

From: Tocci, Steven \JMD\
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)
To: Freeman, Lindsey \OLP\; VonBostel, Richard A \JMD\
Cc: Rothenberg, Laurence E \OLP\; Pazur, Shannon \OLP\
Sent: July 9, 2018 3:34 PM (UTC-04:00)
Attached: UPDATED INFORMATION_ CSS Congressional Report Additional Information Required.eml, FW_ CSS Congressional Report Additional information required.eml, RE_ CSS Congressional Report Additional information required.eml, ATF - Response - CSST - 18-0706.docm

Attached are the components responses to the additional questions. I am still working on the summary. If you have any questions please give me a call.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Freeman, Lindsey (OLP)
Sent: Monday, July 2, 2018 1:04 PM
To: Tocci, Steven (JMD) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Hi Steve,

Thanks very much. If we don't talk, have a nice holiday!

Best,
Lindsey

Lindsey Freeman
Counsel
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Tocci, Steven (JMD)
Sent: Monday, July 2, 2018 12:36 PM
To: Freeman, Lindsey (OLP) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Lindsey,

Thank you again. I will keep you informed on the progress.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Freeman, Lindsey (OLP)

Sent: Friday, June 29, 2018 2:50 PM

To: Tocci, Steven (JMD) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>

Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>

Subject: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Pre-decisional and Deliberative

DRAFT

Hi Steve and Richard,

Great talking to you yesterday. To the extent it is helpful, I sketched out the follow-up questions that we discussed yesterday. As we noted, detail would be great. Specifically, official citations are useful, e.g. FBI Policy Doc, X, No. 112.4 issued on X date. Similarly, we are looking for titles of relevant offices and managers, not personal names.

Again, I hope this is helpful. Please let me know if you need anything. Have a wonderful weekend.

Best,
Lindsey

Follow-up questions for the CSS Report:

1. Please confirm that your cell-site simulators are never configured to collect communications
2. Please confirm that, in non-emergency circumstances, you always obtain a warrant prior to using a cell-site simulator
3. Please confirm that your “emergency uses” of cell-site simulators all fell under the “exigent circumstances” exception rather than the “exceptional circumstances” provision
4. Please provide further information about your training/training protocols to operate cell-site simulators. For example:
 - a. How often do you hold trainings (i.e., every time someone is hired, once a year, etc.)
 - b. What information do you provide (i.e., what does the training cover)
 - c. Who provides the training
 - d. How many hours of training is provided
 - e. Is there a certification as part of the process?
 - f. As required by the Policy, do you provide training on privacy and civil liberties developed in

consultation with the Department's Chief Privacy and Civil Liberties Officer?

5. Please verify your supervision process (i.e., prior to deployment of a cell-site simulator, who must approve it, etc.)
6. Please describe how you have shared the Department's September 3, 2015 Policy with your employees (i.e., provided own memo summarizing information; posted Policy on an internal website; provided during orientation, etc.)
7. Please describe your data disposal/deletion policy and how you provide it to your employees (for example, give them the September 3, 2015 Policy and provide training on the Policy, etc.)
8. Please describe your auditing program to ensure that data is deleted as prescribed by the September 3, 2015 Policy. For example:
 - a. How do you verify the information has been deleted
 - b. Who supervises the process
 - c. How often do you check to see that data has been deleted
9. (b)(5), (b)(7)(E) per ATF [REDACTED]

Lindsey Freeman
Counsel
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6) [REDACTED]
Cell: (b) (6) [REDACTED]
(b) (6) [REDACTED]

From: (b)(6), (7)(C), (7)(F) per DEA (DEA)
Subject: UPDATED INFORMATION: CSS Congressional Report Additional Information Required
To: Tocci, Steven (JMD)
Cc: (b)(6), (7)(C), (7)(F) per DEA (DEA)
Sent: July 6, 2018 11:44 AM (UTC-04:00)

Good Morning, Steven Tocci –

I hope all is well. I have provided answers to your CSS inquires below. Please let me know if you have any questions or need any further information.

(b)(5), (7)(E) per DEA




(b)(5), (7)(E) per DEA



Respectfully,

(b)(6), (7)(C), (7)(F) per DEA

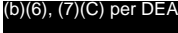


Unit Chief

Over-The-Air Unit

DEA Office of Investigative Technology

Office: (b)(6), (7)(C) per DEA



Cell: (b)(6), (7)(C) per DEA

DEA Employees - Please visit the [ST Website](#) for additional information.

From: (b)(6), (7)(C) per FBI (OTD) (FBI)
Subject: FW: CSS Congressional Report Additional information required
To: Tocci, Steven (JMD)
Sent: July 6, 2018 12:06 PM (UTC-04:00)
Steve,

Please find our response below:

From: (b)(6), (7)(C) per FBI (OGC) (FBI)
Sent: Friday, July 06, 2018 12:02 PM
To: (b)(6), (7)(C) per FBI (OTD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>
Subject: Re: CSS Congressional Report Additional information required

Given the timeline, this looks fine.

