

DATE: 11-02-2010  
FBI INFO.  
CLASSIFIED BY 65179DMH/mjs  
REASON: 1.4 (c)  
DECLASSIFY ON: 11-02-2035

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**STANDARD MINIMIZATION PROCEDURES FOR FBI ELECTRONIC  
SURVEILLANCE AND PHYSICAL SEARCH CONDUCTED  
UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (U)**

**EFFECTIVE: November 1, 2008**

Classified by: Michael Mukasey, Attorney General  
Reason: 1.4(e)  
Declassify on: October 21, 2033

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## I. GENERAL PROVISIONS (U)

A. In accordance with 50 U.S.C. §§ 1801(h) and 1821(4), these procedures govern the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States persons that the Federal Bureau of Investigation (FBI) obtains pursuant to orders issued by the Foreign Intelligence Surveillance Court (FISC) or emergency authorizations by the Attorney General under the Foreign Intelligence Surveillance Act of 1978, as amended (FISA), 50 U.S.C. §§ 1801-1811 and 1821-1829. For the purpose of these procedures, the term "applicable FISA authority" refers to both FISC-ordered and Attorney General authorized electronic surveillance or physical search conducted in a particular case pursuant to FISA. The Attorney General has adopted these procedures after concluding that they meet the requirements of 50 U.S.C. §§ 1801(h) and 1821(4) because they are specific procedures that are reasonably designed in light of the purpose and technique of the particular surveillance or physical search to minimize the acquisition and retention, and prohibit the dissemination, of nonpublicly available information concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information and otherwise comport with the statutory definition of minimization procedures. In accordance with 50 U.S.C. § 403-1(f)(6), the Director of National Intelligence (DNI) has provided assistance to the Attorney General with respect to the dissemination procedures set forth herein so that FISA-acquired information may be used efficiently and effectively for foreign intelligence purposes. (U)

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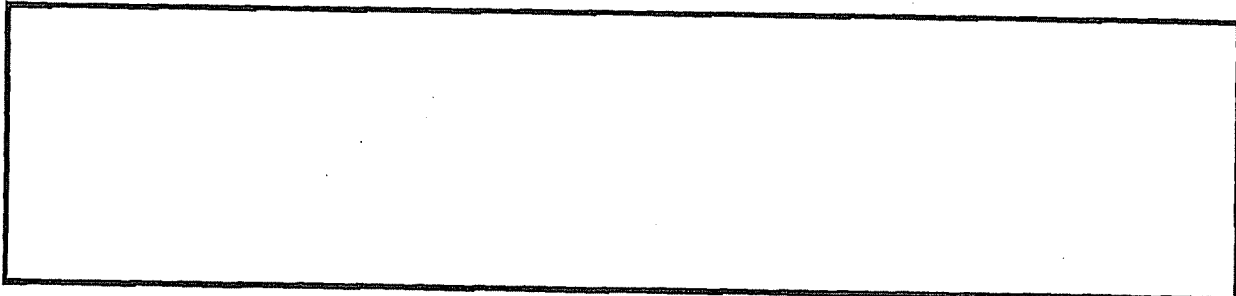
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D. If FBI personnel, which, for the purposes of these procedures, includes all contractors and others authorized to work under the direction and control of the FBI on FISA related matters, encounter a situation that they believe requires them to act inconsistently with these procedures in order to protect the national security of the United States, enforce the criminal law, or protect life or property from serious harm, those personnel immediately should contact FBI Headquarters and the Office of Intelligence of the National Security Division of the Department of Justice (NSD) to request that these procedures be modified. The United States may obtain modifications to these procedures with the approval of the Attorney General and a determination by the FISC that the modified procedures meet the definition of minimization procedures under sections 1861(b) and/or 1821(4) of FISA. (U)

E. If, in order to protect against an immediate threat to human life, the FBI determines that it must take action in apparent departure from these procedures and that it is not feasible to obtain a timely modification of these procedures from the FISC, the FBI shall report that activity promptly to the NSD, which shall notify the FISC promptly of such activity. (U)

F. Nothing in these procedures shall restrict the FBI's performance of lawful oversight functions of its personnel. (U)

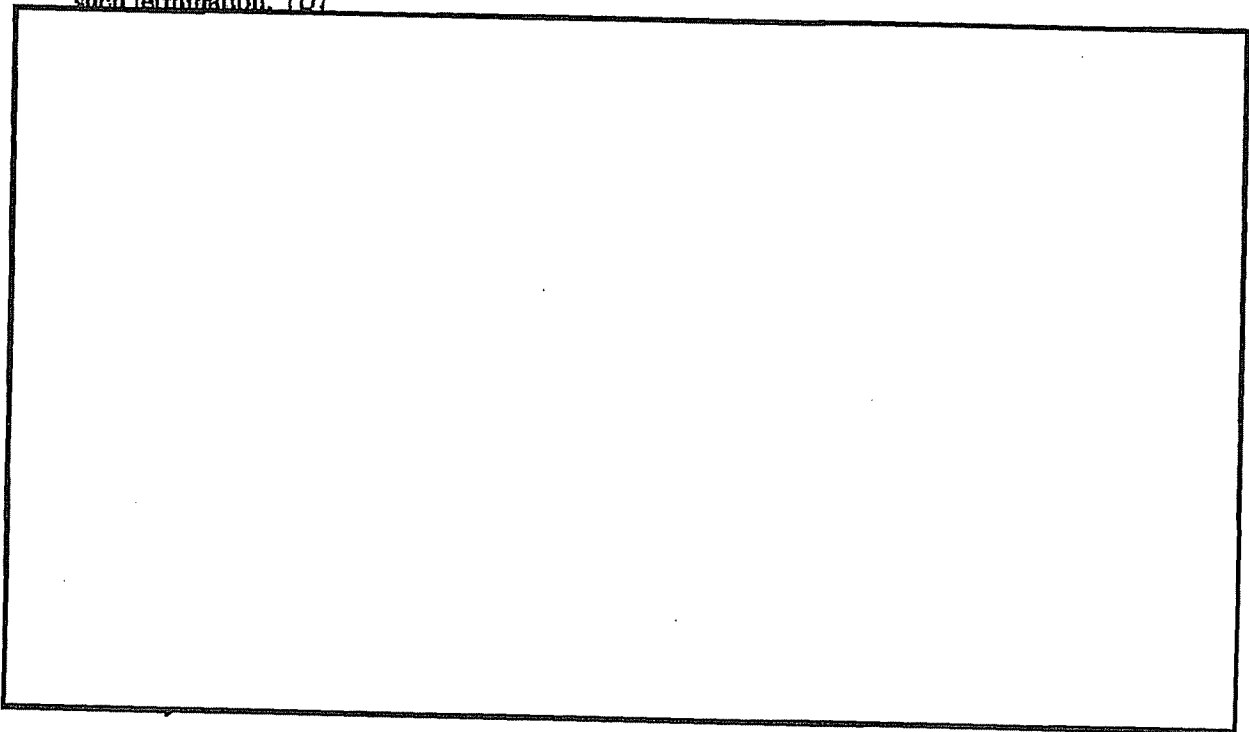
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## II. ACQUISITION (U)

### A. Acquisition – Electronic Surveillance. (U)

1. Prior to initiating electronic surveillance, the FBI shall verify that the facility or place at which it will direct surveillance is the facility or place specified in the applicable FISA authority. The FBI is under a continuing obligation to verify that the authorized target of the surveillance uses or is about to use the facility or place at which the surveillance is directed during the authorized period of surveillance. The FBI shall terminate electronic surveillance of a facility or place as soon as it determines that the authorized target of the electronic surveillance no longer uses, nor is about to use, the facility or place, and shall promptly notify the NSD of such termination. (U)

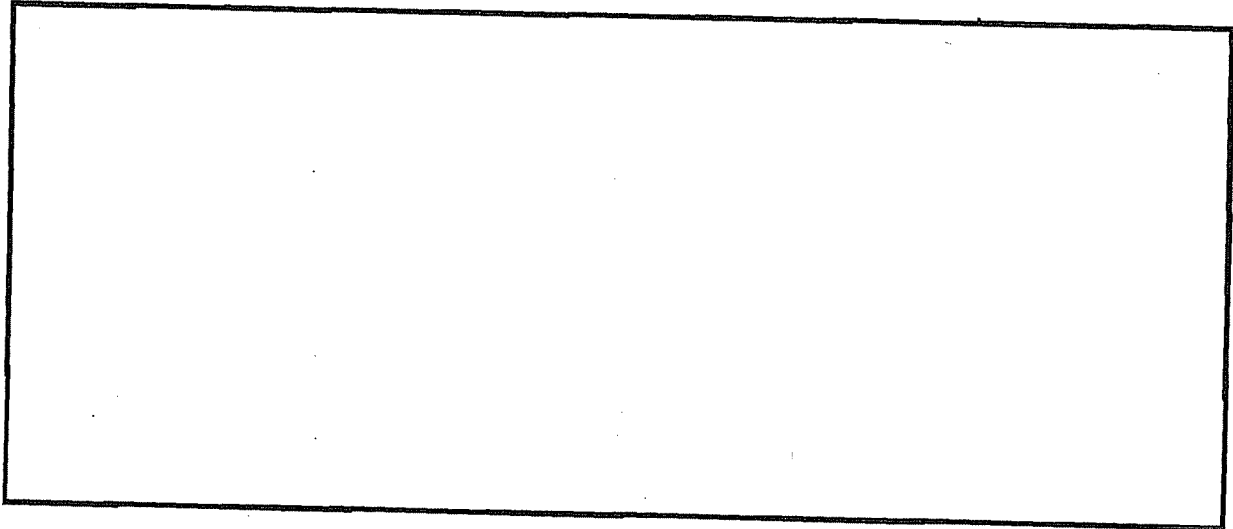


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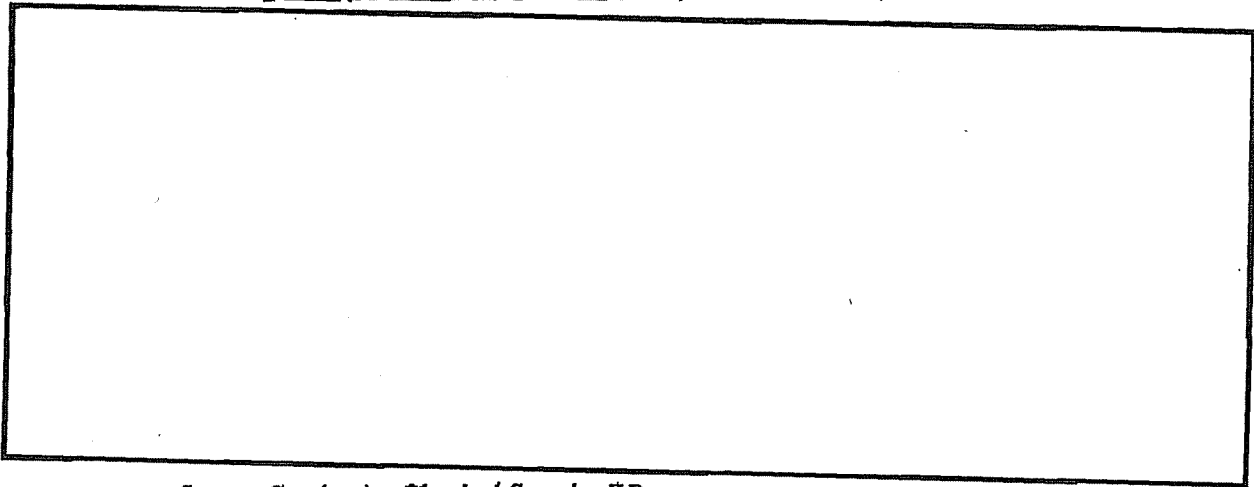


