



MEMORANDUM

TO: LeRonne Armstrong,
Chief of Police

FROM: Anwawn Jones, Sergeant
OPD, Intel Unit

SUBJECT: Cellular Site Simulator – 2021 Annual
Report

DATE: February 25, 2022

Background

Oakland Municipal Code (OMC) 9.64.040: Surveillance Technology “Oversight following City Council approval” requires that for each approved surveillance technology item, city staff must present a written annual surveillance report for Privacy Advisory Commission (PAC). After review by the Privacy Advisory Commission, city staff shall submit the annual surveillance report to the City Council. The PAC shall recommend to the City Council that:

- The benefits to the community of the surveillance technology outweigh the costs and that civil liberties and civil rights are safeguarded.
- That use of the surveillance technology cease; or
- Propose modifications to the corresponding surveillance use policy that will resolve the concerns.

Oakland Police Department (OPD) Department General Order (DGO) I-11: Cellular Site Simulator (CSS) Usage and Privacy, requires that OPD provide an annual report to the Chief of Police, the Privacy Advisory Commission (PAC), and Public Safety Committee. The information provided below is compliant these annual report requirements.

Sergeant Anwawn Jones is currently the CSS Program Coordinator.

2021 Data Points

- A. A description of how the surveillance technology was used, including the type and quantity of data gathered or analyzed by the technology:

The Cell Site Simulator Surveillance (CSS) Impact report explains that, “Cellular site simulators, as governed by this policy, function by transmitting as a cell tower. In response to the signals emitted by the simulator, cellular devices in the proximity of the simulator 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 that they would a networked tower.

CSS receives signals and uses 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 cellular 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.

The authorized purposes for using CSS interception technology and for collecting information using that 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*

The technology was requested one time in 2021. The request was part of the investigation into the fugitives involved in the shooting of a retired OPD Captain. The Alameda District Attorney's Office approved the use. However, officers discovered the suspects prior to use of the technology.

- B. Whether and how often data acquired through the use of the surveillance technology was shared with outside entities, the name of any recipient entity, the type(s) of data disclosed, under what legal standard(s) the information was disclosed, and the justification for the disclosure(s):

DGO I-11 does provide that OPD may share CSS data with other law enforcement agencies that have a right to know and a need to know¹, such as an inspector with the District Attorney's Office. However, no CSS data would be downloaded, retained, or shared. No data was generated or shared with any agency because it was not actually used in 2021.

- C. Where applicable, a breakdown of what physical objects the surveillance technology hardware was installed upon; using general descriptive terms so as not to reveal the specific location of such hardware; for surveillance technology software, a breakdown of what data sources the surveillance technology was applied to:

CSS is not attached to fixed objects.

- D. Where applicable, a breakdown of where the surveillance technology was deployed geographically, by each police area in the relevant year.

CSS was not utilized anywhere in the City in 2021.

- E. A summary of community complaints or concerns about the surveillance technology, and an analysis of the technology's adopted use policy and whether it is adequate in protecting civil rights and civil liberties. The analysis shall also identify the race of each person that was subject to the technology's use. The Privacy Advisory Commission may waive this requirement upon making a determination that the probative value in gathering this information to evaluate the technology's impact on privacy interests is outweighed by the City's administrative burden in collecting or verifying this information and the potential

¹ DGO I-11 explains that a right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law.

greater invasiveness in capturing such data. If the Privacy Advisory Commission makes such a determination, written findings in support of the determination shall be included in the annual report submitted for City Council review.

Staff reached out to each City Council office to ask about possible community complaints or concerns related to this surveillance technology. No community complaints or concerns were communicated to staff.

In terms of “an analysis shall also identify the race of each person that was subject to the technology’s use”:

- *The technology was not used, and therefore there was no data generated from usage;*
- *OPD does have information about the suspect(s) connected to the case that precipitated the technology request. However, the phone related to the considered usage could have been in possession of other people. The phone also could have been registered by a different person and/or registered using a pseudonym contact.*

For the reasons cited above, staff recommends that the PAC waive this requirement upon making a determination that the probative value in gathering this information to evaluate the technology’s impact on privacy interests is outweighed by the possible inaccuracy of the information potentially gathered in this situation.

- F. The results of any internal audits, any information about violations or potential violations of the Surveillance Use Policy, and any actions taken in response unless the release of such information is prohibited by law, including but not limited to confidential personnel file information.

There were no uses in 2021 and thus no need for any audits. There were no policy violations.

- G. Information about any data breaches or other unauthorized access to the data collected by the surveillance technology, including information about the scope of the breach and the actions taken in response.

There were no uses in 2021 and thus no possible data breaches.

- H. Information, including crime statistics, that helps the community assess whether the surveillance technology has been effective at achieving its identified purposes.

Table 1 below provides 2021 Part 1 Crime Data. This data illustrates the high levels of both violent crime and property crimes that occur in Oakland including for the 2021 year.

Table 1: 2021 OPD Type 1 Crime Data

Part 1 Crimes <i>All totals include attempts except homicides</i>	01-01-2020 through 12-31-2020	01-01-2021 through 12-31-2021	Year-to-Date % Change 2020 vs. 2021	3-Year Year-to-Date Average	YTD 2021 vs. 3-Year YTD Average
Homicide - 187(a)	102	124	22%	100	24%
• Homicide - all other *	7	10	43%	7	50%
Aggravated Assault	3,315	3,559	7%	3,206	11%
• With Firearm	499	599	20%	462	30%
Rape	217	158	-27%	193	-18%
Robbery	2,417	2,693	11%	2,641	2%
Burglary Total	8,689	10,197	17%	11,291	-10%
• Auto	6,221	8,179	31%	8,921	-8%
• Residential	1,247	1,055	-15%	1,370	-23%
• Commercial	958	670	-30%	750	-11%
• Other/Unknown	263	293	11%	249	18%
Motor Vehicle Theft	8,722	9,010	3%	8,071	12%
Larceny	5,974	6,186	4%	6,643	-7%
Arson	193	170	-12%	172	-1%
Total Part 1 Crimes	29,636	32,107	8%	32,324	-1%

- I. Statistics and information about public records act requests regarding the relevant subject surveillance technology, including response rates.

There are no existing or new public records request for the 2021 calendar year.

- J. Total annual costs for the surveillance technology, including personnel and other ongoing costs, and what source of funding will fund the technology in the coming year.

Zero (\$0.00). OPD did not incur any maintenance, licensing, or training costs.

OPD is committed to providing the best services to our community while being transparent and instilling procedural justice through daily police activity. This report is compliance with these OPD commitments. OPD hopes that this report helps to strengthen our trust within the Oakland community.

Respectfully submitted,

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OPD, Bureau of Investigations

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