



Written by [Joe Wolverton, II, J.D.](#) on June 5, 2014

## Feds Seize Records Revealing Local Police Surveillance

Federal law enforcement officers recently seized the records of a local police force's use of a controversial surveillance system known as "Stingray" just before the information was scheduled to be released to the public.



The U.S. Marshals Service "stunned" the American Civil Liberties Union (ACLU), which was waiting on the imminent release of the documents pursuant to a public records request the group filed earlier this year with the Sarasota, Florida, police department. The petition sought to shed light on the scope of the department's use of the Stingray device.

According to the ACLU, its representatives were scheduled to be given access to the documents last Tuesday, but federal marshals showed up first and took possession of the entire cache, claiming they were the property of the U.S. Marshals Service. The feds forbade the local police from releasing the documents as planned.

An attorney for the ACLU, Nathan Freed Wessler, said the marshals' action was "truly extraordinary and beyond the worst transparency violations" that his organization has seen with regard to the Stingray controversy.

*Wired* reports that Wessler said this behavior "is consistent with what we've seen around the country with federal agencies trying to meddle with public requests for stingray information." The blog also notes that the Department of Homeland Security has gone to similar lengths to prevent Stingray surveillance details from becoming public. "The feds are working very hard to block any release of this information to the public."

The suitcase-sized Stingray masquerades as a cell tower to trick cellphones into connecting to it. It can give police tracking identifiers for phones within a mile or more, depending on terrain. Given the mobility of the device, police who use it can triangulate a target's location with better accuracy than if they relied on data transferred by traditional cell towers.

This equipment isn't cheap. According to published reports, each Stingray device costs about \$150,000. Despite the cost, however, *USA Today* recently reported that at least 25 police departments admit to owning a Stingray, with 30 other cities refusing to disclose whether or not they own one of these expensive surveillance devices.

According to the article in *Wired*, the ACLU was anxious to get a look at the Sarasota records because "the organization has learned that a Florida police detective obtained permission to use a stingray simply by filing an application with the court under Florida's 'trap and trace' statute instead of obtaining a probable-cause warrant. Trap and trace orders generally are used to collect information from phone companies about telephone numbers received and called by a specific account. A stingray,



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however, can track the location of cell phones, including inside private spaces.”

The government claims that the devices don’t qualify for Fourth Amendment warrant protection as they don’t collect conversations or texts, but merely location data.

The ACLU disagrees. They argue that Stingray gives the police power to conduct “invasive tracking of our locations and communications.”

Police in Tallahassee have deployed the devices as well — an act which invoked an ACLU motion with a local court, requesting information about use of the Stingray. Yesterday, a judge in Tallahassee ordered the information released.

According to the group’s blog, the behavior that prompted their petition was its discovery that

police used a stingray to track a phone to a suspect’s apartment without getting a warrant.

Although the detective responsible for the tracking testified in court about using a stingray, in deference to the government’s demand for secrecy the court closed the hearing to the public and sealed the transcript.

Trying desperately to keep the records sealed, the government argued that revealing the information would violate various federal statutes, including the Homeland Security Act.

The court was not persuaded and ordered the release of the entire transcript of the hearing on the use of the Stingray.

The transcript reveals, according to the ACLU, six violations of the Fourth Amendment and other constitutional guarantees of civil liberty:

Stingrays “emulate a cellphone tower” and “force” cell phones to register their location and identifying information with the stingray instead of with real cell towers in the area.

Stingrays can track cell phones whenever the phones are turned on, not just when they are making or receiving calls.

Stingrays force cell phones in range to transmit information back “at full signal, consuming battery faster.” Is your phone losing battery power particularly quickly today? Maybe the cops are using a stingray nearby.

When in use, stingrays are “evaluating all the [cell phone] handsets in the area” in order to search for the suspect’s phone. That means that large numbers of innocent bystanders’ location and phone information is captured.

In this case, police used two versions of the stingray — one mounted on a police vehicle, and the other carried by hand. Police drove through the area using the vehicle-based device until they found the apartment complex in which the target phone was located, and then they walked around with the handheld device and stood “at every door and every window in that complex” until they figured out which apartment the phone was located in. In other words, police were lurking outside people’s windows and sending powerful electronic signals into their private homes in order to collect information from within.

The Tallahassee detective testifying in the hearing estimated that, between spring of 2007 and August of 2010, the Tallahassee Police had used stingrays approximately “200 or more times.”

The group has not been so lucky in Sarasota, however. The records remain in possession of the U.S.



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marshals, who incredibly insist that they control the documents in question because they “had deputized the detective in the case, making all documentation in the case federal property.” The cache now sits under the watchful eye of federal agents at an “undisclosed location.”

The ACLU doesn’t buy it. In a blog post, they declared:

We emphatically disagree, since the Sarasota detective created the applications, brought them to court, and retained the applications and orders in his files. Merely giving him a second title (“Special Deputy U.S. Marshal”) does not change these facts. But regardless, once the Sarasota Police Department received our records request, state law required them to hold onto the records for at least 30 days, to give us an opportunity to go to court and seek an order for release of the documents.

They have a point. Applicable Florida law governing the management of public records law requires public offices (including law enforcement) to maintain control of records for at least 30 days after receiving a request for disclosure, regardless of disputes over the legality of the request.

Regarding the heavy-handed attempt by the U.S. Marshals Service to interfere with state law and with the publication of protected documents, the ACLU wrote, “We’ve seen our fair share of federal government attempts to keep records about stingrays secret, but we’ve never [before] seen an actual physical raid on state records in order to conceal them from public view.”

A critical question that no one in the media or the ACLU seems to be asking is, Where does the federal government derive its assumed authority to take control of local law enforcement records and to dictate policy to local authorities in violation of current state law?

The events in Sarasota are yet another example of the federal government’s ongoing design to reduce local police to mere administrative sub-units of the greater federal law enforcement apparatus that grows larger and more powerful every day. From DHS fusion centers to army-like training and billions given in undeniably militaristic weapons and materiel, local police are being transformed into agents of the federal surveillance state.

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