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UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

Filed  
United States Foreign  
Intelligence Surveillance Court

JUN 17 2025

Maura Peterson, Clerk of Court

IN RE CARTER W. PAGE,  
A U.S. PERSON

Docket Numbers:  
16-1182, 17-52, 17-375, 17-679

**ORDER RESPECTING THE LIMITED USE OR DISCLOSURE OF INFORMATION  
FOR THE PURPOSE OF REDACTING DOCUMENTS TO BE PROVIDED IN  
RESPONSE TO PENDING REQUESTS BY THE HOUSE JUDICIARY COMMITTEE  
AND THE SENATE JUDICIARY COMMITTEE**

This matter is before the Court on the Government's Motion to Permit the Use or Disclosure of FISA Information for the Purpose of Redacting That Information to Prevent Improper Use or Disclosure, filed in the above-captioned dockets on June 6, 2025 ("Motion"). The Court is granting the relief specified herein.

On June 25, 2020, the Court issued an Opinion and Order Regarding Use and Disclosure of Information in the above-captioned dockets ("June 25, 2020 Order"). The June 25, 2020 Order explained why the results of electronic surveillance and physical search conducted under color of orders issued in these dockets<sup>1</sup> pursuant to the Foreign Intelligence Surveillance Act (FISA), 50 U.S.C. §§ 1801-1885c, were subject to the prohibitions of use or disclosure of the results of unauthorized surveillance or search set forth in 50 U.S.C. §§ 1809(a)(2) and 1827(a)(2). It is a criminal offense to "(1) intentionally . . . engage[ ] in electronic surveillance under color of law

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<sup>1</sup> Information acquired under color of the above-captioned dockets, in both minimized and un-minimized (i.e., raw) form, is referred to as "Page FISA information."

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except as authorized by” identified statutory provisions, or “(2) intentionally disclose[ ] or use[ ] information obtained under color of law by electronic surveillance, knowing or having reason to know that the information was obtained through electronic surveillance not authorized” by FISA or another “express statutory authorization.” 50 U.S.C. § 1809(a). It is similarly an offense to intentionally conduct a physical search under color of law within the United States to obtain foreign intelligence information, “except as authorized by statute,” or intentionally disclose or use information obtained by such a search, “knowing or having reason to know that the information was obtained through physical search not authorized by statute, for the purpose of obtaining intelligence information.” 50 U.S.C. § 1827(a).

The applications in the above-captioned dockets involved “material errors and omissions,” which had been “largely uncovered by the Office of the Inspector General [(“OIG”)], U.S. Department of Justice [(“DOJ”)],” and “pertained to whether there was probable cause to believe that Page was an agent of a foreign power.” June 25, 2020 Order at 1-2. As a result of those deficiencies, the government admitted that “at least the third and fourth Page FISA applications lacked adequate factual support” and that “the restrictions on use or disclosure in Sections 1809 and 1827 apply at least to information acquired under color of the third and fourth dockets . . . .” *Id.* at 4 (internal quotation marks omitted). Because “the government declined to argue . . . that those provisions do not apply (or apply differently) to information obtained under the first two dockets,” the Court proceeded from the premise that §§ 1809(a)(2) and 1827(a)(2) apply to information acquired under color of all four dockets. *Id.*

The June 25, 2020 Order also recognized an exception to those prohibitions where use or disclosure of particular information “has been or can be demonstrated to be necessary to remedy

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or deter the types of harm at which §§ 1809 and 1827 are addressed,” such as when use or disclosure is “necessary to avoid similar instances of over-collection . . . or to remedy a prior over-collection.” *Id.* at 4, 20 (internal quotation marks omitted and alteration in original). The Court therefore permitted use or disclosure of Page FISA information in certain specified contexts, and distinguished cases in which it had ordered the destruction of the results of unauthorized surveillance or search because it was reasonable to anticipate that some disclosure or use of Page FISA information would be permissible. *Id.* at 7.

