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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOGAN L. DAVIS, Chief Counsel and Staff Director
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March 18, 2015

VIA ELECTRONIC TRANSMISSION

The Honorable Eric H. Holder Jr.
Attorney General
U.S. Department of Justice

The Honorable Sally Quillian Yates
Acting Deputy Attorney General
U.S. Department of Justice

Dear Attorney General Holder and Acting Deputy Attorney General Yates:

In June and December, we wrote to the Department of Justice (DOJ) and other agencies 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. Although we understand that some versions of these devices can intercept and collect the content of communications, the Federal Bureau of Investigation (“FBI”) and the United States Marshals Service (“USMS”) both maintain that they do not use the devices in this way. These agencies have also reported that they purge any data collected from non-targeted telephones once an investigation is complete.

Last week, the *Wall Street Journal* reported that the USMS field-tested various versions of this technology in the United States from 2004 to 2008 on behalf of the Central Intelligence Agency (“CIA”). If this report is true, such practices raise additional concerns. In December, we asked about the full range of DOJ entities that use this technology, the policies in place to protect the privacy interests of third parties whose information might be collected by these devices, and the legal process that is sought prior to their deployment, including the information provided to courts that may authorize their use. DOJ’s failure to answer these questions has heightened our concerns.

Accordingly, please provide written responses to each of the following by March 27, 2015:

1. Does DOJ policy ever permit the use of cell-site simulators to capture the content of communications domestically? If so, under what circumstances is this permitted?
2. Has DOJ or any DOJ entity tested cell-site simulators or other surveillance technology on behalf of the intelligence community, by employing the devices in

the course of domestic law enforcement operations? If so, when, to what extent, and under what legal authority?

3. What, if any, DOJ policy governs the testing and deployment of new surveillance technology?
4. Please provide written responses to Questions 1 through 7 of our December 23, 2014 letter, as requested in that letter.

Should you have any questions, please contact Jay Lim at (202) 224-5225 or Lara Flint at (202) 224-7703. Thank you for your cooperation in this important matter.

Sincerely,



Charles E. Grassley
Chairman



Patrick Leahy
Ranking Member