

[Redacted]

From: [Redacted]
Sent: Friday, January 19, 2007 12:38
To: [Redacted]
Cc: [Redacted]
Subject: RE: Task#: 07-006**S: ASAP 26 Jan** SecDef INFO Memo re NSLs (U)
Attachments: 07-01-19 NSL Info Paper for SecDef (DRAFT) (2).doc



07-01-19 NSL Info
Paper for Se...

~~FOR OFFICIAL USE ONLY~~

[Redacted] changes made to memo.

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

From: ODUSD(CI&S)
Sent: Friday, January 19, 2007 11:13 AM
To: [Redacted]

Subject: Task#: 07-006**S: ASAP 26 Jan** SecDef INFO Memo re NSLs ~~(FOUO)~~

~~FOR OFFICIAL USE ONLY~~

I'm sorry about sending in this fashion but I have lost the bubble....

Lead: CI Directorate

CORD: ALL

[Redacted]

This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

[REDACTED]

From: [REDACTED]
Sent: Monday, March 05, 2007 08:11
To: [REDACTED]
Cc: [REDACTED]
Subject: FW: NSL--SASC Request (U)

Attachments: NSL SASC Reply DUSD Action Memo 070305.doc; SASC Financial Requests 1990-2007 070305.doc

~~FOR OFFICIAL USE ONLY~~

[REDACTED]

[REDACTED]

[REDACTED]



NSL SASC Reply SASC Financial
 DUSD Action Mem...Requests 1990-2...

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

From: [REDACTED]
Sent: Monday, March 05, 2007 7:48 AM
To: [REDACTED]
Subject: NSL--SASC Request ~~(FOUO)~~

~~FOR OFFICIAL USE ONLY~~

Draft report, with NCIS corrections, for your review.

V/R,

[REDACTED]

Deputy Director for
 Counterintelligence Policy
 USD(I)/CI&S/CI

[REDACTED]

This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

[Redacted]

From: [Redacted]
Sent: Monday, March 12, 2007 12:50
To: [Redacted]
Subject: RE: National Security Letters

I'll look at the unclass

[Redacted]
Principal Deputy General Counsel
[Redacted]

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

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

From: [Redacted]
Sent: Monday, March 12, 2007 13:48
To: [Redacted]
Subject: RE: National Security Letters

[Redacted]

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

From: [Redacted]
Sent: Monday, March 12, 2007 12:46
To: [Redacted]
Cc: [Redacted]
Subject: RE: National Security Letters

[Redacted]

Principal Deputy General Counsel
[Redacted]

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

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

From: [Redacted]
Sent: Monday, March 12, 2007 13:25
To: [Redacted]
Subject: FW: National Security Letters

[Redacted]

[REDACTED]

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

From: [REDACTED]
Sent: Saturday, March 10, 2007 17:48
To: [REDACTED]
Subject: Re:

[REDACTED]

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Sent from my BlackBerry Wireless Handheld

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

From: [REDACTED]
To: [REDACTED]
CC: [REDACTED]
Sent: Sat Mar 10 16:41:37 2007
Subject:

[REDACTED]

[Redacted]

From: [Redacted]
Sent: Saturday, March 10, 2007 17:53
To: [Redacted]
Subject: Re:

Tnx

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Sent from my BlackBerry Wireless Handheld

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

From: [Redacted]
To: [Redacted]
Sent: Sat Mar 10 17:48:18 2007
Subject: Re:

[Redacted]

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

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

From: [Redacted]
To: [Redacted]
CC: [Redacted]
Sent: Sat Mar 10 16:41:37 2007
Subject:

[Redacted]

[Redacted]

From: [Redacted]
Sent: Wednesday, January 03, 2007 11:10
To: [Redacted]
Cc: [Redacted]

Subject: RE: USDI Staff Meeting (U)

Thanks, [Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 10:30 AM
To: [Redacted]
Cc: [Redacted]

Subject: RE: USDI Staff Meeting (U)

UNCLASSIFIED

Sirs,

[Redacted]

V/R

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:26 AM
To: [Redacted]
Cc: [Redacted]

Subject: RE: USDI Staff Meeting (U)

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:11 AM
To: [Redacted]
Cc: [Redacted]

Subject: USDI Staff Meeting (U)

Classification: UNCLASSIFIED

[Redacted]



Thanks,



[Redacted]

From: [Redacted]
Sent: Monday, January 15, 2007 12:30
To: [Redacted]
Subject: NSL Fact Sheet (v5-12Jan09-1400hrs)
Attachments: NSL Fact Sheet (v5-12Jan09-1400hrs).doc



NSL Fact Sheet
(v5-12Jan09-140...

[Redacted]

[REDACTED]

From: [REDACTED]
Sent: Tuesday, January 16, 2007 09:54
To: [REDACTED]
Subject: OGC questions: *Draft*-(FOUO)
Attachments: DoD NSL Fact Sheet_OGC (16 Jan 07).doc

~~FOR OFFICIAL USE ONLY~~

<<DoD NSL Fact Sheet_OGC (16 Jan 07).doc>>

[REDACTED]

Associate Deputy General Counsel (Intelligence)
DoD OGC - OUSD(I)

[REDACTED]

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This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

[Redacted]

From: [Redacted]
Sent: Wednesday, January 03, 2007 10:30
To: [Redacted]
Cc: [Redacted]

Subject: RE: USDI Staff Meeting (U)

Attachments: NSL chart 50 usc - joint.doc



NSL chart 50 usc - joint.doc ...

