

# The structure of the FISA application.

In this piece, I'd like to lay out what we can learn about FISA applications from the [Carter Page FISA application](#). While I'll track what we can of the Steele dossier and other public content, I'm primarily interested, here, in how FISA applications are structured, in what needs to be proven how, and in what is likely to be boilerplate from application to application.

The FISA [statute](#) requires certain things from an application. I'll map out Page's application to this structure. The table of contents below shows pretty clearly that the application maps onto the statute (which is consistent with what we see elsewhere in FISC applications, such as for Section 215 and 702). That said, the FBI affidavit appears to have three extra sections (10-12) not dictated by 50 USC §1804. Given the reference to electronic surveillance in section 9, they likely address unique requirements of [50 USC §1823](#).

For each section, I will describe best as can be discerned what function that section plays, based on the first and following applications. I will note whether the information appears to be unique to the Page application or (as is likely given what we've seen from other FISA applications) boilerplate, even if that boilerplate changed over the year he was under surveillance. In addition, I will include a table showing the page numbers covering that section; this is a good way to track where the application grows over the course of renewals. Finally, I will describe the changes that are identifiable over the course of the renewals. This is particularly useful in showing where additional information gets added; the applications primarily expand in section III B of the Carter Page section (relating to evolving information about Christopher Steele), and section VI of the Carter Page section (probably reflecting new intelligence coming in). Section B, listing the targeted facilities,

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## The FBI Affidavit

Even before the actual application starts, it says what it wants to do. We know from [the Schiff memo](#) that the government conducted both electronic surveillance (data in motion) and physical surveillance (physical locations, plus data at rest) on Page. The first redaction must explain that. And the indication of two clauses may reflect a citation of both §1805 and §1824.

(§) The United States of America hereby applies to this Court for authority to conduct [REDACTED] as described herein, pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended, Title 50, United States Code (U.S.C.), §§ [REDACTED] (FISA or the Act).

b1-1  
b3-1  
b7A-1  
b7E-1, 2, 3, 6

Pages			
1	1/PDF 84	1/PDF 182	1/PDF 292

### (1) the identity of the Federal officer making the application;

Then there's a paragraph laying out who is submitting this application and what his duties are.

1. (U) **Identity of Federal Officer Making Application** This application is made by [REDACTED] a Supervisory Special Agent (SSA) of the Federal Bureau of Investigation (FBI) whose official duties at FBI Headquarters include supervision of the FBI's investigation of the above-captioned target based upon information officially furnished to [REDACTED]

b1-1  
b3-1  
b6-1  
b7A-1  
b7C-1  
b7E-1, 2, 3, 6

Pages			
1	1/PDF84	1/PDF 182	1/PDF 292

*Changes: while the names are redacted, by redaction length the agents in the first application and the subsequent ones are different.*

(2) the identity, if known, or a description of the specific target of the electronic surveillance;

Next, the application describes Page. Given the reference to information obtained from State, it appears to tie his identification to his passport.

2. **(S) Identity of the Target** The target of this application is Carter W.

Page, a U.S. person, and an agent of a foreign power, described in detail below. The

status of the target was determined in or about October 2016 from information

provided by the U.S. Department of State. [REDACTED]

b1-1  
b3-1  
b7A-1  
b7E-1, 2, 3, 6

Pages			
2	2/PDF85	2/PDF 183	2/PDF293

(3) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

This is a two part section that is the meat of the affidavit, requiring the affiant to lay out evidence the target (here, Page) is an agent of a foreign power and then to explain why the targeted facilities (things like phone numbers, email addresses, social media handles, device IDs, and physical addresses) are being used by the target.

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

This section is split into seven (and in reauthorizations, eight) sections, with some entirely redacted, and others revealing enough to suggest the topics they cover.

Preamble: This section lays out what the rest will prove. It

- Lays out that Russia is a foreign power
- Describes Russia's clandestine efforts in the United States
- Names Page as an agent of Russia, hewing closely to the statutory language, and specifying that he's not being accused of intelligence collection activities. It specifically [accuses](#) Page of "(E) knowingly aiding or abetting any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspiring with any person to engage in activities described in subparagraph (A), (B), or (C)."

