

b(6) and b(7)(C)

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UNITED STATES

U.S. Foreign Intelligence Surveillance Court
for the District of Columbia

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D. C.

IN RE VARIOUS KNOWN AND UNKNOWN :

AGENTS OF :

: Docket Number: b(7)

PRESUMED UNITED STATES PERSONS (S) :

ORDER

The United States of America having applied, pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended, 50 U.S.C. §§ 1801-1811 (“FISA” or “the Act”), for an order for electronic surveillance targeting Various Known and Unknown Agents of

[REDACTED] presumed U.S. persons, and the Court, having given

full consideration to the matters set forth in the Government’s application, finds as follows:

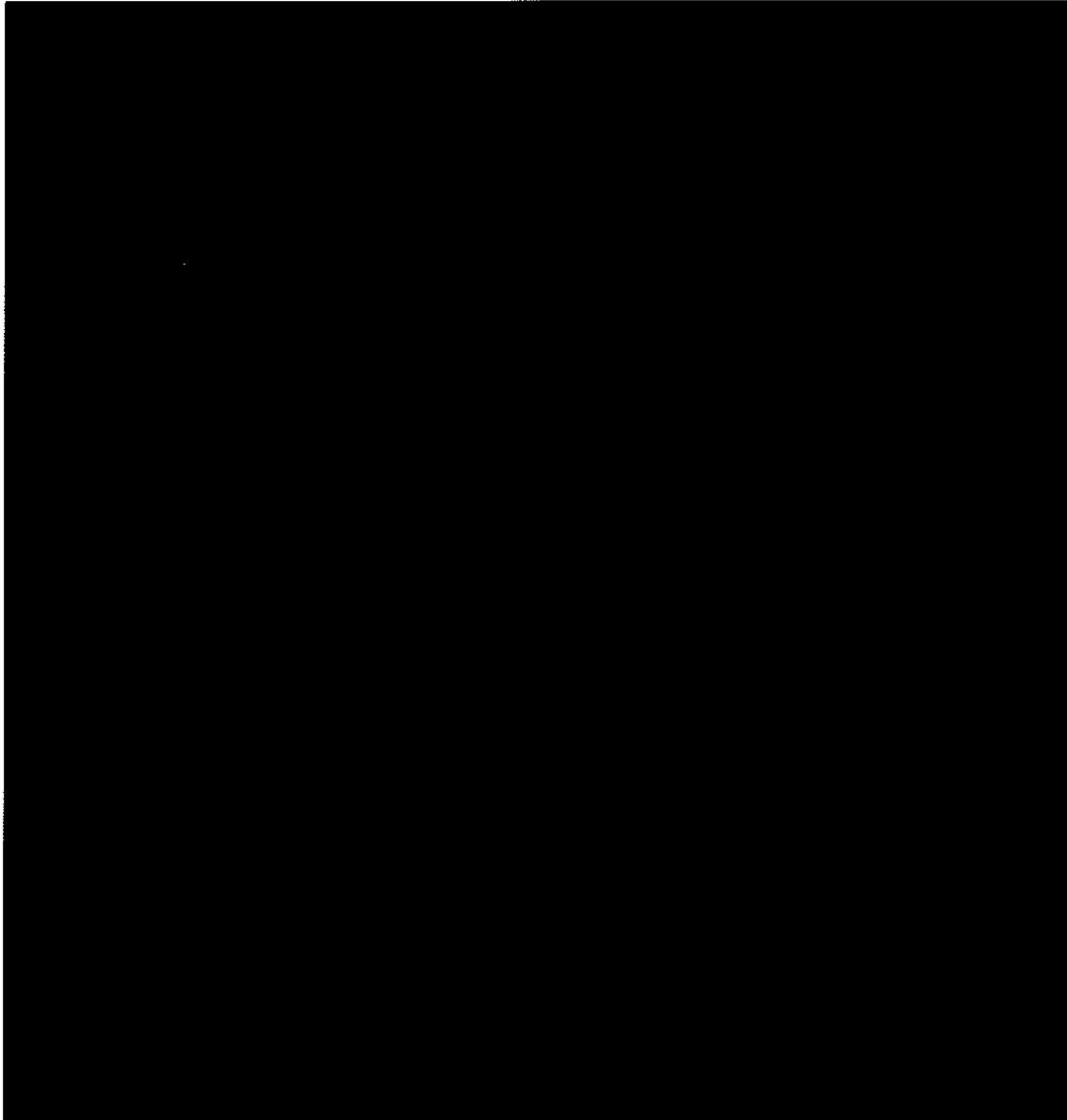
1. The President has authorized the Attorney General of the United States to approve applications for electronic surveillance for foreign intelligence information [50 U.S.C. § 1805(a)(1)];
2. The application has been made by a Federal officer and approved by the Attorney General [50 U.S.C. § 1805(a)(2)];

