



Federal Bureau of Investigation

Washington, D.C. 20535

April 22, 2011

MS. JENNIFER EFF/LYNCH
STAFF ATTORNEY
ELECTRONIC FRONTIER FOUNDATION
454 SHOTWELL STREET
SAN FRANCISCO, CA 94110

Request No.: 1154593- 000
Subject: COMMUNICATIONS COMPLIANCE WITH
FBI ELECTRONIC SURVEILLANCE FROM
JANUARY 1, 2006

Dear Ms. Lynch:

While processing your Freedom of Information-Privacy Acts (FOIPA) request, the **Drug Enforcement Administration** located FBI information in their records. This material was referred to the FBI for direct response to you.

Enclosed are copies of the referred material. Deletions have been made pursuant to Title 5, United States Code, Section(s) 552/552a as noted below. See the enclosed form for an explanation of these exemptions.

- | Section 552 | | Section 552a |
|--|---|---------------------------------|
| <input type="checkbox"/> (b)(1) | <input type="checkbox"/> (b)(7)(A) | <input type="checkbox"/> (d)(5) |
| <input type="checkbox"/> (b)(2) | <input type="checkbox"/> (b)(7)(B) | <input type="checkbox"/> (j)(2) |
| <input type="checkbox"/> (b)(3) _____ | <input type="checkbox"/> (b)(7)(C) | <input type="checkbox"/> (k)(1) |
| _____ | <input type="checkbox"/> (b)(7)(D) | <input type="checkbox"/> (k)(2) |
| _____ | <input checked="" type="checkbox"/> (b)(7)(E) | <input type="checkbox"/> (k)(3) |
| _____ | <input type="checkbox"/> (b)(7)(F) | <input type="checkbox"/> (k)(4) |
| <input type="checkbox"/> (b)(4) | <input type="checkbox"/> (b)(8) | <input type="checkbox"/> (k)(5) |
| <input checked="" type="checkbox"/> (b)(5) | <input type="checkbox"/> (b)(9) | <input type="checkbox"/> (k)(6) |
| <input type="checkbox"/> (b)(6) | | <input type="checkbox"/> (k)(7) |

19 pages were reviewed and 13 pages are being released.

You may appeal any denials by writing to the Director, Office of Policy, U. S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C., 20530-0001, within sixty days from the date of this letter to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number assigned to your request so that it may easily be identified.

Sincerely yours,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

Serial Description ~ Unrecorded Serial

Total Deleted Page(s) ~ 6

Page 2 ~ Duplicate

Page 3 ~ Duplicate

Page 7 ~ b5

Page 9 ~ b5, b7E

Page 10 ~ b7E

Page 13 ~ b7E

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GOING DARK

Preservation of Lawful Intercepts: Challenges and Potential Solutions

March 2010



"Going Dark"

... FOR OFFICIAL USE ONLY ...

The Intercept Capability Gap for State and Local Law Enforcement Agencies

- Current and emerging communications technologies and services prevent most LEAs from pursuing real-time data intercepts.
- LEAs often lack an understanding of the services offered by emerging service providers, and industry often lacks an understanding of the needs of LEAs. This prevents the development of timely, cost-effective solutions.
- The lack of efficient information sharing mechanisms often results in duplication of efforts among LEAs.

Legislative and Policy Challenge Scope of CALEA

Issue:

- CALEA requires "telecommunications carriers" to develop and deploy intercept solutions in their networks to ensure that lawfully-authorized electronic surveillance could be performed
- Since CALEA's enactment in 1994, communications services have evolved beyond the traditional telecommunications platforms that existed at the time of passage
- A growing number of providers and emerging services that offer alternatives to traditional telephony may no longer meet CALEA's definition of a "telecommunications carrier"

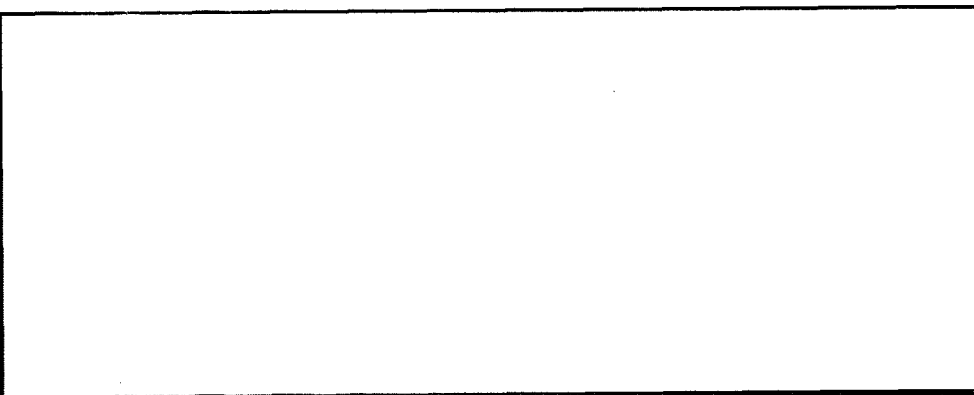
b7E

Legislative and Policy Challenge Enforcement

Issue:

