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KAREN E. SUTTON, CLERK

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UNITED STATES

U.S. Foreign Intelligence
Surveillance Court

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FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D. C.

[REDACTED]

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ORDER

AUTHORIZING ELECTRONIC SURVEILLANCE

Application having been made by the United States of
America, by [REDACTED]
Attorney(s), U.S. Department of Justice, which is supported by
the sworn declaration of [REDACTED], a Supervisory
Special Agent of the Federal Bureau of Investigation (FBI), and
by the certification of an appropriately designated official of
the Executive Branch, for an order authorizing electronic
surveillance, as described in the Government's application,

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Derived from: Application to the USFISC of
[REDACTED] in Docket Number
Captioned Above
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pursuant to the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. §§ 1801-1811 (the Act), and full consideration having been given to the matters set forth therein, the Court finds that:

1. The President has authorized the Attorney General of the United States to approve applications for electronic surveillance for foreign intelligence information [50 U.S.C. § 1805(a)(1)];

2. The application has been made by a federal officer and approved by the Attorney General [50 U.S.C. § 1805(a)(2)];

3. On the basis of the facts submitted by the applicant, there is probable cause to believe that:

[REDACTED]

§ [REDACTED];

(B) the following facilities or places are being used or are about to be used by [REDACTED], and electronic surveillance is authorized of the following facilities or places, using for each particular facility or place only such means as are specified below for such particular facility or place:

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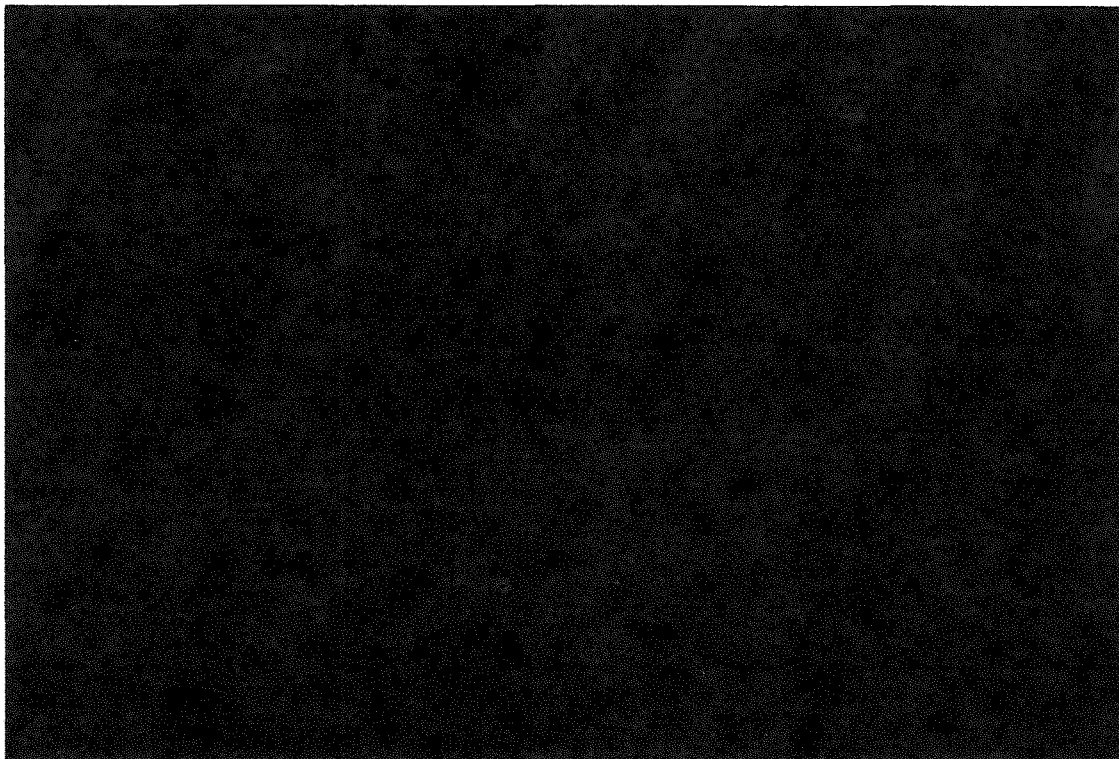
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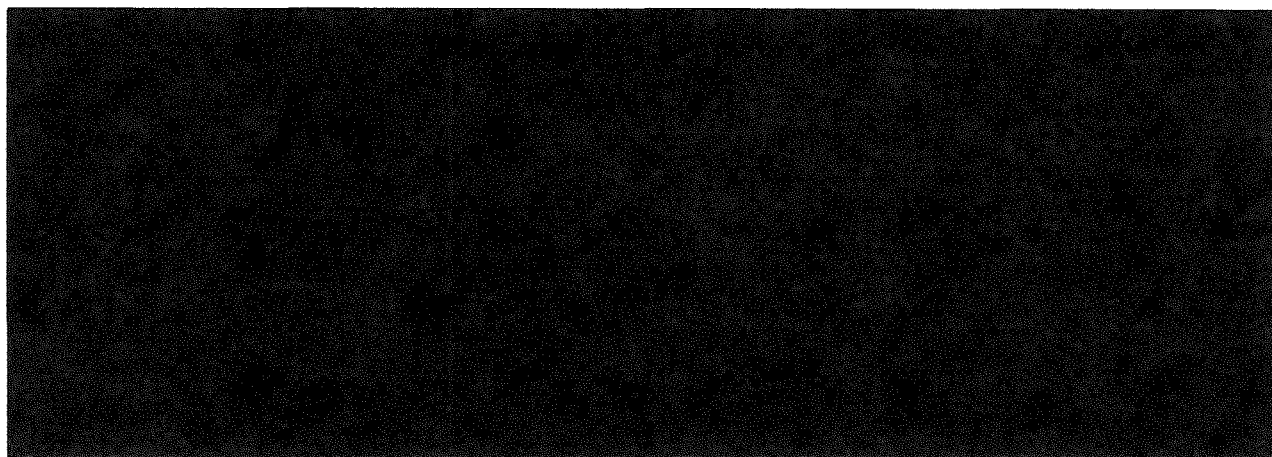
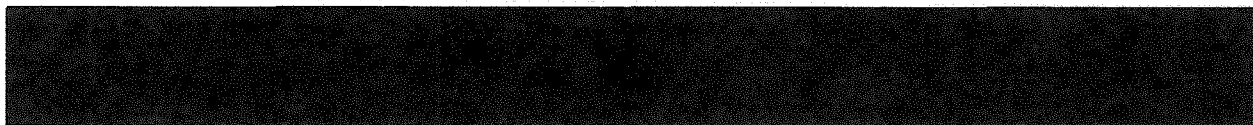
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4. The minimization procedures proposed in paragraph 5 of the application and described in the declaration, have been adopted by the Attorney General and meet the definition of minimization procedures under 50 U.S.C. § 1801(h) [50 U.S.C. § 1805(a)(4)]; and