UNCLASSIFIED

Sirs,

[Redacted]

V/R

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:26 AM
To: [Redacted]
Cc: [Redacted]

Subject: RE: USDI Staff Meeting (U)

[Redacted]

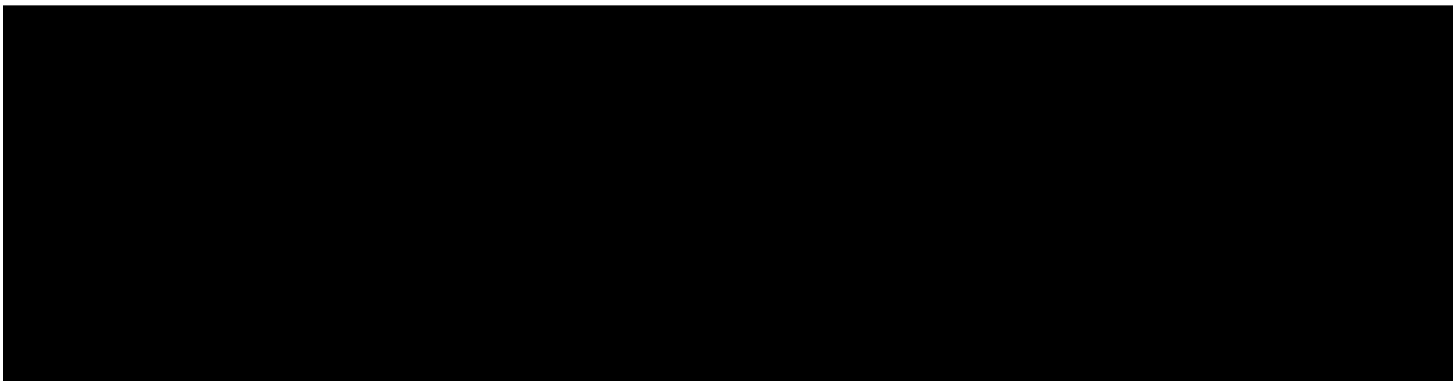
-----Original Message-----

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:11 AM
To: [Redacted]
Cc: [Redacted]

Subject: USDI Staff Meeting (U)

Classification: UNCLASSIFIED

[Redacted]



Thanks,



[Redacted]

From: [Redacted]
Sent: Tuesday, January 16, 2007 07:09
To: [Redacted]
Cc: [Redacted]
Subject: RE:

Yes, sir...I'll call [Redacted]
[Redacted]

[Redacted]
General Counsel
Counterintelligence Field Activity
[Redacted]

-----Original Message-----
From: [Redacted]
Sent: Tuesday, January 16, 2007 7:09 AM
To: [Redacted]
Cc: [Redacted]
Subject: Re:

I spoke w [Redacted] some. Pls catch up w him. Thanks. [Redacted]

CAUTION: Information contained in this message may be protected by the attorney/client, attorney work product, deliberative process or other privileges. Do not disseminate further without approval from the Office of the DoD General Counsel.

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: [Redacted]
To: [Redacted]
[Redacted]

Sent: Tue Jan 16 06:58:18 2007
Subject: RE:

[Redacted]

It's Tuesday morning and just read your note and listened to your voice message of yesterday....will call your office in a few minutes.

V/R [Redacted]

[Redacted]

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

From: [REDACTED]
Sent: Monday, January 15, 2007 11:42 AM
To: [REDACTED]
Cc: [REDACTED]
Subject:

Call me about this right away, pls.

Military Expands Intelligence Role in U.S.

By ERIC LICHTBLAU and MARK MAZZETTI, The New York Times WASHINGTON, Jan. 13

- The Pentagon has been using a little-known power to obtain banking and credit records of hundreds of Americans and others suspected of terrorism or espionage inside the United States, part of an aggressive expansion by the military into domestic intelligence gathering.

The C.I.A. has also been issuing what are known as national security letters to gain access to financial records from American companies, though it has done so only rarely, intelligence officials say.

Banks, credit card companies and other financial institutions receiving the letters usually have turned over documents voluntarily, allowing investigators to examine the financial assets and transactions of American military personnel and civilians, officials say.

The F.B.I., the lead agency on domestic counterterrorism and espionage, has issued thousands of national security letters since the attacks of Sept. 11, 2001, provoking criticism and court challenges from civil liberties advocates who see them as unjustified intrusions into Americans' private lives.

But it was not previously known, even to some senior counterterrorism officials, that the Pentagon and the Central Intelligence Agency have been using their own "noncompulsory" versions of the letters. Congress has rejected several attempts by the two agencies since 2001 for authority to issue mandatory letters, in part because of concerns about the dangers of expanding their role in domestic spying.

The military and the C.I.A. have long been restricted in their domestic intelligence operations, and both are barred from conducting traditional domestic law enforcement work. The C.I.A.'s role within the United States has been largely limited to recruiting people to spy on foreign countries.

Carl Kropf, a spokesman for the director of national intelligence, said intelligence agencies like the C.I.A. used the letters on only a "limited basis."

Pentagon officials defended the letters as valuable tools and said they were part of a broader strategy since the Sept. 11 attacks to use more aggressive intelligence-gathering tactics - a priority of former Defense Secretary Donald H. Rumsfeld. The letters "provide tremendous leads to follow and often with which to corroborate other evidence in the context of counterespionage and counterterrorism," said Maj. Patrick Ryder, a Pentagon spokesman.

Government lawyers say the legal authority for the Pentagon and the C.I.A. to use national security letters in gathering domestic records dates back nearly two decades and, by their reading, was strengthened by the antiterrorism law known as the Patriot Act.

Pentagon officials said they used the letters to follow up on a variety of intelligence tips or leads. While they would not provide details about specific cases, military intelligence officials with knowledge of them said the military had issued the letters to collect financial records regarding a government contractor with unexplained wealth, for example, and a chaplain at Guantánamo Bay erroneously suspected of aiding prisoners at the facility.

Usually, the financial documents collected through the letters do not establish any link to espionage or terrorism and have seldom led to criminal charges, military officials say. Instead, the letters often help eliminate suspects.

"We may find out this person has unexplained wealth for reasons that have nothing to do with being a spy, in which case we're out of it," said Thomas A. Gandy, a senior Army counterintelligence official.

But even when the initial suspicions are unproven, the documents have intelligence value, military officials say. In the next year, they plan to incorporate the records into a database at the Counterintelligence Field Activity office at the Pentagon to track possible threats against the military, Pentagon officials said. Like others interviewed, they would speak only on the condition of anonymity.

