

NSD 14-007

Document 124



U.S. Department of Justice APPROVED FOR PUBLIC RELEASE

Office of Legislative Affairs

DATE: 02/26/2016
FBI INFO. CLASSIFIED BY J23J98T32
REASON: 14(C)
DECLASSIFICATION: 12/31/2041

Office of the Assistant Attorney General

Washington, D.C. 20530

~~TOP SECRET//COMINT//NOFORN//X1~~

DEC 29 2005

The Honorable Peter Hoekstra
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

In accordance with Sections 1808(a), 1826, 1846, and 1862 of the Foreign Intelligence Surveillance Act of 1978, as amended, I am submitting herewith the semi-annual reports of the Attorney General concerning electronic surveillances and physical searches conducted under the Act, all requests for pen registers and trap and trace surveillance, and all requests for access to certain business records (including the production of tangible things) under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, I am submitting herewith the semi-annual report of the Attorney General also concerning certain activities under and legal interpretations of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1801, et. seq. These reports cover the period January 1, 2005, through June 30, 2005.

Sincerely,

William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable Jane Harman
"Ranking Minority Member

~~TOP SECRET//COMINT//NOFORN//X1~~
~~UNCLASSIFIED WHEN ATTACHMENTS ARE REMOVED~~



Office of the Assistant Attorney General

Washington, D.C. 20530

~~TOP SECRET//COMINT//NOFORN//X1~~

DEC 29 2005

The Honorable Pat Roberts
Chairman
Senate Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with Sections 1808(a), 1826, 1846, and 1862 of the Foreign Intelligence Surveillance Act of 1978, as amended, I am submitting herewith the semi-annual reports of the Attorney General concerning electronic surveillances and physical searches conducted under the Act, all requests for pen registers and trap and trace surveillance, and all requests for access to certain business records (including the production of tangible things) under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, I am submitting herewith the semi-annual report of the Attorney General also concerning certain activities under and legal interpretations of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1801, et. seq. These reports cover the period January 1, 2005, through June 30, 2005.

Sincerely,

William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable John D. Rockefeller IV
"Vice Chairman"

~~TOP SECRET//COMINT//NOFORN//X1~~

~~UNCLASSIFIED WHEN ATTACHMENTS ARE REMOVED~~



Office of the Assistant Attorney General

Washington, D.C. 20530

~~TOP SECRET//NOFORN//X1~~

DEC 29 2005

The Honorable Arlen Specter
Chairman
Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In accordance with Sections 1826, 1846, and 1862 of the Foreign Intelligence Surveillance Act of 1978, as amended, I am submitting herewith the semi-annual reports of the Attorney General concerning physical searches conducted under the Act, all requests for pen register and trap and trace surveillance, and all requests for access to certain business records (including the production of tangible things) under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, I am submitting herewith the semi-annual report of the Attorney General also concerning certain activities under and legal interpretations of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1801, et. seq. These reports cover the period January 1, 2005, through June 30, 2005.

Sincerely,

William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

~~TOP SECRET//NOFORN//X1~~

~~UNCLASSIFIED WHEN ATTACHMENTS ARE REMOVED~~



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

~~TOP SECRET//NOFORN//X1~~

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

DEC 29 2005

Dear Mr. Chairman:

In accordance with Sections 1826, 1846, and 1862 of the Foreign Intelligence Surveillance Act of 1978, as amended, I am submitting herewith the semi-annual reports of the Attorney General concerning physical searches conducted under the Act, all requests for pen register and trap and trace surveillance, and all requests for access to certain business records (including the production of tangible things) under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. 108-458, I am submitting herewith the semi-annual report of the Attorney General also concerning certain activities under and legal interpretations of the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. § 1801, et. seq. These reports cover the period January 1, 2005, through June 30, 2005.

Sincerely,

William E. Moschella
William E. Moschella
Assistant Attorney General

" Attachments

cc: The Honorable John Conyers, Jr.
Ranking Minority Member

~~TOP SECRET//NOFORN//X1~~~~UNCLASSIFIED WHEN ATTACHMENTS ARE REMOVED~~

All redactions on this page are b(1) and outside of the remaining challenged withholdings.