(b)(6), (7)(C), (7)(E) per FBI
[REDACTED]
Chief, Operational Technology Law Unit
Federal Bureau of Investigation
Office of the General Counsel
Office: (b)(6), (7)(C), (7)(E) per FBI
BB: (b)(6), (7)(C), (7)(E) per FBI
E-Mail: (b)(6), (7)(C), (7)(E) per FBI

Confidentiality Statement: This message is transmitted to you by the Office of the General Counsel of the Federal Bureau of Investigation. The message, along with any attachments, may be confidential and legally privileged. If you are not the intended recipient of this message, please destroy it promptly without further retention or dissemination (unless otherwise required by law). Please notify the sender of the error by a separate e-mail or by calling (b)(6), (7)(C), (7)(E) per FBI.

From: (b)(6), (7)(C), (7)(E) per FBI (OTD) (FBI)
Sent: Friday, July 6, 2018 11:21:11 AM
To: (b)(6), (7)(C), (7)(E) per FBI. (OGC) (FBI)
Subject: FW: CSS Congressional Report Additional information required

(b)(6), (7)(C), (7)(E) per FBI
[REDACTED]

Per our discussion, please find attached my response to JMD's request for CSS Congressional Report Additional Information.

Please review and either respond to myself and/or Steve Tocci (JMD).

Thanks:

OLP has requested additional information for the Congressional Report. Please send in your response no later than 7/6 12pm. If you are able to provide your agency response sooner please do.

- Please provide a detailed summary of CSS operators training.
 - In addition, how the data collected is handled in accordance with privacy and civil liberty concerns.
 - Provide any CSS Training Policy or Standard Operating Procedure (SOP).
 - For example:
 - Initial Operator Training is X hours, and includes policies for proper operations and handling of CSS data
 - Training is tracked as part of annual certifications for confirmation

(U//FOUO) (b)(5) per FBI
[REDACTED]

(b)(5), (b)(7)(E) per FBI

[REDACTED]

[REDACTED]

[REDACTED]

- Please provide a detailed summary of your CSS auditing process (and/or component-specific policy) to confirm data disposal.
 - In addition, provide how the audit process is reviewed (for example, supervisor confirmation data was deleted)
 - How your agency confirms the process was followed (for example, how is the supervisor responsible for compliance).

(b)(5), (b)(7)(E) per FBI

[REDACTED]

[REDACTED]

- Statement (from each component) that all CSS deployments follow the 2015 DOJ Policy, and have obtained appropriate legal process, i.e. search warrant w/probable cause.

(b)(5), (b)(7)(E) per FBI

[REDACTED]

- Statement (from each component) that All CSS equipment deployed was not configured to collect content.

(b)(5), (b)(7)(E) per FBI

[REDACTED]

[REDACTED]

(b)(5), (b)(7)(E) per FBI

- Please verify which Emergency deployments were Federal (OEO Approval) versus State (Prosecutor Approval).

(b)(5), (b)(7)(E) per FBI

- Please provide any instances of non-compliance, and how this was remedied.
 - For example: If data was not expunged by Policy/SOP deadline. Operator was retrained on handling of CSS collected data, and old data was deleted to address the issue.

(b)(5), (b)(7)(E) per FBI

We have received an additional request from OLP. Please include responses on 7/6. If you have any questions, please give me a call at (b) (6).

1. Please confirm that your “emergency uses” of cell-site simulators all fell under the “exigent circumstances/emergency” exception rather than the “exceptional circumstances” provision.
 - a. FBI report 13 instances. Please verify whether they were exigent/emergency not exceptional.
 - b. Please provide the number of circumstances that were approved by OEO and/or State Prosecutors.

(b)(5), (b)(7)(E) per FBI

2. Please provide further information about your training/training protocols to operate cell-site simulators. For example:
 - a. How often do you hold trainings (i.e., every time someone is hired, once a year, etc.)
 - b. What information do you provide (i.e., what does the training cover)
 - c. Who provides the training
 - d. How many hours of training is provided
 - e. Is there a certification as part of the process?
 - f. As required by the Policy, do you provide training on privacy and civil liberties developed in consultation with the Department’s Chief Privacy and Civil Liberties Officer?

(b)(5), (b)(7)(E) per FBI

(b)(5), (b)(7)(E) per FBI

[REDACTED]

[REDACTED]

[REDACTED]

3. Please describe how you have shared the Department's September 3, 2015 Policy with your employees (i.e., provided own memo summarizing information; posted Policy on an internal website; provided during orientation, etc.)
 - a. For example, each CSS operator is required to sign an acknowledgment.

