CITY OF OAKLAND

Privacy Advisory Commission

November 1, 2018 5:00 PM Oakland
City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Meeting Agenda

***Commission Members**: **District 1 Representative**: Reem Suleiman, **District 2 Representative**: Chloe Brown, **District 3 Representative**: Brian M. Hofer, **District 4 Representative**: Lou Katz, **District 5 Representative**: Raymundo Jacquez III, **District 6 Representative**: Vacant, **District 7 Representative**: Robert Oliver, **Council At-Large Representative**: Saied R. Karamooz, **Mayoral Representative**: Heather Patterson*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum

2. 5:05pm: Review and approval of October meeting minutes

3. 5:10pm: Open Forum

4. 5:15pm: Surveillance Equipment Ordinance – discussion with staff and take action to adopt sequence of impact analysis and use policy writing for existing Fire Department equipment

5. 5:20pm: Surveillance Equipment Ordinance – Unapproved Use of UAV by OPD during exigent circumstances – presentation of staff report and take possible action

6. 5:30pm: Review and discuss Federal Task Force MOU with Drug Enforcement Agency – take possible action

7. 5:50pm: Surveillance Equipment Ordinance – Cell Site Simulator Impact Analysis and draft Use Policy – review and take possible action.

8. 7:00pm: Adjournment

CITY OF OAKLAND

Privacy Advisory Commission

October 4, 2018 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 1st Floor
Meeting Minutes

***Commission Members**: **District 1 Representative**: Reem Suleiman, **District 2 Representative**: Chloe Brown, **District 3 Representative**: Brian M. Hofer, **District 4 Representative**: Lou Katz, **District 5 Representative**: Raymundo Jacquez III, **District 6 Representative**: Vacant, **District 7 Representative**: Robert Oliver, **Council At-Large Representative**: Saied R. Karamooz, **Mayoral Representative**: Heather Patterson*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum

Quorum was reached with only Member Brown absent.

2. 5:05pm: Review and approval of September meeting minutes

The minutes were approved unanimously.

3. 5:10pm: Open Forum

4. 5:15pm: Election of vice-chair

Raymundo Jaquez III was unanimously elected Vice-Chair.

5. 5:20pm: Surveillance Equipment Ordinance – discussion with Director Darlene Flynn – Dept. of Race & Equity about measuring and mitigating disparate impact; take action on Surveillance Technology Acquisition Questionnaire (STAQ)

Race and Equity Director Darlene Flynn provided an overview of her work in Equity and ho it applies to City policy. A close examination of the STAQ was conducted and the PAC approved the edited document with the suggested language she provided.

6. 5:50pm: Surveillance Equipment Ordinance – discussion with staff and take action to adopt sequence of impact analysis and use policy writing for existing equipment

The PAC adopted the recommended scheduled that staff submitted and noted that a list of OFD equipment is still required.

7. 6:00pm: Special presentation and Q&A with UC Berkeley Law Professor Catherine Crump: *Carpenter v. United States* (2018)

Professor Crumb gave a thorough analysis of the Carpenter v. US decision and its implications for local jurisdictions moving forward.

CITY OF OAKLAND

MEMORANDUM

TO:	Privacy Advisory Commission	**FROM:**	Anne E. Kirkpatrick
SUBJECT:	Use of Unapproved Surveillance Technology Under Exigent Circumstances	**DATE:**	October 25, 2018

RECOMMENDATION

Receive information use of unapproved surveillance technology under exigent circumstances in accordance with Oakland Municipal Code (OMC) 9.64.035 and forward to the City Council.

EXECUTIVE SUMMARY

In accordance with OMC 9.64.035, the Oakland Police Department (OPD) used surveillance technology under exigent circumstances (the attempted murder of a police officer). The technology is Unmanned Aerial Surveillance (UAS or drone).

BASIS FOR EXIGENCY

On October 19, 2018, at 3:13 am, a uniformed OPD officer attempted to make contact with the occupants of a vehicle parked in the 2300 block of East 17th Street. One of the occupants ran from the vehicle and shot at the pursuing officer. The subject fled, the officer was uninjured, and a gun was recovered. The subject was identified and an arrest warrant obtained for attempted murder of a police officer. The subject was deemed an immediate and serious threat to public and officer safety.

DEVICE USE INFORMATION

The UAS detection equipment was provided by and operated by the Alameda County Sheriff's Office. The UAS was used to assist uniformed officers during the course of several yard searches for the wanted subject.

