

Law Enforcement Requests for Records and Discovery

June 24, 2011
Federal Bureau of Prisons
Los Angeles Consolidated Legal Center

It is the mission of the Federal Bureau of Prisons to protect society by confining offenders in the controlled environment of prisons and community-based facilities that are safe, humane, cost efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens.

BOP Mission Statement

- Sentenced, designated inmates- **BOP**
- All other inmates (i.e., pre-trial inmates)-
United States Marshals Service

pursuant to 18 U.S.C. § 4086

Exception: pre-trial individuals ordered to undergo a mental competency evaluation pursuant to 18 U.S.C. §§ 4241, 4242, 4244- **BOP**

Custody of inmates

- 18 U.S.C. § 4241- Determination of mental competency to stand trial to undergo postrelease proceedings
- 18 U.S.C. § 4242- Determination of the existence of insanity at the time of the offense
- 18 U.S.C. § 4244- Hospitalization of a convicted person suffering from mental disease or defect
- **We have go-bys!!! Call us!!!**

Mental Competency Evaluations Ordered by the Court

- Be specific
- Include Inmate Name and Register Number or other Identifying Information
- Effective for all inmate movement
- To make request, contact:
 - USMS

(b)(6); (b)(7)(C)

Separation Requests

- Types of BOP documents available:
 - Central File or “Skinny File” for pre-trial inmates
 - BOP Medical Records
 - Disciplinary Records
 - SIS Investigation Files
 - DHO reports/packets
 - Telephone Transaction Data
 - Psychology Records
 - Movement/Admission & Release History
 - Prison Account Records (TRUFACTS)
 - Administrative Remedies
 - Electronic Messaging (TRULINCS)

Law Enforcement Requests for Records

(b)(5); (b)(7)(E)

SIS Investigations

(b)(7)(E)

Surveillance

- Inmates use computers for . . .
 - E-Disco
 - Law Library
 - And More!

Criminal E-Discovery

- **E-DISCO**

- Reviewing E-discovery from CDs, hard drives

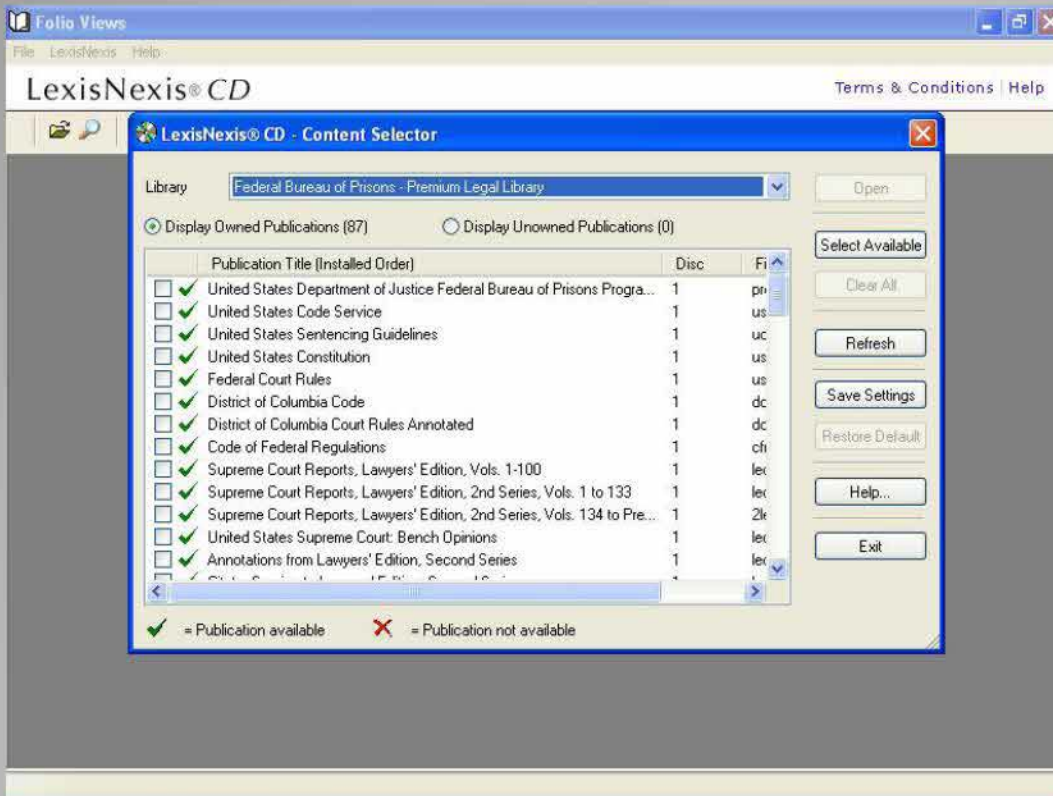
- Fax Discovery Authorization Forms for CDs

