

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Friday, September 16, 2011 6:30 PM
To: Sabol, Sherry E.
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

One addition from OPA as follows. Let me know if you hear back from OTD. Thanks!

[redacted]

From: Sabol, Sherry E.
Sent: Friday, September 16, 2011 6:11 PM
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.; [redacted]
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b6 -1
b7C -1

OTD-is this good to go?

From: Sabol, Sherry E.
To: Sabol, Sherry E.; [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, [redacted]
Sent: Fri Sep 16 16:48:15 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology.

b6 -1
b7C -1

I inadvertently took OPA off the earlier version – I know they have a deadline of COB today.

From: Sabol, Sherry E.
Sent: Friday, September 16, 2011 4:12 PM
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology
Importance: High

b5 -1
b7E -1

[redacted]

b5 -1
b7E -1

From: [redacted]
Sent: Friday, September 16, 2011 1:49 PM
To: [redacted] Sabol, Sherry E. [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

b6 -1
b7C -1

See update below. We will need a response by COB today if we are going to contribute to the article.

From: [redacted]
Sent: Friday, September 16, 2011 1:44 PM
To: [redacted]
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

Another update: It looks as though my editors might want to run it out for Monday's paper, which would put my deadline for comment to Sunday at midday. (And today would really be best.)

Thanks!

b6 -1, -2
b7C -1, -2

From: [redacted]
To: [redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

Hi.

b6 -1, -2
b7C -1, -2

Thanks so much for helping me out.

I'm [redacted] and am writing about the use of "stingray" type devices, which are used generally to locate or otherwise get data on cellular devices. As an example of the use of this technology, I'm writing about a case in U.S. District Court in the District of Arizona in which the FBI used one of these devices. (It's unclear whether what was used was a stingray, a triggerfish, or something else. The prosecution explains that "stingray" is the generic term used.)

Currently, the judge in the case is set to hear the defendant's motion for disclosure of more information on the device and techniques used; the prosecution says that these matters are law enforcement sensitive.

I understand this technology is very sensitive for the FBI; however, I would very much like to get the FBI's views on this technology. I do not want to only quote the ACLU in this matter and would appreciate your help.

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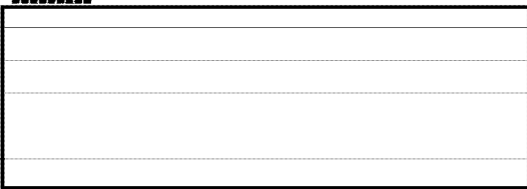
USAGE INFORMATION

I would like any information that the FBI might be able to provide on how helpful these "stingray" type devices are, how frequently they are used and whether their use has increased or decreased in the past couple of years.

I'm not on a daily deadline for this story, but I am on a deadline. The story needs to be sent to my editors in the next few days, so I would hope to talk with someone as soon as possible.

Thank you.

Best Regards,



b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 14, 2011 5:38 PM
To: Sabol, Sherry E.
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

Sherry

We have a meeting tomorrow morning here at OTD to draft a response [redacted]

[redacted]
Associate General Counsel
Unit Chief, Science and Technology Law Unit
Office of the General Counsel
Federal Bureau of Investigation

From: Sabol, Sherry E.
To: [redacted]
Cc: [redacted]; Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.
Sent: Wed Sep 14 14:32:31 2011
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

b6 -1
b7C -1

All,

Please see the below request from the Wall Street Journal. A reporter is inquiring about our tracking technology based on the ongoing case in the District of Arizona.

[redacted]

b5 -1

Thanks, Sherry

From: [redacted]
To: [redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

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Thank you.

Best Regards,

[Redacted]

[Redacted]

b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Monday, September 12, 2011 11:09 AM
To: Lammert, Elaine N.; Sabol, Sherry E.
Cc: Caproni, Valerie E.
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

Good morning SC Sabol and DGC Lammert. Per GC Caproni's email below, I wonder if you might have thoughts on the following

[redacted]

Thanks,

[redacted]
FBI Office of Public Affairs
[redacted]

From: Caproni, Valerie E.
Sent: Monday, September 12, 2011 9:31 AM
To: [redacted]
Cc: Lammert, Elaine N.; Sabol, Sherry E.
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b6 -1
b7C -1

[redacted]

I think Sherry or Elaine can help.

VC

From: [redacted]
Sent: Monday, September 12, 2011 9:12 AM
To: Caproni, Valerie E.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

Good morning Ms. Caproni. I wonder if you may be able to look at one more media inquiry? For old times' sake perhaps? Or else maybe point me in the right direction? Specific questions are listed below.

Many thanks,

[redacted]

b6 -1
b7C -1

From: [redacted] (DO)(FBI)
Sent: Friday, September 09, 2011 11:55 AM
To: [redacted]
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

[redacted]

Do you want to handle this? Looks like a legal issue.

From: [redacted]
To: [redacted] (DO)(FBI)

b6 -2
b7C -2

Sent: Fri Sep 09 11:22:54 2011

Subject: Wall Street Journal request -- legal status of "stingray" technology

Hi.

Thanks so much for helping me out.

b6 -2
b7C -2

I'm [redacted] and am writing about the use of "stingray" type devices, which are used generally to locate or otherwise get data on cellular devices. As an example of the use of this technology, I'm writing about a case in U.S. District Court in the District of Arizona in which the FBI used one of these devices. (It's unclear whether what was used was a stingray, a triggerfish, or something else. The prosecution explains that "stingray" is the generic term used.)

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I'm not on a daily deadline for this story, but I am on a deadline. The story needs to be sent to my editors in the next few days, so I would hope to talk with someone as soon as possible.

Thank you.

Best Regards,

[redacted]

b6 -2
b7C -2

[redacted]

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 3:43 PM
To: [redacted]
Cc: Sabol, Sherry E.
Subject: RE: WSJ fact check

Got it. Thank you. Forwarding to my editors now.

b6 -1, -2
b7C -1, -2

From: [redacted]
Sent: Wednesday, September 21, 2011 3:39 PM
To: [redacted]
Cc: Sabol, Sherry E.
Subject: RE: WSJ fact check

b6 -1, -2
b7C -1, -2

[redacted] Thanks for all your patience. Please see our comments in red below, and advise of any additional questions. Also, as we discussed, you may consider using a named source rather than "FBI official."

General Comment: Please note FBI will not comment on the capabilities or functionality of equipment or on ongoing litigation.

From: [redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E., [redacted]
Subject: WSJ fact check
Importance: High

Hi Chris and Sherry.

Below are sentences and paragraphs from the story, which is set to run in Thursday's paper. Please let me know if you are aware of any factual errors in any of them. I'll need a response for my editors by midday although we will have a bit of time after that to go back and forth. Sometimes the best thing to do is let me know early on which statements have problems so we can work it out, but it's up to you.

b6 -1, -2
b7C -1, -2

(Some items you may not have adequate information on, like very general statements, or statements about the specifics of the Arizona case. These are included mainly to provide you with context. We don't like subjects of stories to be surprised by anything when the story runs. If you feel you don't have enough information to evaluate a statement, just say so. Not a problem.)

Thanks so much for your help, again. I realize this is very sensitive and an important tool for you; I also feel like people have a lot of questions about this general topic and I want to make sure I present everything as accurately as possible.

I would appreciate it if you could tell me that you received this email.

Best,

[redacted]

* Stingrays are designed to locate a mobile phone even when it's not being used to make a call.

* A stingray works by mimicking a cellphone tower, getting a phone to connect to it and measuring signals from the phone. It allows the stingray operator to ping a phone and find it if it is powered on, according to documents reviewed by the Journal. The device has various uses, including helping police locate suspects and aiding search-and-rescue teams in finding people lost in remote areas or buried in rubble after an accident.

* Stingrays are one of several new technologies used by law enforcement to track people's locations, often without a warrant. The technologies are driving a broad Constitutional debate about whether the Fourth Amendment, which prohibits unreasonable searches and seizures, but which was written before the digital age, is keeping pace with the times.

FBI is concerned the first sentence (bullet above) is misleading. While the equipment may be used without a warrant, it is used only pursuant to lawful authority – court order issued pursuant to the Pen Register Statute and section 2703(d) of the Stored Communications Act.

* A stingray's role in nabbing the alleged "Hacker"—Daniel David Rigmaiden—is shaping up as a possible test of the legal standards for using these devices in investigations. The FBI says no warrant is required and that standards vary depending on the state and district.

The FBI believes the second sentence is misleading. The FBI uses this equipment pursuant to lawful authority – whether it be a search warrant or a court order issued pursuant to the Pen Register Statute and Stored Communications Act.

* The devices are so secret that the Federal Bureau of Investigation has a policy of deleting the data they gather out of a desire to keep the technology under wraps, an FBI official told The Wall Street Journal in response to inquiries about the device.

The FBI disagrees with the characterization of the technology being "so secret" – as noted previously, the FBI considers the equipment Law Enforcement Sensitive and our policy is intended to protect law enforcement capabilities so that subjects of law enforcement investigations do not learn how to evade or defeat lawfully authorized investigative activity.

* In Thursday's hearing, the government will argue that it should be able to withhold information on precisely what tool was used to locate Mr. Rigmaiden, according to documents filed by the prosecution.

* The FBI says information on stingrays and related technology is "considered Law Enforcement Sensitive, since its public release could harm law enforcement efforts by compromising future use of the equipment."

* The prosecutor, Mr. Battista, told the judge that the government's concern is that "if the actual information regarding ... this equipment is disclosed, it can be subject to being defeated or avoided or detected."

* In the case of the alleged hacker, Mr. Rigmaiden, the government faces the task of prosecuting him without disclosing details about the device it used to locate him.

* The government says "stingray" is a generic term, and in Mr. Rigmaiden's case it remains unclear which device or devices were actually used.

* "Location information continues to be a vital component in law enforcement investigations at the federal, state and local levels," an FBI official told the Journal.

* FBI and Department of Justice officials have said that investigators don't need to get search warrants to use stingray devices. Associate Deputy Attorney General James A. Baker and FBI General Counsel Valerie E. Caproni both said at a panel discussion at the Brookings Institution in May that devices like these fall into a category of tools called "pen registers" that require a lesser order than a warrant. Pen registers gather signals from phones, such as phone numbers dialed, but don't receive the content of the communications.

* To get a pen-register order, investigators must show only that the information likely to be obtained is "relevant to an ongoing criminal investigation." The Supreme Court has ruled that use of a pen register doesn't require a search warrant, because it doesn't involve interception of conversations.

