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DISSEMINATION

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ACLU Sect. 215-1253

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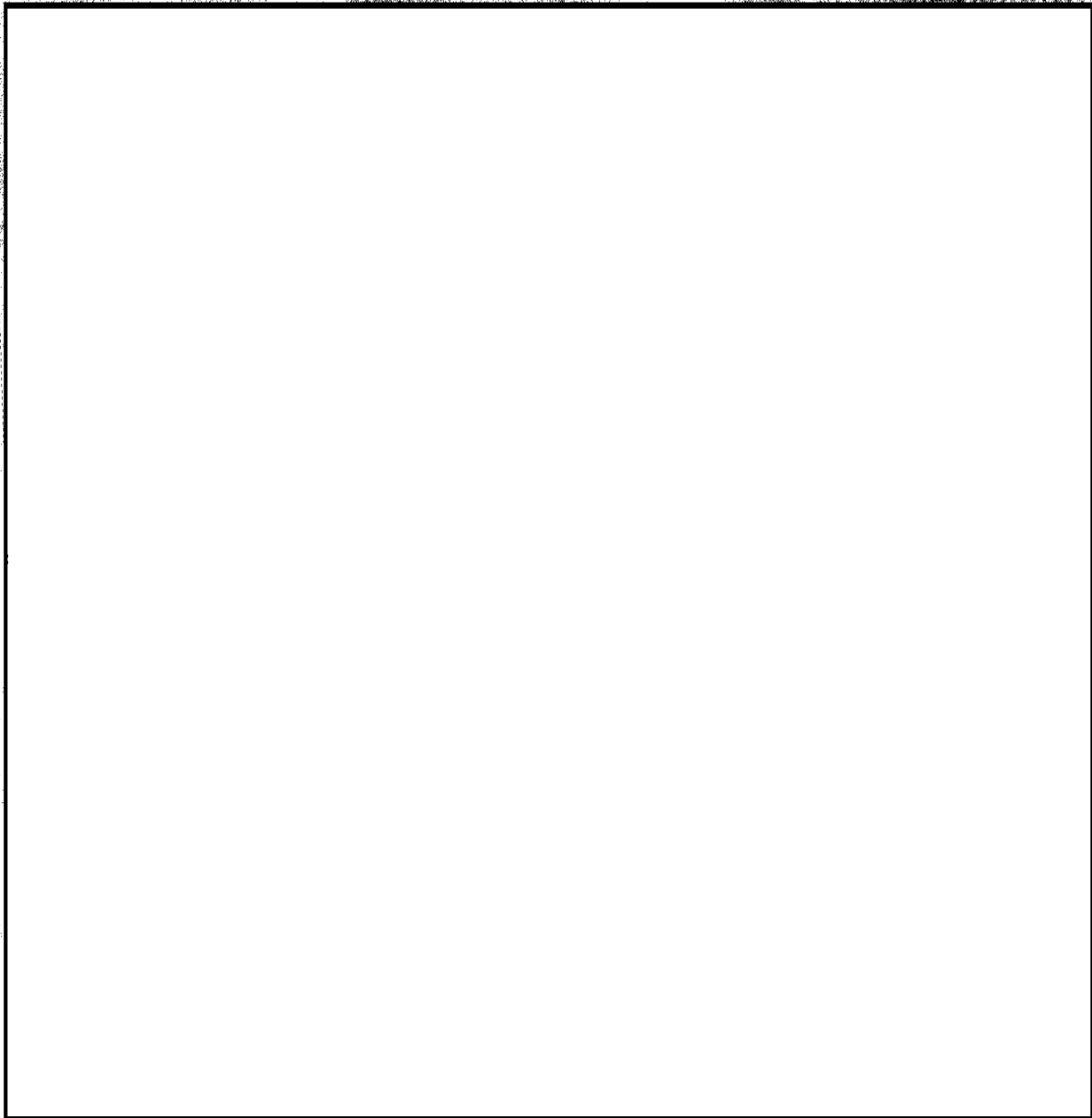
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DISSEMINATION