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1. Personnel Authorized to Conduct Physical Search. (U)



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2. Conducting Physical Search. (U)

Prior to initiating physical search, the FBI shall verify that the premises or property at which it will conduct physical search is the premises or property specified in the applicable FISA authority. The FBI shall conduct physical search with the minimum intrusion necessary to acquire the foreign intelligence information sought. Personnel conducting physical search shall exercise reasonable judgment in determining whether the information, material, or property

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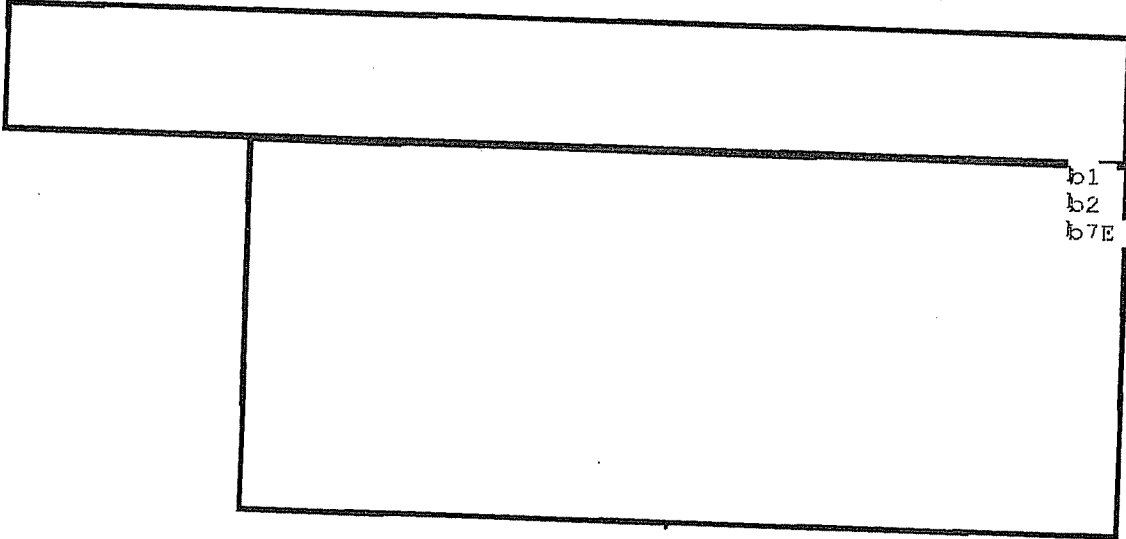
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revealed through the search reasonably appears to be foreign intelligence information relating to a target of the search or evidence of a crime. The FBI shall conduct the search in accordance with the applicable FISA authority. (U)

a. Areas of search. For physical search of premises or property, after conducting any necessary protective sweep, the FBI shall, where reasonably feasible, limit search areas to locations within premises or property where the FBI reasonably expects that: (i) foreign intelligence information may be stored or concealed by the target; or (ii) foreign intelligence information related to the target or the activities of the target may be found. (U)

b. Manner of Search. The FBI may conduct physical search using the methods most suitable for acquiring the foreign intelligence information sought in light of the particular circumstances of the search. When conducting a physical search of electronic data, the FBI may acquire all information, communications, or data relating to the target in accordance with the applicable FISA authority. Methods used to conduct physical search may include:

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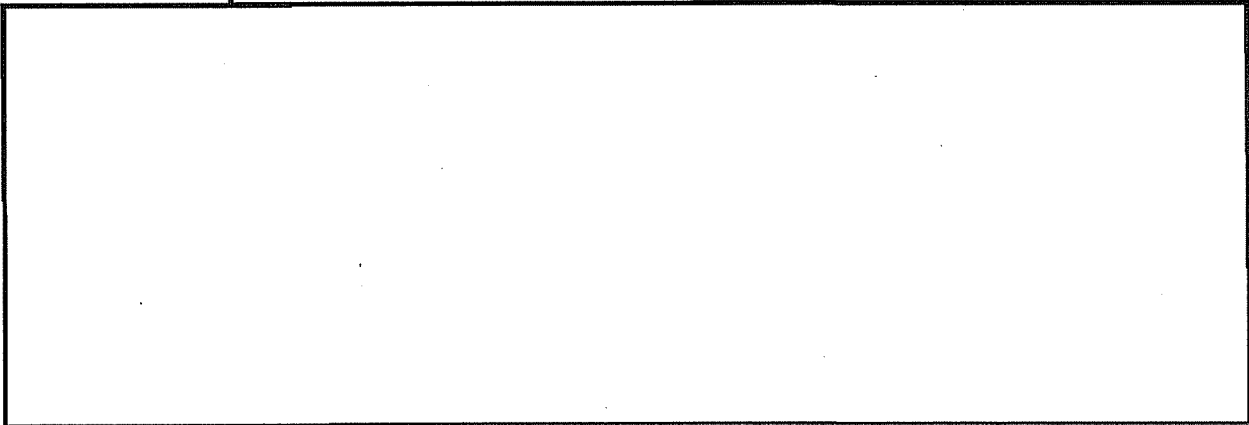
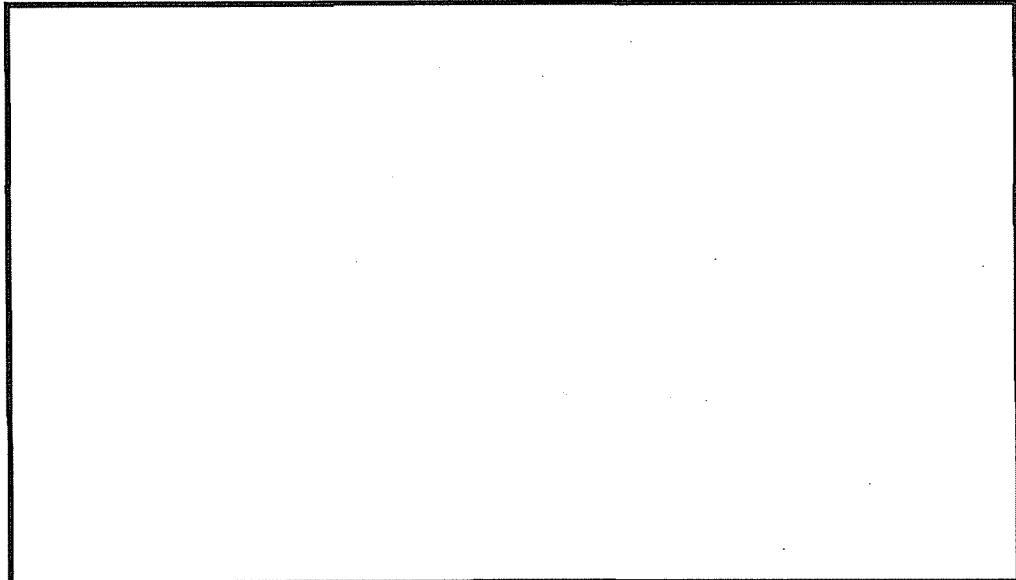


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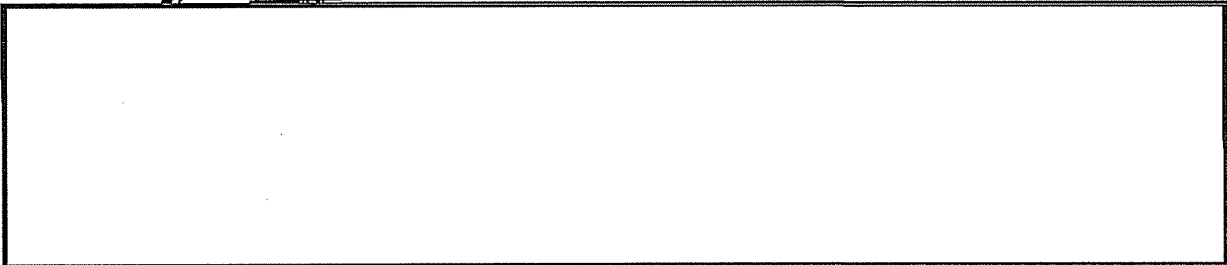
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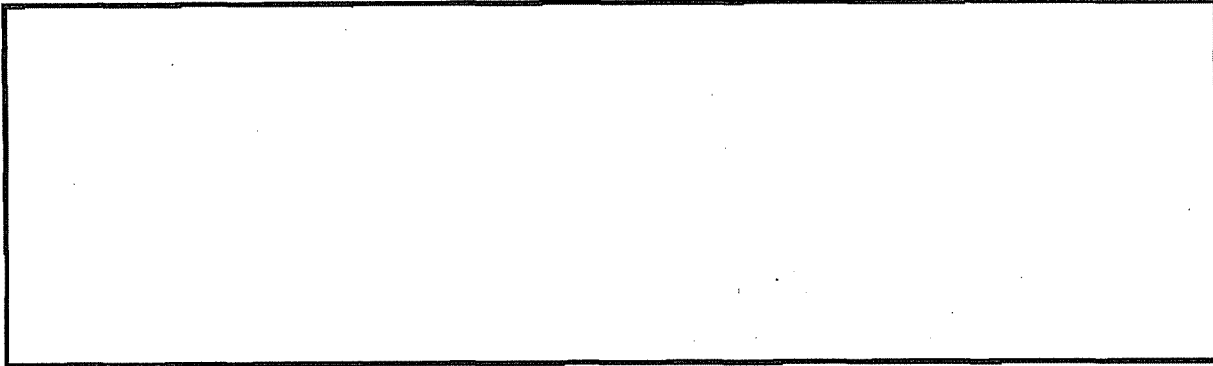
3. Physical Search Involving Mail or Private Couriers. (U)



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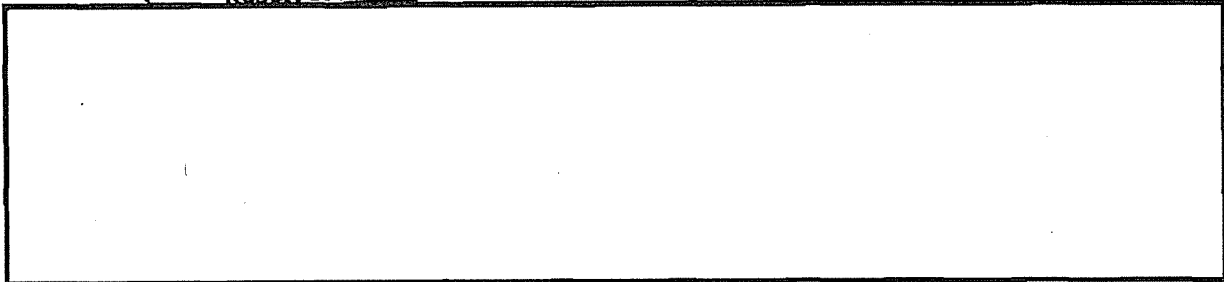


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4. Record of Information Collected in Physical Search. (U)

