



# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** David E. Downing  
Assistant Chief of Police

**SUBJECT:** Cell-Site Simulator Technology

**DATE:** September 26, 2016

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City Administrator  
Approval

Date

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## **RECOMMENDATION**

**Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The Alameda County District Attorney's Office (ACDA) For The Purpose Of Allowing Members Of The Oakland Police Department (OPD) To Use Cellular Site Simulator (CSS) Technology, For Five Years From The Effective Date Of The MOU At No Cost To OPD.**

## **EXECUTIVE SUMMARY**

Approval of this MOU will allow OPD to enter into a no-cost MOU with ACDA to use CSS technology to assist missing persons, at-risk individuals, and victims of mass casualty incidents; investigations involving danger to the life or physical safety of individuals; as well as in the apprehension of fugitives.

## **BACKGROUND AND LEGISLATIVE HISTORY**

California Government Code § 53166(b) was enacted in October 2015 and regulates the use of CSS technology by law enforcement agencies. Among other provisions, the law states that law enforcement agencies using CSS technology must maintain reasonable security procedures and practices. The law also requires that law enforcement agencies using CSS technology “[i]mplement a usage and privacy policy to ensure that the collection, use, maintenance, sharing, and dissemination of information gathered through the use of cellular communications interception technology complies with all applicable law and is consistent with respect for an individual’s privacy and civil liberties. This usage and privacy policy shall be...posted conspicuously on [the agency’s] Web site. The usage and privacy policy shall...include...[t]he existence of [any] memorandum of understanding or other agreement with another local agency or any other party for the shared use of cellular communications interception technology or the sharing of information collected through its use, including the identity of signatory parties.”<sup>1</sup>

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<sup>1</sup> [https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=53166.&lawCode=GOV](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=53166.&lawCode=GOV)

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ACDA has acquired CSS technology and is making it available to Alameda County law enforcement agencies. In order to use this technology, OPD must enter into an MOU with ACDA. A draft MOU (**Attachment A**) has been developed and requires City Council approval. A draft OPD policy (**Attachment B**) concerning use of CSS technology and making reference to the MOU with ACDA has been developed by OPD.

## **ANALYSIS AND POLICY ALTERNATIVES**

OPD is committed to reducing crime and serving the community through fair, quality policing. OPD can more effectively save lives, reduce harm, and reduce crime through the use of CSS technology.

### *Authorized Purposes and Legal Authority*

Per policy, OPD would be limited to using CSS technology to:

- (a) Locate missing persons
- (b) Locate at-risk individuals
- (c) Locate victims of mass casualty incidents
- (d) Assist in investigations involving danger to the life or physical safety of an individual
- (e) Apprehend fugitives

As provided by OPD policy, there are only two bases for use of CSS technology: with a search warrant or for an identified exigency. In the case of an identified exigency, a concurrent application for a search warrant shall be made whenever possible and no later than 48 hours after use.

### *What the Cell-Site Simulator Does*

A CSS functions by transmitting as a cellular phone tower. Cellular devices in the area of the CSS identify the simulator as the most attractive cell tower. These cellular devices transmit signals to the CSS that identify the cellular devices. The CSS receives these signals and identifies the target device. Once the specific target device has identified the specific cellular device for which it is looking, it will obtain the signaling information relating only to that particular phone and reject all others. Although the CSS initially receives signals from multiple devices near the simulator while attempting to locate the target device, it does not display the unique identifying numbers of those other devices. If any unique identifier for the non-targeted device exists in the simulator, it will be purged at the end of the operation, as per policy.

When used for search and rescue, the CSS will obtain signaling information from all devices in the target vicinity to locate persons in need of assistance or to further recovery efforts. Any such information will be used only for these limited purposes. All such information received will be purged as soon as the person or persons in need of assistance have been located, and in any event no less than once every 10 days, as per policy.

The only information obtained by the CSS are the azimuth (an angular measurement in a spherical coordinate system), signal strength, and device identifier.

#### *What the Cell-Site Simulator Does Not Do*

The CSS owned by ACDA and available to OPD through MOU will not be used to capture emails, texts, contact lists, images or any other data. The CSS will not be used to collect subscriber account information such as an account holder's name, address, or telephone number. Per policy, any data that is acquired by the cell-site simulator device will be deleted at the end of any 24-hour period of use unless needed for a search and rescue operation. Any data acquired during a search and rescue operation will be deleted at the end of the operation or no less than once every 10 days, as per policy.

#### *Oversight by OPD*

The OPD cell-site simulator policy and the resolution that accompanies this report require that each use of cell-site simulator technology by OPD must be approved by the Chief of Police or Assistant Chief of Police. Any emergency use must be approved by a Lieutenant of Police or higher-ranking member, as per policy and the accompanying resolution. The Chief of Police, Privacy Advisory Commission, and the Public Safety Committee will be provided with an annual report that includes information on each use of cell-site simulator technology.

### **PUBLIC OUTREACH / INTEREST**

OPD staff presented this report to the Privacy Advisory Commission on August 11, 2016. This presentation followed a meeting and correspondence with Brian Hofer, Chair of the Privacy Commission. The policy will be placed on the OPD website upon City Council approval of the accompanying resolution.

### **COORDINATION**

This report and legislation have been reviewed by the Office of the City Attorney.

### **FISCAL IMPACT**

There is no expected fiscal impact for this MOU. OPD staff time will be required to use the CSS. Any such staff time will rely on existing funding in the General Purpose Fund.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** There are no economic opportunities associated with this report.

***Environmental:*** There are no environmental opportunities associated with this report.

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**Social Equity:** All residents benefit from greater public safety. Inter-agency partnerships allow OPD to enhance its investigative capacity. Successful investigations and more prosecutions of criminal activity will likely occur from the implementation of this MOU.

**ACTION REQUESTED OF THE PUBLIC SAFETY COMMITTEE**

Staff Recommends That The City Council Approve A Resolution Authorizing The City Administrator Or Designee To Enter Into A Memorandum Of Understanding (MOU) With The Alameda County District Attorney's Office (ACDA) For The Purpose Of Allowing Members Of The Oakland Police Department (OPD) To Use Cellular Site Simulator (CSS) Technology, For Five Years From The Effective Date Of The MOU At No Cost To OPD.

For questions regarding this report, please contact Bruce Stoffmacher, Legislation Manager, OPD Research and Planning, at (510) 238-6976.

Respectfully submitted,

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David E. Downing  
Assistant Chief of Police  
Oakland Police Department

Prepared by:  
Bruce Stoffmacher, Legislation Manager  
OPD, Research and Planning, OCOP

**Attachments (2)**

- A: Draft MOU with ACDA Concerning Cell-Site Simulator Technology
- B: Draft OPD Policy Concerning Cell-Site Simulator Technology