COMPLIANT USE

The following information on both technologies is required by OMC 9.64.035 and shows that they were used in accordance with the OMC.

A. The UAS detection equipment was used solely to respond to the exigency.
B. Use of the UAS detection equipment ceased when the exigency ended.
C. Only data related to the exigency was kept.
D. This report is being provided to the Privacy Advisory Commission at its next meeting with a recommendation that it be forwarded to City Council.

OPD never had possession of the UAS detection equipment; the Alameda County Sheriff's Office maintained possession of the equipment during the entire equipment usage period.

Respectfully submitted,

Anne E. Kirkpatrick
Chief of Police
Oakland Police Department

Prepared by:
Timothy Birch, Police Services Manager
Research and Planning Section
Training Division
OPD

DEPARTMENTAL GENERAL ORDER

I-11: Cellular Site Simulator Usage and Privacy

Effective Date: XX Jan 19
Coordinator: Intelligence Unit

It is the policy of the Oakland Police Department to respect the privacy rights and civil liberties of individuals and to follow the Constitution, particularly the First and Fourth Amendments, the California Constitution, and all applicable laws.

COMMAND INTENT

The intent of this policy is to set guidelines and requirements pertaining to cellular site simulator technology usage and privacy. Any changes to this policy – including authorized uses of the cellular site simulator technology by the Oakland Police Department – will be made in consultation with the Oakland Privacy Commission.

A. Purpose of the Technology

A – 1. Authorized Use

The authorized purposes for using cellular communications interception technology and for collecting information using that technology to:

1. Locate missing persons
2. Locate at-risk individuals
3. Locate victims of mass casualty incidents
4. Assist in investigations involving danger to the life or physical safety of an individual
5. Apprehend fugitives

A – 2. Prohibited Use

Cellular site simulator technology will not be used at crowd management events.

A – 3. Legal Authority

Cellular site simulator technology may only be used by the Oakland Police Department with a search warrant or for an identified exigency, with a concurrent application for a search warrant. A search warrant application shall be made no later than 48 hours after use in an identified exigency. When using cellular site simulator technology to assist in an investigation, Oakland Police personnel may only attempt to locate cellular devices whose unique identifiers are already known to law enforcement unless used for a mass casualty event.

When making any application to a court, members of the Oakland Police Department shall disclose appropriately and accurately the underlying purpose and activities for which an order or authorization is sought. Oakland Police Department personnel must consult with prosecutors when using a cell-site simulator and applications for the use of a cell- site simulator must include sufficient information to ensure that the courts are aware that the technology is being used.

Commented [BT1]: 9.64.010 7 A. Purpose: The specific purpose that the surveillance technology is intended to advance.

Commented [BT2]: 9.64.010 7 B Authorized Use: The specific uses that are authorized, and the rules and processes required prior to such use.

Commented [BT3]: 9.64.010 7 B Authorized Use: The specific uses that are authorized, and the rules and processes required prior to such use.

1. Regardless of the legal authority relied upon, at the time of making an application for use of a cell-site simulator, the application or supporting affidavit shall describe in general terms the technique to be employed. The application or supporting affidavit shall indicate that investigators plan to send signals to the cellular phone that will cause it, and non-target phones on the same provider network in close physical proximity, to emit unique identifiers. The application or supporting affidavit shall indicate that these unique identifiers will be obtained by the technology, and investigators may only use the information collected to determine the physical location of the target cellular device.
2. An application or supporting affidavit shall 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 or supporting affidavit 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 cellular site simulator shall inform the court about how law enforcement intends to address deletion of data not associated with the target phone. The application shall state that law enforcement will make no use of any non-target data, except to identify and distinguish the target device from other devices.

If cellular site technology is used based on an exigency, then the above requirements will be met by applying for a search warrant concurrently with use of the device whenever possible and no later than 48 hours after use. An exigency is defined as an imminent threat of death or bodily injury.

B. Description of the Technology

B – 1. General Description of Cellular Site Simulator Technology

Cellular site simulators, as governed by this policy, function by transmitting as a cell tower.

B – 2. How Cellular Site Simulator Technology Works – Unique Identifier

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.

A cellular site simulator 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. Although the cellular site simulator

Commented [BT4]: 9.64.010 6 A. Description: Information describing the surveillance technology and how it works, including product descriptions from manufacturers.

