DOJ and the ODNI Announce the Publication of Additional FISC Filings, Opinions and Orders Regarding Collection Under Section 501 of the FISA

DEPARTMENT OF JUSTICE AND THE OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE ANNOUNCE THE PUBLICATION OF ADDITIONAL FOREIGN INTELLIGENCE SURVEILLANCE COURT FILINGS, OPINIONS AND ORDERS REGARDING COLLECTION UNDER SECTION 501 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

April 25, 2014

On January 3, 2014, the Director of National Intelligence declassified and disclosed publically that the U.S. government had filed an application with the Foreign Intelligence Surveillance Court seeking renewal of the authority to collect telephony metadata in bulk, and that the FISC renewed that authority. The Office of the Director of National Intelligence also announced that the Administration was undertaking a declassification review of the FISC's January 3 Primary Order. On February 12, 2014, and following a declassification review by the Executive Branch, the FISC released in redacted form the previously classified January 3 Primary Order it had issued in Docket Number BR 14-01, along with a number of other documents.

On January 22, 2014, following service of a Section 215 production order issued by the FISC in Docket Number BR 14-01, a provider petitioned the Court to "vacate, modify, or reaffirm" the production order in light of the Memorandum Opinion issued by the United States District Court for the District of Columbia in Klayman, et al., v. Obama, et al., No. 13-cv-0851 on December 16, 2013. That Memorandum Opinion held, in the context of ruling on a motion for preliminary injunction, that the plaintiffs were likely to succeed on their claim that the NSA Section 215 program authorized by orders of the FISC violated the Fourth Amendment.

On March 20, 2014, the FISC issued an Opinion and Order addressing the provider's petition. The FISC held that the district court's opinion in Klayman was unpersuasive, concluded that it provided no basis for vacating the production order, and held that Smith v. Maryland, 442 U.S. 735 (1979) is the controlling precedent. Accordingly, the FISC reaffirmed its production order and directed continued compliance on the part of the provider.

Following the completion of FISC-ordered declassification reviews by the Executive Branch, today the FISC released in redacted form the previously classified January 22, 2014, provider petition; a January 23, 2014, Scheduling Order; a February 12, 2014, Response of the United States to the provider petition; a March 20, 2014, Opinion and Order signed by the Honorable Rosemary M. Collyer, and an April 11, 2014, Order. These documents are available at the FISC's website, www.uscourts.gov; the Department of Justice's website, www.justice.gov; the website of the Office of the Director of National Intelligence, www.dni.gov; and IContheRecord.tumblr.com, the public website dedicated to fostering greater public visibility into

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the intelligence activities of the U.S. Government.

BR 14-01 Petition - January 22, 2014

BR 14-01 Scheduling Order - January 23, 2014

BR 14-01 Govt. Response - February 12, 2014

BR 14-01 Opinion and Order, March 20, 2014

BR 14-01 FISC Order - April 11, 2014

BR 14-01 Order Regarding Unsealing and Publication Apr 25 2014