and newspapers I believe.

24 WITNESS TUDOR: Unfortunately, we all do.

25 COMMISSIONER GUNTER: Let's all move down

1 this way. We've got a crazy man down there.

2 (Laughter)

3 CHAIRMAN WILSON: Move exhibits.

4 MR. KEENER: Southern Bell moves Exhibit No.
5 26.

6 CHAIRMAN WILSON: All right, without
7 objection, Exhibit 26 is admitted into evidence.

8 (Exhibit No. 26 received into evidence.)

9 MR. MATHUES: DGS moves 27.

10 CHAIRMAN WILSON: 27, without objection, is
11 moved into evidence.

12 (Exhibit No. 27 received into evidence.)

13 MR. ADAMS: Staff would like to move Exhibit
14 28.

15 CHAIRMAN WILSON: 28, without objection, is
16 moved into evidence.

17 (Exhibit No. 28 received into evidence.)

18 MR. RAMAGE: I think I have already moved --

19 CHAIRMAN WILSON: You can't until the end of
20 his testimony.

21 MR. RAMAGE: Well, then I move at this time
22 Exhibits 24 and 25.

23 CHAIRMAN WILSON: All right. Exhibits 24 and
24 25 are, without objection, admitted.

25 MR. RAMAGE: No, not exhibit 25.

1 CHAIRMAN WILSON: Exhibit 24, without
2 objection, is admitted into evidence.

3 (Exhibit No. 24 received into evidence.)

4 MR. PARKER: No offer.

5 CHAIRMAN WILSON: All right.

6 (Short recess.)

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