Military intelligence officers have sent letters in up to 500 investigations over the last five years, two officials estimated. The number of letters is likely to be well into the thousands, the officials said, because a single case often generates letters to multiple financial institutions. For its part, the C.I.A. issues a handful of national security letters each year, agency officials said. Congressional officials said members of the House and Senate Intelligence Committees had been briefed on the use of the letters by the military and the C.I.A.

Some national security experts and civil liberties advocates are troubled by the C.I.A. and military taking on domestic intelligence activities, particularly in light of recent disclosures that the Counterintelligence Field Activity office had maintained files on Iraq war protesters in the United States in violation of the military's own guidelines. Some experts say the Pentagon has adopted an overly expansive view of its domestic role under the guise of "force protection," or efforts to guard military installations.

"There's a strong tradition of not using our military for domestic law enforcement," said Elizabeth Rindskopf Parker, a former general counsel at both the National Security Agency and the C.I.A. who is the dean at the McGeorge School of Law at the University of the Pacific. "They're moving into territory where historically they have not been authorized or presumed to be operating."

Similarly, John Radsan, an assistant general counsel at the C.I.A. from 2002 to 2004 and now a law professor at William Mitchell College of Law in St. Paul, said, "The C.I.A. is not supposed to have any law enforcement powers, or internal security functions, so if they've been issuing their own national security letters, they better be able to explain how they don't cross the line."

The Pentagon's expanded intelligence-gathering role, in particular, has created occasional conflicts with other federal agencies. Pentagon efforts to post American military officers at embassies overseas to gather intelligence for counterterrorism operations or future war plans has rankled some State Department and C.I.A. officials, who see the military teams as duplicating and potentially interfering with the intelligence agency.

In the United States, the Federal Bureau of Investigation has complained about military officials dealing directly with local police - rather than through the bureau - for assistance in responding to possible terrorist threats against a military base. F.B.I. officials say the threats have often turned out to be uncorroborated and, at times, have stirred needless anxiety.

The military's frequent use of national security letters has sometimes caused concerns from the businesses receiving them, a counterterrorism official said. Lawyers at financial institutions, which routinely provide records to the F.B.I. in law enforcement investigations, have contacted bureau officials to say they were confused by the scope of the military's requests and whether they were obligated to turn the records over, the official said.

Companies are not eager to turn over sensitive financial data about customers to the government, the official said, "so the more this is done, and the more poorly it's done, the more pushback there is for the F.B.I."

The bureau has frequently relied on the letters in recent years to gather telephone and Internet logs, financial information and other records in terrorism investigations, serving more than 9,000 letters in 2005, according to a Justice Department tally. As an investigative tool, the letters present relatively few hurdles; they can be authorized by supervisors rather than a court. Passage of the Patriot Act in October 2001 lowered the standard for issuing the letters, requiring only that the documents sought be "relevant" to an investigation and allowing records requests for more peripheral figures, not just

targets of an inquiry.

Some Democrats have accused the F.B.I. of using the letters for fishing expeditions, and the American Civil Liberties Union won court challenges in two cases, one for library records in Connecticut and the other for Internet records in Manhattan. Concerned about possible abuses, Congress imposed new safeguards in extending the Patriot Act last year, in part by making clear that recipients of national security letters could contact a lawyer and seek court review. Congress also directed the Justice Department inspector general to study the F.B.I.'s use of the letters, a review that is continuing.

Unlike the F.B.I., the military and the C.I.A. do not have wide-ranging authority to seek records on Americans in intelligence investigations. But the expanded use of national security letters has allowed the Pentagon and the intelligence agency to collect records on their own. Sometimes, military or C.I.A. officials work with the F.B.I. to seek records, as occurred with an American translator who had worked for the military in Iraq and was suspected of having ties to insurgents.

After the Sept. 11 attacks, Mr. Rumsfeld directed military lawyers and intelligence officials to examine their legal authorities to collect intelligence both inside the United States and abroad. They concluded that the Pentagon had "way more" legal tools than it had been using, a senior Defense Department official said.

Military officials say the Right to Financial Privacy Act of 1978, which establishes procedures for government access to sensitive banking data, first authorized them to issue national security letters. The military had used the letters sporadically for years, officials say, but the pace accelerated in late 2001, when lawyers and intelligence officials concluded that the Patriot Act strengthened their ability to use the letters to seek financial records on a voluntary basis and to issue mandatory letters to obtain credit ratings, the officials said.

The Patriot Act does not specifically mention military intelligence or C.I.A. officials in connection with the national security letters.

Some F.B.I. officials said they were surprised by the Pentagon's interpretation of the law when military officials first informed them of it.

"It was a very broad reading of the law," a former counterterrorism official said.

While the letters typically have been used to trace the financial transactions of military personnel, they also have been used to investigate civilian contractors and people with no military ties who may pose a threat to the military, officials said. Military officials say they regard the letters as one of the least intrusive means to gather evidence. When a full investigation is opened, one official said, it has now become "standard practice" to issue such letters.

One prominent case in which letters were used to obtain financial records, according to two military officials, was that of a Muslim chaplain at Guantánamo Bay, Cuba, who was suspected in 2003 of aiding terror suspects imprisoned at the facility. The espionage case against the chaplain, James J. Yee, soon collapsed.

Eugene Fidell, a defense lawyer for the former chaplain and a military law expert, said he was unaware that military investigators may have used national security letters to obtain financial information about Mr. Yee, nor was he aware that the military had ever claimed the authority to issue the letters.

Mr. Fidell said he found the practice "disturbing," in part because the military does not have the same checks and balances when it comes to Americans' civil rights as does the F.B.I. "Where is the accountability?" he asked. "That's the evil of it - it doesn't leave fingerprints."

Even when a case is closed, military officials said they generally maintain the records for years because they may be relevant to future intelligence inquiries. Officials at the Pentagon's counterintelligence unit say they plan to incorporate those records into a database, called Portico, on intelligence leads. The financial documents will not be widely disseminated, but limited to investigators, an intelligence official said.

