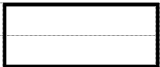
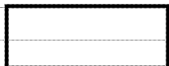


Take care,



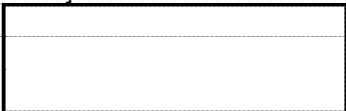
b3  
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**From:** [redacted]  
**Sent:** Friday, October 22, 2010 4:31 PM  
**To:** [redacted]  
**Subject:** FW: [redacted]



Is there any way you could check on this? Just would like to know what is going out before it hits the shelf. I'll be in Orlando all next week with [redacted] If you need us please just call on the BB. I think I've handled all [redacted] (DOJ) requests.

SSA [redacted]  
Violent Crimes/Major Offenders Unit -FBIHQ  
"Project Pin-Point" & "Cellular Analysis and Survey Team"



**From:** [redacted] (OTD) (FBI)  
**Sent:** Tuesday, October 19, 2010 1:56 PM

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

[Redacted]

*Assistant General Counsel  
Investigative Law Unit  
Office of the General Counsel*

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[Redacted]

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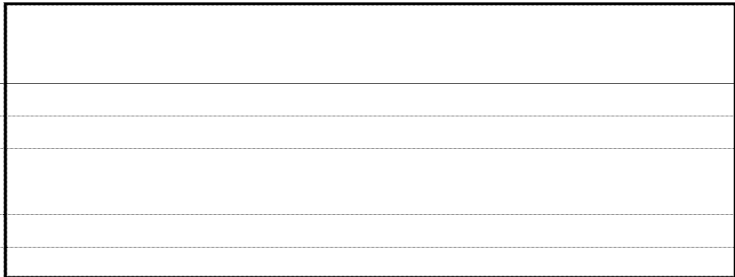
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# Cellular Tracking Legal Issues

