

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

April 24, 2015

The Honorable Eric H. Holder
Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Attorney General:

In recent months, various media reports have detailed the use of cell-site simulation technology, commonly referred to as “Stingrays” or “dirtboxes,” by Department of Justice (DOJ) component agencies.¹ The technology allows law enforcement agents to simulate a cell phone tower, which results in nearby mobile phones and other wireless communication devices connecting to the simulated tower instead of the phone carrier’s legitimate tower. When the mobile device connects, the simulation device can see and record the mobile device’s unique ID number and approximate location.

Committee staff has received briefings from multiple DOJ component agencies, including the Federal Bureau of Investigation (FBI), the U.S. Marshals Service (USMS), and the Drug Enforcement Administration (DEA), about their use of the technology and policies governing use of the technology. While the briefings were informative, we remain concerned that DOJ component agencies are not employing uniform legal standards before deploying cell-site simulation technology. We are also concerned about a number of the policies and procedures related to the technology, including those governing the use and retention of information collected by the devices, as well as those governing the use of the devices in conjunction with joint law enforcement operations conducted at the State and local level.

In addition, we are troubled that DOJ and its component agencies may be using non-disclosure agreements to impede Congressional and Judicial oversight of the use of these devices. We understand that there may be non-disclosure agreements between the component agencies and the manufacturers of these devices, as well as non-disclosure agreements between the component agencies and State and local law enforcement agencies. Media reports indicate that these non-disclosure agreements prevent signatories from producing information about the technology, even in response to a court order.²

¹ See E.g., Devlin Barrett, *Americans’ Cellphones Targeted in Secret U.S. Spy Program*, WALL STREET JOURNAL (Apr. 9, 2015), available at <http://www.wsj.com/articles/americans-cellphones-targeted-in-secret-u-s-spy-program-1415917533>

² See Justin Fenton, *Baltimore Police used secret technology to track cellphones in thousands of cases*, BALTIMORE SUN (Apr. 9, 2015), available at <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-cj-stingray-case-20150408-story.html#page=1> (discussing court testimony in which a local police officer acknowledged that the non-disclosure agreement “instruct[s] [him] to withhold evidence from the state’s attorney and Circuit Court, even upon court order to produce.”)

So that the Committee can better understand Department-wide policies surrounding the use of cell-site simulation technology, please provide the following documents as soon as possible, but no later than 5:00 p.m. May 8, 2015:

- (1) All Department-wide and component agency policies, guidance, or memoranda on the use of cell-site simulation technology.
- (2) All Department-wide and component agency policies, guidance, or memoranda on the use and retention of information collected by cell-site simulation technology.
- (3) All Department-wide and component agency policies, guidance, or memoranda on the use of cell-site simulation technology by any component agency of DOJ in conjunction with joint law enforcement operations conducted at the State and local level.
- (4) All Department-wide or component agency policies, memoranda of understanding, or non-disclosure agreements entered into by any component agency of DOJ with State and local law enforcement agencies regarding the use of cell-site simulation technology.
- (5) All policies, guidance, or memoranda on the use of DOJ grants and the total amount of money disbursed by DOJ to State or local law enforcement agencies to purchase cell-site simulation technology.
- (6) A list of all allegations against any component agency of DOJ regarding any potential misuse of cell-site simulation technology.
- (7) All documents related to the cost and possession of cell-site simulators in the possession of the component agencies of DOJ. In lieu of documents, DOJ can provide an inventory of the cell-site simulators in the possession of the component agencies of DHS. The inventory is to show for each agency:
 - a. the total number of such devices in possession of the agency;
 - b. the name, make, and model of the devices used by or in possession of the agency;
 - c. the total number of devices in possession of the agency for each make and model of device; and,
 - d. the cost of each individual device and the total amount each agency spent in fiscal years 2010-2014 on acquiring and using cell-site simulation technology.

In addition, please contact the Committee as soon as possible to arrange a briefing on this matter by May 1, 2015.

The Committee on Oversight and Government Reform is the principal investigative committee in the U.S. House of Representatives. Pursuant to House Rule X, the Committee has authority to investigate “any matter” at “any time.”

When producing documents to the Committee, please deliver production sets to the Majority staff in Room 2157 of the Rayburn House Office Building and to the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Sean Brebbia or Troy D. Stock of Chairman Chaffetz's staff at (202) 225-5074 or Brian Quinn of Ranking Member Cummings' staff at (202) 225-5051 with any questions about this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Elijah E. Cummings
Ranking Member



Will Hurd
Chairman
Subcommittee on
Information Technology



Robin Kelly
Ranking Member
Subcommittee on
Information Technology

cc: The Honorable Harold Rogers, Chairman
House Committee on Appropriations

The Honorable Nita M. Lowey, Ranking Member
House Committee on Appropriations

The Honorable John Culberson, Chairman
Subcommittee on Commerce, Justice, Science, and Related Agencies

The Honorable Chaka Fattah, Ranking Member
Subcommittee on Commerce, Justice, Science, and Related Agencies

Enclosure