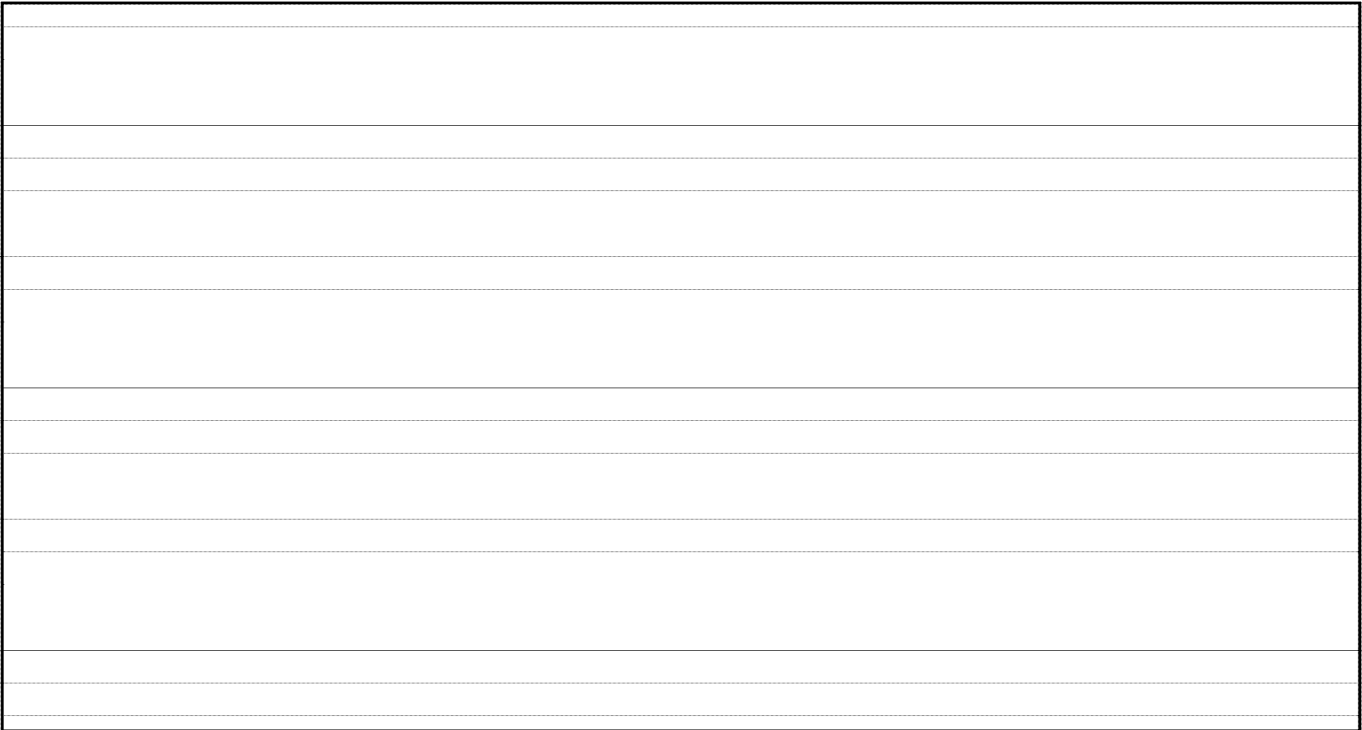


Emergency Disclosure Authorities

CELL/OTD 015730

Disclose What & When ?



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CELL/OTD 015731

Emergency PR/TT

18 U.S.C. § 3125(a)(1)

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- **Prior DOJ approval required (AG, DAG, Assoc. AG or any AAG or any DAAG)**
DOJ command Center or OEO (business hours)
- **Emergencies involving:**
 - Immediate danger of death or serious injury
 - Conspiratorial activities characteristic of organized crime
 - (C) an immediate threat to a national security interest; or
 - (D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year”
- **48 hours to Apply for Court Order 18 USC 3125(c)—**
 - **“installation and use....without application for the authorizing court order within 48 hours of installation shall constitute a violation”**
 - **If deployed under STATE Emergency PR/TT authority: still must apply for Court Order within 48 hours**

CELL/OTD 015733

Alternative authority

Consent:

1. PR/TT (18 USC 3121(b)(3): “Implied Consent” IF seeking info from victim’s phone—not e.g., a Fugitive’s phone.

Emergency Request 18 USC 2702(c)(4)

Provider may Voluntary Disclose:

“a record or other information pertaining to a subscriber or customer of such service.”

if provider “in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency.”