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ACLU Sect. 215-1254

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DISSEMINATION

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ACLU Sect. 215-1255

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DISSEMINATION

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ACLU Sect. 215-1256

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DISSEMINATION

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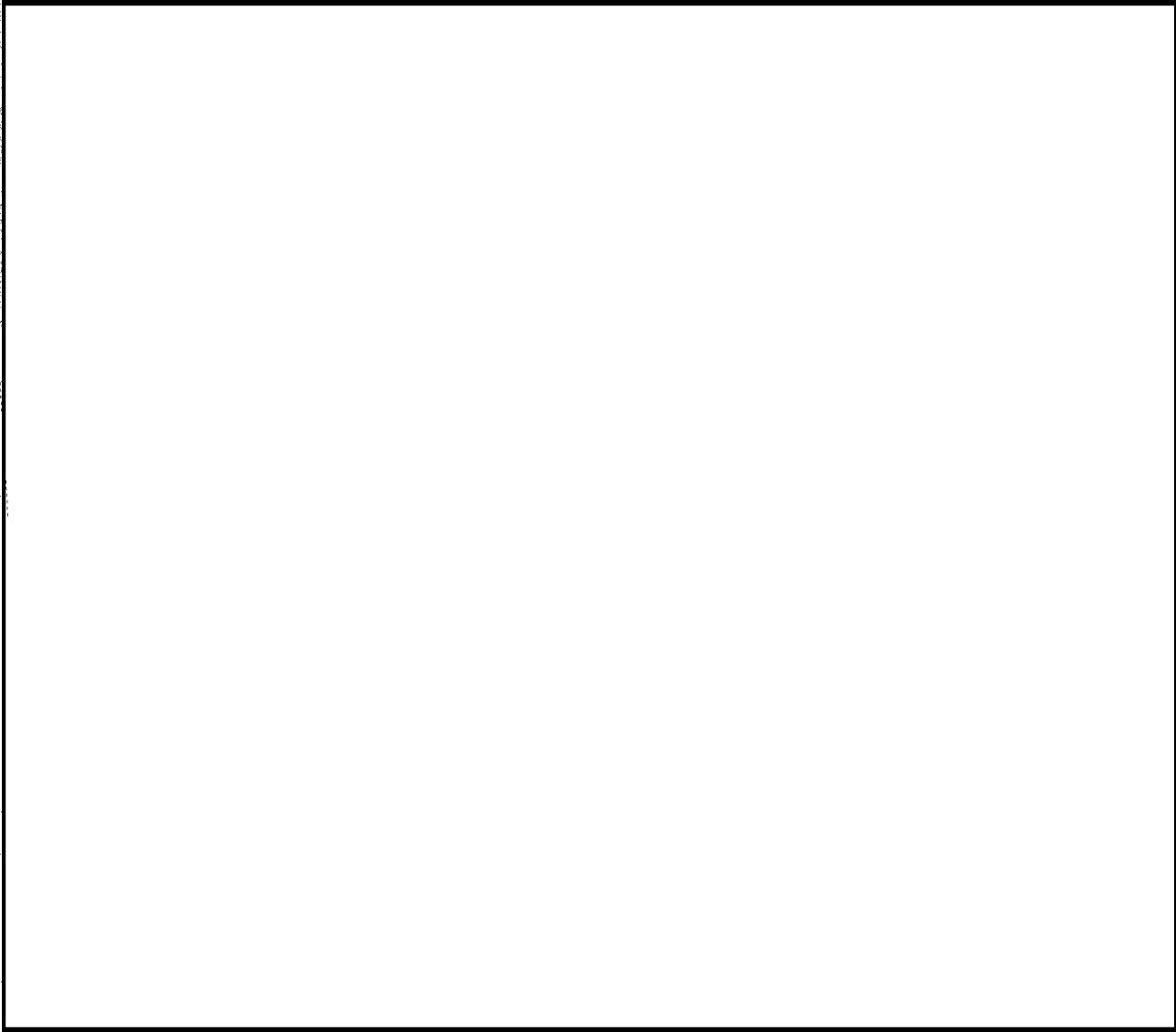
ACLU Sect. 215-1257