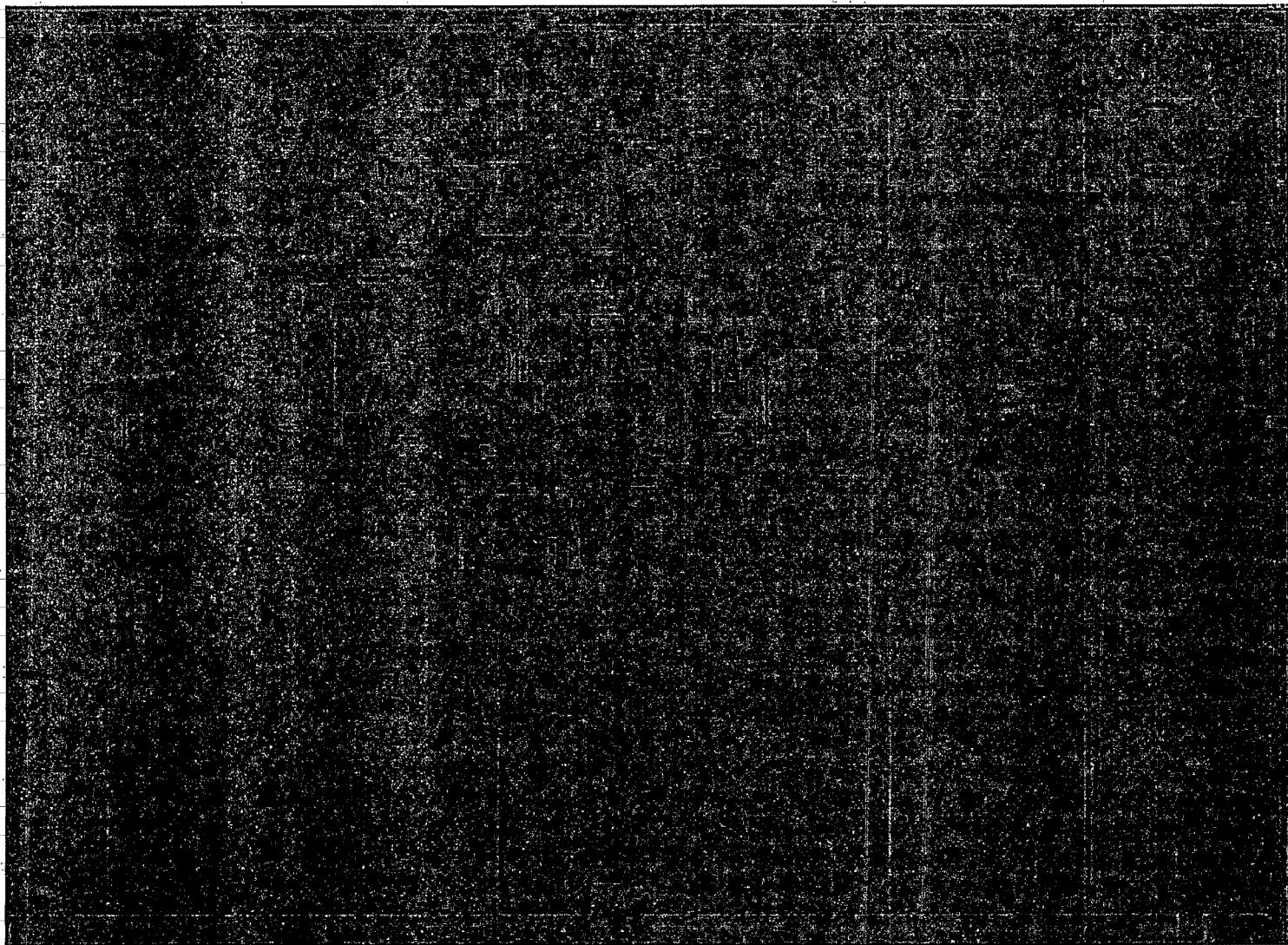
March 3, 2005

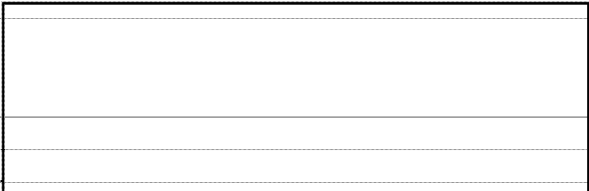
# Table of Content

b7E

## Overview

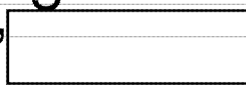
- Pen Register Device (18 U.S.C. § 3127(3))
  - Old Law vs. New Law
  - Non-Target users (Privacy Interest)
  - Potential Interference
- Sample app & order
- Protecting Technique
  - Use as evidence
  - Qualified Privilege

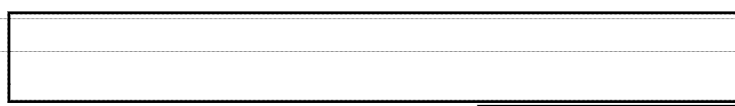




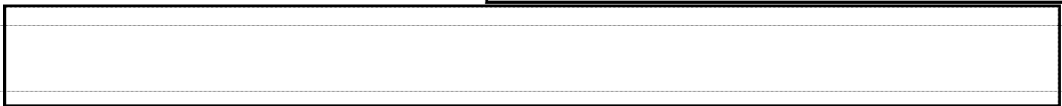
# OLD Policy

- **Prior Policy**

- DOJ view: autonomous registration data not “dialed number” 

-  and .

- Not content, so 

- 

**Pen Register Device:  
18 USC 3127(3)**

b7E

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....***

# New Law: USA Patriot Act

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- **§ 3127 Pen Register device or process:**
  - “records or decodes dialing, routing, addressing, or signaling information
  - transmitted by an instrument or facility from which a wire or electronic communication is transmitted”

## DOJ:

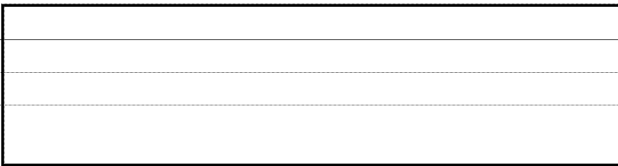


# The Debate:

## Statutory language:

- data “utilized in the processing” of a communication see 3121(c) since 1994 LE obligated to restrict recording to “dialing and signaling information utilized in call processing”
- at the time of the call--i.e., occurring in real-time
  - “*from which a wire or electronic communication is transmitted*” not may be transmitted see 3127(3)

