

For ASC [redacted] from UC [redacted]

**FEDERAL BUREAU OF INVESTIGATION**

b2  
b6  
b7C

**Precedence:** DEADLINE 09/7/2007

**Date:** 08/16/2007

**To:** Operational Technology Division

**Attn:** [redacted]

Office of General Counsel,  
National Security Law Branch  
Science and Technology Unit  
Investigative Law Unit

**Attn:** [redacted]  
**Attn:** [redacted]  
**Attn:** [redacted]

Cyber Division



**Attn:** AD, James E. Finch

Special Technology and Applications Office

**Attn:** DAD, Louis Grever

**From:** Records Management  
RIDS/WPU/Winchester Site 2, GR N23  
**Contact:** [redacted]

**Approved By:** Hardy David [signature]



b6  
b7C

**Drafted By:** [redacted]

**Case ID #:** 190-HQ-C1547903 [signature]

**Title:** FREEDOM OF INFORMATION ACT REQUEST FROM  
WIRED-NEWS, ELECTRONIC FRONTIER FOUNDATION AND CNET NETWORKS

**Synopsis:** To advise HQ Divisions to search for responsive documents created on or before August 1, 2007 and submit them to the Work Process Unit I (WPU-I), Record/Information Dissemination Section (RIDS), pursuant to the three captioned Freedom of Information Act (FOIA) requests for all agency records concerning the subject, Computer and Internet Protocol Address Verifier (CIPAV).

**Details:** By letter dated July 17, 2007, Wired News, through Kevin Poulsen, submitted a FOIA request to FBIHQ seeking the following records:

Any documents (including, but not limited to, electronic records concerning the FBI's development and utilization of the so-called Computer and Internet Protocol Address Verifier (CIPAV), a tool used to identify and/or monitor a target computer in a criminal or foreign intelligence investigation.

To: Operational Technology Division      From: Records Management  
Office of General Counsel  
Cyber Division  
Special Technology and Applications Office

Re: 190-HQ-C1547903, 08/16/2007

• any other portable media (CD-ROMs, diskettes, etc.)

FBIHQ personnel are directed to conduct a thorough search for any and all documents in their possession responsive to these three FOIA requests for all records created on or before August 1, 2007 (the first date that WPU/RIDS began to search for documents potentially responsive to these three FOIA requests).

Please note that not all of the documents you provide will be released. All material will be evaluated as to whether it is responsive to these requests. Those records determined to be responsive will be processed and redacted pursuant to the FOIA before they are released. After RIDS has processed and redacted the records, you will have an opportunity to review the documents before any are released to the requesters.

To: Operational Technology Division      From: Records Management  
Office of General Counsel  
Cyber Division  
Special Technology and Applications Office

Re: 190-HQ-C1547903, 08/16/2007

**LEAD(s):**

**Set Lead 1: (Action)**

b6  
b7c

ALL RECEIVING OFFICES

Search for any and all information potentially responsive to the Wired News, CNET Networks, and Electronic Frontier Foundation's FOIA requests and forward documents with pertinent enclosures, or your "no records" response to LAS [REDACTED] WPU-I, Winchester, Site 2, GR N23, by COB September 7, 2007.

◆◆

[redacted] OGC) (FBI)

From: [redacted] (OGC) (FBI)

Sent: Wednesday, December 08, 2004 12:46 PM

b6  
b7C

To: [redacted] (ITD) (FBI)

Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI);  
[redacted] (OGC) (FBI); [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P.  
(ITD) (FBI); [redacted] (OGC) (FBI)

Subject: RE: UCO Proposal

~~SECRET~~  
~~RECORD~~

[redacted]

b1

(S)

Sounds good to me.

My only concern kicked in when [redacted] wrote that [redacted]

[redacted]

b6  
b7C  
b5

I will be happy to assist however necessary.

Thanks.

[redacted]

-----Original Message-----

From: [redacted] (ITD) (FBI)

Sent: Wednesday, December 08, 2004 11:35 AM

b1

b6  
b7C

To: [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI);  
DICLEMENTE, ANTHONY P. (ITD) (FBI)

Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI);  
[redacted] (OGC) (FBI)

Subject: RE: UCO Proposal

~~SECRET~~  
~~RECORD~~

[redacted]

(S)

I agree with [redacted] on this. We have been perfectly willing to look to OGC for guidance and policy and to follow that guidance and policy. What [redacted] is, and has been saying, is "give us some guidance." [redacted] and I have discussed this issue before and it is my understanding that there is a disagreement on the status of the IPAV between what FBI/OGC says and what DOJ/CCIPS. If OGC will set out a policy on this, we will be glad to rely on it.

We all know that there are IPAVs and then there are IPAVs. Of course the technique can be used in a manner that would require a court order. We need to know how/when to draw the line for obvious reasons.

b6  
b7C

I think all of the investigative Divisions should weigh in on this, including Cyber. I would love it. Let's just get some guidance out there.

[redacted] ~~SECRET~~

DATE: 10-23-2008

CLASSIFIED BY 60322UC/LP/STP/gig

REASON: 1.4 (C)

DECLASSIFY ON: 10-23-2033

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

12/9/2004

~~SECRET~~

-----Original Message-----

From: [redacted] (ITD) (FBI)  
 Sent: Wednesday, December 08, 2004 10:30 AM  
 To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

~~SECRET~~  
 RECORD [redacted] (S)

b1

I don't necessarily think a search warrant is needed in all cases, I agree that if the AUSA says xxx and the SAC authorizes it as lawful in a field Division, that would be fine. But having said that, Several months ago I found my employees in a position of having to work out these problems across the country without FBI/OGC policy guidance. Until a policy or directive is put in place, DITU has and will support any case that obtains a search warrant. Over the last six months it has not proven to be an obstacle to investigations. I don't think it need be controversial nor even difficult for OGC to draft and disseminate appropriate guidance. It may be that in some cases a search warrant is needed and in others an AUSA can say no search warrant is needed.

b2  
b7E  
b6  
b7C

[redacted]

[redacted] I am not personally concerned with suppression, as that is an operational and legal matter, my concern is merely constitutional and ensuring that my personnel are acting within scope and guidance.

There are many statements in this string of Email that indicate that ITD is this or ITD is that. What ITD "is" is awaiting appropriate legal guidance. Until such time as it is disseminated from OGC we will continue with our current cautious approach. I don't pretend to know the answer. I leave that to OGC.

SSA [redacted]  
 Data Intercept Technology Unit  
 [redacted]

b6  
b7C  
b1

-----Original Message-----

From: [redacted] (OGC) (FBI)  
 Sent: Wednesday, December 08, 2004 8:40 AM  
 To: [redacted] (OGC) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

~~SECRET~~  
 RECORD [redacted] (S)

I'll talk to you today at FBIHQ but ITD is interested in establishing an FBI policy on this matter via OGC. Cyber will get its say if the EC ever makes it to the coordination process. ITD's position on this matter is driven by CCIPS and by the fact that ITD believes that it is the only division that actually uses the IPAV tool albeit on behalf of other divisions, FOs, etc., in both criminal and FISA cases.

~~SECRET~~

[Redacted]

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Monday, December 06, 2004 5:53 PM  
**To:** [Redacted] (OGC) (FBI)  
**Cc:** [Redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
RECORD [Redacted] (S)

b1

This may be more controversial than I suspected.