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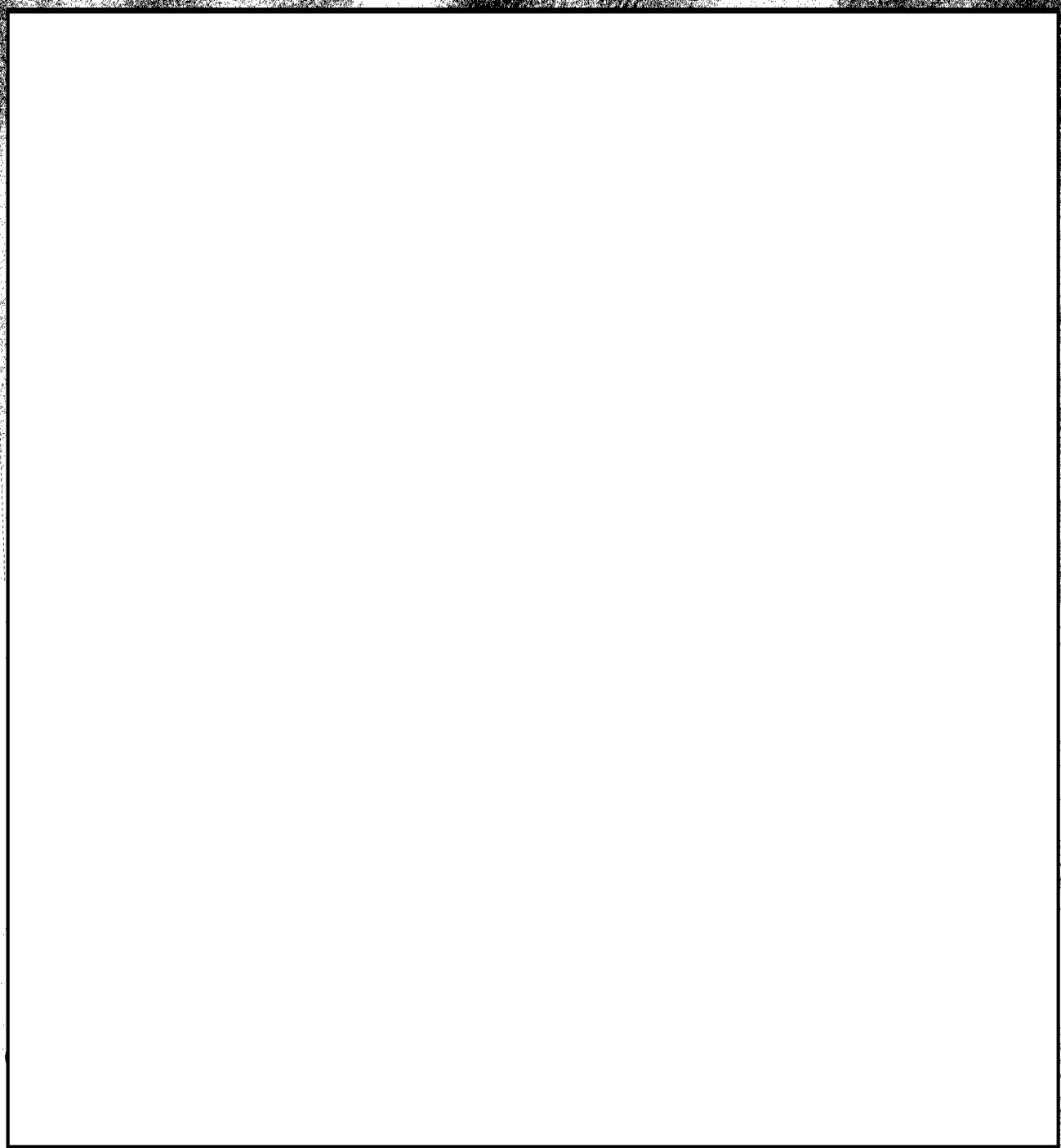
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ACLU Sect. 215-1259

USE APPROVED REQUEST FORM

This form is to be used when requesting disclosure of information gathered during electronic surveillance (including a computer or any use of a device), a physical search, or an order requiring production of records, conducted under the Foreign Intelligence Surveillance Act. Use authority must be obtained whenever the government wishes to use FISA-derived information in any proceeding, including criminal prosecutions, immigration proceedings, or administrative hearings. Do not use this form to obtain authorization to disseminate information to a foreign government.