~~TOP SECRET//COMINT//NOFORN//X1~~

Section 1: Introduction (U)

This report is submitted pursuant to Sections 108(a), 306, 406, and 502 of the Foreign Intelligence Surveillance Act of 1978 (FISA or the Act), as amended, 50 U.S.C. §§ 1801-1811, 1821-1829, 1841-1846, 1861-1862. It covers all electronic surveillance, physical searches, pen register/trap and trace surveillance, and requests for access to certain business records for foreign intelligence purposes conducted under the Act by the Federal Bureau of Investigation (FBI), and electronic surveillance conducted by the National Security Agency (NSA), during the period January 1, 2005, through June 30, 2005. (S)

[REDACTED] (S)

The FISC denied no applications during this reporting period as they were originally presented. (U)

[REDACTED] (S)

~~TOP SECRET//COMINT//NOFORN//X1~~

~~TOP SECRET//COMINT//NOFORN//X1~~

[Redacted]

(S)

2. Descriptions (U)

redactions are b(1) and outside of the remaining challenged withholding s.

[Redacted]

(S)

[Redacted]

(S)

[Redacted]

(S)

[Redacted]

(S)

^{2/} Some of the individuals listed below may, however, be current targets of Court-authorized pen register/trap and trace surveillance. (S)

~~TOP SECRET//COMINT//NOFORN//X1~~

all redactions on
this page are b(1)
and outside of the
remaining
challenged
withholdings

~~TOP SECRET//COMINT//NOFORN//X1~~

3.

[REDACTED] (S)

[REDACTED] (S)

D. Emergency Surveillance or Physical Search (U)

During this reporting period, the Attorney General (or Deputy Attorney General or Acting Attorney General) authorized emergency electronic surveillance and/or physical search pursuant to 50 U.S.C. §§ 1805(f), 1824(e), or 1843(a)-(b). These emergency authorizations resulted in

[REDACTED] and two applications for pen register/trap and trace surveillance.¹⁵ Applications or other appropriate pleadings were filed with the FISC within 72 hours of each emergency authorization (for electronic surveillance and/or physical search applications), or within 48 hours (for pen register/trap and trace applications). The FISC approved all of the applications and/or accepted the other pleadings. (S)

E.

[REDACTED] (S)

[REDACTED]

[REDACTED] (S)

