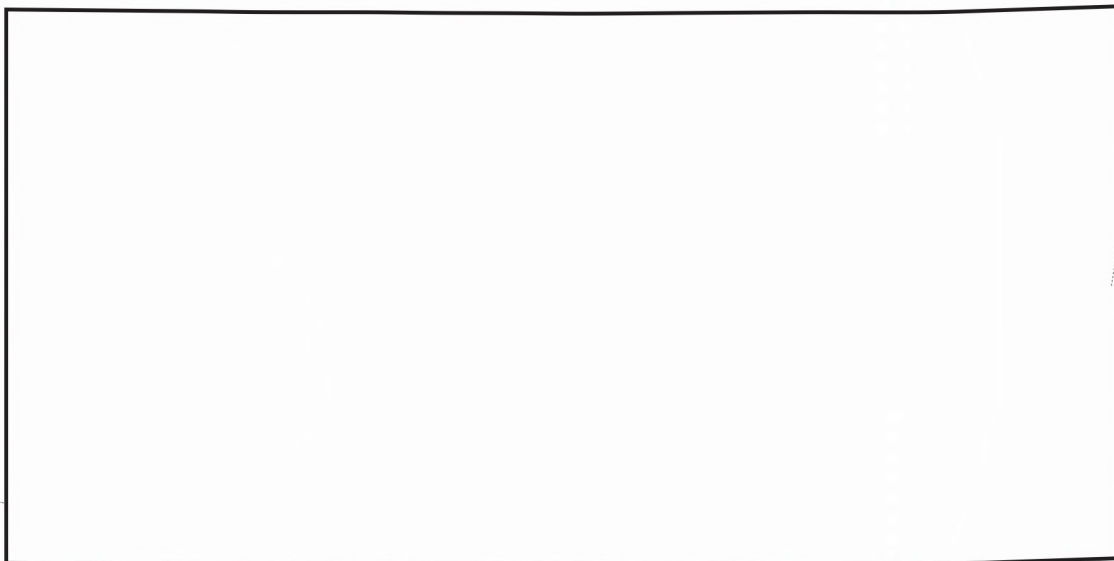


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UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.



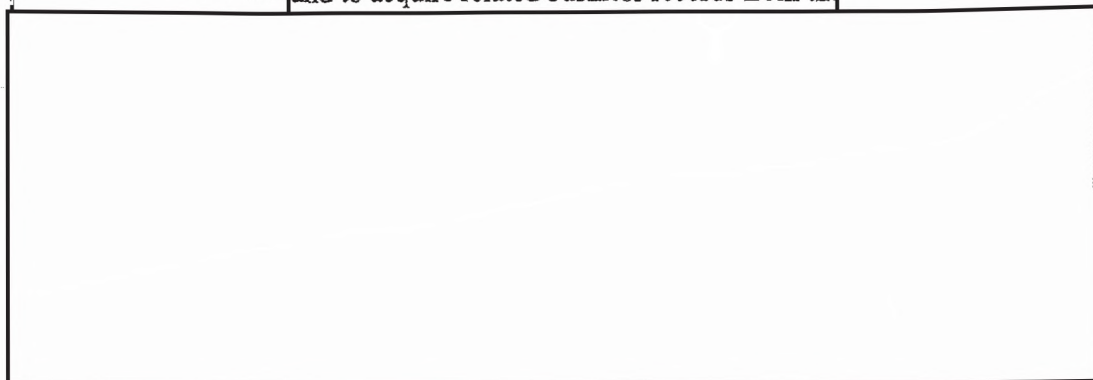
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OPINION

The applications before the Court seek authority under the Foreign Intelligence
Surveillance Act (FISA) to install pen register and/or trap and trap devices upon [REDACTED] (S)

(S) [REDACTED] and to acquire related business records from the [REDACTED] (S)



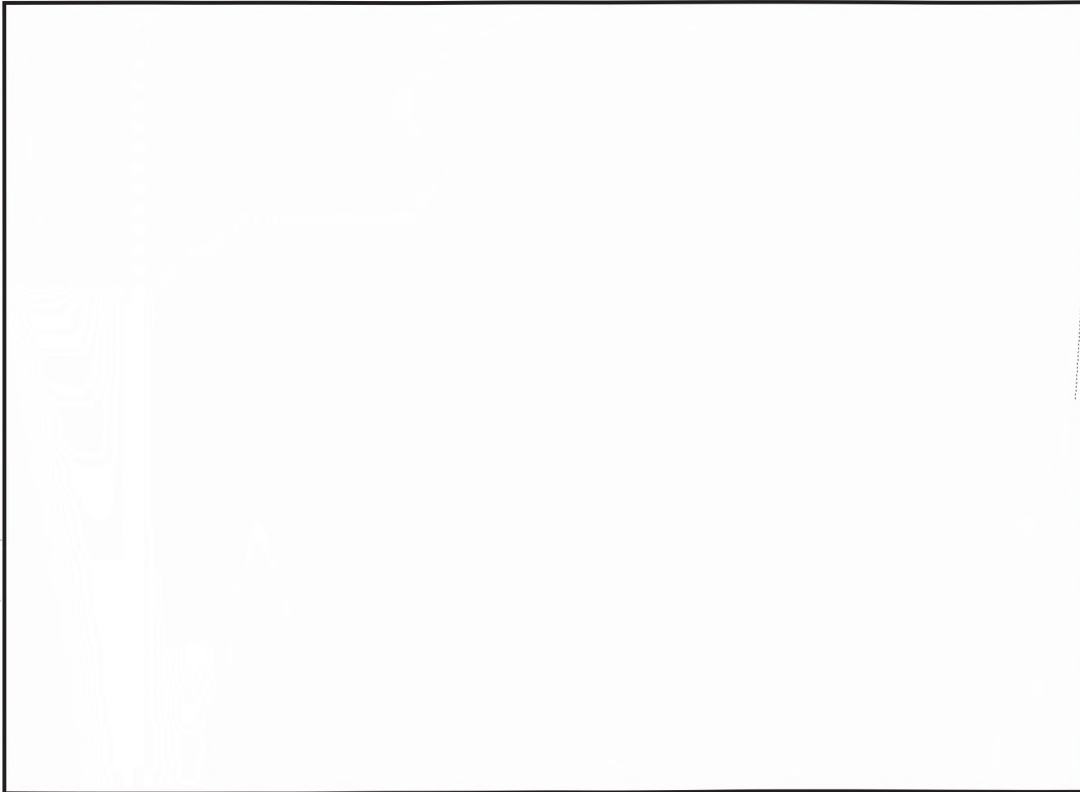
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The Court has approved the applications in their entirety. This opinion briefly explains the Court's rationale for approving the request for [REDACTED] This (S) opinion is not intended to serve as a comprehensive analysis of the issue.

