



Homeland Security

September 26, 2012

Alexander Abdo
Staff Attorney
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Re: **DHS/OS/PRIV 12-0644**

Dear Mr. Abdo:

This is our first interim response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), dated July 31, 2012 and received in this office on August 7, 2012. You are seeking following records:

1. Records created since November 1, 2008 including final memoranda, policies, procedures, directives, reports, legal analysis, inter and intra-agency correspondence including e-mails, opinions from the Office of Legal Counsel, and training materials pertaining to the Director of National Intelligence's determination to amend the National Counterterrorism Center guidelines, including, but not limited to:
 - a. Records pertaining to the 2008 NCTC guidelines requirements regarding the collection, retention and use of U.S. person information;
 - b. Records documenting perceived problem caused by limitations imposed in the 2008 NCTC guidelines and/or justifications for amending the guidelines, including training materials;
 - c. Evaluations and/or audits of NCTC performance under the 2008 guidelines and/or problems and concerns associated with the implementation of the 2008 guidelines, including reports of violations of any law, regulation or policy;
 - d. Records regarding the identification of federal data sets NCTC seeks to acquire, including analysis or interpretation of the requirement that the data set "is likely to contain significant terrorism information," and any documentation that this standard is met with each particular data set sought for acquisition by NCTC;
 - e. Objections to or concerns with NCTC acquisition of data sets belonging to other federal agencies received by the ODNI, including any correspondence with the agencies, the DNI, or the National Security Council; and
 - f. NCTC mechanisms to correct or document the inaccuracy or unreliability of data obtained by NCTC, including the ODNI ISE Privacy Instruction and other requirements, regarding data quality, data notice and redress.

2. Records created since November 1, 2008 including final memoranda, policies, procedures, directives, guidance, reports, legal analysis, opinions from the Office of Legal Counsel, inter and intra-agency correspondence including e-mails, and training materials concerning complaints about, investigations of, and/or disciplinary actions related to the misuse or mishandling of U.S. person information as well as any investigations and/or reported legal violations concerning the implementation of the 2008 NCTC guidelines.
3. Records created since November 1, 2008 including final memoranda, policies, procedures, directives, reports, legal analysis, opinions from the DOJ Office of Privacy and Civil Liberties, inter and intra-agency correspondence including e-mails, and training and materials concerning complaints about, investigations of, and/or disciplinary actions related to the misuse or mishandling of U.S. person information as well as any investigations and/or reported legal violations concerning the implementation of the 2008 NCTC guidelines.
4. Intra-agency correspondence, correspondence with local, state or federal agencies, or Memorandums of Understanding created since November 1, 2008 regarding the implementation of the NCTC guidelines.

To date, we have completed processing 496 pages located as a result of a directed search of the Office of Civil Rights Civil Liberties (CRCL). Of those pages, I have determined that six pages are releasable in their entirety, 204 pages of the records are partially releasable, pursuant to Title 5 U.S.C. § 552, (b)(2), (b)(5), (b)(6), FOIA Exemptions 5, and 6 while 286 pages are fully denied pursuant to Title 5 U.S.C. § 552, (b)(5), FOIA Exemption 5.

FOIA Exemption 5 protects from disclosure those inter- or intra-agency documents that are normally privileged in the civil discovery context. The three most frequently invoked privileges are the deliberative process privilege, the attorney work-product privilege, and the attorney-client privilege. After carefully reviewing the responsive documents, I determined that portions of the responsive documents qualify for protection under the deliberative process privilege which protects the integrity of the deliberative or decision-making processes within the agency by exempting from mandatory disclosure opinions, conclusions, and recommendations included within inter-agency or intra-agency memoranda or letters. The release of this internal information would discourage the expression of candid opinions and inhibit the free and frank exchange of information among agency personnel.

FOIA Exemption 6 exempts from disclosure personnel or medical files and similar files the release of which would cause a clearly unwarranted invasion of personal privacy. This requires a balancing of the public's right to disclosure against the individual's right to privacy. The privacy interests of the individuals in the records you have requested outweigh any minimal public interest in disclosure of the information. Any private interest you may have in that information does not factor into the aforementioned balancing test.

Furthermore, we conducted a comprehensive search of files within the Customs and Border Protection Agency (CBP), another DHS component, for records that would be responsive to your request. Unfortunately, we were unable to locate or identify any responsive records.

While an adequate search was conducted, you have the right to appeal this determination that no records exist within CBP that would be responsive to your request. Furthermore you have the right to appeal the above withholding determination. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS FOIA regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

Provisions of the FOIA allow us to recover part of the cost of complying with your request. In this instance, because the cost is below the \$14 minimum, there is no charge. 6 CFR § 5.11(d)(4).

If you need to contact our office again about this matter, please refer to **DHS/OS/PRIV 12-0644**. This office can be reached at 202-343-1743.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Pugh". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Amy Pugh
Senior FOIA Program Specialist

Enclosure(s): 496 Pages, Responsive Documents

(b) (6)

From: (b) (6)
Sent: Thursday, February 24, 2011 2:21 PM
To: (b) (6)
Subject: RE: Revised NCTC 12333 Draft Concerns (DELIBERATIVE)
Attachments: NCTC AG MOU on 12333 - Talking Points (revised) - mdb bare bones MRM.docx; NCTC AG MOU on 12333 - Extended Talking Points.docx

Thank you! I think that you have the right idea and that we should proceed with two documents. I've made some changes to your edits in just a couple of places, which I have highlighted (I can't get trackchanges to work correctly for me today, for some reason). I also liked some of your phrasing quite a lot and went back and revised what my original (extended) comments based on your revisions. If you have no objections, here's what I'd like to go with.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Thursday, February 24, 2011 11:50 AM
To: (b) (6)
Subject: RE: Revised NCTC 12333 Draft Concerns (DELIBERATIVE)

Okay. So....

I went at this with the idea that you wanted it narrowed down to much more focused TPs. Frankly, your analysis and presentation of the information didn't have anything truly extraneous. However, as you noted, it really was probably a bit too much for TPs. What I've tried to do is really cut this down into the core of what I saw in each of your points. I've undoubtedly cut a lot of potentially useful information, but I think there was a lot of information included that wasn't needed for a TP approach. Let me know what you think.

I've also saved it as a newly named doc. I think while this is a stripped down – “here's what you need to focus on as the problems” – approach, your document is a very good, longer, outline of the issues.

From: (b) (6)
Sent: Wednesday, February 23, 2011 2:05 PM
To: (b) (6)
Subject: Revised NCTC 12333 Draft Concerns (DELIBERATIVE)

I've taken another run at these. I wasn't able to make them any more pithy, unfortunately. I did break a few bullets down to isolate some issues further, and expand on a few addition concerns (largely regarding oversight/compliance). Would you please review?

Thanks,
(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Thursday, February 24, 2011 3:41 PM
To: (b) (6)
Cc: (b) (6)
Subject: Talking Points and Comments Regarding 12333 Template and Proposed NCTC Implementing Guidance (DELIBERATIVE)
Attachments: Draft_AG_Guidelines_Template 7 Feb 2011 (MRM edited2).docx; NCTC AG MOU on 12333 - Talking Points (brief).docx; NCTC AG MOU on 12333 - Extended Talking Points.docx

(b) (6)

Attached please find comments on the proposed 12333 template, and some talking points on the NCTC 12333 implementing guidance PDF that we received last week. The talking points come in "brief" and "extended" (mostly because I have difficulty shutting up). (b) (6) and I have coordinated on the content of the 12333 template comments and the NCTC 12333 implementing guidance talking points.

Have we heard back from either (b) (6) or Matt Kronisch regarding our requests for meetings on these proposals?

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Thursday, March 01, 2012 5:01 PM
To: (b) (6)
Subject: FW: AG Guideline Briefing to CTAB - ESTA Recommendation
Attachments: ESTA Executive Summary (CRCL).docx

Importance: High

(b) (6)

Attached please find my recommended edits/additions for the ESTA AG Guidelines BM draft sent to us yesterday by I&A. I&A requests our response by COB tomorrow.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Wednesday, February 29, 2012 3:44 PM
To: Richards, Rebecca; Hunt, Ken; (b) (6)
Cc: (b) (6) Foster, Helen; Mathews, Scott; (b) (6)
(b) (6)
Subject: FW: AG Guideline Briefing to CTAB - ESTA Recommendation
Importance: High

All-

As a follow on to (b) (6) e-mail below, please review and provide comments in reference to the attached ESTA recommendation **by C.O.B., Friday, March 2, 2012.** (b) (6) would like to finalize ESTA and SEVIS recommendations in preparation for pending CTAB Briefing in reference to the AG Guidelines.

Thank you.

V/r,

(b) (6)

Policy Analyst | PKH Enterprises
Information Sharing and Intelligence Enterprise Management
Office of Intelligence and Analysis
Department of Homeland Security
Office: (b) (6)

NSTS: (b) (6)

(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 1:42 PM
To: Richards, Rebecca; Hunt, Ken; (b) (6)
Cc: Foster, Helen; Mathews, Scott; (b) (6)
Subject: FW: AG Guideline Briefing to CTAB
Importance: High

Internal Records Working Group-

A status update on the AG Guidelines for the CTAB was requested by Caryn Wagner (see below). As discussed during our meeting last week, Priv/CRCL will take lead in crafting the SEVIS recommendation. **I&A will need that document as soon as possible.**

Also, collectively we need a coordinated message (when briefing can/should take place; not ready right now).

(b) (6)

(b) (6)
Intelligence Operations Specialist
Information Sharing and Collaboration Branch
Office of Intelligence & Analysis
Department of Homeland Security

(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 11:40 AM
To: (b) (6)
Cc: (b) (6)
Subject: RE: AG Guideline Briefing to CTAB

(b) (6) thanks for your note. Unfortunately, your email below is the first I've heard of the request for tomorrow, and I'm unable to help – I'm out of the office tomorrow on travel.

I'd recommend as a next step, that I coordinate the request for the update to the CTAB with the DHS-internal participants in the NCTC-DHS Records Working Group, to make sure all are aware of the request, and we have a coordinated message (across I&A, PRIV, CRCL, OGC, PLCY, and the Components).

Then we will close the loop with (b) (6) and work this for another, upcoming CTAB. How does that sound? Thanks, --
(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 11:35 AM
To: (b) (6)
Cc: (b) (6)
Subject: AG Guideline Briefing to CTAB

Morning (b) (6)

I wanted to check-in with you on tomorrow's CTAB.

Ms. Wagner requested a briefing on the current status of the AG guideline issues a few weeks back, and we wanted to confirm that you will be able to provide.

Let me know if there is anything you might need in preparation. I will be forwarding you the agenda, and the calendar invite.

Thank you sir.

(b) (6)

Intelligence Director - Supporting The Counterterrorism Coordinator

(b) (6)

(b) (6)

From: (b) (6)
Sent: Wednesday, March 16, 2011 12:36 PM
To: Foster, Helen
Subject: RE: AG Guidelines ODNI meeting

No, I don't think you exaggerated anything, and I entirely agree with your conclusion (b) (5)

(b) (5)

(b) (5)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: Foster, Helen
Sent: Wednesday, March 16, 2011 11:35 AM
To: (b) (6)
Subject: FW: AG Guidelines ODNI meeting

Do you think I missed/misstated anything? Exaggerated anything? Wanted to send these to you before I sent them to MEC, but I didn't have the chance. But let me know if you think I got anything wrong.

Helen Foster
DHS Privacy Office

(b) (6)

From: Foster, Helen
Sent: Wednesday, March 16, 2011 11:22 AM
To: Callahan, Mary Ellen
Cc: Hunt, Ken; Mathews, Scott; Richards, Rebecca; (b) (6); Foster, Helen
Subject: AG Guidelines ODNI meeting

Wanted to give you my download on the meeting with ODNI yesterday on the AG Guidelines.

(b) (5)

(b) (5)



Helen

Helen Foster
DHS Privacy Office

(b) (6)

From: Kronisch, Matthew
Sent: Wednesday, March 16, 2011 7:32 AM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo

Cc: (b) (6) Foster, Helen; (b) (6)

Subject: RE: DHS comments

(b) (5)

More to follow.

Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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From: Kronisch, Matthew

Sent: Friday, March 11, 2011 5:03 PM

To: (b) (6) Foster, Helen; (b) (6)

Cc: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo

Subject: RE: DHS comments

We are on for 1100 Tuesday.

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

(b) (6)

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From: Schlanger, Margo

Sent: Friday, March 11, 2011 3:04 PM

To: Kronisch, Matthew; (b) (6)

Cc: Wagner, Caryn; Callahan, Mary Ellen

Subject: RE: DHS comments

Thanks, Matt. I can't make it so will send (b) (6) cc'd above.

Margo Schlanger
Officer for Civil Rights and Civil Liberties
<http://www.dhs.gov/crci>
U.S. Department of Homeland Security

(b) (6)

(b) (6)



Homeland Security

From: Kronisch, Matthew
Sent: Friday, March 11, 2011 2:44 PM
To: Callahan, Mary Ellen; Schlanger, Margo
Cc: Wagner, Caryn
Subject: FW: DHS comments

Colleagues,

The attached email from ODNI is an invitation to discuss our comments on NCTC's draft AG guidelines. I would like to be accompanied in these discussions by a representative of each of your offices. I intend to request the meeting for Tuesday morning. While I have little expectation of resolving our concerns, I am most interested in articulating them in the presence of both ODNI and DOJ representatives. Please identify your intended agents as soon as possible.

Thanks.

Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Friday, March 11, 2011 12:58 PM
To: Kronisch, Matthew
Cc: (b) (6)
Subject: RE: DHS comments

Matt,

Thank you for the detailed and thoughtful comments you provided to (b) (6) earlier in the week. We certainly value the input. However, from our review, several of the comments tend to suggest a potential lack of understanding as to the overarching intent of the Guidelines. Furthermore, some of the edits you have proposed would eviscerate the authorities of the DNI and NCTC. We believe it would be best to discuss these matters in person. Hence, do you and your colleagues from affected DHS elements have some availability early next week to discuss the comments with pertinent players from ODNI/NCTC?

Assuming you and your colleagues are both amenable and available for such a meeting, we would like to get a sense of the prioritization of your concerns. More to the point, we would like to better understand the issues that DHS sees as impairing core DHS equities, as opposed to merely reflecting a drafting or editorial preference.

We look forward to hearing back from you.

Regards,

(b)
(6)

(b) (6)

Senior Associate General Counsel

(b) (6)

From: Kronisch, Matthew (DHS)
Sent: Monday, March 07, 2011 08:21 AM
To: (b) (6)
Cc: (b) (6)
Subject: NCTC REVISED AG GUIDELINES

(b)
(6)

Attached are the DHS comments to the draft NCTC AG Guidelines in which you expressed interest. While we have not had the opportunity to walk through these with NCTC or ODNI, due to the time delay in preparing them, and the importance of keeping the clearance on the document moving forward, I am sharing them with all, simultaneously. I understand from (b) (6) that your offices may already be working on a later draft than the one upon which these comments are based (attached). Nonetheless, I think the "justification" column will be very helpful in conveying the concerns of data provider agencies, even where draft text may have been already modified. If you have a later text which you wish us to review, we can do so, at this point, fairly quickly.

Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Monday, March 21, 2011 10:41 AM
To: (b) (6)
Subject: Notes on 3/15 meeting with ODNI Counsel and Updated TPs on Draft NCTC-AG MOU (DELIBERATIVE)
Attachments: 03-15-11 Notes from Meeting with ODNI Counsel on NCTC 12333 Implementation.docx; NCTC AG MOU - Talking Points (brief) 03-21-11 update.docx

Attached please find notes from the 3/15 meeting with ODNI Counsel. I've marked them as deliberative. Please close-hold them.

I also updated the brief talking points that I drafted a few weeks ago for our planned meetings with (b) (6) (attached).

Having talked with (b) (6) about the agenda for today's NCTC Engagement Group internal meeting on the RAPS MOU (which conflicts with the CLPO meeting time), I think my time would be best used by coming with you to the meeting with (b) (6). I'd like to meet with you if at all possible before we go over, to talk with you about my notes from last week, and my conversation with (b) (6) Friday. Please let me know what's convenient for you (I have a telecon on the ADIS USPER issue from 12-1, but other than that I am free).

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Friday, March 02, 2012 11:33 AM
To: (b) (6); Richards, Rebecca; Hunt, Ken; (b) (6)
Cc: (b) (6); Foster, Helen; Mathews, Scott; (b) (6)
(u) (c)
Subject: RE: AG Guideline Briefing to CTAB - ESTA Recommendation
Attachments: ESTA Executive Summary (CRCL).docx

Attached please find CRCL's comments/edits. Please let me know if you have any questions/concerns. PRIV, please double-check that my comment #2 is correct.

Thanks,

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6))
Sent: Wednesday, February 29, 2012 3:44 PM
To: Richards, Rebecca; Hunt, Ken; (b) (6)
Cc: (b) (6); Foster, Helen; Mathews, Scott; (b) (6)
(b) (6)
Subject: FW: AG Guideline Briefing to CTAB - ESTA Recommendation
Importance: High

All-

As a follow on to (b) (6) mail below, please review and provide comments in reference to the attached ESTA recommendation **by C.O.B., Friday, March 2, 2012.** Michael would like to finalize ESTA and SEVIS recommendations in preparation for pending CTAB Briefing in reference to the AG Guidelines.

Thank you.

V/r,

(b) (6)

Policy Analyst | PKH Enterprises
Information Sharing and Intelligence Enterprise Management
Office of Intelligence and Analysis
Department of Homeland Security

(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 1:42 PM
To: Richards, Rebecca; Hunt, Ken; (b) (6)
Cc: Foster, Helen; Mathews, Scott; (b) (6)
Subject: FW: AG Guideline Briefing to CTAB
Importance: High

Internal Records Working Group-

A status update on the AG Guidelines for the CTAB was requested by Caryn Wagner (see below). As discussed during our meeting last week, Priv/CRCL will take lead in crafting the SEVIS recommendation. **I&A will need that document as soon as possible.**

Also, collectively we need a coordinated message (when briefing can/should take place; not ready right now).

(b) (6)

(b) (6)
Intelligence Operations Specialist
Information Sharing and Collaboration Branch
Office of Intelligence & Analysis

(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 11:40 AM
To: (b) (6)
Cc: (b) (6)
Subject: RE: AG Guideline Briefing to CTAB

(b) (6) thanks for your note. Unfortunately, your email below is the first I've heard of the request for tomorrow, and I'm unable to help – I'm out of the office tomorrow on travel.

I'd recommend as a next step, that I coordinate the request for the update to the CTAB with the DHS-internal participants in the NCTC-DHS Records Working Group, to make sure all are aware of the request, and we have a coordinated message (across I&A, PRIV, CRCL, OGC, PLCY, and the Components).

Then we will close the loop with (b) (6) and work this for another, upcoming CTAB. How does that sound? Thanks, --

(b) (6)

From: (b) (6)
Sent: Wednesday, February 29, 2012 11:35 AM
To: (b) (6)
Subject: AG Guideline Briefing to CTAB

(b) (6)

I wanted to check-in with you on tomorrow's CTAB.

Ms. Wagner requested a briefing on the current status of the AG guideline issues a few weeks back, and we wanted to confirm that you will be able to provide.

Let me know if there is anything you might need in preparation. I will be forwarding you the agenda, and the calendar invite.

Thank you sir.

(b)

(6)

Intelligence Director - Supporting The Counterterrorism Coordinator

(b) (6)

(b) (6)

From: (b) (6)
Sent: Friday, March 04, 2011 1:01 PM
To: (b) (6)
Subject: FW: NCTC REVISED AG GUIDELINES
Attachments: Comments AG Guidelines OGC Final Final (CRCL).docx

From my limited review this morning, it appears that nearly all CRCL concerns raised in our initial comments/talking points on the NCTC Guidelines, with two exceptions:

(b) (5)



(b) (5)

Recommend we send something similar to Margo and ask to speak with her before the comments are transferred to Matt.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)

Sent: Friday, March 04, 2011 8:42 AM

To: Schlanger, Margo; (b) (6)

Subject: Re: NCTC REVISED AG GUIDELINES

(b) (6) and I will go over it and have a response for you this morning.

Most of our comments from before are summarized in the "talking point" document; we'll cross-walk it against what OGC is submitting and see how much we need to add to keep our equities preserved.

From: Schlanger, Margo

Sent: Friday, March 04, 2011 08:30 AM

To: (b) (6)

Subject: Fw: NCTC REVISED AG GUIDELINES

From my blackberry
Margo Schlanger

From: Callahan, Mary Ellen

Sent: Friday, March 04, 2011 08:25 AM

To: Kronisch, Matthew; Wagner, Caryn; Schlanger, Margo

Cc: (b) (6) Anderson, Audrey; (b) (6)

(b) (6)

Subject: Re: NCTC REVISED AG GUIDELINES

Thanks for the heads up, Matt. Privacy agreed with the ogc recommendations, thanks to you and (b) (6) for spearheading. We will have a few more comments on privacy issues directly, to you by cob today.

Thanks,
Mary Ellen

Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security

(b) (6)

From: Kronisch, Matthew
Sent: Friday, March 04, 2011 08:12 AM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6) Anderson, Audrey
Subject: RE: NCTC REVISED AG GUIDELINES

Colleagues,

(b) (5)

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

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

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From: Kronisch, Matthew
Sent: Wednesday, March 02, 2011 3:03 PM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6) Anderson, Audrey; Kronisch, Matthew
Subject: NCTC REVISED AG GUIDELINES

Colleagues,

Attached hereto are NCTC's draft revised AG guidelines. (b) (5)

Thanks.
Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)

Department of Homeland Security

(b) (6)

A large rectangular area of the document is redacted with a solid grey fill. The redaction covers the majority of the page's content, leaving only the header and footer visible.

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(b) (6)

From: (b) (6)
Sent: Friday, March 04, 2011 2:31 PM
To: Schlanger, Margo (b) (6)
Cc: (b) (6)
Subject: RE: NCTC REVISED AG GUIDELINES
Attachments: Comments AG Guidelines OGC Final Final (CRCL).docx

Margo,

(b) (6) and I have coordinated on the draft NCTC Guidelines and OGC's proposed changes. Many of the concerns that CRCL had with the draft NCTC Guidelines are addressed by OGC, and we strongly support their comments/changes, however, there are two areas where we believe additional changes are necessary:

(b) (5)



Given the limited time we've had to do the cross-comparison this morning, we may have some additional comments/concerns for OGC at a later time, but for now, we recommend supporting OGC's edits/comments, with these two additional edits.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: Schlanger, Margo
Sent: Friday, March 04, 2011 8:43 AM
To: (b) (6)
Subject: Re: NCTC REVISED AG GUIDELINES

Perfect

From my blackberry
Margo Schlanger

From: (b) (6)
Sent: Friday, March 04, 2011 08:41 AM
To: Schlanger, Margo; (b) (6)
Subject: Re: NCTC REVISED AG GUIDELINES

(b) (6) and I will go over it and have a response for you this morning.

Most of our comments from before are summarized in the "talking point" document; we'll cross-walk it against what OGC is submitting and see how much we need to add to keep our equities preserved.

From: Schlanger, Margo
Sent: Friday, March 04, 2011 08:30 AM
To: (b) (6)
Subject: Fw: NCTC REVISED AG GUIDELINES

From my blackberry
Margo Schlanger

From: Callahan, Mary Ellen
Sent: Friday, March 04, 2011 08:25 AM
To: Kronisch, Matthew; Wagner, Caryn; Schlanger, Margo
Cc: (b) (6); Anderson, Audrey; (b) (6)
(b) (6)

PISI;

Subject: Re: NCTC REVISED AG GUIDELINES

Thanks for the heads up, Matt. Privacy agreed with the ogc recommendations, thanks to you and (b) for spearheading. We will have a few more comments on privacy issues directly, to you by cob today.

Thanks,
Mary Ellen

Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security

(b) (6)

From: Kronisch, Matthew
Sent: Friday, March 04, 2011 08:12 AM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6); Anderson, Audrey
Subject: RE: NCTC REVISED AG GUIDELINES

Colleagues,

I understand that NCTC is now on their third round of edits with DOJ. I am sorry that it took me so long to complete the materials that I sent you, but I need to ask you to let me know immediately if you have any objections to my submitting these comments to DoJ and NCTC. I am sure that few if any will be accepted without discussion, and that we can amend or add as needed, but I am concerned that we not miss the opportunity to raise our concerns.

Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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From: Kronisch, Matthew
Sent: Wednesday, March 02, 2011 3:03 PM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6); Anderson, Audrey; Kronisch, Matthew
Subject: NCTC REVISED AG GUIDELINES

Colleagues,

Attached hereto are NCTC's draft revised AG guidelines. (b) (5)

(b) (5)

Thanks.
Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Friday, March 04, 2011 3:18 PM
To: Kronisch, Matthew; Callahan, Mary Ellen
Cc: Schlanger, Margo; Anderson, Audrey; (b) (6)
Subject: RE: NCTC REVISED AG GUIDELINES
Attachments: Comments AG Guidelines OGC Final Final (CRCL).docx

Matt,

Forwarding you comments on behalf of Margo, who is out of town today.

Thank you for soliciting our input. In general, CRCL strongly supports OGC's edits/comments, however, there are two areas where we believe additional changes are necessary:

(b) (5)



(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: Kronisch, Matthew
Sent: Friday, March 04, 2011 8:13 AM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6) Anderson, Audrey
Subject: RE: NCTC REVISED AG GUIDELINES

(b) (5)

A large rectangular area of the document is completely redacted with a solid grey block.

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

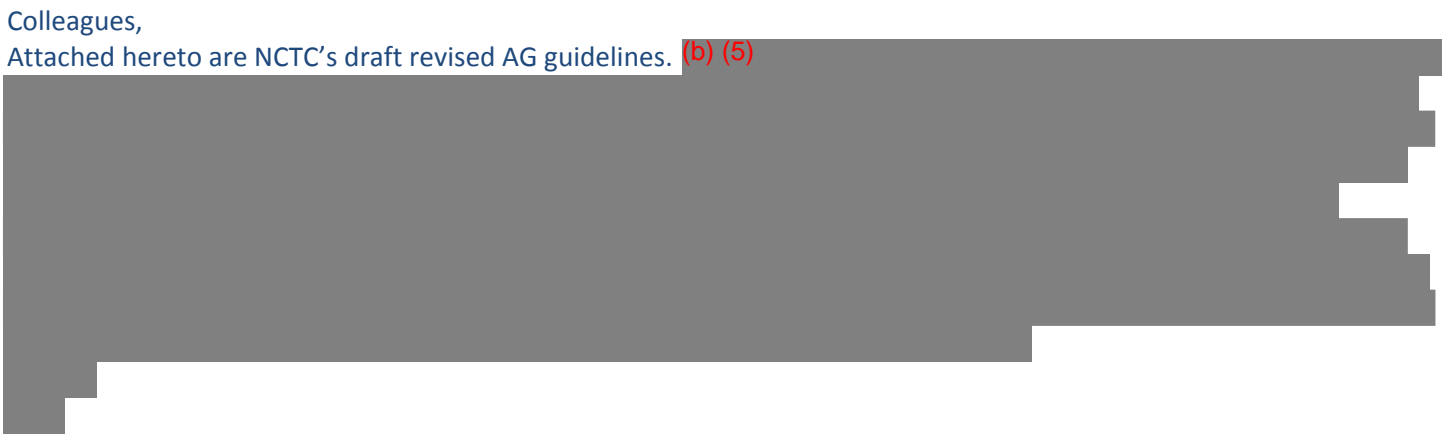
(b) (6)

A small rectangular area of the document is redacted with a solid grey block.