On June 9, 2023, the Court granted a motion by the Government in the above-captioned dockets to permit disclosure of particular “Page FISA information under circumstances not contemplated by the June 25, 2020 Order.” Order Respecting the Limited Disclosure of Information in the Classified Appendix to the Report on Matters Related to the Intelligence Activities and Investigations Arising out of the 2016 Presidential Campaigns at 3, 5 (“June 9, 2023 Order”). In that instance, Special Counsel John H. Durham had “prepared a final report titled *Report on Matters Related to Intelligence Activities and Investigations Arising out of the 2016 Presidential Campaigns*” (“Durham Report”), which included a Classified Appendix containing “a limited amount of Page FISA information.” *Id.* at 3. The Government proposed to provide the Classified Appendix “to Members and limited staff of the House Permanent Select Committee on Intelligence, the U.S. Senate Select Committee on Intelligence, the House Judiciary Committee, the U.S. Senate Committee on the Judiciary, and to the Members of Congress identified in 50 U.S.C. § 3093(c)(2),” who “have oversight responsibility for FISA, the FBI, and the Department of Justice.” *Id.* at 4 (internal quotation marks omitted). The Court found “disclosure in this narrow context as aligning with the purposes for use or disclosure of Page

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FISA information set out in the June 25, 2020 Order.” *Id.* at 4-5. It also specified that, “in all other respects, the June 25, 2020 Order remains in effect, including . . . the prohibition on further use or disclosure of such information (except as permitted by [the June 9, 2023] Order or the June 25, 2020 Order).” *Id.* at 5.

The instant Motion arises from two Congressional requests for other documents that contain Page FISA information:

(a) a March 17, 2025 request received by the Federal Bureau of Investigation (FBI) and the United States Department of Justice (DOJ) “from the Chairman of the Senate Permanent Subcommittee on Investigations and the Chairman of the Senate Judiciary Committee (SJC)” for transcripts of interviews “conducted by OIG during its review of the Page FISAs (the SJC Request),” Motion at 5; and

(b) a March 19, 2025 request received by the FBI “from the Chairman of the House Judiciary Committee . . . for numerous documents,” including documents “referring or relating to . . . the Crossfire Hurricane investigation,” documents referenced in the Durham Report, and “transcripts and reports of interviews conducted by Special Counsel Durham and his team (the HJC Request).” *Id.* at 5-6.

Importantly, and in contrast to the circumstances addressed by the June 9, 2023 Order, the Government does not seek “authority to disclose Page FISA information to Congress in response to the SJC and HJC Requests.” *Id.* at 6. Rather, it intends to review the requested materials in order to redact any Page FISA information from the copies to be provided to the requesting Committees. *Id.* “This review process will necessarily involve internal sharing of Page FISA information with FBI and DOJ personnel who previously did not have access” to it,

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so they can participate in the review and redaction of responsive materials in order to prevent disclosure of Page FISA information to Congress. *Id.* Additionally, “OIG, or FBI on its behalf, will need to access and review responsive transcripts to redact Page FISA information prior to production to the SJC.” *Id.*

The Government likens such disclosures of Page FISA information within DOJ or OIG to intragovernmental use or disclosure of Page FISA information in the context of litigation with requesters of records containing such information under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. *Id.* at 9-10. Previously, when faced with an apparent tension between FOIA’s review and disclosure requirements and §§ 1809(a)(2) and 1827(a)(2)’s prohibitions on disclosure, the Court sought, to the extent possible, to give effect to both. June 25, 2020 Order at 11. The Court accordingly authorized use or disclosure of “Page FISA information insofar as necessary for the good-faith conduct of . . . third-party FOIA litigation,” observing that, “as a practical matter, that FOIA litigation could not proceed if §§ 1809(a)(2) and 1827(a)(2) . . . bar FBI and other DOJ personnel working on that litigation from using or disclosing such information among themselves, insofar as it appears in documents responsive to the pertinent FOIA requests.” *Id.*<sup>2</sup>

“Similarly,” the Government now suggests,

sections 1809(a)(2) and 1827(a)(2) should not bar FBI and other DOJ personnel from reviewing or internally disclosing Page FISA information when responding to the SJC and HJC Requests. . . . [B]ecause Page FISA information is comingled with non-FISA information, the review and redaction of Page FISA information is a necessary first step to providing those materials.