[Redacted]

[Redacted]

b5  
b6  
b7C

[Redacted]

b6  
b7C

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Monday, December 06, 2004 4:38 PM  
**To:** [Redacted] (OGC) (FBI)  
**Cc:** [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI)  
**Subject:** RE: UCO Proposal

b1

~~SECRET~~  
RECORD [Redacted] (S)

[Redacted]

[Redacted]

b5  
b6  
b7C

see this as overall FBI policy.

[Redacted]

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Friday, December 03, 2004 8:21 AM  
**To:** [Redacted] (OGC) (FBI); [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC); [Redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~

b1

[Redacted] (S)  
 Thank you [Redacted] and [Redacted]  
 Very helpful as always.

[Redacted]

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Thursday, December 02, 2004 6:33 PM  
**To:** [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC); [Redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

b1  
b2  
b7E

~~SECRET~~  
~~RECORD~~

(S)

[Large Redacted Block]

(S)

Although CCIPS recommends the "play it safe" method to AUSA's, it still leaves the matter ultimately to their judgment.

[Redacted Block]

b5  
b2  
b7E

[Redacted]

[Redacted]

b2  
b7E  
b6  
b7C  
b5

[Although we're not aware of the full details of this IPAV proposal (which makes any legal review more difficult), it also

[Redacted]

[Redacted]

So, I hope that helps,

[Redacted]

---Original Message---

**From:** [Redacted] (ITD) (FBI)

**Sent:** Wednesday, December 01, 2004 4:53 PM

**To:** [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)

**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC) [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)

**Subject:** RE: UCO Proposal

b6  
b7C

b1

**SECRET  
RECORD**

[Redacted]

(S)

There is still admittedly a good deal of uncertainty about what authority is required to deploy an IPAV. OF course, the safest course is to secure a warrant, though one might arguably not be required--hence DOJ's position that a warrant should be obtained.



[Redacted]

(S)

b1  
b2  
b6  
b7C  
b7E  
b5

[Redacted]

(S)

b2  
b7E

[Redacted] . On that, I am  
ccing [Redacted] who is the primary attorney assigned  
to DITU, the group responsible for this technology. He  
might be able to flush out the ITD/DOJ view on this.  
I'm also including [Redacted] since he works most closely  
with Cyber Div and may be able to add to the  
discussion.

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Wednesday, December 01, 2004 4:16 PM  
**To:** [Redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI);  
[Redacted] (OGC); [Redacted]  
(ITD) (FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

b1

**SECRET**  
**RECORD**

[Redacted]

(S)

According to guidance issued by DOJ CCIPS,  
DOJ has "consistently advised AUSAs and  
agents proposing to use IPAVs to obtain a  
warrant to avoid the exclusion of evidence."

This opinion is dated March 7, 2002, written by

[Redacted]

[Redacted] has advised me on this issue in the  
past and I copy her for her comments.

~~SECRET~~

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Wednesday, December 01, 2004 1:51 PM b6  
**To:** [redacted] (CyD) (FBI) b7C  
**Cc:** BOWMAN, MARION E. (OGC) (FBI);  
[redacted] (OGC); [redacted]  
(OGC) (FBI)  
**Subject:** RE: UCO Proposal

~~SECRET~~  
~~RECORD~~

[redacted]

b1

(S)

[redacted]

Have LA call me immediately or give me names and numbers. If I hear nothing, I am going to call the CDC myself.

[redacted]

-----Original Message-----

**From:** [redacted]  
(CyD) (FBI)  
**Sent:** Wednesday, December 01,  
2004 1:21 PM  
**To:** [redacted] (CD) (FBI)  
**Cc:** [redacted] (OGC)  
(FBI)  
**Subject:** RE: UCO Proposal

~~SECRET~~  
~~RECORD~~

[redacted]

(S)

Hello [redacted]

As we knew each other from San Juan and now you are at CD-5, I'm going to be very candid with you.

[Large redacted block]

b1  
b6  
b7C  
b5  
b2  
b7E

~~SECRET~~

[Redacted]

b6  
b7C  
b5  
b2  
b7E

[Redacted] CD-3C was present for this conference call. Cyber and CD-3C's positions are at a minimum the URC needs full disclosure of LA's intent to go outside the scope of the current renewal proposal. LA insists that is my job. I pointed out that there is no mention of use of an IPAV in the proposal and that if LA says is vital then perhaps more than a passing mention of "tracking software" in and among how the next phase would likely be introduction of an UCA is not enough. No legal review has been conducted. [Redacted]

[Redacted]

b2  
b7E  
b6  
b7C  
b5

[Redacted]

b2  
b7E  
b5



b2  
b7E

Techno terms aside, as you may remember, I have a degree in Physics. This degree included some computer programming because USC wants it's graduates to be able to write programs to crunch large amounts of data with various formulae. So if they can't explain it to me, it never happened.

All this said, in Cyber, I'm writing an EC today, telling LA we do not authorize use of any IPAVs. Whether a FISA is required or not, I need to follow-up with [redacted] on that. And trust me [redacted] is experienced in these matters. I'm not even sure if this should continue (without the IPAV aspect) in accordance with the initial proposal, to be "passive."

b6  
b7C  
b2

Sincerely,

[redacted]

SSA [redacted]  
Cyber Division (CyD), Computer  
Intrusion Section (CIS),  
CT/CI Computer Intrusion Unit  
(C3IU)

[redacted]

-----Original Message-----

**From:** [redacted] (CD)  
(FBI)

**Sent:** Wednesday,

December 01, 2004 11:39 AM

To: [redacted]

b6  
b7C

(CyD) (FBI)

Subject: UCO Proposal

~~SECRET~~  
~~RECORD~~

[redacted]

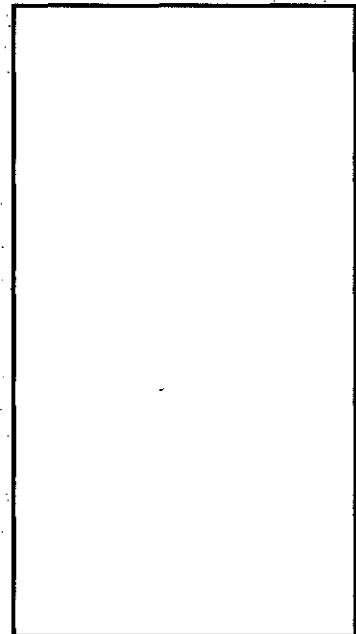
[redacted]

(S)

b1

I just reviewed your presenter's page. Sorry for being late but I just got a chance to sit down here in NYO and respond.

Has anyone from NSLB reviewed it?



b2  
b7E

Also, were any stipulations that had to be addressed? Refer to the attached EC that lists these issues. Some of the board members skim the proposals and need to be reminded on where to find the info.