(b)(6); (b)(7)(C)

- Court appointed Discovery Coordinator

- Formats hard drives and provides to Education Dep't

Criminal E-Discovery



ELECTRONIC LAW LIBRARY

Criminal E-Discovery

(b)(4)

AND MORE! TRULINCS

Trust Fund Limited
Inmate Communication
System

Portal Screen

Criminal E-Discovery

- Inmate Computers - the numbers

	Units (4)	SHU (4)	Education Dep't (9)
E-Discovery Computers	1	3	6
Electronic Law Library	1	1	3
TRULINCs	3	1	0

Criminal E-Discovery

- **More Computers**

- Visiting Room (11)

- Adobe Reader 9, Excel Viewer, Hawk Player, PowerPoint Viewer, Notepad, VLC Player, Windows Media Player, Wordpad, and Word Viewer

- Requests for Laptops

- Not contemplated by policy

- Requests for Access to Internet

- No.

Criminal E-Discovery

TRULINCS



Electronic Messaging is . . .

- Email which requires pre-approval by the public
- Plain text messages only
 - No attachments
 - No special characters
 - No embedded graphics or photos
- A mechanism for family/friends to initiate contact saving staff time
- Easier and faster than US Postal Mail
- A secure method of managing inmate communication
- Access to the most popular form of written communication
- An alternate means of written communication

TRULINCS



Electronic Messaging is not . . .

- Internet access
- Instant messaging
- Intended for special or legal correspondence
- A replacement for US Postal Mail

Inmate Agreement for Participation in TRULINCS

JUNE 10

Electronic Messaging Program CDFRM

U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

Inmate Name:	Reg. No.:	Institution:
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1. **TRULINCS Program** - I am notified of and acknowledge that the Bureau of Prisons (Bureau) at the above-named institution is offering an opportunity for inmates to participate in the Trust Fund Limited Inmate Communication System (TRULINCS) program, whereby inmate-participants may send and receive electronic messages (e-mail) with members of the community.
2. **Conditions of Participation** - As a TRULINCS program participant, I am notified of, acknowledge, and voluntarily agree to the following conditions:
 - a. **Compliance with Program Procedures** - I must abide by all terms prescribed in the TRULINCS Program Procedures (procedures), which I acknowledge having been notified of, received, read, and understood prior to signing this agreement.
 - b. **Voluntary Participation** - My participation in the TRULINCS Electronic Messaging program is voluntary and I may decline participation, or withdraw at anytime, without penalty or cost, except as provided in the procedures related to fees which may have already been collected from me. In the absence of TRULINCS program participation, I may still maintain contact with persons in the community through written correspondence, telephone, and visiting, as provided in those relevant Bureau policies.
 - c. **User Fee** - My TRULINCS program participation is conditioned on my payment of a fee for usage as prescribed in the procedures, and I authorize such fee(s) to be withdrawn directly from my inmate deposit fund account.
 - d. **Consent to Monitoring** - I am notified of, acknowledge, and voluntarily consent to having my messages and transactional data (incoming and outgoing) monitored, read, retained by Bureau staff, and otherwise handled as described in the Inmate Electronic Message Record System, Justice/BOP-013 (70 FR 69594-01, November 16, 2005). I am notified of, acknowledge, and voluntarily consent that this provision applies to messages both to and from my attorney or other legal representative, and that such messages will not be treated as privileged communications.
 - e. **Warden's Authority** - The Warden may discontinue my participation in the TRULINCS program, or reject incoming/outgoing messages, whenever it is determined that my participation violates the procedures or otherwise jeopardizes the safety, security, or good order of the institution, or protection of the public. Additionally, my participation may be limited or discontinued at anytime due to program unavailability resulting from system maintenance, modification, SHU assignment or other reasons unrelated to my participation conduct.
 - f. **Inmate Discipline / Criminal Prosecution** - My use of the TRULINCS program in violation of the procedures may result in inmate disciplinary action and/or criminal prosecution.
 - g. **Administrative Remedy Program** - Any grievance I may have related to the TRULINCS program may be raised through the Bureau's Administrative Remedy Program.
3. **ACKNOWLEDGMENT** - As indicated by my signature below, I am notified of, acknowledge, and voluntarily agree to all the above provisions.