"You don't want to destroy something only to find out that the same guy comes up in another report and you don't know that he was investigated before," the official said.

The Counterintelligence Field Activity office, created in 2002 to better coordinate the military's efforts to combat foreign intelligence services, has drawn criticism for some domestic intelligence activities.

The agency houses an antiterrorist database of intelligence tips and threat reports, known as Talon, which had been collecting information on antiwar planning meetings at churches, libraries and other locations. The Defense Department has since tightened its procedures for what kind of information is allowed into the Talon database, and the counterintelligence office also purged more than 250 incident reports from the database that officials determined should never have been included because they centered on lawful political protests by people opposed to the war in Iraq.

FROM FOX NEWS SUNDAY YESTERDAY:

WALLACE: There's a report in the New York Times today that's been confirmed by administration officials that the Pentagon and the CIA have been obtaining financial records about hundreds of Americans suspected of involvement in either terrorism or espionage.

Why involve the CIA and the Pentagon in domestic intelligence-gathering?

CHENEY: Well, remember what these issues are. This is a question, as I understand it, of issuing national security letters that allow us to collect financial information, for example, on suspected -- or, on people we have reason to suspect.

The Defense Department gets involved because we've got hundreds of bases inside the United States that are potential terrorist targets. We've got hundreds of thousands of people, innocent Americans...

WALLACE: But why not let the FBI do that, sir?

CHENEY: Well, they can do a certain amount of it, and they do.

But the Department of Defense has legitimate authority in this area. This is an authority that goes back three or four decades. It was reaffirmed in the Patriot Act that was renewed here about a year or so ago.

It's a perfectly legitimate activity. There's nothing wrong with it or illegal. It doesn't violate people's civil rights. And if an institution that receives one of these national security letters disagrees with it, they're free to go to court to try to stop its execution.

So, you know, this is a dramatic story, but I think it's important for people to understand here this is a legitimate security effort that's been under way for a long time, and it does not represent a new departure from the standpoint of our efforts to protect ourselves against terrorist attacks.

[Redacted]
From: [Redacted]
Sent: Wednesday, January 03, 2007 13:19
To: [Redacted]
Cc: [Redacted]
Subject: RE: USDI Staff Meeting (U)

Responding for CIFA OGC, I like this matrix more than the one we had in our files. Much easier to understand and captures all the relevant possibilities. Thanks [Redacted]

[Redacted]

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 10:30 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: USDI Staff Meeting (U)

UNCLASSIFIED

Sirs,

[Redacted]

V/R

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:26 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: USDI Staff Meeting (U)

[Redacted]

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

From: [Redacted]
Sent: Wednesday, January 03, 2007 8:11 AM

To:
Cc:

Subject: USDI Staff Meeting (U)

Classification: UNCLASSIFIED



[Redacted]

From:

[Redacted]

Sent:

Friday, January 19, 2007 11:13

To:

[Redacted]

Cc:

Subject: Task#: 07-006**S: ASAP 26 Jan** SecDef INFO Memo re NSLs ~~(FOUO)~~

Attachments: Task#: 07-006**S: ASAP 26 Jan** SecDef INFO Memo re NSLs

~~FOR OFFICIAL USE ONLY~~

I'm sorry about sending in this fashion but I have lost the bubble....

Lead: CI Directorate

CORD: ALL

[Large Redacted Block]

<<Task#: 07-006**S: ASAP 26 Jan** SecDef INFO Memo re NSLs>>

This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

From: [REDACTED]
Sent: Tuesday, January 16, 2007 10:07 AM
To: [REDACTED]
Subject: Fw: OGC questions: *Draft* ~~(FOUO)~~

Attachments: DoD NSL Fact Sheet_OGC (16 Jan 07).doc

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Sent from my BlackBerry Wireless Handheld

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

From: [REDACTED]
To: [REDACTED]
Sent: Tue Jan 16 09:53:39 2007
Subject: OGC questions: *Draft* ~~(FOUO)~~

~~FOR OFFICIAL USE ONLY~~

<<DoD NSL Fact Sheet_OGC (16 Jan 07).doc>>

[REDACTED]

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This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

From: [REDACTED]
Sent: Monday, March 12, 2007 6:42 AM
To: [REDACTED]

Subject: EM Notes 3.12.07 ~~(FOUO)~~

Attachments: EM Notes 03.12.07.doc

~~FOR OFFICIAL USE ONLY~~

[REDACTED]

This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).

From: [redacted]
Sent: Sunday, January 14, 2007 10:16 AM
To: [redacted]
[redacted]

Subject: Re: NYT Article

VP Cheney was asked about it by Chris Wallace on Fox News Sunday. VP response was in line with the fact sheet.

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

From: [redacted]
To: [redacted]
[redacted]

Sent: Sat Jan 13 16:36:22 2007
Subject: Fw: NYT Article

All - NY Times has posted their article on the web. FYSA, Mr Whitman, DASD for Media Ops, has already received a query from the Washington Post and used the fact sheet to respond. Therefore, I'd also expect an article in the Post tomorrow.

V/R

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

From: [redacted]
To: [redacted]
[redacted]

Sent: Sat Jan 13 14:59:50 2007
Subject: NYT Article

January 14, 2007

Military Expands Domestic Surveillance

By ERIC LICHTBLAU

<http://topics.nytimes.com/top/reference/timestopics/people//eric_lichtblau/index.html?inline=nyt-per> and MARK MAZZETTI
<http://topics.nytimes.com/top/reference/timestopics/people/m/mark_mazzetti/index.html?inline=nyt-per>

WASHINGTON, Jan. 13 — The Pentagon has been using a little-known power to obtain banking and credit records of hundreds of Americans and others suspected of terrorism or espionage inside the United States, part of an aggressive expansion by the military into domestic intelligence gathering.

The C.I.A.

