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[Redacted] (OTD) (FBI)

From: [Redacted] (OGC) (FBI)
Sent: Friday, August 18, 2006 3:35 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI); [Redacted] (OTD) (FBI)
Subject: RE: Post-Cut-Though-Dialed Digits

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RECORD 66F-HQ-A1247863

I was under the impression from [Redacted] that DCS3000 itself does keep all data in an administratively accessed file used for debugging, including PCTDD even when the default of do not record is selected. I thought I understood [Redacted] to say that that file is overwritten over time, but otherwise, if the do not record default remains unchanged, the PCTDD does not go to TA or anywhere else.

[Redacted]
Is this not correct?

b6
b7c

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

[Redacted]
Associate General Counsel - Unit Chief
Science & Technology Law Unit
Engineering Research Facility
Bldg 27958A, Room A-207
Quantico, VA 22135
Tel. 703 [Redacted]
Fax. 703 [Redacted]

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

From: [Redacted] (OGC) (FBI)
Sent: Friday, August 18, 2006 1:01 PM
To: [Redacted] (OGC) (FBI)
Cc: [Redacted] (OTD) (FBI)
Subject: RE: Post-Cut-Though-Dialed Digits

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RECORD 66F-HQ-A1247863



When DSC 3000 is used for a FISA collection, doesn't the DCS 3000 pass all to the [redacted] (DSC 5000) including the PCTTD --in other words for FISAs the DCS3000 does NOT use the default of not recording the PCTTD???? I might have this incorrect, but I thought there were some differences.

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b7E

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

From: [redacted] (OGC) (FBI)
Sent: Thursday, August 17, 2006 10:05 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); THOMAS, MARCUS C. (OTD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI)
Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); CAPRONI, VALERIE E.
Subject: RE: Post-Cut-Through-Dialed Digits

SECRET
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FYI.

Since OTD only acquires the information and passes it along, and since the determination on whether one set of PCTDDs is content and not addressing, routing, dialing or signaling can only be made at the field office or analyst level, there really is nothing technologically speaking that can be done to ensure that content determined PCTDD is not used for investigative purposes.

However, OTD and STLU is proposing to amend the FD 871 which is required to be signed to authorize tech agents to implement a criminal or FISA PR to add a selection box requesting that PCTDD be recorded. That box will have an asterisk which near the signature line will alert approval signatories that "If Post Cut Through Dialed Digit (PCTDD) recording is required, approving authorities are certifying that they have read and will ensure compliance with the DOJ Deputy Attorney General's policy directive of May 24, 2004 prohibiting any investigative use of PCTDDs that are determined to qualify as content of communications." In this way, there will at least be a record with a staff level supervisor, and ASAC acknowledging the DAG Directive each and every time they approve a pen register. In the absence of the box being checked, the DCS 3000 default of not recording PCTDDs will remain unchanged (although we still have the problem of non CALEA compliant provider networks were we cannot use the DCS 3000 and have to use older PR decoders that do not have the same ability to shut off recording of PCTDDs).

Please advise if you see any problems with this approach.

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[redacted]
Associate General Counsel - Unit Chief
Science & Technology Law Unit
Engineering Research Facility
Bldg 27958A, Room A-207
Quantico, VA 22135
Tel. 703 [redacted]
Fax. 703 [redacted]

b6
b7C

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

From: [redacted] (OGC) (FBI)
Sent: Friday, August 11, 2006 2:06 PM
To: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OTD) (FBI); THOMAS, MARCUS C. (OTD) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI)

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Cc: [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); [redacted] (OGC) (FBI); CAPRONI, VALERIE E.
Subject: Post-Cut-Through-Dialed Digits
Importance: High

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RECORD 66F-HQ-A1247863

IN RE [redacted] Docket Number PR/TT 06-102

I just received a supplemental order from Judge Kotelly. The order is dated August 7.

Judge Kotelly has ordered the FBI to submit a report no later than September 25. This report must contain:

(1) an explanation of how the FBI is implementing its obligation to make no affirmative investigative use, through pen register authorization, of post-cut-through digits that do not constitute call dialing, routing, addressing or signaling information, except in a rare case in order to prevent an immediate danger of death, serious physical injury or harm to the National Security, addressing in particular: a) whether post-cut-through digits obtained via FISA pen register surveillance are uploaded into TA, Proton, IDW, EDMS, TED, or any other FBI system; and b) if so what procedures are in place to ensure that no affirmative investigative use is made of post-cut-through digits that do not constitute call dialing, routing, addressing or signaling information, including whether such procedures mandate that this information be deleted from the relevant system.

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(2) an explanation of what procedures are in place to ensure that the Court is notified, as required pursuant to the Court's Order in the above captioned matter, whenever the government decides to make affirmative investigative use of post-cut-through digits that do not constitute call dialing, routing, addressing or signaling information in order to prevent an immediate danger of death, serious physical injury, or harm to the national security.

[redacted]

You are in the building. Could you pick up copies of the order from me for STLU.

[redacted]

Unit Chief
National Security Law Policy and Training Unit
FBI HQ Room 7975
STU III: (202) [redacted]
Unclassified Fax: (202) [redacted]
Secure Fax: (202) [redacted]

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~~DECLASSIFICATION EXEMPTION 1~~
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