



CITY ATTORNEY STATEMENT

City Attorney Releases Three Documents Related to Stingray Cell Site Simulator

The San Diego City Attorney's Office released three documents today concerning the Stingray cell site simulator and the U.S. Department of Justice's decision to not allow local enforcement agencies to disclose specific information about the device. The documents are being released with consent of the Department of Justice.

1. Media Release Template

The first document is a Media Release template created by the Department of Justice to help local law enforcement agencies address common concerns raised by media, among them legal and privacy concerns.

With respect to legal concerns, the template states that a court order signed by a judge is required before the cell site simulator can be operated by the local law enforcement agency.

With respect to privacy concerns, it states that the cell site simulator "cannot intercept the content of calls or texts, meaning that our personnel cannot listen to cell calls or read text messages using this device." It adds, "The cell site simulator cannot obtain any internet based data such as emails, instant messages, social media, etc."

2. Court ruling in *Hodai v. City of Tucson*

The second document is the ruling in *Hodai v. City of Tucson*, which was issued less than two weeks ago. Tucson is one of many U.S. cities where, as in San Diego, the media requested that local government produce documents under public record laws and, as in San Diego, some records were produced and others were withheld. Investigative reporter Beau Hodai sued the City of Tucson, and his request for additional records was denied.

In *Hodai*, the Court found that Tucson "has shown a countervailing interest of the state in effective law enforcement that outweighed the public's right to know how this investigative tool works."

3. Affidavit from the Chief of FBI's Tracking Technology Unit

The third document is an April 2014 affidavit from Supervisory Special Agent Bradley S. Morrison, who is the Chief of the FBI's Tracking Technology Unit, Operational Technology

Division at Quantico, Va. In it, he asserts the U.S. Department of Justice's authority to regulate the dissemination of information belonging to the Department.

On the second page of his affidavit, Supervisory Special Agent Morrison discusses the non-disclosure agreement (NDA) the FBI enters into with its local law enforcement partners specific to their use of cell site simulator technology. The NDA states that disclosures of the capabilities of cell site simulators may endanger law enforcement officers, adversely impact national security investigations and impede the FBI's ability to protect the public from acts of terrorism.

According to the Affidavit, the penalty for improper disclosure is a federal crime punishable by up to 20 years in prison.

In light of the foregoing, San Diego Police Department and City officials will have no further comment on this unless otherwise directed by the Department of Justice or a court order.

All further questions should be directed to the Department of Justice.

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