United States Senate

October 29, 2015

**VIA ELECTRONIC TRANSMISSION**

The Honorable Jacob J. Lew
Secretary
U.S. Department of the Treasury
Washington, D.C. 20220

Dear Secretary Lew,

According to a report this week in *The Guardian*, in 2012 the Internal Revenue Service spent more than $70,000 on upgrading cell-site simulators (sometimes referred to as "IMSI Catchers" or "Stingrays") and training related to the devices. We were surprised to learn that IRS investigators may be using these devices. Cell-site simulators mimic cell towers, forcing cell phones in the area to convey their approximate location and registration information. While the devices can be useful tools for identifying the location of a suspect's cell phone or identifying an unknown cell phone, we have previously expressed concerns about the privacy implications of these devices, as well as the inconsistent practices and policies across the federal, state and local agencies that employ them. The devices indiscriminately gather information about the cell phones of innocent people who are simply in the vicinity of the device.

Recently, the Departments of Justice and Homeland Security have both publicly issued guidelines governing the use of cell-site simulators. These policies are an important step forward, as they generally require law enforcement to obtain a warrant and provide greater information to courts that authorize their use, as well as mandate increased management controls over data collected by them. But they also provide for significant exceptions to the warrant requirement and are limited to use of cell-site simulators in criminal investigations.

In light of the report that a component of the Department of Treasury also possesses this equipment, please provide responses to the following questions by November 30, 2015:

1. Do any components of the Department currently use cell-site simulators and, if so, which components, in what capacity, and under what circumstances? If not, please explain any prior use of these devices.

2. How many of these devices does the Department currently possess? Since when and how many times has the Department employed these devices?

3. What policies does the Department have in place governing the use of cell-site simulators, including those related to the legal process necessary to deploy the devices and the retention and destruction of information collected by them?

4. Are the Department's policies being reviewed in light of the guidelines recently issued by the Departments of Justice and Homeland Security?

5. Does the Department require its components to obtain a warrant prior to deployment of these devices? If so, what exceptions are permitted? If not, please explain why not.

6. Does the Department loan cell-site simulators to state and local agencies, or provide federal grants that are used by state and local agencies to obtain cell-site simulators? If so, does the Department place any conditions on the use of those devices when purchased with federal money? If not, are there alternative methods by which the Department can incentivize state and local agencies to adopt the above-mentioned safeguards?

Sincerely,

Charles E. Grassley
Chairman
Senate Committee on the Judiciary

Patrick Leahy
Ranking Member
Senate Committee on the Judiciary