Pages			
2-4	2-4/PDF85-87	2-4/PDF 183-185	2-4/PDF 293-296

*Changes: In the second and following applications there's language saying this:*

(U) ~~(S)~~ This verified application reports on developments in the FBI's investigation of the above captioned target since the most recent application described herein. Unless stated otherwise herein, information presented in previous applications has been summarized or removed not because it was factually inaccurate but in order to create a more concise document.

This must be boilerplate because the unredacted sections of the applications barely change.

## I. Overview

This provides a general introduction to the logic behind the application. Both the scale of time the FBI believed Page to have been recruited by the RU govt and the general scope of FBI's belief of influence operations in the 2016 are redacted -- over half the section.

Pages			
5-6	5-6/PDF84-87	5-6/PDF186-187	5-6/PDF297-298

*The second and following applications also have a version of this paragraph, with prior docket numbers, updated with each application, redacted.*

<sup>1</sup> (S) On or about November 8, 2016, Candidate #1 was elected President. Although Candidate #1 is now the President-elect, in order to maintain the historical accuracy of the background information, unless otherwise stated, the original references to Candidate #1 and members of Candidate #1's campaign team will remain the same as in the initial application filed in this matter (see docket number [REDACTED]).

## II. FBI Believes that the RU Govt Engages in Influence Operations against the United States

This section describes the evidence for a generalized attempt to influence the elections, citing a public James Clapper statement, the public release of the stolen emails via WikiLeaks, and the DHS/ODNI October 7 statement attributing the attack to Russia, as well as a number of redacted passages that must describe evidence FBI had obtained thus far proving it was Russia.

Aside from the addition of the Intelligence Community Assessment confirming their belief Russia was behind the attack, it doesn't appear this section integrated new intelligence to back that claim.

Pages			
6-10	6-10/PDF89-93	6-10/PDF187-191	6-10/PDF298-301

*Changes: The second application and following ones include a reference to the December 29, 2016 Intelligence Community Assessment.*

## II. The Russian government's attempts to influence the 2016 presidential elections

This section gets more specific about the events of 2016. It describes Trump appointing George Papadopoulos and Carter Page as advisors. It then says that it thinks Russia is coordinating their influence operation with Page and possibly other Trump advisors. It seems to add updated information that is classified tying Russia to the attack.

Pages			
10-12	10-12/PDF 93-95	10-12 /PDF 191-193	10-12/PDF301-303

*Changes: The transition from general to specific gets a bit longer in the second application. Entirely redacted Footnote 4, in the third application, is new.*

## III. Carter Page

This is a multiple part section on Page.

### A. Page's connections to Russia and the RIS

This section talks about Page's energy consulting firm, his residence in Russia, what he has said in FBI interviews (which must include that he was a self-professed advisor to the Kremlin). It describes Evgeny Buryakov's efforts to recruit Page in 2013. It also includes a redacted paragraph that may include more concerns about Page's willingness to be recruited.

Pages			
10-15	12-16/PDF95-99	12-17/PDF193-198	12-17/PDF303-308

*Changes: Starting in application 3, footnote 8 notes Buryakov has been released from prison.*

### B. Page's coordination with Russian government officials on 2016 US presidential election influence operations

This section lays out evidence that Page was involved in Russian efforts to influence the presidential election. It includes the Christopher Steele uncorroborated report on Page's trip to Moscow, including a bunch of footnote that might describe FBI's efforts to corroborate it. It describes the change to GOP policy on sanctions, including a totally redacted paragraph ending the section.

