CELL-SITE SIMULATORS:
IMPACT & USE POLICY

ABSTRACT

Cell-site simulators\(^1\) are used in the location or identification of mobile devices. The technology supports locating missing persons, victims of abductions, and criminal suspects. The New York City Police Department (NYPD) uses cell-site simulators in furtherance of these public safety responsibilities.

The NYPD produced this impact and use policy because cell-site simulators are capable of collecting and sharing cellular device location data with NYPD investigators.

CAPABILITIES OF THE TECHNOLOGY

Cell-site simulators function by behaving like a traditional networked cell tower. In response to signals emitted by a cell-site simulator, cellular devices within the proximity of the cell-site simulator identify it as the most attractive cell tower in the area. When the simulator is within the cellular device’s signal range, it measures the device’s signal strength and determines the location of the phone.

Every device capable of connecting to a cellular network through a cell tower is assigned an industry-standard unique-identifying number by the device’s manufacturer or cellular network provider. Cell-site simulators are used either to locate a cellular device where the unique-identifying number is known or to identify a cellular device with an unknown unique-identifying number.

By functioning as a cell tower, cell-site simulators acquire limited information from cellular devices. Cell-site simulators provide only the relative signal strength and general direction of a cellular device; they do not function as a global positioning locator.

Cell-site simulators are not used to collect the contents of any communication or any data contained on the device itself. Cell-site simulators also do not capture emails, texts, contact lists, images or any other data from the device, nor do they provide subscriber account information (for example, an account holder's name, address, or telephone number).

Cell-site simulators are used in conjunction with vendor-provided software. The associated software displays the location data processed by the cell-site simulator in a format usable by NYPD personnel. Cell-site simulators used by the NYPD do not retain or record any of the data or information received by the cell-site simulator or associated software.

Cell-site simulators do not use artificial intelligence, machine learning, or any biometric measuring technologies.

\(^1\) Cell-site simulators are known colloquially as “Stingrays.” Originally, the Stingray was a specific cell-site simulator manufactured by the Harris Corporation. The term Stingray has become a generic name to reference cell-site simulators generally.
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RULES, PROCESSES & GUIDELINES RELATING TO USE OF THE TECHNOLOGY

NYPD cell-site simulator policy seeks to balance the public safety benefits of this technology with individual privacy. Cell-site simulators must be used in a manner consistent with the requirements and protection of the Constitution of the United States, the New York State Constitution, and applicable statutory authorities.

Only members of the NYPD Technical Assistance Response Unit (TARU) can access and operate the cell-site simulator devices and associated equipment. Cell-site simulators will only be used after TARU has received all proper documentation. NYPD personnel involved in the use of cell-site simulators may only utilize the technology to execute their lawful duties, which relate only to official business of the NYPD.

Generally, an NYPD investigator must first obtain a probable cause order allowing for the use of the device. The court order is obtained with the aid of a prosecutor with proper jurisdiction. The court order must contain a finding probable cause by a judge, as well as an explicit authorization for use of a cell-site simulator.

However, a cell-site simulator may be used prior to obtaining a probable cause order if exigent circumstances exist. In those instances, an NYPD investigator must have probable cause to believe: (1) a crime designated under Criminal Procedure Law Section 700.05(8), Penal Law Sections 460.10(1), 215.57, 215.56, or 240.30 has been committed, is in progress or is about to be committed; (2) an emergency exists as result of the criminal conduct; (3) there is an immediate urgent need for assistance due to an imminent danger of serious bodily injury or death to any person; and (4) the effort to locate a suspect is being undertaken with the primary concern of preventing serious injury or death and is not primarily motivated by an intent to arrest and seize evidence. The possibility of flight of a suspect does not on its own constitute exigent circumstances.

When exigent circumstances exist, the NYPD investigator must first document the nature of the emergency before a cell-site simulator will be used and contact the local prosecutorial agency to obtain a court order. While the cell-site simulator may be used prior to issuance of the court order, the order must be obtained within 48 hours following its use. A court order is not required when a cell-site simulator is used to assist NYPD personnel in searching for a missing or suicidal person.

In accordance with the Public Oversight of Surveillance Technology Act, an addendum to this impact and use policy will be prepared as necessary to describe any additional uses of cell-site simulators.

NYPD investigations involving political activity are conducted by the Intelligence Bureau, which is the sole entity in the NYPD that may conduct investigations involving political activity pursuant to the Handschu Consent Decree.

No person will be the subject of police action solely because of actual or perceived race, color, religion or creed, age, national origin, alienage, citizenship status, gender (including gender
identity), sexual orientation, disability, marital status, partnership status, military status, or political affiliation or beliefs.

