

~~SECRET//NOFORN~~

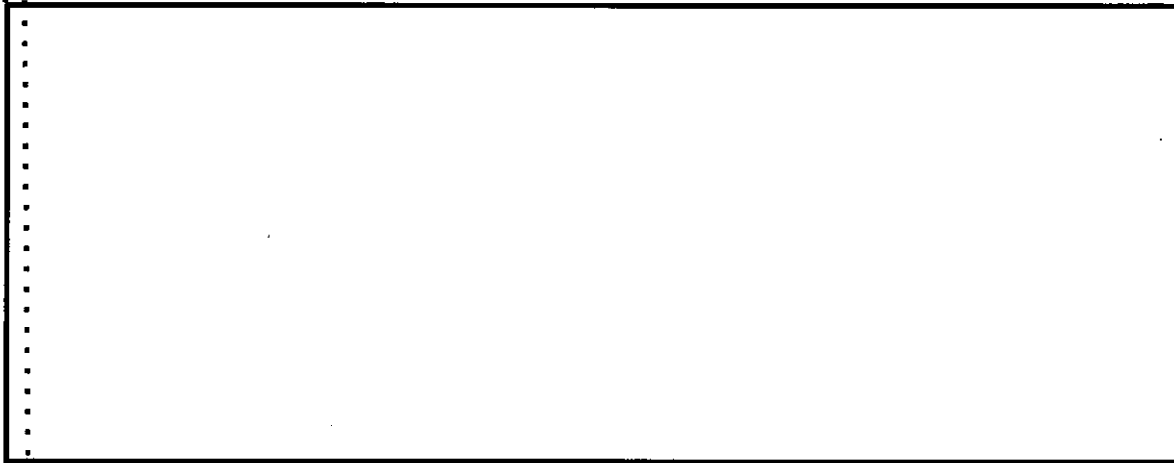
(b) (1)
(b) (3) - 50 USC 3024 (i)

UNITED STATES

MAR 20 2018

FOREIGN INTELLIGENCE SURVEILLANCE COURT
Ann Flynn Hall, Clerk of Court

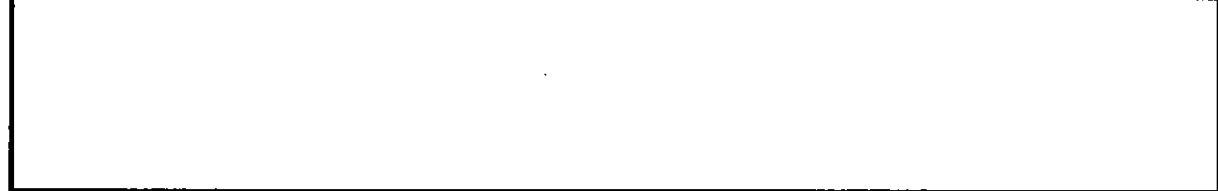
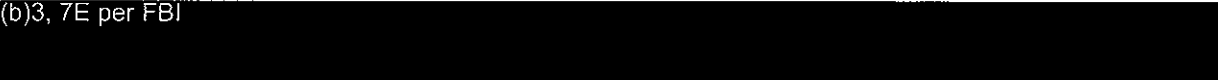
WASHINGTON, D.C.



ORDER

On April 26, 2017, the Court approved the amended certifications and accompanying targeting and minimization procedures in the above-captioned dockets pursuant to section 702 of the Foreign Intelligence Surveillance Act (FISA), as amended, which is codified at 50 U.S.C. § 1881a. The authorizations to acquire foreign intelligence information under those certifications

(b)3, 7E per FBI



Between February 8 and February 15, 2018, the government submitted in draft form: (1) certifications that would reauthorize the 2016 Certifications; (2) proposed revisions to the current targeting and minimization procedures; and (3) draft querying procedures, as required by section 702(f)(1), which was recently added by section 101 of the FISA Amendments

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Reauthorization Act of 2017, Public Law 115-118. The government has advised that it plans later this month to submit the certifications ("the 2018 Certifications") and accompanying procedures in final form, with an explanatory memorandum. Upon such submission, the 2016 Certifications would remain in effect – even after the (b)3, 7E per FBI expiration date – until the Court enters an order that either approves the 2018 Certifications and use of the accompanying procedures or finds a deficiency and directs the government to take remedial steps. See § 702(j)(3)(A)-(B), (5)(B). The Court is required to provide a written statement of the reasons for the Court's action simultaneously with the order. § 702(j)(3)(C). Once the government has filed the 2018 Certifications and accompanying procedures in final form, the Court is required to conduct its review and issue an order within 30 days. See § 702(j)(1)(B). The Court may extend this period, however, "as necessary for good cause in a manner consistent with national security." See § 702(k)(2).

Consistent with the requirement to conduct proceedings as expeditiously as possible and with any other statutory requirement that the Court act within a stated time, see § 103(d), (i)(2), the Court "shall appoint an individual [. . .] to serve as amicus curiae to assist in the consideration of any application for an order or review that, in the opinion of the court, presents a novel or significant interpretation of the law, unless the court issues a finding that such appointment is not appropriate." § 103(i)(2)(A). The Court may also appoint an amicus curiae "in any instance [the] Court deems appropriate." § 103(i)(2)(B).

Based on its review of the government's draft submission, it appears likely that this matter will present one or more novel or significant interpretations of the law, which would require the Court to consider appointment of an amicus curiae. See § 103(i)(2)(A). Indeed, the Court expects its deliberations would benefit from amicus involvement.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

Without an extension of time under section 702(k)(2), however, it would be difficult, to say the least, for an amicus to provide meaningful assistance. The amicus would need to analyze complex issues and formulate and present views on them in time for the Court to consider those views, along with any response by the government, and issue an order and written statement of reasons by late April. The Court is therefore considering whether, and how much, to, extend the time to act on the 2018 Certifications and the accompanying procedures. As noted above, the Court may extend the time to act on the 2018 Certifications and revised procedures as necessary for good cause in a manner consistent with national security, and the 2016 Certifications and accompanying procedures would remain in effect until the Court completes its review.

Accordingly, it is HEREBY ORDERED as follows:

By March 26, 2018, the government shall explain in writing whether an extension of time - and, if so, what length of an extension of time - for the Court to review the 2018 Certifications and procedures would be consistent with national security, taking into account that once the 2018 Certifications are filed with the Court, the 2016 Certifications and procedures would remain in effect for the duration of an extended review period pursuant to section 702(j)(5)(B).

ENTERED this 20th day of March 2018, in

[Redacted]

[Redacted]

(b) (1)
(b) (3) - 50 USC 3024 (i)


JAMES E. BOASBERG
Judge, United States Foreign
Intelligence Surveillance Court

(b)6,7C per [Redacted] Chief Deputy Clerk.
FISC, certify that this document is a
true and correct copy of the original

~~SECRET//NOFORN~~

(b)6,7C per
NSD