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**TESTIMONY OF
TEJAS BHATT, ASSISTANT PUBLIC DEFENDER**

**Judiciary Committee
Public Hearing March 27, 2017**

Raised Bill No. 7291

**AN ACT CONCERNING THE USE OF CELL SITE SIMULATOR DEVICES
BY LAW ENFORCEMENT OFFICIALS TO CONDUCT CELLULAR
TELEPHONE SURVEILLANCE**

The Office of Chief Public Defender supports ***Raised Bill No. 7291, An Act Concerning The Use Of Cell Site Simulator Devices By Law Enforcement Officials To Conduct Cellular Telephone Surveillance***. This proposal addresses the use of so-called “stingray” devices by law enforcement and is necessary to ensure that law enforcement use of “stingray” devices is subjected to the protections of the Fourth Amendment.

This proposal:

1. Defines a “cell site simulator” device;
2. Subjects the use of such a device to the restrictions imposed by ***C.G.S. §54-47aa, Ex parte order to compel disclosure of or direct application to carrier or provider for certain telephone and Internet records***;
3. Requires the existence of probable cause and judicial authorization prior to the use of such a device, unless law enforcement officials can demonstrate exigent circumstances.

Stingrays, also known as “cell site simulators” or “IMSI catchers,” are invasive cell phone surveillance devices that mimic cell phone towers and send out signals to trick cell phones in the area into transmitting their locations and identifying information.¹ These devices can also record the *content* of conversations and voice and text communications² and can collect information on

¹ <https://www.aclu.org/issues/privacy-technology/surveillance-technologies/stingray-tracking-devices>

² <https://www.wired.com/2015/10/stingray-government-spy-tools-can-record-calls-new-documents-confirm/>

everyone in the target's vicinity, infringing on private communications of innocent bystanders.³

This proposal is timely because reporting across the country has shown that law enforcement agencies have been using "stingray" devices for years, in secret,⁴ without disclosing their use to courts⁵ and the accused.⁶

The Office of Chief Public Defender believes that the use of cell site simulator devices constitutes a Fourth Amendment search that must only be conducted after a demonstration of probable cause and approval by a neutral and detached magistrate. Section 2 of this bill provides for this Constitutional process.

The Office of Chief Public Defender recognizes the need of law enforcement to conduct, under the right circumstances, emergency investigations that make obtaining a warrant impossible. This bill makes a provision for such circumstances, by permitting law enforcement agencies to dispense with obtaining a warrant when exigent circumstances exist. In order to ensure that the invocation of the exigent circumstances exception was lawful, this proposal also requires the officer to file a statement under oath outlining the exigent circumstances, so that a neutral judge may later review that invocation if a challenge is made.

The Office of Chief Public Defender believes that this bill strikes the correct balance between protecting the rights of individual citizens and giving law enforcement the tools they need to conduct criminal investigations and thus **supports** passage of this proposal.

³ <http://www.usatoday.com/story/news/2015/08/23/baltimore-police-stingray-cell-surveillance/31994181/>

⁴ <https://www.wired.com/2014/06/feds-told-cops-to-deceive-courts-about-stingray/>

⁵ <https://www.wired.com/2015/04/ny-cops-used-stingray-spy-tool-46-times-without-warrant/>

⁶ <http://www.usatoday.com/story/news/2015/08/23/baltimore-police-stingray-cell-surveillance/31994181/>