[REDACTED]

[REDACTED]

§ [REDACTED]

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WHEREFORE, IT IS HEREBY ORDERED, pursuant to the authority conferred on this Court by the Act, that the application of the United States to conduct electronic surveillance, as described in the application, is GRANTED; provided, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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It is FURTHER ORDERED, as follows [50 U.S.C. § 1805(c)]:

(1) The United States is authorized to conduct electronic surveillance in order to acquire foreign intelligence information as defined by [REDACTED] including the incidental acquisition of other foreign intelligence information as defined by [REDACTED] at the facilities or places described in paragraph 3(B) above, subject to the minimization procedures specified in paragraph 4 above, for a period not to exceed [REDACTED], unless otherwise ordered by this Court, as follows:

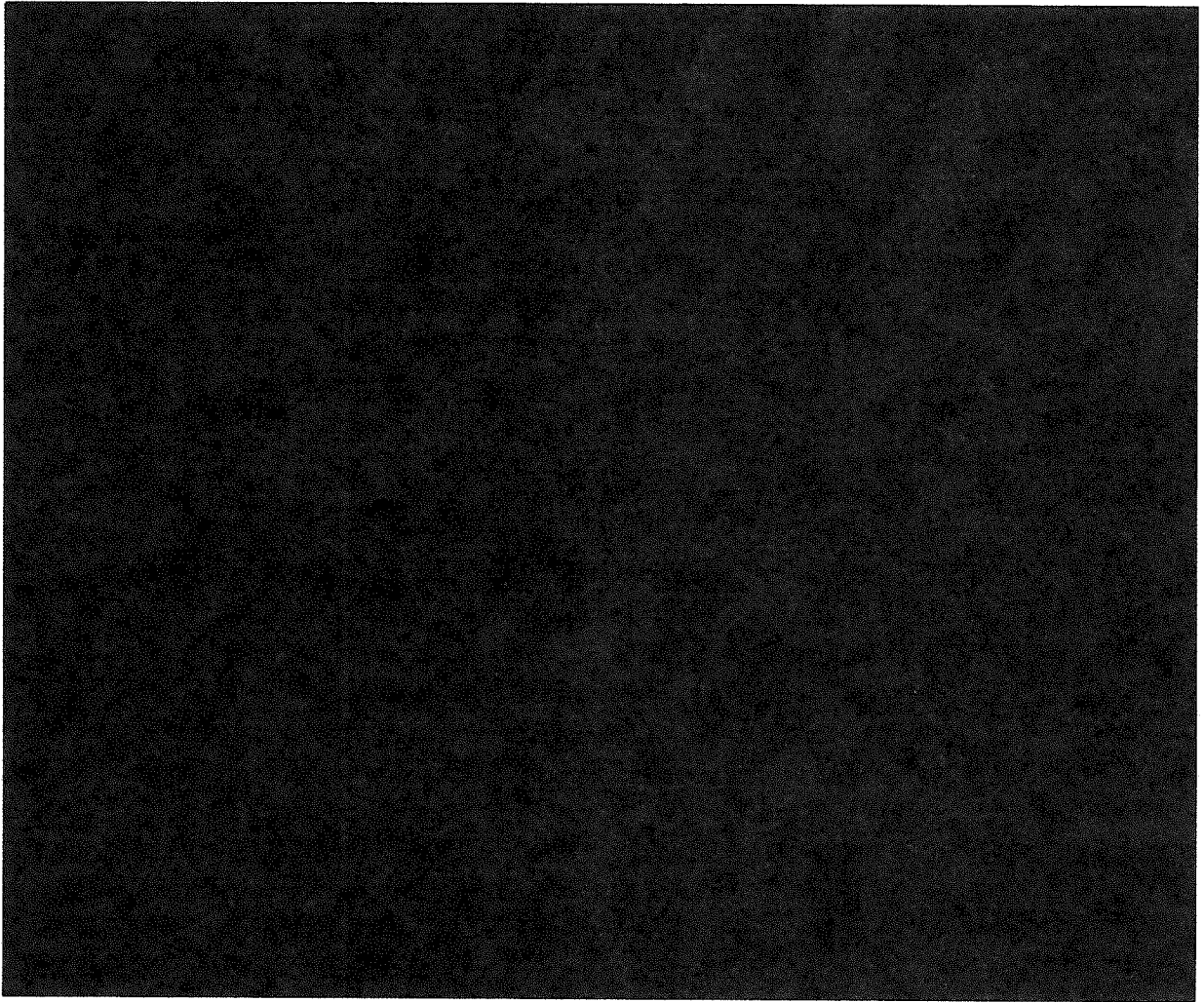
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[REDACTED]

