

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN THE MATTER OF THE APPLICATION)
 OF THE UNITED STATES OF AMERICA FOR)
 AN ORDER AUTHORIZING: (1) THE FURTHER) M.B.D. No. 92-10218
 INTERCEPTION OF ELECTRONIC COMMUNICATIONS)
 TO DIGITAL DISPLAY PAGING DEVICE ASSIGNED)
 TELEPHONE NUMBERS (617) 532-3504 AND)
 1-800-22ALPHA; AND (2) THE INITIAL)
 INTERCEPTION OF WIRE ("VOICE MAIL"))
 COMMUNICATIONS FACILITATED BY MEANS OF)
 THE SAME DIGITAL DISPLAY PAGING DEVICE,)
 ASSIGNED TELEPHONE NUMBER (617) 553-0778)

GOVERNMENT'S MOTION FOR AN ORDER FURTHER POSTPONING
SERVICE OF INVENTORY NOTICES

The United States of America, by and through its undersigned attorneys, hereby moves the Court, pursuant to 18 U.S.C. Section 2518(8)(d), for an order further postponing the service of inventory notices of the electronic and wire surveillance in this matter to named interceptees and such other parties to whom such notice may be deemed due, for an additional period of ninety (90) days. In support of this motion, the government states as follows:

1. This joint federal/City of Boston investigation arises out of the October 28, 1992 detonation of an explosive device at the 39 Eastbourne St., Roslindale, MA, residence of Thomas L. Shay. The box-like device was equipped to be triggered by remote control and was originally affixed, by a combination of magnets, to the undercarriage of Shay's Buick automobile. The explosion, which occurred moments after their arrival on the scene, took the life of Boston Police Department Bomb Squad Officer Jeremiah Hurley and maimed Hurley's partner, Officer Francis X. Foley.

2. On March 12, 1989, the Court entered an order authorizing, for a period of thirty (30) days, the interception of both electronic (i.e., digital and alpha-numeric display) communications to that paging device assigned telephone numbers (617) 532-3504 and 1-800-22ALPHA and wire (i.e., voice mail) communications facilitated by means of the same digital display paging device, assigned telephone number (617) 553-0778 (the "Target Pager Device").

3. On or about April 10, 1992, interception of the above-described communications to the Target Pager Device terminated. No extension of that Order was sought.

4. On April 13, 1992, the Court authorized the sealing and impounding of the original and duplicate tape recordings of all intercepted wire communications occurring by means of the Target Pager Device.

5. 18 U.S.C. Section 2518(8)(d) provides, in pertinent part, as follows:

Within a reasonable time but not later than ninety days after the filing of an application for an order of approval under Section 2518(7)(b) which is denied or the termination of the period of an order or extensions thereof, the issuing or denying judge shall cause to be served, on the persons named in the order or the application, and such other parties to intercepted communications as the judge may determine in his discretion that is in the interest of justice, an inventory which shall include notice of --

(1) the fact of the entry of the order of the application;

(2) the date of the entry and the period of authorized, approved or disapproved interception, or the denial of the application; and

(3) the fact that during the period wire, oral, or electronic communications were or were not intercepted.

18 U.S.C. Section 2518(8)(d) further provides that:

On an ex parte showing of good cause to a judge of competent jurisdiction the serving of the inventory required by this subsection may be postponed.

6. On April 21, 1992, this Court entered its Order allowing the government's Motion for an Order Postponing Service of Inventory Notices, such Order directing that service of same be postponed until Monday, July 20, 1992. On July 16, 1992, this Court entered a further Order allowing the government's Motion (dated July 15, 1992) for an Order Further Postponing Service of Inventory Notices until close of business Monday, October 19, 1992.

7. As is set forth in the Third Affidavit of Special Agent Jeffrey S. Kerr, submitted herewith and incorporated herein by reference, the investigation of which the foregoing electronic and wire surveillance was a part is continuing. If the existence of such surveillance is revealed by issuance of inventory notice to any named interceptee and/or any other individual hereafter deemed to be due such notice, the additional investigative efforts currently being made will plainly be compromised. Any such disclosure would substantially and adversely impair the effectiveness of this investigation's efforts in uncovering the prior and ongoing activities of the named interceptees and others yet unknown, in concealing their respective roles in the underlying violations of federal criminal laws and could lead to

the flight of one or more putative defendants.


WHEREFORE, the government respectfully requests that service of inventory notices with respect to communications to the Target Pager Device, as to which surveillance was authorized by this Court by its Order of March 12, 1992, be postponed for an additional period of ninety (90) days from the date of allowance of the within motion.

It is further requested that this motion and the accompanying Third Affidavit of Jeffrey S. Kerr, as with all previously filed documents in this matter, be sealed and impounded.

Respectfully submitted,

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Acting United States Attorney

By:


FRANK A. LIBBY, JR.
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Date: October 15, 1992