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March 27, 2009

EOUSA b6, b7C
Esq.

Federal Detention Center
Legal Department
P.O. Box 572
Philadelphia, PA 19105

RE: Prisoner e-mail

Dear EOUSA
b6, b7C

I understand that prisoners at the FDC Philadelphia will soon have access to e-mail. I also understand that to be eligible for this privilege they must sign a form consenting to monitoring their e-mail traffic. I have been told that the prison will require a subpoena from us before producing a prisoner's e-mail. I am writing to request that production be made in response to a letter request.

The Program Statement for the TRULINCS e-mail program says on page 8, "The Bureau's TRULINCS System of Records, and the Privacy Act of 1974, allow disclosure of TRULINCS transactional data and message content for law enforcement purposes, as defined therein. Subpoenas for these are not required, as compared to recorded telephone conversations." (Emphasis supplied). See http://www.bop.gov/policy/progstat/5265_013.pdf. Requiring production by means of process implicates 18 U.S.C. § 2703, part of the Stored Communications Act. If we proceed under the act, we will be required to get a search warrant or use a subpoena with notice to the prisoner. Strange as it may seem, if the Bureau of Prisons turns the material over to us without any legal process, the distribution of the material is legal. (The legal issue is complicated, and I would be happy to share with you my research on the question.) However, it appears that on a national level, the Bureau has considered this question and decided that a subpoena is not necessary. I only ask that you follow the national procedures.

Very truly yours,

EOUSA b6, b7C

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