

FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 05/01/2005

To: Cyber
Counterintelligence
Counterterrorism
Criminal Investigative
General Counsel
All Field Offices

Attn: Assistant Director
Attn: Assistant Director
Attn: Assistant Director
Attn: Assistant Director
Attn: General Counsel
Attn: ADIC, SAC, ASACs
CDC
Cyber SSAs
Technical SSAs
Technical Advisors
Cyber SAs
Technically Trained SAs
FBIHQ, Manuals Desk

From: Operational Technology Division
Data Intercept Technology Unit

Contact: SSA [REDACTED]

Approved By: [REDACTED]

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b7C -1

Drafted By: [REDACTED]:ejr

Case ID #: 66F-HQ-1012493 (Pending)
66F-HQ-C1384970 (Pending)

Title: DATA INTERCEPT TECHNOLOGY UNIT
ADMINISTRATIVE
POLICY MATTERS

Synopsis: To reiterate policies and procedures for requesting and using Pen Register and Trap and Trace devices in FBI investigations.

Details: The policies and procedures set forth in MIOG, Part 2, 10-3, 10-10.7, 10-11.3 and 16-7.4.6 regarding the manner in which the use of the Pen Register and Trap and Trace techniques are to be requested, the approval levels, pertinent ELSUR procedures, and reporting requirements for the use of the Pen Register and Trap and Trace techniques apply to both the traditional telephonic Pen Registers (land line and cellular telephones) as well as to the more recently available use of the Pen Register and Trap and Trace technique, to capture "routing and addressing" information that

To: Cyber From: Operational Technology Division
Re: 66F-HQ-1012493, 05/01/2005

identifies the sender or recipient of communications in a computer network or Internet environment.

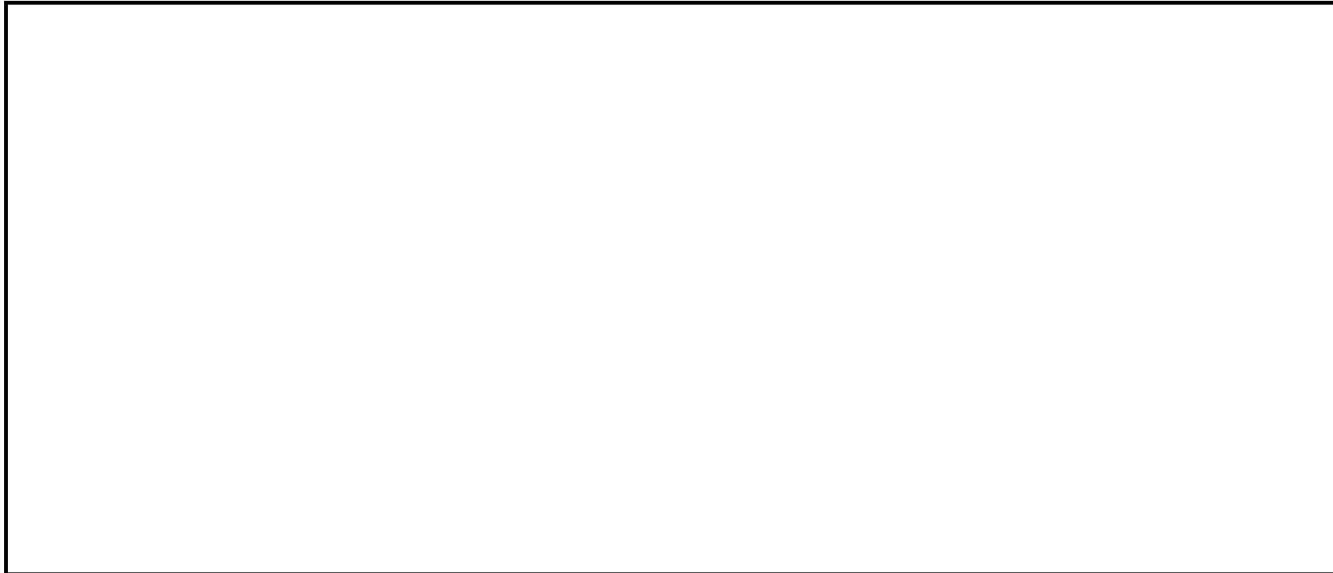
The use of Pen Registers and Trap and Trace (Pen/Trap) devices allows the FBI to trace communications on the Internet and other computer networks. Orders issued by federal courts have nationwide effect. The Electronic Communications Privacy Act of 1986 (Act), as amended, regulates the use of a device to obtain any non-content information, including all dialing, routing, addressing, and signaling information utilized in the processing and transmitting of wire or electronic communications. The Act codifies existing Department of Justice (DOJ) policy of obtaining a court order to authorize the installation and use of a Pen Register and sets forth the procedure for seeking such an order.