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Derived from: Application to the USFISC in b(7)(E)

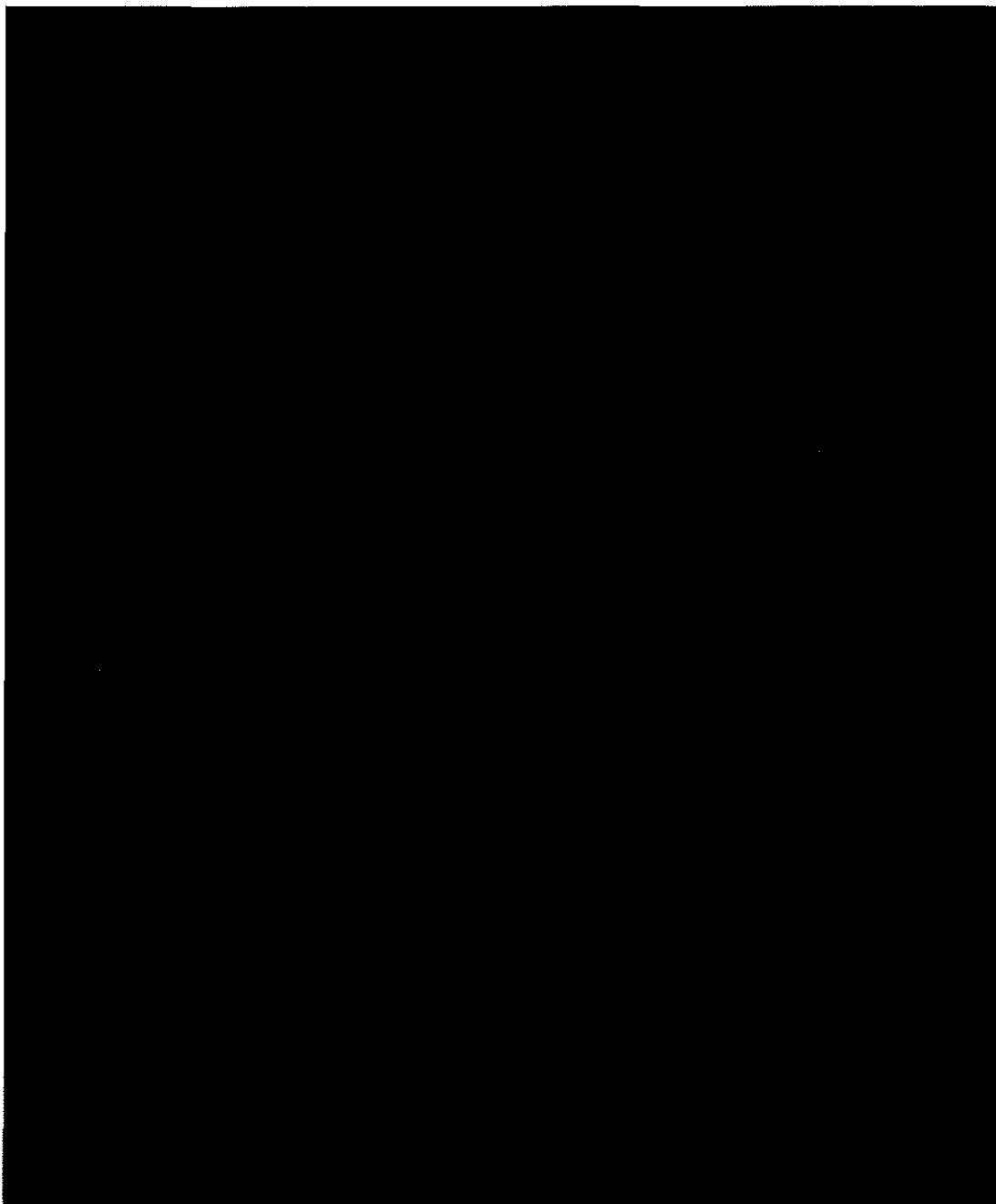
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3. On the basis of the facts submitted by the applicant, there is probable cause to believe that [50 U.S.C. § 1805(a)(3)]:

