

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

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**From:** (b)(6); (b)(7)(C)  
**Sent:** Monday, July 14, 2008 9:56 AM  
**To:** (b)(6); (b)(7)(C)  
**Subject:** final laptops op-ed  
**Attachments:** CBP Laptop Searches op-ed.doc

S1 made one final edit, changing “destroyed” to “erased” in the 5<sup>th</sup> para. We’ll call this final and submit shortly. Thanks for your help.

### RESPONSE TO USA TODAY – LAPTOP SEARCHES

Since the founding of the Republic the federal government has held broad authority to conduct searches at the border to prevent the entry of dangerous people and goods. In the 21<sup>st</sup> century, the most dangerous contraband is often contained in laptop computers or other electronic devices, not on paper. This includes terrorist materials and despicable images of child pornography.

Laptop searches have proven essential to detecting people and materials that should be blocked from entering the United States. Officers have discovered video clips of improvised explosive devices being detonated, a martyrdom video, and other violent jihadist materials. In addition, these searches have uncovered scores of child pornography, including a home movie of children being sexually assaulted.

How often do we search laptops? Of the approximately 400 million travelers who entered the country last year, only a tiny percentage were referred to secondary baggage inspection for a more thorough examination. Of those, only a fraction had electronic devices that may have been checked.

As a practical matter, travelers only go to secondary when there is some level of suspicion. Yet legislation locking in a particular standard for searches would have a dangerous chilling effect as officers’ often split-second assessments are second-guessed.

Are these searches legal? The U.S. Supreme Court has recognized the “right of the sovereign to protect itself by stopping and examining persons and property crossing into this country.” And every federal appellate court in the country to address the laptop issue – including the Ninth Circuit – has concluded that, at the border, there is no constitutional basis for treating laptops differently than hard copy documents.

We are, of course, mindful of travelers’ privacy. No devices are kept permanently unless there is probable cause. Likewise, any U.S citizen’s information that is copied to facilitate a search is retained only if relevant to a lawful purpose such as a criminal or national security investigation, and otherwise is erased. Special privacy procedures govern the handling of commercial and attorney-client information.

We cannot abandon our responsibility to inspect what enters the United States just because the information happens to be on an electronic device. To do so would open a dangerous window for terrorists and criminals to exploit our borders in new and unacceptable ways.

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Deputy Assistant Secretary  
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[www.dhs.gov](http://www.dhs.gov)

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