



# NYCLU

NEW YORK CIVIL LIBERTIES UNION

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June 16, 2014

**By Overnight Mail**

Erie County Sheriff's Office  
FOIL Records Access Officer  
10 Delaware Avenue  
Buffalo, New York 14202

Re: Freedom of Information Law Request  
Cell Site Simulators / Stingrays

Dear Records Access Officer:

The New York Civil Liberties Union is filing this request for records pursuant to the New York Freedom of Information Law, Article Six of the Public Officers Law, to seek records relating to the acquisition and use of cell site simulators by the Erie County Sheriff's Office ("Sheriff's Office"). Cell site simulators are often called "Stingrays," after the leading model produced by the Florida-based Harris Corporation.<sup>1</sup> The use of Stingrays and similar devices raise significant privacy concerns.

Stingrays and other cell site simulators impersonate a wireless service provider's cell tower, prompting cell phones and other wireless devices to communicate with them. Cell site simulators are commonly used in two ways: to collect information on all phones in a given location, or to track and locate particular phones. Both of these uses raise privacy concerns, including the possibility of mass collection of information on innocent people and the possibility of revealing location information even when people are in traditionally private places like their homes.

Based on media reports, it appears that the Sheriff's Office not only actively uses these devices but does so without applying for a warrant based on probable cause.<sup>2</sup> We request that the Sheriff's Office provide further information to the public on its acquisition and use of cell site simulators.

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<sup>1</sup> Other models of cell site simulators marketed by Harris Corp. include the "Triggerfish," "Kingfish," and "Hailstorm." See Ryan Gallagher, *Meet the Machines that Steal Your Phone's Data*, ArsTechnica (Sept. 25, 2013), <http://arstechnica.com/tech-policy/2013/09/meet-the-machines-that-steal-your-phones-data/>.

<sup>2</sup> Michael Wooten, Sheriff Won't Answer Lawmakers' #cellphonespying Questions (May 15, 2014), <http://www.wgrz.com/story/news/2014/05/15/sheriff-goes-before-lawmakers-cellphonespying/9143299/>.

The NYCLU therefore requests the following records:

1. Records regarding the Sheriff's Office's acquisition of cell site simulators, including invoices, purchase orders, contracts, loan agreements, solicitation letters, correspondence with companies providing the devices, and similar documents. In response to this request, please include records of all contracts, agreements, and communications with Harris Corporation.
2. All requests by the Harris Corporation or any other corporation, or any state or federal agencies, to the Sheriff's Office to keep confidential any aspect of the Sheriff's Office's possession and use of cell site simulators, including any non-disclosure agreements between the Sheriff's Office and the Harris Corporation or any other corporation, or any state or federal agencies, regarding the Sheriff's Office's possession and use of cell site simulators.
3. Policies and guidelines of the Sheriff's Office governing use of cell site simulators, including restrictions on when, where, how, and against whom they may be used, limitations on retention and use of collected data, guidance on when a warrant or other legal process must be obtained, and rules governing when the existence and use of cell site simulators may be revealed to the public, criminal defendants, or judges.
4. Any communications or agreements between the Sheriff's Office and wireless service providers (including AT&T, T-Mobile, Verizon, Sprint Nextel, and U.S. Cellular) concerning use of cell site simulators.
5. Any communications, licenses, or agreements between the Sheriff's Office and the Federal Communications Commission or the New York State Public Service Commission concerning use of cell site simulators.
6. Records reflecting the number of investigations in which cell site simulators were used by the Sheriff's Office or in which cell site simulators owned by the Sheriff's Office were used, and the number of those investigations that have resulted in prosecutions.
7. Records reflecting a list of all cases, with docket numbers if available, in which cell site simulators were used by the Sheriff's Office as part of the underlying investigation or in which cell site simulators owned by the Sheriff's Office were used as part of the underlying investigation.
8. All applications submitted to state or federal courts for search warrants or orders authorizing use of cell site simulators by the Sheriff's Office in criminal investigations or authorizing use of cell site simulators owned by the Sheriff's Office, as well as any warrants or orders, denials of warrants or orders, and returns of warrants associated with those applications. If any responsive records are sealed, please provide documents sufficient to identify the court, date, and docket number for each sealed document.

If possible, please provide the requested records in electronic format. If requested records are maintained in a computer database, please contact us before retrieving the records so that we can ensure that the retrieved records are in a usable and readable format.

Upon locating the requested documents, please contact us before photocopying and advise us of the actual costs of duplication so that we may decide whether it is necessary to narrow our request.

We would appreciate a response as soon as possible and look forward to hearing from you shortly. Please furnish the requested records to:

Mariko Hirose  
New York Civil Liberties Union  
125 Broad St., 19th Floor  
New York, NY 10004  
mhirose@nyclu.org

If any portion of this request is denied for any reason, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Please do not hesitate to contact me at 212-607-3322 if you have any questions about this request. Thank you for your prompt attention.

Respectfully,



Mariko Hirose  
Staff Attorney



John A. Curr III  
Western Regional Director