



2-14 USE OF CELL-SITE SIMULATOR TECHNOLOGY

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2-14-1 Policy

The Department utilizes Cell-Site Simulator (“CSS”) technology as one tool among many traditional law enforcement techniques 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 strictly comply with the requirements and protections of the Constitution, including the Fourth Amendment, and applicable state, federal, and local law.

2-14-2 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. CSS

CSS is an acronym for Cell-Site Simulator. CSS technology transmits as a cell tower and acquires identifying information from cellular devices, however, this identifying



information is limited. CSS does not function as a 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. Prohibited Information and Data

The Department and its personnel are prohibited under the law and this policy from using CSS technology to intercept and collect: the contents of any communications; any data contained on the phone itself; any emails, texts, contact lists, images, or other data from the cellular device; and subscriber account information including the account holder's name, address, or telephone number.

E. SID

SID is an acronym for Special Investigations Division

2-14-3 Staffing and Personnel Responsibilities

A. CSS technology is administered by the Electronic Support Unit ("ESU").

B. The ESU sergeant responsibilities are as follows:

1. Supervise, train, and evaluate detectives training in utilizing CSS technology.
2. Assist in coordinating the use of the CSS technology and trained personnel to support Department operations including search-and-rescue, criminal investigations, and public safety operations.
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 Career Criminal Lieutenant or his/her designee prior to using any CSS technology. In exigent circumstances, responsible for confirming approval from SID Commander or his/her designee.
5. As required under this policy or under applicable federal, state, or local law, ensure all CSS personnel are properly trained, qualified, and certified on the CSS technology prior to use.
6. Ensure that any Authorized Information is deleted from the CSS equipment in accordance with Section 2-14-4.



7. Maintain a log of the use of CSS technology.
 8. Conduct a monthly audit to ensure strict compliance to all applicable laws and procedures, document the results, and address any issues resulting from the monthly audit.
- C. Operator responsibilities are as follows:
1. Responsible for obtaining approval from ESU sergeant or their designee prior to using any CSS equipment.
 2. Responsible for the operation of CSS equipment.
 3. Responsible for completing, maintaining, updating, and conducting training for CSS equipment.
- D. Confidentiality. Due to the sensitive nature of CSS technology, the authorized personnel and Operator's shall abide by the requirements under all applicable confidentiality and non-disclosure agreements.

2-14-4 Training and Accountability

- A. CSS technology may only be operated by trained personnel who have been authorized by the Department to use the CSS equipment, and whose training has been administered by a qualified Department component or expert.
1. All authorized personnel and Operators must familiarize themselves with the manufacturer's directions and manual prior to the use of any CSS technology.
 2. The ESU will conduct inspections of any CSS technology to ensure the equipment is properly functioning.
 3. As least on an annual basis and in consultation with the Office of the City Attorney, ESU will conduct training for authorized Department personnel. The training shall include a component on privacy and civil liberties.
- B. Accountability is an integral element in maintaining the integrity of the Department. As such, prior to the use of any CSS technology, the use must be approved by a qualified supervisor including the ESU Sergeant or his/her designee. The supervisory approval is in addition to ESU personnel complying with the legal process described below, including any requirements to apply for and receive judicial authorization as described in Section 2-14-5.



1. Periodic review of this policy and any associated training may be needed to ensure necessary changes are made as a result of any significant advances in technological capabilities.
2. All personnel are prohibited under federal law from intercepting the contents of any communications through the use of CSS technology. Additionally, all personnel are prohibited under this policy from intercepting any Prohibited Information and Data through the use of CSS technology.
3. Any Authorized Information obtained from CSS technology shall be considered confidential and shall be handled in a confidential manner.
4. When CSS technology is used to locate a known cellular device, all Authorized Information shall be deleted as soon as the particular device is located, and no less than once daily.
5. When CSS technology is used to identify an unknown cellular device, all Authorized Information must be deleted as soon as the target cellular device is identified and in any event no less than once every thirty (30) days.
6. Prior to deploying CSS technology for a different mission, the Operator must 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 in a search-and-rescue operation, all Authorized Information must be deleted as soon as the operation or natural disaster ceases, and in any event no less than once every ten (10) days.

2-14-5 Legal Process and Applications for Use of CSS technology

- A. The use of CSS technology is permitted only as authorized by law and policy.
- B. Prior to the use of CSS technology the Operator or the Department assigned 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: 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



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the Operator or the Department assigned 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) the need to protect human life or avert serious injury; (2) the prevention of the imminent destruction of evidence; (3) the hot pursuit of a fleeing felon; or (4) the prevention of escape by a suspect or convicted fugitive from justice.

- a. Prior to the use of any CSS equipment in exigent circumstances, approval will be obtained from the Special Investigations Division (“SID”) Commander or his/her designee to ensure exigency exists and deployment is authorized.
2. Even if exigent circumstances do not exist, the 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: (1) immediate danger of death or serious bodily injury to any person; (2) conspiratorial activities characteristic of organized crime; (3) an immediate threat to a national security interest; or (4) an ongoing attack on a protected computer that constitutes a crime punishable by a term of imprisonment greater than one year. The Operator or Department assigned case agent may 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 also seek a judicial warrant or order within forty-eight (48) hours of such use.
- C. An Application or supporting affidavit for the use of CSS technology must include sufficient information to ensure that the court is aware of:
 1. The general terms of the technique to be employed.
 2. The description should indicate that the CSS technology may send signals to the cellular phone that will cause it, and non-target phones in the area to emit unique identifiers, which will be obtained by the CSS technology, and that information will be used to determine information pertaining to the physical location of only the target device or to determine the currently unknown identifiers of the target 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.
 4. Authorized Information not associated with the target cellular device will be deleted at the completion of the mission.

2-14-6 Operations



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- A. The Department, through the Operator'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 follow exist: (1) the use of CSS technology occurs in the City of Albuquerque; or (2) the use of CSS technology occurs outside of the City of Albuquerque but only if the different municipal or State jurisdiction where the use is occurring is also a party to an appropriate and relevant non-disclosure agreement. Even if the aforementioned requirements are present only the Department, through its Operator's, may use the CSS technology. The Department will not allow another law enforcement agency to use or operate the Department's CSS technology.

2-14-7 Maintenance

- A. All department CSS technology shall be maintained so that it remains in working condition, and in accordance with the manufacturer's recommendations.