Reporting Requirement: annual report of number of accounts and summary basis for voluntary disclosures per 2702(d);

CPNI 47 USC 222(c)(1)

- Carriers must protect (CPNI) “Customer Proprietary Network Information” from disclosure
 1. “Except as required by law or
 2. with the approval of the customer”

CPNI

□ Customer Proprietary Network Information

means: 47 USC 222(h)(1)

1. Information that relates totype, destination, location and amount of use of a telecommunication service...and
2. Information contained in the bills...or telephone toll service received by a customer

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CELL/OTD 015740

Civil Liability Protection 18 USC 2707(e)

- “A good faith reliance on
 - Court warrant or order, a grand jury subpoena, a legislative authorization **or a statutory authorization** (including a request of a governmental entity under section 2703(f) of this title)

is a complete defense to any civil or criminal action brought under this chapter **or any other law.**”

Civil Liability Protection 18 USC 2703(e)

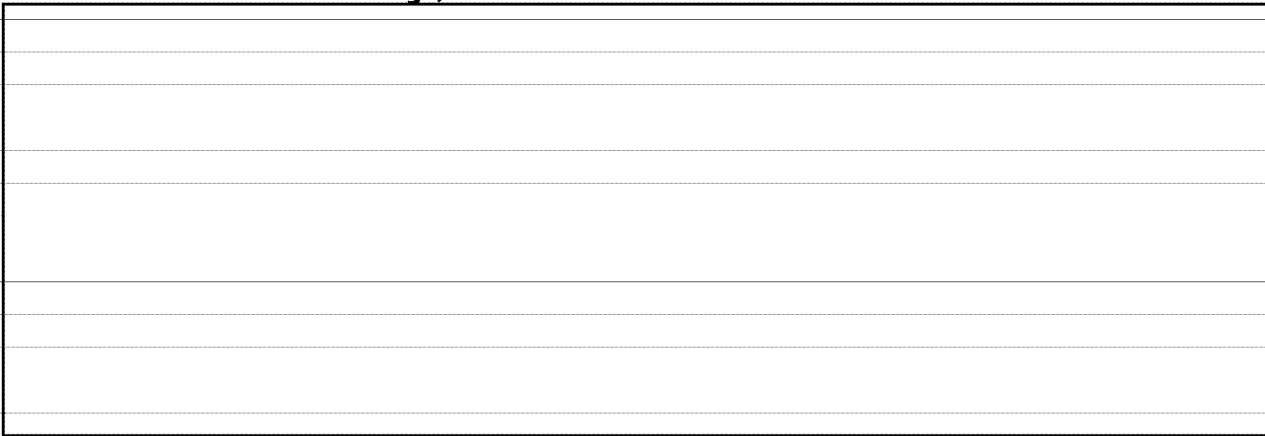
No cause of action shall lie in any court against any provider of wire or electronic communication service, its officers, employees, agents, or other specified persons for providing information, facilities, or assistance in accordance with the terms of a court order, warrant, subpoena, statutory authorization, or certification under this chapter.

2002 Amendment Subsec. (e). Pub.L. 107-296, § 225(h)(1), inserted ", statutory authorization" following "subpoena".

CELL/OTD 015743

Provider Immunity

Voluntary disclosure under 2702(c) statutory authority of records or other information in Good Faith reliance based on LE representation that an emergency circumstance required disclosure without delay,



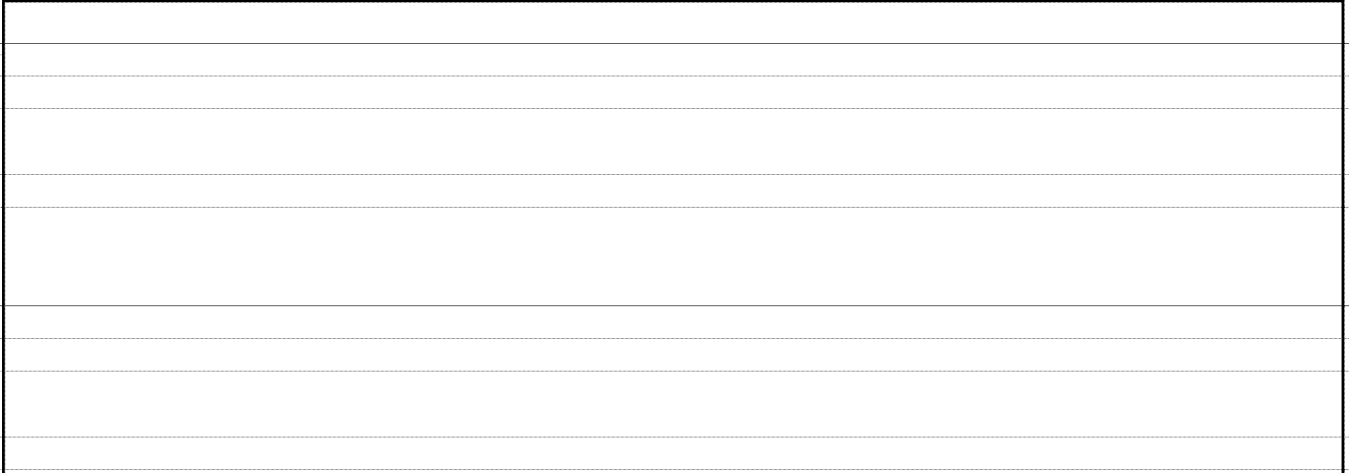
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CELL/OTD 015744

Phone Records on Internet

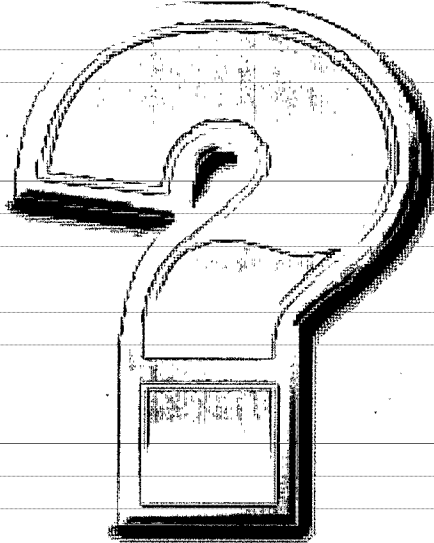
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- **18 USC 1039** (Jan 2007) now criminal violation to Obtain confidential phone records information through Fraud or relative activity.



