



**U.S. Department of Justice**

Office of Legislative Affairs

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Office of the Assistant Attorney General

Washington, D.C. 20530

September 13, 2010

The Honorable Patrick Leahy  
Chairman  
Committee on Judiciary  
United States Senate  
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find responses to questions for the record arising from the appearance of FBI Cyber Division Deputy Director Steven Chabinsky, before the Committee on November 17, 2009, at a hearing entitled "Cybersecurity: Preventing Terrorist Attacks and Protecting Privacy in Cyberspace."

We apologize for our delay in responding to your letter and hope that this information is helpful to the Committee. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter. The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to submission of this letter.

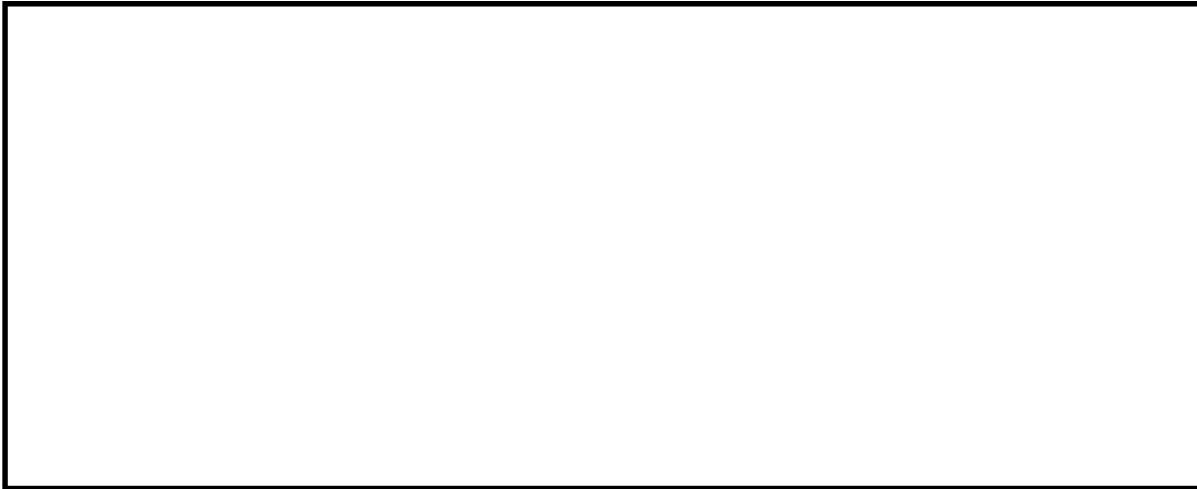
Sincerely,

A handwritten signature in black ink, appearing to read "Ronald Weich".

Ronald Weich  
Assistant Attorney General

Enclosures

cc: The Honorable Jeff Session  
Ranking Minority Member



Terror Fighting Tools in Investigating Cyber Communications

**3. Deputy Assistant Director Chabinsky, setting aside the widespread cyber attack for a moment, I am also concerned about how technology is making it easier for terrorists to communicate. Smart phones have become hand held computers that make phone calls and transmit email. Laptops with wireless internet can operate in city parks, fast food restaurants and coffee shops. Some in Congress want to raise the requirements and increase burdens of proof for the FBI before they can gather information on suspected terrorists. I am not one of those people especially when I have seen the numbers on how often they have been used and how successful they have been.**

**a. Would the FBI use 215 business records searches to gain information on a particular ISP or if a Wi-Fi hot spot that had been repeatedly used? I ask this because the Senate will be debating the reauthorization of the PATRIOT Act. These are critical tools that Director Mueller has publicly endorsed as essential in detecting terrorist plots.**

**b. If possible, can you elaborate on how the Cyber Division uses terror fighting tools when terrorists retreat to cyber communication?**

**Response to subparts a and b:**

Consistent with the Attorney General's Guidelines for Domestic FBI Operations and the FBI's associated Domestic Investigations and Operations Guide, in deciding what investigative techniques to use in a given case, the FBI considers which techniques will afford an effective and efficient means of accomplishing the investigative objectives in the least intrusive manner based on all of the circumstances involved. The FBI would apply for an order under the Foreign Intelligence Surveillance Act (FISA) Business Records provision in the referenced circumstances if that would be the most timely, most effective, and least intrusive means of investigating a suspected terrorist.

FEDERAL BUREAU OF INVESTIGATION  
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