What about descriptions from manufacturers?

initially receives signals from multiple devices in the vicinity of the simulator while attempting to locate the target device, it does not display the unique identifying numbers of those other devices for the operator except when deployed in registration mode. Registration mode may only be used for mass casualty incidents. If the cellular site simulator equipment or software is modified or capable of displaying unique identifiers other than in registration mode, Oakland Police personnel are prohibited from making use of, or saving, such information. To the extent that any unique identifier for the non-targeted device might exist in the software or simulator itself, it will be purged at the conclusion of operations in accordance with this policy.

B – 3. **How Cellular Site Simulator Technology Works – Mass Casualty**

When used in a mass casualty event, the cellular site simulator will obtain signaling information from all devices in the simulator's target vicinity for the limited purpose of locating persons in need of assistance or to further recovery efforts. Any information received from the cellular devices during this time will only be used for these limited purposes and all such information received will be purged at the conclusion of the effort in accordance with this policy. A mass casualty incident is a natural disaster such as an earthquake or fire; a terrorist attack; or any other event resulting in imminent loss of life or injury.

C. Data Collection

Commented [BT5]: 9.64.010 7 C Data Collection: The information that can be collected by the surveillance technology. Where applicable, list any data sources the technology will rely upon, including "open source" data;

C – 1. Information Collected

By transmitting as a cell tower, cellular site simulators acquire identifying information from cellular devices. As employed by the Oakland Police Department, this information is limited. Cellular site simulators employed by the Oakland Police Department will be limited to providing only:

1. Azimuth (an angular measurement in a spherical coordinate system);
2. Signal strength; and
3. Device identifier for the target device when locating a single individual or all device identifiers for a mass casualty incident.

C – 2. Limitations on Information Collected

Cellular site simulators do not function as GPS locators, as they will not obtain or download any location information from the device or its applications.

Cellular site simulators used by the Oakland Police Department shall not be used to collect the contents of any communication, in accordance with 18 U.S.C. § 3121(c).

The cellular site simulator employed by the Oakland Police Department shall not capture emails, texts, contact lists, images or any other data contained on the phone. In addition, the cellular site simulators shall not be used by the Oakland Police Department to collect subscriber account information (for example, an account holder's name, address, or telephone number).

D. Data Access

D - 1. Oakland Police Department Personnel

Personnel authorized to use or access information collected through the use of cellular communications interception technology shall be specifically trained in such technology and authorized by the Chief of Police or designee. Such personnel shall be limited to designated sergeants and officers unless otherwise authorized.

Training requirements for the above employees include completion of training by the manufacturer of the cellular communications interception technology or appropriate subject matter experts as designated by the Oakland Police Department. Such training shall include Federal and state law; applicable policy and memoranda of understanding; and functionality of equipment. Training updates are required annually.

D - 2. Third Party Data Sharing

The Oakland Police Department will share information gathered through the use of cellular site simulator technology with other law enforcement agencies that have a right to know and a need to know the information requested. A right to know is the legal authority to receive information pursuant to a court order, statutory law, or case law. A need to know is a compelling reason to request information such as direct involvement in an investigation.

Information will be shared only with agencies in accordance with a lawful purpose and limited to a court order, search warrant, or identified exigency on the part of the agency. The Oakland Police Department will not share information outside of the legal parameters necessary for the lawful purpose. All requests for information shall be reviewed by the Cellular Site Simulator Program Coordinator or other individual as designated by the Chief of Police. Information will be shared only upon approval of the Cellular Site Simulator Program Coordinator or other individual as designated by the Chief of Police.

The agency with which information is shared ("recipient agency") shall be designated as the custodian of such information. The recipient agency shall be responsible for observance of all conditions of the use of information including the prevention of unauthorized use, retention of information, and destruction of information.

Every law enforcement agency and officer requesting use of the cell- site simulator, shall be provided with a copy of this Policy and specialized training in the use of this technology. Such agencies shall also provide copies of this Policy and training, as appropriate, to all relevant employees who may be involved in the use of this technology.

E. Data Protection

Commented [BT6]: 9.64.010 7 D. Data Access: The category of individuals who can access or use the collected information, and the rules and processes required prior to access or use of the information;

Commented [BT7]: 9.64.010 7 I Training: The training required for any individual authorized to use the surveillance technology or to access information collected by the surveillance technology;

Commented [BT8]: 9.64.010 7 H. Third Party Data Sharing: If and how other City departments, bureaus, divisions, or non-City entities can access or use the information, including any required justification or legal standard necessary to do so and any obligations imposed on the recipient of the information;

Commented [BT9]: 9.64.010 7 E Data Protection: The safeguards that protect information from unauthorized access, including encryption and access control mechanisms;

This needs development.