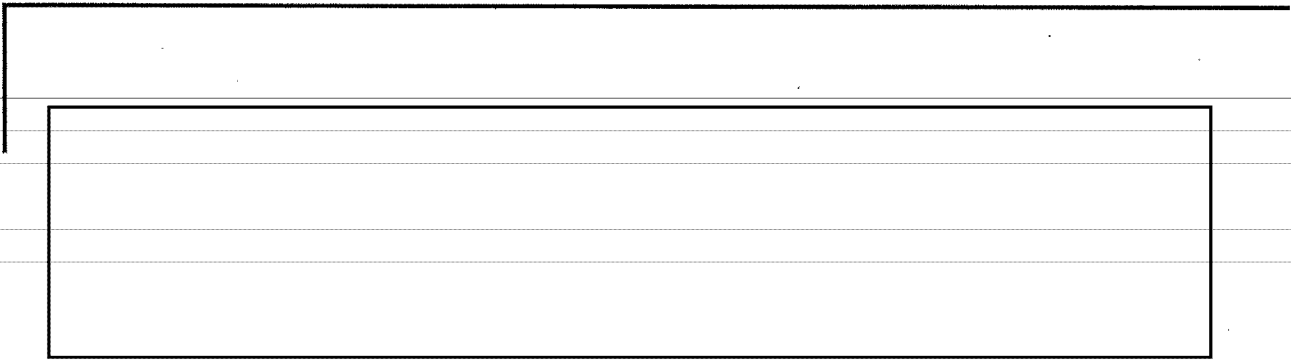
CELL/OTD 015745

QUESTIONS?



CELL/OTD 015746

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 11-16-2012 BY 65179 DMH/STW



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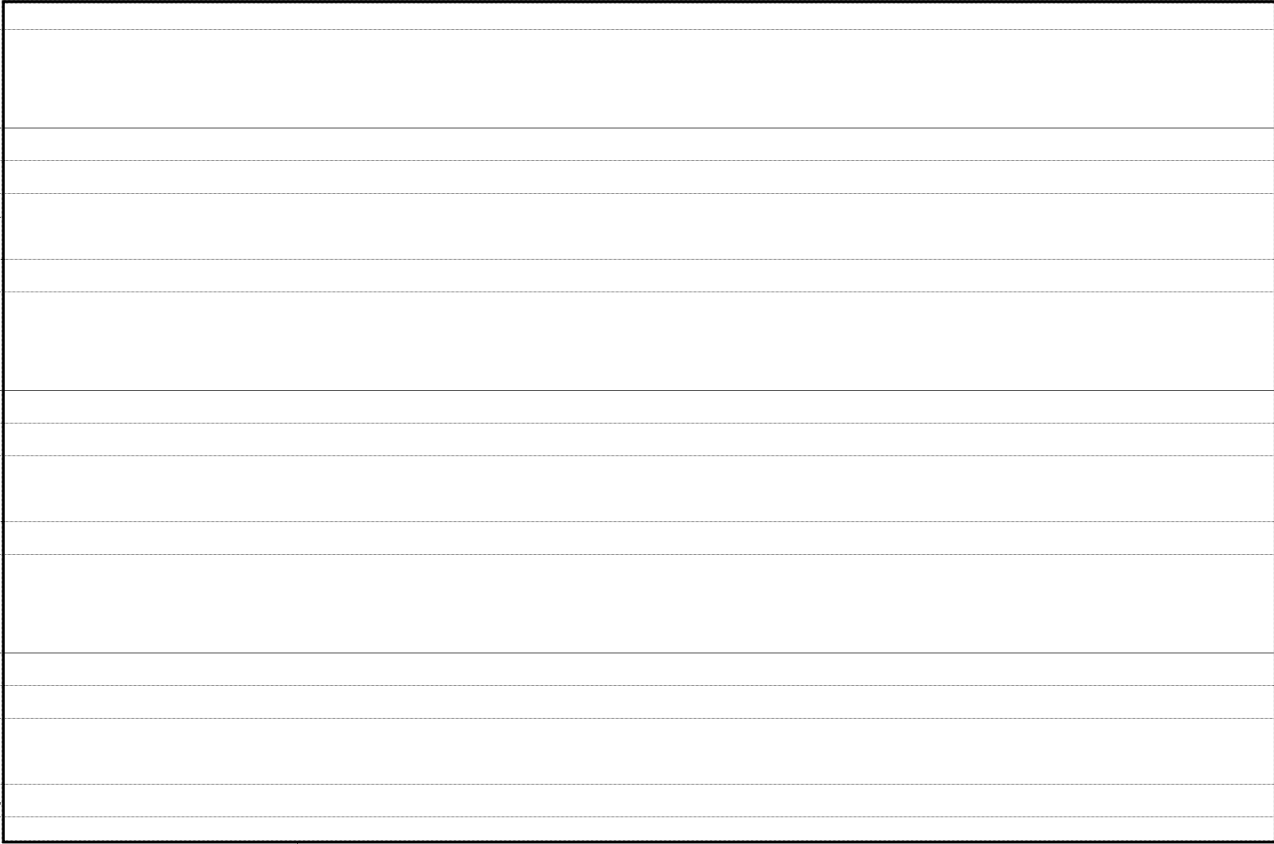
A Cell Site Simulator

