

Comparison of electronic surveillance under Title III and FISA

	<u>TITLE III</u>	<u>FISA</u>
Application must include:	<p>- “Full and complete statement” of the facts and circumstances relied upon to justify belief that order should be issued, including:</p> <ul style="list-style-type: none"> • details of particular offense • description and location of facilities to be surveilled • description of type of communication to be intercepted • identity of the person committing the offense, if known <p>- “Full and complete statement” that other investigative procedures have been tried and failed or why appear unlikely to succeed if tried</p>	<p>- Statement of facts and circumstances to justify belief that:</p> <ul style="list-style-type: none"> • target a foreign power or agent thereof; and • each of the facilities at which surveillance directed is being used or about to be used by foreign power or agent thereof <p>- Statement of proposed minimization procedures</p> <p>- Certification that significant purpose is to obtain foreign intelligence information</p> <p>- Certification, and statement of basis therefore, that information cannot reasonably be obtained by normal investigative techniques</p>
Order granted if judge finds:	<p>- Probable cause to believe that target has committed, is committing, or is about to commit an enumerated crime</p> <p>- Probable cause to believe that communications concerning the offense will be obtained by surveillance</p> <p>- Probable cause to believe that facilities to be surveilled are being used in connection with the offense</p> <p>- That normal investigative techniques have been tried and failed or appear unlikely to succeed if tried</p>	<p>- Probable cause to believe that target is a foreign power or agent thereof</p> <p>- Probable cause to believe that each of the facilities at which surveillance directed is being used or about to be used by foreign power or agent thereof</p> <p>- Proposed minimization procedures meet statutory requirements</p>
Duration	Up to 30 days	Up to 90 days, 120 days, or one year, depending on nature of target
Notice	Yes	No, unless communications introduced in criminal proceeding
Discovery	Yes	No, so long as government moves for <i>ex parte</i> and <i>in camera</i> consideration