



2-14 USE OF CELL-SITE SIMULATOR (CSS) TECHNOLOGY

Related SOP(s), Form(s), Other Resource(s), and Rescinded Special Order(s):

A. Related SOP(s)

~~X-XX- Policy Title~~None

B. Form(s)

- PD 1340 Consent to Search Digital Devices
- Affidavit Submitted Pursuant to New Mexico Electronic Communications Privacy Act
- Application and Order Pursuant to Electronic Communications Privacy Act
- Electronic Communications Privacy Act Warrant Tracking Form
- Letter of Notification
- Order of Delayed Notification
- Order of Delayed Notification and Non-Disclosure
- Order Sealing Search Warrant and Affidavit
- Return and Inventory

C. Other Resource(s)

NMSA 1978, §§ 10-16F-1 to 10-16F-6 Electronic Communications Privacy Act

D. Rescinded Special Order(s)

None

2-14-1 Purpose

The purpose of this ~~Unit~~ policy is to set ~~guidelines~~ requirements for the operation of any cell-site simulator technology by authorized Albuquerque Police Department (Department) personnel.

2-14-2 Policy

It is the policy of the ~~Albuquerque Police Department (Department)~~ to utilize ~~c~~Cell-s~~s~~Site Simulator (CSS) technology as, one tool among many traditional law enforcement techniques, and to achieve important public safety objectives, including search-and-rescue, criminal investigations, and other public safety operations. The Department's use of CSS technology provides valuable assistance in support of the Department's important public safety objectives. Only appropriately trained Department personnel may use and operate the CSS technology. Because the Department is committed to constitutional and effective community policing, the use of any CSS technology ~~must~~ shall strictly comply with the requirements and protections of the Constitution, including the Fourth Amendment, and applicable federal, state, federal, and local laws.



N/A 2-14-3 Definitions

A. Authorized Information

The Department and its personnel are only authorized to acquire the following information from a cellular device through the use of CSS technology: the industry standard unique identifying number assigned by the device manufacturer or cellular network provider and limited signaling information from a cellular device, including the relative strength and general direction of a cellular device.

B. Cell-Site Simulator (CSS) Technology

~~CSS is an acronym for Cell-Site Simulator. CSS Technology that~~ transmits as a cell tower and acquires identifying information from cellular devices; however, this identifying information is limited. CSS does not function as a Global Positioning System (GPS) locator and does not obtain or download any location information from the cellular device or its applications.

~~C. ESU~~

~~ESU is an acronym for Electronic Support Unit.~~

~~D. C. Prohibited Information and Data~~

~~All The Department and its personnel are prohibited under the Electronic Communications Privacy Act and this ~~policy~~ Standard Operating Procedure (SOP) from using CSS technology to intercept and collect the following: contents of any communications; data contained on the phone itself, including emails, texts, contact lists, images, etc.; or subscriber account information, including the account holder's name, address, or telephone number.~~

~~E. SID~~

~~SID is an acronym for Special Investigations Division.~~

2-14-4 Staffing and Personnel Responsibilities

A. CSS technology is administered by the Electronic Support Unit (ESU) within the Investigative Services Division (ISD).

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B. The ESU Sergeant ~~responsibilities are as follows~~ shall:

1. Supervise, train, and evaluate the ESU detectives' training in utilizing CSS technology;
2. Assist in coordinating the use of CSS technology and trained personnel to support Department operations, including search-and-rescue, criminal investigations, and public safety operations;



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- 3. Receive, review, authorize, and assign the requests to utilize CSS technology based on the appropriateness of the underlying case, operation, or mission.
- 4. Responsible for confirming approval from the Career Criminal Lieutenant or ~~his/her~~ their designee prior to using any CSS technology. In exigent circumstances, the ESU Sergeant shall be responsible for confirming approval from ~~the~~ SID/ISD Commander or ~~his/her~~ their designee.
- ~~5. Consistent with federal, state, and local laws, and this Standard Operating Procedure (SOP), As required under this policy or under applicable federal, state, or local law, ensure all CSS technology personnel are properly trained, qualified, and certified on the CSS technology prior to use.~~
- ~~6.~~ 5. Ensure that any Authorized Information is deleted from the CSS equipment technology, in accordance with Section 2-14-4 consistent with the requirements in this Standard Operating Procedure (SOP).
- ~~7.~~ 6. Maintain a log of the use of CSS technology; and
- ~~8.~~ 7. Conduct a monthly audit to ensure strict compliance with all applicable laws and procedures, document the results, and address any issues resulting from the monthly audit.