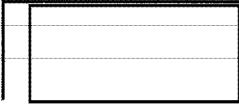
CELL/OTD 015700

Wireless Tracking Execution

Wireless tracking will be executed as follows:

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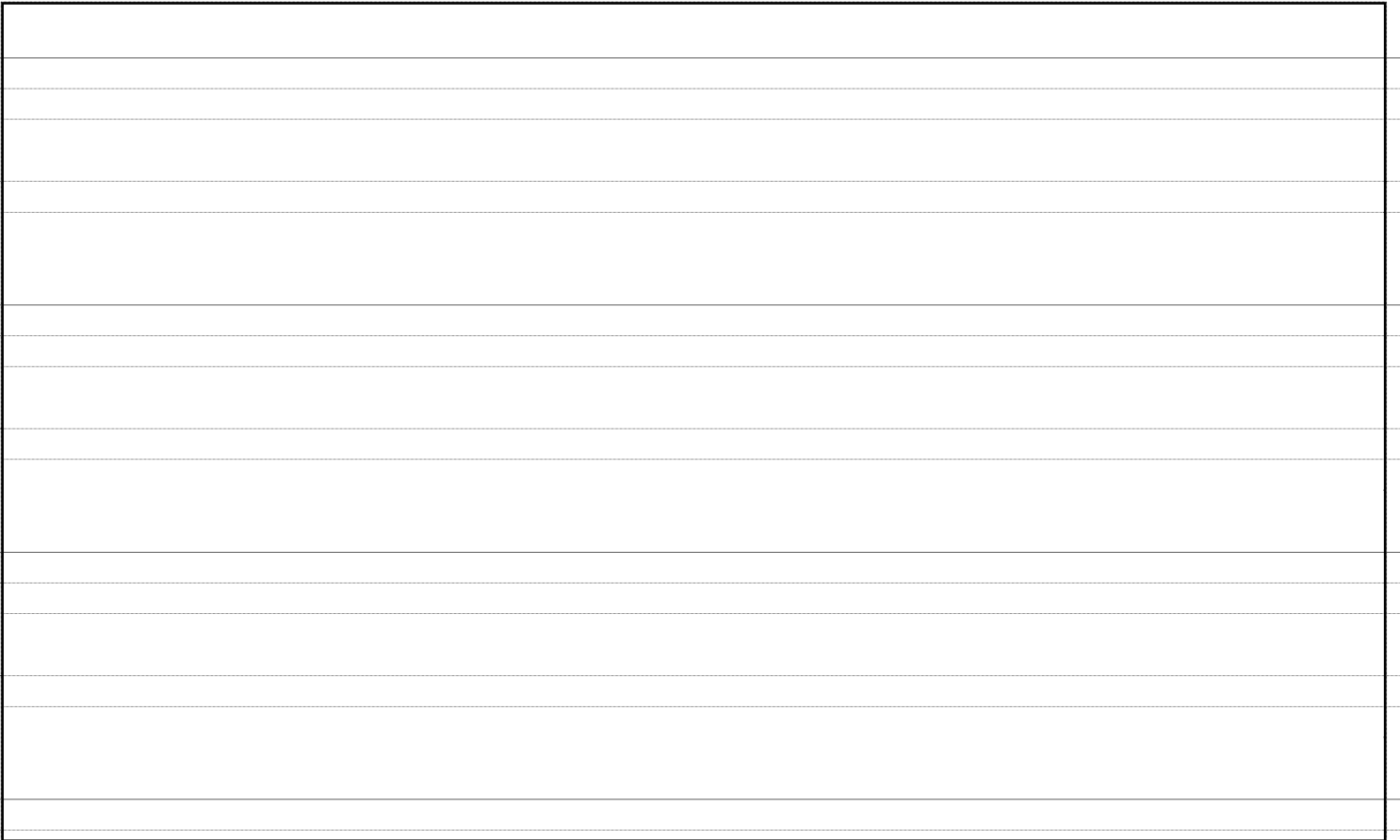


Missions

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b7E



supports two types of missions



ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

Modes of Operation:

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CELL/OTD 015703

Pen Register Device: 18 USC 3127(3)

Old Definition

- "pen register" means a device which records or decodes electronic or other impulses which **identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached....**

New Definition

- "pen register" means a device ***or process*** which records or decodes ***dialing, routing, addressing, or signaling information*** **transmitted by an instrument or facility from which a wire or electronic communication is transmitted, provided, however, that such information shall not include the contents of any communication....**

USA Patriot Act Definition

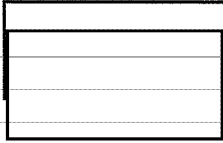
b7E

DOJ/CCIPS & OEO:

a cellphone is an **“instrument or facility from which a communication is transmitted”**

- ✓ A device that captures any **“Signaling information”** transmitted by cellphone” is a “pen register device”
- ✓ **“signaling information”**: any non-content information “transmitted by” a telephone instrument
- ✓ Hence a PenRegister Order is required to use

CELL/OTD 015708



Pen Register— BEST PRACTICES

BEST PRACTICES:

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A large, empty rectangular box with a black border, intended for providing best practices.