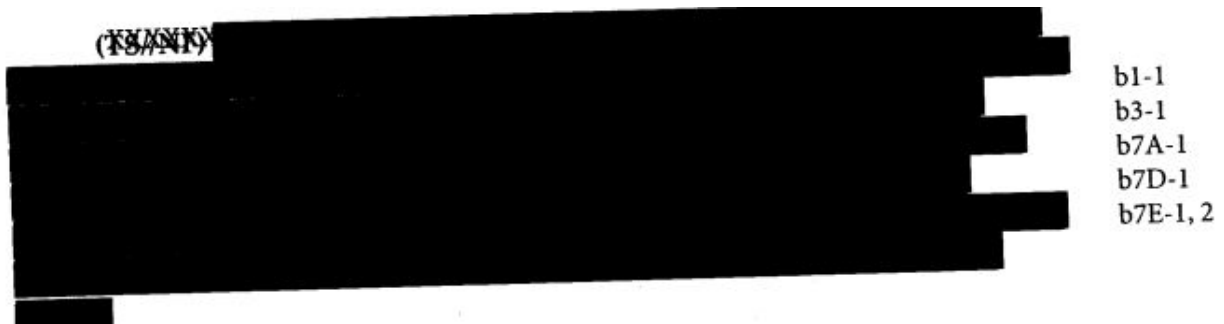
Note the growth in this section appears to relate to changing information about Steele, not about Page.

Pages			
15-22	17- 24/PDF100-107	17-25/PDF198-206	17-28/PDF308-319

*Changes:*

*Second application: The FBI explained how it cut Steele off after he shared information with the press.*

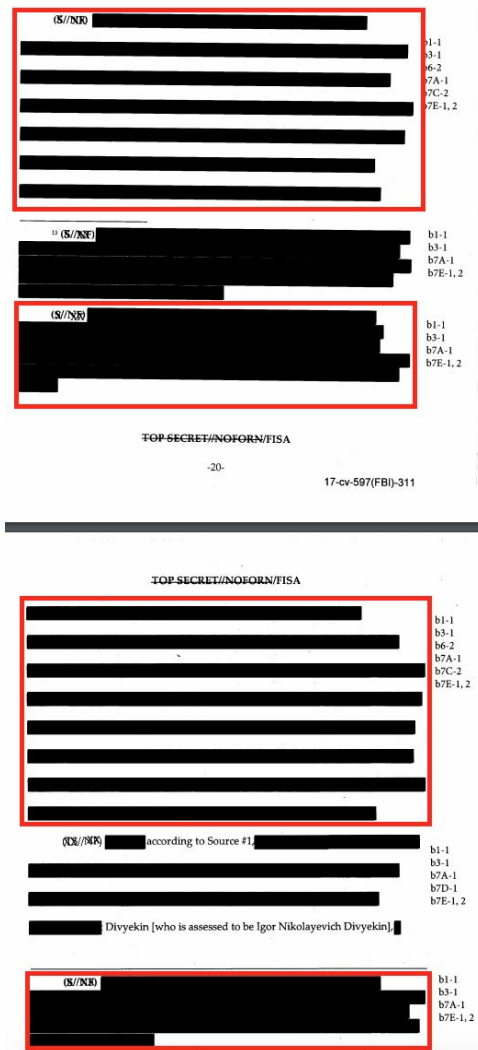
*Third application: The shape of many of the paragraphs in the Steele section change. This paragraph of the footnote (a continuation of footnote 10 caveating Steele's reporting) on page 19 is new and the shape of the following paragraph may change.*



*Footnote 19 on page 22, which consists of 4 paragraphs, is new.*

*In the fourth application, there's a new section at 20 to 21 between two mostly redacted paragraphs that include Steele details, along with two more paragraph in footnote 13. These annotated passages are all new in the last application.*





*Much of footnote 19 seems to be eliminated, with footnote 20, of similar length replacing it.*

*According to the Schiff memo (4-5), this section in the fourth application uses Page's meetings with other Russians over that meeting to quasi confirm the Steele dossier (even though they were other Russians, one an established friend of Page's).*

*In addition, the passage from the last (partial) paragraph on 26 through the end of that section and footnote 21 -- almost two pages in length -- are new in the fourth application.*

#### IV. Page's denial of cooperation with the Russian government

It's unclear precisely why, but this passage seems to cite both Page and the campaign's denial that Page was coordinating with Russia as proof that Page is an agent of Russia. Perhaps it serves to prove that Page was carrying out his efforts to help Russia *clandestinely*.

This is the section that relies in significant part of the Mike Isikoff article (and a Josh Rogin one). It includes both Page's own denials, his letter to Jim Comey denying the allegations, and the

Trump campaign's denials that he had any ongoing association with the campaign. This section seems as interested in proving that Page was denying his ties to Russia as that the campaign was denying Page's ties to it.