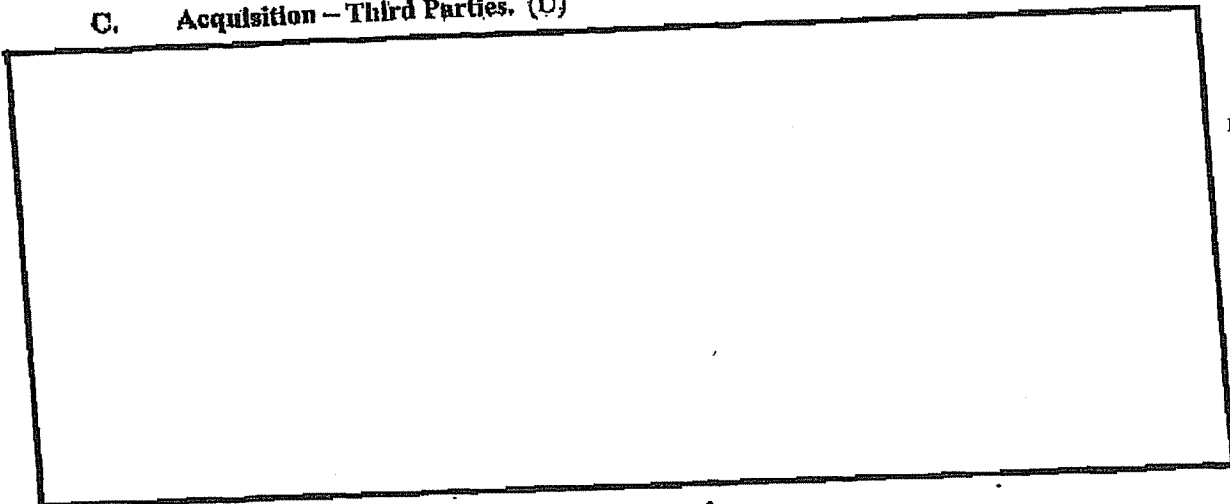
The FBI shall keep records identifying all information, material, or property acquired during a physical search. (U)

5. Report of Physical Search. (U)



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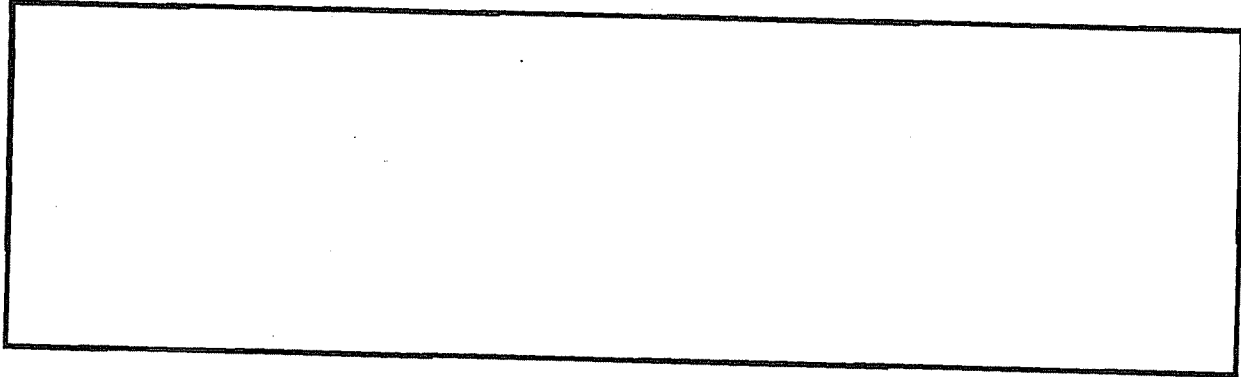
C. Acquisition - Third Parties. (U)



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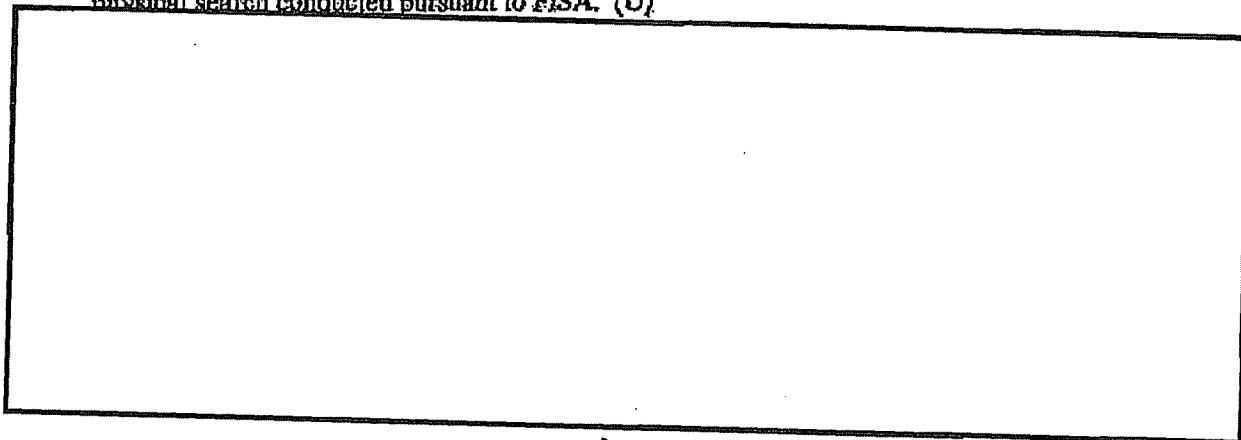


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### III. RETENTION (U)

#### A. Retention – Storage of FISA-acquired Information. (U)

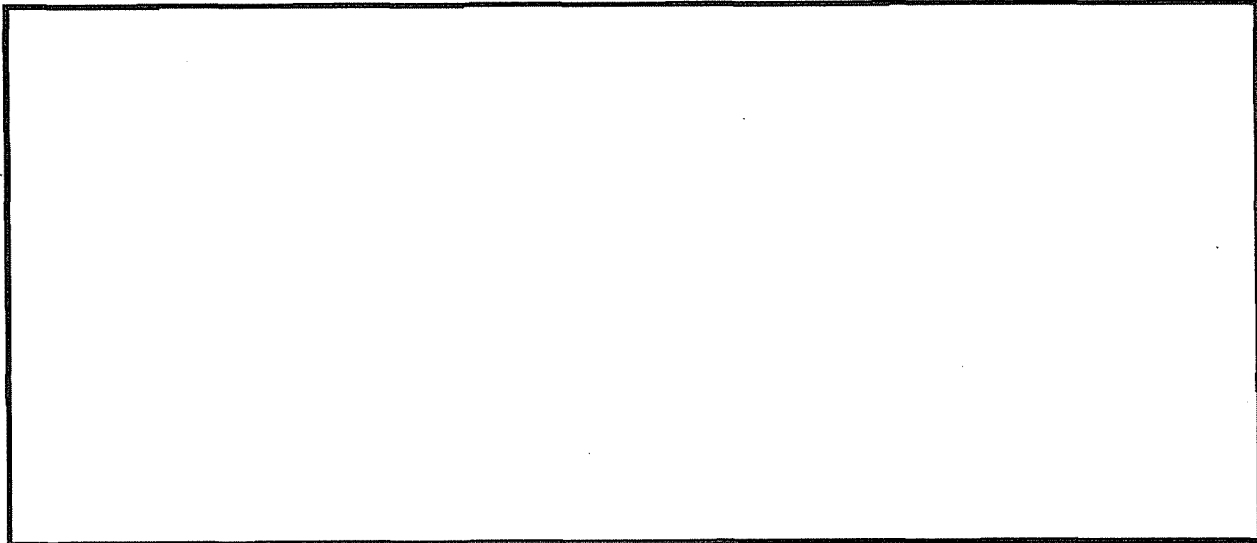
The FBI must retain all FISA-acquired information under appropriately secure conditions that limit access to such information only to authorized users in accordance with these and other applicable FBI procedures. These retention procedures apply to FISA-acquired information retained in any form. FBI electronic and data storage systems may permit multiple authorized users to access the information simultaneously or sequentially and to share FISA-acquired information between systems. "FISA-acquired information" means all information, communications, material, or property that the FBI acquires from electronic surveillance or physical search conducted pursuant to FISA. (U)



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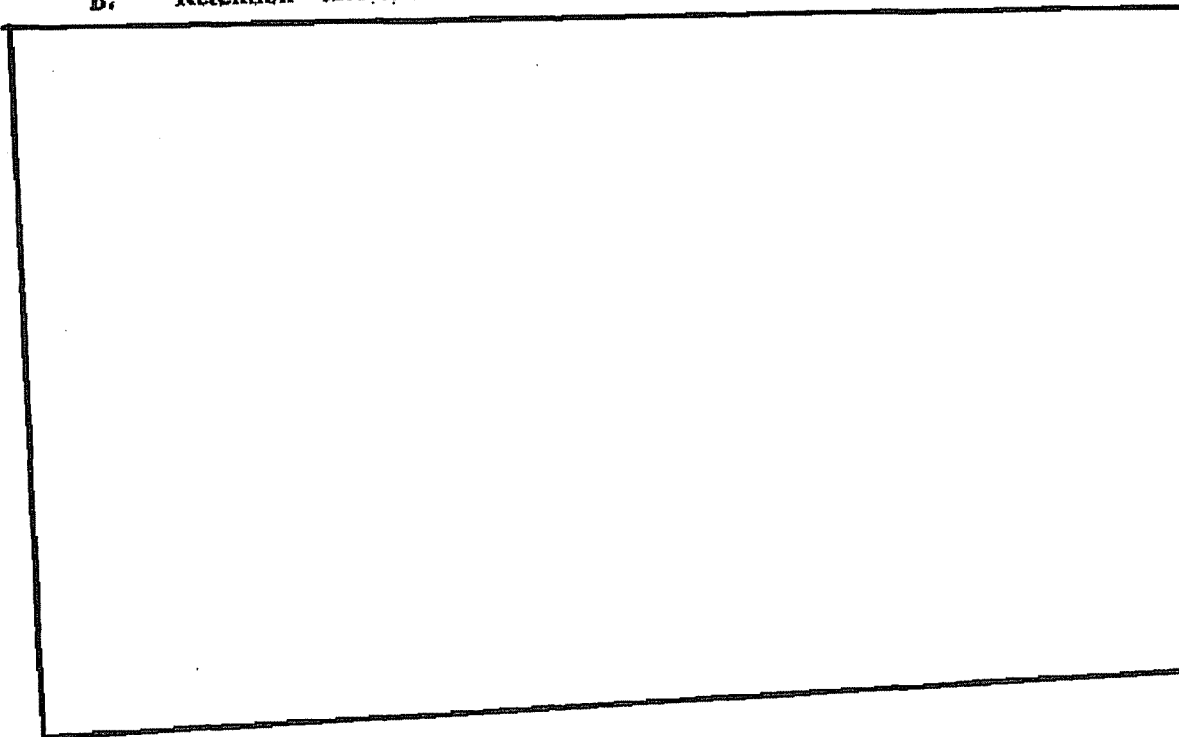
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**B. Retention – Access to FISA-acquired Information. (U)**