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From: Kronisch, Matthew
Sent: Wednesday, March 02, 2011 3:03 PM
To: Wagner, Caryn; Callahan, Mary Ellen; Schlanger, Margo
Cc: (b) (6); Anderson, Audrey; Kronisch, Matthew
Subject: NCTC REVISED AG GUIDELINES

Colleagues,
Attached hereto are NCTC's draft revised AG guidelines. (b) (5)

A large rectangular area of the document is completely redacted with a solid grey block.

(6)

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Security

(b) (6)

A large rectangular area of the document is redacted with a solid grey fill. The text "(b) (6)" is written in red at the top left corner of this redacted area.

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(b) (6)

From: (b) (6)
Sent: Sunday, April 01, 2012 10:49 AM
To: (b) (6) Hunt, Ken; Foster, Helen; (b) (6)
(b) (6)
Cc: (b) (6)
Subject: RE: S1 Meeting Monday
Attachments: S1 AG Guidelines Meeting 120402 v14 (CRCL2).docx; Tab 2 - DHS Datasets 120402 v14 (CRCL).docx

Attached please find additional comments/edits/recommendations from CRCL on the briefing memo and chart. Privacy, I've taken the liberty of including your office where I think we're in agreement (to save time, as we've not much of it); of course, please adjust where I am wrong/not entirely accurate.

Thanks for the opportunity to review.

(b) (6)

From: (b) (6)
Sent: Sun 4/1/2012 9:23 AM
To: (b) (6) Hunt, Ken; Foster, Helen; (b) (6)
Cc: (b) (6)
Subject: RE: S1 Meeting Monday

(b) (6)

Thanks for sharing these documents with CRCL for our comments. I'm reviewing them this morning, and have a few initial questions:

(b) (5)

CRCL have some more specific comments later.

(b) (6)

From: (b) (6)
Sent: Fri 3/30/2012 9:08 PM
To: (b) (6) Hunt, Ken; Foster, Helen; (b) (6)
Cc: (b) (6)
Subject: S1 Meeting Monday

(b) (6) Ken, Helen, (b) (6)

Late today we were asked to provide a brief summary of the status of DHS-NCTC information sharing agreements, for the S1 meeting with Mary Ellen, (b) etc. Attached is what we pulled together. Sorry, I would have forwarded this sooner, but I was caught up late this evening at DOE. Please do let us know if you have any questions or suggestions.

Further, Ken and Helen, if you have anything you can share from Mary Ellen's perspective, before Monday's meeting, that would be appreciated.

I hope you all have a wonderful weekend. Take care,
(b) (6)

(b) (6)

From: (b) (6)
Sent: Monday, April 02, 2012 1:56 PM
To: (b) (6)
Subject: RE: Draft ESTA Position Paper
Attachments: AG Guidelines ESTA S1 TP version3 (CRCL).docx

Sorry, forgot to check the save before I sent (again). Here are all of the edits.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Monday, April 02, 2012 1:32 PM
To: (b) (6)
Subject: FW: Draft ESTA Position Paper
Importance: High

Recommend the attached minor edits to the final draft of the ESTA paper. Also, would like to see attachments 6 as it is intended to be transmitted with the package.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Monday, April 02, 2012 10:51 AM
To: (b) (6); Richards, Rebecca; Hunt, Ken; Foster, Helen; Mathews, Scott; (b) (6);
(b) (6)
Subject: Draft ESTA Position Paper
Importance: High

All,

Please find the attached draft ESTA position paper that has been previously coordinated with the DHS Internal Records Working Group. We are sending this draft for review, final coordination, and awareness.

Thank you.

V/r,

(b) (6)

Policy Analyst | PKH Enterprises
Information Sharing and Intelligence Enterprise Management
Office of Intelligence and Analysis
Department of Homeland Security

(b) (6)

From: (b) (6)

Sent: Monday, April 02, 2012 10:18 AM

To: (b) (6) Richards, Rebecca; Hunt, Ken; Foster, Helen; Mathews, Scott; (b) (6)

(b) (6)

Cc: (b) (6)

Subject: Status/Next Steps for Six Datasets

All-

As you know, I&A is scheduling multiple meetings and crafting position papers for the six DHS datasets associated with the revised NCTC AG Guidelines. The attached paper gives everyone a snapshot of the status and next steps associated with each dataset. Please review and provide feedback if we have missed something.

Updates for today:

- ESTA Draft to be sent out for review today.
- APIS draft to be sent out for review by COB today.
- Cancellation of this week's Internals Records Working Group, will be replaced by an Internals Records Working Group early next week.

Thank you,

(b) (6)

(b) (6)

Intelligence Operations Specialist
Information Sharing and Collaboration Branch
Office of Intelligence & Analysis
Department of Homeland Security

(b) (6)

(b) (6)

From: (b) (6)
Sent: Thursday, May 12, 2011 10:07 AM
To: Schlanger, Margo
Cc: (b) (6)
Subject: Privacy Memo on Draft AG Guidelines
Attachments: AG Guidelines Memo V4 20110512_OGC_CRCL and PRIV edits (SM)(for MS).docx

Margo,

Attached please find Privacy's latest version of their memo on the draft AG Guidelines. (b) (5)

(if you agree

to).

(b) (5)



Privacy have expressed that they would like to get this into clearance as soon as possible.

(b) (6)

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Monday, May 16, 2011 3:56 PM
To: (b) (6)
Subject: FW: DHS/NCTC Records Working Group UPDATE
Attachments: IS Agreements Matrix v05 12May11 (CRCL).xls; Information Sharing Status v09 110512 (CRCL).docx

I&A have asked for our comments on their NCTC engagement working group overview documents. Would you like to take a look at my comments before I send them back? All comments on the word document are in the document. I've drafted some additional comments on the excel file, below, because I am not good with trying to insert them in Excel files.

(b) (6)

Thanks for the opportunity to comment on the overview documents. Please see CRCL's comments, attached. For the Excel file, I have added our new text in red, with recommended deletions in ~~strikethrough~~. In addition, we have a few comments on the Excel file, below:

(b) (5)

Please contact me if you have any questions/concerns.

(b) (6)

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Thursday, May 12, 2011 12:52 PM
To: (b) (6)

Subject: DHS/NCTC Records Working Group UPDATE

Importance: High

Good Afternoon DHS/NCTC Records Working Group Members!

As discussed, we will be moving to holding more meetings and expanding the focus in order to resolve the higher level, generic information sharing issues along side of specific agreement discussions as well.

After yesterday's meeting, I have consolidated comments provided by working group members into the attached documents. (These were introduced yesterday.)

Please take a moment to review and please provide any additional comments, etc for either document so that we can continue to track and adjudicate as we move forward.

As a reminder we will be meeting next Wednesday, details to are currently being worked out, in order to discuss the SEVIS MOU and updates to the working paper, etc.

Thank you for all of your efforts and please let me know if you have any questions.

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Monday, May 16, 2011 6:05 PM
To: (b) (6)
Cc: (b) (6)
Subject: RE: DHS/NCTC Records Working Group UPDATE
Attachments: Information Sharing Status v09 110512 (CRCL).docx; IS Agreements Matrix v05 12May11 (CRCL).xls

Thanks for the opportunity to comment on the overview documents. Please see CRCL's comments, attached. For the Excel file, I have added our new text in red, with recommended deletions in ~~strikethrough~~. In addition, we have a few comments on the Excel file, below:

(b) (5)

Please contact me if you have any questions/concerns.

(b) (6)

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

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

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From: (b) (6)
Sent: Thursday, May 12, 2011 12:52 PM
To: (b) (6)
Subject: DHS/NCTC Records Working Group UPDATE
Importance: High

Good Afternoon DHS/NCTC Records Working Group Members!

As discussed, we will be moving to holding more meetings and expanding the focus in order to resolve the higher level, generic information sharing issues along side of specific agreement discussions as well.

After yesterday's meeting, I have consolidated comments provided by working group members into the attached documents. (These were introduced yesterday.)

Please take a moment to review and please provide any additional comments, etc for either document so that we can continue to track and adjudicate as we move forward.

As a reminder we will be meeting next Wednesday, details to are currently being worked out, in order to discuss the SEVIS MOU and updates to the working paper, etc.

Thank you for all of your efforts and please let me know if you have any questions.

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Friday, May 20, 2011 5:55 PM
To: (b) (6); Foster, Helen; Hunt, Ken; (b) (6) Richards, Rebecca
Cc: (b) (6)
Subject: RE: For Monday
Attachments: DHS-NCTC Records Working Group Issues Summary 05202011 (CRCL).docx; Information Sharing Status v13 110520 (CRCL).docx

(b) (6)

Thanks for sharing these with us. I agree that joint read-aheads would be ideal. Given my understanding of the focus of this meeting, I have some suggested additions/revisions to both documents, attached. Please let me know what you think.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)
Sent: Friday, May 20, 2011 2:54 PM
To: Foster, Helen; (b) (6); Hunt, Ken; (b) (6) Richards, Rebecca
Cc: (b) (6)
Subject: RE: For Monday

Ken and (b) (6)

I understand you two will be the other +1's for Monday's meeting. Please find attached the two recommended "read-aheads" for that meeting. We'd appreciate any feedback. The one pager is a summarization of all the issues identified to date.

Many thanks for considering this. Take care,

(b) (6)

From: Foster, Helen
Sent: Friday, May 20, 2011 2:39 PM
To: (b) (6); Hunt, Ken; (b) (6); Richards, Rebecca
Cc: (b) (6)
Subject: RE: For Monday

Thanks (b) (6) —do you still expect to get a one pager out today?

Helen Foster
DHS Privacy Office
(b) (6)

From: (b) (6)
Sent: Friday, May 20, 2011 2:04 PM
To: Foster, Helen; (b) (6) Hunt, Ken; (b) (6) Richards, Rebecca
Cc: (b) (6)
Subject: RE: For Monday

Helen, et.al.,

As per our conversation, (b) (6) is forwarding to you now high-side (JWICS) an integrated PDF of all the use cases and examples we have received from NCTC for DHS data. Please do let us know if you have any questions. Many thanks,

(b) (6)

From: (b) (6)
Sent: Thursday, May 19, 2011 2:25 PM
To: Foster, Helen; (b) (6)
Cc: Hunt, Ken; (b) (6)
Subject: RE: For Monday

So who of us is going as the +1's? I understand it to be Ken (PRIV), (b) (6) and who from CRCL? Note, I'll have a one page draft of the issues by (latest) tomorrow, Friday morning. I look forward to working closely with you on this.

From: Foster, Helen
Sent: Thursday, May 19, 2011 2:04 PM
To: (b) (6)
Subject: RE: For Monday

I think it is a good idea, but would encourage to keep it very high level and brief.

Helen Foster
DHS Privacy Office
(b) (6)

From: (b) (6)
Sent: Thursday, May 19, 2011 1:59 PM
To: Foster, Helen; (b) (6)
Subject: For Monday

Helen and (b) (6)

Are you two the respective +1's for the Wagner/Callahan/Schlanger meeting Monday afternoon on DHS/NCTC information sharing agreements "progress"? I'll be coming to the meeting with Caryn. I'm working now to pull together

a one page draft of the issues (from the artifacts we have already been working). If it all possible, I think it would should pull together a single read-ahead for the three primaries, on status, issues, etc. What do you think?

Thanks,
(b) (6)

(b) (5)



I'm sorry I didn't get this meeting summary to you sooner, I'm afraid I've just been running out of time to do everything that I need to get done before I leave, and unfortunately, you haven't bought that camp bed for the SCIF we discussed, so that I can just move in here. 😊

I wanted to send to you last night my add'l comments on SEVIS and a wrap up of what happened in my meeting yesterday with NCTC on SEVIS. I'll send that to you in a separate email, but FYI, it is also significant as to this ongoing discussion of USPER retention.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)



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From: (b) (6)
Sent: Wednesday, May 25, 2011 9:49 AM
To: (b) (6)
Subject: RE: RAPS MOU Review

Fine with the changes. Couple of things:

(b) (5)



From: (b) (6)
Sent: Tuesday, May 24, 2011 11:17 PM
To: (b) (6)
Subject: RAPS MOU Review
Importance: High

(b) (6)

I've reviewed the attached draft RAPS agreement, and provided some additional material based on discussions b/w DHS and NCTC during our meeting this afternoon (which was on SEVIS, but touched issues relevant to both the RAPS and APIS MOUs). Would you please review my comments?

(b) (5)



(b) (5)

I'm not sure where I&A got the language that I am replacing—I don't see it in my previous archived drafts. In any case, I'm recommending we return to language very similar to language that we had

(b) (5)

My sense from the meeting with (b) yesterday, and the email that we received this afternoon indicating that a meeting on info sharing with S1 is being scheduled for June 2 (Thursday after next), is that DHS is being pressed to finalize these MOUs ASAP, so I think that if we intend to brief/involve Margo (particularly regarding the use and retention sections), we should probably do so very soon.

I&A has requested CRCL's comments by COB May 26 (Thursday).