[redacted] aren't involved in answering operational questions, so I don't know if they were able to help...)

b6  
b7C

On the cover page, there should be a spot to indicate whether [redacted] was contacted (administrative step- more so they are aware of a Group I within their division, since this doesn't really entail their services. This includes a brief attachment from LA [redacted] offering their assistance if needed....)

b2  
b7E

SSA [redacted]  
Counterintelligence Division  
CD-5A  
Undercover/Logistics  
[redacted] (cell)  
Secured Fax [redacted]  
Unsecured Fax [redacted]  
[redacted]

b2  
b6  
b7C

~~DERIVED FROM: G-3 FBI  
Classification Guide G-3,  
dated 1/97, Foreign  
Counterintelligence  
Investigations  
DECLASSIFICATION  
EXEMPTION 1  
SECRET~~

~~DERIVED FROM: G-3 FBI  
Classification Guide G-3, dated  
1/97, Foreign  
Counterintelligence  
Investigations  
DECLASSIFICATION  
EXEMPTION 1  
SECRET~~

~~DERIVED FROM: G-3 FBI  
Classification Guide G-3, dated 1/97,  
Foreign Counterintelligence  
Investigations  
DECLASSIFICATION EXEMPTION 1~~

~~SECRET~~

**SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign Counterintelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET**

**SECRET**

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET~~

~~DERIVED FROM: G-3 FBI Classification Guide G-3, dated 1/97, Foreign CounterIntelligence Investigations  
DECLASSIFICATION EXEMPTION 1  
SECRET~~



[redacted] (OGC) (FBI)

From: [redacted]  
 Sent: Wednesday, December 08, 2004 11:35 AM  
 To: [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~

[redacted]

b1

[redacted] (S)

b5  
b6  
b7C

[redacted]

[redacted]

[redacted]

b6  
b7C

-----Original Message-----

From: [redacted] (ITD) (FBI)  
 Sent: Wednesday, December 08, 2004 10:30 AM  
 To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~

[redacted]

(S)

DATE: 10-23-2008  
 CLASSIFIED BY 60322UC/LP/STP/gjg  
 REASON: 1.4 (C)  
 DECLASSIFY ON: 10-23-2033

b1

I don't necessarily think a search warrant is needed in all cases, I agree that if the AUSA says xxx and the SAC authorizes it as lawful in a field Division, that would be fine. But having said that, Several months ago I found my employees in a position of having to work out these problems across the country without FBI/OGC policy guidance. Until a policy or directive is put in place, DITU has and will support any case that obtains a search warrant. Over the last six months it has not proven to be an obstacle to investigations. I don't think it need be controversial nor even difficult for OGC to draft and disseminate appropriate guidance. It may be that in some cases a search warrant is needed and in others an AUSA can say no search warrant is needed.

[redacted]

[redacted] I am not personally concerned with suppression, as that is an operational and legal matter, my concern is merely constitutional and ensuring that my personnel are acting within scope and guidance.

b2  
b7E

There are many statements in this string of Email that indicate that ITD is this or ITD is that. What ITD "is" is awaiting appropriate legal guidance. Until such time as it is disseminated from OGC we will continue with our current cautious approach. I don't pretend to know the answer. I leave that to OGC.

SSA [redacted]  
Data Intercept Technology Unit  
[redacted]

b2  
b6  
b7C

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Wednesday, December 08, 2004 8:40 AM  
**To:** [redacted] (OGC) (FBI)  
**Cc:** [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b1  
b2  
b6  
b7C  
b7E

~~SECRET~~ [redacted]  
~~RECORD~~ [redacted] (S)

[redacted]

I'll talk to you today at FBIHQ but ITD is interested in establishing an FBI policy on this matter via OGC. Cyber will get its say if the EC ever makes it to the coordination process. ITD's position on this matter is driven by CCIPS and by the fact that ITD believes that it is the only division that actually uses the [redacted] tool albeit on behalf of other divisions, FOs, etc., in both criminal and FISA cases.

[redacted]

b6  
b7C

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Monday, December 06, 2004 5:53 PM  
**To:** [redacted] (OGC) (FBI)  
**Cc:** [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

~~SECRET~~ [redacted]  
~~RECORD~~ [redacted] (S)

b1

This may be more controversial than I suspected.

[redacted]

b5

[redacted]

Steve

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Monday, December 06, 2004 4:38 PM  
**To:** [redacted] (OGC) (FBI)  
**Cc:** [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI)  
**Subject:** RE: UCO Proposal

b1  
b2  
b6  
b7C  
b7E

~~SECRET~~  
~~RECORD~~

[redacted]

(S)

[redacted]

I want to spend more time on this matter but know that DITU/ITD has asked me to draft an EC that will establish that, as a matter of FBI policy, all [redacted] will be employed pursuant to a Rule 41 SW based upon the position taken by CCIPS. Also, I have to disagree with [redacted] when he says that National Security is not a context within which we need to be concerned about use of IPAVs. ITD looks at every case now as a possible criminal prosecution. The time has past when we can comfortably talk in terms of FISA or prosecution as an either or proposition. For all practical purposes, every FISA case is viewed as a potential Federal prosecution waiting to begin. That said, ITD won't employ an [redacted] without a SW and would like to see this as overall FBI policy.

[redacted]

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Friday, December 03, 2004 8:21 AM  
**To:** [redacted] (OGC) (FBI); [redacted] (ITD) (FBI); [redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b1  
b2  
b6  
b7C  
b7E

~~SECRET~~  
~~RECORD~~

[redacted]

(S)

Thank you [redacted] and [redacted]

Very helpful as always.

[redacted]

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Thursday, December 02, 2004 6:33 PM  
**To:** [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [redacted] (OGC);

b6  
b7C

~~SECRET~~

[redacted] (OGC) (FBI)

From: [redacted] (OGC) (FBI)  
 Sent: Tuesday, December 07, 2004 8:31 AM  
 To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

b1  
b2  
b6  
b7C  
b7E

~~SECRET~~  
~~RECORD~~ [redacted]

(S)

Thanks for looking at this, all you STLU guys. I think Greg Motta, [redacted] and I would need to review any guidance on this to make sure all bases are covered. Please put us all on any EC being drafted as signatories so we can be sure that this has been properly vetted.

Thanks

[redacted]

b6  
b7C

-----Original Message-----

From: [redacted] (OGC) (FBI)  
 Sent: Monday, December 06, 2004 5:53 PM  
 To: [redacted] (OGC) (FBI)  
 Cc: [redacted] (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
 Subject: RE: UCO Proposal

b1  
b2  
b6  
b7C  
b7E

~~SECRET~~  
~~RECORD~~ [redacted]

(S)

This may be more controversial than I suspected.

[redacted]

b5

[redacted]

[redacted]

DATE: 10-23-2008  
 CLASSIFIED BY 60322UC/LP/STP/gjg  
 REASON: 1.4 (C)  
 DECLASSIFY ON: 10-23-2033

-----Original Message-----

From: [redacted] (OGC) (FBI)  
 Sent: Monday, December 06, 2004 4:38 PM  
 To: [redacted] (OGC) (FBI)  
 Cc: [redacted] (ITD) (FBI); [redacted] (OGC) (FBI); MOTTA, THOMAS G.

b6  
b7C

(ITD) (FBI)  
**Subject:** RE: UCO Proposal

~~SECRET~~  
~~RECORD~~

[Redacted]

(S)

b1

[Redacted]

[Large Redacted Block]

b6  
b7C  
b2  
b7E  
b5

[Redacted]

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Friday, December 03, 2004 8:21 AM  
**To:** [Redacted] (OGC) (FBI); [Redacted] (ITD) (FBI); [Redacted]  
[Redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC); [Redacted]  
(OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~

[Redacted]

(S)

b1

Thank you [Redacted] and [Redacted]

b6  
b7C

Very helpful as always.