CELL/OTD 015709

Disruption of Service:

[Redacted]

[Redacted]

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18 USC 3124: requires that a pen register be implemented with “minimum of interference” to those accorded service-

[Redacted]

47 U.S.C. § 333 prohibits interference with cellular frequencies

[Redacted]

Purge Non-Target Data

Legitimate reasons for purging:

- Avoid retaining data on innocent users: preserve 1st Amendment rights & Minimize non-target data

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- U.S. v. Balzano, 687 F.2d 6 (1st Cir 1982) (USSS Nigra recording, re-recorded onto device, but lost “original” removable medium—destruction of original recording on the device was not done in bad faith b/c nature of equipment and agency practice was such that original was erased in the re-recording process)

UNCLASSIFIED

Alternative authority

Consent (18 USC 3121(b)(3)) “Implied

Consent” IF seeking info from **victim’s** phone—not e.g., a Fugitive’s phone.

Voluntary Disclosure by Provider (18 USC

2702(c)(4)) : if provider in good faith believes that an emergency involving immediate danger of death or serious physical injury to any person requires disclosure without delay of: “a record or other information pertaining to a subscriber or customer of such service.”

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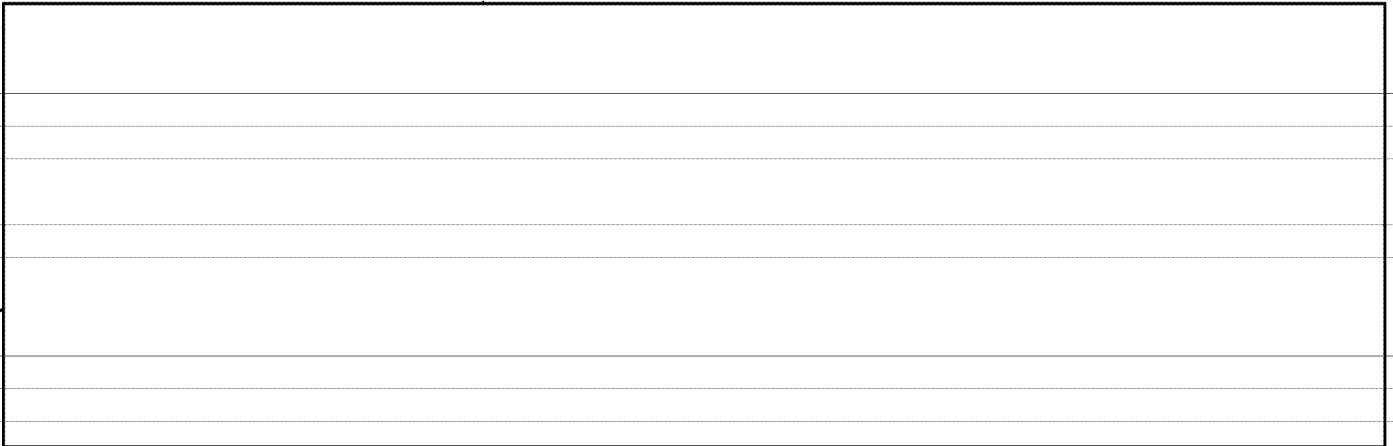
4th Amendment Privacy Interest

□ Fourth Amendment: no privacy interest in registration information

- like dialed numbers voluntarily conveyed to the phone company and “exposed” to its equipment in the normal course of business. Smith v. Maryland, 442 U.S. 435, 744 (1979).
 - no legitimate expectation of privacy in information knowingly conveyed to a third party
 - In re Digital Analyzer found “[n]o logical distinction between telephone numbers called and a party’s own telephone number (or ESN number), all of which are regularly voluntarily exposed and known to others. 885 F. Supp. at 199 (citing Smith v. Maryland, 442 U.S. 735, 742-45 (1979)).

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□



4th Amendment Privacy Interest: Cons

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What if phone located in a Residence?

- See Kyllo v. United States, 533 U.S. 27 (2001) (use of thermal imager to measure heat emitted from home constituted a search in part because there was no objective reason for the home owner to know that a device would be routinely used to detect and measure heat emitted from his home).

- See, e.g., United States v. White, 401 U.S. 745, 752 (1971) (plurality opinion) (party to conversation accepts the risk that his listener may betray his confidences); Hoffa v. United States, 385 U.S. 293, 300-03 (1966).

CELL/OTD 015714

STATE Authority triggers Loan of ELSUR:

[Redacted]

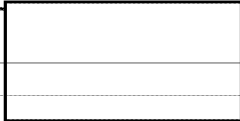
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- Agents need Federal Approval to assist when conducting surveillance pursuant to a State Authority so that they are within Scope of Federal Employment when either providing equipment and/or assistance:

[Redacted]

[Redacted]

CELL/OTD 015715

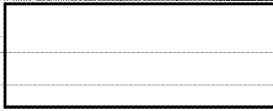


Usage

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CELL/OTD 012711



Applications

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A large rectangular area with a black border that has been completely redacted, leaving a blank space for content.

