

NSD 14-007

Document 126

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**Semi Annual Report  
to the Congress on Electronic Surveillance and Physical Search  
--Under the Foreign Intelligence Surveillance Act**

**December 2006**

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**Unannotated Version**

- Tab 1      Semi Annual Report**
- Tab 2      Transmittal Letters to the Senate and House Select  
Intelligence and Judiciary Committees**
- Tab 3      Semi Annual Report on Physical Search**
- Tab 4      Semi Annual Report on Pen Registers/Trap and Trace**
- Tab 5      Intelligence Reform and Terrorism Prevention Act of 2004  
(IRTPA)**

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

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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, 2006, through June 30, 2006. (S)

[REDACTED]

The FISC denied no applications during this reporting period. (U)

[REDACTED]

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[REDACTED]

[REDACTED]

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2. *Descriptions* (U)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

<sup>10</sup> Some of the individuals listed below, however, may be current targets of Court-authorized pen register/trap and trace surveillance. (U)

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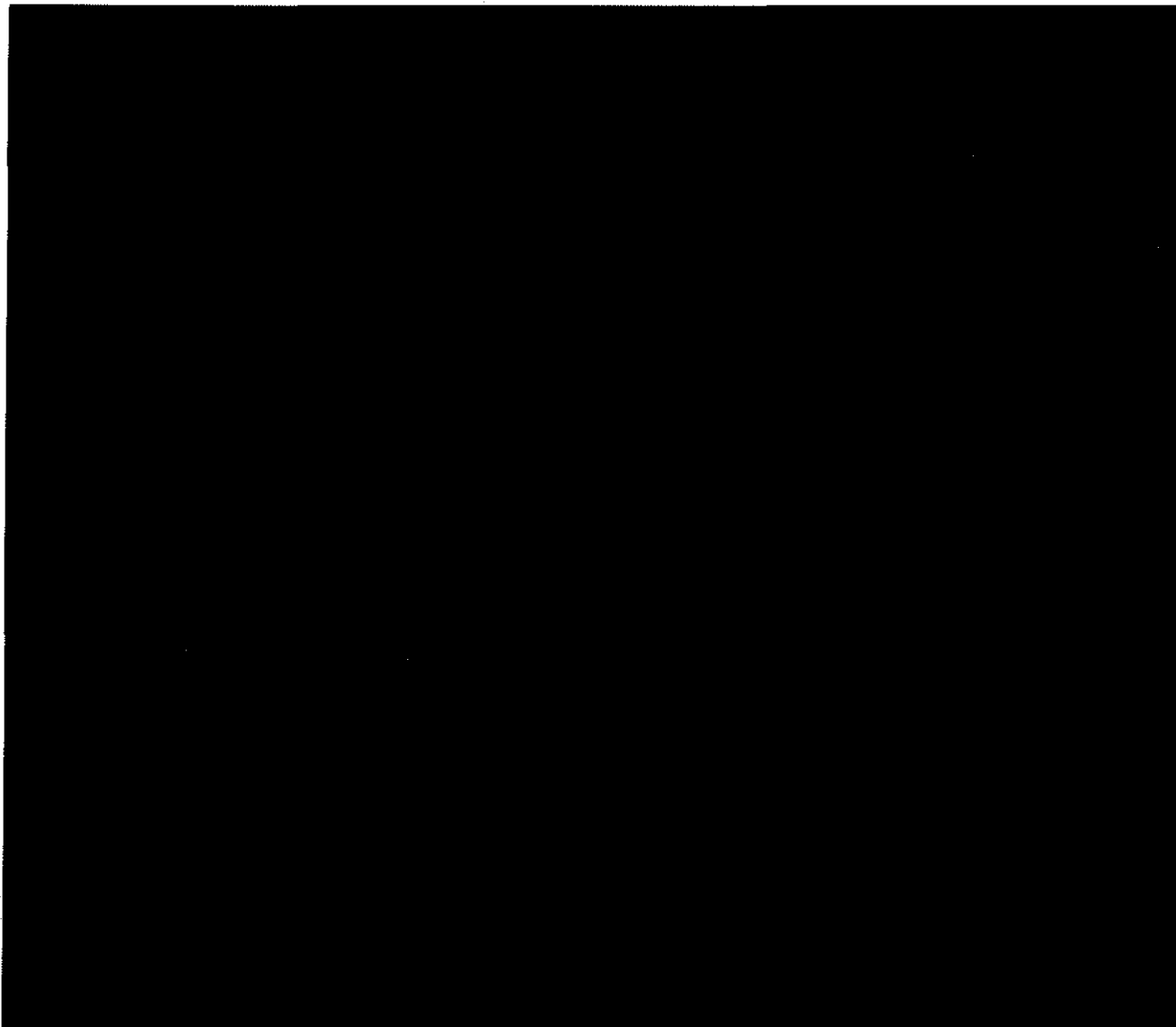
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Emergency Surveillance or Physical Search (U)