Tom

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Thursday, December 02, 2004 6:33 PM  
**To:** [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI); [Redacted]  
[Redacted] (OGC) (FBI)  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted] (OGC); [Redacted]  
[Redacted] (OGC) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [Redacted] (OGC)  
(FBI)  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~

[Redacted]

(S)

b1

~~SECRET~~

[Redacted]

(S)

[Redacted]

**From:** [Redacted]  
**Sent:** Wednesday, December 01, 2004 4:53 PM  
**To:** [Redacted]  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted]  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~ [Redacted]

b1

(S)

There is still admittedly a good deal of uncertainty about what authority is required to deploy an IPAV. Of course, the safest course is to secure a warrant, though one might arguably not be required—hence DOJ's position that a warrant should be obtained.

[Redacted]

(S)

b1

[Redacted]

(S)

[Redacted] On that, I am ccing [Redacted] who is the primary attorney assigned to DITU, the group responsible for this technology. He might be able to flush out the ITD/DOJ view on this. I'm also including [Redacted] since he works most closely with Cyber Div and may be able to add to the discussion.

b2  
b6  
b7C  
b7E

-----Original Message-----

**From:** [Redacted]  
**Sent:** Wednesday, December 01, 2004 4:16 PM  
**To:** [Redacted]  
**Cc:** BOWMAN, MARION E. (OGC) (FBI); [Redacted]  
**Subject:** RE: UCO Proposal

b6  
b7C

~~SECRET~~  
~~RECORD~~ [Redacted]

b1

(S)

According to guidance issued by DOJ CCIPS, DOJ has "consistently advised AUSAs and agnets proposing to use IPAVs to obtain a warrant to avoid the exclusion of evidence."

This opinion is dated March 7, 2002, written by [Redacted]

b6  
b7C

[Redacted] has advised me on this issue in the past and I copy her for her comments.

DATE: 10-23-2008  
 CLASSIFIED BY 60322UC/LP/STP/gjg  
 REASON: 1.4 (C)  
 DECLASSIFY ON: 10-23-2033

~~SECRET~~

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

[redacted] OGC) (FBI)

From: [redacted] (ITD)

b6  
b7C

Sent: Tuesday, November 23, 2004 8:24 AM

To: [redacted] (OGC) (FBI)

Subject: RE: Re IPAV/CIPAV

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

No handouts. I talk to case agents and TTAs on the phone about the capabilities and how the collected info is provided to the field for ELSUR compliance. I email case agents the template s/w, app, and affidavit after we received a RMS from their TTA. Sometimes, I will email case agents the definition I provided to you and I have also provided a more in-depth discussion of how the capability works to TTAs only via email.

-----Original Message-----

From: [redacted] (OGC) (FBI)

Sent: Tuesday, November 23, 2004 8:11 AM

To: [redacted] (ITD)

Subject: RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

[redacted]

Do you have an accepted definition of IPAV versus CIPAV?

[redacted] indicated that you have a standard handout that you provide field offices when they are thinking of using this tool. I need a copy of this material as well.

Thanks,

[redacted]

b6  
b7C

-----Original Message-----

From: [redacted] (ITD)

Sent: Monday, November 22, 2004 11:53 AM

To: [redacted] (OGC) (FBI)

Subject: RE: Re IPAV/CIPAV

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

[redacted]

b1  
(S)

DATE: 10-23-2008  
CLASSIFIED BY 60322UC/LP/STP/gjg  
REASON: 1.4 (C)  
DECLASSIFY ON: 10-23-2033

-----Original Message-----

11/24/2004

~~SECRET~~

From: [redacted] (OGC) (FBI)  
Sent: Monday, November 22, 2004 11:20 AM  
To: [redacted] (ITD)  
Cc: [redacted] (ITD) (FBI)  
Subject: RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

My understanding is that [redacted] wants it to go to All Offices therefore all SA. He wants all SA to know that OGC expects a SW for all IPAV/CIPAV applications (no getting around ITD by going to another Division that currently doesn't follow CCIPS guidance on this point). We can talk and clarify. I intend to run my draft thru both you and [redacted] before I begin the process of working it up thru Motta to OGC. We need to agree first.

b6  
b7C

[redacted]

-----Original Message-----

From: [redacted] (ITD)  
Sent: Monday, November 22, 2004 7:34 AM  
To: [redacted] (OGC) (FBI)  
Subject: RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

Will your EC be sent to only Tech Agents or all Agents?

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Friday, November 19, 2004 5:20 PM  
To: [redacted] (ITD)  
Cc: [redacted] (ITD) (FBI)  
Subject: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

b6  
b7C

[redacted]

[redacted] asked me to draft an EC to all field offices regarding the fact that it is OGC's position that a search warrant is required to [redacted]

(S)

[redacted]

(S)

b1

[redacted]

~~SENSITIVE BUT UNCLASSIFIED~~

~~SECRET~~



~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SENSITIVE BUT UNCLASSIFIED~~

[redacted] (OGC) (FBI)

**From:** [redacted] (ITD)  
**Sent:** Tuesday, November 23, 2004 8:20 AM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

The definition previously emailed for CIPAV is our current definition of the capability whether someone wants to call it CIPAV, IPAV, or Web Bug. [redacted]

b2  
b7E

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Tuesday, November 23, 2004 8:11 AM  
**To:** [redacted] (ITD)  
**Subject:** RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

[redacted]

Do you have an accepted definition of IPAV versus CIPAV?

b6  
b7C

[redacted] indicated that you have a standard handout that you provide field offices when they are thinking of using this tool. I need a copy of this material as well.

Thanks,

[redacted]

-----Original Message-----

**From:** [redacted] (ITD)  
**Sent:** Monday, November 22, 2004 11:53 AM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

(S)

[redacted]

b1

-----Original Message-----

**From:** [redacted] (OGC) (FBI)

b6  
b7C

DATE: 10-23-2008  
CLASSIFIED BY 60322UC/LP/STP/gjg  
REASON: 1.4 (C)  
DECLASSIFY ON: 10-23-2033

11/24/2004

[redacted] (OGC) (FBI)

From: [redacted] (ITD)  
Sent: Tuesday, November 23, 2004 8:18 AM  
To: [redacted] (OGC) (FBI)  
Subject: RE: Re IPAV/CIPAV

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

b6  
b7C

application and search warrant attached

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Monday, November 22, 2004 4:10 PM  
To: [redacted] (ITD)  
Subject: RE: Re IPAV/CIPAV

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

[redacted]

Do you have any ponies of SW used to actually employ this tool?

-----Original Message-----

From: [redacted] (ITD)  
Sent: Monday, November 22, 2004 11:53 AM  
To: [redacted] (OGC) (FBI)  
Subject: RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

[redacted]

(S)

b1

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Monday, November 22, 2004 11:20 AM  
To: [redacted] (ITD)  
Cc: [redacted] (ITD) (FBI)  
Subject: RE: Re IPAV/CIPAV

b6  
b7C

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

DATE: 10-23-2008  
CLASSIFIED BY 60322UC/LP/STP/gjg  
REASON: 1.4 (C)  
DECLASSIFY ON: 10-23-2033

My understanding is that [redacted] wants it to go to All Offices therefore all SA. He wants all SA to

11/24/2004

[redacted] (OGC) (FBI)

From: [redacted] (ITD) (FBI)  
Sent: Monday, November 08, 2004 10:28 AM  
To: [redacted] (OGC) (FBI)  
Subject: RE: [redacted]

b2  
b6  
b7C  
b7E

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

[redacted]

b5

[redacted]

b1

(S)

[redacted]

(S)

As to conferring with CCIPS –it's probably not a bad idea, since we regularly accuse them of establishing legal arguments that effect our techniques without conferring with us. That said, I would consider having all your pros and cons determined and supporting case law prior to discussing it.

good luck,

[redacted]

b2  
b6  
b7C  
b7E

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Monday, November 08, 2004 9:08 AM  
To: [redacted] (ITD) (FBI)  
Subject: RE: [redacted]

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

DATE: 10-23-2008  
CLASSIFIED BY 60322UC/LP/STP/gjg  
REASON: 1.4 (C)  
DECLASSIFY ON: 10-23-2033

Thanks [redacted]

Would a Magistrate listen to these arguments and act accordingly or do they strictly rely upon CCIPS in computer cases? I guess my questions is do I need to discuss this with CCIPS or just provide case law

11/9/2004

and argument to the case agent and the AUSA and let the AUSA work with CCIPS if this is the direction that he/she wants to go?