CELL/OTD 015718

Quick Bits

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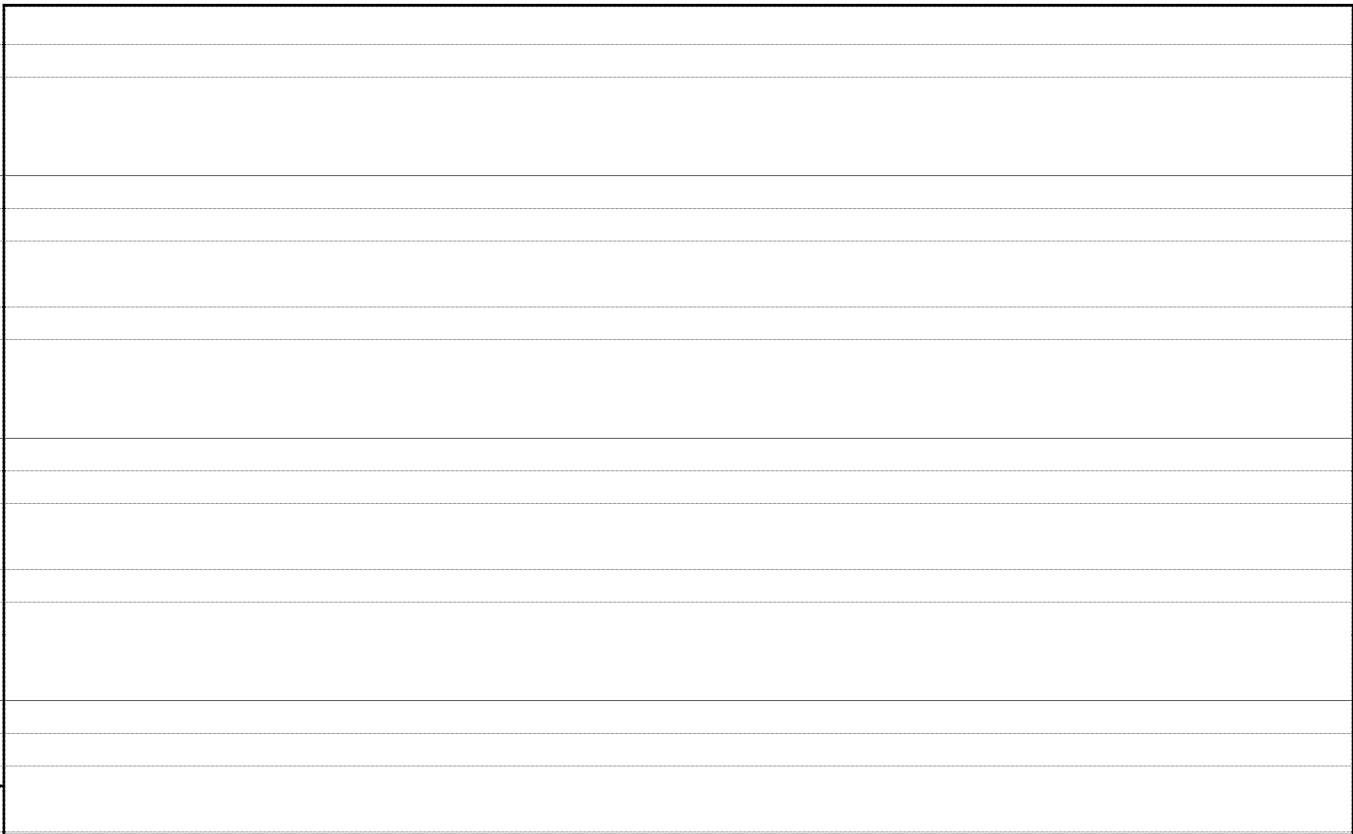
CELL/OTD 015719

Quick Bits

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CELL/OTD 015720

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CELL/OTD 015721

[Redacted]

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From: [Redacted]
Sent: Thursday, November 09, 2006 3:50 PM
To: [Redacted]
Cc: [Redacted]
Subject: Loan of Technical Equipment

UNCLASSIFIED
NON-RECORD

[Redacted] the information below was cut and pasted directly from [Redacted] email.

b5

[Redacted]

Based on what we are reading, we believe the Director has the ability to delegate his authority to SACs based on the following:

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[Redacted]

Your thoughts? Thanks, [Redacted]

[Redacted]

UNCLASSIFIED

~~SECRET~~

DATE: 11-20-2012
CLASSIFIED BY 65179 DMH/STW
REASON: 1.4 (C, G)
DECLASSIFY ON: 11-20-2037

[Redacted]

From: [Redacted]
Sent: Monday, May 03, 2010 12:50 PM
To: [Redacted]
Cc: [Redacted]

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(S) Subject: RE [Redacted] project Briefs 4/27- 4/30

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

SECRET//NOFORN
RECORD [Redacted]

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(S) [Redacted]

[Large Redacted Block]

Thanks,

[Redacted]

From: [Redacted]
Sent: Friday, April 30, 2010 1:42 PM
To: [Redacted]
Subject: RE [Redacted] project Briefs 4/27- 4/30

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SECRET//NOFORN
RECORD [Redacted]

(S) Do you want me to set up some meetings with [Redacted] on this or with th [Redacted] Engineers?