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<sup>2</sup> At the same time, the Court noted that the Page FISA information itself is exempt from disclosure under FOIA. *Id.* at 10-11 (discussing interplay between the restrictions of §§ 1809(a)(2) and 1827(a)(2) and the FOIA exemption stated at 5 U.S.C. § 552(b)(3)).

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Motion at 9. The Government asserts that construing §§ 1809(a)(2) and 1827(a)(2) as prohibiting such internal disclosures would impede effective Congressional oversight of FISA implementation. *See id.* at 10.

The Court finds this argument persuasive as applied to the pending HJC and SJC Requests. Although the situations presented by the instant Motion and the FOIA cases addressed in the June 25, 2020 Order are not precisely the same, it is reasonable to interpret §§ 1809(a)(2) and 1827(a)(2) as permitting disclosures of Page FISA information among OIG, FBI, and other DOJ personnel insofar as necessary to prepare redacted copies of the requested records in order to avoid further disclosure of Page FISA information outside of FBI and DOJ. Due regard for the FISA oversight roles of the HJC and SJC<sup>3</sup> weighs against a contrary interpretation that would stymie production to those Committees even of suitably redacted records pertaining to cases of unauthorized electronic surveillance or physical search.

Accordingly, IT IS HEREBY ORDERED THAT, notwithstanding the June 25, 2020 Order and the June 9, 2023 Order, Page FISA information may be used by, and disclosed by and to, OIG, FBI and other DOJ personnel, insofar as necessary for review of records responsive to the above-described HJC and SJC Requests and redaction of Page FISA information from the copies of such records to be provided to the HJC and/or SJC; and

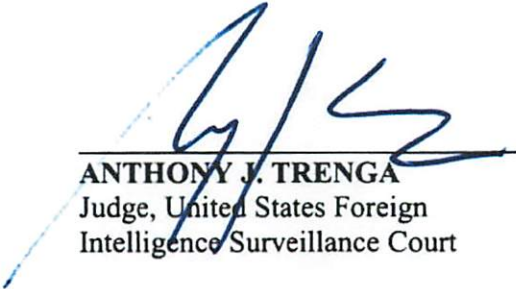
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<sup>3</sup> *See, e.g.*, 50 U.S.C. § 1871(a), (c) (requiring Attorney General to submit to the HJC and SJC semiannual reports on FISA implementation and significant opinions of the Foreign Intelligence Surveillance Court (FISC) and the Foreign Intelligence Surveillance Court of Review (FISCR)); § 1873(a) (requiring Director of the Administrative Office of the United States Courts to submit to the HJC and SJC annual reports on the operations of the FISC and FISCR); § 1873(e)-(f) (requiring FBI Director to submit to the HJC and SJC annual reports on specified aspects of FISA implementation); § 1881a(m)(1) (requiring the Attorney General and the Director of National Intelligence (DNI) to submit to the HJC and SJC semiannual assessments of specified aspects of FISA compliance); § 1881a(m)(3) (requiring the heads of certain intelligence agencies to submit to the HJC and SJC annual reviews of certain aspects of FISA minimization); § 1881f (requiring the Attorney General to submit to the HJC and SJC semiannual reports on specified aspects of implementing Title VII of FISA).

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IT IS FURTHER ORDERED THAT, in all other respects, the June 25, 2020 Order remains in effect, including (i) the six-month reporting requirement on the retention, use, or disclosure of any Page FISA information and (ii) the prohibition on further use or disclosure of such information, except as permitted by the June 25, 2020 Order, the June 9, 2023 Order or this Order.

ENTERED this 17<sup>th</sup> day of June, 2025.



**ANTHONY J. TRENGA**  
Judge, United States Foreign  
Intelligence Surveillance Court