[Redacted]

-----Original Message-----

**From:** [Redacted] (ITD) (FBI)  
**Sent:** Monday, November 08, 2004 9:03 AM  
**To:** [Redacted] (OGC) (FBI); [Redacted] (SE) (FBI)  
**Cc:** [Redacted] (ITD); [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (OGC) (FBI)  
**Subject:** RE: [Redacted]

b6  
b7C

b2  
b7E

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

[Redacted]

[Large Redacted Block]

(S)

b1

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Monday, November 08, 2004 8:14 AM  
**To:** [Redacted] (SE) (FBI)  
**Cc:** [Redacted] (ITD); [Redacted] (ITD) (FBI); [Redacted] (OGC) (FBI); [Redacted] (ITD) (FBI); [Redacted] (ITD) (FBI); [Redacted] (ITD) (FBI)  
**Subject:** RE: [Redacted]

b6  
b7C

b2  
b7E

~~SENSITIVE BUT UNCLASSIFIED~~  
~~NON-RECORD~~

[Redacted]

Looks like you have a good Magistrate.. I'll do some checking and get back to you [Redacted] and [Redacted] - any thoughts?

[Redacted]

b6  
b7C

-----Original Message-----

**From:** [Redacted] (SE) (FBI)  
**Sent:** Friday, November 05, 2004 6:05 PM  
**To:** [Redacted] (OGC) (FBI)  
**Subject:** RE: [Redacted]

b2  
b7E

~~SECRET~~

~~SECRET~~

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

b6  
b7C

[Redacted]

I spoke with U.S. Magistrate Judge Michael W. Leavitt in Yakima, Washington regarding the possibility of extending the Search Warrant for a period of time greater than 10 days. As it is right now, I am having to travel from Seattle to Yakima or Spokane, which are on the other side of the state, every ten days, which as become very old. The Magistrate understands the problem inherent with this type of SW and believes there should be away to get around this 10 day issue.

[Redacted]

[Redacted] The Magistrate was not sure if this was possible, he only suggested we look into it. This is an "if then" type of scenario.

b2  
b7E

[Redacted] Just an idea.. Let me know what you think.

SA [Redacted]  
[Redacted]

b2  
b6  
b7C

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Friday, November 05, 2004 1:37 PM  
**To:** [Redacted] (SE) (FBI)  
**Subject:** FW: [Redacted]

b2  
b7E

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

[Redacted]

I'm OGC counsel to ITD and interested in your Magistrate's thought that he can get a search warrant for an IPAV/CIPAV for a period of time greater than the 10 day period authorized by Rule 41. As you can see the lawyers at ILU are stumped. Is it possible that you or you AUSA partner can ask the Magistrate for details? How does he see doing this?

This could be very important if we could get SW for periods to exceed 10 days. Please let me know what you think.

Thanks,

[Redacted]  
Assistant General Counsel  
Science and Technology Law Unit/OGC

b6  
b7C

-----Original Message-----

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Friday, November 05, 2004 3:37 PM  
**To:** [Redacted] (OGC) (FBI)  
**Cc:** [Redacted] (OGC) (FBI)  
**Subject:** RE: [Redacted]

b2  
b7E

~~SECRET~~

~~SENSITIVE BUT UNCLASSIFIED~~

~~SECRET~~

NON-RECORD

Don't know off the top of my bald head, [redacted] But, we will give it a look. [redacted]  
please explore this issue.

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Thursday, November 04, 2004 3:07 PM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** FW: [redacted]

b6  
b7C

b2  
b7E

~~SENSITIVE BUT UNCLASSIFIED~~  
NON-RECORD

[redacted]

The question to me is can a federal magistrate issue a search warrant  
against a computer [redacted]

b2  
b7E

[redacted]

[redacted] for a period of time to exceed the 10 days  
authorized by Rule 41? Right now we have to go back to the magistrate  
every 10 days to keep these things going. I have found no authority to  
exceed the 10 day rule of the Rule 41. Do you know of any exceptions?

Thanks,

[redacted]

b6  
b7C

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Thursday, November 04, 2004 2:59 PM  
**To:** [redacted] (ITD)  
**Cc:** [redacted] (ITD) (FBI)  
**Subject:** RE: [redacted]

b2  
b7E

~~UNCLASSIFIED~~  
NON-RECORD

[redacted]

I've researched the law on searching and seizing computers and data  
and have determined that Federal Rule of Criminal Procedure 41(c)(1)  
dictates that the search must be conducted "within a specified time not to  
exceed 10 days." I know of no way a Magistrate can deviate from this  
guidance but I'll ask the Investigative Law crowd for their view.

b6  
b7C

[redacted]

-----Original Message-----

**From:** [redacted] (ITD)  
**Sent:** Thursday, October 21, 2004 7:40 AM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** FW: [redacted]

b2  
b7E

~~SECRET~~

~~SECRET~~

~~UNCLASSIFIED~~  
~~NON-RECORD~~

-----Original Message-----

**From:** [redacted] (SE) (FBI)  
**Sent:** Monday, October 18, 2004 1:31 PM  
**To:** [redacted] (ITD); [redacted] (CG) (FBI);  
[redacted] (SD) (FBI); [redacted] (CyD) (FBI)  
**Subject:** RE: [redacted]

b2  
b6  
b7C  
b7E

~~UNCLASSIFIED~~  
~~NON-RECORD~~

[redacted]

b2  
b7D  
b7E

[redacted] Not sure if this is possible. Has there been any other suggestions concerning this.

SA [redacted]  
[redacted]

b2  
b6  
b7C

-----Original Message-----

**From:** [redacted] (ITD)  
**Sent:** Thursday, September 16, 2004 9:34 AM  
**To:** [redacted] (SE) (FBI)  
**Subject:** RE: [redacted]

b2  
b7E

~~UNCLASSIFIED~~  
~~NON-RECORD~~

Good luck and just email me the renewal date. and make that file name irresistable.