Where the hybrid order is required, the standard cited is accurate for the Pen Register. Section 2703(d), however, requires that the information sought is "relevant and material" to an ongoing investigation. Also, from legal perspective, a pen register may be used because the subject does not have a "reasonable expectation of privacy" in the information sought. Pen register information is provided by the subject to a third party in order for the equipment to work, ie, the phone company.

* But with cellphones, data sent in real time includes location information, making the situation more complicated, because some judges have found that location information is more intrusive than data on the numbers dialed by a phone. Some courts have required a slightly higher standard for location information, but not a warrant, while others have held that a search warrant is necessary.

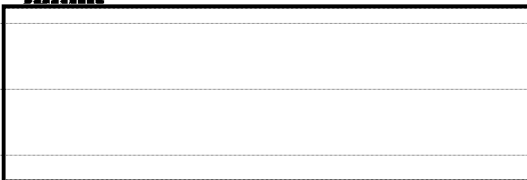
* The FBI advises agents to work with the local federal prosecutors to conform to the legal requirements of their particular district, an FBI official said. He added that it is FBI policy to obtain a search warrant if the FBI believes technology "may provide information on an individual while that person is in a location where he or she would have a reasonable expectation of privacy."

* Experts say lawmakers and the courts haven't yet settled whether locating a person or device in a home constitutes a "search" that requires a warrant.

* The FBI told the Journal that "with regard to the expungement of location information obtained through use of this type of equipment by the FBI, our policy since the 1990s has been to purge or 'expunge' all information obtained during a location operation."

* The FBI allows this policy because information gathered in these operations "is intended to be used only as lead information to assist investigators in identifying the general location of their subject and is not intended to be used as substantive evidence in a case," the official said.

* In the Rigmaiden case, the investigators used the stingray to narrow down the location of the broadband card. One of the Phoenix federal agents then said in a July 2008 email that the team needed "to develop independent probable cause" and that the "FBI does not want to disclose the [redacted] (understandably,so)."



b6 -2
b7c -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 5:12 PM
To: [redacted]
Cc: Sabol, Sherry E.
Subject: final

b6 -1, -2
b7C -1, -2

OK, here's what we worked out. I think it addresses your concerns, albeit not in legal language.

We have a "no surprises" policy toward subjects in our articles, so I'm mainly sending this to make sure we are all on the same page in terms of what is going to be in the paper tomorrow.

Thank you for being so incredibly helpful. I think your comments have really made the article more balanced.

Best Regards,

[redacted]

*** The Federal Bureau of Investigation considers the devices to be so critical that it has a policy of deleting the data gathered in their use, mainly to keep suspects in the dark about their capabilities, an FBI official told The Wall Street Journal in response to inquiries.**

*** A stingray's role in nabbing the alleged "Hacker"—Daniel David Rigmaiden—is shaping up as a possible test of the legal standards for using these devices in investigations. The FBI says it obtains appropriate court approval to use the device.**

*** Stingrays are one of several new technologies used by law enforcement to track people's locations, often without a search warrant. (Those two paragraphs come one right after the other, so we are not going to repeat the same phrase.)**

*** To get a pen-register order, investigators don't have to show probable cause. The Supreme Court has ruled that use of a pen register doesn't require a search warrant because it doesn't involve interception of conversations. (Just took out all the technical legal requirements because it was going to get so confusing for our readers with the 2703(d) stuff and so forth.)**

b6 -2
b7C -2

[Redacted]

b6 -1, -2,
b7C -1, -2

From: [Redacted]
Sent: Wednesday, September 21, 2011 3:39 PM
To: [Redacted]
Cc: Sabol, Sherry E.
Subject: RE: WSJ fact check

b6 -1, -2
b7C -1, -2

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To: Sabol, Sherry E.; [Redacted]
Subject: WSJ fact check
Importance: High

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* "Location information continues to be a vital component in law enforcement investigations at the federal, state and local levels," an FBI official told the Journal.

* FBI and Department of Justice officials have said that investigators don't need to get search warrants to use stingray devices. Associate Deputy Attorney General James A. Baker and FBI General Counsel Valerie E. Caproni both said at a panel discussion at the Brookings Institution in May that devices like these fall into a category of tools called "pen registers" that require a lesser order than a warrant. Pen registers gather signals from phones, such as phone numbers dialed, but don't receive the content of the communications.

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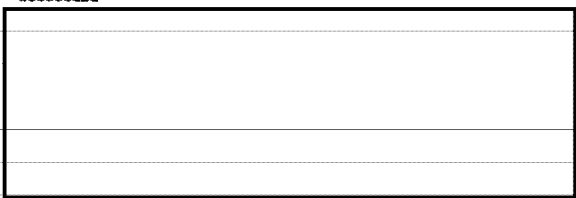
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b6 -2
b7C -2

[redacted] RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 3:22 PM
To: Sabol, Sherry E.
Subject: Fw: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

[redacted]
Sent from my BlackBerry Wireless Handheld

From: [redacted]
To: [redacted]
Sent: Wed Sep 21 15:17:34 2011
Subject: RE: WSJ fact check

Yes. Thank you.

Also! We have changed at least one of the sentences that I know of to try to make it clearer that it's law enforcement techniques you are trying to protect, not the specific device.

Stingrays are designed to locate a mobile phone even when it's not being used to make a call. The devices are so secret that the Federal Bureau of Investigation has a policy of deleting the data they gather, out of a desire to keep its tactics under wraps, an FBI official told The Wall Street Journal in response to inquiries.

[redacted]

b6 -1, -2
b7C -1, -2

From: [redacted]
Sent: Wednesday, September 21, 2011 3:08 PM
To: [redacted]
Subject: Re: WSJ fact check

[redacted] I should have your response within 30 minutes. Is that okay?

Sent from my BlackBerry Wireless Handheld

From: [redacted]
To: Sabol, Sherry E.; [redacted]
Sent: Tue Sep 20 23:56:57 2011
Subject: WSJ fact check

b6 -1, -2
b7C -1, -2

H [redacted] and Sherry.

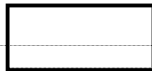
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Best,



b6 -2
b7C -2

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- * A stingray works by mimicking a cellphone tower, getting a phone to connect to it and measuring signals from the phone. It allows the stingray operator to ping a phone and find it if it is powered on, according to documents reviewed by the Journal. The device has various uses, including helping police locate suspects and aiding search-and-rescue teams in finding people lost in remote areas or buried in rubble after an accident.
- * Stingrays are one of several new technologies used by law enforcement to track people's locations, often without a warrant. The technologies are driving a broad Constitutional debate about whether the Fourth Amendment, which prohibits unreasonable searches and seizures, but which was written before the digital age, is keeping pace with the times.
- * A stingray's role in nabbing the alleged "Hacker"—Daniel David Rigmaiden—is shaping up as a possible test of the legal standards for using these devices in investigations. The FBI says no warrant is required and that standards vary depending on the state and district.
- * The devices are so secret that the Federal Bureau of Investigation has a policy of deleting the data they gather out of a desire to keep the technology under wraps, an FBI official told The Wall Street Journal in response to inquiries about the device.
- * In Thursday's hearing, the government will argue that it should be able to withhold information on precisely what tool was used to locate Mr. Rigmaiden, according to documents filed by the prosecution.
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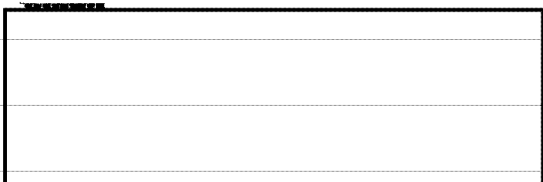
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b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 8:13 AM
To: Sabol, Sherry E.
Subject: RE: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

[redacted]

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 7:39 AM
To: Hess, Amy S.; Bryars, D Keith
Cc: [redacted]
Subject: Fw: WSJ fact check
Importance: High

WSJ asked us to fact check certain statements.

[redacted]

b5 -1
b6 -1, -2
b7C -1, -2

I'll look at rest again in office.

They need an answer by mid-day.

From: [redacted]
To: Sabol, Sherry E.; Allen [redacted]
Sent: Tue Sep 20 23:56:57 2011
Subject: WSJ fact check

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b6 -2
b7c -2

[redacted] (RMD) (FBI)

From: Hess, Amy S.
Sent: Wednesday, September 21, 2011 10:55 AM
To: Sabol, Sherry E.; Bryars, D Keith [redacted]
Subject: Re: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

[redacted]

From: Sabol, Sherry E.
To: Hess, Amy S.; Bryars, D Keith
Cc: [redacted]
Sent: Wed Sep 21 07:38:43 2011
Subject: Fw: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

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To: Sabol, Sherry E. [redacted]
Sent: Tue Sep 20 23:56:57 2011
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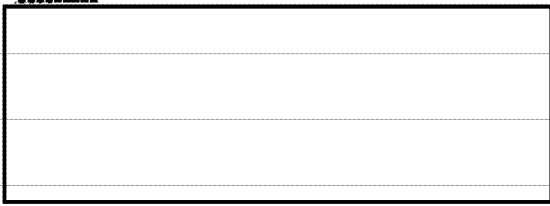
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b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 11:12 AM
To: Sabol, Sherry E.; Bryars, D Keith; DiClemente, Anthony P. [redacted]
Cc: Hess, Amy S.
Subject: RE: WSJ fact check

[redacted]

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 11:10 AM
To: Bryars, D Keith; DiClemente, Anthony P.; [redacted]
Cc: Hess, Amy S.
Subject: RE: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

[redacted]

Thanks!