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) [REDACTED]

[REDACTED] These emergency authorizations resulted in [REDACTED] (E)

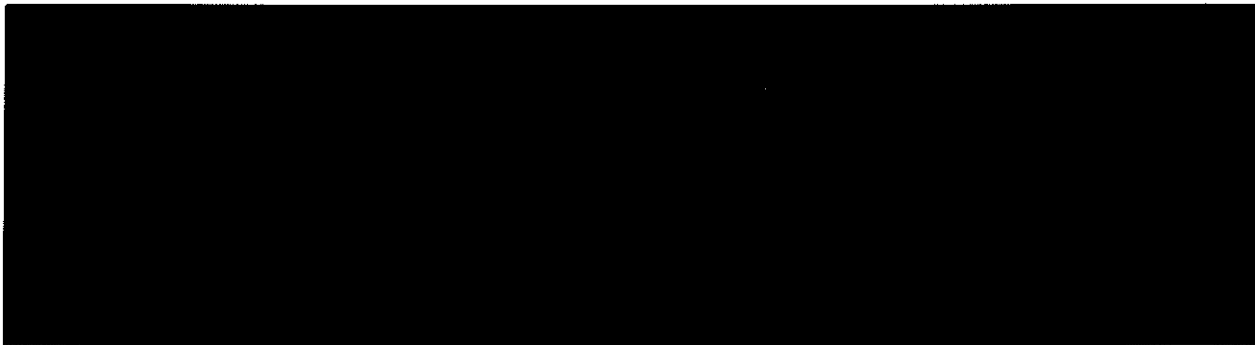
[REDACTED] and zero applications for pen register/trap and trace surveillance.<sup>11</sup> Applications or other appropriate pleadings were filed with the FISC within 72 hours of each emergency authorization (for electronic surveillance and/or physical search applications), or within 48 hours (for pen register/trap and trace applications). The FISC approved all of the applications and/or accepted the other pleadings. (S)



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G. Pen Register/Trap and Trace Surveillance (U)

During this reporting period, the United States filed 120 applications with the FISC seeking authorization for the FBI and/or the NSA to conduct pen register/trap and trace surveillance pursuant to 50 U.S.C. §§ 1841-1846, as amended. In these 120 applications, at least 49 United States persons were the targets of pen register/trap and trace surveillance.<sup>13</sup>

The FISC denied no applications, as they were originally presented, during this reporting period. Five orders authorizing pen register/trap and trace surveillance were modified by the FISC. ~~(S)~~

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<sup>13</sup> As has been the practice in the past several reports, this report does not include thumbnail descriptions of U.S. person targets of pen register/trap and trace surveillance. The Department notes, however, that all applications for pen register/trap and trace surveillance concerning U.S. persons contain a statement describing the factual circumstances demonstrating to the FISC why the related foreign counterintelligence investigation is not based solely on activities protected by the First Amendment to the Constitution, in accordance with FISA. ~~(S)~~

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[Redacted]

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[Redacted]

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[REDACTED]  
[REDACTED] (S)

As was discussed in previous semi-annual reports, many of these requests for the production of tangible things pursuant to 50 U.S.C. § 1861 were presented to the FISC in a combined format with pen register/trap and trace applications. Because of that combination, the number of requests for the production of tangible things increased in past semi-annual reports because ~~the practice of filing combined business record and pen register/trap and trace applications continued.~~ (S)