-----Original Message-----

**From:** [redacted] (SE) (FBI)  
**Sent:** Thursday, September 16, 2004 11:59 AM  
**To:** [redacted] (ITD)  
**Subject:** [redacted]

b6  
b7C

b2  
b7E

~~UNCLASSIFIED~~  
~~NON-RECORD~~

b6  
b7C

[redacted]

b2  
b7D  
b7E

[redacted]

b2  
b6  
b7C

~~SECRET~~



~~SECRET~~

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

~~SECRET~~

~~SENSITIVE BUT UNCLASSIFIED~~

SECRET

[redacted] (ITD) (FBI)

From: [redacted] (ITD) (FBI)  
Sent: Thursday, October 07, 2004 2:47 PM  
To: [redacted] (OGC) (FBI)  
Cc: [redacted] (ITD) (FBI) [redacted] (ITD)  
Subject: RE: Re: IPAVs

b6  
b7C

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

of course, I've been trying to type up a summary of the meeting for you to have a record of it, but this email should help. FYI—[redacted] asked if he and I could talk through —or rather if I would listen to his arguments/concerns—simply because he knows me. I told him I would discuss his concerns with you [redacted] and DITU. He also wanted to chat in advance of the CTC conference because they wanted to mention the use of IPAVs at the CTC conference that just concluded yesterday. I will provide copies of the slides for you.

b6  
b7C

[redacted]  
[redacted] Because if its designed [redacted]  
[redacted] if it has the ability to [redacted]  
[redacted]

b2  
b7E

Obviously this is of concern, because AUSAs will start drafting SW with technical descriptions as they understand the tool to work, but it may or may not be technically correct, etc. —DITU has had experience on that front with OIPR.... As to the description of the technique, [redacted] pointed to a number of places in the current SW template that he thought were potentially inaccurate or that stated more detail than was necessary to explain the tool for purposes of securing the warrant—he said he mentioned some of them to [redacted] Although his biggest concern was with the inadequate showing for delayed notice under 18 USC 3103a.

b6  
b7C

At the conference, CCIPS also touched on the jurisdiction issue, but acknowledged that the issue is still under debate. Nonetheless the handout (copy in the BU mail for you) clearly states CCIPS view—which is that Rule 41 jurisdiction vests either [redacted]

[redacted]  
[redacted]  
[redacted]

[redacted] It is therefore more appropriate to analyze it consistent with a harddrive image/seizure and rather than with other forms of electronic surveillance which are statutorily governed. They rely primarily on United States v. Karo, 468 U.S. 705, 718 (1984) for the rule that a search warrant can be obtained by describing the place or object where the beacon is placed regardless of where the beacon travels, even if it goes outside of the jurisdiction. See Rule 41(b)(2).

b2  
b7E

[redacted]

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Monday, October 04, 2004 11:32 AM  
**To:** [redacted] (ITD) (FBI)  
**Subject:** Re: IPAVs

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

b6  
b7C

[redacted]

UC [redacted] has asked me to work closely with [redacted] on the IPAV technique. [redacted] and I sat down last Friday and talked about where DITU is right now with the technique and it was mentioned that you had an encounter with [redacted] at CCIPS that you passed on to [redacted] for info only.

DITU is concerned about this matter as it could dramatically affect the way they accomplish their mission.

I would like to come over and sit down and talk to you about IPAVs in general and [redacted] in particular.

When would be amenable to such a discussion?

[redacted]

**SENSITIVE BUT UNCLASSIFIED**

**SENSITIVE BUT UNCLASSIFIED**

[Redacted] (OGC) (FBI)

From: [Redacted] (ITD)  
Sent: Thursday, September 02, 2004 1:08 PM  
To: [Redacted] (OGC) (FBI)  
Subject: Template Affidavit for basic IPAV 1

b6  
b7C

→ Looks like CIPAV and not IPA

**SENSITIVE BUT UNCLASSIFIED  
NON-RECORD**

This is the one [Redacted] referred to in the [Redacted] job.

SSA [Redacted]  
Data Intercept Technology Unit/Software Collection Group  
Digital Evidence Section, Investigative Technology Division  
Quantico, VA

b2  
b6  
b7C

[Redacted] o  
p  
y  
secure voice  
secure fax

**SENSITIVE BUT UNCLASSIFIED**

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 10-17-2008 BY 60322UC/LP/STP/gjg

[redacted] (OGC) (FBI)

From: [redacted] (ITD) (FBI)  
Sent: Tuesday, August 31, 2004 6:32 PM  
To: [redacted] (ITD) (FBI); [redacted]  
Cc: [redacted] (ITD); DICLEMENTE, AN  
[redacted] (OGC) (FBI); [redacted]  
Subject: RE: help

TASK: DITU  
EC for OGC to  
all offices -  
IPAV/CIPAV  
require search warrant  
to [redacted] on 10/26/04

b6  
b7C

b6  
b7C

[redacted] and [redacted]

(S)

[redacted]

b1

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Tuesday, August 31, 2004 3:49 PM  
To: [redacted] (OGC) (FBI)  
Cc: [redacted] (ITD) (FBI); [redacted] (ITD); DICLEMENTE, ANTHONY P. (ITD) (FBI);  
[redacted] (ITD) (FBI); [redacted] (OGC) (FBI)  
Subject: RE: help

b6  
b7C

~~SECRET~~  
RECORD xxxx

(S)

[redacted]

(S)

[redacted]

b1

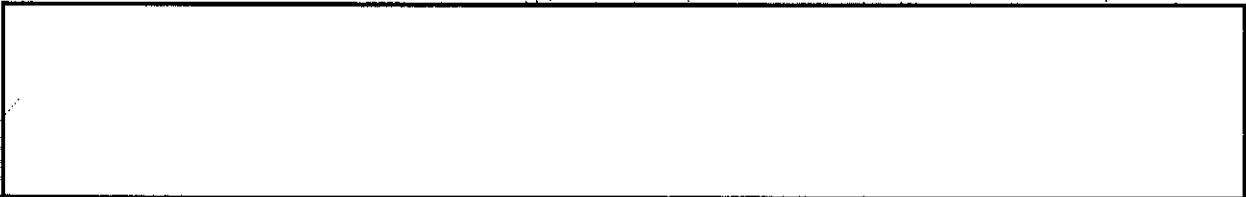
9/1/2004

~~SECRET~~

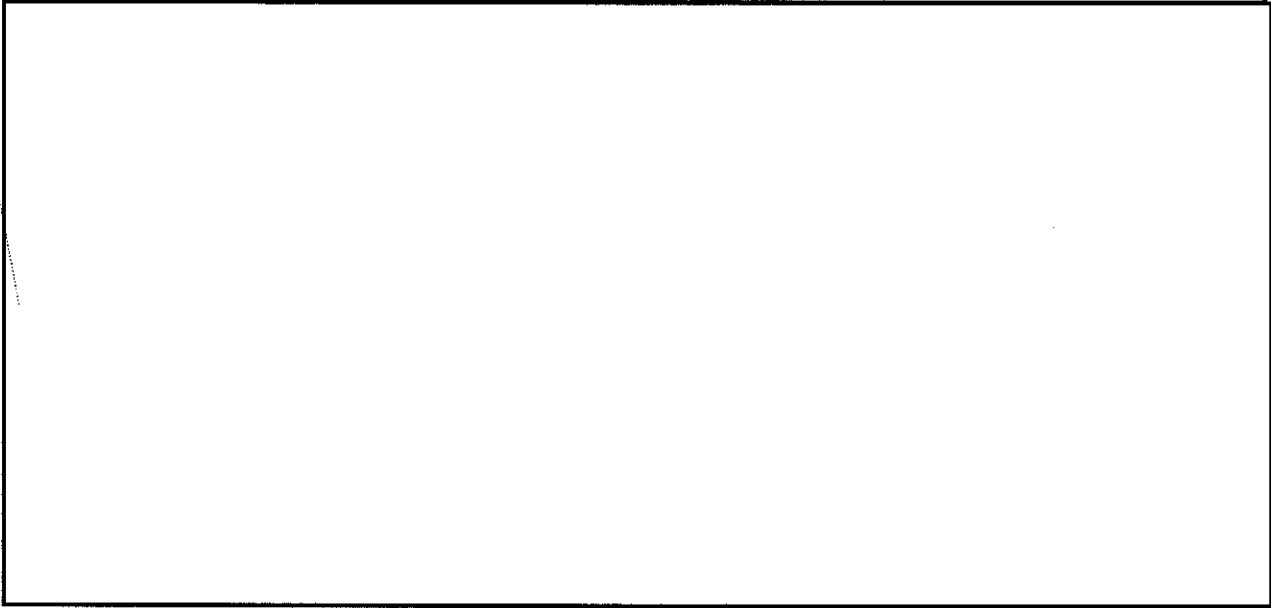
DATE: 10-20-2008  
CLASSIFIED BY 60322UC/LP/STP/gjg  
REASON: 1.4 (C)  
DECLASSIFY ON: 10-20-2033