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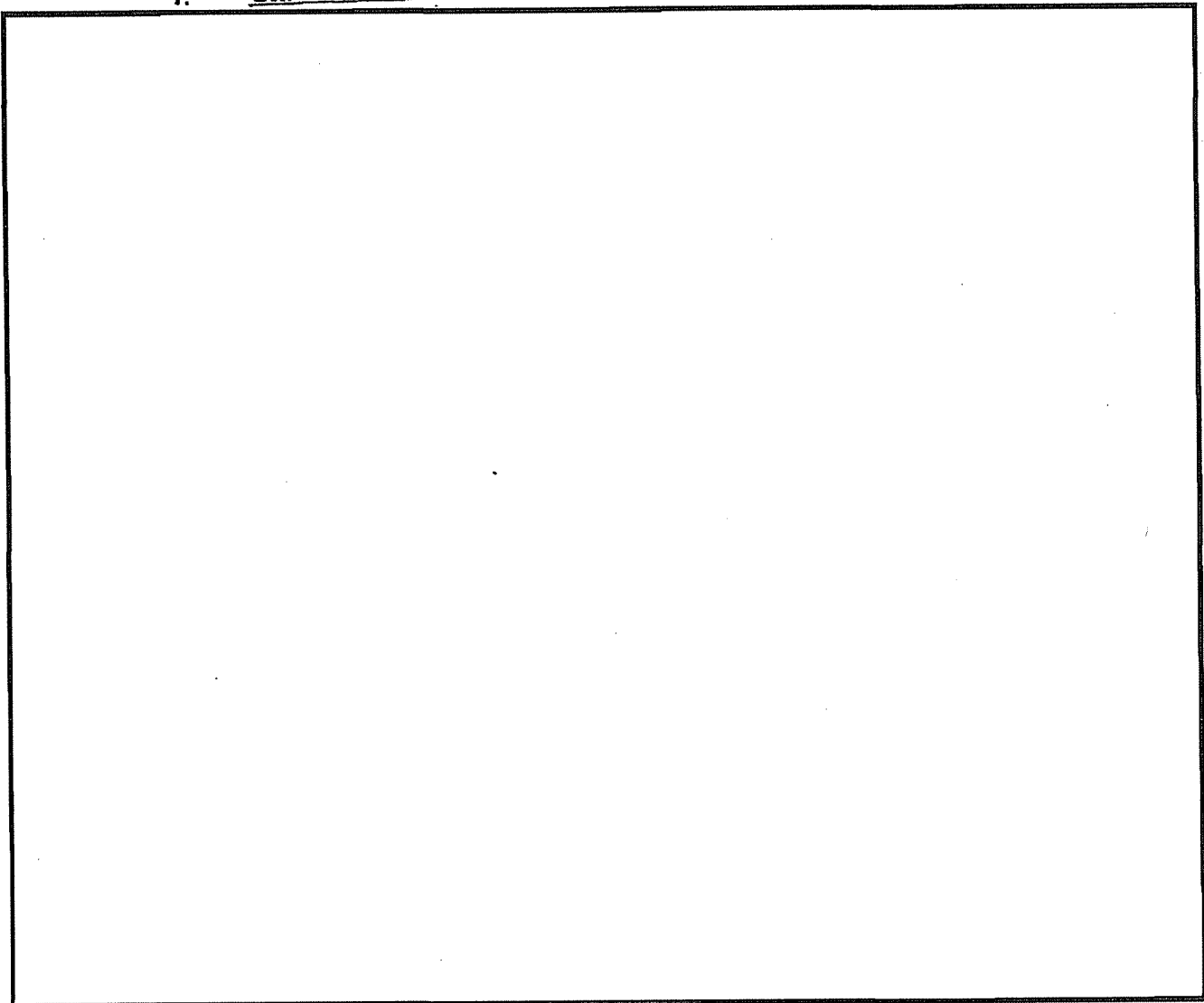


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**C. Retention – Review and Use of FISA-acquired Information. (U)**

**1. General Provisions. (U)**

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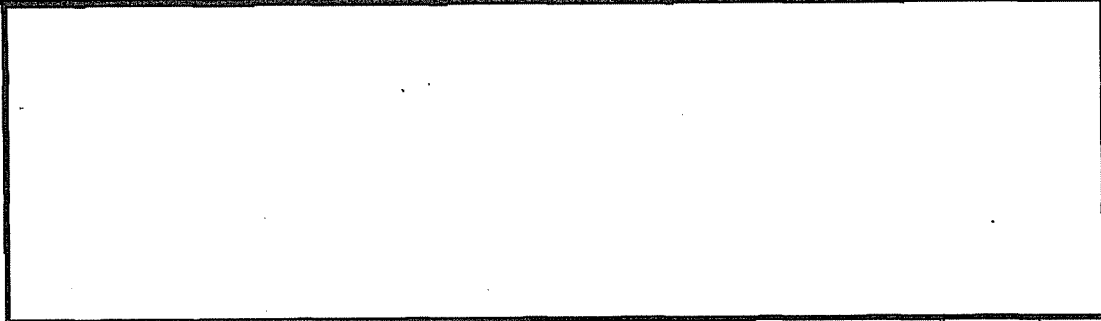
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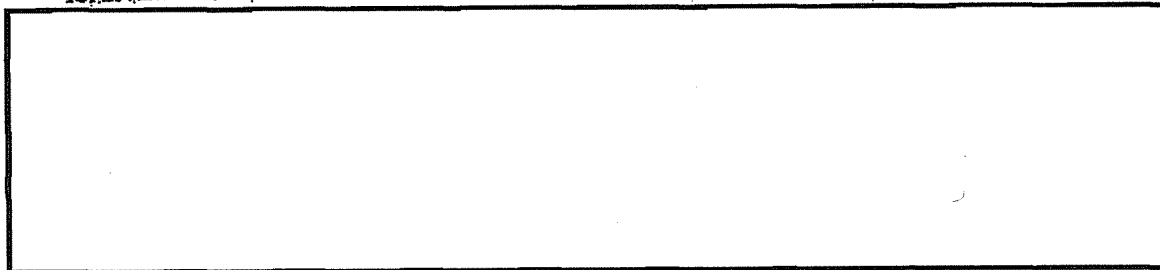


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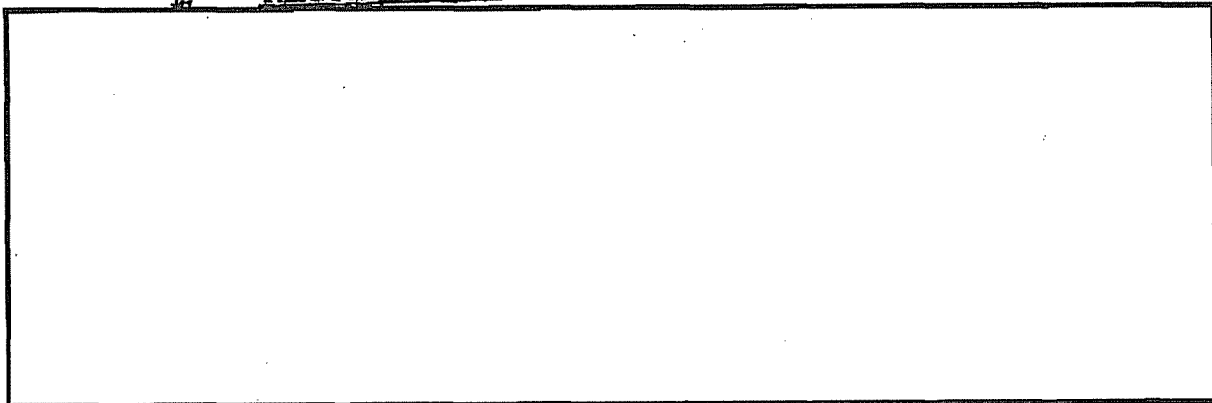
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The FBI may disseminate copies, transcriptions, summaries, and other documents containing FISA-acquired information only in accordance with the dissemination procedures set forth in Part IV below. (U)



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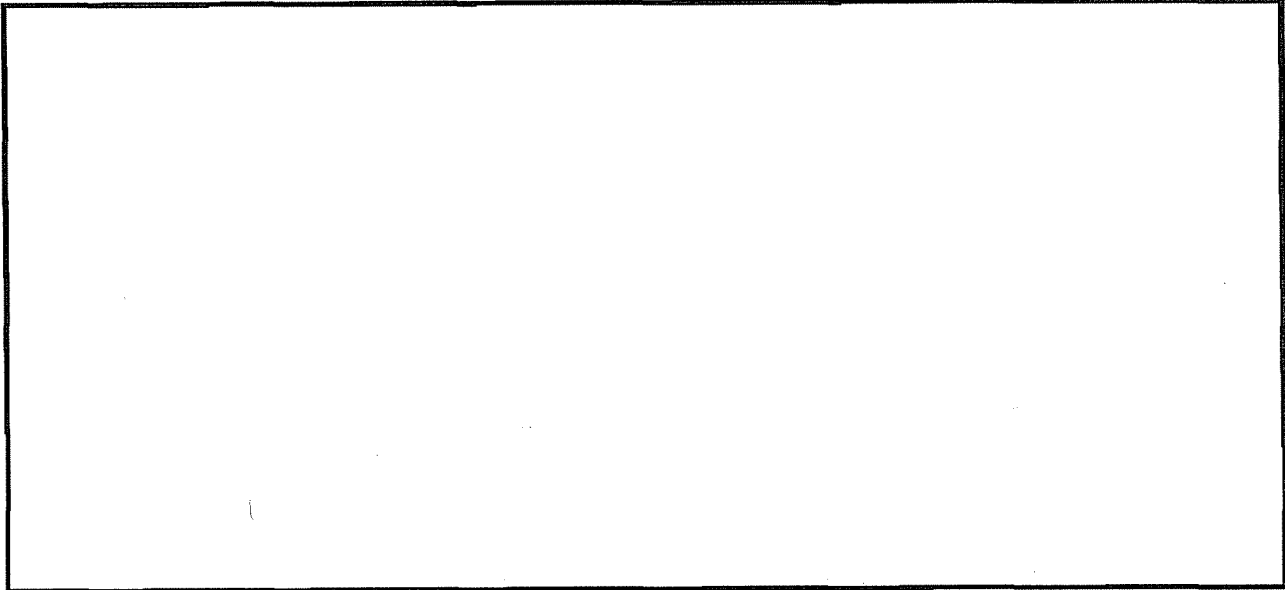
2. Third-Party Information. (U)



