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From: Larry D'Addario [REDACTED]
Sent: Thursday, December 07, 2023 2:02 PM
To: Community Police Oversight Commission
Cc: Sullivan, Noreen
Subject: Cellular Site Simulator Usage policy

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Dear Commission Members:

I am unable to attend tonight's meeting, but I want to provide the following comments on your proposed policy for use of cell site simulators by the Pasadena Police Department, which is agenda item 7 of the meeting.

1. The policy takes a step in the right direction by prohibiting some uses and ensuring transparency about actual use. However, it does not go nearly far enough. This is an especially dangerous and invasive technology. You should instead be recommending that the City Council deny approval of the PPD's purchase of its own cell site simulator, and further that it prohibit the use of any such equipment, regardless of ownership.
2. The problem with this sort of surveillance technology is that it sweeps up extensive information about innocent citizens, even those who are in private settings. Other technologies, such as cameras and automatic license plate readers (ALPRs), are able to track only those who have placed themselves or their property in public places and are thus subject to old-fashioned human surveillance. This technology is even more invasive, so it needs tighter control. Whereas effective control is not feasible, its use must be prohibited.
3. The proposed policy attempts to limit widespread surveillance by specifying that PPD "may only attempt to locate cellular devices whose unique identifiers are already known to law enforcement unless used for a mass casualty incident" and requiring a search warrant. However, the simulator will unavoidably collect identification and location information about all devices within its range, and the proposed policy does not say what is to be done with that information. The policy wording arguably prevents the simulator from "providing" information about non-targeted devices in real time, but it does not prevent that information from being stored so that it can be accessed later. Even if the policy prevented storage of such information, there would be no way to enforce it.

PPD (and many other agencies) has a history of such mass surveillance involving collection and storage of information about innocent citizens.

It does so with its ALPRs. Although ALPRs might be justified as a way to find stolen vehicles and enforce parking regulations, they collect and store the identification, time, and location of every vehicle seen. They could in principle immediately compare each license plate seen against a list of target vehicles and immediately delete the data if that vehicle is not on the list, but they do not. They have data on when and where my car has been parked in Pasadena, even though I am not suspected of any crime. There is no reason to think

that data from cell site simulators will not be similarly collected, regardless of what an adopted policy might say.

4. The PPD has already been using cell site simulators 2-3 times a month by borrowing them from other agencies (Pasadena Star News, Dec 7).

This fact might never have been publicly revealed if PPD were not required to get Council approval of its proposed purchase.

5. Although cell site simulators have been operated by police agencies for many years, it is my opinion that all such operations have always been prohibited by federal law. In general, operation of a radio transmitter on the public airwaves requires a license from the federal government, and operation of an unlicensed transmitter is illegal. Cell phone companies have licenses for their towers, and individual cell phone users are covered by their service provider's license. Operating an unlicensed transmitter is an especially egregious violation if it interferes with use of the airwaves by legitimate, licensed operators, and it is even more egregious if such interference is intentional -- yet intentional interference to legitimate and innocent users is exactly what cell site simulators do. Police agencies have been operating as if the law includes an exception for law enforcement, but it does not.

However, as far as I know, this claim that federal law prohibits such things has not been tested in court. It would require a lawsuit; a suit making this claim against the PPD could be filed at any time.

Sincerely,

Larry D'Addario

Pasadena Resident, Council District 4