



One Hundred Tenth Congress  
U.S. House of Representatives  
Committee on Homeland Security  
Washington, DC 20515  
July 1, 2008

The Honorable W. Ralph Basham  
Commissioner  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security  
1300 Pennsylvania Ave., N.W.  
Washington, D.C. 20229

Dear Commissioner Basham:

As you know, the search and seizure of personal electronics, including laptops, cellular phones, and PDAs, at our nation's ports of entry has generated a great deal of controversy and spawned nearly two dozen cases in varying jurisdictions.

While it is well-settled that Customs and Border Protection (CBP) agents have the legal authority to conduct routine searches at the border pursuant to the "border search exception," the application of this exception to the Fourth Amendment's warrant requirement has yet to be definitively enunciated in cases involving electronic devices.

Unfortunately, recent cases have prompted troubling allegations of CBP practices during these searches. These practices include opening individual laptops; reading documents saved on the devices; accessing email accounts and reading through emails that have been sent and received; examining photographs; looking through personal calendars; and going through telephone numbers saved in cellular phones. Further, individuals have raised claims that these searches can sometimes last for hours and cause significant delay, while the subject of the search – often a U.S. citizen – is delayed entering the country and must sit by as the information contained in their personal devices are copied, confiscated or compromised. While the government's interest in preventing the entry of dangerous persons and goods into this country is vital, it is not exempt from Constitutional safeguards.

Given the legal uncertainty surrounding the border search of electronic devices, it is imperative that the Committee be provided with as much information as possible about the policies CBP uses to conduct these searches, especially when it is necessary to obtain password-protected or encrypted information and when the searches involve U.S. citizens. To that end, please provide the Committee with a detailed description of the

standards used by CBP to determine whose electronic devices are subjected to searches, including standards that address racial, ethnic and religious profiling; how privacy rights are protected during the searches; who has access to the seized information and materials; how the seized information is used and/or shared by CBP; and CBP's protocols for retaining, storing, and destroying the devices and information.

The information you provide is crucial to gaining a better understanding of the procedures used to secure our border, and I thank you, in advance, for your cooperation.

Pursuant to Rule X(3)(g) and Rule XI of the Rules of the House of Representatives, please respond to the above requests no later than July 11, 2008. If you have any questions, please contact Cheri Branson, Chief Oversight Counsel to House Committee on Homeland Security, at (202) 226-2616. I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink that reads "Bennie G. Thompson". The signature is written in a cursive, flowing style.

Bennie G. Thompson  
Chairman

cc: Honorable Peter T. King, Ranking Member, Committee on Homeland Security