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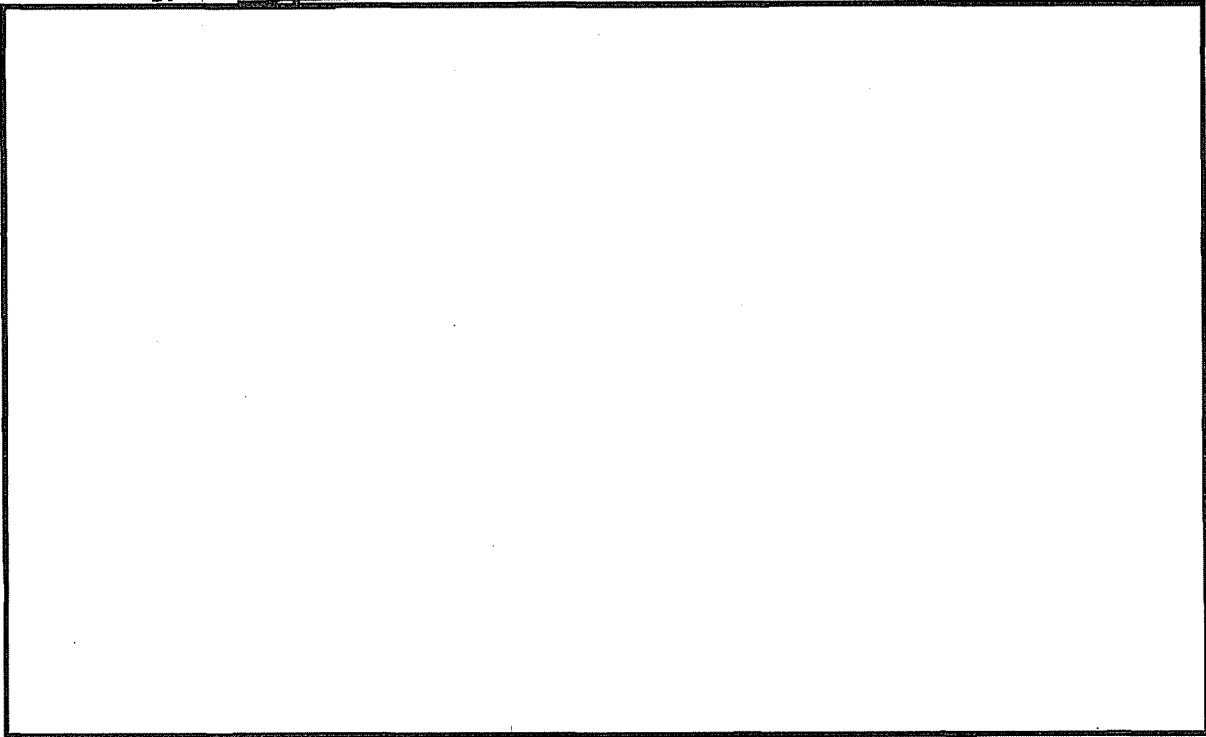
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3. Categories of Non-Perfinent and Sensitive Information. (U)



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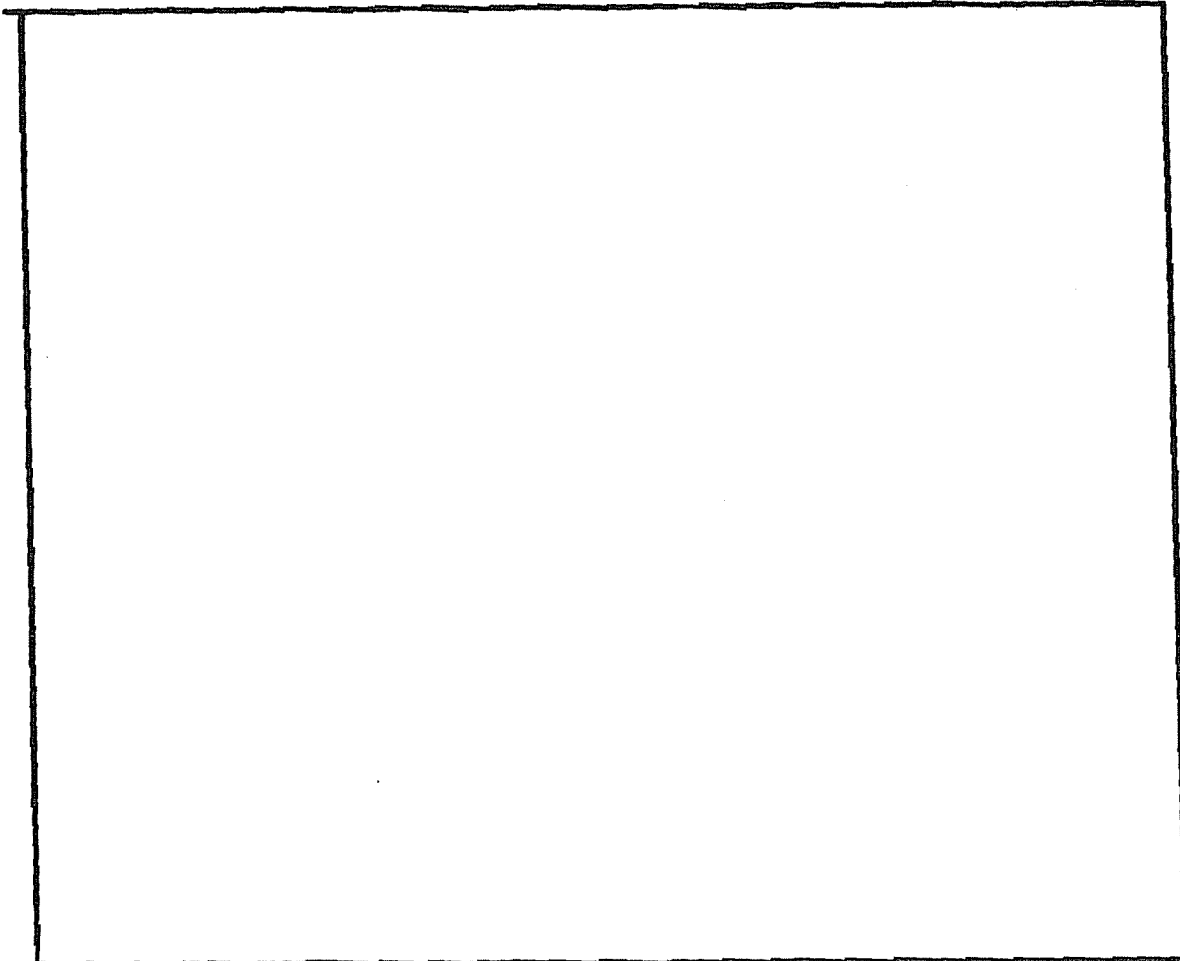
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**E. Retention of Attorney-Client Communications. (U)**

This section governs the retention of attorney-client communications. In certain cases, however, the Government may propose and/or the FISC may order the use of supplemental procedures. FBI personnel shall consult as appropriate with FBI Division Counsel, the FBI Office of General Counsel, or the NSD to determine whether a communication is privileged. (U)

**1. Target charged with a crime pursuant to the United States Code. (U)**



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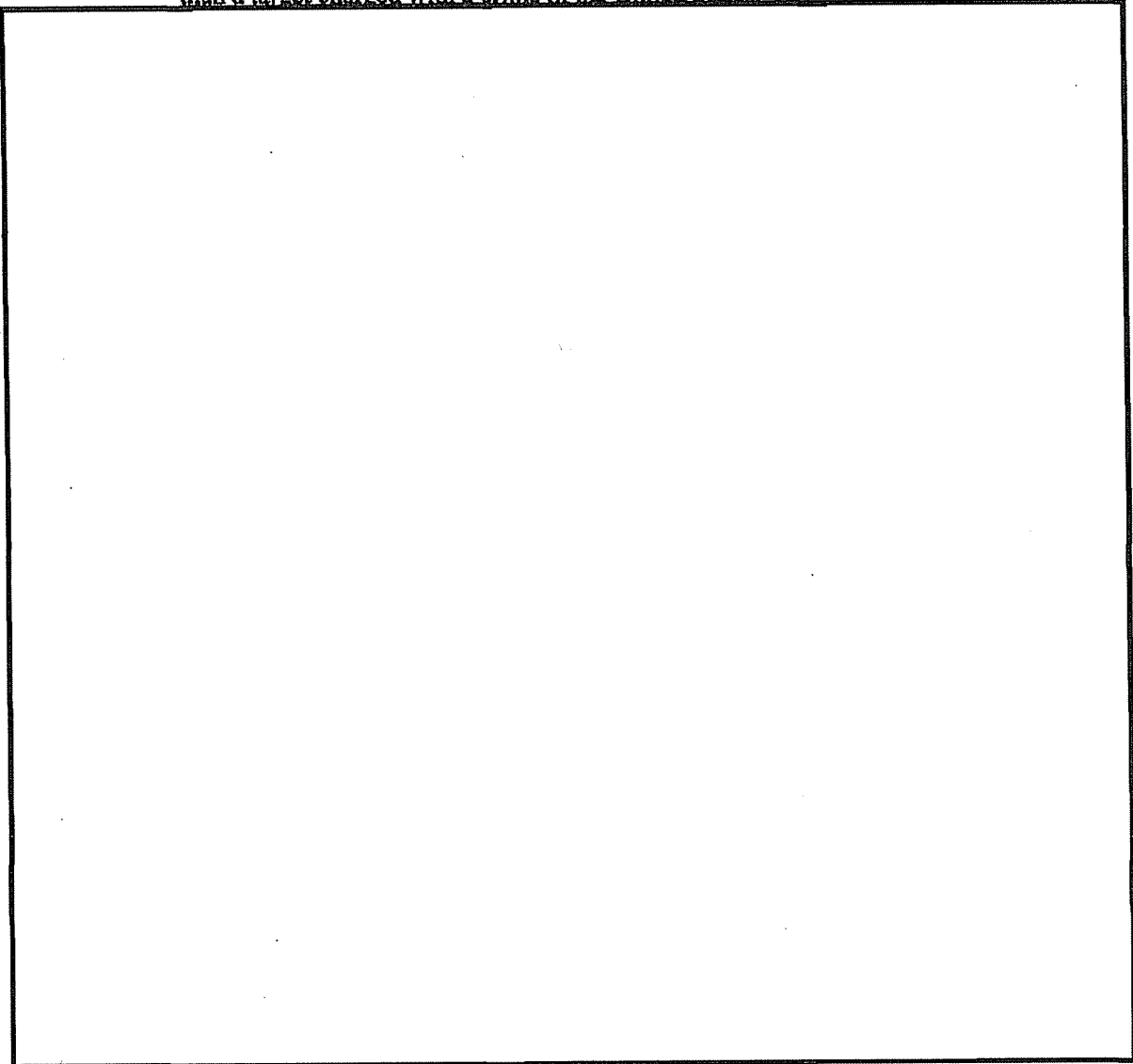
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2. Target charged with a non-Federal crime in the United States and persons other than a target charged with a crime in the United States. (U)