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)

Sent: Tuesday, May 24, 2011 8:23 AM

To: Foster, Helen; (b) (6)

Richards, Rebecca; (b) (6) ; Hunt, Ken; (b) (6)

Cc: (b) (6)

Subject: RAPS MOU Review

Importance: High

Good Morning Everyone,

I recently revisited RAPS to see what questions/issues we had outstanding and have taken the liberty of updating our latest draft with language negotiated under SEVIS that I believe directly relates to our conversations on RAPS. (additionally supported by NCTC comments on intended use, etc.)

To this end, I would like to have the group review the attached draft to approve the inserted language, provide edits (if needed), and provide any additional questions we may have of NCTC. The goal ultimately will be to have this potentially ready for discussion at our next DHS/NCTC Records Working Group Meeting to be scheduled the week of 30MAY11.

If possible, I would like to request Critical comments/edits only, if we have captured everything appropriately, I will remove the "DHS:" comments. If new language is acceptable please affirm. If additional adjudication is required internally, I will schedule a telecon to adjudicate final comments.

The target goal for this review is by COB Thursday 26MAY11.

If anyone has any questions please let me know!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Tuesday, May 31, 2011 4:29 PM
To: I&A Exec Sec
Cc: CRCL Exec Sec; Schlanger, Margo; (b) (6)
Subject: RE: [Revised] S1BB - 06.02.11- Meeting re: Database Information Sharing - (Due: 05.31.11, 1700)
Attachments: Attachment A Information Sharing Status Summary v03 110527 (CRCL).docx; Attachment B Issues with Way Ahead v02 110527 (CRCL).doc; S1 Draft Memo Information Sharing v13 110527 (CRCL).doc

On behalf of CRCL Exec Sec:

Attached please find CRCL's edits to the proposed briefing papers. We are open to negotiating the particular phrasing of this material, however, we cannot clear on any version of a briefing memo that does not:

(b) (5)



Please contact (b) (6), a member of my information sharing staff, to address specific comments and edits. CRCL will stand by to receive revised versions of the briefing documents, to clear or provide additional edits.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6) &A Exec Sec

Sent: Tuesday, May 31, 2011 10:24 AM

To: (b) (6)

Subject: RE: [Revised] S1BB - 06.02.11- Meeting re: Database Information Sharing - (Due: 05.31.11, 1700)

All,

Due to this meeting being rescheduled, you may now have until COB today to submit comments/clearance on the attached.

Thank you,

(b) (6)

Correspondence Analyst
Executive Secretariat Office
Office of Intelligence and Analysis
Department of Homeland Security

(b) (6)

From: (b) (6) I&A Exec Sec

Sent: Friday, May 27, 2011 5:12 PM

To: (b) (6)

Subject: RE: [Revised] S1BB - 06.02.11- Meeting re: Database Information Sharing - (Due: 05.31.11, 1700)

All,

As required coordinators, please review the attached briefing memorandum and attachments for S1's upcoming meeting regarding Database Information Sharing and provide comments/clearance by **12pm on Tuesday, May 31st**.

Thank you,

(b) (6)

Correspondence Analyst
Executive Secretariat Office
Office of Intelligence and Analysis
Department of Homeland Security

(b) (6)

From: Ledbetter, Andrew

Sent: Thursday, May 26, 2011 11:48 AM

To: Ledbetter, Andrew; (b) (6)

Cc: BriefingStaffA

Subject: [Revised] S1BB - 06.02.11- Meeting re: Database Information Sharing - (Due: 05.31.11, 1700)

I&A has taken over as lead on this tasker. NPPD is now a required coordinator.

(b) (6)

Secretary's Briefing Book

Office of the Secretary

Department of Homeland Security

(b) (6)

(b) (5)



(b) (6)

From: (b) (6)
Sent: Wednesday, June 01, 2011 2:22 PM
To: (b) (6)
Subject: FW: RAPS MOU Review - DELIBERATIVE
Attachments: Progress on NCTC Engagement Over Past Two Years 05-23-11.docx; Information Sharing Status v14 110523.docx; DHS-NCTC Records Working Group Issues Summary v03 110523.docx; DHS-NCTC RAPS MOU DRAFT DHS Adjudication 1JUN11 (CRCL).docx
Importance: High

Looking to follow up w/you if possible regarding the RAPS MOU and the issue of briefing Margo, generally. I know you've had a ton on your plate, so to summarize:

- 1) Last week I sent you this email with RAPS comments and a suggestion about briefing (b) (6) on the retention period/broader use issue, with the goal of having some answers for NCTC in my next meeting with them, and having Margo prepared for the "information sharing" S1 meeting which had just shown up on her calendar

(b) (5)

I'd like to send in my additional comments on the newly circulated version of the RAPS MOU tonight, if possible, to make sure that my add'l (minor) discussion points are on the agenda and in what we finally send over to NCTC (which should happen Friday).

(b) (6)

From: (b) (6)
Sent: Wednesday, May 25, 2011 12:07 PM

(b) (5)

I'm sorry I didn't get this meeting summary to you sooner, I'm afraid I've just been running out of time to do everything that I need to get done before I leave, and unfortunately, you haven't bought that camp bed for the SCIF we discussed, so that I can just move in here. 😊

(b) (5)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)

Sent: Wednesday, May 25, 2011 9:49 AM

To: (b) (6)

Subject: RE: RAPS MOU Review

Fine with the changes. Couple of things:

(b) (5)



Fr (b) (6)

Sent: Tuesday, May 24, 2011 11:17 PM

To: (b) (6)

Subject: RAPS MOU Review

Importance: High

(b) (6)

I've reviewed the attached draft RAPS agreement, and provided some additional material based on discussions b/w DHS and NCTC during our meeting this afternoon (which was on SEVIS, but touched issues relevant to both the RAPS and APIS MOUs). Would you please review my comments?

(b) (5)



(b) (5)

I&A has requested CRCL's comments by COB May 26 (Thursday).

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)

Sent: Tuesday, May 24, 2011 8:23 AM

To: Foster, Helen; (b) (6)
Richards, Rebecca; (b) (6) ; Hunt, Ken; (b) (6)

Cc: (b) (6)

Subject: RAPS MOU Review

Importance: High

Good Morning Everyone,

I recently revisited RAPS to see what questions/issues we had outstanding and have taken the liberty of updating our latest draft with language negotiated under SEVIS that I believe directly relates to our conversations on RAPS. (additionally supported by NCTC comments on intended use, etc.)

To this end, I would like to have the group review the attached draft to approve the inserted language, provide edits (if needed), and provide any additional questions we may have of NCTC. The goal ultimately will be to have this potentially ready for discussion at our next DHS/NCTC Records Working Group Meeting to be scheduled the week of 30MAY11.

If possible, I would like to request Critical comments/edits only, if we have captured everything appropriately, I will remove the "DHS:" comments. If new language is acceptable please affirm. If additional adjudication is required internally, I will schedule a telecon to adjudicate final comments.

The target goal for this review is by COB Thursday 26MAY11.

If anyone has any questions please let me know!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)



"Facta, non verba"

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

From: (b) (6)
Sent: Friday, June 17, 2011 10:18 AM
To: (b) (6)
Cc: (b) (6)
Subject: Fw:
Importance: High

(b) (5)

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

From: Schlanger, Margo
Sent: Friday, June 17, 2011 10:12 AM
To: (b) (6)
Subject: FW:

Someone should have gotten me in the loop on this, even if I was busy. At least after the fact.

Margo Schlanger
Officer for Civil Rights and Civil Liberties <http://www.dhs.gov/crc1> U.S. Department of
Homeland Security

(b) (6)

(b) (6)

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

From: Cohen, John
Sent: Friday, June 17, 2011 10:12 AM
To: Callahan, Mary Ellen; Schlanger, Margo
Subject: Re:

(b) (5)

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

From: Callahan, Mary Ellen

Sent: Friday, June 17, 2011 09:52 AM

To: Cohen, John; (b) (6) Foster, Helen; (b) (6)

(b) (6); Schlanger, Margo

Subject: Re:

Yes, they were complete non sequiturs, non-responsive, and did not demonstrate the underlying issues. Copying all. Talk to becky if you have questions. We were quite clear in why we non concurred, maybe you didn't get that info. Mec.

Mary Ellen Callahan
Chief Privacy Officer
Department of Homeland Security

Work: (b) (6)

Cell: (b) (6)

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

From: Cohen, John

Sent: Friday, June 17, 2011 09:08 AM

To: Callahan, Mary Ellen

Subject:

U and (b) (6) non concurred on operational examples?

John Cohen

Principal Deputy Counterterrorism Coordinator and Senior Advisor to the Secretary United States Department of Homeland Security

(b) (6)

From: (b) (6)
Sent: Friday, June 03, 2011 10:05 AM
To: (b) (6)
Subject: FW: S1 Briefing Package
Attachments: Attachment A Information Sharing Status Summary v08 110603 (CRCL).docx; Attachment B Issues with Way Ahead v07 110603 (CRCL).doc; S1 Draft Memo Information Sharing v22 110603 (CRCL).doc

Importance: High

I've scaled back comments to try to meet the 2-page limit on the actual briefer, but it's hard (I'm over by two lines, when you take the TC off). It would help if they eliminated the large paragraph that I TOLD them last time is not the big hang up (and as CRCL, they should probably take my word for it that I know what CRCL's issues are, but whatever).

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)
Sent: Friday, June 03, 2011 8:20 AM
To: (b) (6); Foster, Helen G; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 Briefing Package

(b) (6) Helen, and Ken,

We have attempted to ***greatly*** simplify the attached, incorporating all the comments from the stakeholders (including yours, thank you!) – to include no recommended paths forward.

If you would quickly review and communicate back – to include (b) (6) – any show stoppers, we'd appreciate it (b) (6) reach out by telephone. Thanks,

(b) (6)

From: (b) (6)
Sent: Thursday, June 02, 2011 7:41 PM
To: (b) (6); Foster, Helen G; (b) (6); Hunt, Ken
Cc: (b) (6)
Subject: Re: S1 Briefing Package

(b) (6)

I am happy to work with you on this briefing early tomorrow.

(b) (6)

From: (b) (6)
Sent: Thursday, June 02, 2011 06:45 PM
To: Foster, Helen (b) (6); Hunt, Ken (b) (6)
Cc: (b) (6)
Subject: RE: S1 Briefing Package

Helen, Ken, and (b) (6)

[Note, I'm not meaning to leave (b) (6) or Becky off distribution – not sure who all should be included. Please expand distribution if I've missed someone. Thank you.]

I need your help. Tomorrow, Friday morning, we need to collectively come to agreement on an S1 (two-page) paper for the meeting occurring now on Monday. A boiled down – no advocacy, just a statement of the issues – paper is due up to John Cohen mid-morning. We need to come to agreement on just such a simplified paper early in the a.m.

We plan to have revised, and simplified draft ready for your review before 9am. Would you please make time to iterate closely with us on this?

Your help is most appreciated. Take care,

(b) (6)

From: (b) (6)
Sent: Tuesday, May 31, 2011 4:20 AM
To: Foster, Helen; (b) (6); Hunt, Ken
Cc: (b) (6)
Subject: S1 Briefing Package

Helen, Ken, and (b) (6)

FYI, for the S1 meeting Thursday, the attached drafts (a primary memo, with two attachments) are coming through official ESEC channels, however, we wanted to provide them to you directly. The intent here was to summarize our issues paper (in only two pages, as per the S1 format) plus give the status of current agreements, and then specifically to separate out the issues for which we have a way ahead into an attachment. Thank you in advance for considering these with us. Take care,

(b) (6)

(b) (6)

From: (b) (6)
Sent: Friday, June 03, 2011 10:41 AM
To: (b) (6); Foster, Helen G; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 Briefing Package
Attachments: Attachment A Information Sharing Status Summary v08 110603 (CRCL).docx; Attachment B Issues with Way Ahead v07 110603 (CRCL).doc; S1 Draft Memo Information Sharing v22 110603 (CRCL).doc

Thank you for circling back with CRCL. I have tried my best to make sure that the BM stays at 2 pages, while still addressing all the key concerns.

Am available by phone to talk out last minute edits.

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Friday, June 03, 2011 8:20 AM
To: (b) (6); Foster, Helen G; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 Briefing Package

(b) (6) Helen, and Ken,

We have attempted to ***greatly*** simplify the attached, incorporating all the comments from the stakeholders (including yours, thank you!) – to include no recommended paths forward.

If you would quickly review and communicate back – to include (b) (6) – any show stoppers, we'd appreciate it (b) (6) will reach out by telephone. Thanks,

(b) (6)

From: (b) (6)
Sent: Thursday, June 02, 2011 7:41 PM
To: (b) (6); Foster, Helen G; (b) (6); Hunt, Ken

Cc: (b) (6)

Subject: Re: S1 Briefing Package

(b) (6)

I am happy to work with you on this briefing early tomorrow.

(b) (6)

From: (b) (6)

Sent: Thursday, June 02, 2011 06:45 PM

To: Foster, Helen (b) (6); (b) (6) Hunt, Ken (b) (6)

Cc: (b) (6)

Subject: RE: S1 Briefing Package

Helen, Ken, and (b) (6)

[Note, I'm not meaning to leave (b) (6) or Becky off distribution – not sure who all should be included. Please expand distribution if I've missed someone. Thank you.]

I need your help. Tomorrow, Friday morning, we need to collectively come to agreement on an S1 (two-page) paper for the meeting occurring now on Monday. A boiled down – no advocacy, just a statement of the issues – paper is due up to John Cohen mid-morning. We need to come to agreement on just such a simplified paper early in the a.m.

We plan to have revised, and simplified draft ready for your review before 9am. Would you please make time to iterate closely with us on this?

