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QUARTERLY REPORT TO THE FOREIGN INTELLIGENCE SURVEILLANCE COURT CONCERNING COMPLIANCE MATTERS UNDER SECTION 702 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

March 2015

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(U) INTRODUCTION

~~(S)~~ This report is submitted pursuant to Rule 13(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court (hereinafter, "the Court") and in compliance with the Court's August 25, 2009, instructions regarding providing timely and effective notification to the Court of compliance issues involving the Government's implementation of its authorities under Section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA). As described in a February 4, 2010, letter to the Court, the Department of Justice's National Security Division (NSD) files prompt notices to the Court regarding compliance matters in several categories of particular concern. This report provides the Court with further information regarding those incidents and notifies the Court of other compliance incidents that did not fall within the specified categories.

~~(TS//SI//OC/NF)~~ This quarterly report covers incidents reported to NSD and the Office of the Director of National Intelligence (ODNI) from December 1, 2014, through February 28, 2015. To provide some context to the scope of the Government's collection during this period, the National Security Agency (NSA) reports that, on average, approximately [redacted] individual facilities[1] were under task at any given time between December 1, 2014, and February 28, 2015. These facilities include those initially tasked under the NSA's Section 702 targeting procedures during this reporting period, as well as facilities that had been tasked prior to this reporting period, either pursuant to the NSA Section 702 targeting procedures or under the authority of several certifications made by the Attorney General and Director of National Intelligence (DNI) pursuant to the Protect America Act of 2007, Pub. L. No. 110-55, 121 Stat. 552 (Aug. 5, 2007) (hereinafter, "Protect America Act" or "the PAA"). Additionally, between (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ NSD and ODNI conduct oversight of NSA's, the Central Intelligence Agency's (CIA), and FBI's use of Section 702 authorities. This oversight occurs in two principal manners. First, the vast majority of the incidents discussed below were initially reported by the reviewed agencies themselves. NSD and ODNI inquired about and, where appropriate, investigated the compliance matters discussed herein. Second, NSD and ODNI conducted targeting and minimization reviews at each of these agencies to ensure compliance with the procedures.[3]

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[1] ~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

[2] ~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

[3] ~~(S)~~ Minimization procedures also govern the National Counterterrorism Center's (NCTC) review of previously minimized Section 702-acquired information in limited situations. Specifically, NCTC is not currently authorized to receive unminimized Section 702 data. However, NCTC ingests data from FBI systems which contain minimized Section 702 information. Because NCTC is not a law enforcement agency, it may not receive disseminations of Section 702 information that is evidence of a crime, but which has no foreign intelligence value. NCTC's minimization procedures are very limited in scope, and are primarily designed to require purging in situations in which NCTC personnel discover purely law enforcement information in the course of reviewing Section 702-acquired

Targeting reviews included an offsite review by NSD of facilities tasked by NSA, with a subsequent onsite review by NSD and ODNI at NSA and (when appropriate) CIA or FBI to answer any questions raised during the initial offsite review. For (b)(1); (b)(3); (b)(7)(E) [redacted] NSD and ODNI also conducted onsite minimization reviews at NSA, CIA, and FBI, with a particular focus on these agencies' dissemination of United States person information. Compliance incidents discovered during any of these targeting and minimization reviews are described in more detail below.

(U) For ease of reference to the Court, this report contains the text, modified only for internal consistency, of the latest Rule 13(b) notice regarding each compliance matter previously reported. Any additional information obtained since the filing of the latest Rule 13(b) notice is clearly delineated.