Pages			
22-27	24-29 /PDF107-112	25-29/PDF206-211	28-33/PDF319-324

*Changes: Addition of footnote describing Steele going to the press in response to Comey's reopening Clinton investigation in second application.*

*Footnote 21, modifying Page answering any final questions FBI may have, is longer in third application.*

#### V. Entirely redacted section

This is two pages, one section, classified at S/NF (Secret, No Foreign government).

Pages			
27-28	29-30/PDF 112-113	30-31/PDF 211-212	33-34/PDF324-325

*Changes: Between second and third application, this section grows by one line. A footnote disappears between the third and fourth applications. The subtitle appears to be a different length in the fourth application.*

#### VI. Entirely redacted section

This is a 3-page section, with five titled sub-sections. The section is classified at S/NF, and includes both b7 law enforcement and b6 privacy FOIA exemptions, suggesting it may include communications intercepts, interviews involving third parties, or other data collection. This starts as three pages and ultimately grows to 23 pages, suggesting this is where much of the intelligence collected, perhaps in part by these intercepts, are laid out.

Pages			
28-32	30-38/PDF113-121	31-49/PDF 212-230	34-57/PDF325-348

*Changes: The length of this section changes as follows.*

*First application: 3 pages*

*Second application: 8 pages*

*Third application: 18 pages, including one unredacted page (44-45) describing a letter attacking Hillary for the allegations against him*

*Fourth application: 23 pages*

(VII). Entirely redacted section

This section includes a series of subsections, the body paragraphs of which cite b7 law enforcement and b6 privacy exemptions, which again might indicate intercepts, interviews with third parties, or other data collection.

Pages			
NA	39-43/PDF 122-126	50-55 /PDF231-236	57-64/PDF348-355

*Changes: This five page section gets added in the second application, and expanded by part of a page (probably with the addition of the section/paragraph) in the third. This section on page 59 appears to be new in the fourth application, as does the section that spans 61-62. The paragraph on page 63 is longer in the fourth application.*

(S) [REDACTED] b1-1  
[REDACTED] b3-1  
(S//NF) [REDACTED] b6-2  
[REDACTED] b7A-1  
[REDACTED] b7C-2  
[REDACTED] b7E-1, 2, 3,  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

VII (VIII). Conclusion

In this section, FBI asserts that there is probable cause Page is collaborating in Russian influence operations. It then asserts the influence operations involve or about to involve

violations of criminal law, with two redacted lines, then another paragraph of three redacted lines, apparently describing those crimes.

Pages			
32-33	43-44/PDF126-127	55-56/PDF236-237	64-65/PDF355-356

*Changes: The third application (but not the fourth) redacts this passage on page 56, which shouldn't be classified.*

on behalf of such foreign power, or knowingly conspires with other persons to  
engage in such activities and, therefore, is an agent of a foreign power as defined by  
50 U.S.C. § 1801(b)(2)(E).

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

Starting on page 33, the application appears to spend 3.5 pages describing the facilities that will be targeted. That consists of:

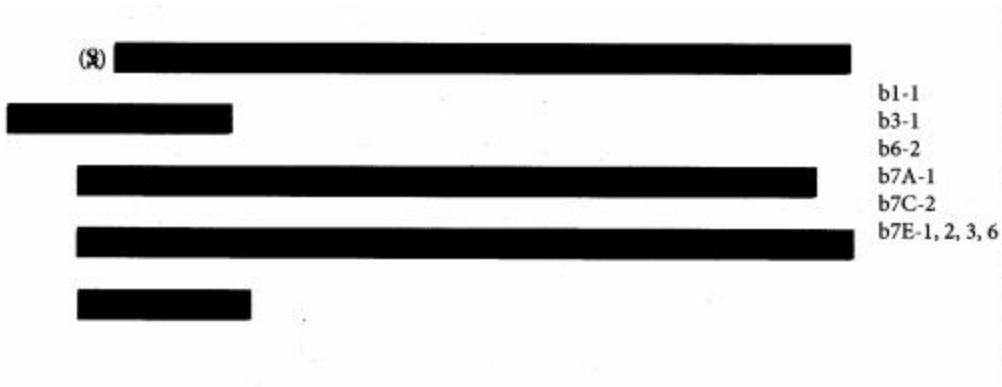
- A title followed by a paragraph
- What appears to be another titled section with what might be five bulleted subsections (for example, this might describe various social media identifiers followed by the source of certainty Page used them)
- Two sections where a paragraph appears to introduce a list
- A final section with an unclassified heading and what might be another list

This sections grows in length between applications, suggesting the government may have added new facilities and justifications as they were discovered.