F. Data Retention

The Oakland Police Department shall destroy all information intercepted by the cellular site simulator equipment as soon as the objective of the information request is accomplished and shall record this destruction in accordance with the below.

F – 1. Unique Identification Mode

When the cellular site simulator equipment is used to locate a known cellular device, all data shall be deleted upon locating the cellular device and no fewer than once daily for a known cellular device.

F – 2. Mass Casualty Mode

When the cellular site simulator equipment is used in a search and rescue operation, 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 10 days.

F – 3. Additional Requirements

Prior to deploying the cellular site simulator equipment for a subsequent operation, ensure the equipment has been cleared of any previous operational data.

No data derived or recorded by cellular site simulator software or equipment will be stored on any server, device, cloud-based storage system, or in any capacity.

G. Public Access

H. Auditing and Oversight

The Oakland Police Department will monitor its use of cellular site simulator technology to ensure the accuracy of the information collected and compliance with all applicable laws, including laws providing for process and time period system audits. The Chief of Police shall designate a Cellular Site Simulator Program Supervisor who shall ensure such audits are conducted in accordance with law and policy.

H – 1. Deployment Log

Prior to deployment of the technology, use of a cellular site simulator by the Oakland Police Department must be approved by the Chief of Police or the Assistant Chief of Police. Any emergency use of a cellular site simulator must be approved by a Lieutenant of Police or above. Each use of the cellular site simulator device requires completion of a log by the user. The log shall include the following information at a minimum:

1. The name and other applicable information of each user.

Commented [BT10]: 9.64.010 7 F Data Retention: The time period, if any, for which information collected by the surveillance technology will be routinely retained, the reason such retention period is appropriate to further the purpose(s), the process by which the information is regularly deleted after that period lapses, and the specific conditions that must be met to retain information beyond that period;

Commented [BT11]: 9.64.010 7 G Public Access: How collected information can be accessed or used by members of the public, including criminal defendants;

This needs to be developed.

Commented [BT12]: 9.64.010 7 J Auditing and Oversight: The mechanisms to ensure that the Surveillance Use Policy is followed, including internal personnel assigned to ensure compliance with the policy, internal recordkeeping of the use of the technology or access to information collected by the technology, technical measures to monitor for misuse, any independent person or entity with oversight authority, and the legally enforceable sanctions for violations of the policy

2. The reason for each use.
3. The results of each use including the accuracy of the information obtained.

H – 2. Annual Report

The Cellular Site Simulator Program Coordinator shall provide the Chief of Police, the Privacy Advisory Commission, and Public Safety Committee with an annual report that contains all of the above information. The report shall also contain the following for the previous 12-month period:

1. The number of times cellular site simulator technology was requested.
2. The number of times cellular site simulator technology was used.
3. The number of times that agencies other than the Oakland Police Department received information from use of the equipment by the Oakland Police Department.
4. The number of times the Oakland Police Department received information from use of this equipment by other agencies.
5. Information concerning any violation of this policy including any alleged violations of policy.
6. Total costs for maintenance, licensing and training, if any.
7. The results of any internal audits and if any corrective action was taken, subject to laws governing confidentiality of employment actions and personnel rules.
8. The number of times the equipment was deployed:

    a. To make an arrest or attempt to make an arrest.
    b. To locate an at-risk person.
    c. To aid in search and rescue efforts.
    d. For any other reason.

9. If cellular site simulator technology was used in relation to a crime, the type of crime.
10. The effectiveness of the technology in assisting in investigations based on data collected.
11. Final location of use in specific deployments as long as such information does not compromise an investigation. Location information shall be as specific as possible without compromising an investigation.
12. Information in the deployment log that does not violate individual privacy rights or compromise an investigation, including:

    a. The name and other applicable information of each user.
    b. The reason for each use.
    c. The results of each use including the accuracy of the information obtained.

The above information and reporting procedures will assist in evaluating the efficacy of this policy and equipment.

I. Maintenance

J. Memorandum of Understanding

The Oakland Police Department has a memorandum of understanding with the Alameda County District Attorney's Office for the shared use of cellular site simulator technology and the sharing of information collected through its use. The signatory parties are the County of Alameda and the City of Oakland.