Inmate Name (printed/signed)

Date

Inmate TRULINCS Agreement:

Voluntary Participation

Fees

Consent to Monitoring

Warden's Authority

Disciplinary Action

BOP Administrative Remedy Procedure (Exhaustion)

Screen closes in: 02 Minutes 58 Seconds

**TRULINCS and ELECTRONIC MESSAGING:
WARNING/RESPONSIBILITY/ACKNOWLEDGMENT**

Warning: This computer system is the property of the United States Department of Justice. The Department may monitor any activity on the system and search and retrieve any information stored within the system. By accessing and using this computer, I am consenting to such monitoring and information retrieval for law enforcement and other purposes. I have no expectation of privacy as to any communication on or information stored within the system.

Responsibility: I must abide by all terms prescribed in Bureau of Prisons' policy regarding my use of TRULINCS and electronic messaging systems, which I acknowledge having read and understood. I understand and consent to having my electronic messages and system activity monitored, read, and retained by authorized personnel. I understand and consent that this provision applies to electronic messages both to and from my attorney or other legal representative, and that such electronic messages will not be treated as privileged communications, and that I have alternative methods of conducting privileged legal communication. I will not share passwords and will log off the system when leaving the TRULINCS terminal. I am only authorized to use the TRULINCS and electronic messaging systems to communicate with those persons on my authorized contact list; check account balances; complete forms; access the electronic law library, and other TRULINCS functions.

My use of TRULINCS in violation of the procedures may result in inmate disciplinary action and/or criminal prosecution. Any grievance I may have related to the TRULINCS program may be raised through the Bureau's Administrative Remedy Program.

Acknowledgment: By accessing the program, I understand and agree to all the above provisions and consent to have the Bureau withdraw all required program fees directly from my deposit fund account.

My participation in the electronic messaging program is voluntary and I may decline participation, or withdraw at anytime, without penalty or cost, except as provided in the procedures related to fees which may have already been collected from me. In the absence of electronic messaging program participation, I may still maintain contact with persons in the community through written correspondence, telephone, and visiting, as provided in those relevant Bureau policies.

The Warden may discontinue my participation in the electronic messaging program, or reject incoming/outgoing messages, whenever it is determined that my participation violates the procedures or otherwise jeopardizes the safety, security, or good order of the institution, or protection of the public. Additionally, my participation may be limited or discontinued at anytime due to program unavailability resulting from system maintenance, modification, segregated housing assignment or other reason unrelated to my participation conduct.

TRULINCS Warning Acknowledgment

Consent to Monitoring

No Exception for Legal
Correspondence to
Attorney

No Sharing of
Passwords

Voluntary with Fees

Warden's Authority

System Generated Message
Acceptance required by public before emails begin

From: <info@corlinks.com>
To:
Date: 8/27/2009 10:37 AM
Subject: Inmate

This is a system generated message informing you that the above-named person is a federal prisoner who seeks to add you to his/her contact list for exchanging electronic messages. There is no message from the prisoner at this time.

You can ACCEPT this prisoner's request or BLOCK this individual or all federal prisoners from contacting you via electronic messaging at www.corlinks.com. To register with CorLinks you must enter the email address that received this notice along with the following identification code: S62T72RX.

This identification code will expire in 10 days.

By approving electronic correspondence with federal prisoners you consent to have the Bureau of Prison staff monitor the content of all electronic messages exchanged.

