



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 31, 2007

~~SECRET~~

The Honorable Patrick J. Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed please find classified responses to questions posed to FBI Director Robert S. Mueller III, following Director Mueller's appearance before the Committee on May 2, 2006. The subject of the Committee's hearing was "Oversight of the Federal Bureau of Investigation." The FBI submitted these responses for clearance on July 10, 2006. These classified responses supplement the unclassified responses, which were provided to the Committee on November 30, 2006.

The Office of Management and Budget has advised us that from the perspective of the Administration's program, there is no objection to the submission of these responses. If we may be of additional assistance in connection with this or any other matter, we trust that you will not hesitate to call upon us.

Sincerely,

A handwritten signature in black ink that reads "Richard A. Hertling".

Richard A. Hertling
Acting Assistant Attorney General

Enclosure

cc: The Honorable Arlen Specter
Ranking Minority Member

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ACLU Sect. 215-620

Question Posed by Senator Feinstein

82. As you offered at the hearing, please provide:

a. A description of how many of the 2,072 FISA warrants that the FBI obtained last year were "emergency" applications, as opposed to non-emergency applications.

Response:

(U)

~~(S)~~ DOJ's Office of Intelligence and Policy Review advises that, of the 2,072 FISA warrants obtained in 2005, there were [] emergency authorizations by the Attorney General.

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b. The average amount of time the FBI needs to file and get a FISA warrant in each of these categories.

Response:

(U)

~~(S)~~ As the Congress is aware, the FISA process begins when an agent who is conducting an investigation determines that the investigation will be advanced through electronic surveillance or physical search of the target. The process to obtain an order from the FISA Court begins when the requesting agent submits a FISA request to DOJ. The request form requires the agent to provide information concerning the target and to explain the basis for his or her belief that there is probable cause to believe the target is a foreign power or an agent of a foreign power. The actual length of time it takes to get a FISA warrant from the time the request is made varies widely []

[Redacted]

~~(S)~~ In order to respond to this question, we took a sample of FISA initiations and calculated the length of time it took to obtain the order. []

[Redacted]

(S)

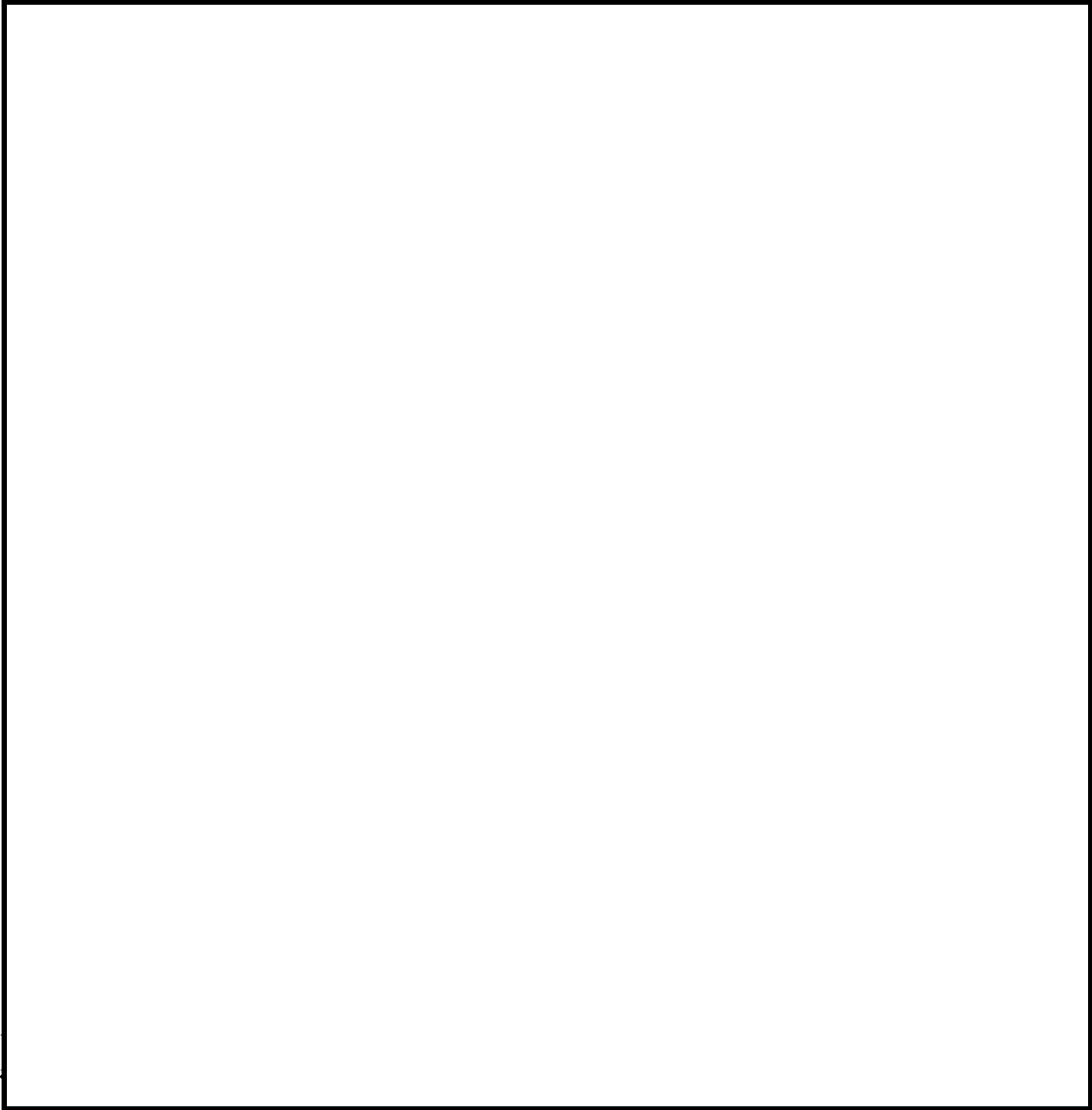
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(S)



Outside the Scope



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Question Posed by Senator Feingold

109. (U) In March, Chairman Specter introduced legislation (S. 2369) that contained four additional changes to the Patriot Act, beyond what was in the reauthorization package.

a. (U) In Chairman Specter's bill, the provision relating to Section 215 would require the government to convince a FISA judge: (1) that the business records pertain to a terrorist or spy; (2) that the records pertain to an individual in contact with or known to a suspected terrorist or spy; or (3) that the records are relevant to the activities of a suspected terrorist or spy. Do you agree this standard is adequate to provide agents with the flexibility they need? If not, please provide specific examples demonstrating why not.

Response:

This standard would not provide adequate flexibility in some of the FBI's investigations. It would not, for example, cover some cases in which it may be appropriate for the FBI to open a national security investigation, such as when an

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Outside the Scope

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