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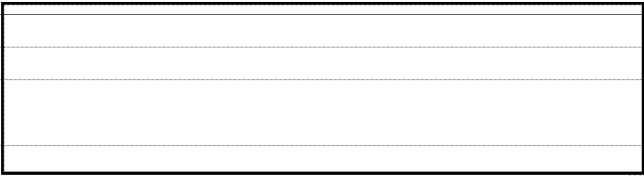
## Debate Cont.

- IF Signaling Information:

- Implied Consent? – 18 U.S.C. § 3121(b)(3)

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- adequate **Notice** of monitoring by cellular provider to show ACTUAL knowledge
      - Misplaced trust
- 



# Debate Cont.

b7E

The dilemma:

A large empty rectangular box with a black border, occupying the central portion of the page. It is intended for writing the details of the dilemma.

b5

# Emergency Provision

§ 3125(a)(1)

- DOJ command Center
- OEO (business hours)

- Emergencies involving:

- Immediate danger of death or serious injury

- MIOG, Part 2, 10-10.7.1

b5  
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# Purging Data Collected

- ? Whether it applies to

b5  
b7E

- preserve 1<sup>st</sup> Amendment rights &

Minimize data

[Redacted]

**From:** [Redacted]  
**Sent:** Friday, February 04, 2011 9:28 AM  
**To:** [Redacted]  
**Subject:** FW: [Redacted] OGC

[Redacted] I know you had asked about this some time ago and we were sort of going around and around on it – think the below is a decent road map to follow re [Redacted]

[Redacted]

Hope all is well in [Redacted]

[Redacted]

b5  
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**From:** [Redacted]  
**Sent:** Tuesday, January 25, 2011 2:51 PM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: [Redacted] OGC

[Redacted] Hello. Hope all is well.

Here's my 2 cents:

[Large Redacted Area]

[Redacted]

From: [Redacted]  
Sent: Friday, November 05, 2010 3:15 PM  
To: [Redacted]  
Subject: RE: Comment 519.

UNCLASSIFIED  
NON-RECORD

I think the service provider can/should get us from point A to point B if they are able... [Redacted] has been trying to get some clarity on this....I'm not sure I have been able to help him!

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Thx,  
[Redacted]

From: [Redacted]  
Sent: Friday, November 05, 2010 3:10 PM  
To: [Redacted]  
Subject: RE: Comment 519.

[Redacted]

From: [Redacted]  
Sent: Friday, November 05, 2010 2:01 PM  
To: [Redacted]  
Cc: [Redacted]  
Subject: FW: Comment 519.

UNCLASSIFIED  
NON-RECORD

[Redacted]

Thanks,  
[redacted]

From: [redacted]  
Sent: Friday, November 05, 2010 2:41 PM  
To: [redacted]  
Subject: RE: Comment 519.

From: [redacted]  
Sent: Thursday, November 04, 2010 3:35 PM  
To: [redacted]  
Cc: [redacted]  
Subject: RE: Comment 519.

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UNCLASSIFIED  
NON-RECORD

I agree with your recommendation in your last paragraph below, [redacted] and request that [redacted]  
[redacted]

From: [redacted]  
Sent: Thursday, November 04, 2010 3:45 PM  
To: [redacted]  
Cc: [redacted]  
Subject: RE: Comment 519.

[Large redacted area]

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

[redacted]  
*Assistant General Counsel*  
*Investigative Law Unit*  
*Office of the General Counsel*  
[redacted]



From: [redacted]  
Sent: Thursday, November 04, 2010 10:15 AM  
To: [redacted]  
Subject: RE: Comment 519.

UNCLASSIFIED  
NON-RECORD

b3  
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This I can support. Thanks.

From: [redacted]  
Sent: Thursday, November 04, 2010 10:20 AM  
To: [redacted]  
Cc: [redacted]  
Subject: RE: Comment 519.