- Non-compliance with CALEA for emerging service occurs often
- CALEA's current enforcement provisions present insurmountable hurdles that make even the threat of enforcement non-credible
- CALEA places the government in a "Catch-22" position
- Recent examples

Outside the Scope



Legislative and Policy Challenge Encryption

Issue:

• Many modern communication services and devices use encryption as a means to protect subscriber communications and data

- Data "in transit," such as VoIP and e-mail communications
- Data "at rest," such as the data stored on a hard drive or USB device

Outside the Scope

Threat Level

Privacy, Crime and Security Online

FBI 'Going Dark' with New Advanced Surveillance Program

By Kim Zetter May 11, 2009 | 1:40 pm | Categories: Surveillance



The proposed 2010 Justice Department budget published last week reveals the development of a new FBI advanced electronic surveillance program dubbed "Going Dark." The program is being budgeted \$233.9 million next year.

According to the published budget summary (.pdf), the program "supports the FBI's electronic surveillance (ELSUR), intelligence collection and evidence gathering capabilities, as well as those of the greater Intelligence Community."

An FBI spokesman told ABC News, which first reported the information, that the program's name, Going Dark, "does not refer to a specific capability, but is a program name for the part of the FBI,

Operational Technology Division's (OTD) lawful interception program which is shared with other law enforcement agencies." He added that "The term applies to the research and development of new tools, technical support and training initiatives."

The program is designed to help the agency address challenges with conducting surveillance over newish technologies, such as VoIP. The program is also doing research on automated link analysis to find connections between subjects of surveillance "and other investigative suspects."

The budget report also discusses a Biometric Technology Center that is being developed jointly by the FBI, Defense Department and Justice Department in conjunction with the University of West Virginia for research and development of biometric technologies. The center is located at the Criminal Justice Information Services (CJIS) Division complex in Clarksburg, West Virginia.

The biometric project will also encompass "a vast database of personal data including fingerprints, iris scans and DNA which the FBI calls the Next Generation Identification (NGI)," according to ABC, which could be online next year. Lockheed Martin has been awarded the contract to update and maintain the database at an estimated cost of up to \$1 billion a year.

Photo: [Sparktography/flickr](#)

[Post Comment](#) | [Permalink](#)

Comments (3)

Posted by: bornean | 05/11/09 | 6:09 pm

These databases. How do we know if they're not using it for child porn?

We have no way to assure they're not committing horrific crimes against our children because they have no oversight.

Please. This isn't about rights, it's about protecting our children.

Posted by: bornean | 05/11/09 | 6:11 pm

And also WTF. Why all the databases and shit?

You're supposed to be a minimalist when it comes to cases. But this "technology" is something people need to understand the gravity of. If the senate knew what was going on their, they would never let it happen.

Posted by: csmuncyphoto | 05/12/09 | 10:12 am

Excellent photo choice, by the way. I see these stickers all over the city (I live in Manhattan) and haven't yet snapped off any photos of my own. I picture myself twenty years from now, showing such pictures to my children, who I'm sure will respond with something like "There was a time when people didn't know their phones were tapped?"



Federal Bureau of Investigation (FBI)

FY 2010 Budget Request At A Glance

FY 2009 Enacted:	\$7,301.2 million (31,494 positions; 13,382 agents)
Current Services Adjustments:	+\$61.9 million (2.5% above FY 2009 Enacted)
Program Changes:	+\$498.5 million
FY 2010 Budget Request:	\$7,861.5 million (32,883 positions; 13,789 agents)
Change from FY 2009 Enacted:	+\$560.3 million (+7.7%) (+1,389 positions; +407 agents)

Mission:

The mission of the FBI is to protect and defend the United States against terrorist and foreign intelligence threats, to uphold and enforce the criminal laws of the United States, and to provide leadership and criminal justice services to federal, state, municipal, and international agencies and partners.

