

**Memorandum of Understanding for a Pilot Program to Make
Information about Certain Sealed Applications and Orders for
Electronic Evidence in Criminal Investigations Publicly Available**

This Memorandum of Understanding is entered into by the Clerk of the United States District Court for the Western District of Washington (“the “Clerk” or “the Court,” as appropriate) and the United States Attorney’s Office for the Western District of Washington (“USAO”).

In the Pen Register Act, 18 U.S.C. § 3121 et seq., and the Stored Communications Act, 18 U.S.C. § 2701 et seq., Congress provided courts with authority to authorize investigative processes to obtain certain types of electronic evidence and also provided that these investigative processes can be sealed from public view under certain circumstances. These statutes balance many interests, including transparency, public safety, privacy, and the effective enforcement of our criminal laws.

Under certain circumstances where those Acts and/or other laws allow sealing, the Clerk and the USAO nevertheless each have an interest in operating as transparently as practicable consistent with other obligations while providing some information to the public about the use of those processes beyond what is required by law.

In order to balance these goals, the Clerk and the USAO enter into this Memorandum of Understanding for a two-year pilot program to make publicly available information about certain sealed applications and orders for electronic evidence in criminal investigations, defined below.

Subject Applications and Orders

The USAO submits applications for orders under the Pen Register Act, 18 U.S.C. §§ 3123, 3124, authorizing the installation and use of a pen register or a trap and trace device and requiring a third party to assist with a pen register or a trap and trace device to obtain prospective dialing/signaling information for a mobile device, email and/or social media account (“PR/TT orders”), and for orders under the Stored Communications Act, 18 U.S.C. § 2703(b), 2705, requiring service providers to provide law enforcement with subscriber information and other non-content information or records pertaining to the subscriber or customer for one or more of these accounts, and prohibiting the provider from disclosing such order to the customer for a period of time (“2703(d) orders”).

This memorandum governs the way the USAO will submit applications for PR/TT, 2703(d), and combined PR/TT and 2703(d) orders—which are hereinafter referred to collectively as “PT Applications and Orders”—and how the Clerk will file