From: [redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E.; [redacted]
Subject: WSJ fact check
Importance: High

b6 -1, -2
b7C -1, -2

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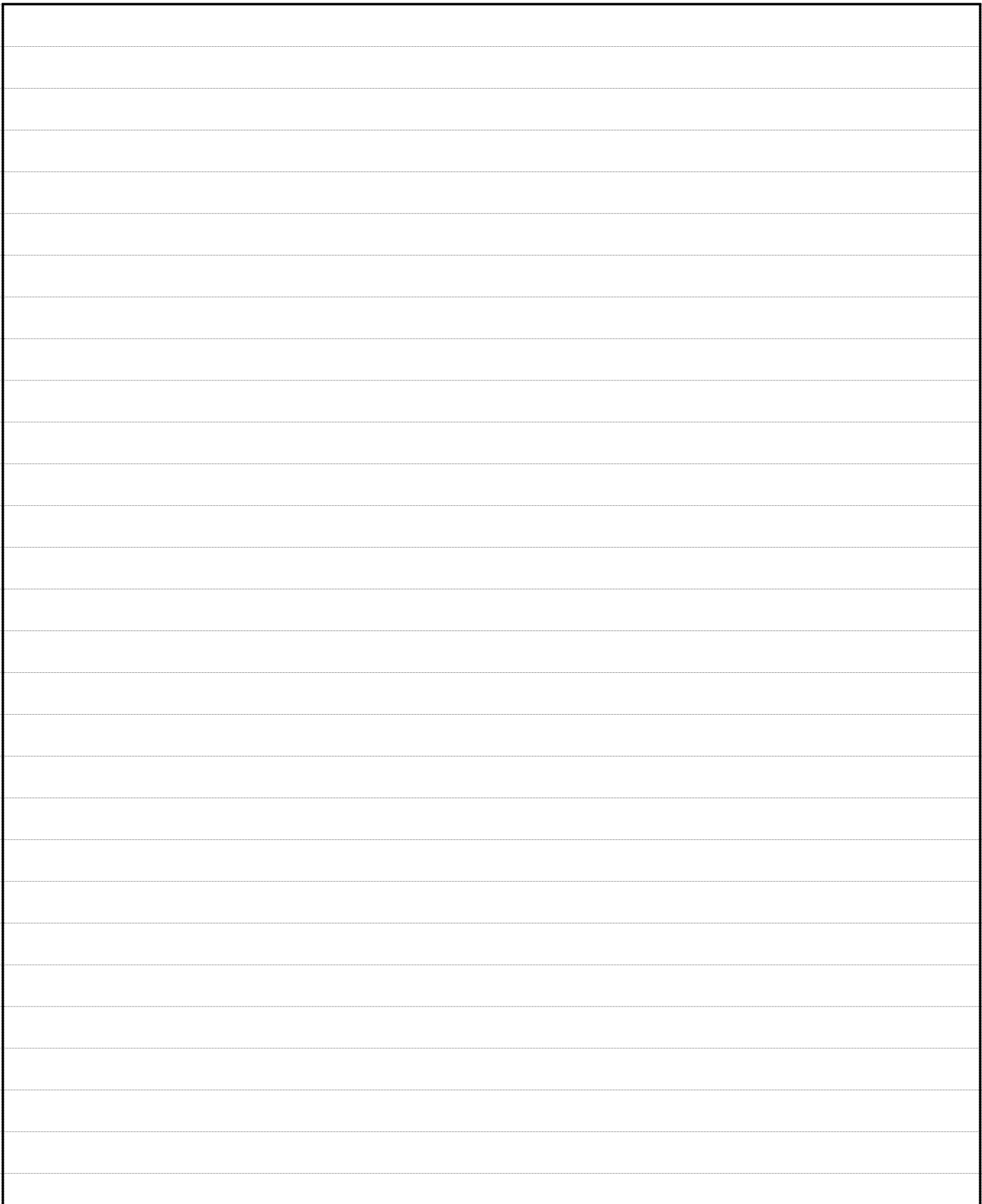
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[redacted]
b6 -2
b7C -2

b5 -1



b5 -1

b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: DiClemente, Anthony P.
Sent: Wednesday, September 21, 2011 11:17 AM
To: Sabol, Sherry E.; Bryars, D Keith; [redacted]
Cc: Hess, Amy S.
Subject: Re: WSJ fact check

b6 -1,-2
b7C -1,-2
b5 -1

Anthony DiClemente
Chief [redacted] Section
Operational Technology Division
Federal Bureau of Investigation

b7E -1

From: Sabol, Sherry E.
To: Bryars, D Keith; DiClemente, Anthony P.; [redacted]
Cc: Hess, Amy S.
Sent: Wed Sep 21 11:09:37 2011
Subject: RE: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

Thanks!

From: [redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E.; [redacted]
Subject: WSJ fact check
Importance: High

b6 -1,-2
b7C -1,-2

H [redacted] and Sherry.

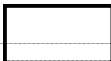
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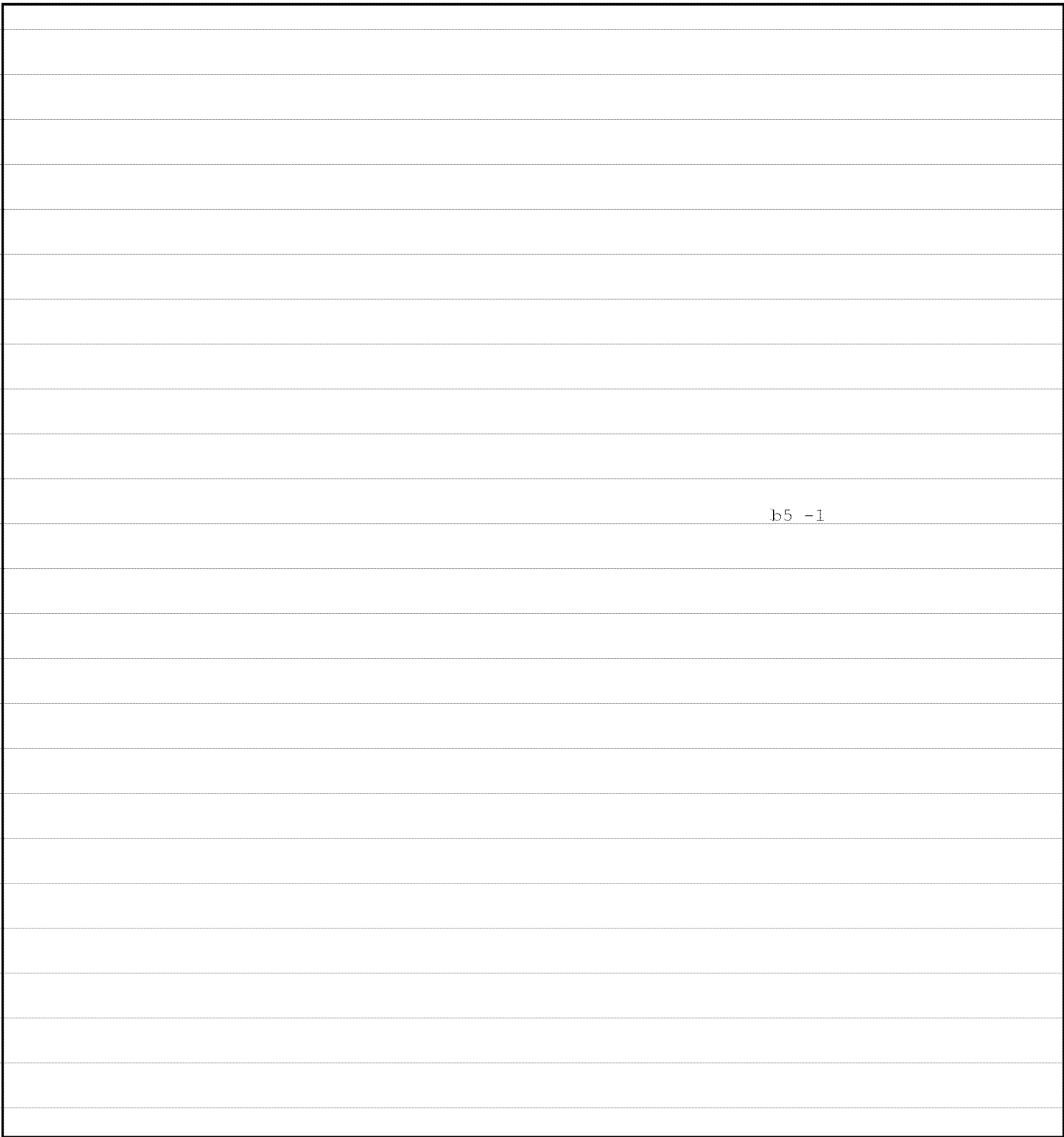
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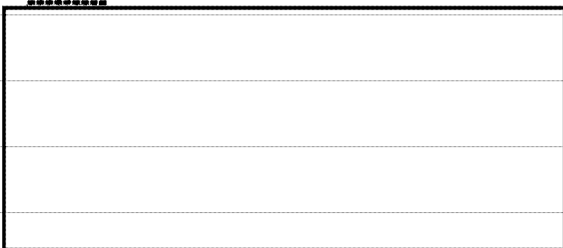


b5 -1
b6 -1,-2
b7C -1,-2





b5 -1



b6 -1,-2
b7C -1,-2

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b5 -1
b6 -1, -2
b7C -1, -2

Anthony DiClemente
Chief [redacted] Section
Operational Technology Division
Federal Bureau of Investigation
[redacted] Office
[redacted] Mobile

b7E -1

From: Sabol, Sherry E.
To: Sabol, Sherry E.; Bryars, D Keith; DiClemente, Anthony P.; [redacted]
Cc: Hess, Amy S.
Sent: Wed Sep 21 11:12:07 2011
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b5 -1
b6 -1, -2
b7C -1, -2

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b5 -1

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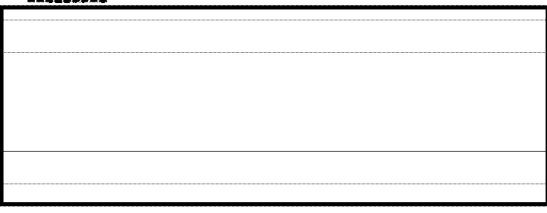
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b5 -1
b6 -1, -2
b7C -1, -2

b5 -1



b6 -2
b7c -2

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Subject: Re: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]

Sent from my BlackBerry Wireless Handheld

From: Hess, Amy S.
To: Sabol, Sherry E.; Bryars, D Keith; [redacted]
Sent: Wed Sep 21 10:55:09 2011
Subject: Re: WSJ fact check

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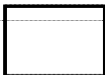
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- * In the case of the alleged hacker, Mr. Rigmaiden, the government faces the task of prosecuting him without disclosing details about the device it used to locate him.
- * The government says "stingray" is a generic term, and in Mr. Rigmaiden's case it remains unclear which device or devices were actually used.
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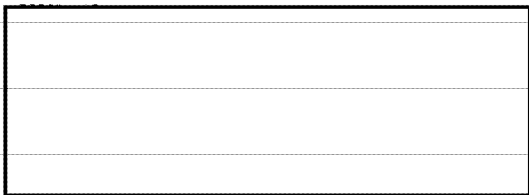
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b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 11:51 AM
To: Sabol, Sherry E.
Subject: Re: WSJ fact check

Thx!
Blackberry Message

b5 -1
b6 -1
b7C -1

From: Sabol, Sherry E.
To: DiClemente, Anthony P [redacted]
Sent: Wed Sep 21 11:49:50 2011
Subject: FW: WSJ fact check

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 11:49 AM
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith
Subject: RE: WSJ fact check

[redacted]

b5 -1
b6 -1, -2
b7C -1, -2

From: [redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E.; [redacted]
Subject: WSJ fact check
Importance: High

Hi [redacted] and Sherry.