C. ~~An ESU detective who operates CSS technology~~ Operator responsibilities are as follows shall:

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1. ~~Responsible for e~~ Obtaining approval from the ESU Sergeant or their designee, prior to using any CSS ~~equipment~~ technology; and

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2. Be responsible for the operation of CSS ~~equipment~~ technology; and

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~~0. Responsible for c~~ ompleting, maintaining, updating, and conducting training for CSS equipment.

~~F.~~ D. Confidentiality

Due to the sensitive nature of CSS technology and its use, ~~the authorized personnel~~ the ESU Sergeant and ESU detectives ~~and Operator's~~ shall abide by the requirements under all applicable confidentiality and non-disclosure agreements.

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2-14-5 Training and Accountability

N/A

A. Only the ESU Sergeant and ESU detectives who have been trained in the operation of CSS technology ~~technology shall only be operated by trained personnel who have been~~ have been authorized by the Department to use the ~~CSS equipment~~ technology ~~and whose training has been administered by a qualified Department component or expert.~~

A.



- ~~2.1.~~ The ESU Sergeant and ESU detectives ~~All authorized personnel and CSS technology Operators must~~ shall familiarize themselves with the manufacturer's directions and manual prior to the use of any CSS technology.
- ~~3.2.~~ The ESU Sergeant ~~shall~~ will ~~shall~~ conduct inspections of all CSS technology to ensure the equipment is properly functioning.
- ~~4.3.~~ Consistent with federal, state, and local laws, and this SOP, ~~a~~ At least on an annual basis and in consultation with the Office of the City Attorney, the ESU personnel ~~shall~~ will ~~shall~~ conduct training for ~~authorized Department personnel~~ ESU detectives. The training shall include a component of ~~privacy and civil liberties~~ Electronic Communications Privacy Act.

4 B. ~~Prior to the use of any CSS technology for training purposes, there must~~ shall be approval from a qualified supervisor, to include ~~T~~ the ESU Sergeant or his/her ~~their~~ designee shall approve the use of any CSS technology for training purposes. The ~~supervisory approval is in addition~~ ESU Sergeant and to ESU personnel ~~detectives~~ shall understand ~~complying with~~ the legal process described below, including any requirements to apply for and receive judicial authorization as described in ~~section 2-44.5~~ this SOP.

1. The ESU Sergeant shall ~~p~~ Periodically review and revise ~~of this policy~~ SOP and any associated training ~~that may be needed to ensure necessary changes are made as a result of any significant advances in technological capabilities.~~
2. All Department personnel are prohibited under federal law from intercepting the contents of any communications through the use of CSS technology. Additionally, all Department personnel are prohibited under this ~~policy~~ SOP from intercepting any Prohibited Information and Data through the use of CSS technology.
3. All Department personnel shall consider a ~~Any~~ Authorized Information obtained from CSS technology ~~shall be considered~~ as confidential and they shall be handled Authorized Information in a confidential manner.
4. When CSS technology is used to locate a known cellular device, the ESU Sergeant and ESU detectives shall delete all Authorized Information ~~shall be deleted~~ as soon as the particular device is located, ~~and not less than once daily.~~
5. When CSS technology is used to identify an unknown cellular device, the ESU Sergeant and ESU detective shall delete all Authorized Information ~~must~~ shall be deleted as soon as the target cellular device is identified and ~~in any event~~ not less than once every thirty (30) days in the event that a court order is granted allowing for the retention of the Authorized Information.



- 6. Prior to deploying CSS technology for a different mission, the ~~Operator~~ ESU detectives must shall verify the Authorized Information from a previously completed mission has been cleared from the CSS technology.
- 7. Within reason, when CSS technology is used following a natural disaster or when the ESU Sergeant or ESU detectives assist the Open Space Section in a search- and -rescue operation, the ESU Sergeant and ESU detectives shall delete all Authorized Information ~~must shall be deleted~~ as soon as the operation or natural disaster ceases, and in any event, not less than once every ten (10) days.

