

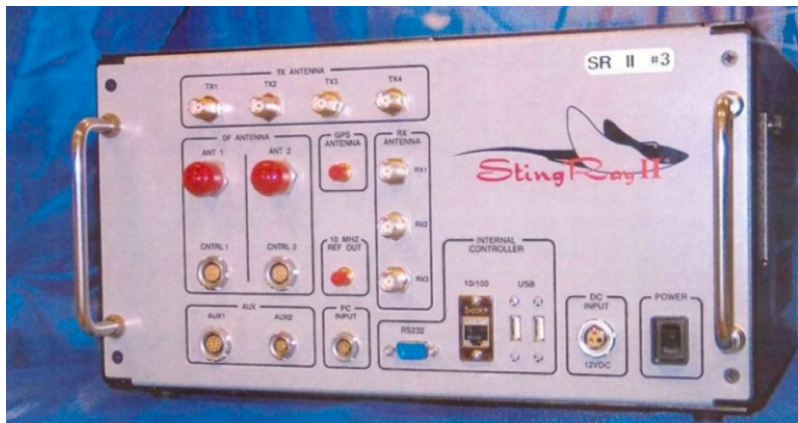


Written by [Joe Wolverton, II, J.D.](#) on April 20, 2015

Stingray: Police Closely Guard This Secret Surveillance Tool

Local law enforcement agencies are continuing their headlong rush up surveillance street, secretly purchasing and using a cellphone monitoring device (shown) that is as powerful as it is problematic.

A *New York Times* article published an article in March summarizing the surveillance situation in many police departments:



A powerful new surveillance tool being adopted by police departments across the country comes with an unusual requirement: To buy it, law enforcement officials must sign a nondisclosure agreement preventing them from saying almost anything about the technology.

Any disclosure about the technology, which tracks cellphones and is often called StingRay, could allow criminals and terrorists to circumvent it, the F.B.I. has said in an affidavit. But the tool is adopted in such secrecy that communities are not always sure what they are buying or whether the technology could raise serious privacy concerns.

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From lightly used federal weapons and vehicles to state-of-the-art surveillance technology, there seems to be little local police are lacking in their quest to become full-fledged precincts of the nationwide network of federal law enforcement.

Despite the serious privacy concerns and the obvious constitutional questions surrounding the Stingray device, police forces around the country are clamoring for one of their own.

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 \$350,000. Despite the cost, however, it has been reported that nearly 30 police departments admit to owning a Stingray, with about 50 other cities refusing to disclose whether or not they own one of these expensive surveillance devices.

Perhaps because of the cost, but more likely because of the devastating effect on the personal liberty of those caught in the Stingray's net, police and the feds are zealous about keeping the device's deployment a secret.

On April 15, CNNMoney reported on one example of the FBI working with a county sheriff's office to



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squelch any possible leak regarding the Stingray's use:

The FBI has a secret device to locate criminal suspects, but they would apparently rather let suspects go free than reveal in court the details of the high tech tracker.

The device, called a "Stingray," tricks cell phones into revealing their locations. Closely guarded details about how police Stingrays operate have been threatened this week by a judge's court order.

Judge Patrick H. NeMoyer in Buffalo, New York, described a 2012 deal between the FBI and the Erie County Sheriff's Office in his court order Tuesday. The judge, who reviewed the deal, said the FBI instructed the police to drop criminal charges instead of revealing "any information concerning the cell site simulator or its use."

Erie police had long tried to keep that contract secret, but the judge rejected that idea and ordered that details of the Stingrays be made public.

"If that is not an instruction that affects the public, nothing is," NeMoyer wrote.

A Buffalo, New York, news station provided additional details of the sheriff's office's use of the Stingray in an assault on the liberties of citizens of Erie County and the constitutional provisions that protect them:

The NYCLU [New York Civil Liberties Union] says records from the sheriff's office shows it has been used at least 47 times between May 1, 2010 and October 3, 2014, including to assist other law enforcement agencies like the Monroe County Sheriff's Office.

In those instances, documents show that the sheriff's office obtained a court order only once, even though the sheriff made statement to local media and the Erie County Legislature that each use of the device was subject to "judicial review." The court order that was obtained in October 2014 was not a warrant, but a lower level court order called a "pen register" order.

"These records confirm some of the very worst fears about local law enforcement's use of this expensive and intrusive surveillance equipment," said NYCLU Staff Attorney Mariko Hirose. "Not only did the Sheriff's Office promise the FBI breathtaking secrecy to keep information about stingrays as hidden as possible, it implemented almost no privacy protections for the Erie County residents it is sworn to protect and serve."

Read that again: The sheriff's office used the Stingray to track cellphone signals on 47 occasions and sought judicial oversight only one time. In other words, the mandates of the Fourth Amendment were followed a scant two percent of the time. Ninety-eight percent of the time, therefore, deputies did exactly as they pleased — abusing authority, the Constitution notwithstanding.

The Guardian reported additional non-disclosure arrangements from other sectors of the surveillance state:

The FBI is taking extraordinary and potentially unconstitutional measures to keep local and state police forces from exposing the use of so-called "Stingray" surveillance technology across the United States, according to documents obtained separately by the *Guardian* and the American Civil Liberties Union.

Multiple non-disclosure agreements (NDAs) revealed in Florida, New York and Maryland this week show federal authorities effectively binding local law enforcement from disclosing any



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information — even to judges — about the cellphone dragnet technology, its collection capabilities or its existence.

In an arrangement that shocked privacy advocates and local defense attorneys, the secret pact also mandates that police notify the FBI to push for the dismissal of cases if technical specifications of the devices are in danger of being revealed in court.

The agreement also contains a clause forcing law enforcement to notify the FBI if freedom of information requests are filed by members of the public or the media for such information, “in order to allow sufficient time for the FBI to seek to prevent disclosure through appropriate channels.”

Although it seems that states are surrendering their birthright of sovereignty for a mess of surveillance pottage, there is hope that one state will reject the equipment in favor of protecting the liberties of its citizens. *The Strangler*, a Seattle newspaper, reports, “House Bill 1440—‘prohibiting the use of a cell site simulator device without a warrant’—finished its laps around the house and the senate with unanimous support.”

All the foregoing is evidence that Americans are witnessing (often mutely) the rapid establishment of a federal police force built upon the foundation of formerly free local law enforcement and equipped with technology, tactics, and weapons of immense power.

In the case of the Stingray and the extraordinary means the police and their federal benefactors are taking to keep its use hidden, it seems the move toward total surveillance is accelerating rapidly and putting Americans and the Constitution on a collision course with totalitarianism.

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