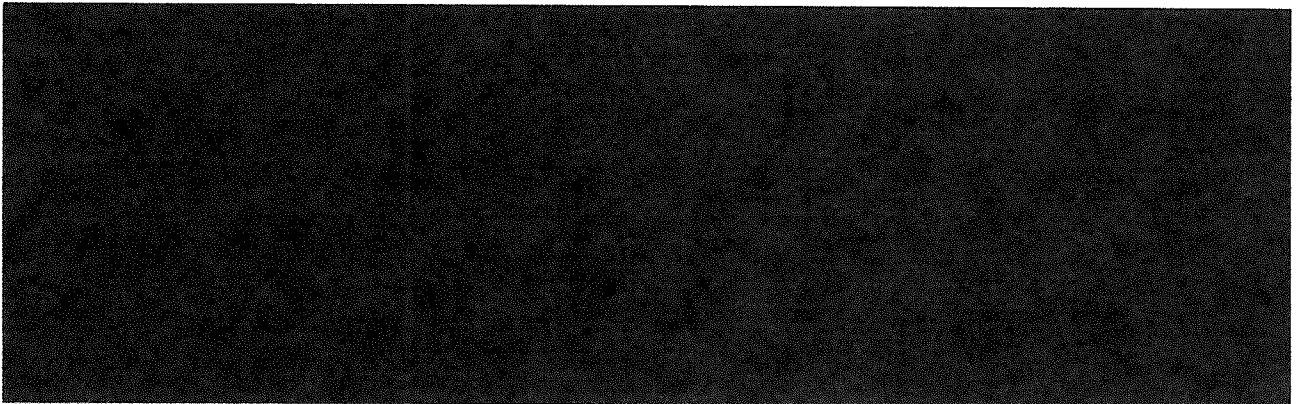
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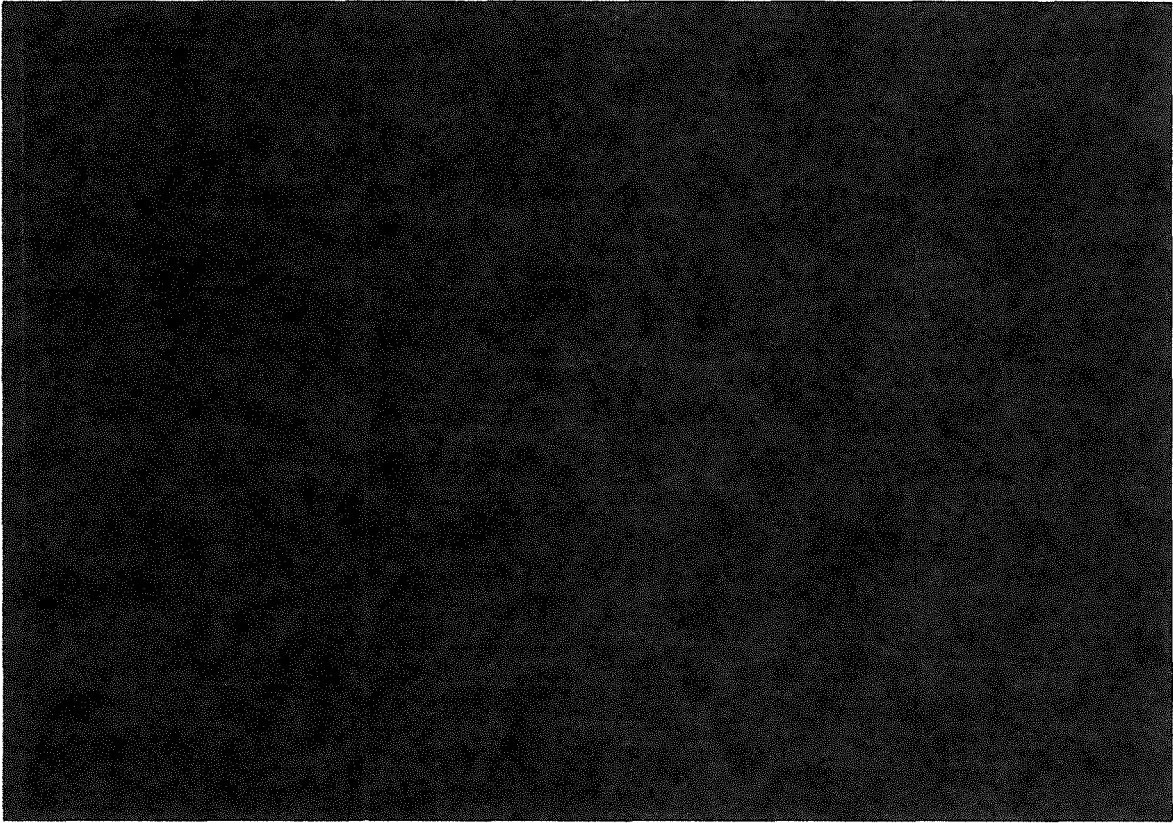
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Should the FBI seek to renew the authority requested herein,
the renewal will include the following: [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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The electronic surveillance authorized shall include:
electronic surveillance of the facilities or places described in
paragraph 3(B) above, using for each particular facility or place
only the means specified in paragraph 3(B) above for such
particular facility or place, during the authorized period of
surveillance.

[REDACTED]

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IT IS FURTHER ORDERED that the FBI will follow:

(1) The standard electronic surveillance minimization
procedures for [REDACTED] that are on file with this Court;

[REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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(3) The following supplemental or particularized procedures:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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[REDACTED] Notwithstanding other provisions of the standard FBI minimization procedures for a foreign power, which have been adopted by the Attorney General and approved by the Court for use in the electronic surveillance of the [REDACTED], the FBI is authorized to disseminate computer disks, tape recordings, transcripts, or other information or items [REDACTED]

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[REDACTED]
[REDACTED]

[REDACTED] provided that the following restrictions apply with respect to any materials so disseminated:

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(a) Dissemination to [REDACTED]
[REDACTED] of such information or
communications, and [REDACTED] will make no use
of any information or any communication of or concerning any
person except to provide technical assistance to the FBI.

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(b) Dissemination will be only to [REDACTED]
[REDACTED]
[REDACTED] of such information or communications. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] of this raw data.

