



NYCLU

NEW YORK CIVIL LIBERTIES UNION

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June 17, 2014

By E-mail

New York State Police
Central Records Bureau
1220 Washington Avenue, Bldg 22
Albany, New York 12226-2252
foilunit@troopers.ny.gov

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 New York State Police (“State Police”). Cell site simulators are often called “Stingrays,” after the leading model produced by the Florida-based Harris Corporation.¹ 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 State Police owns these types of devices.² We request that the State Police provide to the public further information on its acquisition and use of cell site simulators.

¹ 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/>.

² Michael Wooten, *Local Police Agencies Have Devices to Spy on Cell Phones* (Feb. 13, 2014), <http://www.wgrz.com/story/news/investigations/2014/02/13/are-local-police-spying-on-your-cell-phone/5462273/>.

The NYCLU therefore requests the following records:

1. Records regarding the State Police'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. Records regarding any arrangement or agreement between the State Police and other law enforcement agencies in New York State to share the use of cell site simulators, or any offers by the State Police to share the use of cell site simulators with other law enforcement agencies in New York State.
3. All requests by the Harris Corporation or any other corporation, or any state or federal agencies, to the State Police to keep confidential any aspect of the State Police's possession and use of cell site simulators, including any non-disclosure agreements between the State Police and the Harris Corporation or any other corporation, or any state or federal agencies, regarding the State Police's possession and use of cell site simulators.
4. Policies and guidelines of the State Police 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.
5. Any communications or agreements between the State Police and wireless service providers (including AT&T, T-Mobile, Verizon, Sprint Nextel, and U.S. Cellular) concerning use of cell site simulators.
6. Any communications, licenses, or agreements between the State Police and the Federal Communications Commission or the New York State Public Service Commission concerning use of cell site simulators.
7. Records reflecting the number of investigations in which cell site simulators were used by the State Police or in which cell site simulators owned by the State Police were used, and the number of those investigations that have resulted in prosecutions.
8. Records reflecting a list of all cases, with docket numbers if available, in which cell site simulators were used as part of the underlying investigation by the State Police or in which cell site simulators owned by the State Police were used as part of the underlying investigation.
9. All applications submitted to state or federal courts for search warrants or orders authorizing use of cell site simulators by the State Police in criminal investigations or authorizing use of cell site simulators owned by the State Police in criminal

investigations, 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