SSA [Redacted]

~~SECRET~~

CELL/OTD 017423

~~SECRET~~

(S) [Redacted]

From: [Redacted]
Sent: Thursday, April 29, 2010 5:08 PM
To: [Redacted]
Subject: FV [Redacted] project Briefs 4/27- 4/30

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SECRET//NOFORN
RECORD [Redacted]

(S) [Redacted]

Like to have your assistance in setting up a meeting with [Redacted] key players on the availability of sharing some of the below tools to the Bureau. Will talk.

[Redacted]

From: [Redacted]
Sent: Thursday, April 29, 2010 5:05 PM
To: [Redacted]
Subject: RE [Redacted] project Briefs 4/27- 4/30

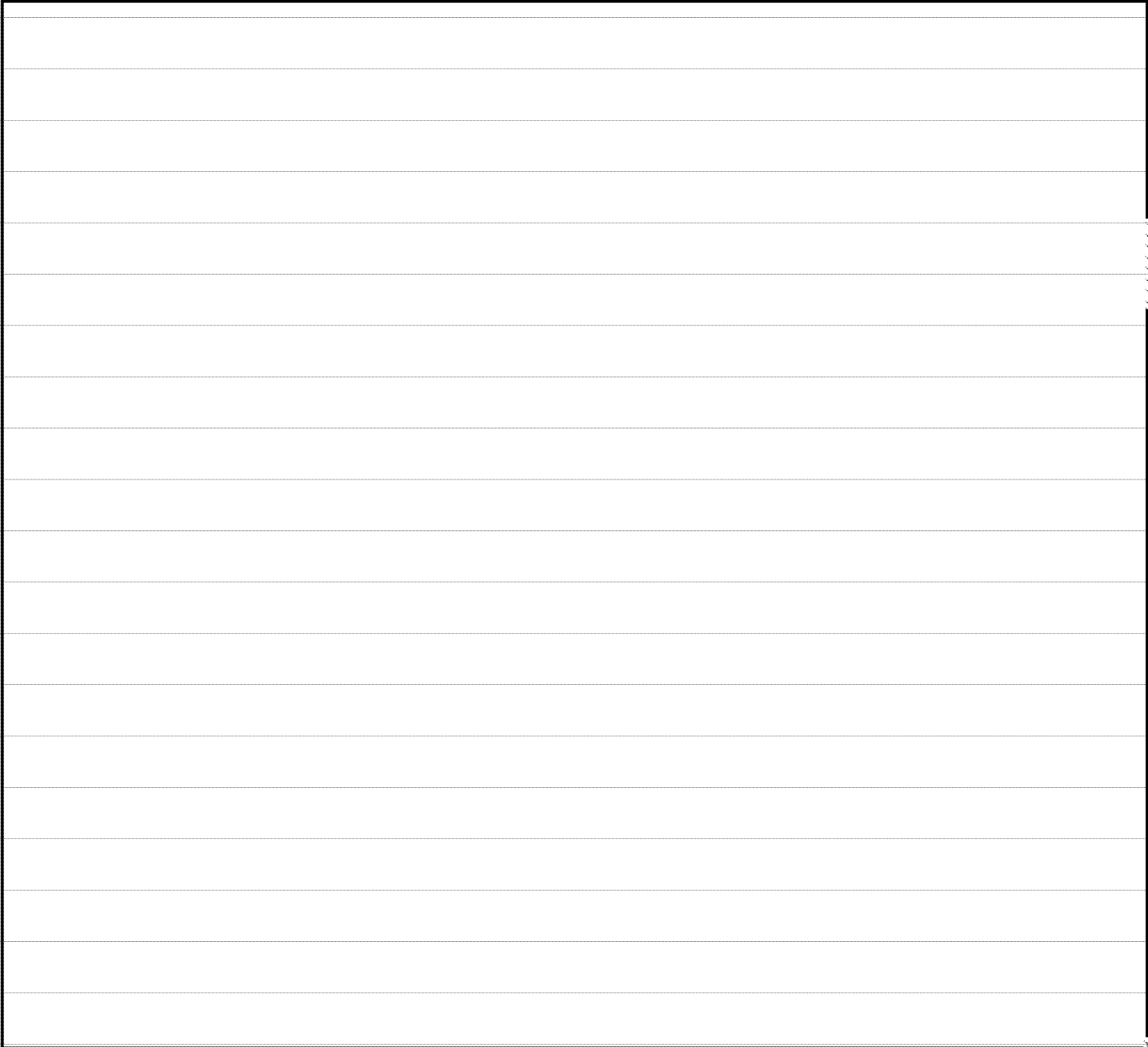
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SECRET//NOFORN
RECORD [Redacted]

[Redacted]

(S) [Redacted]

~~SECRET~~



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From: [Redacted]

Sent: Friday, April 02, 2010 3:11 PM

To: [Redacted]

Cc:

(S)

Subject: [Redacted] project Briefs 4/27- 4/30

SECRET//NOFORN
RECORD [Redacted]

CELL/OTD 017425

All,

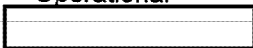


Due to space limitations in the conference rooms, [redacted] we need to keep the group very small. Lets keep it to one SME per unit per day.

