



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

DATE: 02/26/2016
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REASON: 1.4(c)
DECLASSIFYON: 12/31/2041~~TOP SECRET//COMINT//NOFORN//XI~~

JUL 20 2006

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 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 July 1, 2005, through December 31, 2005.

We appreciate your flexibility in working with the Department in connection with the filing of this semi-annual report while the offices involved in the preparation of the report were displaced from the Main Justice Building as of June 26, 2006, due to flooding.

Sincerely,

William E. Moschella
William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable John D. Rockefeller IV
Vice Chairman

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

JUL 20 2006

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, 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 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 July 1, 2005, through December 31, 2005.

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Sincerely,

William E. Moschella
William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable Patrick J. Leahy
Ranking Minority Member

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JUL 20 2006

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 July 1, 2005, through December 31, 2005.

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Sincerely,

William E. Moschella
 William E. Moschella
 Assistant Attorney General

Attachments

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

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JUL 20 2006

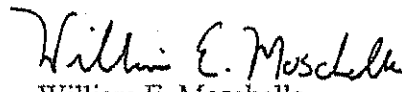
The Honorable Peter Hoekstra
Chairman
Permanent Select Committee on Intelligence
U.S. House of Representatives
Washington, DC 20515

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 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 July 1, 2005, through December 31, 2005.

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Sincerely,


William E. Moschella
Assistant Attorney General

Attachments

cc: The Honorable Jane Harman
Ranking Minority Member

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~~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
 June 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 July 1, 2005, through December 31, 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)

Due to the manner in which certain kinds of collection authorized under FISA are conducted, the Department of Justice is able to provide only an estimate of the aggregate number of individuals targeted by orders for electronic surveillance, physical search, and pen registers/trap and trace devices under FISA. Investigation and analysis by the FBI and U.S. Intelligence Community have revealed that certain international terrorist groups and their agents who are located overseas, not all of whom can be specifically identified, use certain facilities as part of a communications network to conduct their terrorism-related activities. Accordingly, FISA applications target such persons as various unidentified agents of particular terrorist groups. (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 are b(1)
and outside 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 July 1, 2005, through December 31, 2005. ~~(S)~~

[REDACTED]

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

[REDACTED]

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

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

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

[REDACTED]

~~(TS)~~

A. Electronic Surveillance (U)

[REDACTED] 0
as

~~(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 July 1, 2005, through December 31, 2005, was at least 138.¹ (S)

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)

references to PRTT, but outside the remaining challenged withholdings
epic.org

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

[REDACTED]

b1-1 Per FBI
b3-1
b7E-6

~~(S)~~

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)

During the reporting period from July 1, 2005, through December 31, 2005, there was one significant legal interpretation 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 an interpretation presented in an application or pleading filed with the Court or the Court of Review.² It was presented in a supplemental brief filed by the government with the Court in connection with applications submitted pursuant to the Act by the government. A summary of the legal interpretation follows. ~~(S)~~

[REDACTED]

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

² There were no cases presented to the Court of Review during the reporting period.

within the remaining challenges.

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within the remaining challenges.

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

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

[REDACTED]

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

(S)

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

[REDACTED]

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

(S)

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

[REDACTED]

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

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

[REDACTED]

(S)

outside the remaining challenges.

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

within the remaining challenges.

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

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



b1-1 PerFBI
b3-1
b7E-5, 6

~~(S)~~

V. Copies of Decisions or Opinions (U)

There was one decision or opinion of the Court or the Court of Review that included significant construction or interpretation of the provisions of the Act issued during the period from July 1, 2005, through December 31, 2005. A redacted copy of this opinion is attached to this report. ~~(S)~~

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[REDACTED]

(S)

[REDACTED]

(S)

3. [REDACTED] he
[REDACTED] ic
[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)(1), b(7)(E) [REDACTED]. These emergency authorizations resulted in [REDACTED] b(1), b(7)(E)