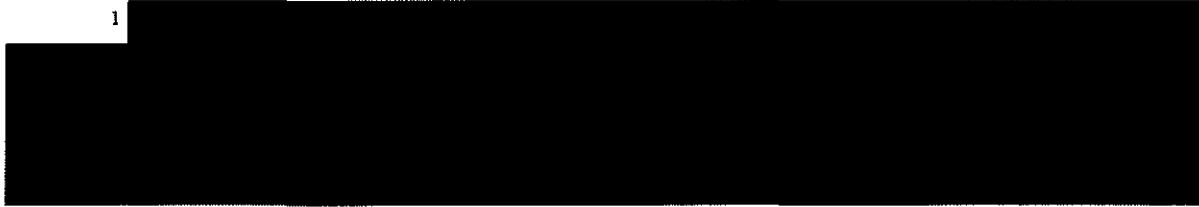
(a) [REDACTED] as further referenced in Exhibit B, together, constitute a group engaged in international terrorism or activities in preparation therefor, and, therefore, is a foreign power as defined by 50 U.S.C. § 1801(a)(4):


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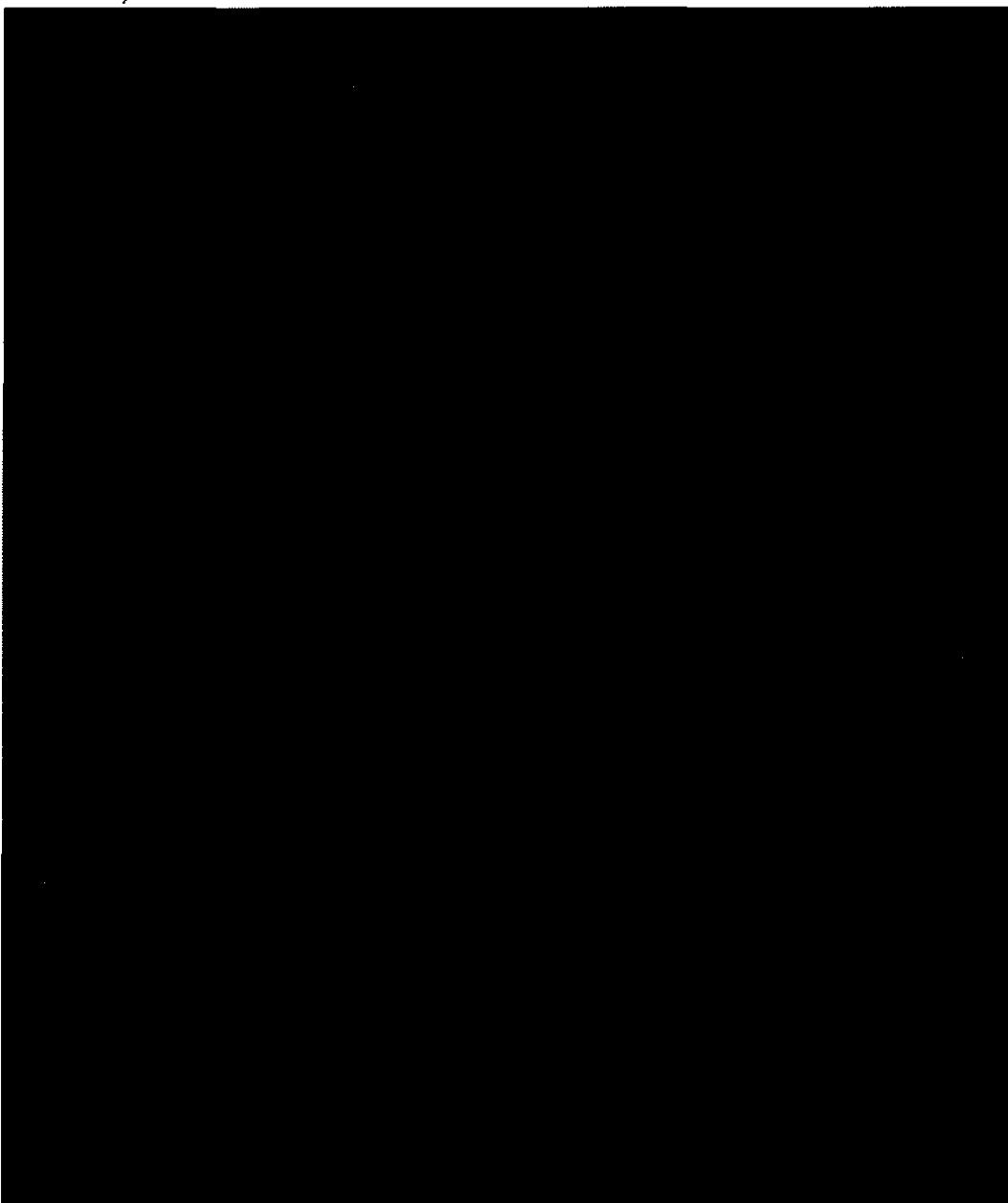
(b) the targets of this electronic surveillance, **Various Known and Unknown Agents of**

