

# **Exhibit R**

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~

U.S. Department of Homeland Security  
Washington, DC 20528



Homeland  
Security

December 4, 2017

The Honorable Ron Wyden  
United States Senate  
Washington, DC 20510

Dear Senator Wyden:

Thank you for your August 24, 2017 letter. Acting Secretary Duke asked that I respond on her behalf.

For specific responses to each of your questions, please refer to the enclosure. To address your specific concern related to U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) utilizing cell-site simulators, I can confirm that ICE/ERO does not use cell-site simulators for the purpose of civil immigration law enforcement. While ICE/ERO's primary mission is to enforce the Nation's civil immigration laws, individual ERO officers may participate in Joint Task Forces with federal, state, and local law enforcement partners, in furtherance of our shared public safety mission. Such Joint Task Forces may employ various technologies, including cell-site simulator technology, to pursue individuals suspected of engaging in criminal activity. However, such use must be conducted in a manner that protects rights afforded by the U.S. Constitution, and in compliance with applicable statutory authorities.

While cell-site simulators are used by several Components of the Department of Homeland Security (DHS), no Component is using this technology for the purpose of civil immigration enforcement. (b)(7)(E)

(b)(7)(E)

U.S. Customs and Border Protection (CBP) has made limited use of cell-site simulators.

(b)(7)(E)

The United States Secret Service (USSS) also uses cell-site simulators (b)(7)(E)

(b)(7)(E)

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~

www.dhs.gov

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~

The Honorable Ron Wyden  
Page 2

The DHS Components that use cell-site simulators do so in a manner that is consistent with DHS Policy Directive 047-02, *Department Policy Regarding the Use of Cell-Site Simulator Technology*, dated October 19, 2015, which closely aligns with the Department of Justice's policy guidance regarding the use of cell-site simulator technology. Under current policy, absent exigent circumstances under the Fourth Amendment or other exceptional circumstances where the law does not require a search warrant, operators must obtain a search warrant supported by probable cause and issued pursuant to Rule 41 of the Federal Rules of Criminal Procedure (or applicable state equivalent).

The technology is typically used to either locate a subject using their mobile device, or to determine which mobile device (i.e. smartphone) a subject is carrying. In the context of criminal investigations, (b)(7)(E)

(b)(7)(E)

(b)(7)(E) Devices are always able to dial 911 without any disruption of service. DHS remains committed to ensuring law enforcement practices concerning the collection or retention of data are lawful and respect the important privacy interests of individuals.

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~

The Honorable Ron Wyden  
Page 3

Thank you again for your letter and interest in this important matter. The cosigners of your letter will receive separate, identical responses. Should you wish to discuss this further, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "James D. Nealon".

James D. Nealon  
Assistant Secretary for International Affairs  
Office of Strategy, Policy, and Plans

Enclosure

~~LAW ENFORCEMENT SENSITIVE//FOR OFFICIAL USE ONLY~~