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IN THE MATTER OF THE APPLICATION :  
 OF THE UNITED STATES FOR AN ORDER :  
 AUTHORIZING PHYSICAL SEARCH : Docket Number:  
 OF A NON-UNITED STATES PERSON AGENT :  
 OF A FOREIGN POWER. ~~(S)~~ :

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STANDARD PHYSICAL SEARCH MINIMIZATION PROCEDURES

Pursuant to Section 301(4) of the Foreign Intelligence Surveillance Act of 1978, Public Law 95-511, as amended by Public Law 103-359, the following procedures have been adopted by the Attorney General, and shall be followed by the Federal Bureau of Investigation (FBI), in conducting a physical search as ordered by the Court:

Section I - Applicability and Scope (U)

These procedures apply to the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons that is collected in the course of a physical search of the real or personal property of a non-United States person who is an agent of a foreign power consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information. (S)

Minimization shall be practiced during acquisition as well as retention and dissemination. In light of efforts by foreign powers and their agents to conceal foreign intelligence information, and the necessarily brief time frame in which a physical search is conducted, it may not be possible to

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Classified by: Deputy Counsel for Intelligence Operations, Office of Intelligence Policy and Review, U.S. Department of Justice  
Declassify on: OADR

immediately recognize the foreign intelligence information sought. Thus, FBI personnel who conduct the physical search or examine the information, material, or property so acquired shall exercise reasonable judgment in determining whether particular information, material, or property should be minimized. ~~(S)~~

Section II - Definitions (U)

(a) Definitions set forth in Section 101 of the Foreign Intelligence Surveillance Act, as amended, including the terms "foreign power", "agent of a foreign power", "foreign intelligence information," "United States person," and others which may be used in these procedures, shall apply to these procedures as well. (U)

(b) Definitions set forth in Section 301 of the Foreign Intelligence Surveillance Act, as amended, including the terms "aggrieved person" and "physical search", shall apply to these procedures. As defined, "physical search" does not include a search conducted consensually [REDACTED] or a search conducted under circumstances in which a person does not have a reasonable expectation of privacy. ~~(S)~~

(c) As used herein, "seizure" means the permanent physical removal of information, material, or property. (U)

[REDACTED]

(e) As used herein, "information of or concerning a United States person" does not include only publicly available information about the person. (U)

(f) When the citizenship status of an "aggrieved person" is unknown, and no reasonable basis exists for concluding that the person is not a United States person, it is presumed that such person is a United States person. (U)

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Section III - Acquisition (U)

(a) Physical Intrusion (U)

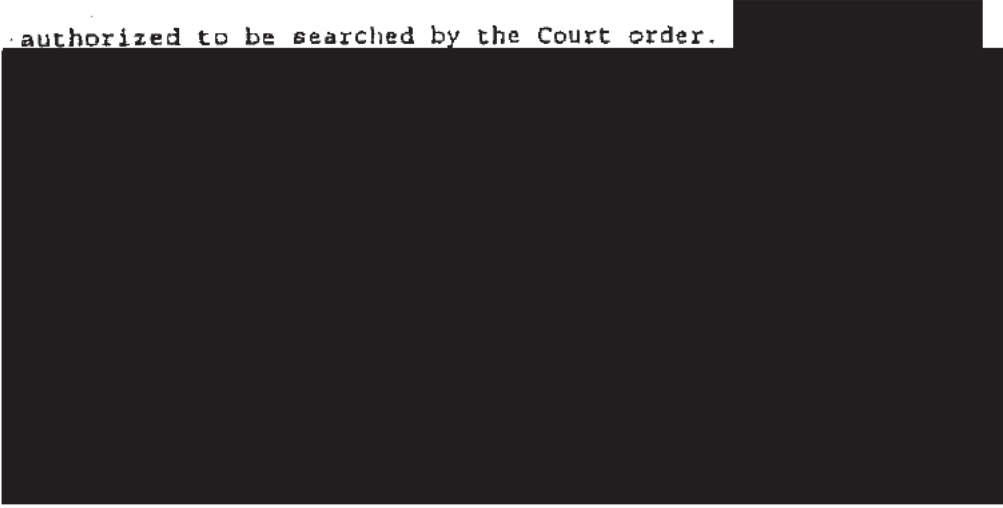
(1) Within the United States the FBI may conduct unconsented physical intrusion into the target premises or property (including the examination of the interior of property by technical means) to acquire information, material, or property of or concerning non-United States persons through physical search as authorized by Court order. ~~(S)~~