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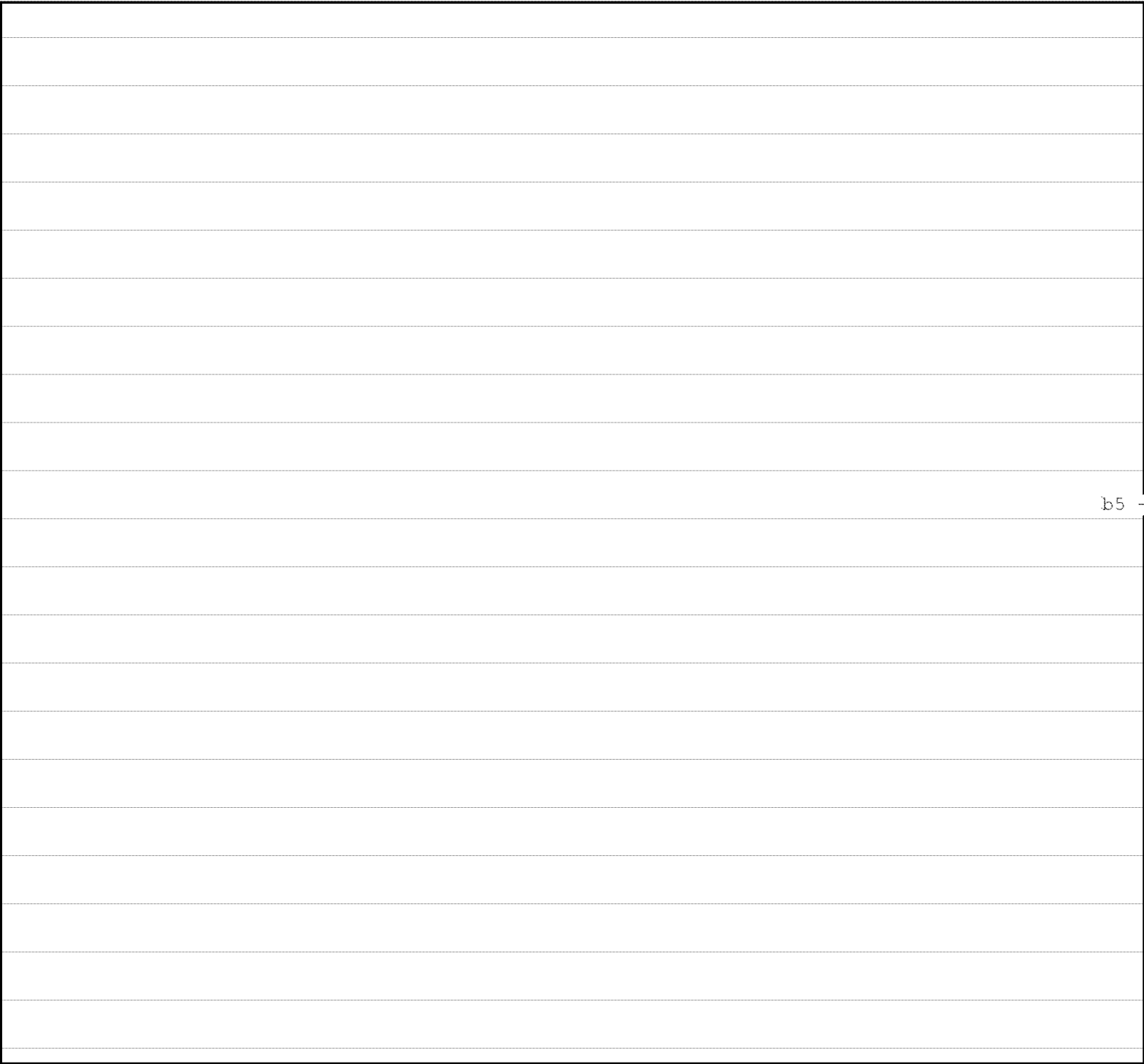
b6 -2
b7C -2

I would appreciate it if you could tell me that you received this email.

Best,

[redacted]

b5 -1



b5 -1

b6 -2
b7C -2



[Redacted] (RMD) (FBI)

From: DiClemente, Anthony P.
Sent: Wednesday, September 21, 2011 11:57 AM
To: Sabol, Sherry E.
Subject: Re: WSJ fact check

Thanks Sherry.

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
Federal Bureau of Investigation
[Redacted] Office
[Redacted] Mobile

b7E -1

From: Sabol, Sherry E.
To: DiClemente, Anthony P.; Struyk, James L.; Mazel, Joseph W.; King, John E.
Sent: Wed Sep 21 11:49:50 2011
Subject: FW: WSJ fact check

[Redacted]

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 11:49 AM
To: [Redacted]
Cc: Hess, Amy S.; Bryars, D Keith
Subject: RE: WSJ fact check

b5 -1
b6 -1, -2
b7C -1, -2

[Redacted]

Sherry:

From: [Redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E. [Redacted]
Subject: WSJ fact check
Importance: High

H [Redacted] and Sherry.

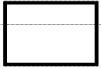
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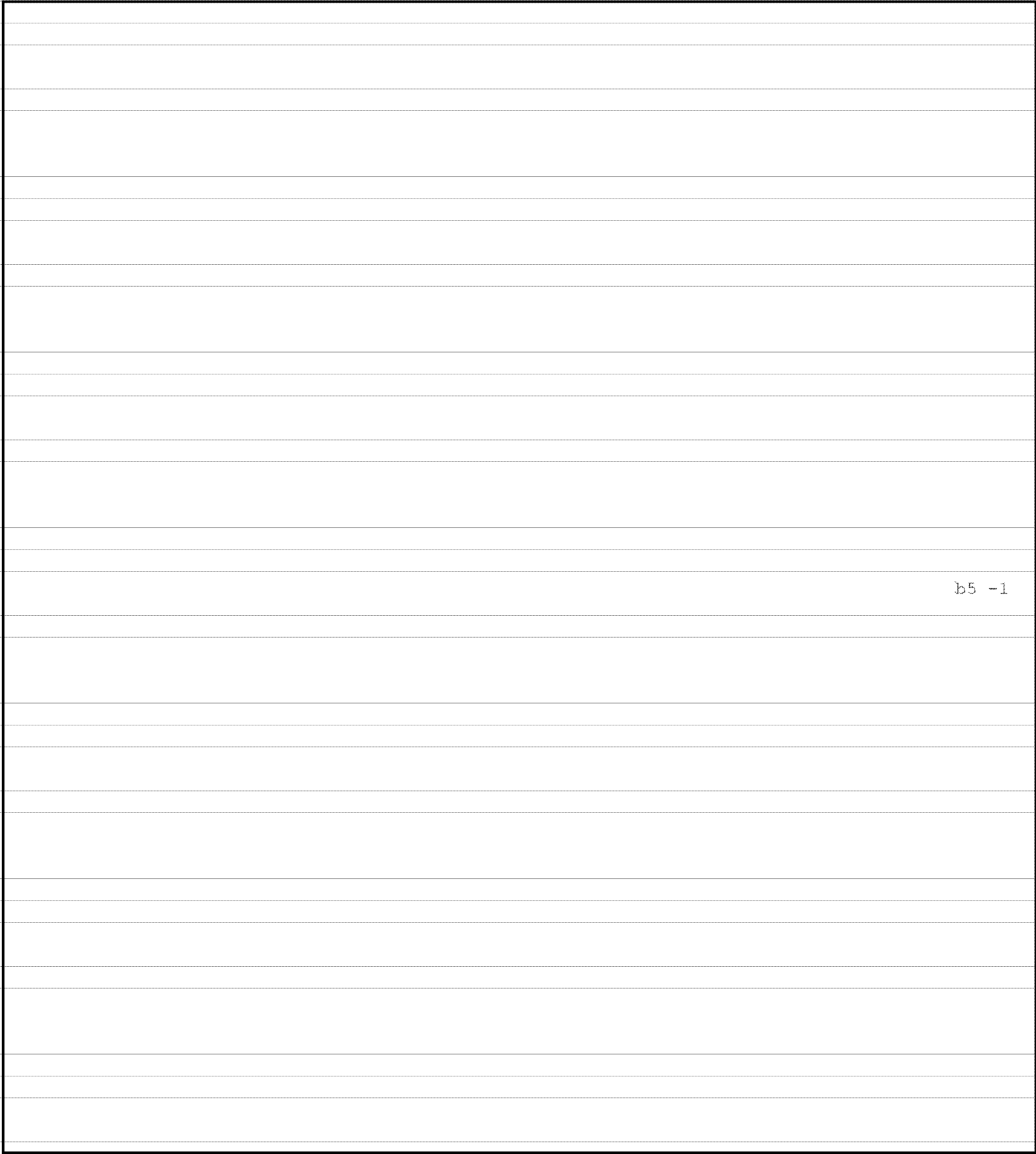
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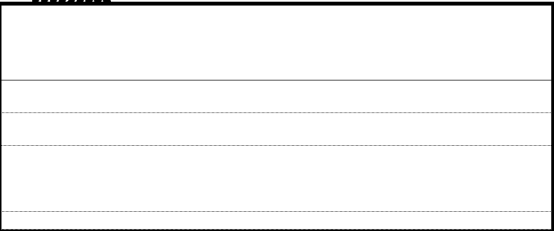
Best,



b5 -1
b6 -1, -2
b7C -1, -2



b5 -1



b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 12:03 PM
To: Sabol, Sherry E.; DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Subject: RE: WSJ fact check

b6 -1
b7C -1

Sherry-

Here's my thoughts:

[Large redacted area]

[redacted]

b5 -1
b6 -1
b7C -1

[redacted]
Assistant General Counsel
Science & Technology Law Unit
Federal Bureau of Investigation
Office [redacted]
BB: [redacted]
E-Mail [redacted]

b6 -1
b7C -1

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DO NOT DISCLOSE WITHOUT PRIOR PERMISSION FROM FBI OGC.**

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 10:16 AM
To: DiClemente, Anthony P. [redacted]
Cc: [redacted]
Subject: Fw: WSJ fact check

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From: Hess, Amy S.
To: Sabol, Sherry E.; Brvars, D Keith
Cc: [redacted]
Sent: Wed Sep 21 10:11:25 2011
Subject: Re: WSJ fact check

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Cc: [redacted]
Sent: wed sep 21 07:38:43 2011
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b5 -1
b6 -1
b7C -1

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They need an answer by mid-day.