[Large redacted area]

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

[redacted]  
*Assistant General Counsel*  
*Investigative Law Unit*  
*Office of the General Counsel*  
[redacted]

From: [redacted]  
Sent: Thursday, November 04, 2010 9:11 AM

To: [redacted]

Subject: RE: Comment 519.

UNCLASSIFIED  
NON-RECORD

Okay, and I have to say I'm disturbed by the lack of clarity in the statute [redacted] could you please refer this to [redacted]? It would be some time before I could do it.

Thanks

[redacted]

b3  
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From: [redacted]  
Sent: Thursday, November 04, 2010 10:01 AM  
To: [redacted]  
Cc: [redacted]  
Subject: RE: Comment 519.

[redacted]

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

[redacted]  
*Assistant General Counsel*  
*Investigative Law Unit*  
*Office of the General Counsel*

[redacted]

From: [redacted]  
Sent: Thursday, November 04, 2010 8:58 AM  
To: [redacted]  
Cc: [redacted]  
MAZEL, [redacted]  
Subject: RE: Comment 519.

UNCLASSIFIED  
NON-RECORD

[redacted]

[redacted]

[Redacted]

[Redacted]

**From:** [Redacted]  
**Sent:** Thursday, November 04, 2010 9:30 AM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: Comment 519.

[Redacted]

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

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[Redacted]  
*Assistant General Counsel*  
*Investigative Law Unit*  
*Office of the General Counsel*

[Redacted]

**From:** [Redacted]  
**Sent:** Thursday, November 04, 2010 8:27 AM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** RE: Comment 519.

UNCLASSIFIED  
NON-RECORD

[Redacted]

**From:** [Redacted]  
**Sent:** Thursday, November 04, 2010 9:16 AM  
**To:** [Redacted]  
**Cc:** [Redacted]  
**Subject:** FW: Comment 519.

[Redacted]

[Redacted]

Thanks!

THIS MESSAGE MAY CONTAIN PRIVILEGED ATTORNEY-CLIENT COMMUNICATION AND ATTORNEY WORK PRODUCT. DO NOT DISSEMINATE WITHOUT OGC APPROVAL.

[Redacted]

Assistant General Counsel  
Investigative Law Unit  
Office of the General Counsel

[Redacted]

From: [Redacted]  
Sent: Thursday, November 04, 2010 7:52 AM  
To: [Redacted]  
Subject: RE: Comment 519.

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UNCLASSIFIED  
NON-RECORD

Thanks for copying me. Did you happen to discuss this with [Redacted] as they advise the [Redacted]  
[Redacted]

From: [Redacted]  
Sent: Wednesday, November 03, 2010 9:39 AM  
To: [Redacted]  
Cc: [Redacted]  
Subject: RE: Comment 519.

[Redacted]

[Redacted]

**From:** [redacted]  
**Sent:** Thursday, October 28, 2010 2:47 PM  
**To:** [redacted]  
**Subject:** FW: [redacted]

Hey short timer! If you get a second can you look this email over? I haven't read it yet but it doesn't look like anything is nailed down on the DIOG regarding the use of the gear.

I'm in all next week if you want to talk.

[redacted]

Violent Crimes/Major Offenders Unit -FBIHQ  
"Project Pin-Point" & "Cellular Analysis and Survey Team"

