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U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT

UNITED STATES 2016 SEP 29 PM 1:10

FOREIGN INTELLIGENCE SURVEILLANCE COURT
KAREN SUTTON
CLERK

WASHINGTON, D. C.

IN RE AMENDMENT TO THE FEDERAL :
BUREAU OF INVESTIGATION'S STANDARD :
MINIMIZATION PROCEDURES FOR :
ELECTRONIC SURVEILLANCE AND :
PHYSICAL SEARCH. (U) :

Docket Number: 

SUBMISSION OF AMENDMENT

TO STANDARD MINIMIZATION PROCEDURES

The United States of America, through the undersigned Department of Justice attorneys, hereby files with this Court, pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended, Title 50, United States Code (U.S.C.), Sections 1801-1811 and 1821-1829 (FISA or the Act), the attached amendment to the standard minimization procedures for the Federal Bureau of Investigation (FBI). (U)

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Classified by: James A. Baker, Counsel for Intelligence Policy, OIPR, DOJ

Reason: 1.4(c)

Declassify on: X1

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In its June 16, 2006, response to this Court's order of December 9, 2005, the United States stated that the Attorney General would expeditiously modify the FBI's standard minimization procedures to broaden the category of FBI personnel who can enter U.S. person information into "general FBI indices" from the current limitation that only "the supervising case agent" may authorize such indexing and that the Attorney General would also authorize the indexing of U.S. person information that is necessary to understand foreign intelligence information or assess its importance. The attached amendment to the FBI's standard minimization procedures, which has been approved by the Attorney General and will be incorporated into future applications to this Court, implements these actions for all versions of the FBI's standard minimization procedures, specifically:

Standard Minimization Procedures for Electronic Surveillance of a U.S. Person Agent of a Foreign Power, approved September 17, 1997;
Standard Minimization Procedures for Electronic Surveillance of a non-U.S. Person Agent of a Foreign Power, approved September 17, 1997;
Standard Minimization Procedures for Electronic Surveillance of a Foreign Power (both SECRET and TOP SECRET versions), approved September 17, 1997;
Standard Minimization Procedures for Physical search of a U.S. Person Agent of a Foreign Power, approved January 20, 1995;
Standard Minimization Procedures for Physical search of a non-U.S. Person Agent of a Foreign Power, approved January 20, 1995; and
Standard Minimization Procedures for Physical search of a Foreign Power, approved January 20, 1995. ~~(S)~~

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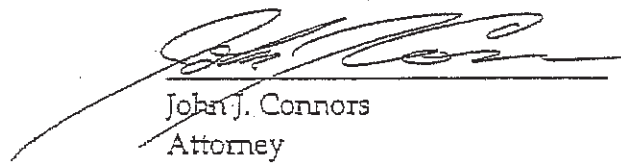
In addition to the changes to the minimization procedures described in the Government's response of June 16, 2006, this amendment makes one additional change, described as follows: In the section of the FBI's standard minimization procedures referenced above that set forth the standard for indexing, the procedures referred to "logged identities" of U.S. persons. As described in the Government's response of June 16, 2006, identities of U.S. persons that have not been logged are often maintained in FBI databases that contain unminimized information. The procedures now simply refer to "the identities" of U.S. persons, acknowledging that the FBI may not have previously logged such identities. ~~(S)~~

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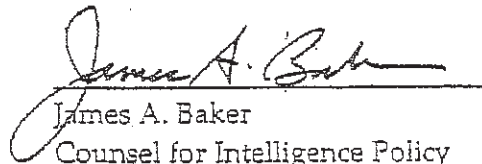
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WHEREFORE, the United States of America, by counsel, files with this Court the attached amendment to the FBI's standard minimization procedures. (U)

Respectfully submitted,



John J. Connors
Attorney
U.S. Department of Justice




James A. Baker
Counsel for Intelligence Policy
U.S. Department of Justice

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I hereby approve the filing of the attached amendment to the FBI's standard minimization procedures with the United States Foreign Intelligence Surveillance Court. (U)



Alberto R. Gonzales
Attorney General of the United States

SEP 29 2006

Date

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UNITED STATES


FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D. C.