Resources:

The FBI's FY 2010 budget request proposes \$7.9 billion, \$7.7 billion for Salaries and Expenses (including \$101.1 million for Overseas Contingency Operations) and \$143.8 million for Construction. This represents a 7.7 percent increase from the FY 2009 enacted level. In FY 2009, the FBI also received \$82.6 million in supplemental funds for continuing national security operations, including the Render Safe mission.

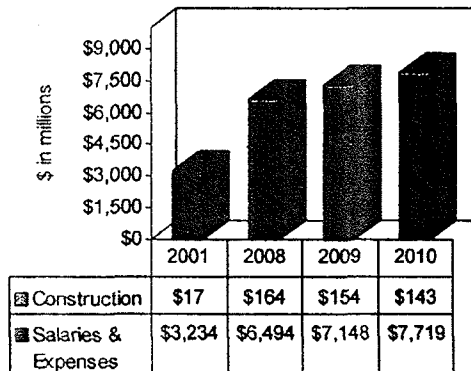
Organization:

FBI Headquarters, located in Washington, D.C., provides centralized operational, policy, and administrative support to FBI investigations. The FBI operates 56 field offices in major U.S. cities and over 400 resident agencies (RAs) throughout the country. RAs are satellite offices that allow the FBI to maintain a presence in and serve local communities. As of April 2009, the FBI also operates 61 Legal Attaché (Legat) offices and 14 sub-offices in 65 foreign countries around the world.

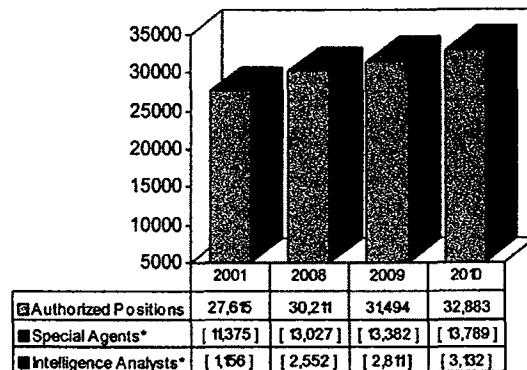
Personnel:

The FBI's authorized positions for FY 2010 total 32,883 positions, including 13,789 special agents. Of the total authorized positions, 32,610 are located in domestic offices and 273 are in foreign offices. FBI's FY 2010 request includes an increase of 1,389 positions, including 407 special agents, over the FY 2009 level of 31,494 authorized positions.

Funding (FY 2001 - 2010)



Personnel (FY 2001 - 2010)



* Includes Reimbursable agents and intelligence analysts.

FY 2010 Strategy:

The FBI's budget strategy is based on the FBI's understanding of current and future national security and criminal investigative threats. From this understanding, the FBI has identified critical, enterprise-wide capabilities needed to perform its mission. This capabilities-based approach to planning the FBI's future resource requirements is necessary since it is not possible to project with certainty who will be the future adversary. Future capabilities are designed to enable the FBI to address the range of expected national security threats and crime problems regardless of who perpetrates the act.

To meet these threats and crime problems and operate successfully in a challenging external environment, the FBI to fusing and integrating intelligence and law enforcement. As a member of the Intelligence Community, the FBI has placed an increased emphasis on threat-based, intelligence-driven investigations and operations, especially in the areas of counterterrorism and counterintelligence, and on internal and external information sharing. Finally, the FBI is working to form and maintain alliances with others in law enforcement, at home and abroad as these relationships are essential.

The foundation of the FBI's budget strategy is supported by four objectives: (1) the application of a Strategy Management System to FBI planning; (2) accelerated improvements in program management through the efforts of the Strategic Execution Team; (3) continuation of a multi-year planning process; and (4) a directed growth strategy aligned to the FBI's most critical requirements.

FY 2010 Program Changes:

DOMAIN AND OPERATIONS

Comprehensive National Cybersecurity Initiative: 260 positions (107 agents and 42 Intelligence Analysts) and \$61.2 million in support of the investigative, intelligence, and technological requirements to combat cyber attacks. FY 2010 current services resources for this program are 300 positions (68 agents) and \$79.1 million.

Intelligence Program: 480 positions (41 agents and 279 Intelligence Analysts) and \$70 million to build an FBI-wide intelligence capability that integrates intelligence activities into all investigative efforts through the five core intelligence functions: domain management, collection management, requirements-based human intelligence collection, tactical intelligence, and intelligence production and dissemination. FY 2010 current services for this initiative are 2,398 positions (470 agents) and \$275.9 million.

National Security Field Investigations: 231 positions (105 agents) and \$48 million to augment its national security field investigations. The details of this enhancement are classified. FY 2010 current services for this initiative are 2,698 positions (1,407 agents) and \$490 million.