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED EXCEPT  
WHERE SHOWN OTHERWISE

(S)



(S)



b1

PRIVILEGED DELIBERATIVE DOCUMENT - NOT FOR DISCLOSURE OUTSIDE THE FBI WITHOUT PRIOR OGC APPROVAL



Assistant General Counsel  
Science & Technology Law Unit  
Engineering Research Facility  
Bldg. 27958A Room A-207B  
Quantico, Va. 22135

b2  
b6  
b7C

Tel [Redacted]  
Fax [Redacted]  
pag [Redacted]

SCIENCE & TECHNOLOGY LAW UNIT - OFFICE OF THE GENERAL COUNSEL

-----Original Message-----

b6  
b7C

**From:** [Redacted] (OGC) (FBI)  
**Sent:** Monday, August 30, 2004 3:22 PM.  
**To:** [Redacted] (ITD) (FBI)  
**Subject:** help

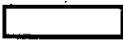
**SECRET**  
**RECORD xxxx**

[Redacted] - do you have any case law that stands for the proposition under Title III that we can test a device prior to court authorization and get limited data to verify that everything is working? [Redacted]

b5

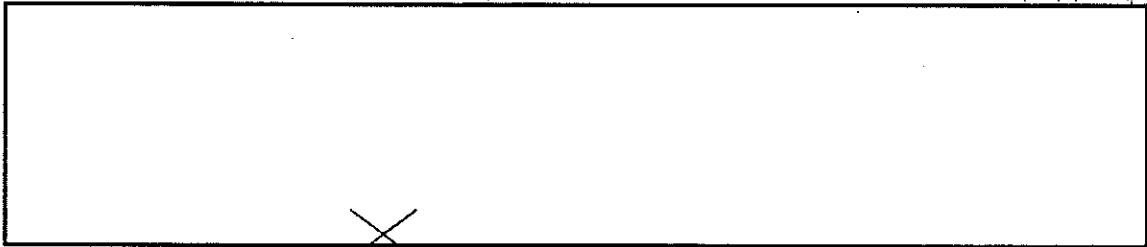
[Redacted] but we would like to be prepared to defend this to the court if necessary. thanks.

~~SECRET~~



b6  
b7C

this is the footnote:



b2  
b7E

~~DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET~~

~~DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET~~



[redacted] (OGC) (FBI)

From: [redacted] (ITD) (FBI)  
Sent: Wednesday, August 04, 2004 11:47 AM  
To: [redacted] (OGC) (FBI)  
Cc: MOTTA, THOMAS G. (ITD) (FBI)  
Subject: RE: IPAVs

b6  
b7C

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

Attached is the CCIPS memo-- Also ask [redacted] for a copy of the latest DRAFT FISA descriptions which includes a [redacted] (at any rate, I haven't attached it b/c then I would have to make it a record)..... Other than that I have not done any official legal analysis of it, but have had several discussion with [redacted] & Co. You also ought to take a look at the CCIPS/DOJ OnLine investigative Principle #2 [http://30.100.99.18/ogc/ilu/library/doj\\_oip.htm](http://30.100.99.18/ogc/ilu/library/doj_oip.htm) There is an argument that at least the simplest IPAV is essentially akin to a [redacted] command and that under this principle may be used without a court order. Obviously talking it over with [redacted] will help flesh out the validity of that argument.

b2  
b7E

b6  
b7C

b2  
b7E

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Wednesday, August 04, 2004 11:33 AM  
To: MOTTA, THOMAS G. (ITD) (FBI); [redacted] (ITD) (FBI)  
Subject: FW: IPAVs

b6  
b7C

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

Attached is a very recent EC that addresses sensitive DITU investigative techniques - FYI. UC [redacted] asked me to look at in in conjunction with a request to develop a matrix of techniques vs. evidentiary predicates necessary for use by TTA in the field. He used the term IPAVs with a comment that you [redacted] did some work for him on this subject. If either of you have anything that would be helpful on IPAVs or [redacted] matrix, I would appreciate a copy.

b6  
b7C

-----Original Message-----

From: [redacted] (ITD)  
Sent: Wednesday, August 04, 2004 10:08 AM  
To: [redacted] (OGC) (FBI)  
Subject: RE: IPAVs

b6  
b7C

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

I recently authored an EC on FBI policy as it relates to the deployment of IPAVs. If you want to know the details of how IPAVs work and what they do, let's meet. Here's the EC.

-----Original Message-----

From: [redacted] (OGC) (FBI)

b6  
b7C

**Sent:** Tuesday, August 03, 2004 9:31 AM  
**To:** [redacted] (ITD)  
**Subject:** IPAVs

**SENSITIVE BUT UNCLASSIFIED**  
**NON-RECORD**

[redacted]

I'm not sure that we've met yet but I have recently been detailed as DITU/CEAU's attorney. I'm assigned to Science and Technology Law Unit/OGC. As you might guess, what DITU does is all new to me and I'm picking up everything as new and unusual, like IPAVs.

b6  
b7c

[redacted] gave me your name as a starting point for learning what IPAVs are, from which he expects me to work up a matrix for use in the field for use of the end product, e.g., evidence. [redacted] said that you recently authored an EC on IPAVs. Could you please email a copy or send my the ID# so I can pull it off of ACS. Once I've read it, I'd like to meet you and discuss this topic.

Thanks,

[redacted]

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

~~**SENSITIVE BUT UNCLASSIFIED**~~

[redacted] (OTD) (CON)

From: [redacted] (OGC) (FBI)  
Sent: Thursday, August 19, 2004 6:07 PM  
To: [redacted] (OGC) (FBI)  
Subject: RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
~~RECORD xxxx~~

this is the final one that we sent over.

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Thursday, August 19, 2004 3:38 PM  
To: [redacted] (OGC) (FBI)  
Subject: FW: descriptions affidavit

b6  
b7C

~~SECRET~~  
~~RECORD xxxx~~

[redacted]

Can you tell me where you are in negotiations with OIPR regarding the definitions that will be used by the FISA court in matters affecting my client, DITU? Attached is an affidavit that lists the terms to be defined that appears to have been prepared in the July 04 timeframe but has not been submitted to the court. [redacted] is waiting, evidently, to be told that these are the agreed upon definitions. Back in June 04, you thought you were close to agreement....

In the alternative, if overall agreement has not been reached, has agreement been reached on some of the terms and if so which terms. This would help us to some extent.