The misuse of cell-site simulators or associated software will subject employees to administrative and potentially criminal penalties.

**SAFEGUARD & SECURITY MEASURES AGAINST UNAUTHORIZED ACCESS**

Cell-sites simulators are securely stored within NYPD facilities when not in use, in a location inaccessible to the public. Additionally, a supervisor must periodically inspect and account for all equipment.

Authorized users of the cell-site simulator software are authenticated by a username and password. Access to the software is critically limited to TARU personnel who have received training in the use of the technology. Cell-site simulator software can only be accessed by TARU on stand-alone laptops disconnected from other NYPD computer systems.

NYPD personnel must abide by security terms and conditions associated with all computer systems of the NYPD, including those governing user passwords and logon procedures. NYPD personnel must maintain confidentiality of information accessed, created, received, disclosed or otherwise maintained during the course of duty and may only disclose information to others, including other members of the NYPD, only as required in the execution of lawful duty.

NYPD personnel are responsible for preventing third parties unauthorized access to information. Failure to adhere to confidentiality policies may subject NYPD personnel to disciplinary and/or criminal action. NYPD personnel must confirm the identity and affiliation of individuals requesting information from the NYPD and determine that the release of information is lawful prior to disclosure.

Unauthorized access of any system will subject employees to administrative and potentially criminal penalties.

**POLICIES & PROCEDURES RELATING TO RETENTION, ACCESS & USE OF THE DATA**

Cell-site simulators will only be used for the time period authorized by the court order obtained by the NYPD investigator or while the exigency or emergency persists. Upon expiration of the court order or exigent circumstances, use of the cell-site simulator in connection to that particular investigation is terminated, and the physical device is returned its command.

As the NYPD does not record, store, or retain any of the data processed cell-site simulators, there are no policies or procedures relating to retention, access, and use of collected data.
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POLICIES & PROCEDURES RELATING TO PUBLIC ACCESS OR USE OF THE DATA

Members of the public may request information related to NYPD use of cell-site simulators pursuant to New York State Freedom of Information Law. The NYPD will review and evaluate such requests in accordance with applicable provisions of law and NYPD policy.

EXTERNAL ENTITIES

No external entities have access to NYPD cell-site simulators or the associated software. Cell-site simulators do not record, store, or retain any of the signals or data processed by the device.

TRAINING

TARU personnel are trained in the use and operation of cell-site simulators and the associated software by the vendor providing the technology. NYPD personnel must use cell-site simulators and the associated software in compliance with NYPD policies and training.

INTERNAL AUDIT & OVERSIGHT MECHANISMS

The NYPD investigator requesting the cell-site simulator must discuss the reasons for its deployment with their supervisor. Only TARU can use cell-site simulator and associated software, which may only be done after receiving proper documentation. A cell-site simulator will not be used without proper documentation, even in exigent circumstances.

Supervisors of personnel utilizing NYPD’s cell-site simulator technologies are responsible for security and proper utilization of the technology and associated equipment.

All NYPD personnel are advised that NYPD equipment is intended for the purposes of conducting official business. The misuse of equipment will subject employees to administrative and potentially criminal penalties. Allegations of misuse are internally investigated at the command level or by the Internal Affairs Bureau (IAB).

HEALTH & SAFETY REPORTING

There are no known health and safety issues with cell-site simulators or the associated software.

DISPARATE IMPACTS OF THE IMPACT & USE POLICY

The safeguards and audit protocols built into this impact and use policy for NYPD cell-site simulators mitigate the risk of impartial and biased law enforcement. Cell-site simulators are only used after a judicial finding of probable cause, or in limited exigent circumstances. Cell-site simulators only collect information and location data that would be sent to a traditional networked cell tower. None of the information or data is retained by the NYPD following the use of the technology. Cell-site simulators do not use artificial intelligence, machine learning, or any biometric measurement technologies.
The NYPD is committed to the impartial enforcement of the law and to the protection of constitutional rights. The NYPD prohibits the use of racial and bias-based profiling in law enforcement actions, which must be based on standards required by the Fourth and Fourteenth Amendments of the U.S. Constitution, Sections 11 and 12 of Article I of the New York State Constitution, Section 14-151 of the New York City Administrative Code, and other applicable laws.

Race, color, ethnicity, or national origin may not be used as a motivating factor for initiating police enforcement action. When an officer’s decision to initiate enforcement action against a person is motivated even in part by a person’s actual or perceived race, color, ethnicity, or national origin, that enforcement action violates NYPD policy unless the officer’s decision is based on a specific and reliable suspect description that includes not just race, age, and gender, but other identifying characteristics or information.