Thanks,



Operational Technology Division



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~~DECLASSIFY ON: 20200402~~
~~SECRET//NOFORN~~

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~~DECLASSIFY ON: 20200402~~
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CELL/OTD 017426

I've added [redacted] in the Spectrum Management Support Group to this distribution as she is the FBI's representative with NTIA and may have some thoughts to add to mine.

[redacted]

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From: [redacted]
Sent: Friday, October 02, 2009 6:34 AM
To: [redacted]
Cc: [redacted]
Subject: RE: [redacted]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

OGC in the "Legislative" process addressing just this issue.. I will defer to [redacted] as she is the legal authority working the issue.

[redacted] Can you provide some guidance and direction.. Specifically, until the new legislation goes forward and is approved what type of Court Order is necessary..

SSA [redacted]
Unit Chief
Tracking Technology Unit
Operational Technology Division

[redacted]

From: [redacted]
Sent: Thursday, October 01, 2009 1:08 PM
To: [redacted]
Cc: [redacted]
Subject: FW: [redacted]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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I spoke with [redacted] per the below message about [redacted] If you have any insight onto any legal or what is required, please forward. I'll be available in capacity to obtain equipment and help with any deployments should this be desired.

I left the conversation with the fact that [redacted] but requested that legal issues or policies be worked out with you two.

Anyways, this has been of interest for some time now...and is a big issue in [redacted]

[redacted]

From: [redacted]
Sent: Thursday, August 27, 2009 12:43 PM
To: [redacted]
Subject: [redacted]

CELL/OTD 017534

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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[Redacted]

Hello I got your name from [Redacted]

[Redacted] as a test bed. We are working [Redacted]

[Redacted] I would like to talk to you concerning the
implementation. Thanks [Redacted]

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

CELL/OTD 017535

[REDACTED]

I've added [REDACTED] in the Spectrum Management Support Group to this distribution as she is the FBI's representative with NTIA and may have some thoughts to add to mine.

[REDACTED]

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From: [REDACTED]
Sent: Friday, October 02, 2009 6:34 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: [REDACTED]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

OGC in the "Legislative" process addressing just this issue.. I will defer to [REDACTED] as she is the legal authority working the issue.

[REDACTED] Can you provide some guidance and direction.. Specifically, until the new legislation goes forward and is approved what type of Court Order is necessary..

SSA [REDACTED]
Unit Chief
Tracking Technology Unit
Operational Technology Division

From: [REDACTED]
Sent: Thursday, October 01, 2009 1:08 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: [REDACTED]

SENSITIVE BUT UNCLASSIFIED
NON-RECORD

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[REDACTED]

I spoke with [REDACTED] per the below message about [REDACTED] If you have any insight onto any legal or what is required, please forward. I'll be available in capacity to obtain equipment and help with any deployments should this be desired.

I left the conversation with the fact that [REDACTED] but requested that legal issues or policies be worked out with you two.

Anyways, this has been of interest for some time now...and is a big issue in [REDACTED]

CELL/OTD 017537

[Redacted]

From: [Redacted]
Sent: Thursday, August 27, 2009, 1:43 PM
To: [Redacted]
Subject: [Redacted]

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SENSITIVE BUT UNCLASSIFIED
NON-RECORD

[Redacted]

Hello I got your name from [Redacted]
[Redacted]
[Redacted] as a test bed. We are working [Redacted]
[Redacted] I would like to talk to you concerning the
implementation. Thanks [Redacted]

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

CELL/OTD 017538

[Redacted]

From: [Redacted]
Sent: [Redacted] 4:28 PM
To: [Redacted]
Cc: [Redacted]
Subject: FW: NTIA Responses to DOJ Comments on [Redacted] IMMEDIATE (6pm tonight!)
Deadline
Importance: High

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UNCLASSIFIED
NON-RECORD

All - this relates to [Redacted] OGC is trying to get through the department. I believe you've been working with [Redacted] on it, but do not know who else might need to see it. We need comments ASAP. I can provide additional information on UNET as to what the proposal was and what this is in response to, but you can see the general comments we made and NTIA's response to each.

From: [Redacted]
Sent: Tuesday, September 29, 2009 5:39 PM
To: [Redacted]
Cc: [Redacted]
Subject: NTIA Responses to DOJ Comments on [Redacted] - IMMEDIATE (6pm tonight!) Deadline
Importance: High

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UNCLASSIFIED
NON-RECORD



NTIA Response to
DOJ Comments ...

DOJ has routed this with an extremely tight deadline.

The attached are NTIA responses to DOJ's proposed comments on [Redacted] and the Commerce Department letter on the bill.

DOJ components are requested for comment or "no comment" by the deadline.

I apologize for the ridiculous deadline - but at the moment, I'm being told "No extensions"...

Thank you.
[Redacted]
FBI OCA

UNCLASSIFIED

UNCLASSIFIED

CELL/OTD 017539