Blank versions of this form are unclassified. Add classification markings to the form according to the classification of the information you provide.

1. Name of FISA target(s): _____

2. FISA Court docket numbers for the orders authorizing the collection that produced the information sought to be used (list all): _____

3. Nature of proceeding for which use is sought (e.g., criminal prosecution, immigration): _____

4. Title and court (if applicable) of proceeding for which use is sought: _____

5. Defendants/respondents in proceeding for which use is sought (list all): _____

6. Date use authorization is needed: _____

7. Headquarters point of contact:

Name: _____

Telephone: _____

Secure fax: _____

Assistant United States Attorney/Criminal Division Attorney assigned to case:

Name: _____

Telephone: _____

5. Has the material sought to be used been declassified? _____

If not, are there any anticipated problems or objections to declassification of the material? If so, please explain _____

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7. Will use of this information disclose or otherwise affect other FISA surveillance or other foreign intelligence investigations? If so, please explain: _____

8. Attach a brief description of the foreign intelligence investigation that produced the FISA-derived information. Describe the FISA-derived material for which use authorization is sought (or attach the tech cuts) and explain how the FISA-derived information will be used in the proceeding.

Approval: This form should be approved by an Assistant Director.

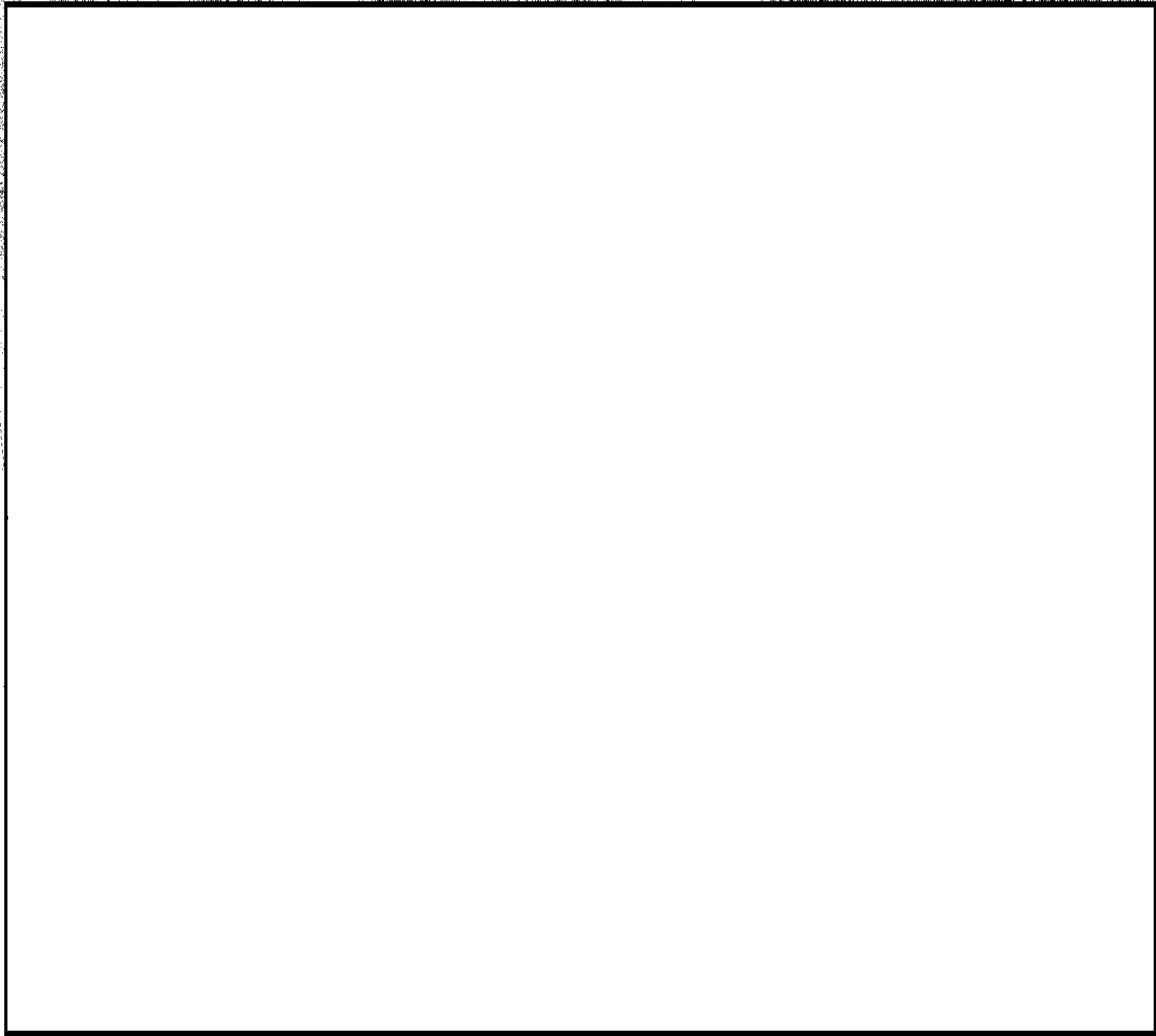
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USE APPROVAL