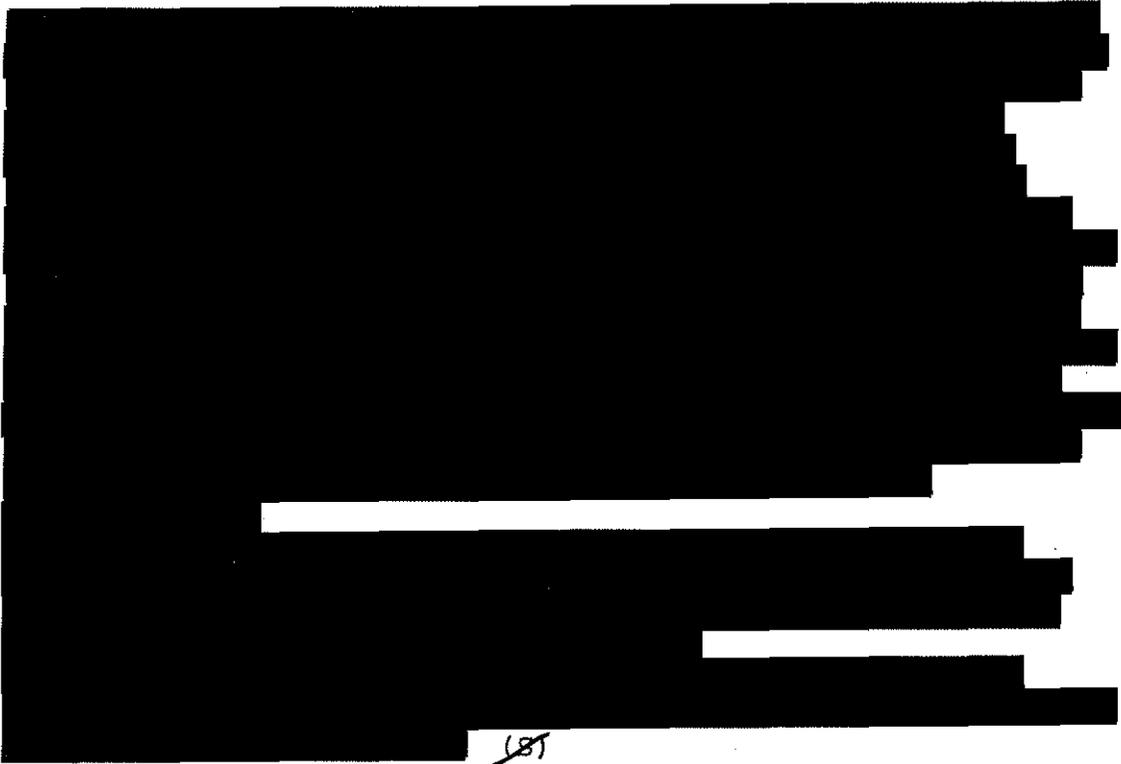
~~TOP SECRET//COMINT//NOFORN//X1~~

all redactions on this page are b(1) and outside of the remaining challenged withholdings.

~~TOP SECRET//COMINT//NOFORN//X1~~

categories of information sought pursuant to 50 U.S.C. § 1861 were: (1) driver's license records from state departments of motor vehicles; (2) public accommodations; (3) apartment lease records; (4) credit card records; and (5) telecommunications subscriber information for telephone numbers in conjunction with the FISC-authorized installation and use of pen registers/trap and trace devices. (U)

During the reporting period covered by this semi-annual report, the government obtained FISC approval of 77 requests for the production of tangible things under Section 215. All of these orders were for records related to an investigation authorized under Attorney General guidelines. None involved investigations being conducted solely on the basis of activities protected by the First Amendment. These orders involved the following categories of targets and types of records:



b1-1 Per FBI
b3-1
b7E-6

The government continues to file, and the FISC has approved, requests for the production of tangible things pursuant to 50 U.S.C. § 1861. These requests will be reported in the semi-annual reports covering the period in which they are filed and approved. None of these investigations are being conducted based solely on activities protected by the First Amendment. (S)

~~TOP SECRET//COMINT//NOFORN//X1~~

redactions on this page are within the remaining challenged withholdings.

~~TOP SECRET//COMINT//NOFORN//X1~~

As was discussed in the previous semi-annual report, many of the requests for the production of tangible things pursuant to 50 U.S.C. § 1861 are now being presented to the FISC in a combined format with pen register/trap and trace applications.

[REDACTED]

b1-1 Per FBI
b3-1
b7E-6

(S)

D. Scope of FISC's Jurisdiction (U)

As reported in previous semi-annual reports, the FISC asked the government to file a memorandum of law addressing a question about the scope of the FISC's jurisdiction. On October 17, 2003, a FISC judge raised the following question during a hearing:

[REDACTED]

b1-1 Per FBI
b3-1
b7E-5

the Foreign Intelligence Surveillance Court has jurisdiction to issue an order under the Foreign Intelligence Surveillance Act. (S)

[REDACTED]

b1-1 Per FBI
b3-1
b7E-5

~~TOP SECRET//COMINT//NOFORN//X1~~

~~TOP SECRET//COMINT//NOFORN//X1~~

[REDACTED] Thus, the FISC concluded that the interception of such communications was not covered by the Act.

(S)

this redaction is within the remaining challenged withholdings.

