All redacted information exempt under b(1) and/ or b(3) except where otherwise noted.

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D. C.

[redacted]

Docket Number: PR/TT [redacted]

PRIMARY ORDER

A verified application having been made by the Attorney General of the United States for an order authorizing installation and use of pen registers and trap and trace devices pursuant to the Foreign Intelligence Surveillance Act of 1978 (FISA or the Act), Title 50, United States Code (U.S.C.), §§ 1841-1846, and full consideration having been given to the matters set forth therein, the Court finds that:

Derived from: Pleadings in the above-captioned docket
~~Declassify on:~~ [redacted]

1. The Government's Application has been made and approved by the Attorney General, who is authorized to make such applications under the Act.

2. The Attorney General has certified that the information likely to be obtained from the requested pen registers and trap and trace devices is relevant to ongoing investigations to protect against international terrorism that are not being conducted solely upon the basis of activities protected by the First Amendment to the Constitution.

3. [redacted]

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[1] For purposes of this Order [redacted]

[2] For purposes of this Order, [redacted]

[redacted] are the subjects of numerous national security investigations conducted by the Federal Bureau of Investigation (FBI) under guidelines approved by the Attorney General pursuant to Executive Order 12333, as amended.

4. The pen registers and trap and trace devices [redacted] described in Tab 1 to the Declaration of General Keith B. Alexander, U.S. Army, Director of the National Security Agency ("DIRNSA Declaration"), which is attached to the Government's Application as Exhibit A, [redacted] in Tab 1 to the DIRNSA Declaration (the "Facilities").

WHEREFORE, relying upon and adopting the conclusions set forth in its [redacted] Memorandum Opinion in the above-captioned docket (the "[redacted] Memorandum Opinion"), the Court finds that the Application of the United States to install and use pen registers and trap and trace devices, as described in the Application and modified in the [redacted] Memorandum Opinion, satisfies the requirements of the Act and specifically of 50 U.S.C. § 1842 and, therefore,

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[redacted]

IT IS HEREBY ORDERED, pursuant to the authority conferred on this Court by the Act, that the Application is GRANTED as MODIFIED HEREIN, and it is

FURTHER ORDERED, as follows:

(1) As requested, installation and use of pen registers and trap and trace devices at the Facilities identified in paragraph 4 above are authorized for the period specified herein, unless otherwise ordered by this Court.

(2) The authority granted is within the United States.

(3) As requested in the Application, [redacted] ("Specified Persons") are directed to furnish NSA with any information, facilities, or technical assistance necessary to accomplish the installation and operation of pen registers and trap and trace devices authorized herein at the Facilities identified in paragraph 4 above, for purposes of targeting the Foreign Powers and unknown persons in the United States and abroad affiliated with one or more of the Foreign Powers, in such a manner as will protect their secrecy and produce a minimum amount of interference with the

services each Specified Person is providing to its subscribers.[3] Each Specified Person shall not disclose the existence of the investigation or of the pen registers and trap and trace devices to any person, unless or until ordered by the Court, and shall maintain all records concerning the pen registers and trap and trace devices, or the aid furnished to NSA, under the security procedures approved by the Attorney General and the Director of Central Intelligence (or the Director of National Intelligence) that previously have been or will be furnished to each Specified Person and are on file with this Court.

(4) NSA shall compensate the Specified Persons for reasonable expenses incurred in providing any information, facilities, or technical assistance in connection with the installation and use of the pen registers and trap and trace devices authorized herein.

(5) NSA shall implement the authority granted herein in the following manner:

A. NSA shall, pursuant to this Order, collect only metadata approved for acquisition in Part II of the [redacted] Memorandum Opinion.

B. NSA shall store and process the collected metadata in repositories within secure networks under NSA's control.[4] The collected metadata shall carry unique markings such

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[3] [redacted]

[4] The Court understands that the metadata will also be maintained in recovery back-up systems for mission assurance and continuity of operations purposes, and that NSA will ensure that any access or use of the metadata in the event of any natural disaster, man-made emergency, attack, or other unforeseen event is in compliance with the Court's Order. ~~(TS//SI//NF)~~

that software and other controls (including user authentication services) can restrict access to it to authorized personnel who have received appropriate and adequate training with regard to this authority. NSA shall restrict access to the metadata to authorized personnel who have received appropriate and adequate training. Trained and authorized technical personnel may access the collected metadata to perform those processes needed to make it usable for intelligence analysis. Technical personnel may query the metadata using identifiers[5] that have not been RAS-approved (described below) for those purposes described above, and may share the results of those queries with other authorized personnel responsible for these purposes, but the results of any such queries shall not be used for intelligence analysis purposes. An authorized technician may query the metadata with a non-RAS-approved identifier to determine whether that identifier is a [redacted] If so, the technician may share the results of that query, i.e., the identifier and the fact that [redacted] with authorized personnel (including those responsible for the identification and defeat of [redacted] unwanted metadata from any of NSA's various metadata repositories), but may not share any other information from the results of that query for intelligence analysis purposes.

