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From: [redacted]
To: [redacted]
Date: Thu, Dec 5, 2002 12:29 PM
Subject: Re: Patriot Act type suggestions for legislative proposals (a little late, but)

Great! The case agents have been looking at the DAG memo but I don't know how far they've gotten with pursuing it.

>>> [redacted] 12/05 12:16 PM >>>

We, in fact have a legislative proposal to do just as you suggest. It is in the process of review for the new Congress. Still, thanks very much for taking the time to recommend the proposal despite what is very clearly a busy time for you.

Unfortunately, the classified techniques that you refer to do not "break" PGP, only circumvent it.

Moreover, there is still the problem of the DOJ DAG's Directive on the Use of Classified Technologies in Criminal Cases, see attached, which grew out of the SCARFO case in which a classified technique was in fact used in a Mob case to acquire the target's encryption key. DOJ criticized the case as having risked a classified technique on an unworth target. I cannot predict waht their reaction would be to your case.

>>> [redacted] 12/05 12:09 PM >>>

One more suggestion of which you are already aware of the case exemplifying the problem. In the e-mail TIII on [redacted]

[redacted] Perhaps legislation could be proposed which would allow classified techniques to be used in criminal investigations which would be protected by law from having to be revealed in court? I would say this is a fairly urgent issue and has been for some time- (see Louis Freeh's recent testimony to Joint Intelligence Committee) and the current terrorism prevention context may present the best opportunity to bring up the encryption issue/possible remedy again.

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CC: [redacted]