[REDACTED]

b1-1 Per FBI
b3-1
b7E-5, 6'

E

E

(S)

The government continues to expect that, as the means of communication used by terrorists and other FISA targets change, difficult questions about the applicability of FISA will continue to arise. We will keep Congress informed as these issues develop. (S)

E.

[REDACTED]

(S)

[REDACTED]

These redactions are b(1) and outside of the remaining challenged withholdings
epic.org

~~TOP SECRET//COMINT//NOFORN//X1~~

~~TOP SECRET//COMINT//NOFORN//X1~~

These redactions are b(1) and outside of the remaining challenged withholdings

[Redacted block] (S)

[Redacted block] (S)

G. Other Legal Interpretations under FISA by the FISC (U)

[Redacted block] (S)

[Redacted block]

~~TOP SECRET//COMINT//NOFORN//X1~~

~~TOP SECRET//COMINT//NOFORN//X1~~

[REDACTED]

(TS)

H. [REDACTED] (S)

[REDACTED]

(S)

(b)1 These redactions are outside of the remaining challenged withholdings

I. Litigation Support (U)

[REDACTED]

~~TOP SECRET//COMINT//NOFORN//X1~~

(b)1 All redactions on this page are outside of the remaining challenged withholdings

~~TOP SECRET//COMINT//NOFORN//X1~~

[REDACTED]

[REDACTED]

K. FISA Process Improvements (U)

[REDACTED]

[REDACTED]

~~TOP SECRET//COMINT//NOFORN//X1~~

All redactions on this page are b(1) and outside of the remaining challenged withholdings

APPROVED FOR PUBLIC RELEASE

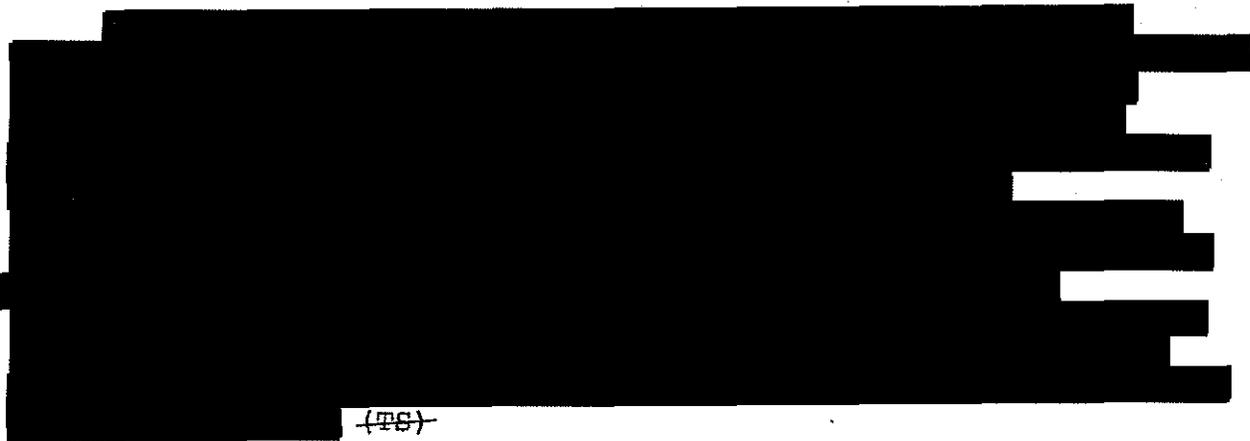
~~TOP SECRET//NOFORN//X1~~

THE ATTORNEY GENERAL'S SEMI-ANNUAL REPORT
UNDER THE
FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978, AS AMENDED
BY SECTION 6002 OF THE
INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004
December 2005

This report is submitted pursuant to the Foreign Intelligence Surveillance Act of 1978 ("FISA" or the "Act"), as amended, 50 U.S.C. §§ 1801 et seq., and covers the period January 1, 2005, through June 30, 2005. (U)

I. Aggregate Number of Persons Targeted for Orders Under the Act (U)

Section 601(a)(1) of FISA requires the Attorney General to report on "the aggregate number of persons targeted for orders issued under the Act" for electronic surveillance, physical search, pen registers, and access to records. FISA defines "person" as "any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power." 50 U.S.C. § 1801(m). (U)



~~(TS)~~

~~Classified by: James A. Baker, Counsel
for Intelligence Policy, Office of
Intelligence Policy and Review,
U.S. Department of Justice~~

~~Reason: 1.4(c)
Declassify on: X1~~

~~TOP SECRET//NOFORN//X1~~

All redactions on this page are b(1) and outside of the remaining challenged withholdings.