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[5] For purposes of this Order, the term "identifier" means [redacted]

~~(TS//SI//NF)~~

C. NSA shall access the metadata for intelligence analysis purposes only as follows:

(i) NSA analysts may conduct contact chaining queries of the collected metadata, as described at paragraph 24 of the DIRNSA Declaration, for the purpose of obtaining foreign intelligence information using identifiers approved as "seeds" pursuant to the RAS approval process described below. NSA shall ensure, through adequate and appropriate technical and management controls, that no queries of the metadata will be conducted for intelligence analysis purposes using an identifier that has not been RAS-approved.

(a) Identifiers to be used as "seeds" with which to query the collected metadata may be approved by any of the following designated approving officials: the Chief or Deputy Chief, Homeland Security Analysis Center; or one of the twenty specially-authorized Homeland Mission Coordinators in the Analysis and Production Directorate of the Signals Intelligence Directorate. Such approval shall be given only after the designated approving official has determined that, based on the factual and practical considerations of everyday life on which reasonable and prudent persons act, there are facts giving rise to a reasonable articulable suspicion that the identifier is associated with a Foreign Power; provided, however, that

NSA's Office of General Counsel (OGC) shall first determine that any identifier reasonably believed to be used by or associated with a United States person is not regarded as associated with a Foreign Power solely on the basis of activities that are protected by the First Amendment to the Constitution.

(b) Identifiers that are the subject of electronic surveillance and/or physical search authority granted by this Court based on a finding of probable cause to believe that they are used by agents of a Foreign Power, including any reasonably believed to be used by United States persons, may be deemed RAS-approved for the period of Court-authorized electronic surveillance and/physical search without further review and approval by an NSA designated approving official. The preceding sentence shall not apply to identifiers under surveillance pursuant to any certification of the Director of National Intelligence and the Attorney General pursuant to Section 702 of FISA, as added by the FISA Amendments Act of 2008, or pursuant to an Order of the FISC issued under Section 703 or Section 704 of FISA, as added by the FISA Amendments Act of 2008.

(c) A determination by a designated approving official that an identifier is associated with a Foreign Power shall be effective for 180 days for any identifier reasonably believed to be used by a United States person; and one year for all other identifiers.

(ii) Whenever the metadata is queried for intelligence analysis purposes or using intelligence analysis query tools, an auditable record of the activity shall be generated.

D. Results of intelligence analysis queries of the collected metadata may be shared, prior to minimization, for intelligence analysis purposes among NSA analysts, subject to the training requirement that is discussed below.[6] NSA shall apply the minimization and dissemination requirements and procedures of Section 7 of United States Signals Intelligence Directive SP0018 (USSID 18) to any results from queries of the metadata disseminated outside of NSA in any form. Additionally, prior to disseminating any U.S. person information outside NSA, one of the officials listed in Section 7.3(c) of USSID 18 (i.e., the Director of NSA, the Deputy Director of NSA, the Director of the Signals Intelligence Directorate (SID), the Deputy Director of the SID, the Chief of the Information Sharing Services (ISS) office, the Deputy Chief of the ISS office, and the Senior Operation Officer of the National Security Operations Center) must determine that the information identifying the U.S. person is in fact related to counterterrorism information and that it is necessary to understand the counterterrorism information or assess its importance.[7]

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[6] In addition, the Court understands that NSA may apply the full range of SIGINT analytic tradecraft, as described in more detail in the DIRNSA Declaration, to the results of intelligence analysis queries of the collected metadata.

[7] In the event that the government encounters circumstances that it believes necessitate alteration of these dissemination procedures, it may obtain prospectively-applicable modifications to the procedures upon a determination by the Court that such modifications are appropriate under the circumstances and in light of the size and nature of this bulk acquisition.

Notwithstanding the above requirements, NSA may share results derived from intelligence analysis queries of the metadata, including U.S. person identifying information, with Executive Branch personnel (1) in order to enable them to determine whether the information contains exculpatory or impeachment information or is otherwise discoverable in legal proceedings or (2) to facilitate their lawful oversight functions.