2-14-6 Legal Process and Applications for Use of CSS Technology

- 1** A. The use of CSS technology is permitted only as authorized by federal, state, and local laws and Department policy. ~~SOP.~~
- 1** B. Prior to the use of CSS technology, the ESU detective ~~Operator~~ or sworn personnel ~~the Department assigned~~ as a case agent shall apply to the appropriate court for a judicial warrant supported by probable cause. The judicial warrant requirement may not apply to the following situations:
 - 1. Exigent circumstances under the Fourth Amendment, consistent with the Electronic Communications Privacy Act;
 - a. An exigency that excuses the need to obtain a warrant may arise when the needs of the Department are so compelling that they render a warrantless search objectively reasonable. Assuming the ~~Operator~~ ESU detective or ~~the Department~~ sworn personnel assigned as a case agent has the requisite probable cause, then a variety of exigent circumstances may justify dispensing with a warrant, including, but not necessarily limited to: ~~(1)~~
 - i. The need to protect human life or avert serious injury; ~~(2)~~
 - ii. The prevention of the imminent destruction of evidence;
 - iii. The escape of a suspect; or (4)
 - iv. The prevention of escape by a suspect or convicted fugitive from justice.
 - ~~2.~~ Prior to the use of any CSS equipment in exigent circumstances, The ISD Commander or their designee shall approve ~~al will shall be obtained from the SID ISD Commander or his/her designee~~ the use of CSS technology to ensure exigency exists and deployment is authorized; and
 - ~~3.~~ Even if exigent circumstances do not exist, the Electronic Communications Privacy Act ~~law~~ does not require a judicial warrant in emergency situations or when circumstances make obtaining a judicial warrant impracticable. The pre-judicial warrant use of CSS technology under this provision shall be restricted to emergency situations that involve:
 - a. Immediate danger of death or serious bodily injury to any person;
 - b. Conspiratorial activities characteristic of organized crime;



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- c. ~~An~~ immediate threat to a national security interest; or
- d. ~~An~~ ongoing attack on a protected computer that constitutes a crime punishable by a term of imprisonment greater than one year. The ~~Operator~~ ESU detective or ~~Department~~ sworn personnel assigned as a case agent ~~may~~ shall only use CSS technology under this provision if and only if legal approval is provided by an attorney from the Bernalillo County District Attorney, and ~~must~~ shall also seek a judicial warrant or order within forty-eight (48) hours of such use.

N/A

C. When sworn personnel assigned as a case agent complete ~~An a~~ Application or supporting affidavit for the use of CSS technology, they ~~must~~ shall include sufficient information to ensure that the court is aware of:

1. The general terms of the technique to be employed;
2. ~~The~~ The description that should indicate ~~that~~ the CSS technology may send signals to the ~~cellular phone~~ device that ~~will~~ shall cause it, and non-target ~~phones~~ cellular devices in the area, to emit unique identifiers, which ~~will~~ shall be obtained by the CSS technology. ~~That information~~ The unique identifiers ~~will~~ shall be used to determine information pertaining to the physical location of only the target cellular device or to determine the currently unknown identifiers of the target cellular device;
3. The potential 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; and;
4. Authorized Information that is not associated with the target cellular device ~~will~~ shall be deleted at the completion of the mission.

N/A

2-14-7 Operations

A. The Department, through the ~~Operator's~~ ESU d ~~Detective's~~ use of the CSS technology, may provide another law enforcement agency assistance or support of public safety operations or criminal investigations, but may only do so if either of the following exist:

~~A~~ (1)

1. The use of CSS technology occurs in the City of Albuquerque; or ~~(2)~~

2. The use of CSS technology occurs outside of the City of Albuquerque, but only if the different state or municipal ~~or State~~ jurisdiction, where the use is occurring, is also a party to an appropriate and relevant non-disclosure agreement.

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~~B.~~ B. Even if the aforementioned requirements are present only the Department, through ~~its~~ Operator's the ESU detectives, may use the CSS technology. The Department ~~will~~ shall not allow another law enforcement agency to use or operate the Department's CSS technology.

2-14-8 Maintenance



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- 7 A. The ESU Sergeant shall maintain a ~~All Department CSS technology shall be maintained so that~~ to ensure it remains in working condition and ~~in accordance~~ consistent with the manufacturer's recommendations.

REVIEW