(b)(5), (b)(7)(E) per FBI

[REDACTED]

From: Tocci, Steven (JMD) [mailto:(b) (6)]
Sent: Monday, July 02, 2018 11:29 AM
To: (b)(6), (7)(C), (7)(E) per FBI (OTD) (FBI) (b)(6), (7)(C), (7)(E) per FBI (OTD) (FBI) <(b)(6), (7)(C), (7)(E) per FBI>
Cc: VonBostel, Richard A (JMD) <(b) (6)>
Subject: RE: CSS Congressional Report Additional information required

We have received an additional request from OLP. Please include responses on 7/6. If you have any questions, please give me a call at (b) (6).

1. Please confirm that your "emergency uses" of cell-site simulators all fell under the "exigent circumstances/emergency" exception rather than the "exceptional circumstances" provision.
 - a. FBI report 13 instances. Please verify whether they was exigent/emergency not exceptional.
 - b. Please provides the number circumstance that were approved by OEO and/or State Prosecutors.
2. Please provide further information about your training/training protocols to operate cell-site simulators. For example:
 - a. How often do you hold trainings (i.e., every time someone is hired, once a year, etc.)
 - b. What information do you provide (i.e., what does the training cover)
 - c. Who provides the training
 - d. How many hours of training is provided
 - e. Is there a certification as part of the process?
 - f. As required by the Policy, do you provide training on privacy and civil liberties developed in consultation with the Department's Chief Privacy and Civil Liberties Officer?
3. Please describe how you have shared the Department's September 3, 2015 Policy with your employees (i.e., provided own memo summarizing information; posted Policy on an internal website; provided during orientation, etc.)
 - a. For example, each CSS operator is required to sign an acknowledgment.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Tocci, Steven (JMD)
Sent: Thursday, June 28, 2018 4:35 PM
To: (b)(6), (7)(C), (7)(E) per FBI (OTD) (FBI); (b)(6), (7)(C), (7)(E) per FBI (OTD) (FBI); (b)(6), (7)(C), (7)(E) per FBI
Cc: VonBostel, Richard A (JMD) <(b) (6)>
Subject: CSS Congressional Report Additional information required

All,

OLP has requested additional information for the Congressional Report. Please send in your response no later than 7/6 12pm. If you are able to provide your agency response sooner please do.

- Please provide a detailed summary of CSS operators training.
 - In addition, how the data collected is handled in accordance with privacy and civil liberty concerns.
 - Provide any CSS Training Policy or Standard Operating Procedure (SOP).
 - For example:
 - Initial Operator Training is X hours, and includes policies for proper operations and handling of CSS data
 - Training is tracked as part of annual certifications for confirmation
- Please provide a detailed summary of your CSS auditing process (and/or component-specific policy) to confirm data disposal.
 - In addition, provide how the audit process is reviewed (for example, supervisor confirmation data was deleted)
 - How your agency confirms the process was followed (for example, how is the supervisor responsible for compliance).
- Statement (from each component) that all CSS deployments follow the 2015 DOJ Policy, and have obtained appropriate legal process, i.e. search warrant w/probable cause.
- Statement (from each component) that All CSS equipment deployed was not configured to collect content.
- Please verify which Emergency deployments were Federal (OEO Approval) versus State (Prosecutor Approval).
- Please provide any instances of non-compliance, and how this was remedied.
 - For example: If data was not expunged by Policy/SOP deadline. Operator was retrained on handling of CSS collected data, and old data was deleted to address the issue.

If you have any questions or concerns, please call me at (b) (6).

Thanks
Steve

U//FOUO//LES

Steven Tocci

DOJ/JMD – Spectrum Relocation

Mobile (b) (6)
(b) (6)

From: (b)(6), (7)(C), (7)(F) per USMS \ (USMS\)
Subject: RE: CSS Congressional Report Additional information required
To: Tocci, Steven \ (JMD\)
Cc: (b)(6), (7)(C), (7)(F) per USMS \ (USMS\); (b)(6), (7)(C), (7)(F) per USMS \ (USMS\)
Sent: July 6, 2018 1:42 PM (UTC-04:00)
Attached: Final 7-6-18 USMS CSS Related Response to JMD Inquiries.docx

Sorry for the delay. Here it is.

(b)(6), (7)(C), (7)(F) per USMS
Associate General Counsel
U.S. Marshals Service / Office of General Counsel
CG-3, 15th Floor
Washington, DC 20530-0001
Desk: (b)(6), (7)(C) per USMS
Cell: (b)(6), (7)(C), (7)(F) per USMS / (b)(6), (7)(C), (7)(F) per USMS
Main OGC Line: (703) 740-3943

From: Tocci, Steven (JMD)
Sent: Friday, July 6, 2018 1:36 PM
To: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS >
Cc: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS >
Subject: RE: CSS Congressional Report Additional information required

Any word? All the other components have submitted their response.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: (b)(6), (7)(C), (7)(F) per USMS (USMS)
Sent: Friday, July 6, 2018 12:21 PM
To: Tocci, Steven (JMD) <(b) (6) >
Cc: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS >
Subject: RE: CSS Congressional Report Additional information required

Steve – waiting for the chain to approve our submission to you; hope to hear shortly....

