

Alvarez, Greg (SMO)

From: Agrast, Mark D. (SMO)
Sent: Thursday, September 24, 2009 5:39 PM
To: 'Flint, Lara (Judiciary-Dem)'
Cc: 'Magner, Tara (Judiciary-Dem)'
Subject: RE: criminal pen/trap report

Sure. I'll see what I can find out.

Doc 2

From: Flint, Lara (Judiciary-Dem) [mailto:Lara_Flint@Judiciary-dem.senate.gov]
Sent: Thursday, September 24, 2009 5:08 PM
To: Agrast, Mark D.
Cc: Magner, Tara (Judiciary-Dem)
Subject: criminal pen/trap report

Hi Mark,

We are looking for the last few reports provided by DOJ to Congress on the use of the criminal pen/trap authority, as required by 18 USC 3126. Any help you can provide would be much appreciated.

Thanks,
Lara

Lara M. Flint, Counsel
Subcommittee on the Constitution
Staff to Sen. Russell D. Feingold, Chairman

Doc 3

Agrast, Mark D. (SMO)

From: Agrast, Mark D.
Sent: Thursday, September 24, 2009 8:39 PM
To: Burton, Faith
Cc: Simpson, Tammi (OLA)
Subject: FW: criminal pen/trap report

Doc 28

Any idea who would have these?

Duplicate

From: Flint, Lara (Judiciary-Dem) [mailto:Lara.Flint@Judiciary-dem.senate.gov]
Sent: Thursday, September 24, 2009 5:08 PM
To: Agrast, Mark D.
Cc: Magner, Tara (Judiciary-Dem)
Subject: crlminal pen/trap report

Hi Mark,

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Thanks,
Lara

Lara M. Flint, Counsel
Subcommittee on the Constitution
Staff to Sen. Russell D. Feingold, Chairman

Alvarez, Greg (SMO)

From: Agrast, Mark D. (SMO)
Sent: Tuesday, December 22, 2009 6:41 PM
To: 'Flint, Lara (Judiciary-Dem)'
Subject: Criminal pen/trap reports
Attachments: 2004 Pen Register Report.pdf; 2005 Pen Register Report.pdf; 2006 Pen Register Report.pdf; 2007 Pen Register Report.pdf; 2008 Pen Register Report.pdf

Lara,

I am pleased to attach the criminal pen/trap reports for the last five years. The Criminal Division recently discovered that reports had not been filed for 2004 and subsequent years, so they filed all of the reports in 2009.

Best,

Mark

Mark David Agrast
Deputy Assistant Attorney General for Legislative Affairs
U.S. DEPARTMENT OF JUSTICE
Robert F. Kennedy Main Justice Building
950 Pennsylvania Avenue, N.W., Room 1607
Washington, D.C. 20530-0001
202.514.2141 main | 202.305.7851 direct | 202.514.4482 fax

4/20/2011

Doc 1

Agrast, Mark D. (SMO)

From: Agrast, Mark D.
Sent: Wednesday, December 23, 2009 1:47 PM
To: Webb, Janet (CRM)
Subject: RE: Per your request

I hope so. I'll let you know if she comes back for more!

Doc 7

From: Webb, Janet (CRM)
Sent: Wednesday, December 23, 2009 1:46 PM
To: Agrast, Mark D.
Subject: RE: Per your request

Mark—Everything is for telephone unless otherwise stated. FBI only began keeping computer intercept stats a couple of years ago. The other agency may be DEA. Does that answer the question?

Janet D. Webb

Exemption 6

Doc 8

From: Agrast, Mark D. [<mailto:Mark.D.Agrast@usdoj.gov>]
Sent: Wednesday, December 23, 2009 1:04 PM
To: Webb, Janet
Subject: FW: Per your request

Janet,

Please see the brief follow-up question below. Do you know the answer?

With thanks,

Mark

Doc 9

From: Flint, Lara (Judiciary-Dem) [mailto:Lara_Flint@Judiciary-dem.senate.gov]
Sent: Wednesday, December 23, 2009 12:59 PM
To: Agrast, Mark D.
Subject: RE: Per your request

That works! It was weird - when I opened the documents labeled 05, 06, etc, they all had the same 2004 info in them. Anyway, these attachments include the information for the other years. Thanks for tracking them down.

I have one follow-up question. Are the pen register/trap and trace device numbers on the first page of each report ONLY for telephone facilities? I see the second page talks about email/networks but only a couple of agencies provided any information.

I hope you are getting a good long break over the holidays.

