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12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15 UNITED STATES OF AMERICA,) NO. CR 13-00818-PJH-DMR
16 Plaintiff,)
17 v.) DECLARATION
18)
19 PURVIS ELLIS, et al.,)
20 Defendants.)

- 1 1. I, [REDACTED], a sworn peace officer with the Oakland Police Department (OPD), do swear and
2 affirm as follows:
- 3 2. I have personal knowledge of the facts stated herein and if called to testify could and would
4 testify competently and truthfully to the same.
- 5 3. The Oakland Police Department deployed a cell-site simulator (the device) on the night of
6 January 21-22, 2013 to locate the cell phone of Defendant Purvis Ellis. I am trained in the
7 operation of such devices and personally familiar with the configuration and operation of the
8 device that night. I was the officer responsible for operating the device that night in an attempt to
9 locate Purvis Ellis' phone.
- 10 4. The technical specifications and tradecraft associated with the device are deemed by OPD to be
11 "law enforcement sensitive" because the disclosure of such information could aid criminals in
12 countering police surveillance and interfere with future investigations.
- 13 5. In general, cell site simulators function by transmitting as a cell tower. In response to the signals
14 emitted by the simulator, cellular devices in proximity to the device identify the simulator as a
15 cell tower in the area and thus transmit signals to the simulator that identify the device in the
16 same way that they would with a networked tower.
- 17 6. A cell site simulator receives and uses an industry standard unique identifying number assigned
18 by a device manufacturer or cellular network provider. When used to locate a known cellular
19 device, like defendant Ellis' cell phone, a cell site simulator initially receives the unique
20 identifying numbers from multiple devices in the vicinity of the simulator, such as a Mobile
21 Identification Number ("MIN") or electronic serial number ("ESN"). Once the cell site
22 simulator identifies the specific cellular device for which it is looking, it will obtain the signaling
23 information relating only to that particular phone.
- 24 7. By transmitting as a cell tower, cell site simulators (including the cell site simulator used in this
25 case) acquire the identifying information from cellular devices as described above. This
26 identifying information is limited, however. Cell site simulators do not function as a GPS
27 locator, as they do not obtain or download any location information from the device or its
28 applications.
8. The device in this case was configured to look for the identifying information for phone number
510-904-7509, a cellular device which I understood belonged to defendant Purvis Ellis. The
device was not configured to capture the content of any communications, including data
contained on the phone itself. The cell site simulator does not remotely capture e-mails, texts,
contact lists, images, or other data from the phone, nor does it, as configured, provide subscriber
account information. The device used to locate the defendant's cell phone therefore did not
capture, collect, decode, view or otherwise obtain any content transmitted from the defendant's
cell phone or any others in the area.
9. As part of [REDACTED], I believe I received an alert to respond to 1759 Seminary Avenue,
Oakland, CA, at around 6:40 PM on January 21, 2013. January 21, 2013, was a Monday. At the
time of the alert I would have been off duty and it would have taken me an hour and a half to two
hours to get to the scene of the shooting
10. I responded to 1759 Seminary Avenue with an OPD [REDACTED] van. Among other things the
van contained robots and cameras that the SWAT team anticipated having to use at 1759
Seminary Avenue. The van also contained the cell site simulator equipment. I was involved in
deploying one of the SWAT team's robots soon after arriving at the scene, at around 9:00 PM.¹

¹ Although I am trained in the operation of the cell site simulator, and can operate the device if
and when authorized, my duties as a member of the [REDACTED] are not limited to operating a cell site

11. Sometime after midnight, in the early morning hours of January 22, 2013, I powered on and began operating the cell site simulator.
12. Prior to operating the cell site simulator, OPD first contacted the telephone carrier of the subject cellular telephone and completed the required exigent circumstance request form to obtain a pen register/trap trace and subscriber information for phone number 510-904-7509 to assist in locating the cellular telephone with the cell site simulator. I did not begin operating the device until after OPD obtained this information from the telephone provider.
13. At some point during the night (I do not recall exactly when), I requested FBI assistance to help locate the defendant's cell phone. I believe the FBI began operating their cell site simulator the next morning, at around 10:00 AM on January 22, 2013. In order for the FBI to effectively use their cell site simulator, it was necessary for me to power off the OPD cell site simulator I had been using. I turned off the OPD cell site simulator at around the same time the FBI began using their device (approximately 10:00 AM).
14. Pursuant to standard practice, after the location operation OPD did not retain any information regarding the information encountered by its cell site simulator. One of the reasons for clearing the information is to preserve the operational use of the equipment (the equipment cannot be used on another operation until the data from prior missions has been purged. Otherwise, the data from the prior operation would be co-mingled with the non-purged data from the new operation, interfering with the effective use of the data pertaining to each individual operation). Another reason is to protect third-party privacy and avoid retaining retain information about individuals who are not the subject of criminal investigations
15. In the present case, I purged the information at approximately 10:00 AM when I powered off the device to allow FBI to employ their cell site simulator.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 22nd day of August, 2016, in Oakland, California.

Respectfully submitted,

/s/

Oakland Police Department

simulator.