Precedence: ROUTINE

To: General Counsel

From: [Name]

Date: 03/24/2004

Case ID #: 66F-HQ-C1364260-4/14 (Pending)

Title: USA PATRIOT ACT SUNSET PROVISIONS

Synopsis: A summary of the benefits the office has received from Patriot Act provisions which will sunset or expire on December 31, 2005, unless Congress acts otherwise.

Details: The [Name] has canvassed individuals who have used some of the Patriot Act investigative tools outlined in serial 5, dated February 27, 2004, in file 66F-HQ-C1364260. The following summary includes only those tools used or actively considered by the Division.

Roving FISA Surveillance-Section 206

The Case Agent, [Name], characterized this authority as both necessary and effective. While the roving authority did not thwart a terrorist act, it better enabled the Agents to successfully and more expeditiously conclude the investigation. All participants agreed that the option to consider securing this authority is critical in resolving serious IT and FCI matters.

New Standard for FISA Pen/Trap

For reasons of which OGC is aware, the lower evidentiary standard to establish grounds to secure FISA pen/traps has not been adequately exploited in IT and FCI.
matters. [Redacted] has submitted some requests, but until the process is expedited and made more akin to the ease with which criminal pen/traps are secured, the law has been of little benefit. In fact, in at least one 315 case, criminal pen/trap orders (and grand subpoenas) were used largely because of the perceived slow pace in using FISA techniques, despite the fact that a full content FISA was later approved.

Changes to "Primary Purpose" Standard for FISA

The change to the FISA certification now requiring that foreign intelligence be a "significant purpose" of the authority sought has benefitted the FBI's mission in general, and investigations in particular, as it has made considering and/or obtaining FISAs more possible under appropriate circumstances. If nothing else, it has also given agents more flexibility in determining how to most effectively use investigative strategies to protect against terrorism and clandestine intelligence activities. And similarly, consultation with prosecutors has improved.

New Standard for Business Records for FISA

[Redacted] notes the process would appear to be greatly improved based on recent changes allowing FBIHQ/OGC to bypass OIPR, but the benefits have not been fully realized yet.

DD
LEAD(s):

Set Lead 1: (Info)

GENERAL COUNSEL

AT WASHINGTON, DC

For information and possible use by ILU in support of continuing usage of certain provisions of the USA Patriot Act beyond 12/31/2005.

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