From: [redacted]
To: Sabol, Sherry E. [redacted]
Sent: Tue Sep 20 23:56:57 2011
Subject: WSJ fact check

b6 -1, -2
b7C -1, -2

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b6 -2
b7c -2

* Stingrays are designed to locate a mobile phone even when it's not being used to make a call.

* A stingray works by mimicking a cellphone tower, getting a phone to connect to it and measuring signals from the phone. It allows the stingray operator to ping a phone and find it if it is powered on, according to documents reviewed by the Journal. The device has various uses, including helping police locate suspects and aiding search-and-rescue teams in finding people lost in remote areas or buried in rubble after an accident.

* Stingrays are one of several new technologies used by law enforcement to track people's locations, often without a warrant. The technologies are driving a broad Constitutional debate about whether the Fourth Amendment, which prohibits unreasonable searches and seizures, but which was written before the digital age, is keeping pace with the times.

* A stingray's role in nabbing the alleged "Hacker"—Daniel David Rigmaiden—is shaping up as a possible test of the legal standards for using these devices in investigations. The FBI says no warrant is required and that standards vary depending on the state and district.

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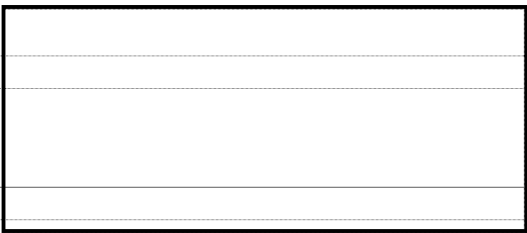
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b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 12:14 PM
To: [redacted] Sabol, Sherry E.; DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Subject: Re: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]

[redacted]

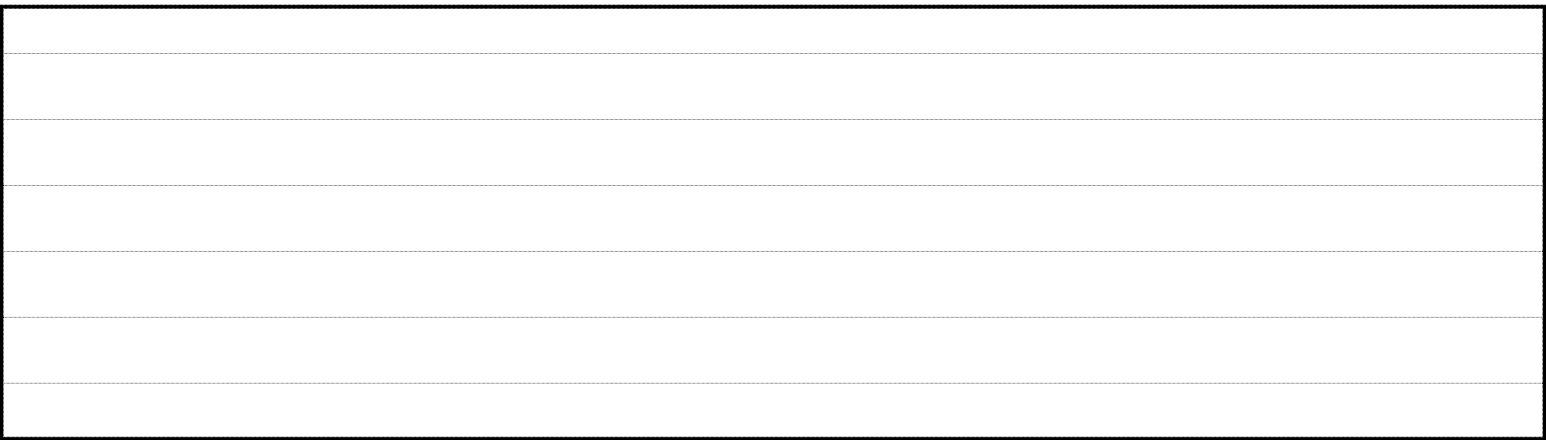
Associate General Counsel
Unit Chief, Science and Technology Law Unit
Office of the General Counsel
Federal Bureau of Investigation

From: [redacted]
To: Sabol, Sherry E.; DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Sent: wed Sep 21 12:02:57 2011
Subject: RE: WSJ fact check

Sherry-
Here's my thoughts:

b5 -1
b6 -1
b7C -1

[redacted]



b5 -1
b6 -1
b7C -1

Assistant General Counsel
Science & Technology Law Unit
Federal Bureau of Investigation
Office
BB:
E-M



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From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 10:16 AM
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Cc:
Subject: Fw: WSJ fact check

b5 -1
b6 -1
b7C -1

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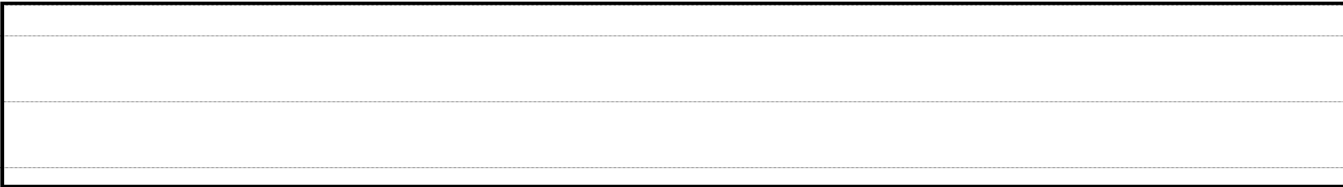
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Cc:
Sent: Wed Sep 21 10:11:25 2011
Subject: Re: WSJ fact check



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To: Hess, Amy S.; Bryars, D Keith
Cc:
Sent: Wed Sep 21 07:38:43 2011
Subject: Fw: WSJ fact check

b5 -1
b6 -1
b7C -1

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From [redacted]
To: Sabol, Sherry E.; [redacted]
Sent: Tue Sep 20 23:56:57 2011
Subject: WSJ fact check

b6 -1, 2
b7C -1, 2

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b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 12:17 PM
To: Sabol, Sherry E.
Cc: Hess, Amy S.; Bryars, D Keith [redacted]
Subject: Re: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]
Sent from my BlackBerry Wireless Handheld

From: Sabol, Sherry E.
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; [redacted]
Sent: Wed Sep 21 11:56:59 2011
Subject: Re: WSJ fact check

From: Sabol, Sherry E.
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith
Sent: Wed Sep 21 11:48:47 2011
Subject: RE: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]
Sherry.

From: [redacted]
Sent: Tuesday, September 20, 2011 11:57 PM
To: Sabol, Sherry E.; [redacted]
Subject: WSJ fact check.
Importance: High

b6 -1, -2
b7C -1, -2

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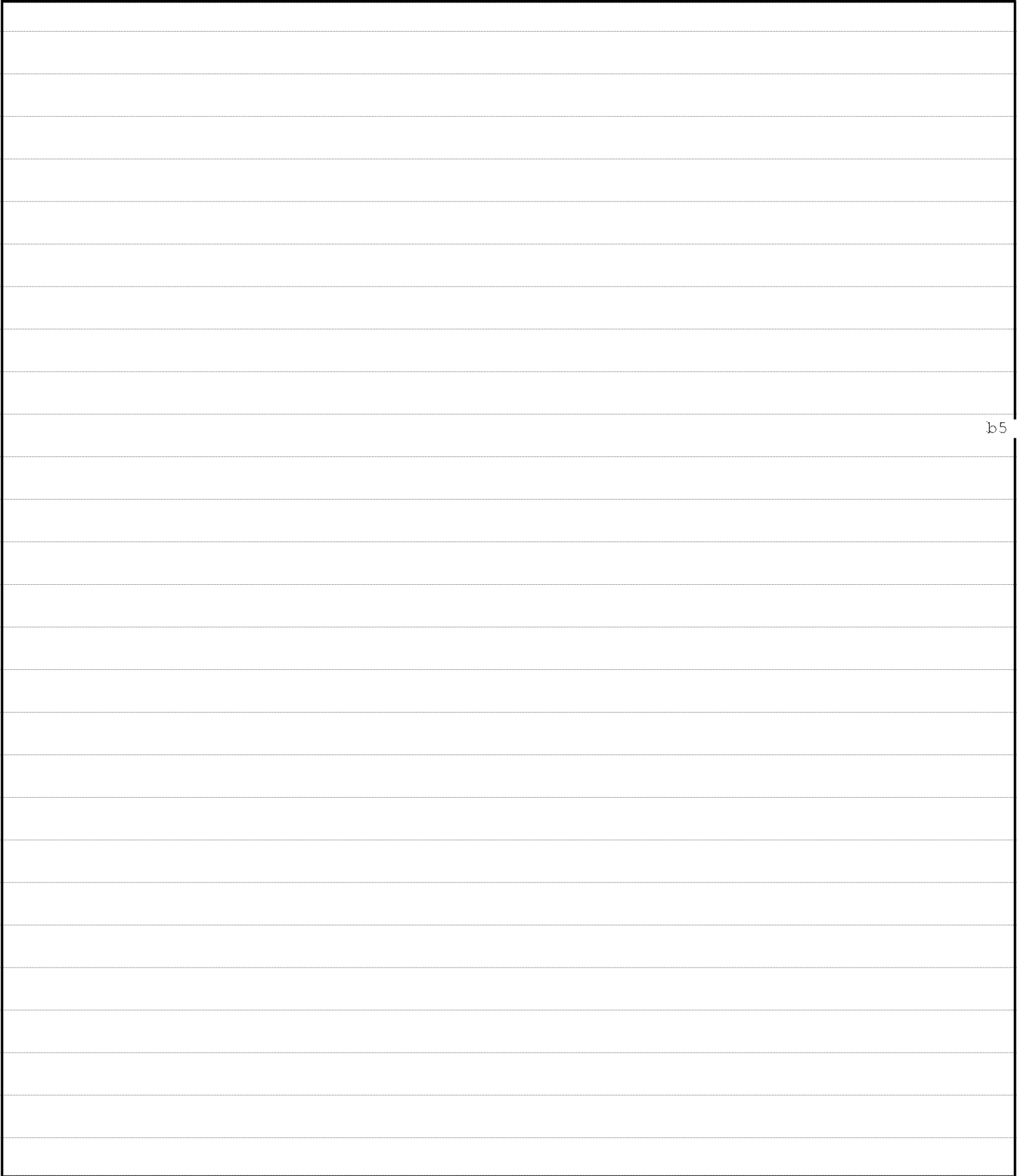
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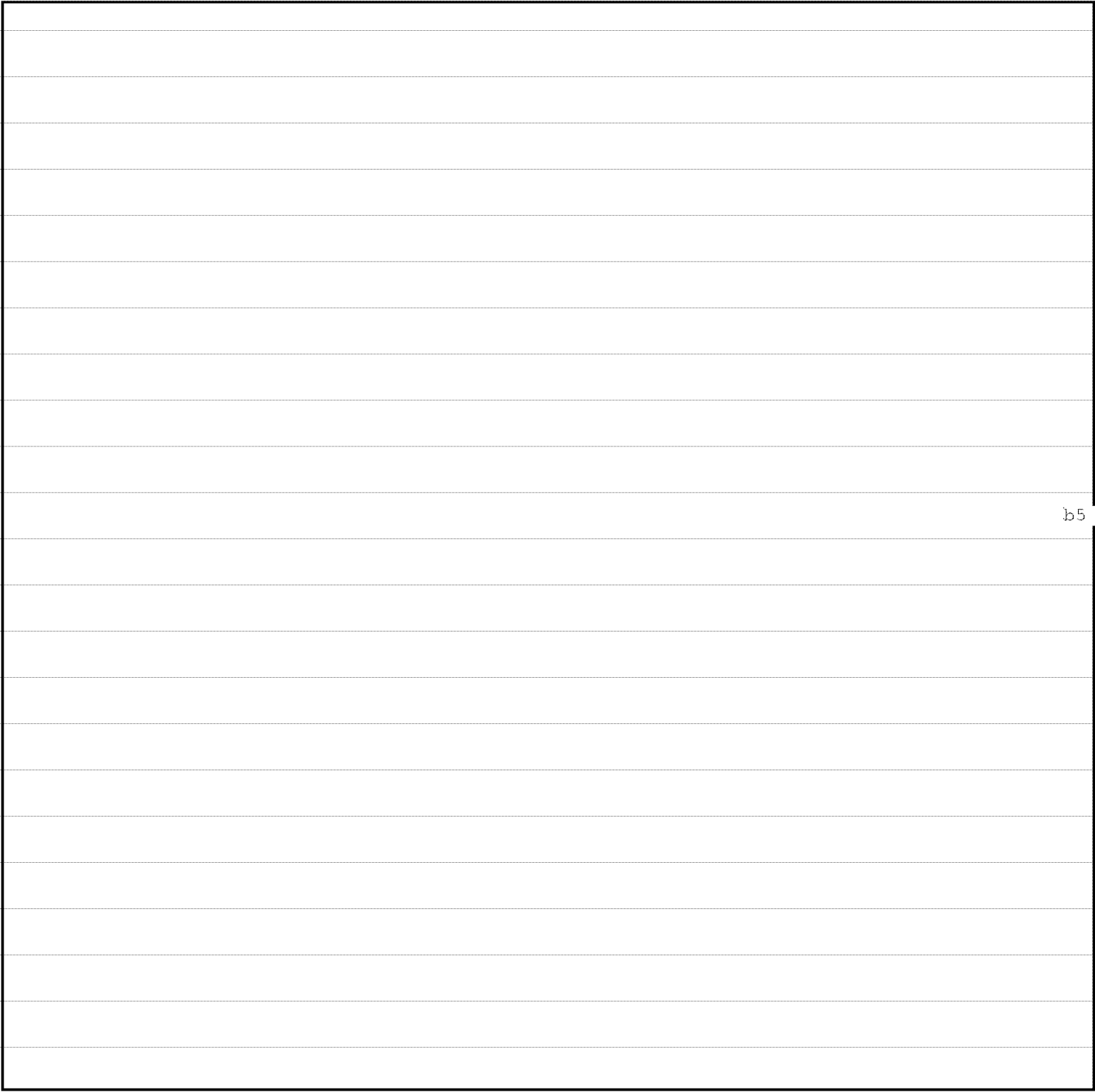
Best,