Mortgage Fraud: 143 positions (50 agents) and \$25.5 million to combat the increase in mortgage fraud. Resources would enhance FBI field investigative capabilities, increase the number of Forensic Accountants, and increase the number of Mortgage Fraud Task Forces. FY 2010 current services for this program are 337 positions (175 agents) and \$49.7 million.

Weapons of Mass Destruction (WMD) Response: 168 positions (91 agents) and \$80.6 million to disrupt terrorist groups, address domain awareness, and achieve a technical response by expanding the FBI's tactical response, hazardous materials response, and bomb technician teams. FY 2010 current services for this initiative are 672 positions (328 agents) and \$270.2 million.

INFRASTRUCTURE

Central Records Complex: \$9 million to support the inventory, consolidation, and preparation of 18 linear miles of records for relocation. FY 2010 current services for this initiative are \$8 million.

LEVERAGING TECHNOLOGY

3rd Generation (3G) Wireless Networks: \$20.5 million to ensure the FBI's capability to develop wireless tracking and intercept technologies for 3rd Generation (3G) wireless networks are up to date. FY 2010 current services for this program are \$4.1 million.

FY 2010 Program Changes (cont.):

SURVEILLANCE

Advanced Electronic Surveillance: \$9 million for Advanced Electronic Surveillance, otherwise known as the FBI's Going Dark Program. The program supports the FBI's electronic surveillance (ELSUR), intelligence collection and evidence gathering capabilities, as well as those of the greater Intelligence Community. FY 2010 current services for this program are 133 positions (15 agents) and \$233.9 million.

Surveillance: 75 positions (12 agents) and \$23.5 million to enhance and support the surveillance capabilities of the Special Operations Group (SOG), the Special Surveillance Group (SSG), and the Aviation Program. FY 2010 current services for this program are 1,108 position (53 agents) and \$161 million.

WORKFORCE

National Security Training/Career Path: 32 positions (1 Agent) and \$25.1 million to support the National Security Training and Career Path Initiative which will enhance the FBI's ability to recruit and train agents, analysts, and support staff. FY 2010 current services for this initiative include 407 positions (23 agents) and \$177.7 million.

OVERSEAS CONTINGENCY OPERATIONS

Overseas Contingency Operations: \$101.1 million to continue support of overseas contingency operations. Funding will continue FBI operations in Afghanistan, international deployment activities, overtime and hazardous duty pay, and other counterterrorism-related requirements previously supported by supplemental funding.

CONSTRUCTION

Biometric Technology Center (BTC): \$97.6 million (\$30.0 million provided by the Department of Defense (DOD) for the joint DOD/DOJ/FBI project) to support Phase III construction of a BTC at the Criminal Justice Information Services (CJIS) Division complex in Clarksburg, WG. The BTC will be a collaborative effort between the FBI and DOD to serve as the center for biometric research and development. Current services for the BTC are \$361,000.

FBI Training Facility A&E Study: \$10 million to conduct an Architecture and Engineering (A&E) study, to determine the requirements to expand its FBI Academy training facilities on the Quantico Marine Corps Base. There are no FY 2010 current services for this initiative.

Financial Snapshot 2008

Clean Opinion on Financial Statements	Yes
Timely Financial Reporting	Yes
Material Weaknesses	None

FEDERAL BUREAU OF INVESTIGATIONS

(Dollars in Thousands)