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On determining that the information likely to be derived from a Pen Register/Trap and Trace (PR/TT) would be relevant to the ongoing investigation, the Case Agent should review applicable guidance in the MIOG. The policies and procedures relating to the technical aspects of requesting and using the technique are briefly reiterated below.

b7E -1,2



To: Cyber From: Operational Technology Division
Re: 66F-HQ-1012493, 05/01/2005

b7E -1,2

b7E -1,2

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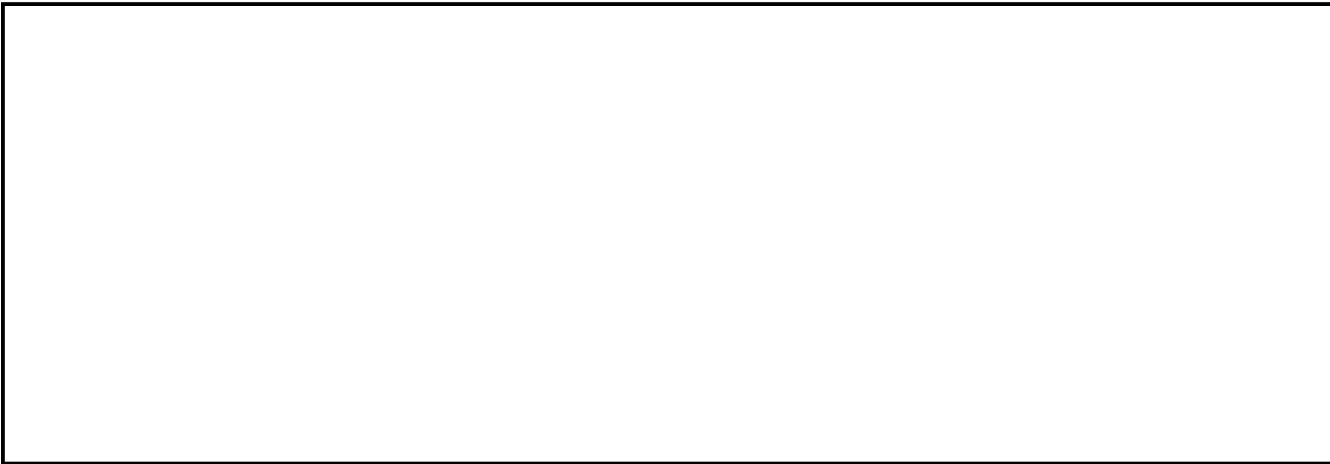
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To: Cyber From: Operational Technology Division
Re: 66F-HQ-1012493, 05/01/2005

b7E -1,2



b7E -1,2



_____ A change to the Pen Register statute with passage of the Patriot Act also included additional reporting as follows: If a law enforcement agency installs and uses its own Pen/Trap device on a packet-switched data network of a provider of electronic communication service to the public, the law enforcement agency must report the following information to the court ex parte and under seal within 30 days after termination of the order (including any extensions thereof): _____



b7E -1,2

_____ written logs and other documentation are still required by the Division's TA/TTA and Case Agent to comply with this statutory requirement.

To: Cyber From: Operational Technology Division
Re: 66F-HQ-1012493, 05/01/2005

_____The Act further requires that the Attorney General make an annual report to Congress on the number of Pen Register orders applied for by law enforcement agencies of the Department. DOJ has advised the FBI by memorandum of this requirement and has requested quarterly reports on Pen Register usage. Court-ordered Pen Register usage must be reported to FBIHQ within five workdays of the expiration date of any original or renewal order. To satisfy DOJ data requirements and standardize and simplify field reporting, use the FBI macro form number FD-712, captioned "Pen Register/Trap and Trace Usage." If an order is obtained, but no actual coverage of any lines is effected, then no submission is required. These reporting requirements do not apply to Pen Register usage effected under the provisions of the Foreign Intelligence Surveillance Act.

LEAD (s) :

Set Lead 1: (Info)

ALL RECEIVING OFFICES

Read and Clear.

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To: Cyber From: Operational Technology Division
Re: 66F-HQ-1012493, 05/01/2005