(b)(6), (7)(C), (7)(F) per USMS
Associate General Counsel
U.S. Marshals Service / Office of General Counsel
CG-3, 15th Floor
Washington, DC 20530-0001
Desk: (b)(6), (7)(C) per USMS
Cell: (b)(6), (7)(C), (7)(F) per USMS / (b)(6), (7)(C), (7)(F) per USMS
Main OGC Line: (703) 740-3943

From: Tocci, Steven (JMD)

Sent: Thursday, June 28, 2018 4:36 PM

To: (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS>; (b)(6), (7)(C), (7)(F) per USMS (USMS) <(b)(6), (7)(C), (7)(F) per USMS>

Cc: VonBostel, Richard A (JMD) <(b) (6)>

Subject: CSS Congressional Report Additional information required

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OLP has requested additional information for the Congressional Report. Please send in your response no later than 7/6 12pm. If you are able to provide your agency response sooner please do.

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If you have any questions or concerns, please call me at (b) (6).

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

USMS Responses (in red) to JMD Requests for CSS-Related Information
(JMD Requests Received Via Email 6/28/18 and 7/2/18)

- Please provide a detailed summary of CSS operators training.
 - In addition, how the data collected is handled in accordance with privacy and civil liberty concerns.
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 - For example:
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 - f. As required by the Policy, do you provide training on privacy and civil liberties developed in consultation with the Department's Chief Privacy and Civil Liberties Officer?
- Please describe how you have shared the Department's September 3, 2015 Policy with your employees (i.e., provided own memo summarizing information; posted Policy on an internal website; provided during orientation, etc.)
 - a. For example, each CSS operator is required to sign an acknowledgment.

(b)(5), (7)(E) per USMS

(b)(5), (7)(E) per USMS

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- (b)(5), (7)(E) per USMS [REDACTED]
 - [REDACTED]
[REDACTED]
[REDACTED]

(b)(5), (7)(E) per USMS [REDACTED]

From: Tocci, Steven \(\JMD\)
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)
To: Freeman, Lindsey \(\OLP\); VonBostel, Richard A \(\JMD\)
Cc: Rothenberg, Laurence E \(\OLP\); Pazur, Shannon \(\OLP\)
Sent: July 10, 2018 9:26 AM (UTC-04:00)
Attached: DRAFT CSS Congressional Component Response Jul-09-2018.docx

Lindsey,

I have compiled all of the component responses in one document. How do you want to proceed on the response standardization? If you have any questions, please give me a call.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Freeman, Lindsey (OLP)
Sent: Monday, July 9, 2018 3:36 PM
To: Tocci, Steven (JMD) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Thank you, Steve. We will review and let you know if we have any follow-up questions.

Best,
Lindsey

From: Tocci, Steven (JMD)
Sent: Monday, July 9, 2018 3:34 PM
To: Freeman, Lindsey (OLP) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Duplicative Information - See Document ID 0.7.12339.64807

From: Freeman, Lindsey (OLP)
Subject: Re: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)
To: Tocci, Steven (JMD)
Cc: VonBostel, Richard A (JMD); Rothenberg, Laurence E (OLP); Pazur, Shannon (OLP)
Sent: July 10, 2018 9:49 AM (UTC-04:00)

Thanks, Steve. I am out at a meeting until this afternoon but I will reach out when I am back.

Sent from my iPhone

On Jul 10, 2018, at 9:25 AM, Tocci, Steven (JMD) <(b) (6)> wrote:

Lindsey,

I have compiled all of the component responses in one document. How do you want to proceed on the response standardization? If you have any questions, please give me a call.

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Freeman, Lindsey (OLP)
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To: Tocci, Steven (JMD) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Thank you, Steve. We will review and let you know if we have any follow-up questions.

Best,
Lindsey

From: Tocci, Steven (JMD)
Sent: Monday, July 9, 2018 3:34 PM
To: Freeman, Lindsey (OLP) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Duplicative Information - See Document ID 0.7.12339.64807

From: Freeman, Lindsey (OLP)
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)
To: Pazur, Shannon (OLP)
Cc: Rothenberg, Laurence E (OLP)
Sent: July 11, 2018 10:53 AM (UTC-04:00)

Thanks, Shannon. I'll be around until the call at 3:30, so just let me know when.

From: Pazur, Shannon (OLP)
Sent: Wednesday, July 11, 2018 10:37 AM
To: Freeman, Lindsey (OLP) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>
Subject: Re: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

I'm out of the office thru about 11:30 but can chat after that.

On Jul 11, 2018, at 10:34 AM, Freeman, Lindsey (OLP) <(b) (6)> wrote:

Ok, sounds good. I'll handle the call. I just want to make sure I send them on the right direction though. Could we discuss for 10 minutes?

From: Rothenberg, Laurence E (OLP)
Sent: Wednesday, July 11, 2018 10:34 AM
To: Freeman, Lindsey (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

I can't make it, sorry. I trust you all to handle it.