<http://topics.nytimes.com/top/reference/timestopics/organizations/c/central_intelligence_agency/index.html?inline=nyt-org> has also been issuing what are known as national security letters to gain access to financial records from American companies, though it has done so only rarely, intelligence officials say.

Banks, credit card companies and other financial institutions receiving the letters usually have turned over documents voluntarily, allowing investigators to examine the financial assets and transactions of American military personnel and civilians, officials say.

The F.B.I.

http://topics.nytimes.com/top/reference/timestopics/organizations/f/federal_bureau_of_investigation/index.html?inline=nyt-org , the lead agency on domestic counterterrorism and espionage, has issued thousands of national security letters since the attacks of Sept. 11, 2001, provoking criticism and court challenges from civil liberties advocates who see them as unjustified intrusions into Americans' private lives.

But it was not previously known, even to some senior counterterrorism officials, that the Pentagon and the Central Intelligence Agency have been using their own "noncompulsory" versions of the letters. Congress has rejected several attempts by the two agencies since 2001 for authority to issue mandatory letters, in part because of concerns about the dangers of expanding their role in domestic spying.

The military and the C.I.A. have long been restricted in their domestic intelligence operations, and both are barred from conducting traditional domestic law enforcement work. The C.I.A.'s role within the United States has been largely limited to recruiting people to spy on foreign countries.

Carl Kropf, a spokesman for the director of national intelligence, said intelligence agencies like the C.I.A. used the letters on only a "limited basis."

Pentagon officials defended the letters as valuable tools and said they were part of a broader strategy since the Sept. 11 attacks to use more aggressive intelligence-gathering tactics — a priority of former Defense Secretary Donald H. Rumsfeld

http://topics.nytimes.com/top/reference/timestopics/people/r/donald_h_rumsfeld/index.html?inline=nyt-per . The letters "provide tremendous leads to follow and often with which to corroborate other evidence in the context of counterespionage and counterterrorism," said Maj. Patrick Ryder, a Pentagon spokesman.

Government lawyers say the legal authority for the Pentagon and the C.I.A. to use national security letters in gathering domestic records dates back nearly three decades and, by their reading, was strengthened by the antiterrorism law known as the USA Patriot Act.

Pentagon officials said they used the letters to follow up on a variety of intelligence tips or leads. While they would not provide details about specific cases, military intelligence officials with knowledge of them said the military had issued the letters to collect financial records regarding a government contractor with unexplained wealth, for example, and a chaplain at Guantánamo Bay erroneously suspected of aiding prisoners at the facility.

Usually, the financial documents collected through the letters do not establish any links to espionage or terrorism and have seldom led to criminal charges, military officials say. Instead, the letters often help eliminate suspects.

"We may find out this person has unexplained wealth for reasons that have nothing to do with being a spy, in which case we're out of it," said Thomas A. Gandy, a senior Army counterintelligence official.

But even when the initial suspicions are unproven, the documents have intelligence value, military officials say. In the next year, they plan to incorporate the records into a database at the Counterintelligence Field Activity office at the Pentagon to track possible threats against the military, Pentagon officials said. Like others interviewed, they would speak only on the condition of anonymity.

Military intelligence officers have sent letters in up to 500 investigations over the last five years, two officials estimated. The number of letters is likely to be well into the thousands, the officials said, because a single case often generates letters to multiple financial institutions. For its part, the C.I.A. issues a handful of national security letters each year, agency officials said. Congressional officials said members of the House and Senate Intelligence Committees had been briefed on the use of the letters by the military and the C.I.A.

Some national security experts and civil liberties advocates are troubled by the C.I.A. and military taking on

domestic intelligence activities, particularly in light of recent disclosures that the Counterintelligence Field Activity office had maintained files on Iraq war protesters in the United States in violation of the military's own guidelines. Some experts say the Pentagon has adopted an overly expansive view of its domestic role under the guise of "force protection," or efforts to guard military installations.

"There's a strong tradition of not using our military for domestic law enforcement," said Elizabeth Rindskopf Parker, a former general counsel at both the National Security Agency <http://topics.nytimes.com/top/reference/timestopics/organizations/n/national_security_agency/index.html?inline=nyt-org> and the C.I.A. who is the dean at the McGeorge School of Law at the University of the Pacific. "They're moving into territory where historically they have not been authorized or presumed to be operating."

Similarly, John Radsan, an assistant general counsel at the C.I.A. from 2002 to 2004 and now a law professor at William Mitchell College of Law in St. Paul, said, "The C.I.A. is not supposed to have any law enforcement powers, or internal security functions, so if they've been issuing their own national security letters, they better be able to explain how they don't cross the line."

The Pentagon's expanded intelligence-gathering role, in particular, has created occasional conflicts with other federal agencies. Pentagon efforts to post American military officers at embassies overseas to gather intelligence for counterterrorism operations or future war plans has rankled some State Department and C.I.A. officials, who see the military teams as duplicating and potentially interfering with the intelligence agency.

In the United States, the Federal Bureau of Investigation has complained about military officials dealing directly with local police — rather than through the bureau — for assistance in responding to possible terrorist threats against a military base. F.B.I. officials say the threats have often turned out to be uncorroborated and, at times, have stirred needless anxiety.

The military's frequent use of national security letters has sometimes caused concerns from the businesses receiving them, a counterterrorism official said. Lawyers at financial institutions, which routinely provide records to the F.B.I. in law enforcement investigations, have contacted bureau officials to say they were confused by the scope of the military's requests and whether they were obligated to turn the records over, the official said.

Companies are not eager to turn over sensitive financial data about customers to the government, the official said, "so the more this is done, and the more poorly it's done, the more pushback there is for the F.B.I."

The bureau has frequently relied on the letters in recent years to gather telephone and Internet logs, financial information and other records in terrorism investigations, serving more than 9,000 letters in 2005, according to a Justice Department tally. As an investigative tool, the letters present relatively few hurdles; they can be authorized by supervisors rather than a court. Passage of the Patriot Act in October 2001 lowered the standard for issuing the letters, requiring only that the documents sought be "relevant" to an investigation and allowing records requests for more peripheral figures, not just targets of an inquiry.