By order of

Anne E. Kirkpatrick
Chief of Police

Date Signed: _____

Commented [BT13]: 9.64.010 K Maintenance: The mechanisms and procedures to ensure that the security and integrity of the surveillance technology and collected information will be maintained.

This needs to be developed.

Commented [BT14]: Required for cell site simulator technology by California Government Code 53166(b).

OAKLAND POLICE DEPARTMENT

Surveillance Impact Report for the Cell Site Simulator

1. Information Describing the Cell Site Simulator and How It Works

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.

A cellular site simulator 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.

2. Proposed Purpose

The authorized purposes for using cellular communications 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

3. Locations Where, and Situations in which the Cell Site Simulator May Be Deployed

Cellular site simulator technology may only be used by the Oakland Police Department (OPD) with a search warrant or for an identified exigency, with a concurrent application for a search warrant. A search warrant application shall be made no later than 48 hours after use in an identified exigency. When using cellular site simulator technology to assist in an investigation, OPD personnel may only attempt to locate cellular devices whose unique identifiers are already known to law enforcement unless used for a mass casualty event. Cellular site simulator technology will only be used in the City of Oakland and anywhere that OPD or other law enforcement personnel have legal and policy authorization to use this technology.

When making any application to a court, members of OPD shall disclose

appropriately and accurately the underlying purpose and activities for which an order or authorization is sought. OPD personnel must consult with prosecutors when using a cell site simulator and applications for the use of a cell site simulator must include sufficient information to ensure that the courts are aware that the technology is being used.

a. Regardless of the legal authority relied upon, at the time of making an application for use of a cell site simulator, the application or supporting affidavit shall describe in general terms the technique to be employed. The application or supporting affidavit shall indicate that investigators plan to send signals to the cellular phone that will cause it, and non-target phones on the same provider network in close physical proximity, to emit unique identifiers. The application or supporting affidavit shall indicate that these unique identifiers will be obtained by the technology, and investigators may only use the information collected to determine the physical location of the target cellular device.

b. An application or supporting affidavit shall 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 or supporting affidavit 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

c. An application for the use of a cellular site simulator shall inform the court about how law enforcement intends to address deletion of data not associated with the target phone. The application shall state that law enforcement will make no use of any non-target data, except to identify and distinguish the target device from other devices.

If cellular site technology is used based on an exigency, then the above requirements will be met by applying for a search warrant concurrently with use of the device whenever possible and no later than 48 hours after use. An exigency is defined as an imminent threat of death or bodily injury.

4. Potential Impact on Civil Liberties & Privacy

OPD recognizes that all people have an inalienable right to privacy and is committed to protecting and safeguarding this right by adhering to the strictest requirements of both state and federal law when operating cellular site simulator technology.

Although the cellular site simulator initially receives signals from multiple devices in the vicinity of the simulator while attempting to locate the target device, it does not display the unique identifying numbers of those other devices for the operator except when deployed in registration mode. Registration mode may only be used for mass casualty incidents. If the cellular site simulator equipment or software is modified or capable of displaying unique identifiers other than in registration mode, Oakland Police

personnel are prohibited from making use of, or saving, such information. To the extent that any unique identifier for the non-targeted device might exist in the software or simulator itself, it will be purged after operations in accordance with this policy.

OPD believes that the narrow use of the cell site simulator aligns with OPD's and the City's efforts to civil liberties and social equity. The equipment can only be used to geographically identify the location of specific individuals; the equipment will not be used to broadly identify people. This narrow prescriptive use only serves to leverage evidence and find known-individuals - with a search warrant. Therefore, the use of the cell site simulator will not infringe on the civil rights of the public.

When used in a mass casualty event, the cellular site simulator will obtain signaling information from all devices in the simulator's target vicinity for the limited purpose of locating persons in need of assistance or to further recovery efforts. Any information received from the cellular devices during this time will only be used for these limited purposes and all such information received will be purged at the conclusion of the effort in accordance with this policy. A mass casualty incident is a natural disaster such as an earthquake or fire; a terrorist attack; or any other event resulting in imminent loss of life or injury.

Cellular site simulator technology will not be used at crowd management events.

5. Mitigations

Government Code § 53166(b) requires all law enforcement organizations that use cellular communications interception technology, including cellular site simulator technology, to:

a. Maintain reasonable security procedures and practices, including operational, administrative, technical, and physical safeguards, to protect information gathered through the use of cellular communications interception technology from unauthorized access, destruction, use, modification, or disclosure.

b. Implement 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 available in writing to the public, and, if the local agency has an Internet Web site, the usage and privacy policy shall be posted conspicuously on that Internet Web site. The usage and privacy policy shall, at a minimum, include all of the following:

    1. The authorized purposes for using cellular communications interception technology and for collecting information using that technology.