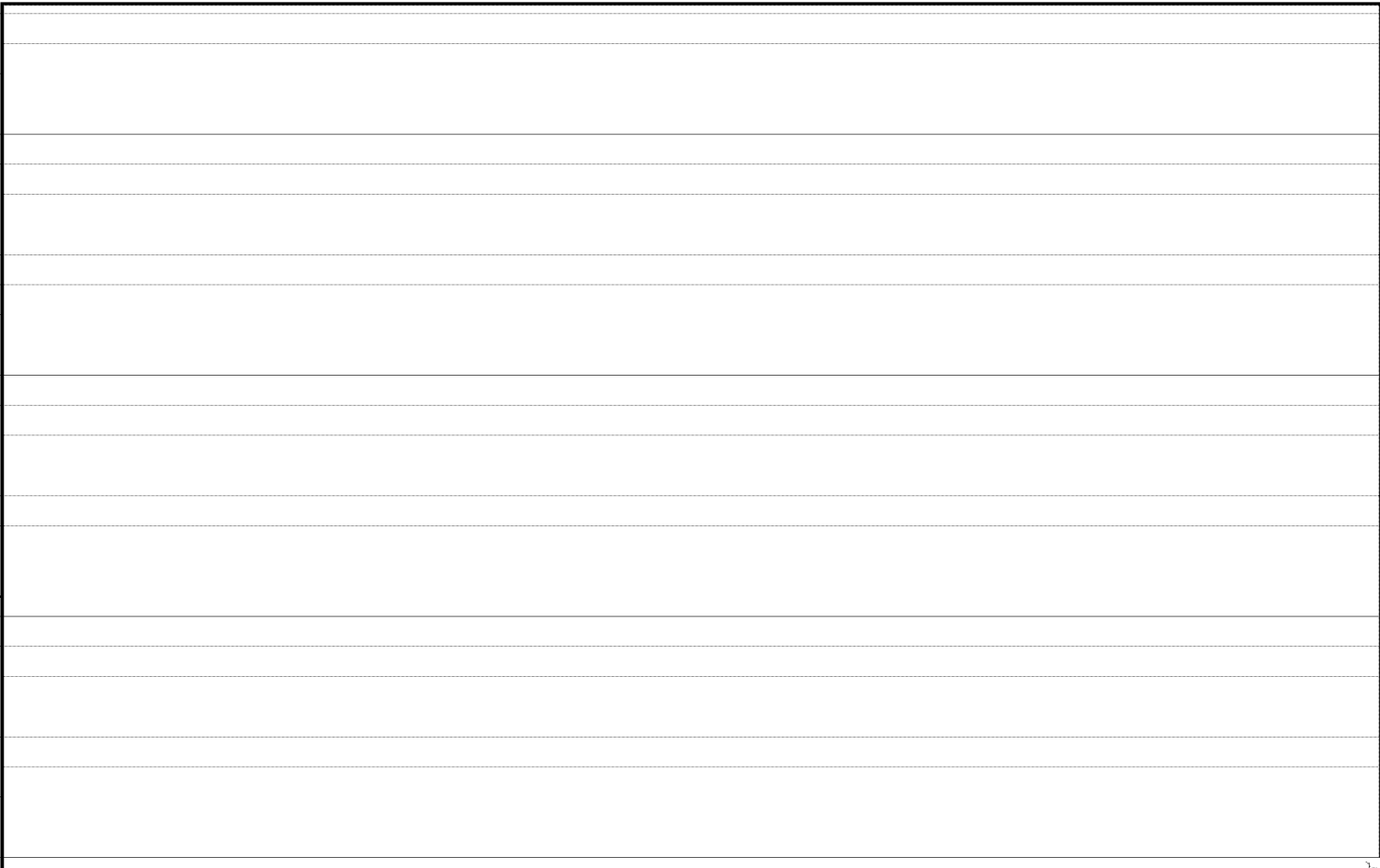
[redacted]

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**From:** [redacted]  
**Sent:** Tuesday, October 26, 2010 11:04 AM  
**To:** [redacted]  
**Subject:** [redacted]

UNCLASSIFIED  
NON-RECORD

[Large redacted area]



Take care,

[Redacted]

b3  
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From: [Redacted]  
Sent: Friday, October 22, 2010 4:31 PM  
To: [Redacted]  
Subject: FW: [Redacted]

[Redacted]

Is there any way you could check on this? Just would like to know what is going out before it hits the shelf. I'll be in Orlando all next week with [Redacted] If you need us please just call on the BB. I think I've handled all [Redacted] (DOJ) requests.

[Redacted]

Violent Crimes/Major Offenders Unit -FBIHQ  
"Project Pin-Point" & "Cellular Analysis and Survey Team"

[Redacted]