(U) NEW INCIDENTS OF NONCOMPLIANCE

I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and Minimization Procedures

~~(S)~~ Below are descriptions of incidents involving noncompliance with the NSA targeting and minimization procedures. There have been four primary categories of incidents of noncompliance with the NSA targeting procedures during this reporting period. The first category involves incidents where noncompliance with the targeting procedures resulted in an error in the initial tasking of the facility. The second category involves incidents in which the facility was properly tasked in accordance with the targeting procedures, but errors in the detasking of the facility caused noncompliance with the targeting procedures. The third category involves incidents in which a facility was properly tasked and (when necessary) detasked in accordance with the targeting procedures, but a notification requirement contained in the targeting procedures was not satisfied. The fourth category involves incidents where the determination to target a facility was not properly documented as required by the targeting procedures. In addition, [redacted] incidents involving NSA's minimization procedures and [redacted] other incidents are reported below. In some instances, an incident involved more than one type of noncompliance. Such incidents are discussed below only once, although each type of noncompliance has been noted where appropriate.

~~(TS//SI//NF)~~ ***Regarding Purges Discussed in this Report.*** Many of the compliance incidents in this report required NSA to purge Section 702-acquired data from appropriate systems. As the Court is aware, NSA revised its purging process in 2010 in response to prior deficiencies in its purging practices. NSA has identified and applied a certification process to systems that handle Section 702-acquired data. To the extent that NSA has officially certified a system, the Government believes that the system is compliant with the purge requirements of the NSA Section 702 targeting and minimization procedures, and

information either in FBI systems or in NCTC systems which have directly ingested the information. No incidents of noncompliance with the NCTC minimization procedures were identified during this reporting period.

thus will be able to properly execute purging actions. NSA has also developed a Master Purge List (MPL)[4] to be used to document and assist in the application of its purge practices.[5]

~~(TS//SI//NF)~~ The relevant purge dates in this report for NSA reflect not the date on which NSA removed the data from its systems, but rather the date on which the unique identifiers of the objects[6] to be purged were added to the MPL.[7] [redacted] once an object is on the MPL it may not be used to source FISA applications or NSA product reporting absent a waiver or other legal process. [redacted] occur as part of a separate action, but in all cases adding the communications to the MPL prevents their use in NSA reporting and FISA applications.

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[4] ~~(TS//SI//NF)~~ As stated in the Director of NSA's affidavit filed on [redacted] 2010, in docket number [redacted] (hereinafter "DIRNSA affidavit"), "NSA has used its existing records of past purge actions across all SIGINT authorities to create [the MPL]. This list includes the identifiers of unique items purged from select NSA systems." DIRNSA affidavit at 4.

[5] ~~(C/NF)~~ [redacted]

[6] ~~(S)~~ [redacted]

[7] ~~(S)~~ [redacted].

[8] ~~(TS//SI//NF)~~ [redacted]

~~(TS//SI//NF)~~ For each incident requiring a purge, NSA also has a process to identify and, as appropriate, revise or recall reporting based on the purged collection. [redacted] This quarterly report indicates (for every incident requiring a purge) whether NSA's above-described process has identified any disseminated reports based upon the purged objects at issue and, if so, the disposition of those reports.

~~(S//NF)~~ CIA and FBI receive unminimized data from many Section 702-tasked facilities, and at times are thus required to conduct similar purges.[9] For each incident requiring the purging of data, NSD has confirmed with CIA and FBI that either: (1) CIA and FBI received no data from NSA that required purging; or (2) CIA and/or FBI have completed the required purge. When a CIA or FBI purge was required, its occurrence is noted in this report. When a required purge for any of the agencies has not been completed, this is also noted.

[redacted]

[redacted]

[9] ~~(S//SI//NF)~~ [redacted]