b6 -2
b7C -2



b5 -1



b5 -1



b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 2:10 PM
To: Sabol, Sherry E.; [redacted]
Cc: [redacted]
Subject: RE: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]

Thanks,

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 2:00 PM
To: [redacted]
Cc: [redacted]
Subject: RE: WSJ fact check

b5 -1
b6 -1
b7C -1

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Sent: Wednesday, September 21, 2011 12:03 PM
To: Sabol, Sherry E.
Cc: [redacted]
Subject: FW: WSJ fact check

Sherry-

[redacted]

[redacted]

Assistant General Counsel
Science & Technology Law Unit
Federal Bureau of Investigation
Office: [redacted]
BB: [redacted]
E-Mail: [redacted]

b5 -1
b6 -1
b7C -1

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Subject: FW: WSJ fact check

[redacted]

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[redacted]
Sherry.

b5 -1
b6 -1, -2
b7C -1, -2

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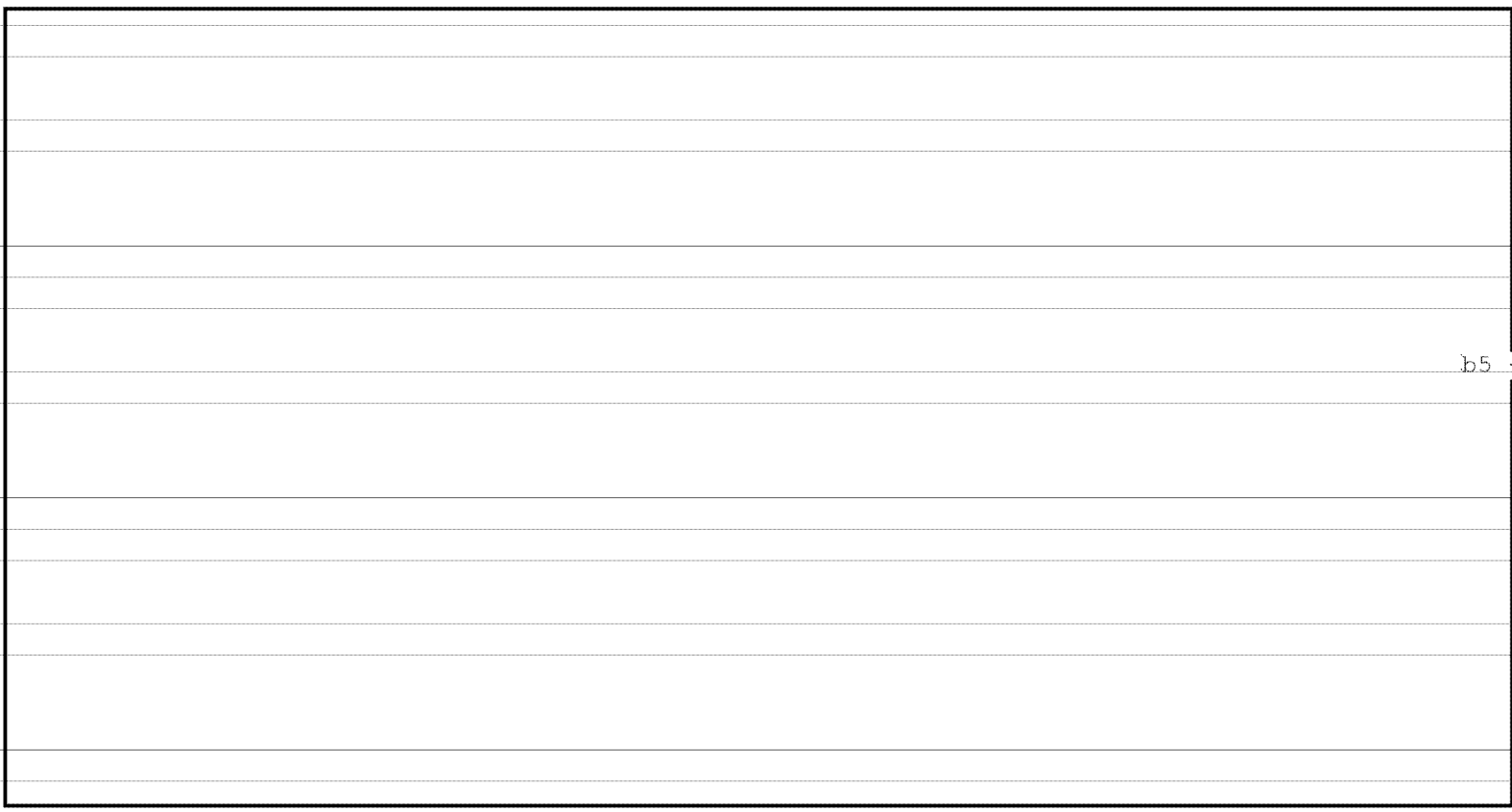
Thanks so much for your help, again. I realize this is very sensitive and an important tool for you; I also feel like people have a lot of questions about this general topic and I want to make sure I present everything as accurately as possible.

I would appreciate it if you could tell me that you received this email.

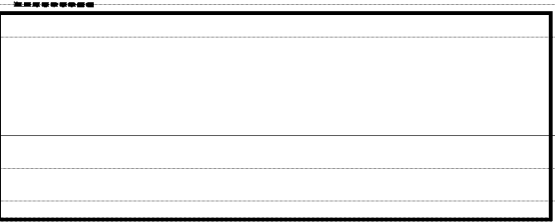
Best,

[redacted]
b5 -1
b6 -2
b7C -2

b5 -1



b5 -1



b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 21, 2011 3:04 PM
To: Sabol, Sherry E.
Subject: Re: WSJ fact check

b5 -1
b6 -1
b7C -1

[redacted]

Sent from my BlackBerry Wireless Handheld

From: Sabol, Sherry E.
To: [redacted]
Sent: Wed Sep 21 14:01:41 2011
Subject: Re: WSJ fact check

From: [redacted]
To: Sabol, Sherry E.
Sent: Wed Sep 21 13:17:36 2011
Subject: FW: WSJ fact check

b5 -1
b6 -1
b7C -1

From: [redacted]
Sent: Wednesday, September 21, 2011 12:14 PM
To: [redacted] Sabol, Sherry E.; DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Subject: Re: WSJ fact check

[redacted]
Associate General Counsel
Unit Chief, Science and Technology Law Unit
Office of the General Counsel
Federal Bureau of Investigation

From: [redacted]
To: Sabol, Sherry E.; DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Sent: Wed Sep 21 12:02:57 2011
Subject: RE: WSJ fact check

b5 -1
b6 -1
b7C -1

Sherry-

Here's my thoughts:

b5 -1

Assistant General Counsel
Science & Technology Law Unit
Federal Bureau of Investigation

b6 -1
b7C -1

Office
BB: (2
E-Mail

**THIS COMMUNICATION MAY CONTAIN PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT AND ATTORNEY WORK PRODUCT MATERIAL.
DO NOT DISCLOSE WITHOUT PRIOR PERMISSION FROM FBI OGC.**

From: Sabol, Sherry E.
Sent: Wednesday, September 21, 2011 10:16 AM

To: DiClemente, Anthony P.; [redacted]
Cc: [redacted]
Subject: Fw: WSJ fact check

Please take a look at this and get me your thoughts/comments asap.

b5 -1
b6 -1
b7C -1

From: Hess, Amy S.
To: Sabol, Sherry E.; Bryars, D Keith
Cc: [redacted]
Sent: Wed Sep 21 10:11:25 2011
Subject: Re: WSJ fact check

[redacted]

From: Sabol, Sherry E.
To: Hess, Amy S.; Bryars, D Keith
Cc: [redacted]
Sent: Wed Sep 21 07:38:43 2011
Subject: Fw: WSJ fact check

WSJ asked us to fact check certain statements.