Your help is most appreciated. Take care,

(b) (6)

From: (b) (6)

Sent: Tuesday, May 31, 2011 4:20 AM

To: Foster, Helen; (b) (6) Hunt, Ken

Cc: (b) (6)

Subject: S1 Briefing Package

Helen, Ken, and (b) (6)

FYI, for the S1 meeting Thursday, the attached drafts (a primary memo, with two attachments) are coming through official ESEC channels, however, we wanted to provide them to you directly. The intent here was to summarize our issues paper (in only two pages, as per the S1 format) plus give the status of current agreements, and then specifically to separate out the issues for which we have a way ahead into an attachment. Thank you in advance for considering these with us. Take care,

(b) (6)

(b) (6)

From: (b) (6)
Sent: Tuesday, July 12, 2011 3:09 PM
To: (b) (6)
Subject: Additional Talking Points for (b) (6)
Attachments: Talking Points Regarding DHS Response to NCTC Bulk Information Sharing Requests.docx

(b) (6)

Would you take a look at the attached and see if it meets what (b) (6) were looking for?

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Thursday, July 14, 2011 1:25 PM
To: (b) (6); Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)
(b) (6)
(b) (6)
(b) (6)
Subject: RE: URGENT S1 Task for Read Aheads (Clearance)
Attachments: S1 Briefing Memo Info Sharing (CRCL).doc; System Description of DHS Datasets Shared with NCTC (CRCL).doc; Table 1 Information Sharing Activities (CRCL).docx

Attached please find CRCL's comments. Just a few edits to the description of the tasks (to make clear that some of the agreements are not new), to the system descriptions (think there might have been a typo on the last three), and to the memo and table w/r/t the description of TECS (it is our understanding that techs is a system for accessing multiple datasets, rather than a dataset itself, and recommend some adjustments on that basis).

Thanks,

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)
Sent: Thursday, July 14, 2011 11:17 AM
To: Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)
Subject: URGENT S1 Task for Read Aheads (Clearance)
Importance: High

Good Morning Everyone,

It is that time again, there is an update meeting being held on July 19, 2011 on our current status of information sharing with NCTC.

Attached please find drafts of requested read ahead material for your clearance. Due to the tight turn around, I have to ask for final clearance back from everyone by no later than 1400 (2:00pm TODAY) Please provide comments in track changes or statement of final clearance.

I thank you all in advance for your assistance!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Friday, July 29, 2011 7:56 PM
To: (b) (6); Foster, Helen; Richards, Rebecca; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 BM Info Sharing AG Guidelines
Attachments: S1 Briefing Memo Info Sharing v02 110727 (CRCL2).docx; table v02 (CRCL).docx

Ok, here's my first go at the BM and chart. I still haven't located the PNR SORN, so any help you can provide identifying possible concerns (like insufficient routine uses) would be greatly appreciated.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)
Sent: Friday, July 29, 2011 4:44 PM
To: Foster, Helen; Richards, Rebecca; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 BM Info Sharing AG Guidelines

I&A has asked us to have our comments in by 10am on Monday morning, and we have a meeting with them at the NAC at that time. How about I finish up putting my thoughts as I have them now in the chart, and send you a version of the BM and chart with some starter language. Perhaps someone in PRIV could take a look over the weekend or very early on Monday? This is an S1 briefer, so I do need to clear through my folks here, and will need at least 9am-9:30 to get that done.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: Foster, Helen
Sent: Friday, July 29, 2011 4:38 PM
To: (b) (6); Richards, Rebecca; Hunt, Ken
Cc: (b) (6)
Subject: RE: S1 BM Info Sharing AG Guidelines

Thanks (b) (6) for doing all of this headwork. As you may have heard—we are scrambling in PRIV right now on some other things, and Ken is the sole PISI person in the office today. Can we plan to talk first thing on Monday morning?

From: (b) (6)
Sent: Friday, July 29, 2011 2:11 PM
To: Richards, Rebecca; Hunt, Ken; Foster, Helen
Cc: (b) (6)
Subject: RE: S1 BM Info Sharing AG Guidelines

I have some concerns about the proposed sharing, that I think you probably share. This is not necessarily final language, but my concerns would basically be expressed as:

(b) (5)



What do you think?

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security
(b) (6)

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From: Richards, Rebecca
Sent: Friday, July 29, 2011 12:18 PM
To: Hunt, Ken; Foster, Helen
Cc: (b) (6)
Subject: FW: S1 BM Info Sharing AG Guidelines
Importance: High

Ken and Helen:

(b) (6) has some ideas and since I am in vacation mode I told her to hunt you guys down.

Becky

From: (b) (6)
Sent: Friday, July 29, 2011 11:29 AM
To: Foster, Helen; Hunt, Ken; Richards, Rebecca
Subject: FW: S1 BM Info Sharing AG Guidelines
Importance: High

Have you guys had a chance to look at these yet? I have an idea of how I would like to respond, but I think our concerns will probably be the same, and would like to coordinate with Privacy, if possible.

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Thursday, July 28, 2011 9:40 AM
To: Hunt, Ken; (b) (6) Foster, Helen; Richards, Rebecca; (b) (6)

Subject: S1 BM Info Sharing AG Guidelines
Importance: High

Good Morning Everyone,

As you may all be aware there is another S1 meeting coming up, next week some time I believe (possibly week after next), where updates will be provided on current status. There is also an additional request where we have been asked to address the potential for the draft Attorney General Guidelines which could (b) (5) In order to address the issue, the S1 has requested input on the topic. In order to capture the entire issue we have prepared the attached draft S1 BM and table.

Please review the BM and table and provide input as required in track changes. The table has a section for the components to add information on how our NCTC relationship works or what we have requested from NCTC in return

when they review your information. For oversight offices, there is a location to appropriately capture any concerns that should be addressed.

If we could get input back by noon tomorrow that would be great, I know this is tight, but we want to ensure we capture everything and staff appropriately. The entire package will go back out for final clearance once all the parts are assembled.

Thanks everyone for your hard work!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Monday, August 01, 2011 4:31 PM
To: (b) (6)
Subject: S1 Briefing Materials DELIBERATIVE
Attachments: S1 Briefing Memo Info Sharing v02 110727 (CRCL2)(PRIV)(CRCL3).docx; table v02 (CRCL wPRIV).docx; S1 Briefing Memo Info Sharing v02 110727 (CRCL FINAL).docx

Sorry it took me longer that I hoped to get these to you for re-clearance. I had a productive discussion with (b) (6) and Ken Hunt after my PNR meeting this afternoon. Got the preliminary ruling from OGC on my argument about the SORN issue, and basically, it looks like if we make this recommendation as I originally worded it, OGC will cut all the force and effect out of it by stating that as a legal matter it is not necessary. Apparently, OGC has already (at Audrey's level) taken the position (b) (5)

(b) (5)

The (CRCL2)(PRIV)(CRCL3) doc has all the track changes, so you can see what text of mine WKH edited out. The (CRCL FINAL) and (CRCL wPRIV) chart are what I propose sending to I&A tonight.

(b) (6)

(b) (6)

From: (b) (6)
Sent: Monday, August 01, 2011 8:14 PM
To: (b) (6); Hunt, Ken; 'Foster, Helen'; Richards, Rebecca; (b) (6),
(b) (6)
(b) (6)
(b) (6)
Subject: RE: S1 BM Info Sharing AG Guidelines
Attachments: S1 Briefing Memo Info Sharing v02 110727 (CRCL FINAL).docx; table v02 (CRCL FINAL).docx

Sorry I couldn't get this to you this morning, but attached please find comments/edits from CRCL for the briefing memo and chart. W/r/t the memo, we realize there's a hard and fast length limitation at work; made a few suggestions about where it would be best to truncate some things and get the biggest bang for our buck.

Thanks again for the extra time and the very helpful meeting this morning.

(b) (6)

From: (b) (6)
Sent: Thursday, July 28, 2011 9:40 AM
To: Hunt, Ken; (b) (6); Foster, Helen; Richards, Rebecca; (b) (6);
(b) (6)
(b) (6)
Subject: S1 BM Info Sharing AG Guidelines
Importance: High

Good Morning Everyone,

As you may all be aware there is another S1 meeting coming up, next week some time I believe (possibly week after next), where updates will be provided on current status. There is also an additional request where we have been asked to address the potential for the draft Attorney General Guidelines which could (b) (5) [redacted]. In order to address the issue, the S1 has requested input on the topic. In order to capture the entire issue we have prepared the attached draft S1 BM and table.

Please review the BM and table and provide input as required in track changes. The table has a section for the components to add information on how our NCTC relationship works or what we have requested from NCTC in return when they review your information. For oversight offices, there is a location to appropriately capture any concerns that should be addressed.

If we could get input back by noon tomorrow that would be great, I know this is tight, but we want to ensure we capture everything and staff appropriately. The entire package will go back out for final clearance once all the parts are assembled.

Thanks everyone for your hard work!

Respectfully,

(b) (6)

Information Sharing Access Coordinator

(b) (6)



"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Tuesday, August 02, 2011 2:29 PM
To: (b) (6)
Cc: (b) (6)
Subject: FW: S1 BM Info Sharing AG Guidelines - DELIBERATIVE
Attachments: S1 Briefing Memo Info Sharing v02 110727 (CRCL FINAL).docx; table v02 (CRCL FINAL).docx; Routine Uses Supporting Current MOUs.docx

(b) (6)

Here's the comments to the S1 briefing memo and companion chart that I sent in yesterday. ISIS tried to coordinate with PRIV as much as we could on the content, as the retention period and SORN routine use issue are mainly their issues (though there are obviously significant potential civil liberties issues involved).

(b) (5)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)

Sent: Monday, August 01, 2011 8:14 PM

To: (b) (6) Hunt, Ken; 'Foster, Helen'; Richards, Rebecca; (b) (6)

Subject: RE: S1 BM Info Sharing AG Guidelines

Sorry I couldn't get this to you this morning, but attached please find comments/edits from CRCL for the briefing memo and chart. W/r/t the memo, we realize there's a hard and fast length limitation at work; made a few suggestions about where it would be best to truncate some things and get the biggest bang for our buck.

Thanks again for the extra time and the very helpful meeting this morning.

(b) (6)

From: (b) (6)

Sent: Thursday, July 28, 2011 9:40 AM

To: Hunt, Ken; (b) (6) Foster, Helen; Richards, Rebecca (b) (6);

(b) (6)

Subject: S1 BM Info Sharing AG Guidelines

Importance: High

Good Morning Everyone,

As you may all be aware there is another S1 meeting coming up, next week some time I believe (possibly week after next), where updates will be provided on current status. There is also an additional request where we have been asked to address the potential for the draft Attorney General Guidelines which could potentially (b) (5) in order to address the issue, the S1 has requested input on the topic. In order to capture the entire issue we have prepared the attached draft S1 BM and table.

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(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Wednesday, August 03, 2011 2:03 PM
To: (b) (6); Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)
Subject: RE: Please Review and Return (S1 Briefing Memo and Status Update)
Attachments: NCTC-DHS Information Sharing Agreements v45 (2)(PRIV)(CRCL).docx; S1 Briefing Memo Info Sharing v06 110802(PRIV)(CRCL).docx

Attached please find CRCL's comments on the revised memo and new chart. To try to make things easier, I've put our comments on top of the versions PRIV circulated this morning. Please contact me if you have any questions or concerns.

Thanks,

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)

Sent: Tuesday, August 02, 2011 1:52 PM

To: Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)

Subject: Please Review and Return (S1 Briefing Memo and Status Update)

Importance: High

Thank you to everyone who has submitted input thus far.

We would like to send out the Briefing Memo and status update charts for final clearance.

Attached you will find the Briefing Memo and a single document with three (3) tables to review for content.

Please provide clearance/no comment or comments/edits in track changes no later than 2:00pm tomorrow. (August 3, 2011.)

If you have any questions please let me know.

Thanks everyone!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Tuesday, August 09, 2011 8:32 AM
To: (b) (6)
Subject: Re: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

Yes, this makes sense. Thanks for the updates.

(b) (5)

From: (b) (6)
Sent: Tuesday, August 09, 2011 07:51 AM
To: (b) (6)
Subject: RE: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

(b) (6)

Great questions.

(b) (5)

Does this make sense?

(b) (6)

From: (b) (6)
Sent: Monday, August 08, 2011 12:41 PM
To: (b) (6)
Subject: RE: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

(b) (6)

I do have some questions, with regard to the briefing documents, as I believe they are intended to serve as talking points for the group.

1 (b) (5)

(b) (5)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)

Sent: Monday, August 08, 2011 12:04 PM

To: (b) (6)

Subject: RE: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

(b) (6) thanks for your note. Given that our intent is to reprise the collaborative discussion we gave at the CHS meeting on 06/15, I think we are good. Do you agree? I think all should go well, and the emphasis on how we are collectively working as a DHS and NCTC team is the key. Please do let me know if you have any other concerns. I'm more than happy to give you a call so we can discuss by telephone. Thanks, - (b) (6)

From: (b) (6)

Sent: Monday, August 08, 2011 11:10 AM

To: (b) (6)

Hunt, Ken;

(b) (6)

Cc: (b) (6)

Foster, Helen; (b) (6)

Richards, Rebecca;

(b) (6)

Subject: RE: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

Do we still plan to telecon before the briefing?

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

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

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From: (b) (6)
Sent: Tuesday, August 02, 2011 4:59 PM
To: (b) (6); Hunt, Ken; (b) (6)
(b) (6)
Cc: (b) (6); Foster, Helen; (b) (6); Richards, Rebecca
Subject: Update: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

Thanks to (b) (6) updates, please see the attached talking points. The second status file (with tables) remains the same.

