

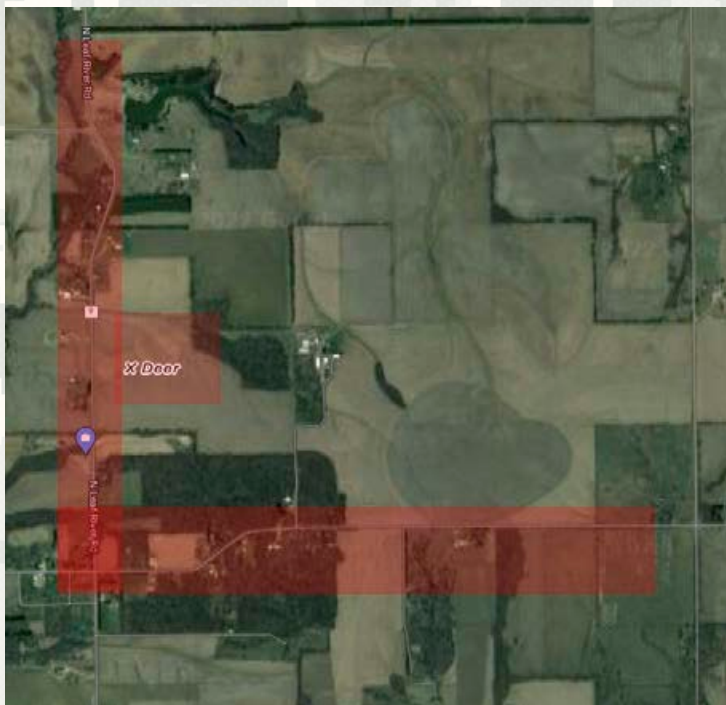


# Geofencing

**GEOFENCING** has become a popular enforcement tool for the ever-elusive poacher. With most of our poaching incidents taking place off the beaten path it has become frustrating for the modern warden to be in the right place at the right time. Years of sitting on the dark desolate road waiting for the beam of a spot light to emerge from a lone truck in the wee hours of the night has been modernized with a new observation technique called geofencing. This technique has been utilized by law enforcement for a few years now and has been an effective tool for singling out that hand held device the violator likely possesses in his pocket. Each time a violator passes through cell phone districts it registers itself onto the network as many of the programs on the device check into their systems. These functions are integrated to the phone's operating system and employed by many of the active applications on the phone. When a user agrees to the terms of the device, they are basically waiving their right to privacy as many of these requests broadcast themselves over cellular, WIFI and Bluetooth networks. So when a bad guy runs down a rural road they leave a digital breadcrumb of their presence across a series of networks.

Asking a court to search a particular area for these identifiers allows officers to determine what devices were present in a defined area at a particular time. So if your complainant hears a gunshot at 2:00 AM and there is relatively low traffic in this area then a geofence can show what devices were present in the area before, during, and after the gunshot. It is nice to have a particular time and date to limit the scope of your search. This also limits your return data and keeps the possibilities small. The courts prefer this as well since a wide time frame and area, oftentimes, can be too intrusive for the court to grant a warrant.

What you will be asking for is anonymized information from an area. This anonymized information will be compared to known information you have about your case. If a second deer was located the same night but in a different area the cell warrant information returned would allow an officer to compare the digital data from the two areas and likely find a match. Many samples of search warrants can be found online. When drafting your warrant



expect to include a description of the area and a map as needed - each jurisdiction is going to be different. Working with your local government is the best way to complete a geo warrant.

With all of this emerging technology there have been some doubts from the defense. Also, certain jurisdictions have limits on the information you can request, and there are plenty of privacy advocate groups out there soliciting protections. As re-

cent as March 31, 2022, a federal judge in Virginia ruled geofence warrants as unconstitutional. As technology emerges it is incumbent on officers to learn new techniques and stay current with enforcement efforts. As many of these efforts are examined by the courts, we better understand the judicial balance in our efforts for justice.

Staying current with modern enforcement methods is essential for officers to stay relevant in the fight against crime. For more information on geo warrants you can email [steve@stevenbeltran.com](mailto:steve@stevenbeltran.com) ref: [www.nacdl.org/getattachment/fc0182fd-fe6c-452f-b31f-d7a63acc135a/edva-geofence-warrant.pdf](http://www.nacdl.org/getattachment/fc0182fd-fe6c-452f-b31f-d7a63acc135a/edva-geofence-warrant.pdf)

➔ Please email me with any technical questions or cases you may need help. [Steve@stevenbeltran.com](mailto:Steve@stevenbeltran.com)

### AFFIDAVIT FOR SEARCH WARRANT

Commonwealth of Virginia VA. CODE § 19.2-54

The undersigned Applicant states under oath:

1. A search is requested in relation to [X] an offense substantially described as follows:  
[ ] a person to be arrested for whom a warrant or process for arrest has been issued identified as follows:

Code of Virginia 18.2-58: Robbery

Code of Virginia 18.2-53.1: Use of a Firearm in Commission of a Felony