E. The metadata collected by the pen registers and trap and trace devices shall be destroyed no later than five years (60 months) after initial collection.

F. NSA and the National Security Division of the Department of Justice (NSD/DoJ) shall conduct oversight of NSA's activities under this authority as outlined below.

(i) NSA's OGC and Office of the Director of Compliance (ODOC) shall ensure that personnel with access to the metadata receive appropriate and adequate training and guidance regarding the procedures and restrictions for collection, storage, analysis, dissemination, and retention of the collected metadata and the results of queries of the collected metadata. NSA OGC and ODOC shall further ensure that all NSA personnel who receive PR/TT query results in any form first receive appropriate and adequate training and guidance regarding the procedures and restrictions for the handling and

dissemination of such information.[8] NSA shall maintain records of all training that is provided pursuant to this Order. OGC shall provide NSD/DoJ with copies of all formal briefing and/or training materials (including all revisions thereto) used to brief/train NSA personnel concerning this authority.

(ii) NSA's ODOC shall monitor the implementation and use of the software and other controls (including user authentication services) and the logging of auditable information referenced above.

(iii) NSA's OGC shall consult with NSD/DoJ on all significant legal opinions that relate to the interpretation, scope, and/or implementation of this authority. When operationally practicable, such consultation shall occur in advance; otherwise NSD will be notified as soon as practicable.

(iv) At least once during the authorization period, NSA's OGC, ODOC, NSD/DoJ, and any other appropriate NSA representatives shall meet for the purpose of assessing compliance with this Court's orders. Included in this meeting shall be a review of the metadata collected to ensure that only approved metadata is being acquired. The results of this meeting shall be reduced to writing and submitted to the Court as part of any application to renew or reinstate the authority requested herein.

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[8] The nature of the training that is appropriate and adequate for a particular person will depend upon the person's responsibilities and the circumstances of his access to the metadata or information derived therefrom.

(v) At least once during the authorization period, NSD/DoJ shall meet with NSA's Office of the Inspector General to discuss their respective oversight responsibilities and assess NSA's compliance with the Court's orders.

(vi) At least once during the authorization period, NSA's OGC and NSD/DoJ shall review a sample of the justifications for RAS approvals for identifiers used to query the metadata.

(vii) Prior to implementation, all proposed automated query processes shall be reviewed and approved by NSA's OGC, NSD/DoJ, and the Court.

G. The provisions of this Court's [redacted] Order in Docket Number PR/TT [redacted] governing access to and use of information acquired under color of previous authorizations in that docket and predecessor dockets are hereby rescinded. NSA is authorized to access and use the information collected in accordance with the terms of previous Court authorizations in docket number PR/TT [redacted] and predecessor dockets, subject to procedures and restrictions set forth herein. NSA is authorized to access and use, subject to the procedures and restrictions set forth herein, information acquired in violation of previous Court authorizations in docket number PR/TT [redacted] and predecessor dockets, but only to the extent that such access and use are not prohibited by 50 U.S.C. § 1809(a)(2), as discussed in Part V of the [redacted] Memorandum Opinion.

H. Approximately every thirty days, NSA shall file with the Court a report that

includes a discussion of the queries made since the last report and NSA's application of the RAS standard. In addition, should the United States seek renewal of the authority granted herein, NSA shall also include in its report detailed information regarding any new facility proposed to be added to such authority and a description of any changes proposed in the collection methods, [redacted] of the pen registers and trap and trace devices.

Each report under this provision shall include a statement of the number of instances since the preceding report in which NSA has shared, in any form, information obtained or derived from the metadata with anyone outside NSA. For each such instance in which United States person information has been shared, the report shall also include NSA's attestation that one of the officials authorized to approve such disseminations determined, prior to dissemination, that the information was related to counterterrorism information and necessary to understand the counterterrorism information or to assess its importance.

Each report shall also include a description of the government's efforts to segregate those portions of the information collected under the Court's orders in docket number

-- Remainder of page intentionally left blank --

PR/TT [redacted] and predecessor dockets that it intends to access and use from the portions it is prohibited from using by 50 U.S.C. § 1809(a)(2).

Signed [redacted] P02:37 E.T.
Date Time

This authorization regarding [redacted] expires on the [redacted] at 5:00 p.m., Eastern Time.

JOHN D. BATES
Judge, United States Foreign
Intelligence Surveillance Court

I, [redacted] Deputy Clerk, FISC, certify that this document is a true and correct copy of the original [redacted]