From: Freeman, Lindsey (OLP)
Sent: Wednesday, July 11, 2018 10:26 AM
To: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: FW: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Hi Larry and Shannon,

JMD is reaching out on the CSS report and wants to know "how to proceed on response standardization." They want to talk this afternoon and I want to make sure I convey the right message. Would you (1) like to join the call or (2) meet briefly so we can talk through what we should say?

Best,
Lindsey

From: Tocci, Steven (JMD)
Sent: Wednesday, July 11, 2018 10:08 AM
To: Freeman, Lindsey (OLP) <(b) (6)>
Cc: VonBostel, Richard A (JMD) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Hi Lindsey,

Our afternoon was slammed. We were at OMB until 530pm yesterday. How is 1130 today? Call in info below.

(b) (6)

(b) (6) ##

Thanks
Steve

U//FOUO//LES

Steven Tocci
DOJ/JMD – Spectrum Relocation
Mobile (b) (6)
(b) (6)

From: Freeman, Lindsey (OLP)
Sent: Tuesday, July 10, 2018 4:09 PM
To: Tocci, Steven (JMD) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Hi Steve,

My apologies; today has been a bit crazy. But I would like to talk about response standardization. Would it be possible to get something on the calendar for tomorrow? I'm free from 11:30 – 4 pm and then again after 5 pm.

Best,
Lindsey

From: Tocci, Steven (JMD)
Sent: Tuesday, July 10, 2018 9:26 AM
To: Freeman, Lindsey (OLP) <(b) (6)>; VonBostel, Richard A (JMD) <(b) (6)>
Cc: Rothenberg, Laurence E (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>
Subject: RE: CSS Report - Follow-up (Pre-decisional and Deliberative; DRAFT)

Duplicative Information - See Document ID 0.7.12339.10249



From: Freeman, Lindsey (OLP)
Subject: CSS Report - Draft of OLA Letter [Short; for your review] (Pre-Decisional and Deliberative)
To: Rothenberg, Laurence E (OLP); Pazur, Shannon (OLP)
Sent: July 27, 2018 2:26 PM (UTC-04:00)
Attached: OLA Letter with Report.Draft.v1.docx

Hi Larry and Shannon,

I have Katie's edits so I'm almost ready to submit the draft of the CSS report to Beth. I wanted to include the letter to OLA with it. Please let me know what you think of the attached. (Note I did not have the letterhead, but I tried to follow previous OLA examples I had).

Best,
Lindsey

Lindsey Freeman
Counsel
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Rothenberg, Laurence E \(\OLP\)
Subject: review and clearance on report to Congress
To: Wong, Norman \(\USAEOL\); Cherundolo, Gregory J. \(\DEAL\); Allen, Joseph J. \(\ATF\); Kilgallon, John \(\USMS\); (b)(6), (7)(C) per FBI \(\DO\)\(FBI\); (b)(6), (7)(C) per FBI \(\DO\)\(FBI\)
Sent: July 30, 2018 11:43 AM (UTC-04:00)
Attached: CSS Report.2017.DRAFT.v11.docx, Department Policy Memo.pdf

Dear colleagues,

The Office of Legal Policy (OLP) was tasked by ODAG to coordinate a report to Congress on compliance with DOJ's 2015 policy on cell-site simulator CSS technology. The report was required by a Congressional mandate associated with the DOJ appropriations bill passed this spring. JMD staff compiled statistics from your agencies on use of CSS technology, as well as information on training and other procedures implemented in accordance with the policy. OLP prepared the attached report based on that information.

Please review the attached report, which OLP will forward to ODAG and the Office of Legislative Affairs for transmission to Congress after your clearance. Also attached for your information is the 2015 policy.

We request your clearance (and comments, if any) by COB this Friday, August 3rd. Please let me know if you have any questions.

v/r,

Laurence E. Rothenberg
Deputy Assistant Attorney General
Office of Legal Policy
U.S. Department of Justice
(b) (6)

From: Crytzer, Katherine \ (OLP\
Subject: FW: review and clearance on report to Congress
To: Freeman, Lindsey \ (OLP\
Sent: August 13, 2018 10:36 AM (UTC-04:00)
Attached: Transmittal Letter for OLA.CSS Report.docx

Latest version of letter. Thanks.

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Pazur, Shannon (OLP)
Sent: Tuesday, August 7, 2018 12:39 PM
To: Crytzer, Katherine (OLP) <(b) (6)>; Rothenberg, Laurence E (OLP) <(b) (6)>;
Freeman, Lindsey (OLP) <(b) (6)>
Subject: RE: review and clearance on report to Congress

Duplicative Information - See Document ID 0.7.12339.8358

From: Crytzer, Katherine (OLP)
Subject: Cell-Site Simulator Report
To: Hankey, Mary Blanche (OLA)
Cc: Escalona, Prim F. (OLA); Rothenberg, Laurence E (OLP); Freeman, Lindsey (OLP); Pazur, Shannon (OLP); Murray, Michael (ODAG)
Sent: August 17, 2018 7:46 PM (UTC-04:00)
Attached: 20180817 FINALCSSReportExecSec.docx, 20180817DRAFTCSSReportTransmittalLetterOLA.docx

Mary Blanche,

Thanks for the call this afternoon. Attached is 1) the Final Cell-Site Simulator Report that the DAG approved (hard copy coming to you via Exec Sec) and a 2) draft report transmittal letter for Congress. Note that we will ultimately need to prepare four letters for Stephen's signature: the report should be sent directly to Senators Shelby and Leahy and Representatives Frelinghuysen and Lowey. Please let us know if you have any questions. Thank you.