[REDACTED] **presumed U.S. persons, described**

in Exhibit A to the application, are agents of this foreign power, as defined by 50 U.S.C.

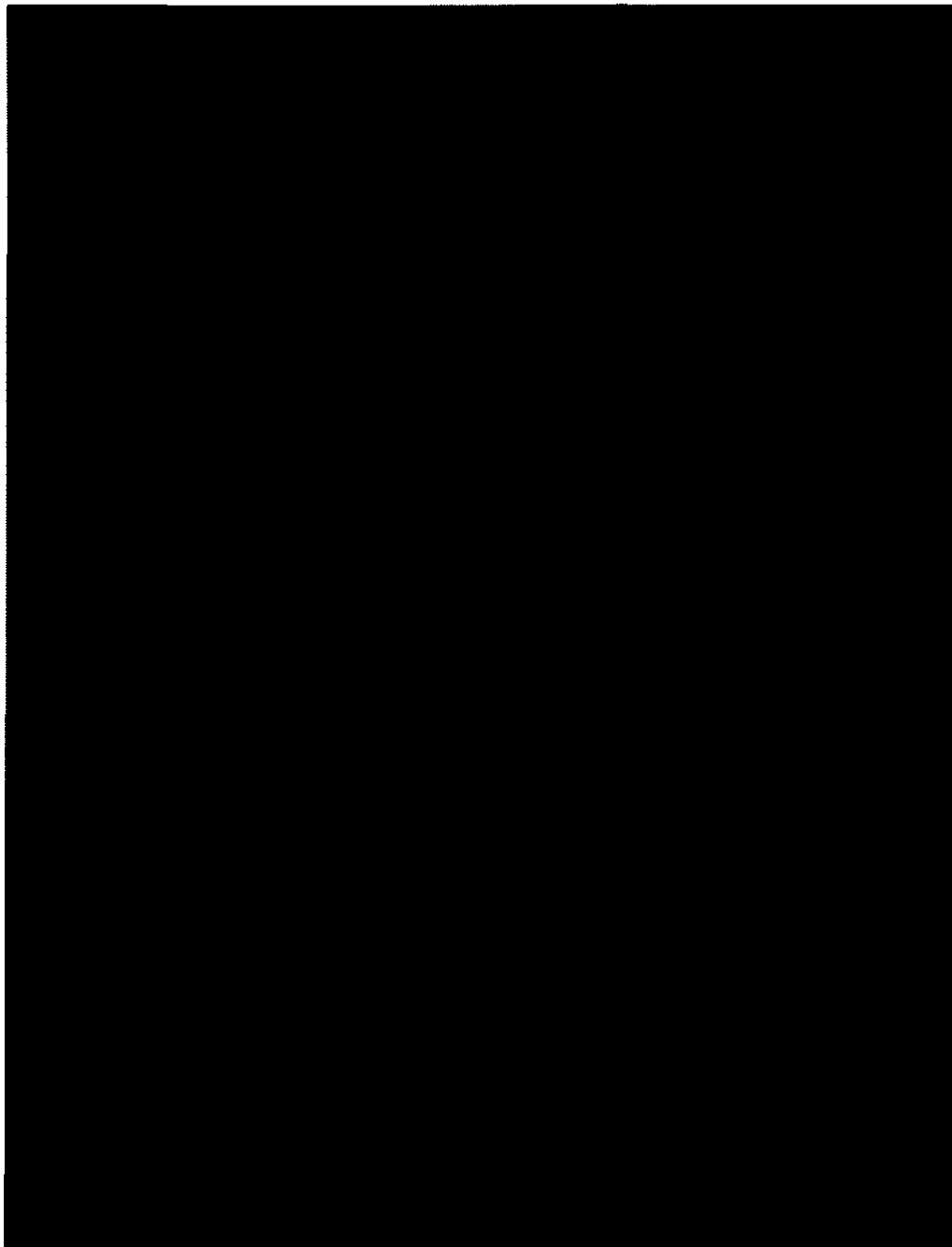
§ 1801(b)(2)(E) [50 U.S.C. § 1805(a)(3)(A)];