Thanks-
Lara

Doc 10

From: Agrast, Mark D. [<mailto:Mark.D.Agrast@usdoj.gov>]
Sent: Wednesday, December 23, 2009 12:53 PM

To: Flint, Lara (Judiciary-Dem)
Subject: Per your request

Lara,

Based on your message, it sounds like you may not have received all the attachments the first time. The filings are for calendar years 2004-2008. See if these work.

The reports were sent to the Chairman and Ranking Member on October 29, 2009.

Best,

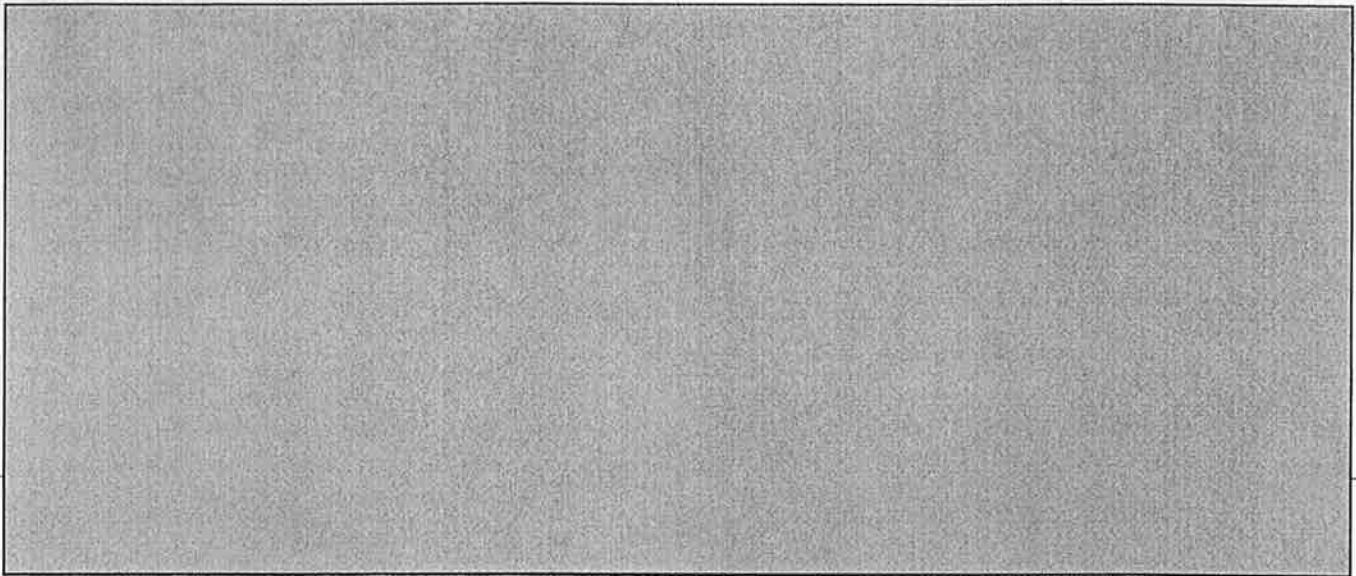
Mark

Doc 11

Mark David Agrast

Deputy Assistant Attorney General for Legislative Affairs
U.S. DEPARTMENT OF JUSTICE
Robert F. Kennedy Main Justice Building
950 Pennsylvania Avenue, N.W., Room 1607
Washington, D.C. 20530-0001
202.514.2141 main | 202.305.7851 direct | 202.514.4482 fax

Nonresponsive



From: Agrast, Mark D. (SMO)
To: Pings, Anne (USAEO)
Sent: Tue Dec 22 17:32:44 2009
Subject: RE: Criminal pen/trap reports

OEO. Thanks.

Doc 14

From: Pings, Anne (USAEO)
Sent: Tuesday, December 22, 2009 4:54 PM
To: Agrast, Mark D.
Subject: Re: Criminal pen/trap reports .

CCIPS or OEO?

Doc 15

From: Agrast, Mark D. (SMO)
To: Raman, Mythill (CRM); Wroblewski, Jonathan (CRM); Pings, Anne (USAEO)
Sent: Tue Dec 22 15:53:48 2009
Subject: Criminal pen/trap reports

Sen. Feingold's Judiciary staff is looking for the last few reports to Congress on the use of the criminal pen/trap authority as required by 18 USC 3126. Any idea where these might be found?

With thanks.