[redacted]

b5 -1
b6 -1, -2
b7C -1, -2

I'll look at rest again in office.

They need an answer by mid-day.

From: [redacted]
To: Sabol, Sherry E.; [redacted]
Sent: Tue Sep 20 23:56:57 2011
Subject: WSJ fact check

Hi [redacted] and Sherry.

Below are sentences and paragraphs from the story, which is set to run in Thursday's paper. Please let me know if you are aware of any factual errors in any of them. I'll need a response for my editors by midday although we will have a bit of time after that to go back and forth. Sometimes the best thing to do is let me know early on which statements have problems so we can work it out, but it's up to you.

(Some items you may not have adequate information on, like very general statements, or statements about the specifics of the Arizona case. These are included mainly to provide you with context. We don't like subjects of stories to be surprised by anything when the story runs. If you feel you don't have enough information to evaluate a statement, just say so. Not a problem.)

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I would appreciate it if you could tell me that you received this email.

b6 -2
b7C -2

Best,

[redacted]

- * Stingrays are designed to locate a mobile phone even when it's not being used to make a call.
- * A stingray works by mimicking a cellphone tower, getting a phone to connect to it and measuring signals from the phone. It allows the stingray operator to ping a phone and find it if it is powered on, according to documents reviewed by the Journal. The device has various uses, including helping police locate suspects and aiding search-and-rescue teams in finding people lost in remote areas or buried in rubble after an accident.
- * Stingrays are one of several new technologies used by law enforcement to track people's locations, often without a warrant. The technologies are driving a broad Constitutional debate about whether the Fourth Amendment, which prohibits unreasonable searches and seizures, but which was written before the digital age, is keeping pace with the times.
- * A stingray's role in nabbing the alleged "Hacker"—Daniel David Rigmaiden—is shaping up as a possible test of the legal standards for using these devices in investigations. The FBI says no warrant is required and that standards vary depending on the state and district.
- * The devices are so secret that the Federal Bureau of Investigation has a policy of deleting the data they gather out of a desire to keep the technology under wraps, an FBI official told The Wall Street Journal in response to inquiries about the device.
- * In Thursday's hearing, the government will argue that it should be able to withhold information on precisely what tool was used to locate Mr. Rigmaiden, according to documents filed by the prosecution.
- * The FBI says information on stingrays and related technology is "considered Law Enforcement Sensitive, since its public release could harm law enforcement efforts by compromising future use of the equipment."
- * The prosecutor, Mr. Battista, told the judge that the government's concern is that "if the actual information regarding ... this equipment is disclosed, it can be subject to being defeated or avoided or detected."
- * In the case of the alleged hacker, Mr. Rigmaiden, the government faces the task of prosecuting him without disclosing details about the device it used to locate him.
- * The government says "stingray" is a generic term, and in Mr. Rigmaiden's case it remains unclear which device or devices were actually used.
- * "Location information continues to be a vital component in law enforcement investigations at the federal, state and local levels," an FBI official told the Journal.
- * FBI and Department of Justice officials have said that investigators don't need to get search warrants to use stingray devices. Associate Deputy Attorney General James A. Baker and FBI General Counsel Valerie E. Caproni both said at a panel discussion at the Brookings Institution in May that devices like these fall into a category of tools called "pen registers" that require a lesser order than a warrant. Pen registers gather signals from phones, such as phone numbers dialed, but don't receive the content of the communications.
- * To get a pen-register order, investigators must show only that the information likely to be obtained is "relevant to an ongoing criminal investigation." The Supreme Court has ruled that use of a pen register doesn't require a search warrant, because it doesn't involve interception of conversations.
- * But with cellphones, data sent in real time includes location information, making the situation more complicated, because some judges have found that location information is more intrusive than data on the numbers dialed by a phone. Some courts have required a slightly higher standard for location information, but not a warrant, while others have held that a search warrant is necessary.
- * The FBI advises agents to work with the local federal prosecutors to conform to the legal requirements of their particular district, an FBI official said. He added that it is FBI policy to obtain a search warrant if the FBI believes

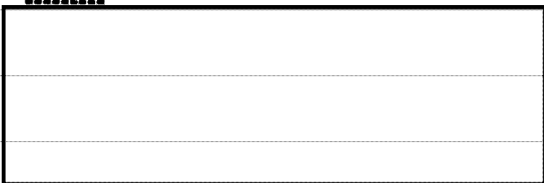
technology "may provide information on an individual while that person is in a location where he or she would have a reasonable expectation of privacy."

* Experts say lawmakers and the courts haven't yet settled whether locating a person or device in a home constitutes a "search" that requires a warrant.

* The FBI told the Journal that "with regard to the expungement of location information obtained through use of this type of equipment by the FBI, our policy since the 1990s has been to purge or 'expunge' all information obtained during a location operation."

* The FBI allows this policy because information gathered in these operations "is intended to be used only as lead information to assist investigators in identifying the general location of their subject and is not intended to be used as substantive evidence in a case," the official said.

* In the Rigmaiden case, the investigators used the stingray to narrow down the location of the broadband card. One of the Phoenix federal agents then said in a July 2008 email that the team needed "to develop independent probable cause" and that the "FBI does not want to disclose the [redacted] (understandably so)."



b6 -2
b7C -2

[Redacted] (RMD) (FBI)

From: DiClemente, Anthony P.
Sent: Saturday, September 17, 2011 4:26 PM
To: Sabol, Sherry E.
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology.

FYI - I'll call you.

b6 -1
b7C -1
b7E -1

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
Federal Bureau of Investigation

[Redacted]

From: Bryars, D Keith
To: DiClemente, Anthony P.; Hess, Amy S.
Sent: Sat Sep 17 16:16:37 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

Thanks Tony.

D. Keith Bryars
A/Deputy Assistant Director
Operational Technology Division
Innovation*Technology*Collaboration

[Redacted]

From: DiClemente, Anthony P.
To: Hess, Amy S.; Bryars, D Keith
Sent: Sat Sep 17 15:44:16 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology.

b5 -1
b6 -1
b7C -1
b7E -1

Amy/Keith.

[Redacted]

Regards,

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
Federal Bureau of Investigation

[Redacted]

From: DiClemente, Anthony P.
To: Hess, Amy S.; Bryars, D Keith
Sent: Sat Sep 17 14:36:27 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
Federal Bureau of Investigation

b5 -1
b6 -1
b7C -1
b7E -1

[Redacted]

From: Sabol, Sherry E.
To: DiClemente, Anthony P.
Sent: Sat Sep 17 14:23:18 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: DiClemente, Anthony P.
To: DiClemente, Anthony P.; Sabol, Sherry E.; Hess, Amy S.; [Redacted]; Bryars, D Keith
Sent: Sat Sep 17 14:19:03 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

[Redacted]

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division

b7E -1

Federal Bureau of Investigation

[Redacted]

From: DiClemente, Anthony P.
Sent: Saturday, September 17, 2011 1:16 PM
To: Sabol, Sherry E.; Hess, Amy S. [Redacted] Bryars, D Keith
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1
b7E -1

[Large Redacted Area]

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
Federal Bureau of Investigation

[Redacted]

From: Hess, Amy S.
Sent: Saturday, September 17, 2011 9:53 AM
To: [Redacted] DiClemente, Anthony P.
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1
b7E -1

[Redacted]

From: Bryars, D Keith
To: Hess, Amy S.
Sent: Sat Sep 17 06:16:30 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

Amy,

[Redacted]
Thanks, Keith

b5 -1
b7E -1

D. Keith Bryars
A/Deputy Assistant Director
Operational Technology Division
Innovation*Technology*Collaboration

From: Sabol, Sherry E.
To: Bryars, D Keith
Sent: Fri Sep 16 23:49:17 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: [Redacted]
To: DiClemente, Anthony P.
Cc: Kortan, Michael P.; Sabol, Sherry E.
Sent: Fri Sep 16 21:03:31 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

[Redacted]

Sent from my BlackBerry Wireless Handheld

From: Sabol, Sherry E.
To: [Redacted]
Sent: Fri Sep 16 18:49:49 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

From: [Redacted]
To: Sabol, Sherry E.
Sent: Fri Sep 16 18:30:28 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

From: Sabol, Sherry E.

Sent: Friday, September 16, 2011 6:11 PM

To: [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P. [Redacted]

Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

b5 -1
b6 -1
b7C -1

From: Sabol, Sherry E.

To: Sabol, Sherry E. [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P. [Redacted]

Sent: Fri Sep 16 16:48:15 2011

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: Sabol, Sherry E.

Sent: Friday, September 16, 2011 4:12 PM

To: [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

Importance: High

[Redacted]

[Redacted]

b5 -1
b6 -1
b7C -1

From: [redacted]
Sent: Friday, September 16, 2011 1:49 PM
To: [redacted] Sabol, Sherry E. [redacted]
CC: mess, Amy J.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

See update below. We will need a response by COB today if we are going to contribute to the article.

From: [redacted]
Sent: Friday, September 16, 2011 1:44 PM
To: [redacted]
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

Another update: It looks as though my editors might want to run it out for Monday's paper, which would put my deadline for comment to Sunday at midday. (And today would really be best.)

Thanks!

[redacted]

From: [redacted]
To: [redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

Hi.

Thanks so much for helping me out.

I'm [redacted] and am writing about the use of "stingray" type devices, which are used generally to locate or otherwise get data on cellular devices. As an example of the use of this technology, I'm writing about a case in U.S. District Court in the District of Arizona in which the FBI used one of these devices. (It's unclear whether what was used was a stingray, a triggerfish, or something else. The prosecution explains that "stingray" is the generic term used.)

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USAGE INFORMATION

I would like any information that the FBI might be able to provide on how helpful these "stingray" type devices are, how frequently they are used and whether their use has increased or decreased in the past couple of years.

I'm not on a daily deadline for this story, but I am on a deadline. The story needs to be sent to my editors in the next few days, so I would hope to talk with someone as soon as possible.