(c) each of the following telephone numbers,



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at which the electronic surveillance is directed, is being used or is about to be used by

Various Known and Unknown Agents of [REDACTED]

[REDACTED] presumed U.S. persons, and electronic surveillance is authorized, using
for each facility either or both of the means identified below [50 U.S.C. § 1805(a)(3)(B)];

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4. The minimization procedures proposed in the application 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

5. The application contains all statements and certifications required by 50 U.S.C. § 1804, and the certification is not clearly erroneous on the basis of the statements made under 50 U.S.C. § 1804(a)(7)(E), and any other information furnished under 50 U.S.C. § 1804(d). [50 U.S.C. § 1805(a)(5)].

The Court understands that the Government expects to file emergency FISA applications pursuant to 50 U.S.C. § 1805(f) seeking authority to intercept international communications to and from additional telephone numbers reasonably believed to be used by persons in the United States, where there arises probable cause to believe that such numbers are being used or are about to be used by known and unknown agents of [REDACTED]

[REDACTED] The Court understands that the Government has proposed a streamlined FISA emergency application form, attached as Exhibit G to the application, specifically and exclusively for this purpose. The Court finds that for any such application made under docket number [REDACTED] b(7)(E) the form of this proposed application is consistent with FISA subject to § 1805(d).

The Court also understands that the effectiveness of the surveillance proposed in this application and subsequent emergency applications made under this docket depends upon the manner of its operation remaining unknown to terrorists, and that it is critical to United States' counterterrorism operations that agents of [REDACTED] subject to such surveillance do not learn that they have been identified by the Government. The Court accordingly determines that the Government has established "good cause" within the meaning of section 1806(j) of Title 50 that a subject of emergency surveillance initiated by the Government

