

jury subpoena, a copy of which is attached to the accompanying proposed Non-Disclosure Order, on Service Provider directing it to disclose information within those categories.

3. When the Government seeks such information via grand jury subpoena, 18 U.S.C. § 2705(b) authorizes the Court to issue

an order commanding a provider of electronic communications service or remote computing service to whom a warrant, subpoena, or court order is directed, for such period as the court deems appropriate, not to notify any other person of the existence of the warrant, subpoena, or court order. The court shall enter such an order if it determines that there is reason to believe that notification of the existence of the warrant, subpoena, or court order will result in--

- (1) endangering the life or physical safety of an individual;
- (2) flight from prosecution;
- (3) destruction of or tampering with evidence;
- (4) intimidation of potential witnesses; or
- (5) otherwise seriously jeopardizing an investigation or unduly delaying a trial.

4. In this case, such an order would be appropriate because the attached subpoena relates to an ongoing criminal investigation that is neither public nor otherwise known to all targets of the investigation, the account holder is suspected of being involved in or associated with persons involved in the conduct under investigation, and disclosure of the subpoena to the account owner or to any other person may alert subjects or targets of the ongoing investigation. Accordingly, there is reason to believe that notification of the existence of the attached subpoena will seriously jeopardize the investigation, including by giving targets an opportunity to flee or avoid prosecution, or tamper with evidence, including electronically stored information that is easily tampered with. Given the amount of time a criminal investigation commonly lasts and the particular circumstances presented here, the Government respectfully submits that 180 days is an appropriate delay of notice period for the Court to order.

5. For the reasons set forth above, the Government further requests that the Court order that this Application and any resulting order be sealed until further order of the Court, except that the Government may provide copies of the application and order as need be to personnel assisting the Government in the investigation and prosecution of this matter, and may disclose these materials as necessary to comply with discovery and disclosure obligations in any prosecutions related to this matter.

6. No prior request for the relief set forth herein has been made.

WHEREFORE the Government respectfully requests the Court to enter the accompanying proposed 2705(b) Non-Disclosure Order.

Dated: New York, New York
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