From: (b) (6)
Sent: Tuesday, August 02, 2011 4:44 PM
To: (b) (6); Hunt, Ken; (b) (6)
(b) (6)
Cc: (b) (6); Foster, Helen; (b) (6); Richards, Rebecca
Subject: Read-Aheads: SSCI Briefing, Information Sharing / Data Retention

Please find attached two DHS-internal (not for distribution to staffers) read-aheads related to tomorrow, Wednesday's visit with (b) (6). Recommendation is we reprise the successful DHS-internal DHS-NCTC Records Working Group visit we made with (b) (6) to CHS staff on June 15th. The read-aheads include both a paper with talking points, and an updated version of the DHS-NCTC information sharing agreements status tables. I'm including on distribution:

(b) (6)



(b) (6)

From: (b) (6)
Sent: Friday, September 09, 2011 6:58 PM
To: (b) (6)
Subject: RE: (b) (5) on Monday
Attachments: (b) (5)

Sorry I took so long to get this to you (my afternoon was busier than I anticipated). Attached please find a revised flow chart—10 easy steps! Do you think it's feasible that you could put this in a word document, or should I forward it to (b) (6) and try to speak with him Monday morning regarding getting this in a more professional format and on the agenda for the 2pm meeting?

(b) (6)

From: (b) (6)
Sent: Friday, September 09, 2011 10:30 AM
To: (b) (6)
Subject: Re: (b) (5) on Monday

Okay. Call my BB.

From: (b) (6)
Sent: Friday, September 09, 2011 10:26 AM
To: (b) (6)
Subject: RE: (b) (5) on Monday

Do you have time for a chat just now about the doodle I sent?

From: (b) (6)
Sent: Friday, September 09, 2011 10:24 AM
To: (b) (6)
Subject: Re: (b) (5) on Monday

Sure.

From: (b) (6)
Sent: Friday, September 09, 2011 10:23 AM
To: (b) (6)
Subject: (b) (5) on Monday

(b) (6)

I&A sent out a calendar invitation to a meeting on Monday on (b) (5). There's a call-in number, so I plan to call in and participate.

I called (b) (6) this morning to get a read on whether we had any news on possible movement on the AG guidelines (the calendar language was ambiguous), and he said that there was nothing imminent that I&A was aware of, but they want to meet again quickly because S1 has been asking about progress on this.

Should we try to push the flow chart idea to them today, to try to get it on the agenda for the meeting?

(b) (6)

Pineiro, Fernando

From: (b) (6)
Sent: Thursday, October 13, 2011 4:40 PM
To: (b) (6)
Cc: (b) (6)
Subject: CRCL and the Proposed AG Guidelines for NCTC
Attachments: (b) (5) Talking Points Regarding the Appropriateness of DHS Exercising Discretion in Retention Periods.docx; Callahan Schlanger S1 Memo.pdf; Comments AG Guidelines OGC Final Final (CRCL).docx

(b) (6)

Just in case (b) (6) need some material in response to movement on the AG Guidelines themselves while I am gone:

Michael and I have been working for some months to brief Margo, (b) (6) on issues related to the draft AG Guidelines. Our biggest, but not sole concern, (b) (5)

I've attached the versions for (b) (5)

(b) (5)

Also attached find comments CRCL sent to OGC to be included in our interagency response to the draft AG guidelines when they were first circulated. They may be helpful if the guidelines come around again. Generally (b) (5)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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Homeland Security

May 12, 2011

INFORMATION

MEMORANDUM FOR: Secretary Janet Napolitano

FROM:

Mary Ellen Callahan
Chief Privacy Officer

A handwritten signature in blue ink that reads "Mary Ellen Callahan".

Margo Schlanger
Officer for Civil Rights and Civil Liberties

A handwritten signature in blue ink that reads "Margo Schlanger".

SUBJECT:

How Best to Express the Department's Privacy and Civil Liberties-Related Concerns over Draft Guidelines Proposed by the Office of The Director of National Intelligence and the National Counterterrorism Center

(b) (5)

A large, solid grey rectangular redaction box covers the majority of the lower half of the page, obscuring the main body of the memorandum's content.

(b) (6)

From: (b) (6)
Sent: Wednesday, October 05, 2011 2:34 PM
To: (b) (6)
Subject: FW: NCTC-DHS Information Sharing Agreements Status Table
Attachments: NCTC-DHS Information Sharing Agreements v61 111004.doc; NCTC-DHS Information Sharing Agreements v60 110901 (CRCL).doc

Importance: High

Attached please find the latest version of the status chart, which I've been asked to update for COB today. I sent edits to v.60 (see attached) on September 7, most of which were not adopted. I sent them again on September 21, with a request to (b) (6), if they decided not to add my material, to please reach out to me to discuss why they didn't think it was appropriate. I received v.61 yesterday, it not only does not have my material from September 21, it rolled back some previous edits that they had accepted into the version circulated 9/20.

I'd really like to see our edits made. How would you like to proceed? I think this was probably an oversight (again), so I'm inclined to send them again with a polite but firm note that this is the third time we'll be sending these edits, so if I&A doesn't want to make the change, we'd really like to sit down and discuss it with them, and then see what happens. If my stuff doesn't get in and we don't hear from them, then I think we have our answer.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

(b) (6)

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From: (b) (6)
Sent: Tuesday, October 04, 2011 10:07 AM
To: Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)

Subject: NCTC-DHS Information Sharing Agreements Status Table
Importance: High

Good Morning Everyone,

It has been awhile since we have updated our status tables and we would like to send out another update by Thursday of this week.

Please review the attached and provide updates as needed via track changes no later than COB tomorrow, Wednesday.

If you have any questions or would like to discuss any portion of the document, please let (b) (6) and I know and we can schedule a quick phone call/in-person meeting.

Thanks everyone!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Wednesday, October 05, 2011 4:26 PM
To: (b) (6)
Subject: RE: NCTC-DHS Information Sharing Agreements Status Table
Attachments: NCTC-DHS Information Sharing Agreements v60 110901 (CRCL).doc

(b) (6),

Attached please find CRCL's edits. We sent these comments on 9/7 and 9/21 but, for whatever reason, they did not make it into the version 61. If this was an oversight, would you please update the tables accordingly? If this is not an oversight, could we arrange for CRCL and I&A to discuss the proposed edits?

Thanks,
(b) (6)

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Tuesday, October 04, 2011 10:07 AM
To: Hunt, Ken; Foster, Helen; Richards, Rebecca; (b) (6)

(b) (6)

Subject: NCTC-DHS Information Sharing Agreements Status Table
Importance: High

Good Morning Everyone,

It has been awhile since we have updated our status tables and we would like to send out another update by Thursday of this week.

Please review the attached and provide updates as needed via track changes no later than COB tomorrow, Wednesday.

If you have any questions or would like to discuss any portion of the document, please let (b) (6) and I know and we can schedule a quick phone call/in-person meeting.

Thanks everyone!

Respectfully,

(b) (6)

Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

Pineiro, Fernando

From: (b) (6)
Sent: Monday, November 07, 2011 11:44 AM
To: (b) (6)
Subject: FW: Action Items and Final Draft of Working Group Process Document (DELIBERATIVE)
Attachments: NCTC AG Guidelines FINAL DRAFT 111104 (CRCL).docx
Importance: High

(b) (6)

Attached please find the document I mentioned in our phone call on Friday. After we spoke, I&A sent the document out in a formal tasking, and requested that we provide comments by COB today.

I've reviewed the attached. Most of my comments from the prior version and my verbal comments during the meeting were accepted. Unfortunately, my comment on #8 was not accepted. I have re-inserted this comment. (b) (5)

Also, though it does not necessarily impact our comments, I would like to discuss #3 with you at your earliest convenience (preferably before my NCTC Engagement meeting tomorrow afternoon).

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Friday, November 04, 2011 1:34 PM
To: Hunt, Ken; Hart, (b) (6)
(b) (6); Richards, Rebecca; Foster, Helen; (b) (6)

Subject: Action Items and Final Draft of Working Group Process Document
Importance: High

Thank you to everyone for your hard work thus far! We had a great meeting today and have a few action items to resolve upon prior to our next meeting that will be scheduled for Tuesday of this coming week. Please review the action items below and provide input by COB Monday (7NOV11).

(b) (5)



Please let me know if you have any additional questions.

Thanks again and have a great weekend!

Respectfully,

(b) (6)



Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)



"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Monday, November 07, 2011 3:27 PM
To: (b) (6); Hunt, Ken; (b) (6)
(b) (6); Richards, Rebecca; Foster, Helen; (b) (6)
(b) (6)
(b) (6)

Subject: RE: Action Items and Final Draft of Working Group Process Document
Attachments: NCTC AG Guidelines FINAL DRAFT 111104 (CRCL).docx

Attached please find CRCL's edits.

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Friday, November 04, 2011 1:34 PM
To: Hunt, Ken; (b) (6)
(b) (6); Richards, Rebecca; Foster, Helen; (b) (6)

Subject: Action Items and Final Draft of Working Group Process Document
Importance: High

Thank you to everyone for your hard work thus far! We had a great meeting today and have a few action items to resolve upon prior to our next meeting that will be scheduled for Tuesday of this coming week. Please review the action items below and provide input by COB Monday (7NOV11).

(b) (5)

(b) (5)



Please let me know if you have any additional questions.

Thanks again and have a great weekend!

Respectfully,

(b) (6)



Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)



"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Tuesday, January 17, 2012 11:05 AM
To: (b) (6)
Subject: Proposed language for addition to AG Guidelines Track 3
Attachments: 01-13-12 Proposed Addition to Track 3 Temp Retention Period.docx

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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(b) (6)

From: (b) (6)
Sent: Tuesday, November 08, 2011 12:44 PM
To: (b) (6); Hunt, Ken; (b) (6),
(b) (6) Richards, Rebecca; Foster, Helen; (b) (6)
(b) (6)
(b) (6)

Subject: RE: Action Items and Final Draft of Working Group Process Document
Attachments: NCTC AG Guidelines FINAL DRAFT 111108 (CRCL).doc; Temporary Retention of USPER Paper Template v01 111108 (CRCL).docx

Please see the attached for CRCL's comments/edits.

Thanks,

(b) (6)

(b) (6)

Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Tuesday, November 08, 2011 8:23 AM
To: (b) (6) Hunt, Ken; Hart (b) (6)
(b) (6); Richards, Rebecca; Foster, Helen; (b) (6)

Subject: RE: Action Items and Final Draft of Working Group Process Document
Importance: High

Thank you everyone for your input.

Please see attached the recommended additions/changes for final approval.

As a result, we will be canceling today's meeting in favor of continuing to work a draft paper based on these process steps.

Attached for your review you will find the updated process chart and a template for the paper.

Please submit final clearance and/or comments no later than COB today.

We will reschedule today's meeting for early next week.

Thanks!

Respectfully,

(b) (6)
Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

"Facta, non verba"

From: (b) (6)
Sent: Monday, November 07, 2011 3:27 PM
To: (b) (6) Hunt, Ken; (b) (6)
(b) (6) Richards, Rebecca; Foster, Helen; (b) (6)
(b) (6)

Subject: RE: Action Items and Final Draft of Working Group Process Document

Attached please find CRCL's edits.

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

(b) (6)
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From: (b) (6)
Sent: Friday, November 04, 2011 1:34 PM
To: Hunt, Ken; Hart, (b) (6)
(b) (6) Richards, Rebecca; Foster, Helen; (b) (6)
(b) (6)

Subject: Action Items and Final Draft of Working Group Process Document

Importance: High

Thank you to everyone for your hard work thus far! We had a great meeting today and have a few action items to resolve upon prior to our next meeting that will be scheduled for Tuesday of this coming week. Please review the action items below and provide input by COB Monday (7NOV11).

(b) (5)



Please let me know if you have any additional questions.

Thanks again and have a great weekend!

Respectfully,

(b) (6)



Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)



"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Wednesday, December 07, 2011 8:45 PM
To: (b) (6)
Subject: FW: AG Guidelines Process Chart
Attachments: NCTC AG Guidelines FINAL DRAFT 7DEC11 (CRCL).docx; NCTC AG Guidelines FINAL DRAFT 111108 (CRCL)_OGC edits.doc

Importance: High

(b) (6)

In anticipation of the finalization of revised AG Guidelines, I&A is re-circulating the process chart we've been developing over the past few months. In mid-November, CRCL submitted comments on the most recent draft, as did OGC, however, due to other priorities, we never wound up meeting to work out the conflicts between CRCL and OGC's comments.

I've reviewed the attached proposed final draft, as well as OGC's most recent comments (that were not included in the draft). Some of the new language inserted by OGC does not, to my mind, fully convey the interests at stake. I've attempted to redraft OGC's material in a way that meets OGC's stated concerns without negating our concerns. Would you review the attached? I've also included the prior draft, which included comments from OGC that expanded on their reasoning for their changes.

I&A asked for COB, but I think tomorrow will be OK.

(b) (6)

From: (b) (6)
Sent: Wednesday, December 07, 2011 9:39 AM
To: (b) (6)
Cc: (b) (6)
Subject: AG Guidelines Process Chart
Importance: High

Finally had a moment to consolidate final comments/edits on this and wanted to share the remaining changes that impact you both.

Please let me know if the attached is alright.

If I could get this back by COB that would be great.

Thanks!

Respectfully,

(b) (6)
Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

(b) (6)

A large grey rectangular redaction covers the majority of the top-left portion of the page. The text "(b) (6)" is visible in the top-left corner of this redacted area.

