

Our View: Cell trackers a good police tool, but oversight needed

February 10, 2017

It always takes a while for law to catch up with technology.

When Stingray cell site simulator devices emerged in law enforcement circles a few years back, the public wasn't immediately sure what to make of them. Used originally in foreign countries as a spying instrument in the war on terror, the devices are quickly gaining favor with police as an invaluable investigative tool.

Indeed, Stingrays are now in use by local police departments in at least 23 states, including Arizona, according to The Cato Institute.

It's always tricky trying to explain complicated technology in a few dozen words, but to put it simply, Stingrays basically mimic cell towers, tricking phones in the area into logging into their signals instead of the real network.

That allows police to track the specific devices they're seeking. Here's why it's a problem: The Stingray allows police to cast a wide net, scooping up plenty of innocent and unsuspecting cell phone users in the process. And because we don't know exactly how the information is being used, we can't be sure that the information gleaned from the searches isn't being used inappropriately. It's pretty clear that widespread use of the devices amounts to unreasonable search and seizure – a violation of the Fourth Amendment.

Even so, the courts so far haven't agreed. In Arizona, the devices were the subject of a multi-year court battle between the city of Tucson and the American Civil Liberties Union. The legal fight ended when the state Court of Appeals concluded that cities don't need to tell the public how the technology works. Doing so, they said, could help criminals evade the law.

While the dust from that fight has finally settled, the controversy continues to stir. And for good reason. Police departments absolutely need these kinds of tools in their arsenals, and they need the ability to keep investigations relatively under wraps. However, the Stingrays offer huge potential for abuse and privacy intrusions and we have few assurances that the public's privacy is being protected.

That's why Arizonans should welcome recent legislation that would govern the use of Stingrays and similar devices.

A bill crafted by the Arizona Attorney Generals' Office makes it clear that police must get a search warrant before deploying the technology in any investigation. It's a step in the right direction. A judge's approval and oversight would offer some public assurances against unnecessary privacy intrusions.

However, lawmakers should insist on adding a provision requiring police to delete all other data obtained in a search within a reasonable timeframe.

It's a simple step, but an important one. Cell site simulators offer huge opportunity for police to crack down on heinous crimes such as human trafficking and illegal drug sales. Let's figure out a way for police to get what they need without turning into a Big Brother state in the process.

— *Today's News-Herald*