Newly Declassified Documents Regarding the Now-Discontinued NSA Bulk Electronic Communications Metadata Pursuant to Section 402 of the Foreign Intelligence Surveillance Act

Following a declassification review by the Executive Branch, the Department of Justice released on August 6, 2014, in redacted form, 38 documents relating to the now-discontinued NSA program to collect bulk electronic communications metadata pursuant to Section 402 of the FISA ("PRTT provision"). These documents are also responsive to a Freedom of Information Act request by the Electronic Privacy Information Center. The Intelligence Community previously released information about this program to the public on November 18, 2013.

Under the program NSA was permitted to collect certain electronic communications metadata such as the "to," "from," and "cc" lines of an email and the email's time and date. This collection was done only after the Foreign Intelligence Surveillance Court approved the government's applications, and pursuant to court order generally lasting 90 days. NSA was not permitted to collect the content of any electronic communications. Like NSA's bulk telephony metadata program under FISA section 501, this program was subject to several restrictions approved by the FISC, such as:

- The information could be used only for counterterrorism purposes.
- The information had to be stored in secure databases.
- The databases could be queried using an identifier such as an email address only when an analyst had a reasonable and articulable suspicion that the email address was associated with certain specified foreign terrorist organizations that were the subject of FBI counterterrorism investigations. The basis for that suspicion had to be documented in writing and approved by a limited number of designated approving officials identified in the Court's Order. Moreover, if an identifier was reasonably believed to be used by a United States person, NSA's Office of General Counsel would also review the determination to ensure that the suspected association was not based solely on First Amendment-protected activities.
- NSA was required to destroy the bulk metadata after a set period of time.

The information released on August 6, 2014, together with documents previously released, demonstrates the extent to which the IC sought and received FISC approval to collect electronic communications metadata under the PRTT provision, the oversight regime of internal checks over the program, and that Congress was kept fully apprised of the status of NSA's electronic metadata collection. The documents released include several associated with government applications and FISC orders authorizing the collection of metadata under the PRTT program. Other documents included in this release include the report of an end-to-end review of the

Newly Declassified Documents Regarding the Now-Discontinued NSA Bulk Electronic Communications Metadata Pursuant to Section 402 of the Foreign Intelligence Surveillance Act

PRTT program undertaken by the Executive Branch, DOJ's letter to the FISC seeking clarification on the FISC's authorization to collect metadata, and correspondence from the NSA Inspector General.

After the 2009 discovery of certain compliance issues associated with NSA's electronic communications and telephony bulk metadata collection programs, the Government took measures to strengthen compliance and oversight. More information on NSA's enhanced compliance mechanisms can be found in the November 18, 2013, release.

As previously stated, this Internet communications metadata bulk collection program has been discontinued. The Intelligence Community regularly assesses the continuing operational value of all of its collection programs. In 2011, the Director of NSA called for an examination of this program to assess its continuing value as a unique source of foreign intelligence information. This examination revealed that the program was no longer meeting NSA's operational expectations. Accordingly, after careful deliberation, the Government discontinued the program, and the metadata collected pursuant to this program has been purged.

In addition, the DOJ also released four documents that do not directly relate to bulk collection under the PRTT provision but are responsive to EPIC's FOIA request. Like the documents relating to the bulk collection, these documents demonstrate the FISC's judicial oversight of PRTT collection under the FISA.

Office of the Director of National Intelligence Public Affairs Office

Judicial Oversight

FISC Opinion and Order

FISC Primary Order

FISC Primary Order

FISC Order and Supplemental Order

FISC Supplemental Order

Newly Declassified Documents Regarding the Now-Discontinued NSA Bulk Electronic Communications Metadata Pursuant to Section 402 of the Foreign Intelligence Surveillance Act

FISC Primary Order

FISC Memorandum Opinion Granting in Part and Denying in Part Application to Reinitiate, in Expanded Form, Pen Register/Trap and Trace Authorization

Declaration of NSA Chief, Special FISA Oversight and Processing, Oversight and Compliance, Signals Intelligence Directorate, the National Security Agency