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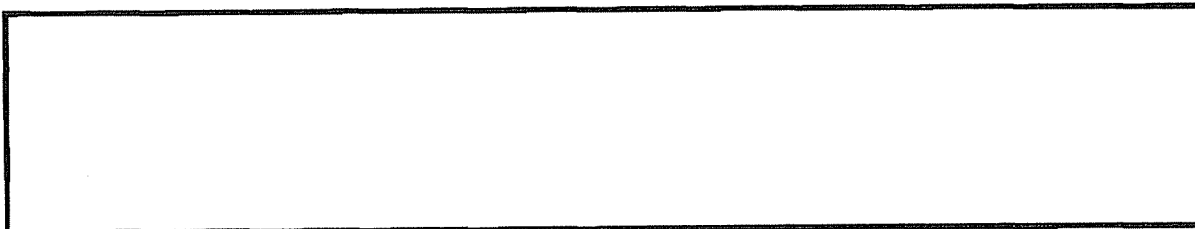
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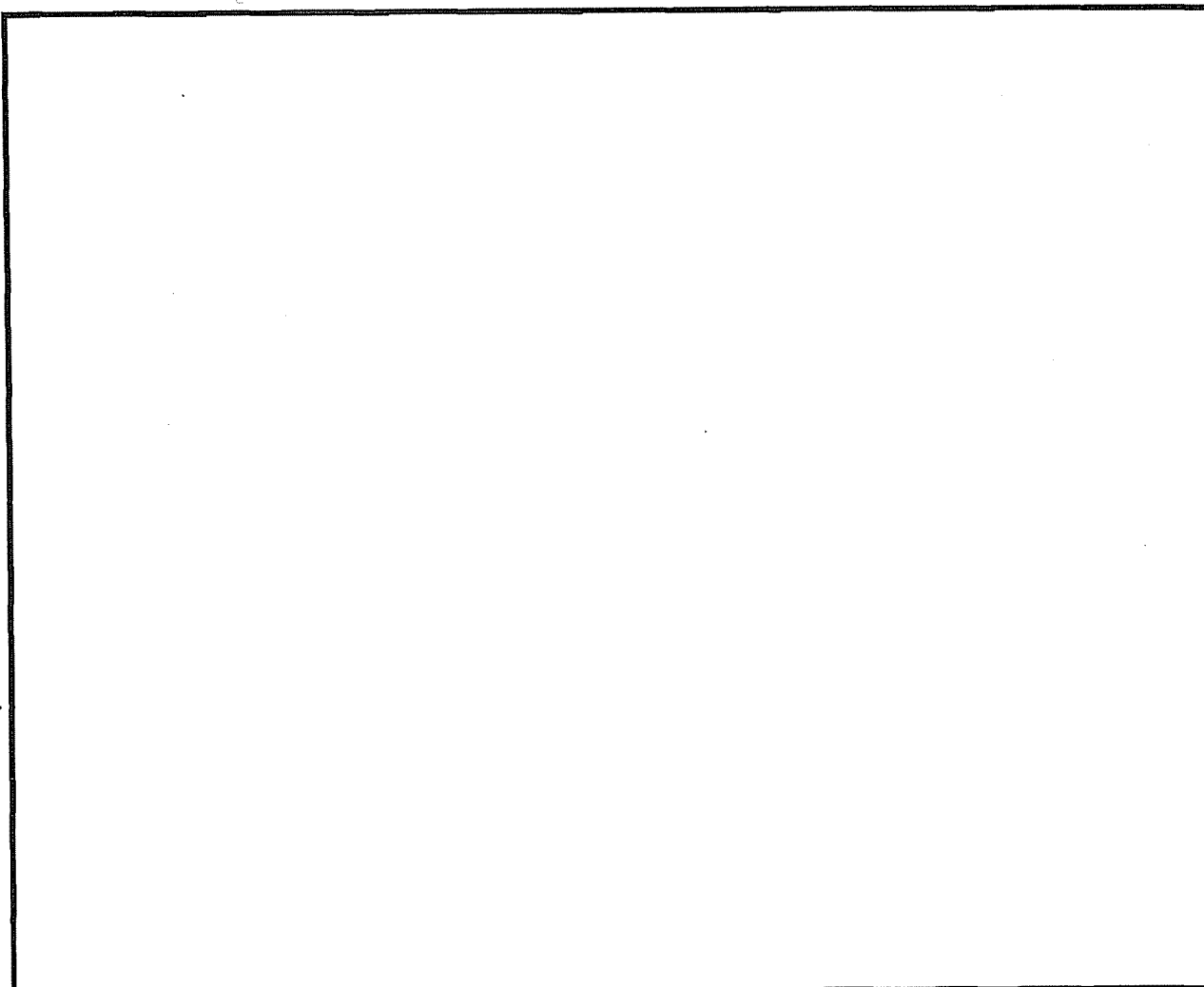
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3. Privileged communications involving targets and other persons not charged with a crime in the United States. (U)

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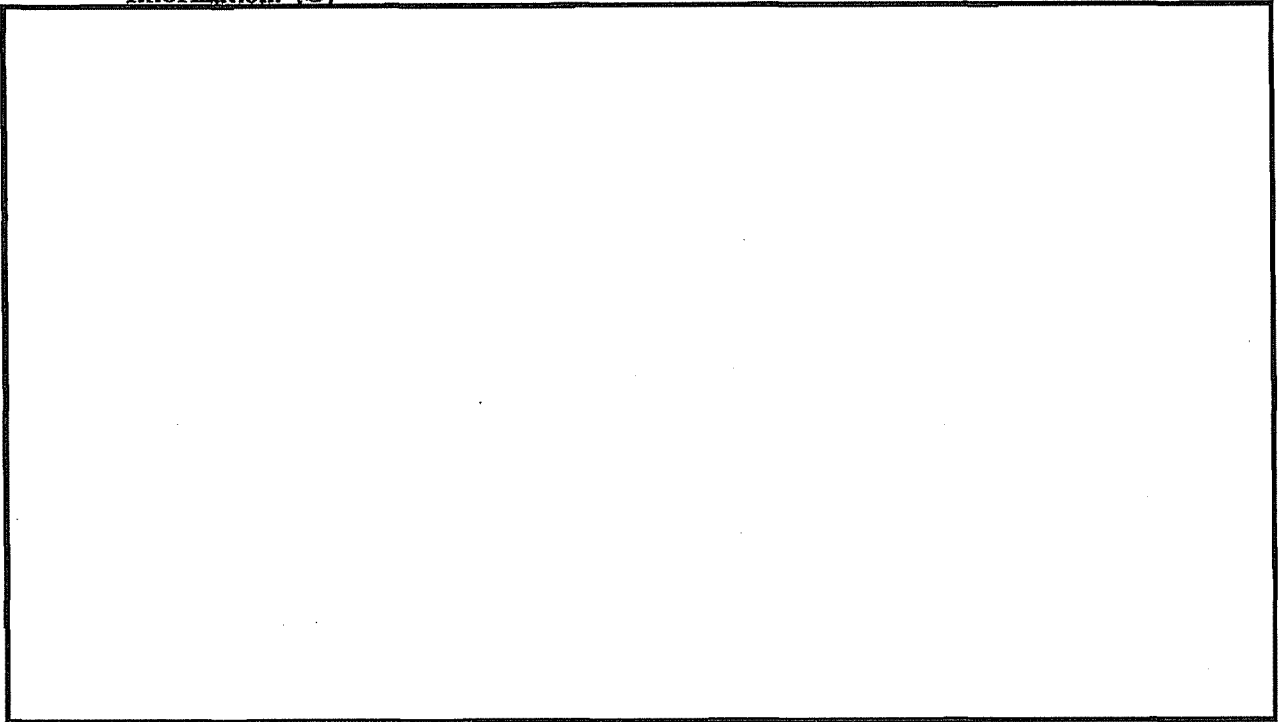


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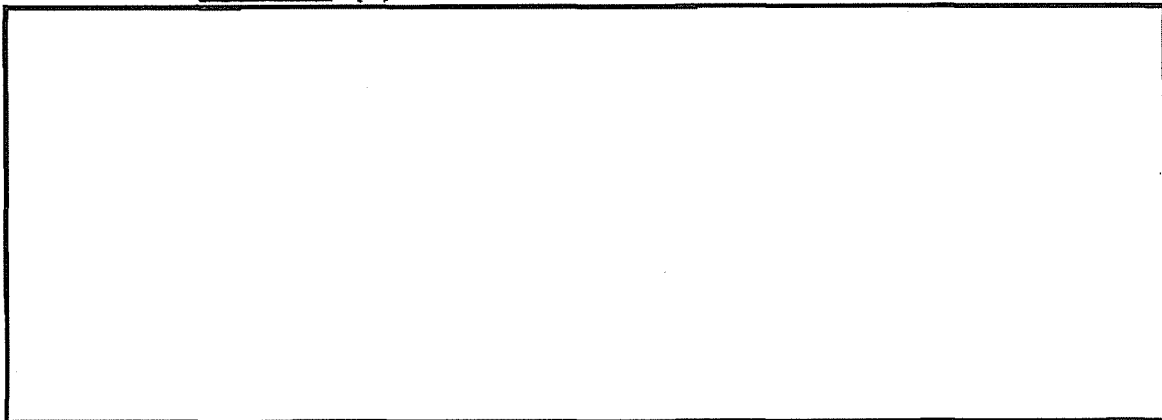
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F. **Additional Procedures for Retention, Use and Disclosure of FISA Information. (U)**

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3. **Prosecutors. (U)**



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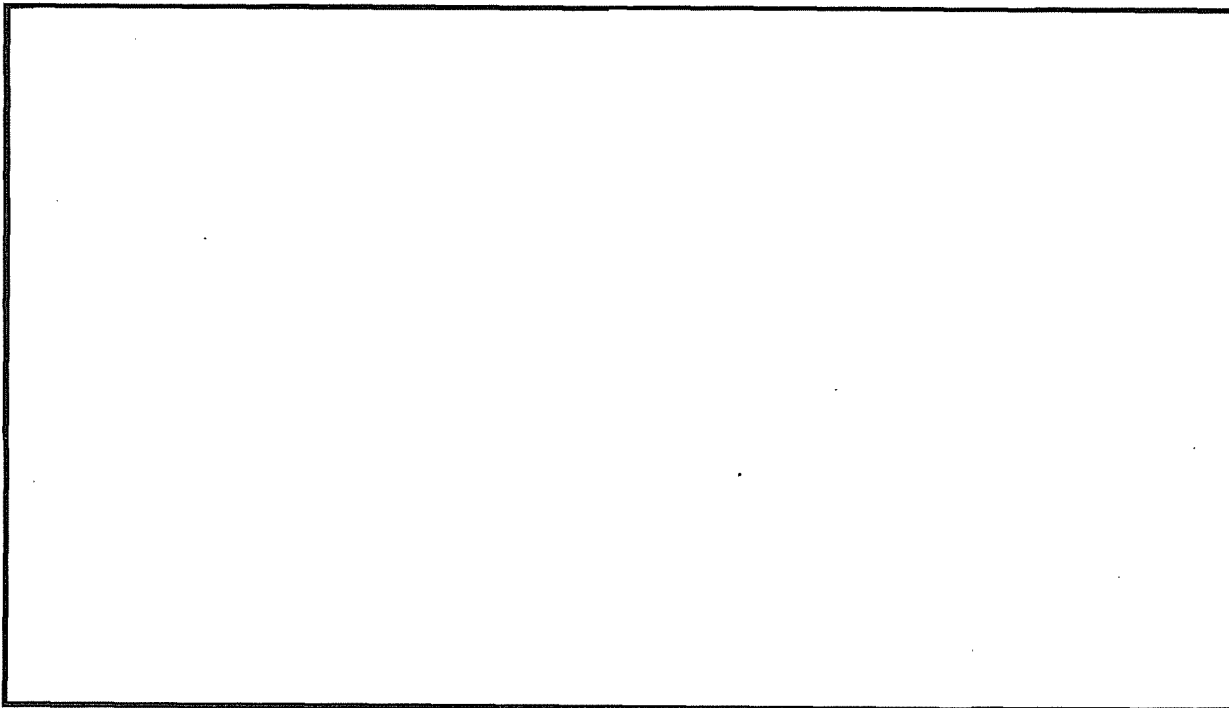
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b. In accordance with applicable Attorney General-approved policies and procedures, federal prosecutors may also disclose FISA-acquired information, when necessary for the prosecutors to carry out their responsibilities, including to witnesses, targets or subjects of an investigation, or their respective counsel, when the FISA-acquired information could be foreign intelligence information or is evidence of a crime. This provision does not restrict a federal prosecutor's ability, in a criminal proceeding, to disclose FISA-acquired information that contains exculpatory or impeachment information or is otherwise discoverable under the Constitution or applicable federal law. (U)