Katie

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Crytzer, Katherine (OLP)
Subject: RE: OLP Weekly Report
To: Rothenberg, Laurence E (OLP)
Sent: August 23, 2018 4:26 PM (UTC-04:00)
Attached: Cell-Site Simulator Report.eml

Mary Blanche Hankey. See attached.

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Rothenberg, Laurence E (OLP)
Sent: Thursday, August 23, 2018 4:25 PM
To: Crytzer, Katherine (OLP) <(b) (6)>
Subject: RE: OLP Weekly Report

Neither L or I know for sure. Who is the POC? I will reach out.

From: Crytzer, Katherine (OLP)
Sent: Thursday, August 23, 2018 4:07 PM
To: Rothenberg, Laurence E (OLP) <(b) (6)>
Subject: RE: OLP Weekly Report

Thanks, Larry. Do you know whether OLA has submitted to Congress yet? I have not received any confirmation.

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Rothenberg, Laurence E (OLP)
Sent: Thursday, August 23, 2018 4:06 PM
To: Crytzer, Katherine (OLP) <(b) (6)>
Subject: RE: OLP Weekly Report

Cell-Site Simulator Technology Report— OLP, in coordination with components, prepared a report to Congress regarding DOJ's use of cell-site simulator technology.	Report was submitted to Congress on ____	OLP: Larry Rothenberg (b) (6)	
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From: Crytzer, Katherine (OLP)
Sent: Wednesday, August 22, 2018 12:18 PM
To: Antell, Kira M. (OLP) <(b) (6)>; Aslan, Erin (OLP) <(b) (6)>; Champoux, Mark (OLP) <(b) (6)>; Crytzer, Katherine (OLP) <(b) (6)>; Edlow, Joseph B. (OLP) <(b) (6)>; Fragoso, Michael (OLP) <(b) (6)>; Freeman, Lindsey (OLP) <(b) (6)>; Gormsen, Eric T (OLP) <(b) (6)>; Higginbotham, Ryan K (OLP) <(b) (6)>; Hinchman, Robert (OLP) <(b) (6)>; Hudson, Andrew (OLP) <(b) (6)>; Jones, Kevin R (OLP) <(b) (6)>; Karp, David J (OLP) <(b) (6)>; Lichter, Jennifer (OLP) <(b) (6)>; Pazur, Shannon (OLP) <(b) (6)>; Reinfurt, Sandy (OLP) <(b) (6)>; Rothenberg, Laurence E (OLP) <(b) (6)>; Williams, Beth A (OLP) <(b) (6)>; Goobic, Timothy (OLP) <(b) (6)>; Banks, C. Edward (OLP) <(b) (6)>; Von

Bokern, Jordan L. (OLP) <(b) (6)>
Subject: OLP Weekly Report

Team,

Attached and below is last week's weekly report. Please provide your updates by 2:00 tomorrow. Thanks.

Katie

August 17, 2018 OLP Weekly Report

<u>Subject</u>	<u>Upcoming Event(s)</u>	<u>Component POC</u>	<u>ODAG Action</u>
Not Responsive			

Subject	Upcoming Event(s)	Component POC	ODAG Action
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Not Responsive

<p>Cell-Site Simulator Technology Report—</p> <p>OLP is coordinating with components on a report to Congress regarding DOJ’s use of cell-site simulator technology. OLP has submitted the report to ODAG via Exec. Sec. for sign off before submitting to Congress.</p>	<p>Submit report to Congress upon clearance</p>	<p>OLP: Larry Rothenberg</p> <div>(b) (6)</div>	<p>Review and authorize submission of report to Congress</p>
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<u>Subject</u>	<u>Upcoming Event(s)</u>	<u>Component POC</u>	<u>ODAG Action</u>
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Not Responsive

Katie Crytzer
Chief of Staff
Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20530
Office: (b) (6)
Cell: (b) (6)
(b) (6)

From: Davis, Valorie A \ (OLP\)
Subject: FW: Service # 4104876 Hon Ron Wyden - Corres Status Check
To: Rothenberg, Laurence E \ (OLP\)
Sent: September 13, 2018 3:38 PM (UTC-04:00)
Attached: 2018-8-21 Cell-site simulators or stingrays or IMSI catchers - Wyden #4104876.pdf, IMIS catchers or stingrays.pdf

Good afternoon

Attached is the correspondence from ES due September 24, 2018.