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ACLU Sect. 215-1262

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USE APPROVAL

- However, use in some routine investigative processes are at a lower use approval level
 1. Non-compulsory requests for documents from 3rd parties who are not subjects
 2. FGJ subpoenas for 3rd party docs, when the 3rd party is not a subject
 3. FGJ testimony by custodian of records (see #2)
 4. Pen/Trap applications (limited to a phone number or other relevant identifiers)

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USE APPROVAL

- **AUSA submits Notification of Use or Disclosure of FISA Information Form to NSD (in these 4 situations)**
- **AUSA must consult with FBI first, to avoid compromising an investigation**

ACLU Sect. 215-1264

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(unclassified when blank)

(only for use for SECRET information on SIPRnet)

NOTIFICATION OF USE OR DISCLOSURE OF FISA INFORMATION FORM

This form is to be used when notifying the National Security Division regarding the use or disclosure of information obtained or derived from collection authorized by the Foreign Intelligence Surveillance Act of 1978 (FISA), as amended, in accordance with Section I of the Attorney General's Revised Policy on the Use or Disclosure of FISA Information (relating to the use or disclosure of FISA information with respect to certain investigative processes). Federal prosecutors may notify the National Security Division by sending the completed form to: fisa.use@nsd.usdoj.sgov.gov (SECRET or below information only) or by secure faxing the form to 202-514-9262.

In addition, federal prosecutors are encouraged to contact at any time the NSD Office of Intelligence Litigation Section at (202) 514-5600, the Counterterrorism Section through the designated trial attorney or the Regional ATAC Coordinator at (202) 514-0849, or the Counterespionage Section through the designated trial attorney or at (202) 514-1187. NSD duty attorneys can be reached after business hours through the DOJ Command Center at (202) 514-5000.

Blank versions of this form are unclassified. This fillable PDF form is only for use with SECRET or below information on the SIPRnet system. Please add classification markings as appropriate.

Name of FISA target(s): _____

FISA Court docket numbers for the orders authorizing the collection that produced the information sought to be used or disclosed (list all):

Nature of activity for which the FISA information will be used or disclosed (e.g., investigative process (please specify type), criminal proceeding, non-criminal proceeding): _____

Title and court of proceeding (if applicable):

Target(s) and subject(s) of the investigation (list all):

USAO point of contact:

Name: _____

Telephone and Fax (unclassified and secure): _____

E-mail address (unclassified and classified): _____

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(unclassified when blank)

ACLU Sect. 215-1265

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BUSINESS RECORDS

- The FISA version of a subpoena duces tecum
 - Court order for “any tangible things” for an investigation
 - To obtain foreign intelligence information not concerning a United States person, or
 - To protect against international terrorism or clandestine intelligence activities.