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(c) [REDACTED] shall make no permanent
[REDACTED] record of information or communications of or concerning
any person referred to or recorded on computer disks, tape
recordings, transcripts, or other items [REDACTED]

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[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Records maintained [REDACTED]
[REDACTED] for this purpose may not be disseminated [REDACTED]
[REDACTED]
[REDACTED]

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(d) Upon the conclusion of [REDACTED] to the FBI, computer disks, tape recordings, transcripts, or other items or information disseminated [REDACTED]

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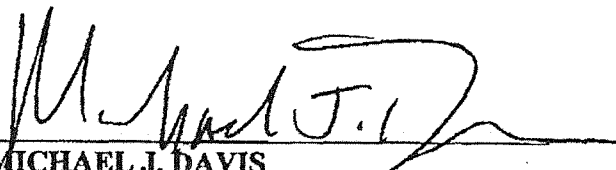
(e) Any information that [REDACTED] provide to the FBI as a result of [REDACTED] may be disseminated by the FBI in accordance with the FBI's standard minimization procedures. [50 U.S.C. § 1805(c)(2)(A)-(D)]

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Filed [REDACTED] E.D.T.

Signed [REDACTED] E.D.T.

This authorization regarding [REDACTED] expires on the [REDACTED] day of [REDACTED] Eastern Daylight Time.


MICHAEL J. DAVIS
Judge, United States Foreign
Intelligence Surveillance Court

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UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.

[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

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This matter is before the Court upon the application of the United States for an order authorizing electronic surveillance of [REDACTED], a foreign power as defined at [REDACTED] § [REDACTED] pursuant to the Foreign Intelligence Surveillance Act, as amended, 50 U.S.C. §§ 1801-1811 ("FISA"). After a hearing on this matter on August 3, 2005, the Court entertained and granted the application on [REDACTED]. This Memorandum Opinion sets out the Court's reasons for adding to the surveillance order language clarifying the basis for its jurisdiction and the scope of its authorization.

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Background

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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¹ Prior authorization for this surveillance was set to expire at [REDACTED]. The Court continued its ruling on the application until [REDACTED] the request of the Government.

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Derived from: Pleadings in dockets referenced herein
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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

WHEREFORE, IT IS HEREBY ORDERED, . . . that the application . . . is GRANTED; provided, [REDACTED]

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Analysis

This Court has jurisdiction under FISA “to hear applications for and grant orders approving electronic surveillance anywhere within the United States.” 50 U.S.C. § 1803(a). FISA defines “electronic surveillance,” in pertinent part, as “the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States.” 50 U.S.C. § 1801(f)(2). The first sentence underlined above is a simple recognition that the Court has no jurisdiction to authorize the acquisition of wire communications that fall outside the applicable jurisdictional grant. Such express recognition is in order here, since most of the [REDACTED]

[REDACTED]³ Recognizing this limitation on the Court’s authority is consistent with the government’s submissions and the Court’s orders in other cases concerning the [REDACTED]

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[REDACTED]. See, e.g., Docket Number [REDACTED]

[REDACTED] s set forth in [REDACTED]”); Primary Order at [REDACTED]

³ [REDACTED]

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[REDACTED]
[REDACTED] It is also consistent with the Honorable
Colleen Kollar-Kotelly's Memorandum Opinion dated [REDACTED] in Docket Number [REDACTED]
[REDACTED], applying 50 U.S.C. § 1801(f)(2) to surveillance targeting [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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The second sentence underlined above is a recognition that the Executive Branch has long
asserted the authority, consistent with but outside of FISA, to acquire [REDACTED]
other than those described in [REDACTED]. For example, as Judge Kollar-Kotelly's
opinion observed, "the Attorney General, consistent with FISA, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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⁴ As Judge Kollar-Kotelly's opinion also recognized, Court-authorized surveillance
under [REDACTED] may, in certain circumstances, result in the incidental acquisition of
communications that are not to or from a person in the United States. Opinion at 4.

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⁵ The Court expresses no view on whether other forms of Executive Branch authorization
might be available.

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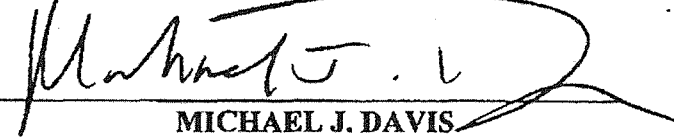
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Finally, at the August 3 hearing, the Court observed, and the government agreed, that the inclusion of the underscored language did not constrain or impede the government's ability to pursue the [REDACTED]. The government objected only that the language might be susceptible to interpretations unfavorable to the government in other, unspecified contexts. Since this language merely restates what FISA expressly provides, while noting that other authorities could apply to interceptions that are not covered by FISA, the Court is not persuaded by this objection.

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ENTERED in Docket Number [REDACTED]

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MICHAEL J. DAVIS
Judge, United States Foreign Intelligence
Surveillance Court

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