Valorie Davis

Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 4250
Washington, D.C. 20530
Telephone: (b) (6)

From: McKay, Shirley A (OLA)
Sent: Thursday, August 30, 2018 11:59 AM
To: (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI
Cc: Sutton, Thomas D. (OLA) <(b) (6)>; (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI; Davis, Valorie A (OLP) <(b) (6)>; Thomas, Sheaya (JMD) <(b) (6)>
Subject: FW: Service # 4104876 Hon Ron Wyden - Corres Status Check
Importance: High

Hi (b) (6), (7)(C), (7)(E) per FBI

NOTE: OLP (Lawrence Rothenberg) has requested to review FBI draft resp. FBI should fwd draft response when completed thru ExecSec to OLP for review prior to OLA sig. Thanks.

Shirley McKay | Department of Justice | Office of Legislative Affairs | Congressional Correspondence Liaison
950 Pennsylvania Ave NW | Room 1343 | (b) (6) | (b) (6)

From: McKay, Shirley A (OLA)
Sent: Thursday, August 30, 2018 11:48 AM
To: (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI
Cc: Sutton, Thomas D. (OLA) <(b) (6)>; (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI (DO) (FBI) (b) (6), (7)(C), (7)(E) per FBI
Subject: Service # 4104876 Hon Ron Wyden - Corres Status Check
Importance: High

Hi (b) (6), (7)(C), (7)(E) per FBI

Pls advise OLA of the status –as to when the response will be ready. **Note: the response is requested by 9/14/2018.**
Thanks much.

FROM: The Honorable Ron Wyden, , United States Senate, Washington, DC 20510

SUBJECT: (Rec'd from OLA via email) Writing further regarding the "IMIS catchers" or "stingrays" which are intended to track the location of cell phones and other communication devices. Requesting more information regarding DOJ's efforts to ensure that courts are adequately informed when federal prosecutors seek warrants for the use of stingrays, including how these devices adversely affect the general public. Requesting answers to the enclosed questions NLT 09/14/2018. See WFs 4038365, 3874042 and 3101106.

Shirley McKay | Department of Justice | Office of Legislative Affairs | Congressional Correspondence Liaison
950 Pennsylvania Ave NW | Room 1343 | (b) (6) | (b) (6)

United States Senate
WASHINGTON, DC 20510-3703

COMMITTEES:

COMMITTEE ON FINANCE
COMMITTEE ON BUDGET
COMMITTEE ON ENERGY & NATURAL RESOURCES
SELECT COMMITTEE ON INTELLIGENCE
JOINT COMMITTEE ON TAXATION

August 21, 2018

The Honorable Jefferson B. Sessions III
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Attorney General Sessions:

I write today to urge the Department of Justice (DOJ) to be more forthright with federal courts about the disruptive nature of cell-site simulators.

Cell-site simulators, commonly described in the media as “Stingrays” or “IMSI catchers,” mimic mobile telephone towers to locate and identify nearby mobile devices. In recent years, cell-site simulators have become standard tools for federal, state, and local law enforcement, which deploy them for a broad range of purposes.

In 2015, DOJ issued policy guidance for the use of cell-site simulators in criminal investigations by DOJ law enforcement components, like the Federal Bureau of Investigation. This guidance outlines the cell-site simulator application process and establishes for the first time a warrant requirement in most cases. While the guidance was a much-needed first step to create accountability over federal agencies’ use of cell-site simulators, the guidance still does not require that the government provide courts with sufficient information for them to exercise their constitutionally-mandated oversight role.

The DOJ guidance requires that when seeking a warrant to use a cell-site simulator, the government must inform a court that the target’s cell phone, as well the phones used by other, non-targeted individuals in the vicinity, “might experience a temporary disruption of service.” Publicly-available DOJ cell-site simulator warrant applications submitted to courts after the guidance went into effect include just a single sentence addressing disruption of the target’s communications, noting that a cell-site simulator “may interrupt cellular service of phones or other cellular devices within its immediate vicinity.” This statement significantly underplays both the likelihood and impact of the jamming caused by cell-site simulators.

Senior officials from the Harris Corporation—the manufacturer of the cell-site simulators used most frequently by U.S. law enforcement agencies—have confirmed to my office that Harris’ cell-site simulators completely disrupt the communications of targeted phones for as long as the surveillance is ongoing. According to Harris, targeted phones cannot make or receive calls, send or receive text messages, or send or receive any data over the Internet. Moreover, while the company claims its cell-site simulators include a feature that detects and permits the delivery of emergency calls to 9-1-1, its officials admitted to my office that this feature has not been independently tested as part of the Federal Communication Commission’s certification process, nor were they able to confirm this feature is capable of detecting and passing-through 9-1-1 emergency communications made by people who are deaf, hard of hearing, or speech disabled using Real-Time Text technology.