2. A description of the job title or other designation of the employees who are authorized to use, or access information collected through the use of, cellular communications interception technology. The policy shall identify the training requirements necessary for those authorized employees.
3. A description of how the local agency will monitor its own use of cellular communications interception technology to ensure the accuracy of the information collected and compliance with all applicable laws, including laws providing for process and time period system audits.
4. The existence of a 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.
5. The purpose of, process for, and restrictions on, the sharing of information gathered through the use of cellular communications interception technology with other local agencies and persons.
6. The length of time information gathered through the use of cellular communications interception technology will be retained, and the process the local agency will utilize to determine if and when to destroy retained information.

Members shall use only department-approved devices and usage shall be in compliance with department security procedures, the department's usage and privacy procedures and all applicable laws.

6. Data Types and Sources

By transmitting as a cell tower, cellular site simulators acquire identifying information from cellular devices. As employed by the Oakland Police Department, this information is limited. Cellular site simulators employed by the Oakland Police Department will be limited to providing only:

a. Azimuth (an angular measurement in a spherical coordinate system)
b. Signal strength
c. Device identifier for the target device when locating a single individual or all device identifiers for a mass casualty incident.

Cellular site simulators do not function as GPS locators, as they will not obtain or download any location information from the device or its applications.

Cellular site simulators used by the Oakland Police Department shall not be used to collect the contents of any communication, in accordance with 18 U.S.C. § 3121(c).

The cellular site simulator employed by the Oakland Police Department shall

not capture emails, texts, contact lists, images or any other data contained on the phone. In addition, the cellular site simulators shall not be used by the Oakland Police Department to collect subscriber account information (for example, an account holder's name, address, or telephone number).

7. Data Security

Although the cellular site simulator initially receives signals from multiple devices in the vicinity of the simulator while attempting to locate the target device, it does not display the unique identifying numbers of those other devices for the operator except when deployed in registration mode. Registration mode may only be used for mass casualty incidents. If the cellular site simulator equipment or software is modified or capable of displaying unique identifiers other than in registration mode, Oakland Police personnel are prohibited from making use of, or saving, such information. To the extent that any unique identifier for the non-targeted device might exist in the software or simulator itself, it will be purged at the conclusion of operations in accordance with this policy.

8. Fiscal Cost

OPD does has not purchased cell site simulator technology and does not have any current plants to purchase such technology.

9. Third Party Dependence

The Oakland Police Department has a memorandum of understanding with the Alameda County District Attorney's Office for the shared use of cellular site simulator technology and the sharing of information collected through its use. The signatory parties are the County of Alameda and the City of Oakland.

10. Alternatives Considered

OPD officers and investigators rely primarily on traditional policing techniques to gather evidence related to criminal investigation such as speaking to witnesses and suspects, gathering information from observations, and using standard data aggregation systems. These methods will continue to be employed as primary investigative tools that will be supplemented by use of cell site simulator technology when authorized by law and policy.

Cell site simulator technology provides two great advantages to OPD that alternatives do not. First, the technology provides opportunities to save lives more quickly that alternative methods. Cell site simulator technology is capable of helping OPD locate missing persons, at-risk individuals, victims of mass casualty events, and violent individuals more quickly than alternative methods. Second, the technology provides an incredible efficiency in terms of dollars saved and priorities addressed compared to alternatives. Without cell site simulator technology, more OPD staff would take a longer time in attempting to locate wanted individuals and victims of mass casualty events. In addition to costing the City of Oakland more financially, dedicating more

staff to such tasks requires other critical priorities to go unaddressed.

11. Track Record of Other Entities

The Alameda County District Attorney's Office (ACDAO) published a report titled, "annual report regarding use of cell-site simulator technology 2017;" OPD is not aware of other government agency reports, as of the time of this report, on the use of cell site simulators. The ACDAO report explains that the Fremont Police Department as well as OPD are authorized to use the equipment. In 2017 there were three authorized requests to use the equipment (with a search warrant) "to effectuate an arrest." OPD was the one department that received information from the use of the ACDAO technology. The report explains that the required use audit revealed no instances of non-compliance with law or policy.