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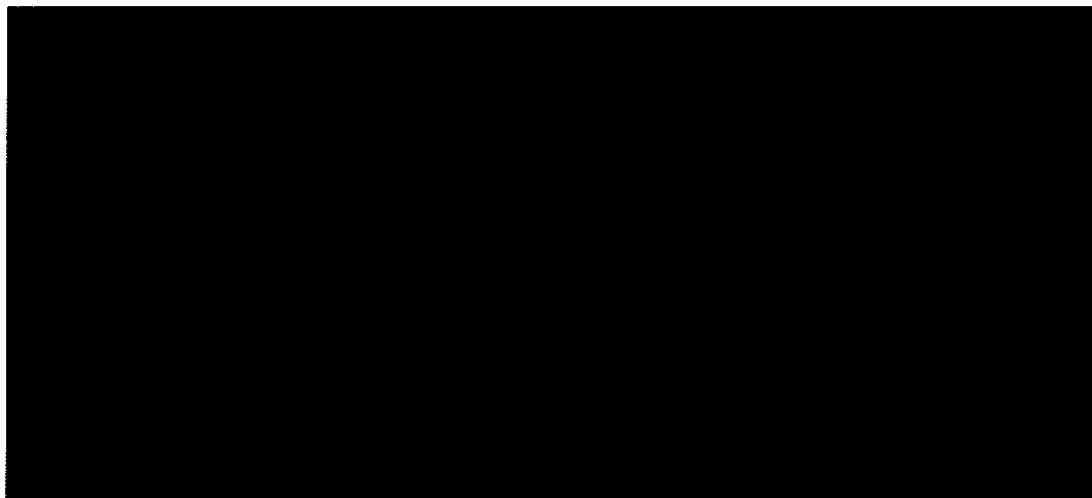
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during the period of this Order, but not authorized by this Court, should not be notified of the emergency employment of electronic surveillance. For any such surveillance, the requirement of notice shall be suspended for ninety days following the emergency employment of electronic surveillance, provided that on a further ex parte showing of good cause by the Government, the Court shall forgo ordering the serving of the notice required under section 1806 (j) of Title 50.

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, and it is

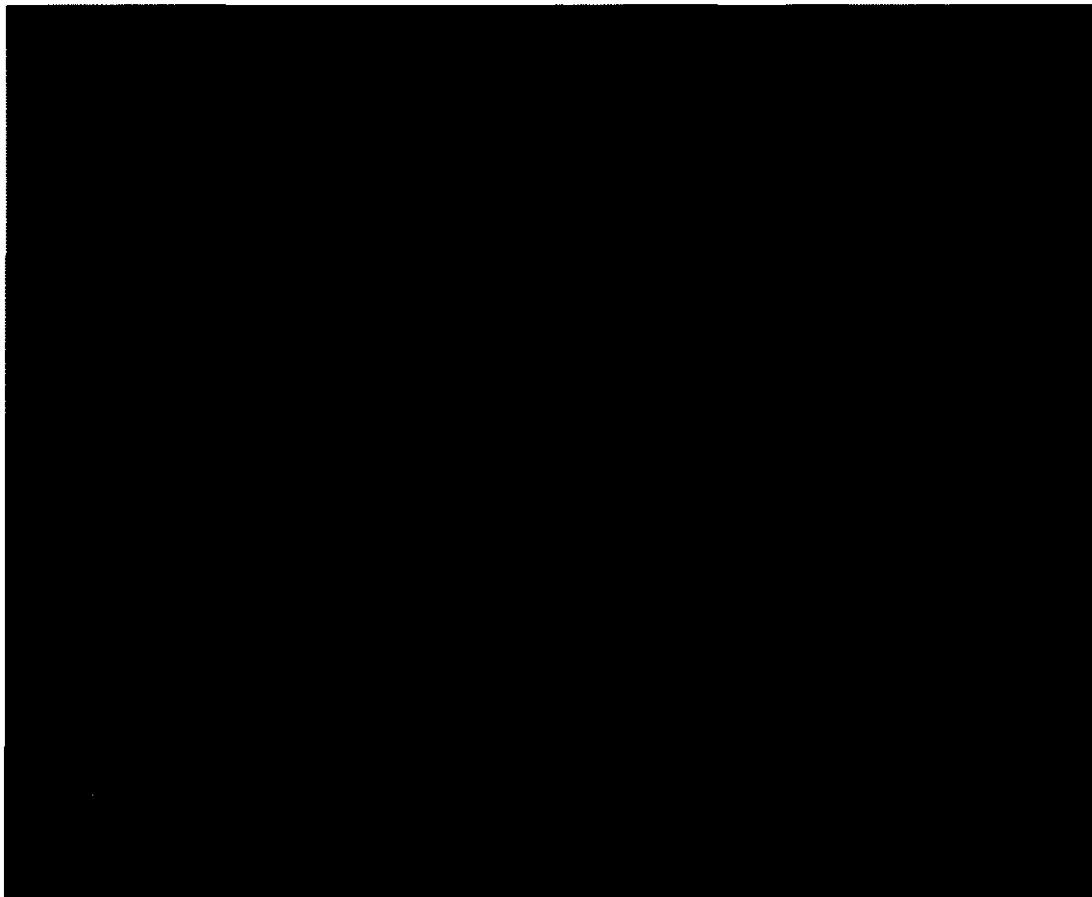
FURTHER ORDERED, as follows [50 U.S.C. § 1805(c)-(e)]:

(1) The United States is authorized to conduct electronic surveillance to acquire foreign intelligence information as defined by 50 U.S.C. § 1801(e)(1)(A) and (B), including the incidental acquisition of other foreign intelligence information as defined by 50 U.S.C. § 1801(e)(1)(C) and (2), at the facilities or places described in paragraph 3(c) above, subject to the minimization procedures specified in paragraph 4 above and specifically detailed in paragraph (3) below, for a period of ninety days, unless otherwise ordered by the Court, as follows:



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³ Although the NSA surveillance will be designed to acquire only international communications where one communicant is outside the United States, the Court understands that the communications infrastructure and the manner in which it routes communications do not permit complete assurance that no domestic communications will be acquired. In such cases, NSA shall apply its standard FISA minimization procedures, as described and modified herein, to any domestic communications it may inadvertently acquire.

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Unconsented physical entry is not authorized to implement the electronic surveillance approved herein.

(2) The person(s) specified in the secondary orders attached hereto, specifically:

[REDACTED]

including all assigns and/or other successors in interest to said specified persons with regard to the facilities and/or places targeted herein, shall:

(a) furnish the United States all information, facilities, and/or technical assistance necessary to effect the authorities granted herein, or granted under any subsequent authorization made in connection with this docket number, all in accordance with the order of this Court directed to said specified person; and

(b) maintain all records concerning this matter, or the aid furnished to the United States, under the security procedures approved by the Attorney General and the Director of Central Intelligence (or the Director of National Intelligence) that have previously been or will be furnished to the specified persons and are on file with this Court, and the United States shall compensate any such person(s) providing assistance at the prevailing rate for all assistance furnished in connection with the activities described herein [50 U.S.C. §§ 1805(c)(2)(B)-(D)].

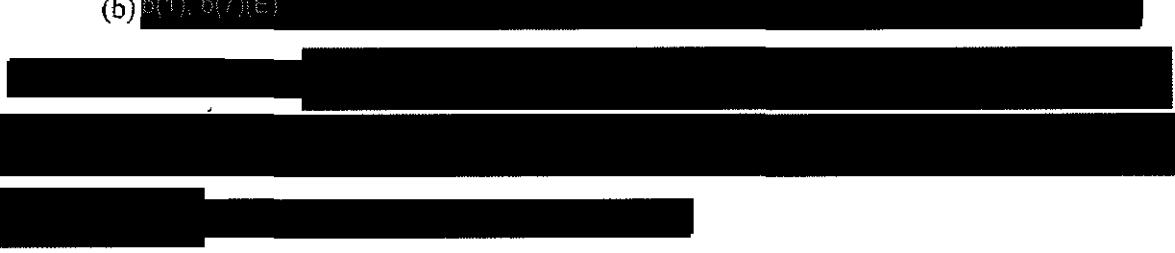
(3) As to all information gathered through the authorities requested herein, the NSA shall follow:

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(a) The Standard Minimization Procedures for Electronic Surveillance Conducted by the National Security Agency (also known as Annex A to United States Signals Intelligence Directive 18), which have been adopted by the Attorney General and are on file with this Court.

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



1. The following shall be added to the end of Section 3(f) of these standard NSA FISA procedures:

(7) The National Security Division of the Department of Justice shall periodically determine that information concerning communications of or concerning United States persons that is retained meets the requirements of these procedures and the Foreign Intelligence Surveillance Act.

2. The following shall be added to the end of Section 4(b) of these standard NSA FISA procedures:

With respect to any other communication where it is apparent to NSA processing personnel that the communication is between a person and the person's attorney (or someone acting on behalf of the attorney) concerning legal advice being sought by the former from the latter, such communications relating to foreign intelligence information may be retained and disseminated within the U.S. Intelligence Community if the communications are specifically labeled as being privileged. However, such communications may not be disseminated outside of the U.S. Intelligence Community without the prior approval of the Assistant Attorney General for the National Security Division or his designee.