Thanks for your help on this,

[redacted]

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Thursday, August 19, 2004 2:54 PM  
To: [redacted] (ITD) (FBI); [redacted] (OGC) (FBI)  
Subject: RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
~~RECORD xxxx~~

FYI--this one has a later date, but I don't know if it is in fact the "final"

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Thursday, August 19, 2004 12:39 PM  
To: [redacted] (OGC) (FBI); [redacted] (ITD) (FBI)  
Subject: FW: descriptions affidavit

~~SECRET~~  
RECORD xxxx

I think this was close to final

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Friday, June 25, 2004 3:03 PM  
**To:** [redacted] (ITD) (FBI)  
**Subject:** RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
RECORD xxxx

-----Original Message-----

**From:** [redacted] (ITD) (FBI)  
**Sent:** Friday, June 25, 2004 3:00 PM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** RE: descriptions affidavit

~~SECRET~~  
RECORD xxxx

[redacted] can you send me the last draft of the [redacted] affidavit.

b6  
b7C

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Friday, June 25, 2004 1:26 PM  
**To:** [redacted] (ITD) (FBI)  
**Cc:** MOTTA, THOMAS G. (ITD) (FBI); [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI)  
**Subject:** RE: descriptions affidavit

~~SECRET~~  
RECORD xxxx

are we fine on the EC, too - or does that need revision

-----Original Message-----

**From:** [redacted] (ITD) (FBI)  
**Sent:** Friday, June 25, 2004 1:24 PM  
**To:** [redacted] (OGC) (FBI)  
**Subject:** RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
RECORD xxxx

everything else looks fine to me.

mct

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Friday, June 25, 2004 11:48 AM

To: [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
Cc: [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
Subject: RE: descriptions affidavit

~~SECRET~~  
~~RECORD xxxx~~

b6  
b7C

it was reworded - i don't have a problem with the concept or with the practice.

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Thursday, June 24, 2004 3:03 PM  
To: [redacted] (OGC) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
Cc: [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
Subject: RE: descriptions affidavit

~~SECRET~~  
~~RECORD xxxx~~

How did we deal with footnote 1? Is it ok?

marcus

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Thursday, June 24, 2004 11:03 AM  
To: [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI); MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
Cc: [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
Subject: descriptions affidavit

b6  
b7C

~~SECRET~~  
~~RECORD xxxx~~

Attached is what I hope is the final draft of the affidavit. I have added the CIPAV and made any changes that were suggested. Please review this one last time prior to it being sent to OIPR. If there are any additions, corrections, deletions, etc., please let me know sooner rather than later. Thanks. [redacted]

~~DERIVED FROM: Multiple Sources~~  
~~DECLASSIFICATION EXEMPTION 1~~  
~~SECRET~~

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

~~DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET~~

[redacted] (OTD) (CON)

From: [redacted] (CN) (FBI)  
Sent: Thursday, August 19, 2004 12:39 PM  
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)  
Subject: FW: descriptions affidavit

~~SECRET~~  
RECORD xxxx

b6  
b7C

I think this was close to final

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Friday, June 25, 2004 3:03 PM  
To: [redacted] (ITD) (FBI)  
Subject: RE: descriptions affidavit

~~SECRET~~  
RECORD xxxx

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Friday, June 25, 2004 3:00 PM  
To: [redacted] (OGC) (FBI)  
Subject: RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
RECORD xxxx

[redacted] can you send me the last draft of the [redacted] affidavit.

-----Original Message-----

From: [redacted] (OGC) (FBI)  
Sent: Friday, June 25, 2004 1:26 PM  
To: [redacted] (ITD) (FBI)  
Cc: MOTTA, THOMAS G. (ITD) (FBI); [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI)  
Subject: RE: descriptions affidavit

~~SECRET~~  
RECORD xxxx

are we fine on the EC, too - or does that need revision

-----Original Message-----

From: [redacted] (ITD) (FBI)  
Sent: Friday, June 25, 2004 1:24 PM  
To: [redacted] (OGC) (FBI)  
Subject: RE: descriptions affidavit

b6  
b7C

9/6/2007



~~SECRET~~  
RECORD xxxx

everything else looks fine to me.

mct

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Friday, June 25, 2004 11:48 AM  
**To:** [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI);  
MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
**Cc:** [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
**Subject:** RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
RECORD xxxx

it was reworded - i don't have a problem with the concept or with the practice.

-----Original Message-----

**From:** [redacted] (ITD) (FBI)  
**Sent:** Thursday, June 24, 2004 3:03 PM  
**To:** [redacted] (OGC) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI);  
MOTTA, THOMAS G. (ITD) (FBI); [redacted] (OGC) (FBI)  
**Cc:** [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
**Subject:** RE: descriptions affidavit

b6  
b7C

~~SECRET~~  
RECORD xxxx

How did we deal with footnote 1? Is it ok?

marcus

-----Original Message-----

**From:** [redacted] (OGC) (FBI)  
**Sent:** Thursday, June 24, 2004 11:03 AM  
**To:** [redacted] (ITD) (FBI); DICLEMENTE, ANTHONY P. (ITD) (FBI);  
MOTTA, THOMAS G. (ITD) (FBI); [redacted] (FBI)  
**Cc:** [redacted] (ITD) (FBI); [redacted] (ITD) (FBI)  
**Subject:** descriptions affidavit

~~SECRET~~  
RECORD xxxx

b6  
b7C

Attached is what I hope is the final draft of the affidavit. I have added the CIPAV and made any changes that were suggested. Please review this one last time prior to it being sent to OIPR. If there are any additions, corrections, deletions, etc., please let me know sooner rather than later. Thanks [redacted]

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

DERIVED FROM: Multiple Sources  
DECLASSIFICATION EXEMPTION 1  
SECRET

To: Operational Technology Division      From: Records Management  
Office of General Counsel  
Cyber Division  
Special Technology and Applications Office

Re: 190-HQ-C1547903, 08/16/2007

By letter dated July 24, 2007, Electronic Frontier Foundation, through staff attorney Marcia Hofmann, submitted a FOIA request to FBIHQ seeking the following records:

All agency records (including, but not limited to, electronic records) concerning to Bureau's use of Computer and Internet Protocol Address Verifier (CIPAV) software.

By letter dated July 19, 2007, CNET Networks, through Chief Political Correspondent Declan McCullagh, submitted a FOIA request to FBIHQ seeking the following records:

All records, including but not limited to correspondence, memoranda, reports, presentations, use or deployment logs, procurement agreements, vendor contracts, and legal opinions, concerning or involving a technology used by the FBI called Computer and Internet Protocol Address Verifier (CIPAV) or technologies with substantially similar capabilities as CIPAV.

We are sending this EC to you because we believe that you may have documents potentially responsive to these three FOIA requests. The FOIA requires the FBI to conduct a search which is reasonably calculated to uncover all relevant agency records in response to a FOIA request. As a result, we request that FBI personnel in your office be directed to search for any and all retrievable agency records in their custody, control and/or possession in those locations likely to reveal potentially responsive records. It is recommended that you submit an "all employee" e-mail to your office to identify whether any such records exist.

Examples of agency records include:

- all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, faxes, files, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals or studies;
- electronic records maintained on computers, or audio or video tapes;
- e-mails (regardless of whether they have been designated as "record" or "non-record" in Trilogy Microsoft Outlook);