

Los Angeles County Sheriff's Department's Policy
Use of Cell-Site Simulator Technology

The use of cell-site simulator technology has proven to be of tremendous value to law enforcement in its efforts to keep the public safe. Whether used to apprehend fugitives, locate kidnap victims or missing children, or to identify individuals who are a threat to national security, cell-site technology provides a necessary and critical operational need.

As with any law enforcement capability, the Los Angeles County Sheriff's Department ("Department") must use this technology in a manner that is consistent with the requirements and protections of the United States Constitution, including the Fourth Amendment, as well as applicable statutory authorities, including Government Code Section 53166. Moreover, any information resulting from the use of cell-site simulators must be handled in a way that is consistent with the array of applicable statutes, regulations, and policies that guide law enforcement as to how it may and may not collect, retain, and disclose data.

The Department will regularly re-assess its use of cell-site simulators as the technology evolves to ensure that its policies and protocols reflect the Department's public safety mission, as well as its commitment to uphold every individual's right to privacy and civil liberties. This policy provides additional guidance and establishes common principles for the use of cell-site simulators and identifies practices which will be implemented by the Department to ensure privacy protections for all individuals.

I. Background

This section provides information about how the Department intends to use cell-site simulator technology and associated equipment, and defines the capabilities of the equipment possessed by the Department which is the subject of this policy.

Basic Uses

The Department intends to use cell-site simulators to locate cellular devices whose unique identifiers are already known to law enforcement.

The Department also intends to use cell-site simulators to locate persons whose safety reasonably appears in jeopardy, such as in the case of abduction, search and rescue missions, and other emergency situations.

In all cases, cell-site simulator technology will only be deployed when it is best suited to achieve specific public safety objectives.

How the Technology Functions

Cell-site simulators, as governed by this policy, will function by transmitting as a cell tower. In response to the signals emitted by the simulator, cellular devices in the proximity identify it as the most attractive cell tower in the area and thus, transmit signals to the simulator that identify the device in the same way they would with a networked tower.

A cell-site simulator will receive these signals and use an industry standard unique identifying number assigned by a device manufacturer or cellular network provider to distinguish between incoming signals until the targeted device is located. Once the cell-site simulator identifies the specific cellular device for which it is looking, it will obtain the signaling information relating only to that particular phone, rejecting all others. Although the cell-site simulator initially receives signals from multiple devices in the vicinity of the simulator while attempting to locate the targeted device, it does not display the unique identifying numbers of those other devices for the operator of the simulator. To the extent any unique identifier for any non-targeted devices may exist in the simulator itself, it will be purged at the conclusion of the operation in accordance with Section V. of this Policy.

What Cell-Site Simulators Do and Do Not Obtain – The Authorized Purpose of the Los Angeles County Sheriff's Department's Use of a Cell-Site Simulator

By transmitting as a cell tower, cell-site simulators acquire identifying information from cellular devices. As used by the Department, this information will be limited. Cell-site simulators will provide only the relative signal strength and general direction of a targeted cellular telephone. They will not function as a GPS locator, as they will not obtain or download any location information from the device or from any of its applications. Moreover, cell-site simulators used by the Department will only be configured as pen registers, and will not be capable of collecting or intercepting the contents of any communication, aural or otherwise, in accordance with 18 U.S.C. § 3127(3). This limitation shall be made an express part of any search warrant sought by the Department. Any cell-site simulator utilized by the Department will not and cannot remotely capture emails, texts, contact lists, images, or any other data contained on any phone. In addition, the Department's cell site simulator(s) do not and cannot collect subscriber account information (for example, an account name, address, telephone number, or billing information). Nor does it install malware, modify the device settings or alter device content.

II. Management Controls, Authorization For Use, And Accountability

Cell-site simulators require training and practice to operate correctly and efficiently. To that end, the following management controls and approval process will help ensure that only knowledgeable and accountable personnel will use the technology.

1. Only specific, sworn Department personnel, as well as trained technicians working under their direction, will be authorized to use and/or access the cell-site simulator technology.
2. Department personnel with access to the cell-site simulator will be trained and supervised appropriately. Cell-site simulators will be operated only by personnel who have been specifically authorized by the Chief of Detective Division to use the technology and have been trained by a qualified agency component or expert.
3. The Department will not share any information collected through the use of a cell-site simulator with any third party.
4. Each use of a cell-site simulator by qualified Department personnel must be approved by the Chief of Detective Division or his/her designee(s) prior to deployment of the simulator.

III. LEGAL PROCESS AND SEARCH WARRANTS

The use of any cell-site simulator possessed by the Department and operated by any of its personnel shall be permitted only as authorized by this Policy and pursuant to a search warrant signed by a judicial officer.