Thank you.

Best Regards,

[Redacted]

[Redacted]

b6 -2
b7C -2

[redacted] (RMD) (FBI)

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Sent: Friday, September 16, 2011 9:04 PM
To: DiClemente, Anthony P.
Cc: Kortan, Michael P.; Sabol, Sherry E.
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

Sent from my BlackBerry Wireless Handheld

From: Sabol, Sherry E.
To: [redacted]
Sent: Fri Sep 16 18:49:49 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b6 -1
b7C -1
b5 -1

From: Allen, Christopher M.
To: Sabol, Sherry E.
Sent: Fri Sep 16 18:30:28 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

From: Sabol, Sherry E.
Sent: Friday, September 16, 2011 6:11 PM
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.; [redacted]
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

From: Sabol, Sherry E.
To: Sabol, Sherry E.; [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.; [redacted]
Sent: Fri Sep 16 16:48:15 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

From: Sabol, Sherry E.
Sent: Friday, September 16, 2011 4:12 PM
To: [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology
Importance: High

b5 -1

From: [redacted]
Sent: Friday, September 16, 2011 1:49 PM
To: [redacted] Sabol, Sherry E.; [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

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Thanks!

[redacted]

b6 -1, -2
b7C -1, -2

[Redacted]
From [Redacted]
To [Redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

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Thank you.

Best Regards,

[Redacted]

b6 -2
b7C -2

[Redacted]

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Friday, September 16, 2011 1:49 PM
To: [redacted] Sabol, Sherry E. [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

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Sent: Friday, September 16, 2011 1:44 PM
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[redacted]

b6 -1, -2
b7C -1, -2

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To: [redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

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Thank you.

Best Regards,

[Redacted]

b6 -2
b7C -2

[Redacted]

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Wednesday, September 14, 2011 3:54 PM
To: [redacted] Sabol, Sherry E.; [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine IV.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1, -2
b7C -1, -2

From: [redacted]
Sent: Wednesday, September 14, 2011 3:43 PM
To: [redacted]
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

Thanks for keeping me up to date.

I do have some information so far on the legal theories and policies involved here, from the documents that already exist in the example case and from some online research. I'll lay them out for you here just so you have them, in case it is helpful.

- (1) General Counsel Valerie E. Caproni and Associate Deputy Attorney General James A. Baker, at a Brookings panel in May, said they thought these types of devices are pen registers and that somebody would need a pen register order to use them.
- (2) The prosecution in the example case I'm looking at says the device is a pen register device, because it's not getting content like a wiretap would.
- (3) The prosecution also says "U.S. magistrate judges and district judges across the country have debated whether cell phone tracking requires a hybrid order, a tracking warrant, or both." They say "these decisions are made on a case-by-case basis when the application is presented."
- (4) I have not seen a full explanation in terms of policy for the deletion of the data from the device, except that the application for the order that involved deleting data has been described by the prosecution as "standard procedure" and "not a unique scenario." Additionally, investigators involved say in documents filed in the case that they developed "independent probable cause" after using the device because the "FBI does not want to disclose the [tracking device]" -- indicating the extreme sensitivity of the device and data from it.

I hope this is helpful in expediting the request. I know the topic is extremely sensitive, but it does seem like my questions have been broached before in a number of places. I would prefer to get a more comprehensive answer, but I can use the other info if I need to.

The gist of my story as it stands currently (subject to change by editors, as always) is that this is a very hotly debated area of the law right now, and it shows how tough it is to use cutting-edge technology without disclosing it in a way that will help offenders, all while trying to use laws that just don't keep up with this kind of innovation.

Do you have any sense of how long the process might take on your end? I'd just like to know what to tell my editors.

[redacted]
b6 -2
b7C -2

[Redacted] (RMD) (FBI)

From: [Redacted]
Sent: Saturday, September 17, 2011 1:41 PM
To: Bryars, D Keith; DiClemente, Anthony P.; Sabol, Sherry E.; Hess, Amy S.
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

b5 -1
b6 -1
b7C -1

From: Bryars, D Keith
To: DiClemente, Anthony P.; Sabol, Sherry E.; Hess, Amy S.; [Redacted]
Sent: Sat Sep 17 13:30:32 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

D. Keith Bryars
A/Deputy Assistant Director
Operational Technology Division
Innovation*Technology*Collaboration

[Redacted]

From: DiClemente, Anthony P.
To: Sabol, Sherry E.; Hess, Amy S.; [Redacted] Bryars, D Keith
Sent: Sat Sep 17 13:16:36 2011
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

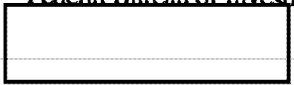
b5 -1
b6 -1
b7C -1
b7E -1

[Redacted]

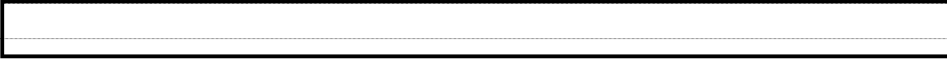


b5 -1
b7E -1

Anthony DiClemente
Chief [redacted] Section
Operational Technology Division
Federal Bureau of Investigation



From: Hess, Amy S.
Sent: Saturday, September 17, 2011 9:53 AM
To: [redacted] DiClemente, Anthony P.
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

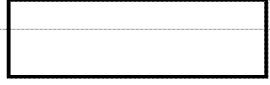


From: Bryars, D Keith
To: Hess, Amy S.
Sent: Sat Sep 17 06:16:30 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1
b7E -1



D. Keith Bryars
A/Deputy Assistant Director
Operational Technology Division
Innovation*Technology*Collaboration



From: Sabol, Sherry E.
To: Bryars, D Keith
Sent: Fri Sep 16 23:49:17 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1



From: [redacted]
To: DiClemente, Anthony P.
Cc: Kortan, Michael P.; Sabol, Sherry E.
Sent: Fri Sep 16 21:03:31 2011
Subject: Fw: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

Sent from my BlackBerry Wireless Handheld

b5 -1
b6 -1
b7C -1

From: Sabol, Sherry E.

To: [Redacted]

Sent: Fri Sep 16 18:49:49 2011

Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: [Redacted]

To: Sabol, Sherry E.

Sent: Fri Sep 16 18:30:28 2011

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: Sabol, Sherry E.

Sent: Friday, September 16, 2011 6:11 PM

To: [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P. [Redacted]

Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

b5 -1
b6 -1
b7C -1

[Redacted]

From: Sabol, Sherry E.

To: Sabol, Sherry E. [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P. [Redacted]

Sent: Fri Sep 16 16:48:15 2011

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

[Redacted]

From: Sabol, Sherry E.

Sent: Friday, September 16, 2011 4:12 PM

To: [Redacted]

Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.

Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

Importance: High

b5 -1
b6 -1
b7C -1

[Redacted]

b5 -1

From: [redacted]
Sent: Friday, September 16, 2011 1:49 PM
To: [redacted] Sabol, Sherry E. [redacted]
Cc: Hess, Amy S.; Bryars, D Keith; Lammert, Elaine N.; Kortan, Michael P.
Subject: FW: Wall Street Journal request -- legal status of "stingray" technology

See update below. We will need a response by COB today if we are going to contribute to the article.

b6 -1, -2
b7C -1, -2

From: [redacted]
Sent: Friday, September 16, 2011 1:44 PM
To: [redacted]
Subject: RE: Wall Street Journal request -- legal status of "stingray" technology

Another update: It looks as though my editors might want to run it out for Monday's paper, which would put my deadline for comment to Sunday at midday. (And today would really be best.)

Thanks!

[redacted]

From [redacted]
To [redacted] (DO)(FBI)
Sent: Fri Sep 09 11:22:54 2011
Subject: Wall Street Journal request -- legal status of "stingray" technology

b6 -1, -2
b7C -1, -2

Hi.

Thanks so much for helping me out.

I'm [redacted] and am writing about the use of "stingray" type devices, which are used generally to locate or otherwise get data on cellular devices. As an example of the use of this technology, I'm writing about a case in U.S. District Court in the District of Arizona in which the FBI used one of these devices. (It's unclear whether what was used was a stingray, a triggerfish, or something else. The prosecution explains that "stingray" is the generic term used.)

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I understand this technology is very sensitive for the FBI; however, I would very much like to get the FBI's views on this technology. I do not want to only quote the ACLU in this matter and would appreciate your help.

Here's what I'm looking for:

LEGAL INFORMATION

(1) I would like to know what the FBI's guidelines are regarding what orders are required for the use of a stingray, particularly as it pertains to location information. Do they require a search warrant or a different type of order? Are agents instructed to try to get a warrant if possible but a lesser order if not? What is the legal analysis that supports this policy? Do the instructions vary by region? Things like that.

(2) I would like to know what the FBI policy is regarding data from stingrays being expunged. In the case I'm covering, the Agent, in the application for the use of device, requested that data obtained by the court order be expunged at the end of the mission to locate the cellular device. This request was granted, and that data was expunged.

USAGE INFORMATION

I would like any information that the FBI might be able to provide on how helpful these "stingray" type devices are, how frequently they are used and whether their use has increased or decreased in the past couple of years.

I'm not on a daily deadline for this story, but I am on a deadline. The story needs to be sent to my editors in the next few days, so I would hope to talk with someone as soon as possible.

Thank you.

Best Regards,

[redacted]

[redacted]

b6 -2
b7C -2

[redacted] (RMD) (FBI)

From: [redacted]
Sent: Saturday, September 17, 2011 1:41 PM
To: Bryars, D Keith; DiClemente, Anthony P.; Sabol, Sherry E.; Hess, Amy S.
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[redacted]

b5 -1
b6 -1
b7C -1

From: Bryars, D Keith.
To: DiClemente, Anthony P.; Sabol, Sherry E.; Hess, Amy S. [redacted]
Sent: Sat Sep 17 13:30:32 2011
Subject: Re: Wall Street Journal request -- legal status of "stingray" technology

[redacted]

D. Keith Bryars
A/Deputy Assistant Director
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To: Sabol, Sherry E.; Hess, Amy S.; [redacted] Bryars, D Keith
Sent: Sat Sep 17 13:16:36 2011
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b6 -1
b7C -1
b5 -1
b7E -1

[redacted]

[Redacted]

Anthony DiClemente
Chief [Redacted] Section
Operational Technology Division
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b5 -1
b7E -1

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[Redacted]

b5 -1
b6 -1
b7C -1
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b5 -1
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b5 -1
b6 -1
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Importance: High

b5 -1
b6 -1
b7C -1

[Redacted]

b5 -1

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b6 -2
b7C -2

[redacted]