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Section 552

Section 552a

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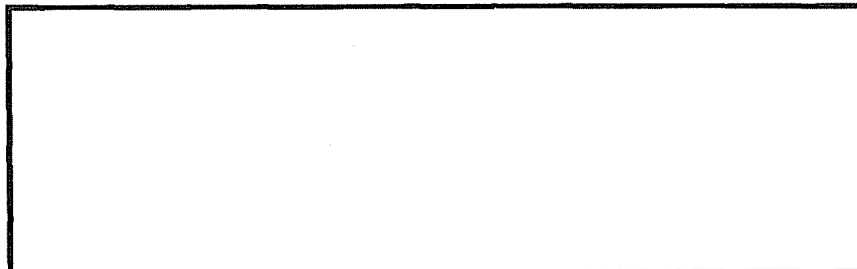
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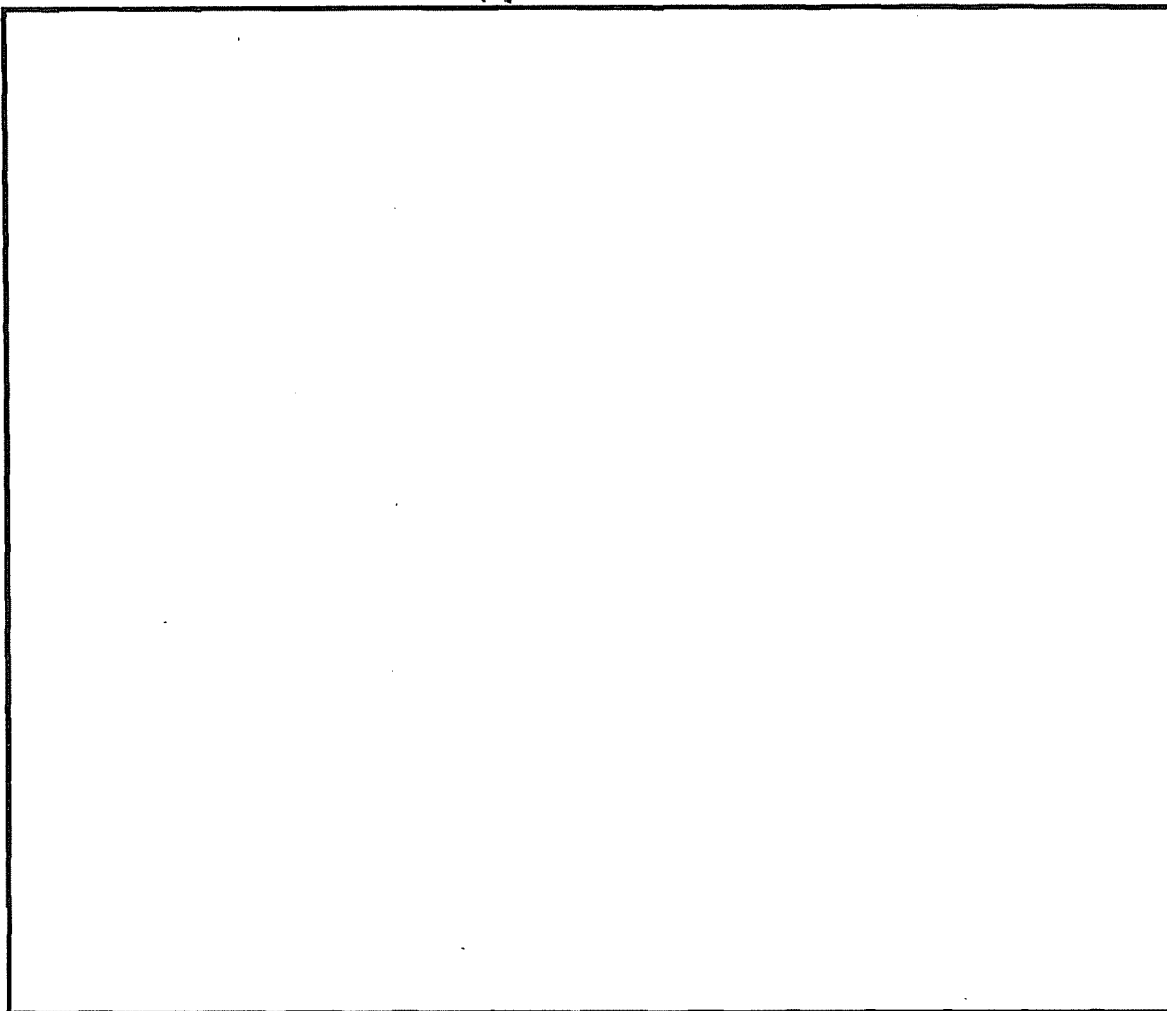
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**G. Time Limits for Retention. (U)**

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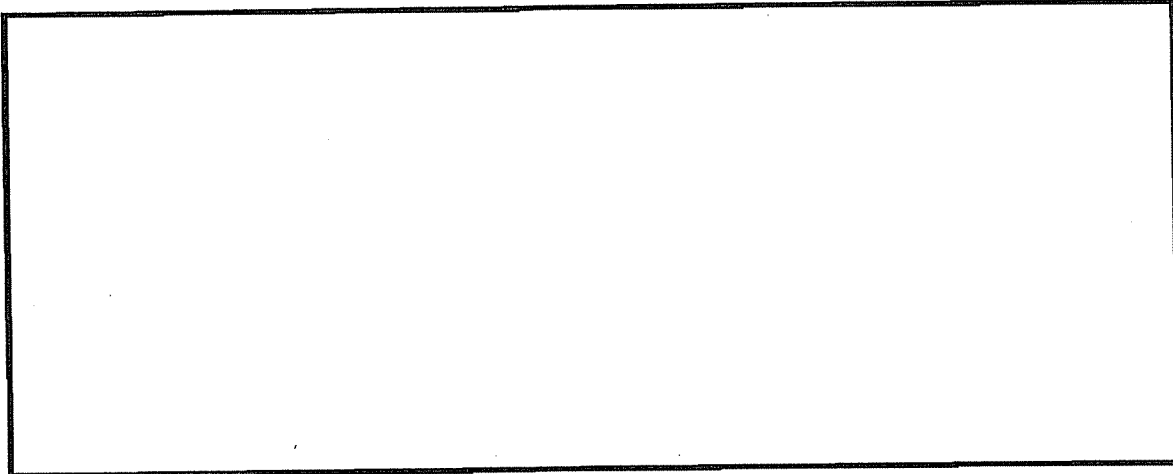
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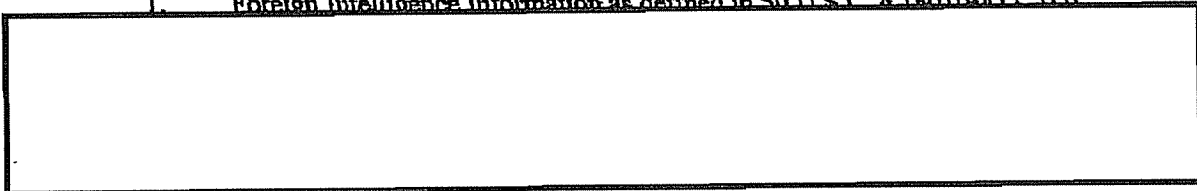
#### IV. DISSEMINATION (U)

##### A. Dissemination of Foreign Intelligence Information to Federal, State, Local and Tribal Officials and Agencies. (U)

The FBI may disseminate FISA-acquired information that reasonably appears to be foreign intelligence information in accordance with Sections IV.A.1 and IV.A.2 to federal, state, local and tribal officials and agencies with responsibilities directly related to the information proposed to be disseminated. Information that reasonably appears to be foreign intelligence information not directly related to responsibilities of such agencies may be disseminated incidental to the dissemination of information directly related to responsibilities of such agencies. Such information may be disseminated only consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information. (U)

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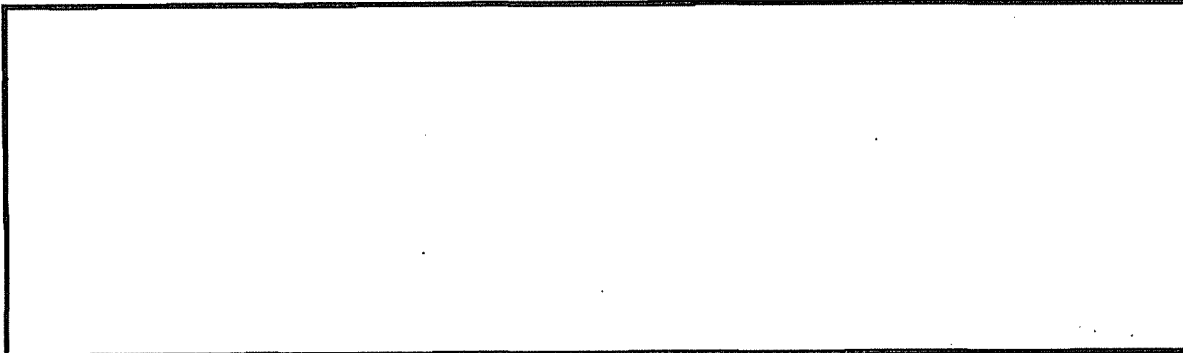
1. Foreign Intelligence Information as defined in 50 U.S.C. § 18016(a)(1). (U)



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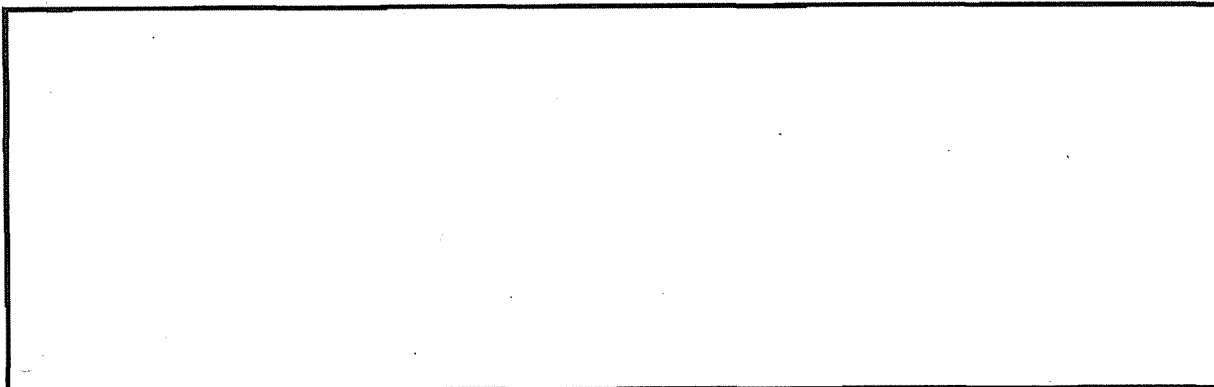
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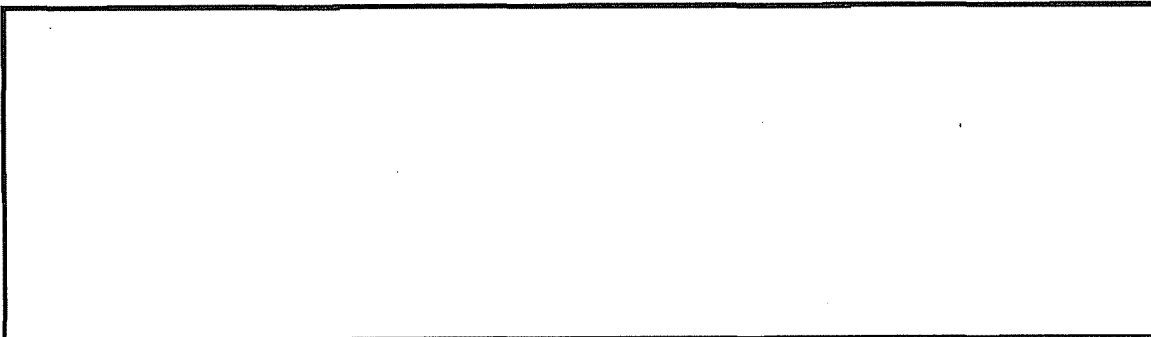
2. Foreign Intelligence Information as defined in 50 U.S.C. § 1801(e)(2). (U)