Some Democrats

<http://topics.nytimes.com/top/reference/timestopics/organizations/d/democratic_party/index.html?inline=nyt-org> have accused the F.B.I. of using the letters for fishing expeditions, and the American Civil Liberties Union <http://topics.nytimes.com/top/reference/timestopics/organizations/a/american_civil_liberties_union/index.html?inline=nyt-org> won court challenges in two cases, one for library records in Connecticut and the other for Internet records in Manhattan. Concerned about possible abuses, Congress imposed new safeguards in extending the Patriot Act last year, in part by making clear that recipients of national security letters could contact a lawyer and seek court review. Congress also directed the Justice Department inspector general to study the F.B.I.'s use of the letters, a review that is continuing.

Unlike the F.B.I., the military and the C.I.A. do not have wide-ranging authority to seek records on Americans in intelligence investigations. But the expanded use of national security letters has allowed the Pentagon and the intelligence agency to collect records on their own. Sometimes, military or C.I.A. officials work with the F.B.I. to seek records, as occurred with an American translator who had worked for the military in Iraq and was suspected of having ties to insurgents.

After the Sept. 11 attacks, Mr. Rumsfeld directed military lawyers and intelligence officials to examine their legal authorities to collect intelligence both inside the United States and abroad. They concluded that the Pentagon had "way more" legal tools than it had been using, a senior Defense Department official said.

Military officials say the Right to Financial Privacy Act of 1978, which establishes procedures for government access to sensitive banking data, first authorized them to issue national security letters. The military had used the letters sporadically for years, officials say, but the pace accelerated in late 2001, when lawyers and intelligence officials concluded that the Patriot Act strengthened their ability to use the letters to seek financial records on a voluntary basis and to issue mandatory letters to obtain credit ratings, the officials said.

The Patriot Act does not specifically mention military intelligence or C.I.A. officials in connection with the national security letters.

Some F.B.I. officials said they were surprised by the Pentagon's interpretation of the law when military officials first informed them of it. "It was a very broad reading of the law," a former counterterrorism official said.

While the letters typically have been used to trace the financial transactions of military personnel, they also have been used to investigate civilian contractors and people with no military ties who may pose a threat to the military, officials said. Military officials say they regard the letters as one of the least intrusive means to gather evidence. When a full investigation is opened, one official said, it has now become "standard practice" to issue such letters.

One prominent case in which letters were used to obtain financial records, according to two military officials, was that of a Muslim chaplain at Guantánamo Bay, Cuba, who was suspected in 2003 of aiding terror suspects imprisoned at the facility. The espionage case against the chaplain, James J. Yee, soon collapsed, and he was eventually convicted on lesser charges of adultery and downloading pornography.

Eugene Fidell, a defense lawyer for the former chaplain and a military law expert, said he was unaware that military investigators may have used national security letters to obtain financial information about Mr. Yee, nor was he aware that the military had ever claimed the authority to issue the letters.

Mr. Fidell said he found the practice "disturbing," in part because the military does not have the same checks and balances when it comes to Americans' civil rights as does the F.B.I. "Where is the accountability?" he asked. "That's the evil of it — it doesn't leave fingerprints."

Even when a case is closed, military officials said they generally maintain the records for years because they may be relevant to future intelligence inquiries. Officials at the Pentagon's counterintelligence unit say they plan to incorporate those records into a database, called Portico, on intelligence leads. The financial documents will not be widely disseminated, but limited to investigators, an intelligence official said.

"You don't want to destroy something only to find out that the same guy comes up in another report and you don't know that he was investigated before," the official said.

The Counterintelligence Field Activity office, created in 2002 to better coordinate the military's efforts to combat foreign intelligence services, has drawn criticism for some domestic intelligence activities.

The agency houses an antiterrorist database of intelligence tips and threat reports, known as Talon, which had been collecting information on antiwar planning meetings at churches, libraries and other locations. The Defense Department has since tightened its procedures for what kind of information is allowed into the Talon database, and the counterintelligence office also purged more than 250 incident reports from the database that officials determined should never have been included because they centered on lawful political protests by people opposed to the war in Iraq.

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From: [REDACTED]
Sent: Wednesday, January 17, 2007 3:03 PM
To: [REDACTED]
Subject: FW: CIFA Memo (U)

Attachments: Post Article re TALON.doc; TALON-ACLU.pdf

UNCLASSIFIED

The original Post article is also attached.

[REDACTED]

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

From: [REDACTED]
Sent: Wednesday, January 17, 2007 2:22 PM
To: [REDACTED]

Subject: CIFA Memo (U)

UNCLASSIFIED

FYI.
The memo referenced in the Pincus article.
V/R,

[REDACTED]

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

From: [REDACTED]
Sent: Wednesday, January 17, 2007 2:17 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: SSCI Request for NSL Briefing ~~(FOUO)~~

Sorry, here we go.

[REDACTED]

Director of Communications
Counterintelligence Field Activity

[REDACTED]

Protesters Found In Database

ACLU Is Questioning Entries in Defense Dept. System

By Walter Pincus, Washington Post Staff Writer

A Defense Department database devoted to gathering information on potential threats to military facilities and personnel, known as Talon, had 13,000 entries as of a year ago -- including 2,821 reports involving American citizens, according to an internal Pentagon memo to be released today by the American Civil Liberties Union.

The Pentagon memo says an examination of the system led to the deletion of 1,131 reports involving Americans, 186 of which dealt with "anti-military protests or demonstrations in the U.S."

Titled "Review of the TALON Reporting System," the four-page memo produced in February 2006 summarizes some interim results from an inquiry ordered by then-Defense Secretary Donald H. Rumsfeld after disclosure in December 2005 that the system had collected and circulated data on anti-military protests and other peaceful demonstrations.

The released memo, one of a series of Talon documents made public over the past year by the ACLU under a Freedom of Information Act lawsuit, said that the deleted reports did not meet a 2003 Defense Department requirement that they have some foreign terrorist connection or relate to what was believed to be "a force protection threat."