"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Friday, December 09, 2011 11:08 AM
To: (b) (6)
Cc: (b) (6)
Subject: RE: AG Guidelines Process Chart
Attachments: NCTC AG Guidelines FINAL DRAFT 7DEC11 (CRCL).docx

(b) (6)

Sorry we're a little late getting this to you (illness is running rampant in our section). CRCL has a few concerns with the revised language proposed by OGC in the prior round. Attached please find our attempt at harmonizing CRCL and OGC's language to something both offices can get behind.

(b) (6)

(b) (6)
Policy Advisor
Office for Civil Rights & Civil Liberties
Department of Homeland Security

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

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From: (b) (6)
Sent: Wednesday, December 07, 2011 9:39 AM
To: (b) (6)
Cc: (b) (6)
Subject: AG Guidelines Process Chart
Importance: High

Finally had a moment to consolidate final comments/edits on this and wanted to share the remaining changes that impact you both.

Please let me know if the attached is alright.

If I could get this back by COB that would be great.

Thanks!

Respectfully,

(b) (6)
Information Sharing Access Coordinator
Department of Homeland Security
I&A/PPPM/ISIEM/IS&C

Office: (b) (6)
Mobile: (b) (6)

(b) (6)



"Facta, non verba"

(b) (6)

From: (b) (6)
Sent: Wednesday, November 16, 2011 4:22 PM
To: Schlanger, Margo
Cc: (b) (6)
Subject: RE: AG Guidelines
Attachments: S2 Decision Memo NCTC AG Guidelines DRAFT 11-16-11 (DG).docx

Margo,

You may shoot me...

I have some edits. None are show-stoppers but I think they will add weight to our argument.

Thanks,

(b) (6)

(b) (6)
DHS - CRCL
Director of Programs
(b) (6)

=====
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=====

From: Callahan, Mary Ellen
Sent: Wednesday, November 16, 2011 1:29 PM
To: Schlanger, Margo
Cc: (b) (6); Hunt, Ken; Mathews, Scott; (b) (6); Callahan, Mary Ellen
Subject: RE: AG Guidelines

Sorry for delay. We abridged the memo and moved the discussion of 12333 to the end. I don't know that we are ever going to get consensus on this from the other signatories, but we have the dep sec instructions. Shown in track changes.

Mary Ellen Callahan
Chief Privacy Officer
U.S. Department of Homeland Security
245 Murray Lane SW, Mail Stop 0655
Washington, DC 20528-0655
Telephone: (b) (6)
Fax: (703) 235-0442
E-mail: (b) (6)
Website: www.dhs.gov/privacy

From: Schlanger, Margo
Sent: Wednesday, November 09, 2011 9:01 PM
To: Callahan, Mary Ellen
Cc: (b) (6)
Subject: AG Guidelines

Here's a first cut at a memo.

I'm not sure I'm totally prepared with the firestorm we're about to create; (b) (6) was pretty tough on this issue on Monday. But let's at least get something written and then discuss, don't you think?

Make what changes you like – no need to redline, unless you want to.

Margo

Margo Schlanger
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

(b) (6)

<http://www.dhs.gov/crcl>



**Homeland
Security**

**MEMORANDUM OF AGREEMENT
BETWEEN THE ATTORNEY GENERAL AND THE DIRECTOR OF NATIONAL
INTELLIGENCE ON GUIDELINES FOR ACCESS, RETENTION, USE, AND
DISSEMINATION BY THE NATIONAL COUNTERTERRORISM CENTER OF
TERRORISM INFORMATION CONTAINED WITHIN DATASETS IDENTIFIED AS
INCLUDING NON-TERRORISM INFORMATION AND INFORMATION
PERTAINING EXCLUSIVELY TO DOMESTIC TERRORISM**

I. Background

A. Pursuant to section 119(d) of the National Security Act of 1947, as amended, the National Counterterrorism Center (NCTC) shall “serve as the primary organization in the United States Government for analyzing and integrating all intelligence possessed or acquired by the United States Government pertaining to terrorism and counterterrorism, excepting intelligence pertaining exclusively to domestic terrorists and domestic counterterrorism.” NCTC shall also “serve as the central and shared knowledge bank on known and suspected terrorists and international terror groups, as well as their goals, strategies, capabilities, and networks of contacts and support.”

B. NCTC’s analytic and integration efforts concerning terrorism and counterterrorism, as well as its role as the central and shared knowledge bank for known and suspected terrorists, at times require it to access and review datasets that are identified as including non-terrorism information and information pertaining exclusively to domestic terrorism in order to identify and obtain “terrorism information,” as defined in section 1016 of the Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004.¹ The President authorized such information sharing in Executive Order 13388, requiring that agencies place the “highest priority” on the “interchange of terrorism information” in order to “strengthen the effective conduct of United States counterterrorism activities and protect the territory, people, and interests of the United States of America.” That Executive Order further requires that the “head of each agency that possesses or acquires terrorism information...shall promptly give access to the terrorism information to the head of each other agency that has counterterrorism functions, and provide the terrorism information to each such agency,” consistent with law and statutory responsibilities. In the National Security Act of 1947, as amended, Congress, too, recognized that NCTC must have access to a broader range of information than it has primary authority to analyze and integrate if it is to achieve its missions. The Act thus provides that NCTC “may, consistent with applicable

¹ “The term ‘terrorism information’—

(A) means all information whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

- (i) the existence, organization, capabilities, plans, intention, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;
- (ii) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;
- (iii) communications of or by such groups or individuals; or
- (iv) groups or individuals reasonably believed to be assisting or associated with such groups or individuals; and

(B) includes weapons of mass destruction information.” IRTPA, § 1016(a)(5).

law, the direction of the President, and the guidelines referred to in section 102A(b), receive intelligence pertaining exclusively to domestic counterterrorism from any Federal, State, or local government or other source necessary to fulfill its responsibilities and retain and disseminate such intelligence.” National Security Act of 1947, as amended, section 119(e). Further, the Act envisions that NCTC, as part of the Office of the Director of National Intelligence (ODNI), *id.* at 119(a), would have the broadest possible access to national intelligence relevant to terrorism and counterterrorism. Section 102A(b) of the National Security Act of 1947, as amended, provides that “[u]nless otherwise directed by the President, the Director of National Intelligence shall have access to all national intelligence and intelligence related to the national security which is collected by any Federal department, agency, or other entity, except as otherwise provided by law or, as appropriate, under guidelines agreed upon by the Attorney General and the Director of National Intelligence.”

C. This Memorandum of Agreement (MOA) establishes such guidelines between the Attorney General and the Director of National Intelligence as called for in section 102A of the National Security Act of 1947, as amended, to govern the access, retention, use, and dissemination by NCTC of terrorism information that is contained within datasets that are identified as including non-terrorism information and information pertaining exclusively to domestic terrorism. This MOA does not supersede the arrangements in place under the MOA for the Interagency Threat Assessment and Coordination Group (ITACG). See Homeland Security Act of 2002, as amended, section 210D, and the September 27, 2007 Memorandum of Agreement on the Establishment and Operation of the Interagency Threat Assessment and Coordination Group. The procedures for the ITACG MOA will be implemented consistent with this MOA. This MOA constitutes procedures pursuant to section 2.3 of Executive Order 12333 for NCTC’s access to and acquisition of datasets explicitly covered by this MOA and govern, with respect to such activity, in lieu of the Attorney General-approved procedures pursuant to section 2.3 generally governing NCTC’s or ODNI’s access and acquisition activities. NCTC’s retention, use, and dissemination of information contained in the datasets and all other NCTC activities remain subject to such generally applicable Attorney General-approved procedures, as well as additional applicable restrictions as set forth below. The terms and conditions of specific information acquisitions shall be determined by NCTC and the data provider and shall incorporate the guidelines agreed upon in this MOA.

II. References

- A. National Security Act of 1947, as amended
- B. Intelligence Reform and Terrorism Prevention Act (IRTPA) of 2004, as amended
- C. Homeland Security Act of 2002, as amended
- D. Executive Order 12333 of December 4, 1981, as amended, “United States Intelligence Activities”
- E. Executive Order 13388 of October 25, 2005, “Further Strengthening the Sharing of Terrorism Information to Protect Americans”
- F. Homeland Security Presidential Directive (HSPD) 6 of September 16, 2003, “Integration and Use of Screening Information”
- G. Director of Central Intelligence Directive (DCID) 6/3 of June 5, 1999, “Protecting Secure Compartmented Information within Information Systems,” with appendices (or successor Intelligence Community Directives (ICD) and Policies)

- H. December 4, 2006 Guidelines to Ensure that the Information Privacy and Other Legal Rights of Americans are Protected in the Development and Use of the Information Sharing Environment
- I. March 4, 2003 Memorandum of Understanding between the Intelligence Community, Federal Law Enforcement Agencies, and the Department of Homeland Security Concerning Information Sharing
- J. September 27, 2007 Memorandum of Agreement on the Establishment and Operation of the Interagency Threat Assessment and Coordination Group
- K. Central Intelligence Agency Headquarters Regulation 7-1 of December 23, 1987, "Law and Policy Governing the Conduct of Intelligence Activities"
- L. National Counterterrorism Center Information Sharing Policy of February 27, 2006, "Rules of the Road" (NCTC Policy Document 11.2)
- M. National Counterterrorism Center Role-Based Access Policy of November 9, 2006 (NCTC Policy Document 11.7)

III. Guidelines

A. Authority for and Scope of NCTC Data Access Acquisitions

1. NCTC information access, retention, use, and dissemination will be for authorized NCTC purposes. Pursuant to Executive Order 13388 and consistent with the National Security Act of 1947, as amended, and the March 4, 2003 Memorandum of Understanding between the Intelligence Community, Federal Law Enforcement Agencies, and the Department of Homeland Security Concerning Information Sharing, NCTC shall be afforded prompt access to all Federal information and datasets that may constitute or contain terrorism information. NCTC may access datasets that may constitute or contain terrorism information, including those identified as containing non-terrorism information or information pertaining exclusively to domestic terrorism, to acquire, retain, and disseminate terrorism information pursuant to NCTC's statutory authorities consistent with these guidelines.

2. With respect to NCTC data access acquisitions covered by this MOA, NCTC will retain, use, and disseminate information on United States persons, as defined in Executive Order 12333, as amended, only if the information is reasonably believed to constitute terrorism information and only in accordance with the procedures set forth in sections III.B and III.C below, or for the purposes described in section III.A.3 below. Information is "reasonably believed to constitute terrorism information" if, based on knowledge and experience of counterterrorism analysts as well as the factual and practical considerations of everyday life on which reasonable and prudent persons act, there are facts giving rise to a reasonable, articulable suspicion that the information is terrorism information.

3. These guidelines permit NCTC to acquire United States person information for the purpose of determining whether the information constitutes terrorism information and thus may be retained, used, and disseminated. Any such United States person information acquired must be promptly reviewed for such purpose. Information on United States persons that NCTC has erroneously acquired, for which the designation as terrorism information is subsequently discounted, or as to which a reasonable belief that it constitutes terrorism information cannot be

promptly established will not be retained, used, or disseminated. Such information will be promptly removed from NCTC's systems, unless such removal is otherwise prohibited by applicable law, regulation, policy, or court order. Information in NCTC systems found to contain errors will be promptly corrected to ensure information integrity and accuracy, and the data provider shall be notified of the error.

4. NCTC will acquire, retain, use, and disseminate information pursuant to the relevant standards of Executive Order 12333, as amended, and as consistent with the National Security Act of 1947, as amended, and other applicable provisions of law, including applicable privacy laws and laws and regulations governing the acquisition of information. NCTC users of acquired information will be subject at all times to NCTC's Role-Based Access and Information Sharing Policies, referenced above in section II, as well as additional audit and oversight authorities, as applicable. In implementing these guidelines, NCTC shall consult with the ODNI's Office of General Counsel (OGC) and the ODNI Civil Liberties Protection Officer (CLPO), as appropriate.

5. The Director, NCTC shall be the responsible official for ensuring that NCTC complies with the guidelines of this MOA. The CLPO shall be the responsible official for ensuring that NCTC, as part of the ODNI, complies with the Privacy Guidelines for the Information Sharing Environment, referenced above in section II.

B. General Procedures for NCTC Data Access Acquisitions

1. NCTC will work with the data provider to identify datasets that contain or may contain terrorism information, including those identified as containing non-terrorism information or information pertaining exclusively to domestic terrorism.

2. NCTC will coordinate its acquisitions of information with the data provider in advance to ensure that information is transmitted, stored, retained, accessed, used, and disseminated in a manner that protects privacy and civil liberties and information integrity and security and is in accordance with applicable laws and regulations. NCTC will work with the data provider to ensure acquired data is updated and verified throughout its retention and use by NCTC.

3. All NCTC personnel provided access to datasets under these guidelines will receive training in the use of the specific dataset, to ensure that NCTC personnel use the datasets only in accordance with authorized NCTC purposes. NCTC personnel will also receive ongoing training to ensure understanding of civil liberties and privacy expectations and requirements involved in the access to and use of datasets.

4. Use of acquired and retained information in disseminated NCTC products will be coordinated in advance with data providers to ensure that sensitive sources and methods, pending investigations, law enforcement equities, foreign government interests, privacy and civil liberties, and other considerations are appropriately protected. Information properly acquired and retained by NCTC may be used for all authorized NCTC purposes. This includes, but is not limited to: analytic and integration purposes, inclusion in finished analytic products and pieces,

enhancement of records contained within the Terrorist Identities Datamart Environment (TIDE), operational support, strategic operational planning, and appropriate dissemination to Intelligence Community, Federal, and other counterterrorism partners.

5. NCTC may make access to acquired information available to other parties only in accordance with the uses contemplated above and consistent with any other restrictions on the use of that information and after prior coordination with the data provider.

