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United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

June 24, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Loretta Lynch
Attorney General
U.S. Department of Justice

Dear Attorney General Lynch:

Since last June, we have written three letters to the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) raising questions about the use of cell-site simulators. Often referred to as "IMSI Catchers," "dirtboxes," or "Stingrays," these devices mimic standard cell towers and force affected cell phones to reveal their approximate location and identifying serial number. According to the Director of the FBI, the FBI's use of these devices is not about collecting the content of communications.¹

On March 18, 2015, we wrote your office a letter asking for clarification of the policy regarding the use of these devices to intercept and collect the contents of communications, but we have not received a written response specific to this question. Also in that letter, we inquired about a *Wall Street Journal* article that reported that the United States Marshals Service ("USMS") field-tested various versions of this technology in the United States from 2004 to 2008 on behalf of the Central Intelligence Agency ("CIA").² Since then, a USMS whistleblower has contacted the Committee and stated that from 2004 to 2006, the USMS tested these devices in at least three American cities. Specifically, the devices were reportedly employed from airplanes that interacted with the signals of real cell-phones and captured their serial numbers – all without seeking a court order and without targeting a fugitive. If true, this report raises additional concerns and is not consistent with the USMS' previous representations about these devices.

Accordingly, by June 26, 2015, please provide written responses to each of the questions contained in our March 18, 2015, letter and Questions 1 and 2 of our December 23, 2014, letter. Also, while we appreciate the information provided orally to our staff in response to questions previously raised about the possible use of these devices to obtain the contents of communications, we ask that you memorialize written responses to the following questions:

¹ Charlotte Observer, "FBI [D]irector James Comey on cell gathering," Feb. 13, 2015, <https://www.youtube.com/watch?v=OrkpUHGKETE#t=30>; see also Fred Clasen-Kelly, "Secrecy lifts in CMPD StingRay phone tracking," *The Charlotte Observer*, Feb. 15, 2015.

² Devlin Barrett, "CIA Aided Program to spy on U.S. Cellphones: Marshals Service uses airborne devices that mimic cell towers to scan data on thousands of cellphones," *The Wall Street Journal*, Mar. 10, 2015.

1. Does FBI policy *ever* permit the reconfiguration of cell-site simulators to intercept and collect the content of communications?
2. If the answer to Question 1 is "yes," how many times have the devices been reconfigured and used in this way?
3. If the answer to Question 1 is "yes," what level of approval within the FBI is required before the devices are reconfigured and used in this way, and how many times have this reconfiguration and use been authorized?
4. If the answer to Question 1 is "yes," what type of court order is obtained prior to using the devices in this way? What information is provided to judges when seeking these court orders?

Please number your responses according to their corresponding questions. Should you have any questions, please contact [REDACTED] at [REDACTED] or [REDACTED] at [REDACTED]. Thank you for your attention to this important matter.

Sincerely,



Charles E. Grassley
Chairman



Patrick Leahy
Ranking Member