The number of deleted reports far exceeds the estimate provided to The Washington Post just over a year ago by senior officials of Counterintelligence Field Activity (CIFA), the Defense Department agency that manages the Talon program. At that time, then-CIFA Director David A. Burt II said the review had disclosed that only 1 percent of the then 12,500 Talon reports appeared to be problematic.

The ACLU said in its own report that past disclosures about Talon "cried out for congressional oversight yet Congress was silent." It said the new memo indicated there "may be even more disturbing" information to discover and declared "it is time for Congress to act."

The ACLU noted the memo showed that Talon reports had a much wider circulation than previously disclosed, with about 28 organizations and 3,589 individuals authorized to submit reports or have access to the database. The organizations with access include various military agencies as well as state, federal and local law enforcement officials.

In early 2006, Burt also said CIFA had not devised a formal way to notify its users when it decided to delete a Talon report on American citizens. The newly released memo says that a software enhancement was being initiated to permit users to edit and delete entries from the database and that it was scheduled for completion in April 2006.

A Pentagon spokesman said there are 7,700 reports in the Talon database. Some involve U.S. citizens, but the spokesman declined to say how many. Over the past year the program has instituted multiple layers of review for screening which reports should go into the database, the spokesman said.

CIFA has begun a process for analysts to review materials to make sure they fit the program's criteria before being uploaded and made available to Talon users. CIFA was established in 2002 in the aftermath of the Sept. 11, 2001, terrorist attacks, originally to coordinate the counterterrorism and counterintelligence operations of the various branches and agencies of the Defense Department. It has grown rapidly over the past four years, but not without problems. Along with discovery of the Talon data collection, CIFA was linked to the lobbying and earmarking activities that led to the conviction of former congressman Randy "Duke" Cunningham (R-Calif.). Burt and his top deputy retired in August 2006, and federal investigators are still looking at CIFA contracting activities.

Last week, the New York Times disclosed that CIFA had been using national security letters to gather financial data on U.S. citizens, but a Pentagon spokesman said yesterday that such information was for particular investigations and not made part of the Talon database.

Talon was started in May 2003 to capture raw, non-validated information about suspicious activity or potential terrorist threats to military personnel or facilities at home and abroad.

~~FOR OFFICIAL USE ONLY~~

[Redacted]

From: [Redacted]
Sent: Thursday, February 08, 2007 4:14 PM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Murderboard Prep for [Redacted] testimony tomorrow ~~(FOUO)~~
Attachments: NSL.doc

~~FOR OFFICIAL USE ONLY~~

Minor edits. Apologize for the delay. Just saw it.

[Redacted]



NSL.doc (28 KB)

From: [Redacted]
Sent: Thursday, February 08, 2007 11:08 AM
To: [Redacted]
Cc: [Redacted]
Subject: RE: Murderboard Prep for [Redacted] testimony tomorrow ~~(FOUO)~~

~~FOR OFFICIAL USE ONLY~~

~~UNCLASSIFIED//FOUO~~

[Redacted]

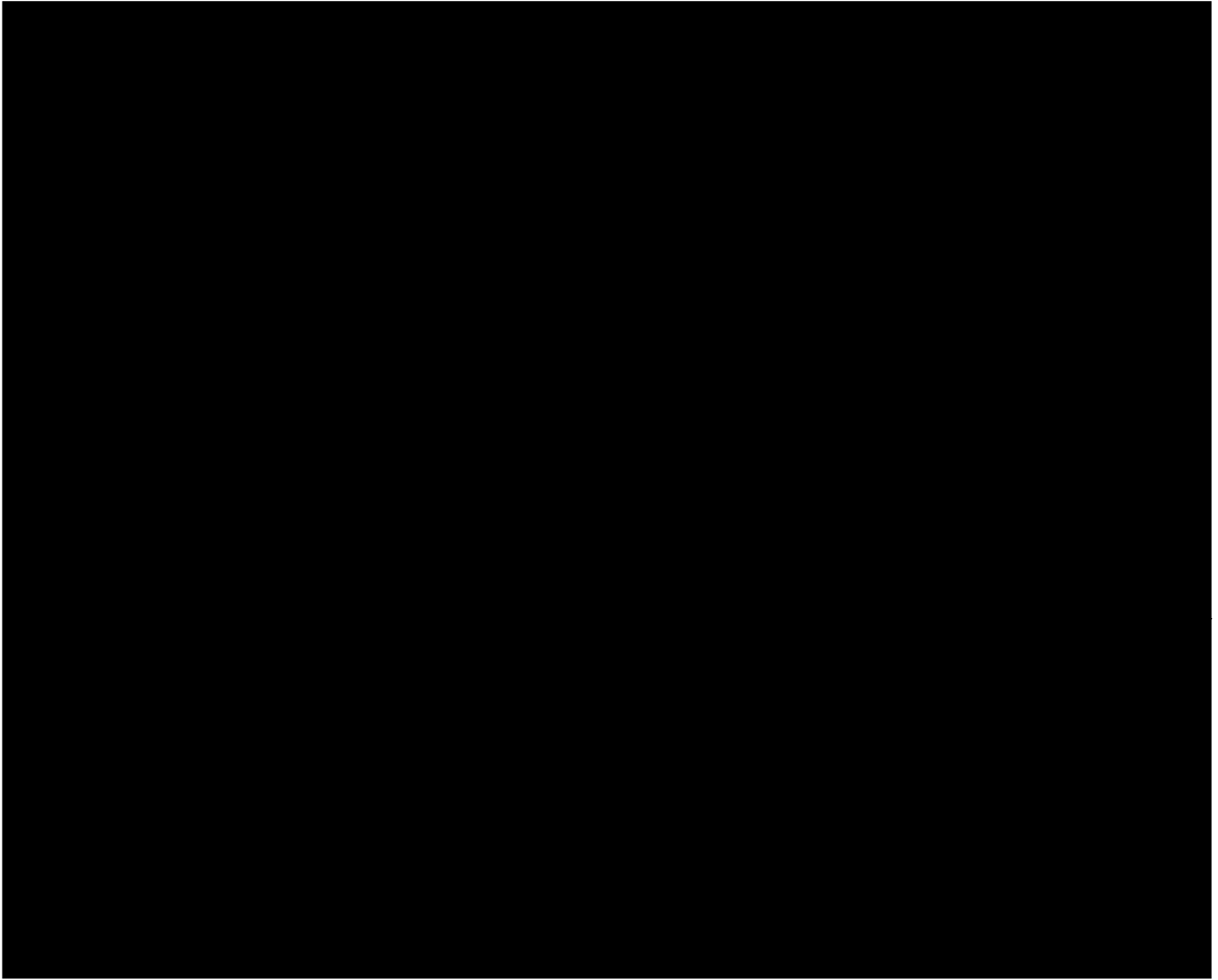
Can you give me a sanity check?