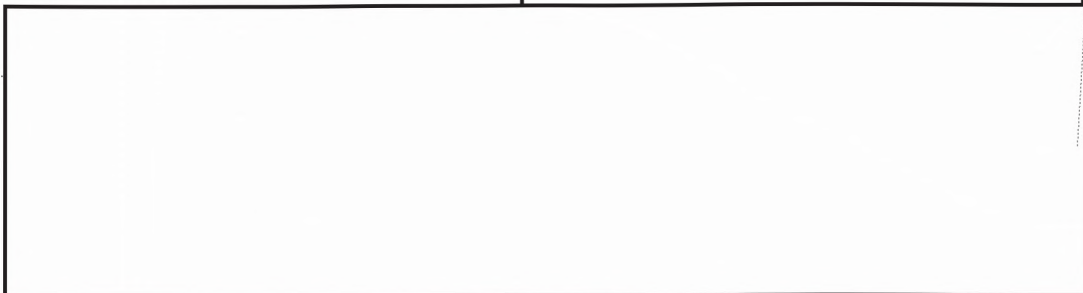
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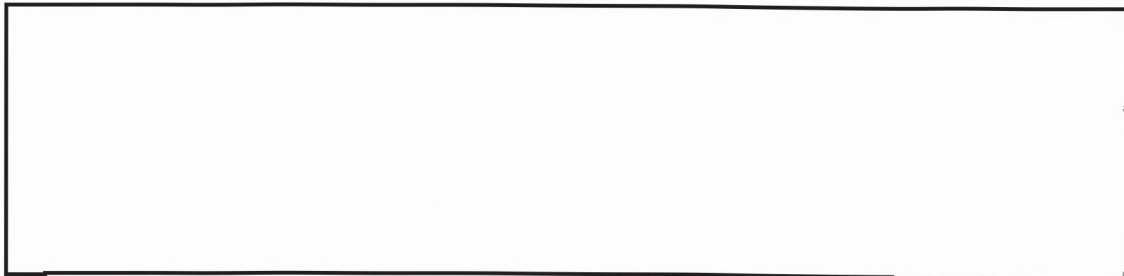
Under 50 U.S.C. 1861, the Government may apply to this Court for an order requiring the production "of any tangible things (including books, records, papers, documents, and other items)" in connection with certain types of foreign intelligence and international terrorism investigations. The [REDACTED]

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The Supreme

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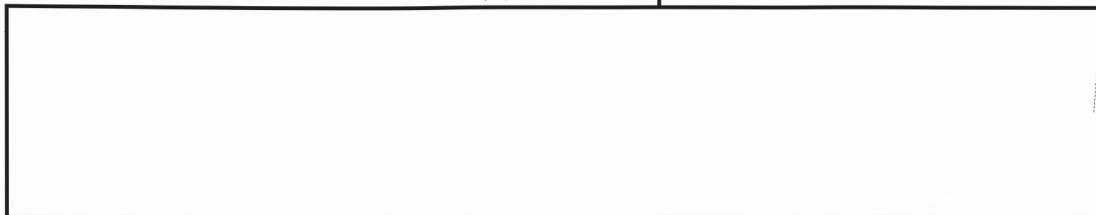
Court noted in *Smith v. Maryland*, 442 U.S. 735 (1979), that the applicability of the Fourth Amendment depends on whether the person invoking its protection can claim a “justifiable,” “reasonable,” or “legitimate” expectation of privacy that has been invaded by government action. *Smith*, 442 U.S. at 740.

At issue in *Smith* was the use of a pen register to record the numbers dialed from a telephone in the petitioner’s home. The pen register was installed by the telephone company on telephone company property at the request of the police. The Supreme Court squarely rejected the notion that the petitioner had a legitimate expectation of privacy regarding the numbers that he dialed on his home phone:

This Court consistently has held that a person has no legitimate expectation of privacy in information he voluntarily turns over to third parties. . . . When he used his phone, petitioner voluntarily conveyed numerical information to the telephone company and ‘exposed’ that information to its equipment in the ordinary course of business. In so doing, petitioner assumed the risk that the company would reveal to police the numbers he dialed.

Smith, 442 U.S. at 743-744.

The rationale in *Smith* is also applicable here.



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(S) [redacted] and, therefore, no Fourth Amendment right to
keep that information from being turned over to the Government.

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Entered the [redacted]

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(S)

Colleen Kollar-Kotelly
COLLEEN KOLLAR-KOTELLY
Presiding Judge, U.S. Foreign Intelligence
Surveillance Court

I, Karen E. Sutton, Clerk,
FISC, certify that this document
is a true and correct copy
of the original. *KES/be*

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