Authorized Department personnel seeking the use of a cell site simulator shall obtain a search warrant which consists of all information required to be included in a pen register order pursuant to 18 U.S.C. § 3123 (or the state equivalent). The search warrant affidavit also must reflect the information noted in Section IV of this Policy (“Application for Use of Cell-Site Simulators”).

IV. APPLICATION FOR USE OF CELL-SITE SIMULATORS

When preparing an application for judicial authority for the use of a cell-site simulator, the affiant shall disclose sufficient information within the application or supporting affidavit to ensure the judicial officer is aware the technology may be used:

1. The affiant making the application or supporting affidavit requesting the use of a cell-site simulator should describe in general terms the technique to be employed. The description should indicate that investigators plan to send signals to the targeted cellular phone which will cause it, and non-targeted phones on the same provider network and in close proximity, to emit unique identifiers, which will be obtained by the technology, and investigators will use the information collected to attempt to determine the physical location of the targeted cellular device.

2. An application or supporting affidavit should inform the court that the target cellular device (e.g., cell phone) and other cellular devices in the area might experience a temporary disruption of service from the service provider. The application may also note, if accurate, that any potential service disruption to non-target devices would be temporary and all operations will be conducted to ensure the minimal amount of interference to non-target devices.
3. An application for the use of a cell-site simulator should inform the court about how the Department intends to address deletion of data not associated with the target phone. The application should also indicate that law enforcement will make no affirmative use of any non-target data, except to identify and distinguish the target device from other devices.

V. AUDITS, MONITORING, DATA COLLECTION, AND DISPOSAL

The Department is committed to ensuring that its practices concerning the collection and/or retention of data are lawful and appropriately respect the important privacy interests of individuals. As part of this commitment, the Department will operate in accordance with rules, policies, and laws that control the collection, retention, dissemination, and disposition of records which contain personal identifying information. As with data collected in the course of any investigation, these authorities apply to information collected through the use of a cell-site simulator. The Department will not collect, retain or disseminate any data except as authorized by this Policy and by law. Consistent with applicable existing laws and requirements, including any duty to preserve exculpatory evidence, the Department's use of cell-site simulators shall include the following privacy practices:

1. When the equipment is used to locate a known cellular device, all data must be deleted as soon as that device is located and no less than once daily.
2. When the equipment is used to locate persons in an emergency situation, all data must be deleted as soon as the person or persons in need of assistance have been located, and in any event no less than once every ten (10) days.
3. Prior to deploying equipment for another mission, the operator must verify that the equipment has been cleared of any previous operational data.

The Department shall implement an auditing program to ensure the data is deleted in the manner described above. This audit shall take place not less than once every six (6) months.

VI. FEDERAL, STATE AND LOCAL LAW ENFORCEMENT PARTNERS

The Department often works closely with its Federal, State or Local law enforcement partners and provides technological assistance under a variety of circumstances. This Policy applies to all instances in which the Department uses cell-site simulators in support of any other law enforcement agency. In cases where the Department is requested to employ the use of its personnel and cell-site simulator technology, qualified Department personnel will be required to:

1. Ensure the requesting entity has included the appropriate terminology and information in their affidavit in support of a search warrant and has acquired judicial authority for the use of cell-site simulator technology.
2. Confirm who will be responsible for any financial obligations required by the telecommunication company(s).
3. Inform the requesting entity that no information obtained from using the cell-site simulator will be shared with them, or any other individual or entity, other than the results of any possible targeted device locations obtained by use of the cell-site simulator for the targeted device only.
4. Advise the requesting entity that the requesting entity will be responsible for compliance with all requirements under California Penal Code §§ 1546 – 1546.4.

VII. TRAINING, COORDINATION, AND ONGOING MANAGEMENT

Accountability is an essential element in maintaining the integrity of the use of cell-site simulator technology by the Department. All sworn personnel shall be provided a copy of this Policy and will be accountable for knowledge of its contents. Appropriate training shall be provided to all Department personnel authorized to use or access the technology. Training shall be documented and retained, according to appropriate retention practices. Periodic review of this Policy and training shall be the responsibility of the Chief of Detective Division with respect to the way the equipment is being used (e.g., significant advances in technological capabilities, the kind of data collected, or the manner in which it is collected). Operators will familiarize themselves with this Policy and comply with all orders concerning the use of this technology. Moreover, as the law in this area evolves, this Policy will be amended as needed to reflect the current state of the law.

VIII. CONCLUSION

Cell-site simulator technology has significantly enhanced the Los Angeles County Sheriff's Department's efforts to provide the highest quality of public safety and achieve its law enforcement objectives. As with other capabilities and tools, the Los Angeles County Sheriff's Department must always use this technology in a manner consistent with the Constitution and all other legal authorities. This policy provides additional principles and guidance to ensure that the Los Angeles County Sheriff's Department deploys the cell-site simulator in an effective and appropriate manner consistent with authorizing law.