

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

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 TECHNOLOGY, FOR FIVE YEARS FROM THE EFFECTIVE DATE OF THE MOU AT NO COST TO OPD

WHEREAS, the OPD is committed to reducing crime and serving the community through fair, quality policing; and

WHEREAS, cellular site simulator technology is available at no cost to OPD from ACDA; and

WHEREAS, OPD can more effectively investigate such crimes when provided with additional resources including the use of advanced technology; and

WHEREAS, cellular site simulator technology ~~may will~~only be used only to locate missing persons, at-risk individuals, and victims of mass casualty incidents; investigations involving danger to the life or physical safety of individuals; and to apprehend fugitives; and

WHEREAS, cellular site simulator technology will be used only in a manner consistent with the ~~Fourth Amendment to the~~ United States Constitution - particularly the First and Fourth Amendments - and applicable statutory authorities;

WHEREAS, the Oakland Police Department is committed to honor and respect civil liberties;

WHEREAS, whenever cellular site simulator technology ~~will be~~is used to assist in investigations it will only be done so only pursuant to a search warrant, or identified exigency in accordance with an concurrent application for a search warrant whenever possible and in no event more than 48 hours after use; ~~pursuant to a search warrant or identified exigency followed by an application for a search warrant as required by law;~~ and

WHEREAS, cellular site simulator technology ~~is incapable~~will not of being used

to capture emails, texts, contact lists, images or any other data; and

WHEREAS, cellular site simulator technology ~~is incapable of~~will not be used to collecting subscriber account information such as an account holder's name, address, or telephone number; and

WHEREAS, the cellular site simulator sought for use by OPD ~~does not have the capacity~~will not be used to intercept or capture communications, emails, texts, contact lists, images or other data contained on a device; and

WHEREAS, only designated OPD personnel may use cellular site simulator technology; and

WHEREAS, each use of cellular site simulator technology by OPD must be approved by the Chief of Police or Assistant Chief of Police and any emergency use must be approved by a Lieutenant of Police or higher-ranking member; and

WHEREAS, the Chief of Police, the Privacy Advisory Commission, and the Public Safety Committee will be provided with an annual report that includes information on each use of cellular site simulator technology; and

WHEREAS, all data contained by the cellular site simulator device shall be deleted at the end of any 24-hour period of use unless needed for a search and rescue operation in which case it will be deleted no less than once every 10 days; now, therefore, be it and

WHEREAS, the Oakland Police Department has developed a policy governing use of cellular site simulator technology in collaboration with the Privacy Advisory Commission and will follow this policy as written; and

WHEREAS, no new cellular site simulator technology capabilities will be installed or used beyond what is initially approved without express City Council approval; now, therefore, be it

RESOLVED: That the City Council authorizes the City Administrator or designee to enter into a MOU with ACDA for the purpose of using cellular site simulator technology owned by ACDA at no cost to OPD for a period of five years; and be it

FURTHER RESOLVED, cellular site simulator technology will be used by the Oakland Police Department only to locate missing persons, at-risk individuals, and victims of mass casualty incidents; investigations involving danger to the life or physical safety of individuals; and to apprehend fugitives; and

FURTHER RESOLVED: That the City Council authorizes the City Administrator or designee to use cellular site simulator technology in a manner consistent with the ~~Fourth Amendment to the~~ United States Constitution - particularly the First and Fourth Amendments - and applicable statutory authorities; and be it

FURTHER RESOLVED: the Oakland Police Department is committed to honor and respect civil liberties;

FURTHER RESOLVED: That the City Council ~~authorizes~~ requires the City Administrator or designee to obtain a search warrant or, in an identified exigency, complete a search warrant application concurrently whenever possible and in no event file the application for a search warrant no more than 48 hours after use in an identified exigency whenever the technology is used to to assist in an investigation; use cellular site simulator technology only pursuant to a search warrant or identified exigency followed by an application for a search warrant as required by law or following a mass casualty incident; and be it

FURTHER RESOLVED: That the City Council ~~authorizes~~ prohibits the City Administrator or designee ~~to use from using~~ cellular site simulator technology incapable of capturing to capture emails, texts, contact lists, images or any other data; and be it

FURTHER RESOLVED: That the City Council ~~authorizes~~ prohibits the City Administrator or designee ~~to use from using~~ cellular site simulator technology incapable of collecting to collect subscriber account information such as an account holder's name, address, or telephone number; and be it

FURTHER RESOLVED: That the City Council ~~authorizes~~ prohibits the City Administrator or designee ~~to use from using~~ cellular site simulator technology that does not have the capacity to intercept or capture communications, emails, texts, contact lists, images or other data contained on a device; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or designee to limit use of cellular site simulator technology to designated OPD personnel; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or designee to require approval by the Chief of Police or Assistant Chief of Police for each use and approval by a Lieutenant of Police or higher-ranking member for each emergency use; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or designee to require an annual report to the Chief of Police, the Privacy Advisory Commission, and the Public Safety Committee concerning each use of cellular site simulator technology; and be it

FURTHER RESOLVED: That the City Council authorizes the City Administrator or designee to require that all data contained by the cellular site simulator device be deleted at the end of any 24-hour period of use unless needed for a search and rescue operation in which case it will be deleted no less than once every 10 days; and be it

FURTHER RESOLVED: That the Oakland Police Department has developed a

policy governing use of cellular site simulator technology in collaboration with the Privacy Advisory Commission and will follow this policy as written; and be it

FURTHER RESOLVED, no new cellular site simulator technology capabilities will be installed or used beyond what is initially approved without express City Council approval; now, therefore, be it

FURTHER RESOLVED: That the City Administrator, or designee, is authorized to conduct all negotiations, applications, agreements, and related actions which may be necessary to administer the aforementioned program.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID AND PRESIDENT GIBSON MCELHANEY

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California