(2) A physical search shall be conducted with the minimum physical intrusion necessary to acquire the foreign intelligence information sought. ~~(S)~~



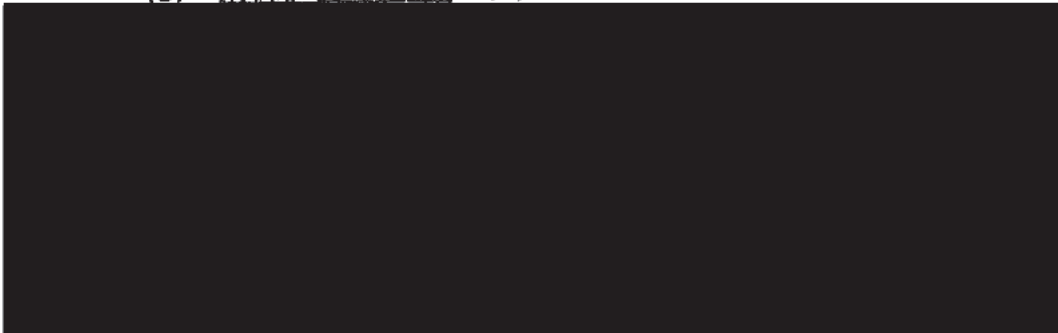
(b) Verification of the Premises or Property (U)

Prior to the initiation of a physical search, the FBI shall verify that the premises or property being searched is owned, used, possessed by, or is in transit to or from the targeted non-United States person agent of a foreign power authorized to be searched by the Court order.



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(c) Areas of Search (U)



(d) Methods of Search (U)

(1) Physical search of the premises or property of the targeted non-United States person agent of a foreign power may be conducted by the method(s) most suitable for acquiring the foreign intelligence information sought in light of the particular circumstances of the search. ~~(S)~~



(e) Searches Involving Mail or Couriers ~~(S)~~

(1) Physical searches of mail within United States postal channels shall be conducted in accordance with Federal statutes and United States Postal Service regulations particularly governing such searches. (U)

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(f) Personnel Conducting the Search (U)



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(g) Property of Other Persons (U)



Section IV - Retention and Use (U)

(a) Recording of Information (U)

(1) A permanent written record, or "log", of items inspected, examined, reproduced, [redacted] seized during a physical search shall be maintained by FBI personnel who conduct the physical search. Information, material, or property of United States persons, including identities of United States persons, that is not or could not be foreign intelligence information, or that is not evidence of a crime which has been, is being, or is about to be committed, shall not be logged, reproduced, [redacted]


[redacted] seized. Foreign intelligence information acquired in original document form, or as reproduced, including facsimile messages, letters, computer data, or other electronically generated product, may be indexed and filed without a separate log being prepared for each item.


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(2) When the identity of a United States person could not be foreign intelligence information, even though the

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information, material, or property could be foreign intelligence information, FBI personnel shall not log the full name of the United States person but may use a partial name or characterization of the person. ~~(S)~~

(3) The Attorney General, or the Attorney General's designee, shall regularly review information, material, or property of or concerning United States persons that is logged, reproduced, 

 seized to assess compliance with these procedures and the Foreign Intelligence Surveillance Act. ~~(S)~~

(b) Privileged Communications (U)



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(c) Indexing (U)

Logged identities of United States persons acquired through physical search of information, material, or property of the non-United States person 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 a United States person as recorded in the log may be minimized by striking the name or substituting a characterization for that person. (U)

(d) Reporting (U)

(1) Information, material, or property of or concerning a United States person discovered during a physical search may be inspected, examined, reproduced, [REDACTED] [REDACTED] seized, and reports

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made of the contents, only for authorized foreign intelligence or law enforcement purposes as provided herein. ~~(S)~~

(2) Pursuant to Section 304(b)(2)(E) of the Act, the FBI shall promptly report the circumstances and results of the physical search to the Office of Intelligence Policy and Review, Department of Justice, which will incorporate that information into an application to the Foreign Intelligence Surveillance Court for an extension of physical search authority against that non-United States person agent of a foreign power target, when necessary. If no renewal application is required, the Office of Intelligence Policy and Review, Department of Justice will file a return with the Court notifying it of the circumstances and results of the physical search. ~~(S)~~

(e) Foreign Intelligence Information (U)

Information, material, or property of or concerning United States persons which contains foreign intelligence information as defined in Section II(a) may be used only in foreign counterintelligence investigations or for other authorized foreign intelligence, counterintelligence, countersabotage or counterterrorism purposes. Foreign intelligence information which is also evidence of a crime which has been, is being, or is about to be committed, may also be used as provided in Section IV(f) below. ~~(S)~~

