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

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
2015 NOV 9 11:01 AM
LEEANN FLYNN HALL
CLERK OF COURT

IN RE APPLICATION OF THE FEDERAL
BUREAU OF INVESTIGATION FOR AN
ORDER REQUIRING THE PRODUCTION
OF TANGIBLE THINGS

Docket Number b1, b3 [50 USC 3024(i)]

[REDACTED]

REPLY MEMORANDUM OF AMICUS CURIAE TO THE UNITED STATES RESPONSE
TO OCTOBER 30, 2015, MEMORANDUM OF LAW

Undersigned, as *Amicus Curiae*, respectfully submits this reply to the government's
November 6, 2015, Response to undersigned's October 30, 2015, Memorandum of Law.

Amicus and the government agree that the USA FREEDOM Act of 2015 (USFA) does not
categorically preclude the retention and use of the previously produced

[REDACTED] Gov. Response at 2. The government also agrees
that the Act permits the Court to impose particularized minimization procedures regarding such
use and retention, including procedures addressing the destruction of such material. *Id* at 9, 20.

The government urges the Court to endorse the procedures it proposed in its Application.
Id. at 2-3. Its Response provides additional information for the Court's consideration in support
of that Application. Nonetheless, its Response to several of Amicus's suggested inquiries fails to
provide the Court with meaningful information.

b1, b3 [50 USC 3024(i)]
[REDACTED]

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b1, b3 [50 USC 3024(i)] See Gov. Response at 10-11, 14.¹

As to the former, the government's position is conclusory and simply recites the analytical

process without explaining b1, b3 [50 USC 3024(i)] will frustrate that process. See Gov.

Response at 11-14. As to the latter objection, the Court b1, b3 [50 USC 3024(i)]

and is well able to assess whether that process is unnecessary

here or whether the increased burden conjured by the government is incompatible with the

Court's fulfillment of its oversight obligations—the government's argument that it will cause too

much work for the Court seems a rather convenient theoretical burden to invoke in order to deter

otherwise appropriate oversight.

b1, b3 [50 USC 3024(i)]

Gov.

Response at 20 (citing U.S.C. § 1861(c)(F)(2)). b1, b3 [50 USC 3024(i)]

Id. at 20-21 b1, b3 [50 USC 3024(i)]

Finally, the government fails to respond clearly to the suggested inquiry regarding

whether b1, b3 [50 USC 3024(i)]

b1, b3 [50 USC 3024(i)]

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b1, b3 [50 USC 3024(i)] [Redacted]

See Gov. Response at 23. b1, b3 [50 USC 3024(i)] [Redacted]

[Redacted] See Gov. Response at 22-23. b1, b3 [50 USC 3024(i)] [Redacted]

[Redacted]

November 9, 2015

Respectfully submitted,

b6 [Redacted Signature]

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Amicus counsel

i. b6 b6 Chief Deputy Clerk
FISC, certify that this document is a
true and correct copy of the original
b6 [Redacted]

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of November, 2015, I filed a true and correct copy of the foregoing Reply Memorandum with the Clerk of Court who will transmit a true copy via appropriate secure means to:

Stuart J. Evans
Deputy Assistant Attorney General
National Security Division
United States Department of Justice
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