

## MEMORANDUM OF SUPPORT FOR AN ACT TO PROHIBIT THE USE OF CELL SITE SIMULATORS IN LAW ENFORCEMENT

A.6143 Assemblymember Carroll/S.5825 Senator Brisport  
May 2023

**The Surveillance Technology Oversight Project supports An Act to Prohibit The Use of Cell Site Simulators in Law Enforcement (A.6143 Carroll/ S.5825 Brisport) and urges the legislature to pass, and the Governor to sign, this bill.**

The Surveillance Technology Oversight Project (S.T.O.P.) litigates and advocates for New Yorkers' privacy, working to abolish local governments' systems of mass surveillance. Our work highlights the discriminatory impact of surveillance on Muslim Americans, immigrants, the LGBTQ+ community, indigenous peoples, and communities of color, particularly the unique trauma of anti-Black policing. S.T.O.P. fights to ensure that technological advancements don't come at the expense of age-old rights. We hope to transform New York City and State into models for the rest of the United States of how to harness novel technologies without adversely impacting marginalized communities.

Cell site simulators (often known by brand name "Stingray") are surveillance devices that masquerade as cell phone towers to collect New Yorkers' location data in bulk. Because phones think the simulator is an actual cell tower, the phones automatically ping the simulator while searching for a mobile connection. This allows the police to identify which phone number is associated with each phone and identify the approximate location of each device. Then, the police can use phone records to identify the person associated with each number. These devices can also intercept phone calls and text messages.

Until recently, police departments often used cell site simulators without a warrant or any other legal process. This allowed police departments to conduct location surveillance using cell simulators without any independent oversight. Police departments have only begun seeking warrants to use cell site simulators recently in an attempt to avoid regulation while still conducting mass surveillance.

In 2020, reports uncovered that the U.S. Marshalls and the Drug Enforcement Administration asked the Justice Department for the authority to surveil Black Lives Matter protests. The common thread between these two agencies is their ownership of aerial surveillance technology outfitted with cell site simulators capable of identifying protestors via their mobile phone connections and tracking them afterward.<sup>1</sup> This would not have been the first time law enforcement agencies potentially used cell site

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<sup>1</sup> <https://theintercept.com/2020/07/31/protests-surveillance-stingrays-dirtboxes-phone-tracking/>.

simulators against protesters; there have been allegations that authorities deployed these devices against Dakota Access Pipeline protestors in 2016 and Black Lives Matter protestors in 2014.<sup>2</sup> The prospect of mass surveillance against political protestors is too great a danger to democracy—New York must ban cell site simulators.

Specifically, this bill would:

- Ban police use of cell site simulators;
- Suppress evidence obtained through police use of cell site simulators;
- Grant a right of action to the New York State Division on Human Rights to enforce the ban on cell site simulators; and
- Grant a private right of action to each person whose information is collected by police use of a cell site simulator.

By passing this bill, New York will take a major step to rein in unwarranted mass surveillance. We urge the legislature to pass, and the Governor sign, An Act to Prohibit the Use of Cell Site Simulators in Law Enforcement (A.6143 Carroll/ S.5825 Brisport).

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<sup>2</sup> <https://www.kgw.com/article/news/nd-pipeline-protesters-question-aircraft-surveillance-jamming/283-345780315>.  
<https://www.csmonitor.com/World/Passcode/2014/1222/Evidence-of-stingray-phone-surveillance-by-police-mounts-in-Chicago>. <https://www.eff.org/deeplinks/2016/12/investigating-law-enforcements-use-technology-surveil-and-disrupt-nodapl-water>.