(f) Evidence of Crime Not otherwise Foreign Intelligence Information (U)

Information, material, or property of or concerning a United States person that is acquired through a physical search, that is incidental to the collection of foreign intelligence information, and that contains information that is evidence of a crime which has been, is being, or is about to be committed, but which is not otherwise foreign intelligence

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information, may be used only for the purpose of preventing the crime or enforcing the criminal law. ~~(S)~~

(g) Controlled Access (U)

Strict controls shall be placed on the storage and retrieval of information acquired through the physical search of information, material, or property of or concerning a United States person. Use of such information shall be restricted to those FBI supervisory, investigative, and clerical personnel who have a need to know such information to fulfill foreign intelligence, counterintelligence, counterterrorism, or law enforcement responsibilities. (U)

(h) Destruction of Reproductions (U)

Reproductions or other copies of information, material, or property of or concerning a United States person acquired through physical search may be destroyed at any time if [REDACTED]

[REDACTED] Otherwise, reproductions or other copies shall be destroyed within a reasonable period of time following their authorized retention and use as provided above, except that: ~~(S)~~

(1) reproductions or other copies which may contain evidence of a criminal offense will be retained until a decision is rendered by prosecutive authorities. If a decision is made to prosecute, those reproductions or other copies shall be retained until the end of the prosecution process; (U)

(2) reproductions or other copies containing information that reasonably appears to be exculpatory ("Brady") material shall be retained as if they contained evidence of a crime; (U)

(3) reproductions or other copies containing privileged communications shall be retained until ordered to be destroyed by the Office of Intelligence Policy and Review, Department of Justice; and (U)

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(4) reproductions or other copies required to be retained by a rule of law or judicial order shall be retained in accordance with the requirements of that rule or order. (U)

, Section V - Dissemination (U)

(a) General Restrictions (U)

(1) Subject to the requirements of Section V(b) of these procedures, nonpublicly available information concerning United States persons acquired through a physical search of the premises or property of the targeted non-United States person agent of a foreign power may not be disseminated without the consent of the United States person involved unless the information is, or reasonably appears to be, foreign intelligence information as defined in Section 101(e)(1) or (2) of the Foreign Intelligence Surveillance Act or is evidence of a crime which has been, is being or is about to be committed. (U)

(2) Nonpublicly available information concerning a United States person acquired through a physical search of the premises or property of a targeted non-United States person agent of a foreign power which is foreign intelligence information may be disseminated within the Federal Government, but only to officials, agencies, or components with responsibilities directly related to the information proposed to be disseminated. Such information may also be disseminated, with the prior approval of the Attorney General, to foreign governments. Information which is evidence of a crime may be disseminated to Federal, state, local, or foreign officials or agencies with law enforcement responsibility for the crime as provided in Section V(d). (U)

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(b) Dissemination of Section 101(e)(1) Foreign Intelligence Information (U)

Nonpublicly available information concerning a United States person acquired through a physical search of the premises or property of the targeted non-United States person agent of a foreign power which is or reasonably appears to be foreign intelligence information as defined in Section 101(e)(1) of the Foreign Intelligence Surveillance Act may be disseminated in a manner that identifies a United States person only for authorized foreign intelligence, foreign counterintelligence, countersabotage and international terrorism, or law enforcement purposes. (U)

(c) Dissemination of Section 101(e)(2) Foreign Intelligence Information (U)

Nonpublicly available information concerning a United States person acquired through a physical search of premises or property of the targeted non-United States person agent of a foreign power which is or reasonably appears to be foreign intelligence information as defined in Section 101(e)(2) of the Foreign Intelligence Surveillance Act may not be disseminated in a manner that identifies a United States person, except by general characterization, unless such person's identity is necessary to understand the information or assess its importance. Such information may be disseminated only for authorized foreign intelligence, foreign counterintelligence, countersabotage and international terrorism, or law enforcement purposes. (U)

(d) Criminal Information (U)

Nonpublicly available information concerning any United States person incidentally acquired through a physical search of the premises or property of the targeted non-United States person agent of a foreign power which is evidence of a crime which has been, is being, or is about to be committed, but which is not or does not reasonably appear to be foreign

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intelligence information as defined by Section 101(e) of the Foreign Intelligence Surveillance Act may be disseminated only for law enforcement purposes. Any information acquired through a physical search of the targeted non-United States person agent of a foreign power which is disseminated for law enforcement purposes shall be accompanied by a statement that such information or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General. (U)



Janet Reno  
Attorney General of the United States

February 20, 1995  
Date

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