Government's Response to the FISC's Supplemental Order

Declaration of NSA Chief, Special FISA Oversight and Processing, Oversight and Compliance, Signals Intelligence Directorate, the National Security Agency

Supplemental Declaration of Chief, Special FISA Oversight and Processing, Oversight and Compliance, Signals Intelligence Directorate, the National Security Agency

Government's Response to the FISC's Supplemental Order Requesting a Corrective Declaration

Government's Response to a FISC Order

Declaration of Lieutenant General Keith B. Alexander, U.S. Army, Director, NSA, Concerning NSA's Compliance with a FISC Order

Preliminary Notice of Potential Compliance Incident

Notice of Filing

Government's Application for Use of Pen Register/Trap and Trace Devices for Foreign Intelligence Purposes

Memorandum of Law and Fact in Support of Application for Pen Registers and Trap and Trace Devices for Foreign Intelligence Purposes

Declaration of General Keith B. Alexander, U.S. Army, Director, NSA, in Support of Pen Register/Trap and Trace Application

Exhibit D in Support of Pen Register/Trap and Trace Application

Newly Declassified Documents Regarding the Now-Discontinued NSA Bulk Electronic Communications Metadata Pursuant to Section 402 of the Foreign Intelligence Surveillance Act

First Letter in Response to FISC Questions Concerning NSA bulk Metadata Collection Using Pen Register/Trap and Trace Devices

Second Letter in Response to FISC Questions concerning NSA bulk Metadata Collection Using Pen Register/Trap and Trace Devices

Third Letter in Response to FISC Questions Concerning NSA Bulk Metadata Collection Using Pen Register/Trap and Trace Devices

Application for Pen Register/Trap and Trace Devices for Foreign Intelligence Purposes

Memorandum of Law and Fact in Support of Application for Pen Registers and Trap and Trace Devices for Foreign Intelligence Purposes

Declaration of General Michael V. Hayden, U.S Air Force, Director, NSA, in Support of Pen Register/Trap and Trace Application

Application for Use of Pen Register/Trap and Trace Devices for Foreign Intelligence Purposes

Declaration of NSA Chief, Special FISA Oversight and Processing, Oversight and Compliance, Signals Intelligence Directorate

Declaration Lieutenant General Keith B. Alexander, U.S. Army, Director, NSA, Concerning NSA's Implementation of Authority to Collect Certain Metadata

NSA's Pen Register Trap and Trace FISA Review Report

DOJ Report to the FISC NSA's Program to Collect Metadata

Government's First Letter to Judge Bates to Confirm Understanding of Issues Relating to the FISC's Authorization to Collect Metadata

Government's Second Letter to Judge Bates to Confirm Understanding of Issues Relating to the FISC's Authorization to Collect Metadata

Tab 1 Declaration of NSA Chief, Special Oversight and Processing, Oversight and Compliance, Signals Intelligence

Verified Memorandum of Law in Response to FISC Supplemental Order

Newly Declassified Documents Regarding the Now-Discontinued NSA Bulk Electronic Communications Metadata Pursuant to Section 402 of the Foreign Intelligence Surveillance Act

Memorandum of Law in Response to FISC Order

Additional Declassification -- Added August 22, 2014:

Declaration of George J. Tenet, Director of Central Intelligence, in Support of Pen Register/Trap and Trace Application

Report Regarding FBI Databases

Congressional Oversight

Government's Motion to Unseal FISC Documents in Order to Brief Congressional Intelligence and Judiciary Committees

Order Granting the Government's Motion to Unseal FISC Documents in Order to Brief Congressional Intelligence and Judiciary Committees

April 27, 2005 Testimony of the Attorney General and Director, FBI Before the Senate Select Committee on Intelligence

Internal Oversight

NSA IG Memo Announcing its Audit of NSA's Controls to Comply with the FISA Court's Order Regarding Pen Register/Trap and Trace Devices

NSA IG Memo Suspending its Audit of NSA after the NSA's PRTT Metadata Program Expired