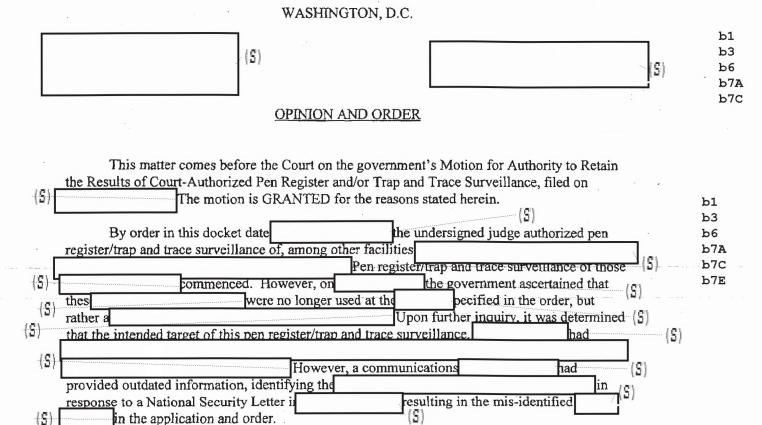
08-15-2018

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UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT



The government is required to report to the Court on how it "proposes to dispose of or treat any information obtained as a result" of surveillance conducted in a manner that did not comply with the pertinent Court order. See FISC Rule 10(c)(iv). Usually, such information is destroyed or sequestered with the Court. See FISC Rule 17. Here, however, the government moves for authority to retain and, implicitly, use such information. In the particular circumstances of this case, the Court finds this proposal reasonable.

A pen register/trap and trace order "shall specify [among other things] the attributes of the communications to which the order applies, such as the number or other identifier, and, if known, the location of the telephone line or other facility to which the pen register or trap and trace device is to be attached or applied." 50 U.S.C. § 1842(d)(2)(A)(iii) (emphasis added). It is

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761 F	evident that the surveillance in this case was accomplished by using th
(S)	as the means of identifying "the communications to which the order
	applies." On these facts, the Court finds that the good-faith implementation of this pen
	register/trap and trace surveillance on the correctly-specified used by
(S)	pecified in the order, other than the one identified in the order,
(5)	constitutes a technical, non-material deviation from the terms of the order. Such deviations,
	while triggering the reporting obligations of FISC Rule 10(c), do not necessarily require
	sequestration or destruction. Retention and (otherwise lawful) use of the results of the pen
	register/trap and trace surveillance are reasonable in this case. The Court expresses no opinion
	whether, in other circumstances, retention and use of information obtained from pen register/trap
	and trace surveillance conducted in a manner at variance with the order would be foreclosed by
	50 U.S.C. § 1809(a)(2) or otherwise.
	(5)
	SO ORDERED thi
	SO OKDERED III (5)
	$c\Lambda$
	Votto s & Sol Gaton
	MA THANKEL M. CORTON
	NATHANIEL M. GORTON
	Judge, United States Foreign
	Intelligence Surveillance Court

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