Mark

Doc 16

Mark David Agrast
Deputy Assistant Attorney General for Legislative Affairs
U.S. DEPARTMENT OF JUSTICE
Robert F. Kennedy Main Justice Building
950 Pennsylvania Avenue, N.W., Room 1607

Agrast, Mark D. (SMO)

From: Agrast, Mark D.
Sent: Tuesday, December 22, 2009 4:11 PM
To: Raman, Mythili (CRM); Wroblewski, Jonathan (CRM); Pings, Anne (USAEO)
Cc: Webb, Janet (CRM); Axelrod, Matthew (CRM)
Subject: RE: Criminal pen/trap reports

Doc 17

Ah. May I have this year's report? Also, the report may answer this question, but if not, I'm sure they will ask whether the annual reports were ever filed (the requirement, I believe, was legislated in 1986), and if so, when they stopped being filed. Thanks much.

From: Raman, Mythili (CRM)
Sent: Tuesday, December 22, 2009 4:05 PM
To: Agrast, Mark D.; Wroblewski, Jonathan (CRM); Pings, Anne (USAEO)
Cc: Webb, Janet (CRM); Axelrod, Matthew (CRM)
Subject: RE: Criminal pen/trap reports

Doc 18

That was the issue. Although there was an annual reporting requirement, apparently, no one had been actually filing the annual report. When we discovered the problem this year, we had OEO go back and do the report for this year.

From: Agrast, Mark D. [<mailto:Mark.D.Agrast@usdoj.gov>]
Sent: Tuesday, December 22, 2009 4:04 PM
To: Raman, Mythili; Wroblewski, Jonathan; Pings, Anne (USAEO)
Cc: Webb, Janet; Axelrod, Matthew
Subject: RE: Criminal pen/trap reports

Doc 19

I believe this is an annual reporting requirement. Have we been filing them? And if so, where are they available?

From: Raman, Mythili (CRM)
Sent: Tuesday, December 22, 2009 4:00 PM
To: Agrast, Mark D.; Wroblewski, Jonathan (CRM); Pings, Anne (USAEO)
Cc: Webb, Janet (CRM); Axelrod, Matthew (CRM)
Subject: RE: Criminal pen/trap reports

Doc 20

I don't think there were any recent reports to Congress other than the one we just did. I'm cc'ing Janet Webb, Director of OEO, so she can confirm.

Duplicate

Doc 21

From: Agrast, Mark D. [<mailto:Mark.D.Agrast@usdoj.gov>]
Sent: Tuesday, December 22, 2009 3:54 PM
To: Raman, Mythili; Wroblewski, Jonathan; Pings, Anne (USAEO)
Subject: Criminal pen/trap reports

Sen. Feingold's Judiciary staff is looking for the last few reports to Congress on the use of the criminal pen/trap authority as required by 18 USC 3126. Any idea where these might be found?

With thanks,

Mark

Mark David Agrast
Deputy Assistant Attorney General for Legislative Affairs

Agrast, Mark D. (SMO)

From: Agrast, Mark D.
Sent: Tuesday, March 16, 2010 8:49 PM
To: Schlieter, Courtney H
Subject: FW: criminal pen/trap reports

Courtney,

Can you see what we can do to be of assistance to her? I wonder whether we need to bring this to Jim Baker's attention, or just NSD.

With thanks,

Mark

Doc 4

From: Flint, Lara (Judiciary-Dem) [mailto:Lara_Flint@Judiciary-dem.senate.gov]
Sent: Tuesday, March 16, 2010 4:28 PM
To: Agrast, Mark D.; Appelbaum, Judy
Subject: criminal pen/trap reports

Mark and Judy,

I'm not sure which of you to ask about this so thought I would start with you both. I have taken a close look at the last several DOJ reports on the use of criminal pen registers and trap and trace devices under 18 U.S.C. 3121-27, and the breakdown between the use of pen/traps for phones and email is quite striking. It appears that criminal pen/traps have hardly been used for email at all, at least in comparison to usage for phones. (Mark, I think we had a brief exchange about this months ago, just to clarify what the numbers were.)

Would it be possible to set up a meeting to get an understanding of why that is? I've flagged this for a couple other offices on the committee who might also like to participate.

Thanks,
Lara

Doc 5

Lara M. Flint, Senior Counsel
Subcommittee on the Constitution
Staff to Sen. Russell D. Feingold, Chairman

Agrast, Mark D. (SMO)

From: Agrast, Mark D.
Sent: Tuesday, March 16, 2010 8:48 PM
To: Appelbaum, Judy
Subject: FW: criminal pen/trap reports

Obviously mine. Will follow up.

Duplicate

Doc 6

From: Flint, Lara (Judiciary-Dem) [mailto:Lara_Flint@Judiciary-dem.senate.gov]
Sent: Tuesday, March 16, 2010 4:28 PM
To: Agrast, Mark D.; Appelbaum, Judy
Subject: criminal pen/trap reports

Mark and Judy,

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