~~TOP SECRET//NOFORN//X1~~

[REDACTED]

(TS)

A. Electronic Surveillance (U)

[REDACTED]

(S)

B. Physical Searches (U)

[REDACTED]

(S)

C. Pen Registers/Trap and Trace Devices (U)

The aggregate number of persons targeted for orders for pen registers/trap and trace devices issued under section 402 of the Act, 50 U.S.C. § 1842, from January 1, 2005, through June 30, 2005, was at least 130.¹ (S)

pp D. Access to Tangible Things (U)

[REDACTED]

b1-1 Per FBI
b3-1
b7E-6

[REDACTED]

b1-1 Per FBI
b3-1
b7E-6

(S)

~~TOP SECRET//NOFORN//X1~~

TOP SECRET//NOFORN//X1

(b)1 These redactions are outside of the remaining challenged withholdings

[Redacted]

b1-1 Per FBI
b3-1
b7E-6

The business records portion of the combined applications seeks telecommunications subscriber information for telephone numbers in conjunction with the Court-authorized installation and use of pen registers/trap and trace devices. (S)

II. Number of Individuals Covered by an Order Under Section 101(b)(1)(C) (U)

[Redacted] (S)

(b)1 These redactions are outside of the remaining challenged withholdings

III. Attorney General Authorizations for Use of FISA-derived Information Use in a Criminal Proceeding (U)

[Redacted] (S)

IV. Summary of Significant Legal Interpretations (U)

During the reporting period from January 1, 2005, through June 30, 2005, there were two significant legal interpretations of the Act involving matters before the Foreign Intelligence Surveillance Court ("the Court") or the Foreign Intelligence Surveillance Court of Review ("the Court of Review"), including interpretations presented in applications or pleadings filed with the Court or the Court of Review. Both were presented in supplemental briefs filed by the government with the Court in connection with applications submitted pursuant to the Act by the government. A summary of those legal interpretations follows. (S)

[Redacted]

b1-1 Per FBI
b3-1
b7E-5,6

within the remaining challenged withholdings.

TOP SECRET//NOFORN//X1

within the remaining
challenged withholdings.

~~TOP SECRET//NOFORN//X1~~

[REDACTED]

b1-1 Per FBI
-1
7E-5

(TS)

In this application, the relevant provisions of FISA were those containing the definitions of pen register and trap and trace devices. See 50 U.S.C. § 1841(2) (stating that "the terms 'pen register' and 'trap and trace device' have the meanings given such terms in Section 3127 of Title 18, United States Code"). These definitions were amended by the "Uniting and Strengthening America by Providing Appropriate Tools Required to Obstruct and Intercept Terrorism Act of 2001" (USA PATRIOT Act), Pub.L. 107-56, to clarify that the pen register and trap and trace provisions apply to an array of modern communications technologies (e.g., cellular phones and the Internet) and not simply traditional telephone lines. In the USA PATRIOT Act, the definitions were updated to include the recording or decoding of "dialing, routing, addressing or signaling information" in order to confirm the statute's proper application to collecting communications in an advanced electronic environment. In this application,

[REDACTED]

1 Per FBI
b3-1
b7E-5, 6

Thus, the government argued, use of the requested surveillance technique was authorized under FISA's definitions of pen registers and trap and trace devices. The Court approved the application as requested by the government.
(TS)

2. [REDACTED]

(S)

redaction is b(1) and
outside of the remaining
challenged withholdings.

~~TOP SECRET//NOFORN//X1~~