

**IN THE DISTRICT COURT WITHIN AND FOR CHEROKEE COUNTY
STATE OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CF-2006-403
)	
JANET INGRAM,)	
)	
Defendant.)	

ORDER

NOW ON THIS 22nd day of January, 2009, this matter comes on for hearing on the Defendants to Suppress. The parties are present and represented by their Attorneys of Record, and the Court upon considering said motion and the argument of the parties, the court finds as follows:

The Court is satisfied by clear and convincing evidence, free from unmistakable doubt based upon the testimony of the experts that by reason of subsequent updates to the software services that there is a high potential that additional information could have been obtained if this information had been provided and retained and not lost.

I am satisfied that none of it was done in bad faith, but it is certainly in retrospect extremely reckless and negligent conduct of not keeping up with this information and trying to weigh the factors of the relevance of the information versus the ability of the defense to have relied upon that causes me a serious problem. Equally as well, the affidavit that we have here of merely leaving a copy of an affidavit and search warrant in a car in a salvage yard is not reasonable effort to put the defendant on notice that this information has been obtained so that they could make any reasonable efforts. There is no evidence whatsoever that those documents would have still been in the car when

and if she did actually go and retrieve or anybody went and retrieved any of the personal items from it. The state did not make a bonafide good faith effort to maintain the integrity so it could be tested by the defense and it is even heightened ten times by the fact that these additional updates could have obtained more information that could have been highly relevant. It is therefore the opinion of this Court that said motion should be granted.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that the Motion to Suppress of the Defendant, as to the crash data module information should be and the same is hereby sustained.

G. Bruce Sewell,
Judge of the District Court

APPROVED:

Stephen G. Fabian, Jr., OBA #2795
ATTORNEY FOR DEFENDANT

David Pierce OBA #
Assistant District Attorney