Harris’ acknowledgement that its cell-site simulators totally disrupt a target telephone’s communications raise serious questions including whether that disruption fails the reasonableness requirements of the Fourth Amendment or violates provisions of the Communications Act of 1934. However, the government’s warrant applications focus almost entirely on the Fourth Amendment question of whether there is probable cause supporting the warrant and largely gloss over other important issues.

Courts will only consider the facts and questions that come before them, and they rely on the honest disclosure of interested parties rather than on their own fact-finding missions, particularly in an *ex-parte* proceeding like a surveillance application, where the court only hears from the government. The government has a duty of candor to describe relevant information when presenting a warrant application. DOJ knows far more about cell-site simulators than the courts. It has an obligation to be candid, forthright, and to fully disclose to courts the true impact of this surveillance technology.

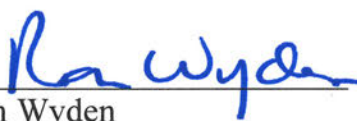
It is important that courts understand that the surveillance operations they are being asked to authorize will incidentally rob Americans of the means to communicate. While some courts may find this restraint justifiable, such as during investigations into crimes that pose a significant threat to public safety, this is a question that courts should decide, not DOJ. To this end, I ask that you update the DOJ cell-site simulator guidance to 1) require additional, clear disclosure to the courts regarding this technology’s disruptive side effects and 2) require that the use of cell-site simulators minimize interference with both target and non-target communications. I also ask that you provide me with complete answers to the following questions by September 14, 2018:

1. The Communications Act of 1934 prohibits willful or malicious interference with licensed radio communications. How is a federal law enforcement agency’s use of a cell-site simulator not authorized by a court order consistent with the prohibition on interference with radio communications in 47 U.S.C. § 333?

2. Is it the position of DOJ that a search warrant authorizing a federal law enforcement agency to use a cell-site simulator overrides the statutory prohibition on interference in 47 U.S.C. § 333? If yes, please explain why.
3. Does DOJ believe that it has an obligation under the duty of candor to notify federal courts considering an application for the use of a cell-site simulator that federal law prohibits interference with cellular communications? If not, please explain why.
4. Is it the position of DOJ that it is lawful, with or without a court order, for a federal law enforcement agency to interfere with licensed radio communications such that it disrupts a surveillance target's emergency cellular communications with 9-1-1? If yes, please explain why.

If you have any questions about this request, please contact Chris Soghoian in my office.

Sincerely,



Ron Wyden
United States Senator

From: McKay, Shirley A (OLA)
To: (b)(6), (7)(C), (7)(E) per FBI
Cc: Sutton, Thomas D. (OLA); (b)(6), (7)(C), (7)(E) per FBI (FBI); Davis, Valorie A (OLP); Thomas, Sheaya (JMD)
Subject: FW: Service # 4104876 Hon Ron Wyden - Corres Status Check
Date: Thursday, August 30, 2018 11:59:00 AM
Attachments: 2018-8-21 Cell-site simulators or stingrays or IMSI catchers - Wyden #4104876.pdf
Importance: High

Hi (b)(6), (7)(C), (7)(E) per F

NOTE: OLP (Lawrence Rothenberg) has requested to review FBI draft resp. FBI should frwd draft response when completed thru ExecSec to OLP for review prior to OLA sig. Thanks.

Shirley McKay | Department of Justice | Office of Legislative Affairs | Congressional Correspondence Liaison
950 Pennsylvania Ave NW | Room 1343 | (b) (6)

From: McKay, Shirley A (OLA)
Sent: Thursday, August 30, 2018 11:48 AM
To: (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI
Cc: Sutton, Thomas D. (OLA) <(b) (6)> (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI)
(b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI
Subject: Service # 4104876 Hon Ron Wyden - Corres Status Check
Importance: High

Duplicative Information - See Document ID 0.7.12339.9081

From: Davis, Valorie A \(\OLP\)
Subject: FW: Service # 4104876 Hon Ron Wyden - Corres Status Check
To: Rothenberg, Laurence E \(\OLP\)
Sent: September 24, 2018 11:45 AM (UTC-04:00)
Attached: 2018-8-21 Cell-site simulators or stingrays or IMSI catchers - Wyden #4104876.pdf, IMIS catchers or stingrays.pdf

Good morning

The attached correspondence is due **TODAY**. Thank you.

Valorie Davis

Office of Legal Policy
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Room 4250
Washington, D.C. 20530
Telephone: (b) (6)

From: McKay, Shirley A (OLA)
Sent: Thursday, August 30, 2018 11:59 AM
To: (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI
Cc: Sutton, Thomas D. (OLA) <(b) (6)>; (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI (DO) (FBI) (b)(6), (7)(C), (7)(E) per FBI; Davis, Valorie A (OLP) <(b) (6)>; Thomas, Sheaya (JMD) <(b) (6)>
Subject: FW: Service # 4104876 Hon Ron Wyden - Corres Status Check
Importance: High

Duplicative Information - See Document ID 0.7.12339.9081-000002