3. The following shall replace subsections (a), (b), and (c) of Section 8 of these standard NSA FISA procedures:

NSA may disseminate nonpublicly-available identity or personally identifiable information concerning United States persons to foreign governments provided that such information is foreign intelligence information and either (i) the Attorney General approves the dissemination or (ii) NSA disseminates the information under procedures

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approved by the Attorney General. In addition, NSA may disseminate such foreign intelligence information, to the extent authorized by the Director of National Intelligence (DNI) and in accordance with DNI directives, subject to the following procedures:⁴

(1) Disseminations to [REDACTED] [REDACTED] may be made upon the approval of any person designated for such purpose by the Director of NSA.

(2) Disseminations to [REDACTED] foreign governments may be made upon the approval of the NSA's Office of General Counsel, upon consideration of the following factors: the national security benefit the United States may reasonably expect to obtain from making the dissemination; the anticipated uses to which the foreign government will put the information; and any potential for economic injury, physical harm, or other restriction of movement to be reasonably expected from providing the information to the foreign government. If the proposed recipient(s) of the dissemination have a history of human rights abuses, that history should be considered in assessing the potential for economic injury, physical harm, or other restriction of movement, and whether the dissemination should be made. In cases where there is a reasonable basis to anticipate that the dissemination will result in economic injury, physical harm, or other restriction of movement: (i) the approval of the NSA's Signals Intelligence Director will also be required; and (ii) if dissemination is approved, NSA will undertake reasonable steps to ensure that the disseminated information will be used in manner consistent with United States law, including Executive Order No. 12,333 and applicable federal criminal statutes.

(3) NSA will make a written record of each dissemination approved pursuant to these procedures, and information regarding such disseminations and approvals shall be made available for review by the National Security Division, United States Department of Justice, on at least an annual basis.

4. Regarding dissemination of evidence of a crime, Sections 5(a)(2) and 6(b)(8) of these standard NSA FISA procedures shall be superseded by the following:

Information that is not foreign intelligence information, but reasonably appears to be evidence of a crime that has been, is being, or is about to be committed, may be disseminated (including United States person identities) to the FBI and other appropriate federal law enforcement authorities, in accordance with 50 U.S.C. § 1806(b), Executive Order No. 12,333, and, where applicable, the crimes reporting procedures set out in the August 1995 'Memorandum of Understanding: Reporting of Information Concerning Federal Crimes,' or any successor document.

⁴and b(7)(E)

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5. The following shall be added to the end of Section 6 of these standard NSA FISA procedures:

NSA may disseminate all communications acquired to the CIA, which shall process any such communications in accordance with minimization procedures approved by this Court.

(c) The following additional modifications to these standard NSA FISA procedures:

1. Notwithstanding sections 3(c)(2) and (e), 5(b), and 6(a) of these standard NSA FISA procedures, communications acquired under this Order may be retained for five years, unless this Court approves retention for a longer period.

2. Section 3(c)(6) of these standard NSA FISA minimization procedures is deleted and replaced with:

To the extent reasonably possible, NSA personnel with access to the data acquired pursuant to this authority shall query the data in a manner designed to minimize the review of communications of or concerning U.S. persons that do not contain foreign intelligence information or evidence of a crime.

3. Section 3(g)(1) of these standard NSA FISA minimization procedures, relating to absences "from premises under surveillance" by agents of a foreign power, shall not apply to this surveillance.

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(4) The CIA shall minimize all communications received under this Order as provided in Exhibit F to the application.

Signed 10 JAN 2007, 4:15 pm Eastern Time
Date Time

This authorization regarding Various Known and Unknown Agents of

[redacted] presumed U.S. persons, expires at 3:00pm
on the 6th day of APRIL, 2007.

Malcolm J. Howard
MALCOLM J. HOWARD
Judge, United States Foreign
Intelligence Surveillance Court

b(6) and b(7)(C) Deputy Clerk
P.S.C. certify that this document
is a true and correct copy of
the original b(6) and
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