6. Information acquired pursuant to the tracks outlined below shall be deemed to remain under the control of the providing agency for purposes of the Freedom of Information Act, the Privacy Act, and any other legal proceeding, unless a different arrangement is agreed upon between NCTC and the providing agency.

C. Specific Procedures for NCTC Data Access Acquisitions

NCTC may acquire information contained within datasets in one or more of the three ways outlined below. NCTC will coordinate with the data providers to determine which information acquisition track provides the most effective means of ensuring NCTC access to terrorism information contained in the relevant datasets, consistent with the protection of privacy and civil liberties of United States persons. NCTC will work with data providers to ensure its access meets any additional necessary legal restrictions affecting provision of the specific data.

1. Track 1 Information Acquisition: Account-Based Access

a) NCTC personnel may be provided access to the datasets of other entities that may contain terrorism information either directly or through role-based accounts.

b) NCTC will access information in such datasets identified as containing non-terrorism information or information pertaining exclusively to domestic terrorism only to determine if the dataset contains terrorism information. NCTC may acquire, retain, use, and disseminate terrorism information consistent with all authorized NCTC purposes, as described above in sections III.A and III.B. If acquired information does not constitute terrorism information, NCTC will not retain, use, or disseminate the accessed information.

c) Consistent with section 119A of the National Security Act of 1947, as amended, and HSPD 6, the initial query term for NCTC access shall be a known or suspected terrorist identifier or other piece of terrorism information (hereinafter, "terrorism datapoints"). In order to follow up on positive query results, subsequent terrorism datapoints may be used to explore such known or suspected terrorist's network of contacts and support. NCTC is not otherwise permitted under these guidelines to query, use, or exploit such datasets (e.g., analysts may not "browse" through records in the dataset that do not match a query with terrorism datapoints, or conduct "pattern-based" queries or analyses without terrorism datapoints).

d) NCTC shall work with the dataset provider to ensure that terrorism datapoints and matching records from the dataset are provided, received, stored, and used in a secure

manner that appropriately protects intelligence sources and methods and related sensitivities, consistent with the requirements of DCID 6/3 or successor ICD.

2. Track 2 Information Acquisition: Search and Retention

a) NCTC may provide the owner of a dataset that may contain terrorism information with query terms—either singly or in batches—consisting of terrorism datapoints so that a search of the dataset may be run. Information from the dataset that is responsive to queries using NCTC-provided terrorism datapoints will be provided to NCTC. NCTC may acquire, retain, use, and disseminate this information consistent with all authorized NCTC purposes, as described above in sections III.A and III.B. Information not responsive to queries using terrorism datapoints will not be retained or accessible by NCTC.

b) By limiting NCTC search terms to terrorism datapoints, NCTC will receive only limited, preliminary access to information that may be either non-terrorism information or information pertaining exclusively to domestic terrorism. If later NCTC review of the received information reveals that specific information does not constitute terrorism information, NCTC will not retain, use, or disseminate that information.

c) NCTC shall work with the dataset provider to ensure that terrorism datapoints and responsive records from the dataset are provided, received, stored, and used in a secure manner that appropriately protects intelligence sources and methods and related sensitivities, consistent with the requirements of DCID 6/3 or successor ICD.

3. Track 3 Information Acquisition: NCTC Dataset Replication

a) NCTC may replicate portions or the entirety of a dataset when NCTC has determined, through its dataset identification process, that a dataset is likely to contain significant terrorism information, and that NCTC's authorized purposes cannot effectively be served through Tracks 1 or Track 2.

b) Dataset replication will be designed to exclude or remove United States person information that is not reasonably believed to be terrorism information through filtration and verification mechanisms occurring as part of and following the replication process. Datasets received in accordance with Track 3 may not be accessed or used by NCTC prior to replication, except as directly necessary to accomplish such replication, subject to procedures agreed upon with the dataset provider. Measures will be put in place to ensure that the dataset is received and stored in a manner to prevent unauthorized access and use prior to the completion of replication.

c) NCTC will promptly review the replicated data to ensure that United States person information that is not reasonably believed to be terrorism information has been removed. NCTC will not retain, use, or disseminate any such information. NCTC will work with data providers to ensure that every replication is tailored to meet these conditions and any additional necessary legal restrictions affecting provision of the specific data.

d) Once such replication process has occurred, NCTC may acquire, retain, use, and disseminate replicated information consistent with all authorized NCTC purposes, as described above in sections III.A and III.B, subject to the procedures in paragraph III.C.3.(f). Any data subsequently determined to be United States person information that is not reasonably believed to be terrorism information will be removed upon discovery.

e) By limiting NCTC replication to datasets that NCTC has determined contain significant terrorism information, NCTC will receive only limited access to information that may be either non-terrorism information or information pertaining exclusively to domestic terrorism outside the scope of NCTC's authorities.

f) NCTC shall work with the dataset provider to ensure that information for dataset replications are provided, received, stored, and used in a secure manner that appropriately protects intelligence sources and methods and related sensitivities, consistent with the requirements of DCID 6/3 or successor ICD.

IV. Period

This MOA shall be effective upon signature and shall remain in effect until revoked.



Michael B. Mukasey
Attorney General of the United States of America

11/4/08

Date



J. M. McConnell
Director of National Intelligence

1 OCT 08

Date

(b) (6)

From: (b) (6)
Sent: Thursday, March 08, 2012 2:24 PM
To: (b) (6)
Subject: FW: AG talkers back from CRCL
Attachments: 120308 BM for DC_redline.docx; 120306 BM for DC 20120307 (ILD)_PRIV revisions_clean copy.docx

Could you have someone review? thanks

From: Foster, Helen
Sent: Thursday, March 08, 2012 1:41 PM
To: Callahan, Mary Ellen; Kronisch, Matthew; Hunt, Ken; PRIV Exec Sec
Cc: (b) (6) Wagner, Caryn; (b) (6)
(b) (6)
Subject: RE: AG talkers back from CRCL

All,
We have incorporated ILD's suggested edits for the AG talkers. Attached are (1) a redline version of the document that shows only where we did not accept (or where we tweaked) ILD's suggested edits. I also added comments to respond to Matt's concerns and explain what we did in this version. (2) a clean version of the revised document.

Thanks for all of your help. Please don't hesitate to reach out with questions or concerns.

Helen

Helen Foster
DHS Privacy Office
(b) (6)

From: Callahan, Mary Ellen
Sent: Thursday, March 08, 2012 12:32 PM
To: Kronisch, Matthew; Hunt, Ken
Cc: (b) (6) Wagner, Caryn; (b) (6) Foster, Helen; (b) (6)
(b) (6)
Subject: RE: AG talkers back from CRCL

Really helpful, thanks so much, Matt, I really appreciate the time you took to make this edits. We are adjudicating them now.

Mary Ellen Callahan
Chief Privacy Officer
U.S. Department of Homeland Security
245 Murray Lane SW, Mail Stop 0655
Washington, DC 20528-0655
Telephone: (b) (6)
Fax: (703) 235-0442
E-mail (b) (6)
Website: www.dhs.gov/privacy

From: Kronisch, Matthew
Sent: Thursday, March 08, 2012 11:10 AM

To: Hunt, Ken
Cc: (b) (6) Callahan, Mary Ellen; Wagner, Caryn; (b) (6) Foster, Helen; (b) (6)
Subject: FW: AG talkers back from CRCL

Colleagues,
My comments and recommended edits are attached. Good luck.
Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)
mobile (b) (6)
nsts (b) (6)
pager (b) (6)

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From: (b) (6)
Sent: Wednesday, March 07, 2012 5:17 PM
To: Kronisch, Matthew; (b) (6)
Subject: Fw: AG talkers back from CRCL

Sir,

Given your past degree of involvement, would you prefer to handle this matter directly?

From: Hunt, Ken
Sent: Wednesday, March 07, 2012 04:44 PM
To: (b) (6)
Cc: (b) (6) Callahan, Mary Ellen
Subject: FW: AG talkers back from CRCL

Please see the attached talking points prepared for S2 in advance of a Deputies Committee meeting on the proposed AG Guidelines. These represent the consolidated effort of PRIV and CRCL.

We have heard preliminary notice that (b) (6) intended to have the meeting tomorrow. Candidly, this is not ideal for DHS for two reasons. First, it does not give us much time for internal coordination (so please review as quickly as possible). Second, and more importantly, S2 is unavailable tomorrow.

Best,

(b) (6)

(b) (6)
Privacy Office
m/s 0550
U.S. Department of Homeland Security
Washington, DC 20528

(b) (6)

www.dhs.gov/privacy

(b) (6)

From: (b) (6)
Sent: Thursday, March 08, 2012 4:16 PM
To: (b) (6)
Cc: (b) (6)
Subject: RE: AG talkers back from CRCL

This looks great. I clear

From: (b) (6)
Sent: Thursday, March 08, 2012 3:32 PM
To: (b) (6)
Cc: (b) (6)
Subject: RE: AG talkers back from CRCL

(b) (6)

(b) (6) and I have both reviewed the document, and we think it's okay. There don't seem to be significant changes to which we could reasonably object, so our general recommendation is to give PRIV the green light (assuming they're expecting one) on this version. However, (b) (5)

Thanks,

(b) (6)

From: (b) (6)
Sent: Thursday, March 08, 2012 2:24 PM
To: (b) (6)
Subject: FW: AG talkers back from CRCL

Could you have someone review? thanks

From: Foster, Helen
Sent: Thursday, March 08, 2012 1:41 PM
To: Callahan, Mary Ellen; Kronisch, Matthew; Hunt, Ken; PRIV Exec Sec
Cc: (b) (6); Wagner, Caryn; (b) (6)
(b) (6)
Subject: RE: AG talkers back from CRCL

All,

(b) (5)

Thanks for all of your help. Please don't hesitate to reach out with questions or concerns.

Helen

Helen Foster
DHS Privacy Office

(b) (6)

From: Callahan, Mary Ellen
Sent: Thursday, March 08, 2012 12:32 PM
To: Kronisch, Matthew; Hunt, Ken
Cc: (b) (6)
(b) (6)
Subject: RE: AG talkers back from CRCL

Wagner, Caryn; (b) (6) Foster, Helen; (b) (6)

Really helpful, thanks so much, Matt, I really appreciate the time you took to make this edits. We are adjudicating them now.

Mary Ellen Callahan
Chief Privacy Officer
U.S. Department of Homeland Security
245 Murray Lane SW, Mail Stop 0655
Washington, DC 20528-0655
Telephone: (b) (6)
Fax: (703) 235-0442
E-mail: (b) (6)
Website: www.dhs.gov/privacy

From: Kronisch, Matthew
Sent: Thursday, March 08, 2012 11:10 AM
To: Hunt, Ken
Cc: (b) (6)
Helen; (b) (6)
Subject: FW: AG talkers back from CRCL

Callahan, Mary Ellen; Wagner, Caryn; (b) (6) Foster,

Colleagues,
My comments and recommended edits are attached. Good luck.
Matt

Matthew L. Kronisch
Associate General Counsel (Intelligence)
Department of Homeland Security

(b) (6)

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From: (b) (6)
Sent: Wednesday, March 07, 2012 5:17 PM
To: Kronisch, Matthew; (b) (6)
Subject: Fw: AG talkers back from CRCL

Sir,

Given your past degree of involvement, would you prefer to handle this matter directly?

From: Hunt, Ken
Sent: Wednesday, March 07, 2012 04:44 PM
To: (b) (6)
Cc: (b) (6) Callahan, Mary Ellen
Subject: FW: AG talkers back from CRCL

Please see the attached talking points prepared for S2 in advance of a Deputies Committee meeting on the proposed AG Guidelines. These represent the consolidated effort of PRIV and CRCL.

(b) (5)

Best,
wkh

W Kenneth Hunt, JD, MBA, CIPP/G
Privacy Office
m/s 0550
U.S. Department of Homeland Security
Washington, DC 20528

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

www.dhs.gov/privacy

(b) (6)

From: (b) (6)
Sent: Wednesday, November 16, 2011 4:22 PM
To: Schlanger, Margo
Cc: (b) (6)
Subject: RE: AG Guidelines
Attachments: S2 Decision Memo NCTC AG Guidelines DRAFT 11-16-11 (DG).docx

Margo,

You may shoot me...

I have some edits. None are show-stoppers but I think they will add weight to our argument.

Thanks,

(b) (6)

(b) (6)
DHS - CRCL
Director of Programs

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

=====
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=====

From: Callahan, Mary Ellen
Sent: Wednesday, November 16, 2011 1:29 PM
To: Schlanger, Margo
Cc: (b) (6); Hunt, Ken; Mathews, Scott; (b) (6); Callahan, Mary Ellen
Subject: RE: AG Guidelines

Sorry for delay. We abridged the memo and moved the discussion of 12333 to the end. I don't know that we are ever going to get consensus on this from the other signatories, but we have the dep sec instructions. Shown in track changes.

Mary Ellen Callahan
Chief Privacy Officer
U.S. Department of Homeland Security
245 Murray Lane SW, Mail Stop 0655
Washington, DC 20528-0655
Telephone: (b) (6)
Fax: (703) 235-0442
E-mail: (b) (6)
Website: www.dhs.gov/privacy

From: Schlanger, Margo
Sent: Wednesday, November 09, 2011 9:01 PM
To: Callahan, Mary Ellen
(b) (6)
Subject: AG Guidelines

Here's a first cut at a memo.

(b) (5)

Make what changes you like – no need to redline, unless you want to.

Margo

Margo Schlanger
Officer for Civil Rights and Civil Liberties
U.S. Department of Homeland Security

(b) (6)



**Homeland
Security**