Pages			
33-36	45-48/PDF 128-131	56-60/PDF 237-241	65-70/PDF

*Changes: In the second application, the specific facilities section expands from 3.5 pages to 4.25 pages. There are less noticeable changes in the third application.*

*This section in the fourth application, page 69, appears to be new (compare with page 60 in third application).*



#### (4) a statement of the proposed minimization procedures;

The application then spends two page laying out the proposed minimization procedures, which presumably are based of the standard minimization procedures for electronic and physical search.

Remember, that by virtue of being targeted under traditional FISA, Page automatically became eligible for targeting under 704(b) when traveling overseas with Attorney General approval. It's unclear whether FBI would also name the 704(b) minimization procedures if they planned to use that when he traveled overseas or not. Page was surveilled during the period when the NSA was trying to clean up problems with this authority.

It's possible this section includes special protections either to bracket off the entire time when Page was formally on the campaign (which wouldn't help you figure out what Page was doing while on it), or it might involve special treatment for that information. What minimization procedures FBI proposed (and FISC approved) are, to my mind, one of the most important questions to determine how intrusive this surveillance was on legitimate political activities. That said, the changes to the minimization procedures are so minimal they're more likely just boilerplate from the SMPs.

Pages			
36-38	49-51/PDF 132-134	61-63/PDF242-244	70-73/PDF361-364

*Changes: This passage appears to be new in the third application.*

(S//XNF)

~~TOP SECRET//NOFORN/FISA~~

-61-

17-cv-597(FBI)-24

~~TOP SECRET//NOFORN/FISA~~

(5) a description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

The application then explains what FBI expects to obtain. The first paragraph of this is unredacted; it says FBI expects to obtain information that is necessary to protect against the intelligence activities of a foreign power.

Three subsections after this are redacted. Two of those appear to include introductions followed by lists. Since these barely change, they may be boilerplate tied to the kinds of authorities used (for example, targeting emails would obtain emails between Page and possible Russian handlers).

Pages			
39-40	51-53/PDF 134-136	63-65/PDF244-246	73-74/PDF364-365

*Changes: The second application added another five line paragraph.*

## (6) a certification or certifications

The structure of this section (which is heavily redacted, which is by itself interesting, given that it should be statutory) is of acute interesting for legal wonks. The certification is required to include the following, which follows the affidavit.

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that a significant purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 1801(e) of this title; and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

But along the way, there's a redaction of one or (I suspect) more Executive Orders that describes who can affirm such a certification, followed by two redacted paragraphs.

An unredacted paragraph subtitled "The Purpose of the Authorities Requested" describes that some of this evidence might be used to prosecute a crime, but that a significant purpose of the collection is to collect intelligence information. This apparently satisfies the "significant purpose" clause of the law.

Pages			
41	53/PDF 136	65-66/PDF246-247	75-76/PDF366-367

*Changes: This section has an additional line in the fourth application at page 75.*

(S)

(7) a summary statement of the means by which the surveillance will be effected and a statement whether physical entry is required to effect the surveillance;

Most of the redacted section on page 42 must provide the description of how the surveillance will be effected. There appear to be two subsections here, with two things listed under each (remember, this application covers both electronic surveillance and physical search).

Pages			
42	54-55/PDF 137-138	66-67/PDF247-248	75-76/PDF367-368

(8) a statement of the facts concerning all previous applications

This is a required section, but since this was the first application, it would be empty, so it's likely reflected by the single line at the end of page 42. If this section *is* the required statement of facts, it may be little more than boilerplate, listing those previous applications (the dockets are listed at least once elsewhere in the application).