[REDACTED] zero applications for pen register/trap and trace surveillance.¹³ Applications or other appropriate

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

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• b(1), b(7)(E) [redacted] b1-1 Per FBI
b3-1
b7E-5, 6
(S)

b(1), b(7)(E) [redacted] (S)

b(1), b(7)(E) [redacted] b1-1 Per FBI
b3-1
b7E-6
(S)

As noted above, 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 information in 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 anticipates that the number of requests for production of tangible things pursuant to Section 215 will decrease in future reporting periods. (S)

D. 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, b(1), b(7)(E)

[redacted] b1-1 Per FBI
b3-1
b7E-5
(S)

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within the remaining challenges.

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

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

b1-1 Per FBI
b3-1
b7E-2, 5, 6

~~(S)~~

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

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

~~(S)~~

In light of amendments to the FISA pen register provision after the government filed its brief described above, the Department is in the process of drafting a new memorandum of law

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

~~(S)~~

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outside the remaining challenges.

TOP SECRET//COMINT//NOFORN//X1

that the recent amendments to the FISA pen register provision make clear that the government may obtain this information pursuant to 1) the FISA pen register authority irrespective of the FISA business records provision, or 2) pursuant to the FISA business records provision for the reasons set forth in the Department's February 10, 2006, memorandum. ~~(S)~~

within the
remaining
challenges.

E. Post-Cut-Through Digits Brief (U)

During this reporting period, one of the judges on the FISC requested a memorandum of law to advise the FISC regarding the government's collection of post-cut-through digits through telephone pen register surveillance under FISA. "Post-cut-through digits" is a term of art that refers to digits dialed from a targeted telephone number after the initial call set-up is completed or "cut-through." Some post-cut-through digits are simply telephone numbers that constitute call processing information, such as when a party dials a toll-free number to connect to a service provider (e.g., 1-800-CALL-ATT), then, after the initial call is connected to the service provider, enters an account number and another phone number in order to be connected to a party. Other post-cut-through digits may not include call processing information but instead may constitute exclusively call content, such as when a caller phones and is connected to an automated system, such as a pharmacy, and enters information like a prescription number, or selects options from a menu using the telephone dial pad. ~~(S)~~ (U)

In the memorandum of law, filed in May 2006, the government provided the factual and legal bases for its authority to collect and use call processing-type post-cut-through digits under FISA. The government also advised the FISC that in future telephone pen register applications, the government may, in some cases, specifically seek authority for secondary orders requiring a service provider to provide all dialing, routing, addressing or signaling information transmitted by a target telephone, which, in light of technological constraints, may include content and non-content digits alike. In addition, the United States advised that future requests for pen register authority will include the restriction that the government will make no affirmative investigative use of any captured post-cut-through digits that constitute the contents of a communication, except in a rare case in order to prevent an immediate danger of death, serious physical injury, or harm to the national security. ~~(S)~~ (U)

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outside the remaining challenges.

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

[REDACTED]

~~(S)~~

within the remaining challenges.

L. FISA Process Improvements (U)

[REDACTED]

~~(S)~~

In addition to the changes to the FISA process made at the Attorney General's April 2004 direction referenced in prior semi-annual reports, OIPR continues to seek ways to further improve the processing of FISA requests. In particular, and in response to OIPR's growing number of attorneys and detailees, as was reported in previous semi-annual reports, OIPR reorganized in November 2004 into sections that reflect the current nature of FISA work and to a significant degree mirror the FBI's internal organization. (U)

OIPR is also in the final phase of testing and has initiated limited deployment of a computer-assisted document assembly system which is expected to enhance the efficiency of its attorneys and the consistency of FISA applications. This system uses an off-the-shelf software program which has been specially configured with contractor support to meet the unique needs of the FISA application process. This system was deployed in a limited category of cases beginning in the first quarter of 2006, and is expected to have progressive deployment in increasingly complicated cases as final testing and the training of OIPR attorneys to use the new system are completed. The transition into the system indicates that its use will result in greater

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