Thx, [Redacted]

My Recommendations appear in Blue:

[Large Redacted Block]

~~FOR OFFICIAL USE ONLY~~



This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).



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RE Murderboard Prep for [REDACTED] testimony tomorrow ~~(FOUO)~~

From: [REDACTED]
Sent: Thursday, February 08, 2007 4:14 PM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Murderboard Prep for [REDACTED] testimony tomorrow ~~(FOUO)~~
~~FOR OFFICIAL USE ONLY~~

Minor edits. Apologize for the delay. Just saw it.

[REDACTED]

From: [REDACTED]
Sent: Thursday, February 08, 2007 11:08 AM
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Murderboard Prep for [REDACTED] testimony tomorrow ~~(FOUO)~~

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UNCLASSIFIED//~~FOUO~~

[REDACTED]

Can you give me a sanity check?

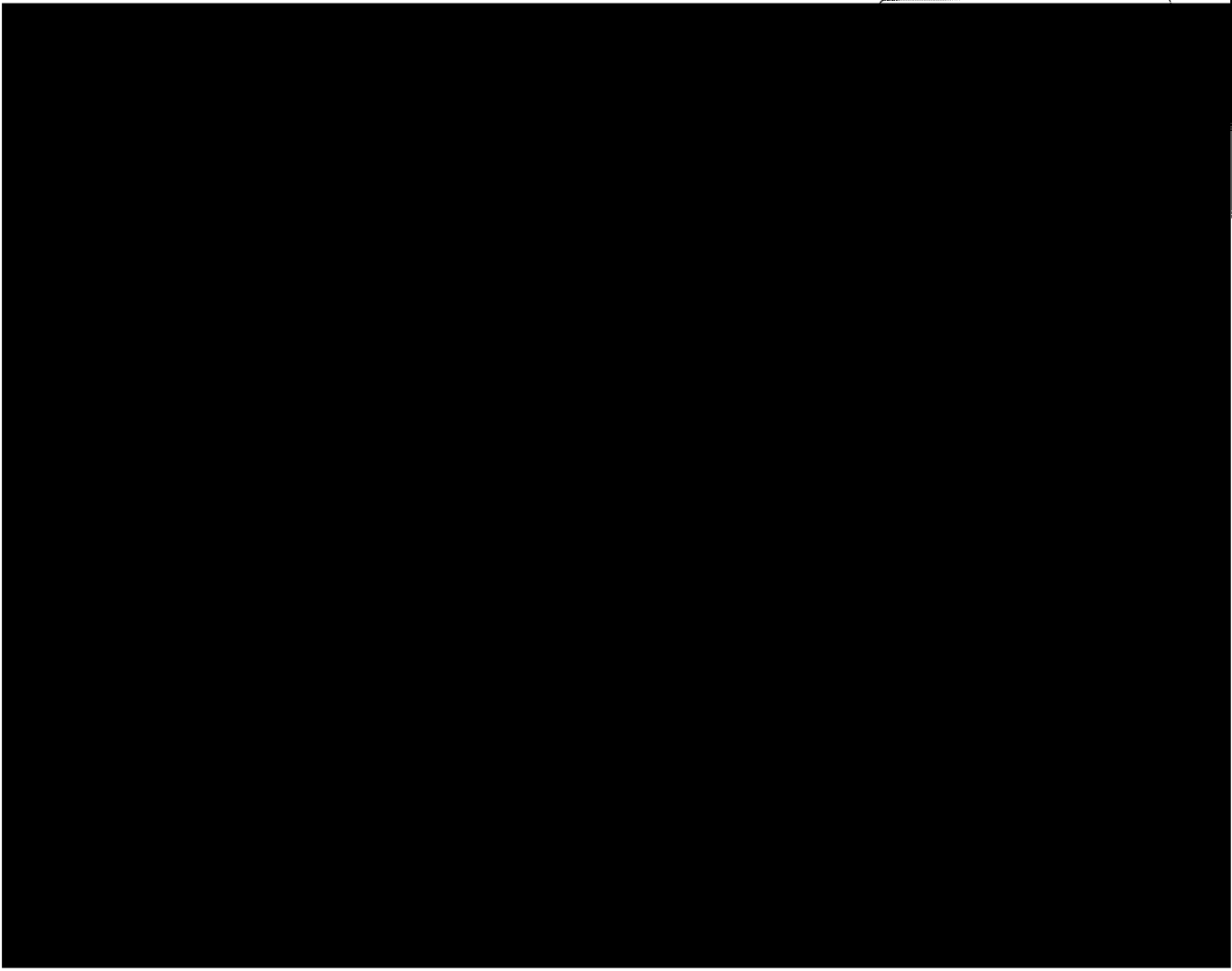
Thx, [REDACTED]

[REDACTED]

RE Murderboard Prep for [REDACTED] testimony tomorrow ~~(FOUO)~~
governing DoD use of the NSL.

** NSL Q&As from the Hill visits and statute info paper provided.

This may contain information exempt from mandatory disclosure under the Freedom of Information Act (FOIA).



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