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B. Dissemination of Evidence of a Crime to Federal, State, Local and Tribal Officials. (U)

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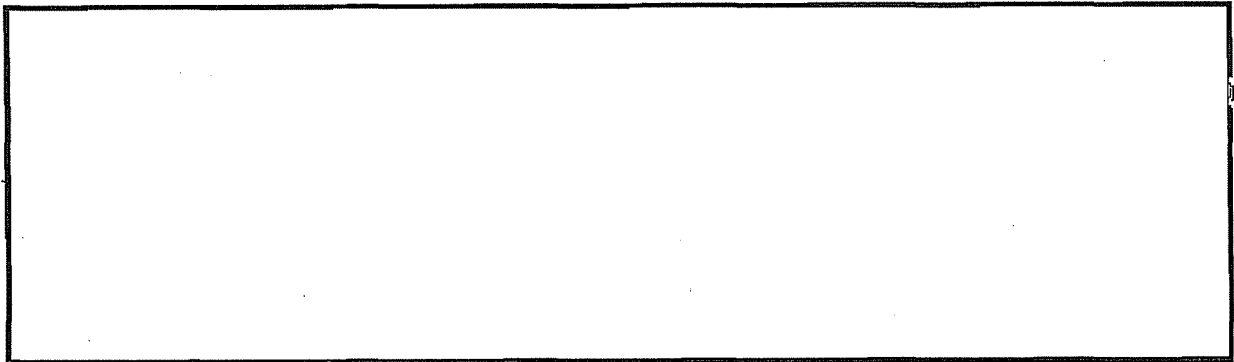
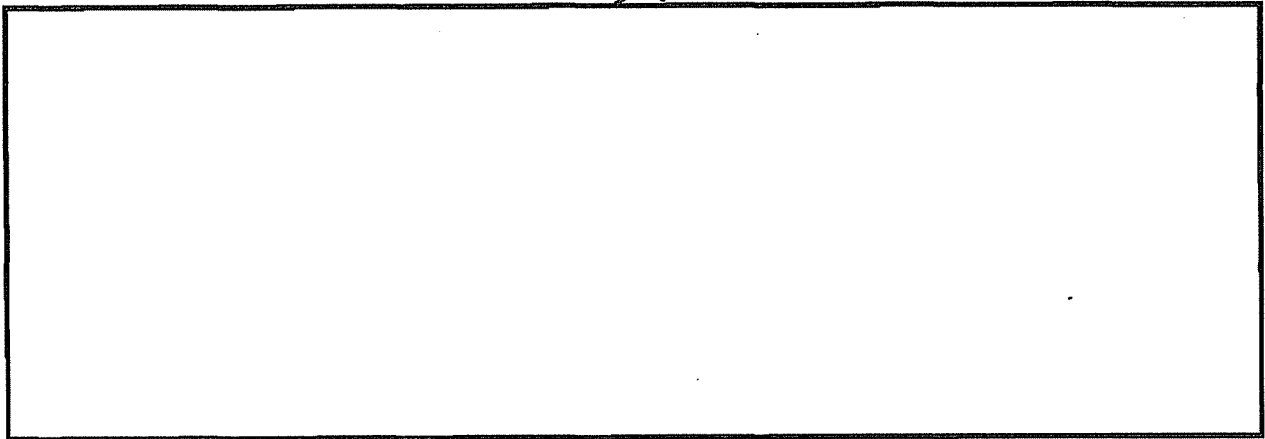
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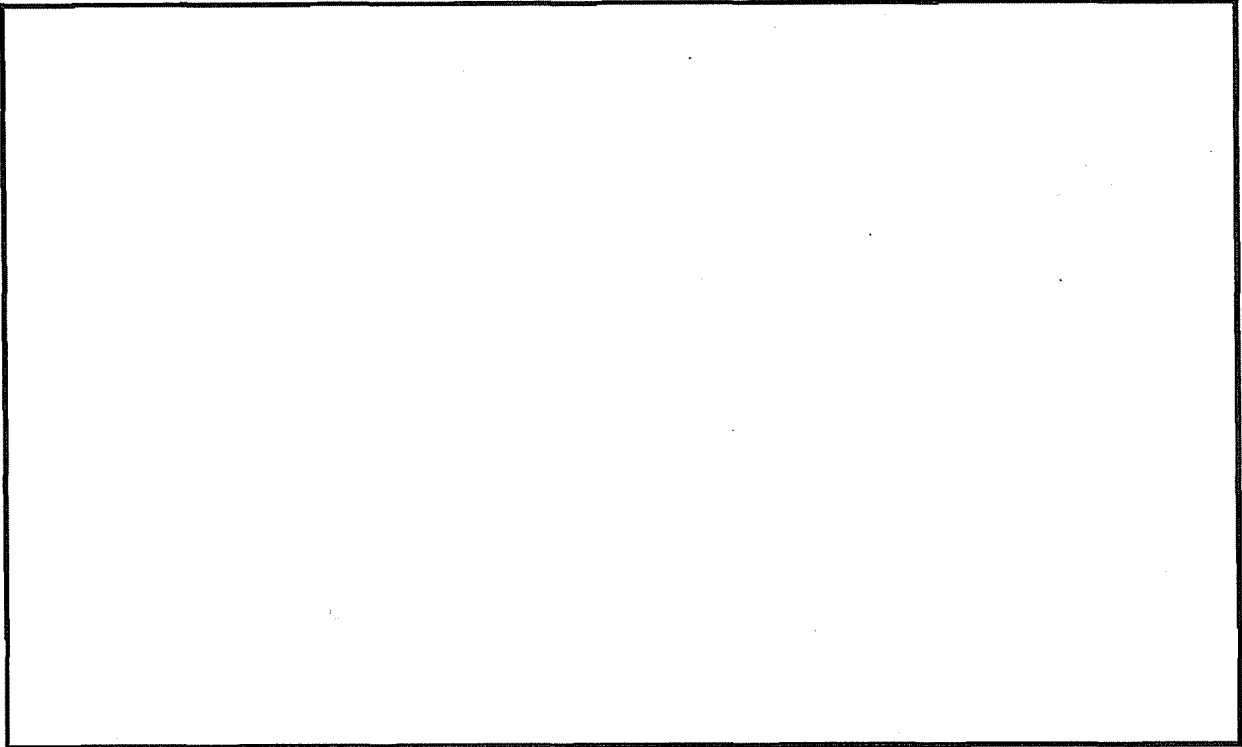
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In addition to dissemination authorized under other provisions herein, foreign intelligence information, as defined in Section 1801(e), may be disseminated to federal, state, local, territorial, and tribal authorities, foreign officials and entities, and private-sector entities that have a substantial bearing on homeland security for the purposes of and in accordance with Homeland Security Presidential Directive 6 and the Memorandum of Understanding on the Integration and Use of Screening Information to Protect Against Terrorism and the addenda thereto. (U)

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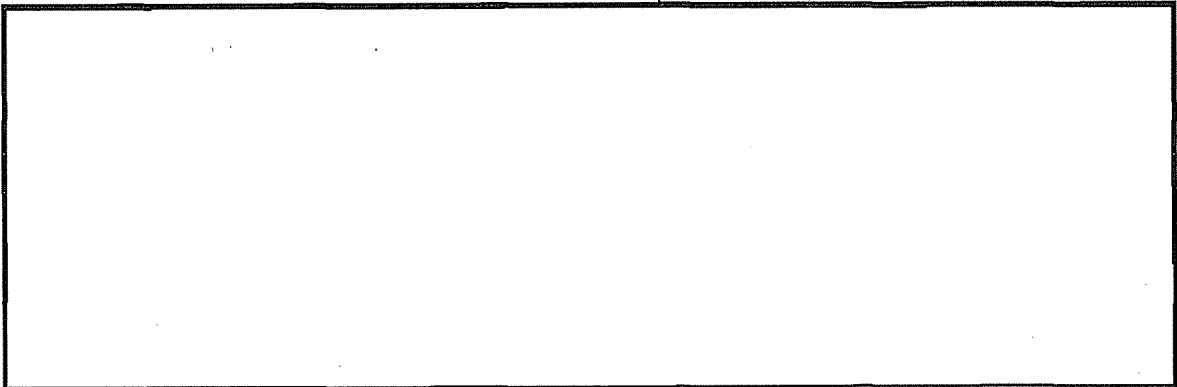
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**V, COMPLIANCE (U)**

**A. Oversight. (U)**

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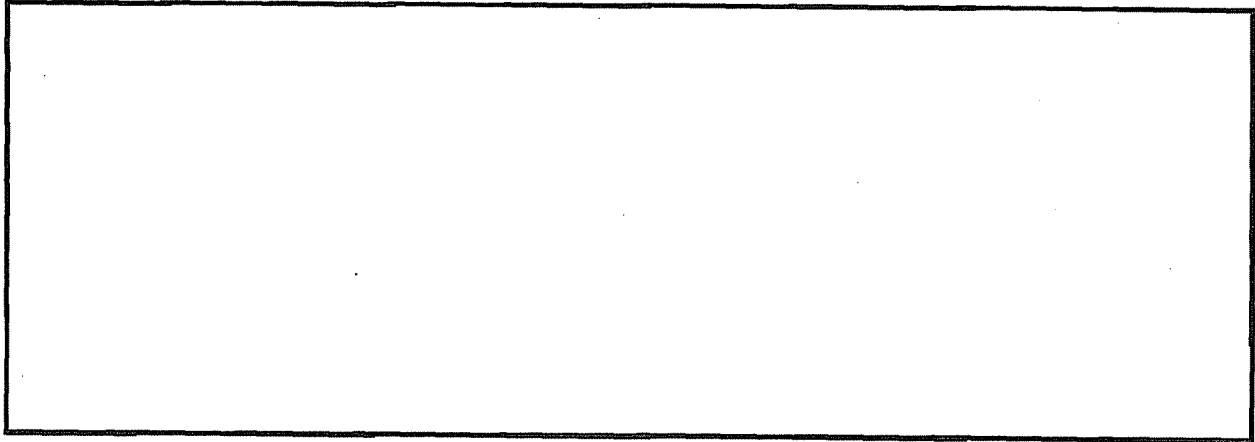
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**B. Training. (U)**

The Attorney General, or a designee, shall ensure that adequate training on these procedures be provided to appropriate personnel. (U)

**C. Minimization Briefings. (U)**

Following the authorization of collection activity, an NSD attorney shall conduct a minimization briefing with appropriate FBI personnel responsible for the FISA surveillance or search. (U)

**VI. Interpretation (U)**

The FBI shall refer all significant questions relating to the interpretation of these procedures to the NSD. (U)

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**VII. Review of Procedures (U)**

The Attorney General, or a designee, in consultation with the FBI Office of General Counsel, shall review these procedures and determine whether they remain appropriate in light of the technology and practices used by the FBI no later than five years from the date of the Attorney General's approval of these procedures filed with the Court, and every five years thereafter. A written report of such review shall be provided to the Court within six months of the completion of the review. (U)



Michael B. Mukasey  
Attorney General of the United States

10/22/08  
Date

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