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DATE: 09-2005
FBI INK
CLASSIFIED BY 65179 DMH/KJ/05-cv-0845
REASON: 1.4 (c)
DECLASSIFY ON: 08-29-2030

(Rev. 01-31-2003)

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HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

FEDERAL BUREAU OF INVESTIGATION

Precedence: DEADLINE 03/19/2004

Date: 03/17/2004

To: General Counsel

Attn: ILU, Room 7326

Attention: [Redacted]

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From: [Redacted]

Squad 21

Contact: SSA [Redacted]

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Approved By: [Redacted]

Drafted By: [Redacted]

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Case ID #: 66F-HQ-C1364260 ; 26.

Title: USA PATRIOT ACT
SUNSET PROVISIONS

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Synopsis: To provide a brief narrative summarizing [Redacted] use of several authorities implemented by the USA Patriot Act which are subject to sunset provisions. Referenced lead covered.

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Reference: 66F-HQ-C1364260 Serial 5

Details: Above referenced communication requested offices to provide the Investigative Law Unit (ILU), Office of the General Counsel (OGC), with "statistics, good examples or anecdotes, or at the very least, a brief narrative summarizing the benefits the office has received from the provisions...."

To that end, [Redacted] provides the following information:

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1. **Voice Mail** - Section 209 of the Act permits law enforcement to obtain a search warrant or court order for voice mail messages maintained by a communications provider under 18 USC 2510 or 2703.

[Redacted] Although this investigative technique [Redacted] it is a valuable tool. In an emergency situation obtaining a search warrant would be much faster and less complicated than obtaining an emergency Title III.

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To: General Counsel From: [redacted]
Re: 66F-HQ-C13642, 03/17/2004

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2. **Nationwide Search Warrants for email** - Section 220 of the Act permits the issuance of search warrants with nationwide jurisdiction to an electronic communications service provider under 18 USC 2703.

[redacted] (S)

3. **Voluntary Disclosures by ISPs** - Section 212 of the Act permits communications providers to voluntarily disclose the contents of communications to protect life or limb or their rights or property.

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[redacted]

4. **Information Sharing** - Sections 203(b) and (d) of the Act permit the sharing of information between criminal and intelligence investigations.

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[redacted] (S)

FISA coverage on a close associate provided invaluable information on the first subject, in particular the timing of his arrest, as he was in the process of leaving the country on extremely short notice (the arrest was made at the airport.) The IT subject ultimately pleaded guilty to a White Collar Criminal charge, was denaturalized, and deported out of the country. [redacted] can provide a more detailed, classified, case review upon request.)

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5. **Intercepting Communications of Computer Trespassers** - Section 217 of the Act permits a computer owner/operator to provide consent for law enforcement to monitor the activities of a computer trespasser.

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[redacted]

6. **Expanded Title III Predicates** - Sections 201 and 202 of the Act permit the use of court authorized electronic surveillance (i.e. a Title III) in investigations involving chemical weapons (18 USC 229), terrorism (18 USC 2332a, 2332b, 2332d, 2339A and 2339B) or computer fraud and abuse (18 USC 1030.)

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To: General Counsel From: [redacted]
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7. **Roving FISA Surveillance** - Section 206 of the Act permits roving surveillance where the target is attempting to thwart electronic surveillance.

[redacted] (S)
However, [redacted] anticipates the increased use of this important authority to combat the increasingly sophisticated trade craft employed by IT and FCI subjects.

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8. **New Standard for FISA Pen/Trap** - Section 214 of the Act authorizes a FISA Order for a pen register or trap/trace based upon the standard that such is relevant to the investigation.

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[redacted] (S)
9. **Changes to the "Primary Purpose" Standard for FISA Court Orders** - Section 218 of the Act authorizes the issuance of a FISA Court Order where foreign intelligence gathering is a "significant purpose" rather than the "primary purpose" for the Order.

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This provision along with the information sharing provisions are the cornerstones of the PATRIOT ACT. [redacted] has had great success in the sharing of FISA information to assist members of the Intelligence Community (IC) as well as other criminal agencies, and the US Attorneys Office. In one particularly noteworthy example, the subject of a two year long FISA was subsequently arrested on a weapons charge stemming from an incident that happened prior to 9/11/01. In preparation for the trial, [redacted] coordinated closely with the AUSA's office to identify potentially useful FISA cuts in preparation for a trial. While the subject ultimately pled guilty prior to trial, significant time and resources were committed to reviewing the FISA cuts in preparation and coordinating a unified strategy between the [redacted] the AUSA's office and the arresting agency. [redacted] can provide a more detailed, classified, case review upon request.)

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10. **New Standard for Business Records Under FISA** - Section 215 of the Act permits the issuance of a FISA Court Order for record production where the information is relevant to an investigation.

[redacted] (S)
[redacted] Again, however, [redacted] considers this authority to be extremely valuable, in particular when the use of a National Security Letter (NSL) is not authorized or appropriate.

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To: General Counsel From:
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LEAD(s):

Set Lead 1: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

Read and Clear.

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