As noted above, however, on March 9, 2006, 50 U.S.C. §§ 1861 and 1842 were amended. See USA PATRIOT Improvement and Reauthorization Act of 2005, Pub. L. No. 109-177 (March 9, 2006). As part of the revisions, 50 U.S.C. § 1842 (the FISA Pen Register provision) was amended to include telephone subscriber data as part of the information that must be disclosed by the wire or electronic communication service upon request of the Department through a pen register or trap and trace device. Because of this amendment to the statute, the Department anticipated in the last Semi-Annual Report that the number of requests for production of tangible things pursuant to Section 215 would decrease in future reporting periods. In the last reporting period, there were 78 requests for the production of tangible things pursuant to 50 U.S.C. § 1861, compared to 38 requests during this reporting period. The Department anticipates that the number of requests for production of tangible things pursuant to Section 215 will continue to decline in future reporting periods. (S)

E. Scope of FISC's Jurisdiction (U)

In connection with combined applications for authority to install and use pen registers and trap and trace devices and obtain business records under FISA, OIPR has sought, and the FISC has granted, a [REDACTED]

[REDACTED]

within the remaining challenged withholdings.

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[REDACTED]

*18T*

b(1), b(7)(E)

[REDACTED]

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b7E-2, 5, 6

*18T*

b(1), b(7)(E)

[REDACTED]

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[REDACTED]

*18T*

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challenged withholdings.

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F.

[Redacted]

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[Redacted]

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(S)

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[Redacted]

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b(1), b(7)(E)

[REDACTED]

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b3-1  
b7E-2, 5, 6

~~(S)~~

b(1), b(7)(E)

[REDACTED]

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outside of the remaining challenged withholdings.

G.

[Redacted line]

~~(S)~~

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## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 2006

~~TOP SECRET//COMINT//NOFORN,ORCON//X1~~

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

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 and all requests for pen register and trap and trace surveillance under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 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, 2006, through June 30, 2006.

Sincerely,

James H. Clinger  
 Acting Assistant Attorney General

Attachments

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

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## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 2006

~~TOP SECRET//COMINT//NOFORN,ORCON//X1~~

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

Dear Mr. Chairman:

In accordance with Sections 1808(a), 1826, 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 and all requests for pen registers and trap and trace surveillance under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 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, 2006, through June 30, 2006.

Sincerely,

James H. Clinger  
 Acting Assistant Attorney General

Attachments

cc: The Honorable Patrick J. Leahy  
 Ranking Minority Member

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## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 2006

~~TOP SECRET//COMINT//NOFORN,ORCON//X1~~

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, 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 and all requests for pen registers and trap and trace surveillance under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 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, 2006, through June 30, 2006.

Sincerely,

James H. Clinger  
 Acting Assistant Attorney General

Attachments

cc: The Honorable Jane Harman  
 Ranking Minority Member

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## U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

December 21, 2006

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

Dear Mr. Chairman:

In accordance with Sections 1808(a), 1826, 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 and all requests for pen registers and trap and trace surveillance under the Act. In addition, in accordance with Section 6002 of the Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 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, 2006, through June 30, 2006.

Sincerely,

James H. Clinger  
Acting Assistant Attorney General

## Attachments

cc: The Honorable John D. Rockefeller IV  
Vice Chairman

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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 2006

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, 2006, through June 30, 2006. (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)

b(1), b(7)(E)



(TS)

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

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

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[REDACTED]

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, 2006, through June 30, 2006, was at least 104.<sup>1</sup> (S)

D. Access to Tangible Things (U)

[REDACTED]

<sup>2</sup> 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)

b1-1 Per FBI  
b3-1

<sup>1</sup> Of these, [REDACTED] in pen register/trap and trace applications, [REDACTED] in combined pen register-trap and trace/business records applications, and [REDACTED] in both pen register/trap and trace applications and combined pen register-trap and trace/business records applications. (S)

b1-1 Per FBI  
b3-1

<sup>2</sup> Of these, [REDACTED] in combined pen register-trap and trace/business records applications, [REDACTED] in business records applications, and [REDACTED] both a combined pen register-trap and trace/business records application and a business records application. (S)

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

[Redacted] (S)

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)

[Redacted] (S)

1. [Redacted] (S)

[Redacted]

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[REDACTED]

(S)

2.

[REDACTED]

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(S)

3.

[REDACTED]

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[REDACTED]

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4. [REDACTED]

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[REDACTED] (S)

[REDACTED]

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[REDACTED] (S)

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