	Salaries and Expenses			Construction			TOTAL		
	Pos.	FTE	Amount	Pos.	FTE	Amount	Pos.	FTE	Amount
2008 Appropriation	30,211	29,349	\$6,493,489	0	0	\$164,200	30,211	29,349	\$6,657,689
2008 Supplemental	0	0	106,122	0	0	0	0	0	106,122
2008 Enacted with Supplementals	30,211	29,349	6,599,611	0	0	164,200	30,211	29,349	6,763,811
2009 Enacted	31,494	30,543	7,065,100	0	0	153,491	31,494	30,543	7,218,591
2009 Supplemental	0	0	82,600	0	0	0	0	0	82,600
2009 Enacted with Supplementals	31,494	30,543	7,147,700	0	0	153,491	31,494	30,543	7,301,191
2010 Request	32,883	31,881	7,718,741	0	0	142,796	32,883	31,881	7,861,537
Change 2010 from 2009 Enacted	1,389	1,338	653,641	0	0	-10,695	1,389	1,338	642,946
Adjustments to Base									
Increases:									
Pay and Benefits	0	642	255,843	0	0	0	0	642	255,843
Domestic Rent and Facilities	0	0	41,405	0	0	0	0	0	41,405
Other Adjustments	0	0	476	0	0	0	0	0	476
Foreign Expenses	0	0	3,199	0	0	0	0	0	3,199
Subtotal Increases	0	642	300,923	0	0	0	0	642	300,923
Decreases:									
Non-Recurrence of Prior Year Enhancements	0	0	-120,743	0	0	-118,300	0	0	-239,043
Subtotal Decreases	0	0	-120,743	0	0	-118,300	0	0	-239,043
Total Adjustments to Base	0	642	180,180	0	0	-118,300	0	642	61,880
Total Adjustments to Base and Technical Adjustments	0	642	180,180	0	0	-118,300	0	642	61,880
2010 Current Services	31,494	31,185	7,327,880	0	0	35,191	31,494	31,185	7,363,071
Program Changes									
Increases:									
Domain and Operations	1,282	642	285,241	0	0	0	1,282	642	285,241
Infrastructure	0	0	9,000	0	0	0	0	0	9,000
Leveraging Technology	0	0	20,510	0	0	0	0	0	20,510
Surveillance	75	38	32,531	0	0	0	75	38	32,531
Workforce	32	16	25,113	0	0	0	32	16	25,113
Overseas Contingency Operations	0	0	101,066	0	0	0	0	0	101,066
Biometrics Technology Center	0	0	0	0	0	97,605	0	0	97,605
FBI Academy Training Facility A&E	0	0	0	0	0	10,000	0	0	10,000
Subtotal Increases	1,389	696	473,461	0	0	107,605	1,389	696	581,066
Decreases:									
Non-Recurrence of 2009 Bridge Supplemental	0	0	-82,600	0	0	0	0	0	-82,600
Subtotal Decreases	0	0	-82,600	0	0	0	0	0	-82,600
Total Program Changes	1,389	696	390,861	0	0	107,605	1,389	696	498,466
2010 Request	32,883	31,881	7,718,741	0	0	142,796	32,883	31,881	7,861,537
Change 2010 from 2009 Enacted	1,389	1,338	653,641	0	0	-10,695	1,389	1,338	642,946

**FEDERAL BUREAU OF INVESTIGATION
SALARIES AND EXPENSES
(Dollars in thousands)**

Comparison by activity and program	2009 Enacted			2010 Current Services		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
1. Intelligence	6,217	5,906	\$1,487,262	6,269	6,214	\$1,562,352
2. Counterterrorism/Counterintelligence	12,480	12,121	2,884,041	12,477	12,361	2,958,234
3. Criminal Enterprise Federal Crimes	10,850	10,596	2,275,754	10,813	10,698	2,308,039
4. Criminal Justice Services	1,947	1,920	418,043	1,935	1,912	416,655
Overseas Contingency Operations	0	0	0	0	0	0
FY 2009 GWOT Bridge Supplemental	0	0	82,600	0	0	82,600
Total	31,494	30,543	7,147,700	31,494	31,185	7,327,880
Reimbursable FTE	0	3,152	0	0	3,152	
Grand Total	31,494	33,695	\$7,147,700	31,494	34,337	\$7,327,880

Comparison by activity and program	Total Program Changes			2010 Request		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
1. Intelligence	565	282	\$78,863	6,834	6,496	\$1,641,215
2. Counterterrorism/Counterintelligence	547	273	183,247	13,024	12,634	3,141,481
3. Criminal Enterprise Federal Crimes	269	137	100,490	11,082	10,835	2,408,529
4. Criminal Justice Services	8	4	9,795	1,943	1,916	426,450
Overseas Contingency Operations	0	0	101,066	0	0	101,066
FY 2009 GWOT Bridge Supplemental	0	0	-82,600	0	0	0
Total	1,389	696	390,861	32,883	31,881	\$7,718,741
Reimbursable FTE	0	63	0	0	3,215	0
Grand Total	1,389	759	\$390,861	32,883	35,096	\$7,718,741

**FEDERAL BUREAU OF INVESTIGATION
CONSTRUCTION
(Dollars in thousands)**

Comparison by activity and program	2009 Enacted			2010 Current Services		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
1. Construction	0	0	\$153,491	0	0	\$35,191
Total	0	0	\$153,491	0	0	\$35,191

Comparison by activity and program	Total Program Changes			2010 Request		
	Perm Pos.	FTE	Amount	Perm Pos.	FTE	Amount
1. Construction	0	0	\$107,605	0	0	\$142,796
Total	0	0	\$107,605	0	0	\$142,796