Pages			
42	55/PDF 138	67/PDF248	76-77/PDF368-369

*Changes: This becomes a 5 line paragraph in the second application.*



(S) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b1-1  
b3-1  
b7A-1  
b7E-1, 2, 3, 6

## (9) a statement of the period of time for which the electronic surveillance is required to be maintained

The next section asks for 90 days of surveillance.

Unless I'm missing something, section 9 on page 43 fulfills everything required by §1801. The other (entirely redacted) sections may fulfill requirements of §1823.

Pages			
43	55/PDF 138	67/PDF 248	77/368

## (10) entirely redacted section

One full page with a subsection, pages 43-44.

An [application for 50 USC §1823 physical search](#) requires several different elements not included in an application for 50 USC §1804, such as:

(3) a statement of the facts and circumstances relied upon by the applicant to justify the applicant's belief that—

[snip]

(B) the premises or property to be searched contains foreign intelligence information;  
and

(C) the premises or property to be searched is or is about to be owned, used, possessed by, or is in transit to or from a foreign power or an agent of a foreign power;

[snip]



## (11) entirely redacted section

Half a page, pages 44-45

Pages			
44-45	57/PDF 140	69/PDF250	79/PDF370

## (12) entirely redacted section

A full page, 45-46, with what appears to be a list in the middle

Pages			
45-46	57-59/PDF 141-142	69-71/PDF250-252	79-81/PDF370-372

## (13) authorities requested

This includes a full page that is classified on 46-47. The number on page 46 shows that this is follows the earlier numbering (and so the interim sections must as well).

It appears the section describing “authorities requested” is part of section 13. Given the introduction, it appears each of the lists following would include a temporal description.

This is another section where FISC may provide some protections (or not) for the period when Page was overtly on the campaign. That is, the court could bracket off the campaign period, but permit collection for the period before that.

While it’s unclear, this may include two sections. The first, from 47-49, includes 5 subsections most of which are lists. The second (this is far less clear), from 49-52. Part of this seems to include several entries that consist of lists.

Pages			
46-52	59-65/PDF 142-148	71-77/PDF252-258	81-88/PDF372-379

*Changes: There are definitely changes in the listed items between the first and second application.*

## End of FBI Affidavit

The affidavit, which fulfills the terms of the statute, includes a certification that it adheres to the verification process imposed in 2001 in response to a lot of accuracy problems, then includes a separate signature page for the affiant. The affidavit ends on 54.

Pages			
53-54	66-67/PDF 149-150	78-79/PDF259-260	88-89/PDF379-380

## The Certification

The certification maps the statute paragraph for paragraph.

- (A) that the certifying official deems the information sought to be foreign intelligence information;
- (B) that a significant purpose of the surveillance is to obtain foreign intelligence information;
- (C) that such information cannot reasonably be obtained by normal investigative techniques;
- (D) that designates the type of foreign intelligence information being sought according to the categories described in section 1801(e) of this title; and
- (E) including a statement of the basis for the certification that—
  - (i) the information sought is the type of foreign intelligence information designated; and
  - (ii) such information cannot reasonably be obtained by normal investigative techniques;

The most interesting section is E, which is a 6 page, almost entirely redacted section. The first half seems to have a set of bullets, whereas the rest seems to be paragraphs.

Jim Comey signed the first, second, and third applications, Andrew McCabe signed the fourth. The signature line can be approved by FBI Director/Deputy, Secretary of State/Deputy, Director of National Intelligence/Deputy, CIA Director, Secretary of Defense, National Security Advisor,

Pages			
55-63	68-76 /PDF 151-159	80-88/PDF 261-269	90-98/PDF381-389

*Changes: This list item in the third application on page 82 appears new.*

## Approval

Finally, there's a three page approval for the AG, DAG, or AAG NSD. There's a redacted paragraph, as well as a redacted description of the surveillance.

Sally Yates signed the first and second applications, Dana Boente signed the third, Rod Rosenstein signed the fourth.

The application Boente signed included the following paragraph explaining why he was serving as acting.

<sup>27</sup> (U) Pursuant to Executive Order 13787 (March 31, 2017), Dana J. Boente is serving as the Acting Attorney General with respect to this matter by virtue of the Attorney General's recusal.

Pages			
64-66	77- 79/PDF 160-162	89-91/PDF 270-272	99-101/PDF390-392