IN RE AMENDMENT TO THE FEDERAL

BUREAU OF INVESTIGATION'S STANDARD

MINIMIZATION PROCEDURES FOR

: Docket Number: 

ELECTRONIC SURVEILLANCE AND

PHYSICAL SEARCH. (U)

AMENDMENT TO FEDERAL BUREAU OF INVESTIGATION'S
STANDARD MINIMIZATION PROCEDURES

Pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended, Title 50, United States Code (U.S.C.), Sections 1801-1811 and 1821-1829 (FISA or the Act), the following amended procedures have been adopted by the Attorney General, and shall be followed by the Federal Bureau of Investigation (FBI), in conducting electronic surveillance and/or physical search as ordered by the Court:

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Classified by: James A. Baker, Counsel for Intelligence Policy, OIPR, DOI

Reason: 1.4(c)

Declassify on: X1

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The FBI currently has the following standard electronic surveillance minimization procedures:

- (a) Standard Minimization Procedures for Electronic Surveillance of a U.S. Person Agent of a Foreign Power, approved September 17, 1997;
- (b) Standard Minimization Procedures for Electronic Surveillance of a non-U.S. Person Agent of a Foreign Power, approved September 17, 1997;
- (c) Standard Minimization Procedures for Electronic Surveillance of a Foreign Power (SECRET), approved September 17, 1997; and
- (d) Standard Minimization Procedures for Electronic Surveillance of a Foreign Power (TOP SECRET), approved September 17, 1997. (U)

Section 4(a) of each of these procedures currently provides as follows:

Logged identities of United States persons and communications of or concerning United States persons may be indexed into the general FBI indices only after the supervising case agent has determined that both the identity and the communication reasonably appear to be foreign intelligence information or are evidence of a crime which has been, is being, or is about to be committed. The identity of the United States person as recorded in the log may be minimized by striking the name or substituting a characterization for that person. Logged identities of any persons, including United States persons, will be recorded in the Electronic Surveillance Index pursuant to Title 18, United States Code, § 3504, if the supervising case agent has determined that the identities reasonably appear to be foreign intelligence information and if they meet other indexing criteria established by the Federal Bureau of Investigation. (U)

The FBI currently has the following standard physical search minimization procedures:

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- (a) Standard Minimization Procedures for Physical Search of a U.S. Person Agent of a Foreign Power, approved January 20, 1995;
- (b) Standard Minimization Procedures for Physical Search of a non-U.S. Person Agent of a Foreign Power, approved January 20, 1995; and
- (c) Standard Minimization Procedures for Physical Search of a Foreign Power, approved January 20, 1995. (U)

Section IV(c) of each of these procedures currently provides as follows:

Logged identities of United States persons acquired through physical search of information, material, or property of the United States person [non-United States person or foreign power] target may be indexed into the general FBI indices only after the supervising case agent has determined that both the identity and the information, material, or property from which it was acquired reasonably appear to be foreign intelligence information or are evidence of a crime which has been, is being, or is about to be committed. The identity of the United States person as recorded in the log may be minimized by striking the name or substituting a characterization for that person. (U)

For the reasons set forth in the Government's Submission Regarding Application of Existing Minimization Procedures to Certain Datasystems of the Federal Bureau of Investigation filed June 16, 2006, and as the Counsel for Intelligence Policy orally explained to all of the members of the Court on May 10, 2006, the Attorney General is amending these provisions as indicated below. (U)

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Section 4(a) - Indexing of the FBI's Standard Minimization Procedures for Electronic Surveillance of a U.S. Person Agent of a Foreign Power, non-U.S. Person Agent of a Foreign Power, and a Foreign Power, is amended to read as follows:

The identities of United States persons and communications of or concerning United States persons acquired through electronic surveillance may be indexed into the general FBI indices only after a supervisory special agent, special agent, or intelligence analyst has determined that both the identity and the communication:

- (1) reasonably appear to be foreign intelligence information;
- (2) are necessary to understand foreign intelligence information or assess its importance; or
- (3) are evidence of a crime which has been, is being, or is about to be committed.

The identity of the United States person may be minimized by striking the name or substituting a characterization for that person. The identities of any persons, including United States persons, will be recorded in the Electronic Surveillance Index pursuant to Title 18, United States Code, § 3504, if a supervisory special agent, special agent, or intelligence analyst has determined that the identities reasonably appear to be foreign intelligence information and if they meet other indexing criteria established by the Federal Bureau of Investigation. (U)

Section IV(c) - Indexing of the FBI's Standard Minimization Procedures for Physical search of a U.S. Person Agent of a Foreign Power, non-U.S. Person Agent of a Foreign Power, and a Foreign Power, is amended as follows:


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The identities of United States persons acquired through physical search of information, material, or property may be indexed into the general FBI indices only after a supervisory special agent, special agent, or intelligence analyst has determined that both the identity and the information, material, or property from which it was acquired:

- (1) reasonably appear to be foreign intelligence information;
- (2) are necessary to understand foreign intelligence information or assess its importance; or
- (3) are evidence of a crime which has been, is being, or is about to be committed.

The identity of the United States person may be minimized by striking the name or substituting a characterization for that person. (U)


Alberto R. Gonzales
Attorney General of the United States

SEP 29 2006

Date

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