Once you have registered with Corlinks and approved the prisoner for correspondence the prisoner will be notified electronically.

For additional information related to this program, please visit the http://www.bop.gov/inmate_programs/corlinks_faqs.jsp FAQ page.

Este es un mensaje generado por el sistema que le informa que la persona mencionada es un preso federal que pretende añadirlo a usted a su lista de contactos para intercambiar mensajes electrónicos. No hay ningún mensaje del preso en este momento.

Usted puede ACEPTAR esta petición del preso o BLOQUEAR a esta persona o a todos los presos federales de contactarlo a usted a través de la mensajería electrónica en www.corlinks.com. Para inscribirse en CorLinks debe introducir la dirección de correo electrónico que recibió esta notificación, junto con el siguiente código de identificación: S62T72RX.

Este código de identificación expirará en 10 días.

Al aprobar la correspondencia electrónica con presos federales usted está consintiendo a que personal de la Oficina de Prisiones supervise el contenido informativo de todos los mensajes electrónicos intercambiados y cumplir con todas las reglas y procedimientos del Programa.

Una vez registrado en Corlinks y aprobado para la correspondencia el preso será notificado por vía electrónica.

Para obtener información adicional relacionada con este programa, por favor visite la página de preguntas frecuentes http://www.bop.gov/inmate_programs/corlinks_faqs.jsp.

Sample Message – Acceptance by Public

Identifies Federal
Prisoner Seeking to
Add as a Contact

Accept or Block

Consent to BOP
Monitoring

English and Spanish

- What does the BOP have?
- What can you get?
- How do you get them?

TELEPHONE CALLS



- What does the BOP record?
 - TRUFONE Calls
 - Outgoing
 - Incoming
 - Staff phones?
 - Transactional data



TELEPHONE CALLS

(b)(7)(E); (b)(7)(F)



TELEPHONE CALLS

- What can you get?
 - Transactional data
 - Recorded calls
- How far back?
 - Recordings – 6 months
 - Transactional data – 6+ months
 - Exceptions



TELEPHONE CALLS

How do I get . . .

- Transactional data
 - Request For Inmate Telephone Transaction Data form
- Recorded telephone calls
 - Subpoena
 - Include Register No.
 - Retrospective **ONLY**



TELEPHONE CALLS

ROLES

- AUSA
- Case Agent
- BOP attorney
- BOP SIS staff



TELEPHONE CALLS

Can the Defense get records without the
AUSA's knowledge?

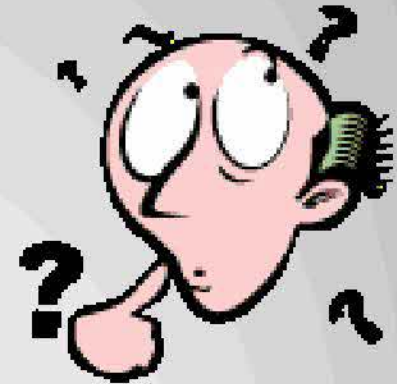
Yes,
but . . .



DEFENSE REQUESTS

How can defense counsel get BOP records and information without telling the AUSA?

- Written authorization
- FOIA
- Court order



DEFENSE REQUESTS

What can they get without telling the AUSA?

- With written authorization
 - Records of the authorizing individual
- Without written authorization
 - Public information
 - Staff: PS 1351.05, Release of Information, Attch. B
 - Inmates: 28 C.F.R. § 540.65(b)



DEFENSE REQUESTS

Defense Subpoenas

- Trigger the Touhy regulations
- 28 C.F.R. § 16.21, et seq.
- PLEASE READ: 28 C.F.R. § 16.23(a)
 - **ONLY** the DOJ attorney “in charge of the case” can authorize release; after . . .
 - Consulting the “originating component”
 - Why?

DEFENSE REQUESTS



EXCEPTIONS?

- Ex parte applications?
- Sealed subpoenas?
- Sealed orders telling the BOP not to talk to the assigned AUSA?



DEFENSE REQUESTS

www.bop.gov



Call a BOP Attorney

BOP Information

THE CAT'S OUT OF THE BAG!



C

?

THE END

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