

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)	
)	
Plaintiff,)	
)	
v.)	Criminal No. 1:15-10271-WGY
)	
ALEX LEVIN,)	
)	
Defendant.)	

RESPONSE TO COURT ORDER

The United States of America, by and through undersigned counsel, hereby responds to this Court’s March 25, 2016 oral order to provide the Court both with a list of investigations in which the Department of Justice has received judicial authorization to deploy a Network Investigative Technique (“NIT”), and the names of the judicial officers who authorized the use of those NITs.

Law enforcement agencies employ NITs such as the one at issue in this case only with judicial authorization. NITs allow investigators to ascertain information from a computer on which the NIT runs such as the Internet Protocol address of the computer despite attempts by the computer user to obscure that information,. This resource has served as a valuable tool in an array of criminal investigations.

The Department of Justice (“DOJ”) does not maintain a central and complete listing of instances in which, in the course of an investigation, DOJ, any of its components, or any other federal law enforcement agency (such as the Department of Homeland Security) sought and/or received judicial authorization to use a NIT. As a result, there is no workable way for the government to accurately compile and report the information that the Court requested.

Moreover, judicial authorizations for the deployment of NITs are typically sealed to ensure operational security and to avoid jeopardizing ongoing investigations. The government is not authorized to reveal information about matters that remain under seal. In its Response to Defendant's Motion to Suppress, however, the government referenced several unsealed judicially authorized NIT warrants, *see* Gov.'s Resp. to Def.'s Mot. to Suppress, pg. 23 (Doc. # 60), identifying (i) *United States v. Cottom, et. al.*, No. 13-cr-108 (D. Neb. Oct. 14, 2014) (Doc #122, Attachment 1; Doc. #123, Attachment 1) (2 separate NIT search warrants), (Doc. #155) (denying suppression motion); (ii) *In re Search of NIT for Email Address texas.slayer@yahoo.com*, No. 12-sw-5685 (D. Col. October 9, 2012) (Doc. #1) (search warrants); and (iii) *In re Search of Any Computer Accessing Electronic Message(s) Directed to Administrator(s) of MySpace Account "Timberlinebombinfo"*, No. 07-mj-5114 (W.D. Wash. June 12, 2007), available at <http://www.politechbot.com/docs/fbi.cipav.sanders.affidavit.071607.pdf> (search warrant).

Respectfully submitted,

CARMEN M. ORTIZ
United States Attorney

Date: April 1, 2016

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CERTIFICATE OF SERVICE

I, David G. Tobin, hereby certify that the foregoing was filed through the Electronic Court Filing system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Date: April 1, 2016

/s/ David G. Tobin
Assistant United States Attorney