• 50 USC 1861(a)(1)

ACLU Sect. 215-1266

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BUSINESS RECORDS

- Legal Standard

- **Relevance** – “reasonable grounds to believe that the tangible things sought are relevant to an authorized investigation”
50 USC 1861(b)(2)

- Things are “presumptively relevant” if they pertain to:

- A foreign power or an agent of a foreign power,
or
 - An individual in contact with, or known to, a suspected agent of a foreign power who is the subject. 50 USC 1861(b)(2)

ACLU Sect. 215-1267

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BUSINESS RECORDS

- Approval

- ADs and DADs of CI, CT, and Cyber
- General Counsel and Deputy GC of NS



- Except Sensitive records.

ACLU Sect. 215-1268

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BUSINESS RECORDS

- Sensitive Records

- Library
- Book sales
- Firearms sales
- Tax returns
- Educational records
- Medical records (if they contain PII)



- Approval = EAD for NS (50 USC 1861(a)(3))

ACLU Sect. 215-1269

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BUSINESS RECORDS

- Non disclosure included in all orders
- Minimization still applies



ACLU Sect. 215-1270

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BUSINESS RECORDS

- Both the application and order are classified.
- But how do we serve a classified court order on someone who does not have a security clearance?
- I'm glad you asked!

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b7c

ACLU Sect. 215-1271

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BUSINESS RECORDS

- Service on uncleared peoples:
 1. Identify the person who will receive the order
 1. The order will include this persons name (custodian)
 2. Preliminary background check on the custodian
 1. ACS, NCIC, State systems, etc.
 3. SAC will sign approval for service on custodian
 4. Security briefing to the custodian
 5. Custodial Trust Receipt - both the custodian and serving Agent will sign (they may keep a copy)

ACLU Sect. 215-1272

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BUSINESS RECORDS

- Service on uncleared peoples:
 6. Certificate of service – by serving Agent
 7. The custodian will be allowed to read the order and take notes, but not keep the court order
 8. Custodian's attorney may read the order, IF we also conduct a prelim background on that person
 9. Notes are limited to identifiers/accounts
 10. Upon compliance with the order, we take the custodian's notes

ACLU Sect. 215-1273

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U.S. Department of Justice

Federal Bureau of Investigation

Atty. Place Refers to
#Nc

571 4th Street, NW
Washington, DC 20535

~~SAMPLE TRUST RECEIPT~~
~~TEXT MAY NOT BE CHANGED~~
~~WITHOUT CBC PERMISSION (8/03)~~

May 29, 2003

~~CONFIDENTIAL TRUST RECEIPT - FISA DOCKET No. 01-XXXX~~

This document serves as acknowledgment that [Redacted Carney], the undersigned authorized representative of (Small Phone Company), has been provided with authorized access to the classified original Court Order of the Foreign Intelligence Surveillance Court, Docket No. 01-XXXX, entered by District Judge XXXX X. XXXXXX on XXXX X, 2003. As more fully described in that Order, (Small Phone Company) has been ordered to assist the Federal Bureau of Investigation (FBI) in conducting certain court authorized activities specified in the Order.

Because (Small Phone Company) does not have an approved government security storage container, the original Order will be retained by the FBI Washington Field Office. As necessary, this Order will be made available for review by the undersigned representative of (Small Phone Company) or his designated and cleared legal representative at future mutually convenient times. The undersigned FBI representative or his designee will assume responsibility to act as the trustee for (Small Phone Company) in maintaining the Order.

I, [Redacted], acknowledge that the above mentioned Order has been provided to me for my review and that I have read the Order in its entirety. Pursuant to the terms of that Order and the non-disclosure agreement(s) that I have read and signed, I understand that I shall not disclose the existence of the Order or this investigation to the subject of the investigation or any other person except as may be required by legal process and then only after prior notification to the FBI representative and with the approval of Attorney General of the United States. I also understand that an unauthorized or improper disclosure of this sensitive national security information may be a criminal violation of Title 18 U.S.C. § 793.

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b7c

Security Supervisor
(Small Phone Company)

Date

SSA XXXX XXXXX
FBI Washington Field Office
202/278-2000

ACLU Sect. 215-1274
Date

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FISA

**The End is Near,
In fact, it's here**

ACLU Sect. 215-1293

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FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 31
Page 5 ~ Outside the Scope
Page 6 ~ Outside the Scope
Page 7 ~ Outside the Scope
Page 8 ~ Outside the Scope
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