~~(S//NF)~~ With respect to FBI's purge process,[10] raw Section 702-acquired data (b)(1); (b)(3); (b)(7)(E) [redacted] (b)(1); (b)(3); (b)(7)(E) [redacted] Like CIA, FBI's purge protocol begins (b)(1); (b)(3); (b)(7)(E) [redacted] If so, FBI immediately sequesters the data in (b)(1); (b)(3); (b)(7)(E) and then conducts a purge of this system. If any FBI personnel had accessed the now-sequestered (b)(1); (b)(3); (b)(7)(E) records, FBI contacts these individuals to determine whether the data has been disseminated or otherwise migrated to any other FBI systems. If so, the migrated data is purged and the disseminated data is recalled. (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ Section 702-acquired data in (b)(1); (b)(3); (b)(7)(E) is (b)(1); (b)(3); (b)(7)(E) [redacted], and any purges that occur in (b)(1); (b)(3); (b)(7)(E) are automatically reflected in (b)(1); (b)(3); (b)(7)(E) as a result of this (b)(1); (b)(3); (b)(7)(E) (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ Like the other agencies, FBI similarly reports that its purge process generally does not extend to temporary archives utilized for backup purposes.[13] These archives are only accessible to FBI technical personnel. FBI reports that these archives have limited capacity, (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S)~~ **(A) Tasking Errors.** The following [redacted] incidents involved noncompliance with the NSA targeting procedures that resulted in an error in the initial tasking of the facility.[14]

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[10] ~~(S//NF)~~ In notices filed in May and July 2014 and March 2015, the Government advised the FISC of gaps in the FBI's purge process and the FBI's resolution of the matter.

[11] ~~(S//NF)~~ In a notice filed on October 1, 2013, the Government advised the FISC that there were multiple instances in (b)(1); (b)(3); (b)(7)(E) [redacted] On November 14, 2013, the Attorney General and Director of National Intelligence approved amended certifications which include amended minimization procedures for FBI that permit FBI to process and retain raw Section 702-acquired information, subject to certain conditions and restrictions, in ad hoc FBI databases in order to conduct additional analysis of the Section 702-acquired information. The FISC approved these minimization procedures on December 13, 2013.

[12] ~~(S)~~ FBI advises that (b)(1); (b)(3); (b)(7)(E) [redacted]

[13] ~~(S//NF)~~ FBI advises that as an added precaution, FBI conducts purges of one temporary backup archive (b)(1); (b)(3); (b)(7)(E) [redacted]

[14] ~~(S)~~ [redacted].

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[redacted]

~~(S)~~ **(C) Noncompliance with a Notification Requirement.**

~~(S)~~ NSA's targeting procedures require NSA to report certain incidents to NSD and ODNI even if these incidents do not involve noncompliance with the targeting procedures. Specifically, NSA is required to terminate acquisition and notify NSD and ODNI if "NSA concludes that a person is reasonably believed to be located outside the United States and after targeting this person learns that the person is inside the United States, or if NSA concludes that a person who at the time of targeting was believed to be a non-United States person was in fact a United States person." NSA Targeting Procedures at 8-9. This notification must occur within five business days.

~~(S)~~ In addition to other notification issues noted in incident descriptions above, during the period covered by this report, there have been [redacted] incidents involving circumstances in which NSA did not notify NSD and ODNI within the required five business days.

~~(S)~~ In [redacted] of the [redacted] incidents [redacted] In the remaining [redacted] incidents, a facility NSA reasonably believed to be used by a non-United States person was found to be used by a United States person. Reporting delays ranged from one to 131 business days, with an average delay of approximately 19 business days.[52]

~~(S)~~ NSA advised that it acquired no relevant data from the tasking [redacted]. With respect [redacted] facilities, NSA advised that [redacted]. With respect to the remaining facility, NSD is still confirming the necessary purges at NSA.

~~(S)~~ CIA advised that it was [redacted] Section 702 data for [redacted] of the [redacted] incidents. CIA advised that it completed the necessary purges as of February 10, 2015, and that it identified no reporting based on the collection. (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S)~~ **(D) Noncompliance with Documentation Requirements.**

~~(S)~~ The fourth category of incidents involved noncompliance with the documentation requirements of the NSA targeting procedures. The NSA targeting procedures approved for use in each certification require that NSA's documentation concerning each tasked facility contain a citation to the source of information upon which the determination was made that the user of that

[51] ~~(S)~~ [redacted]

[52] ~~(S)~~ There were [redacted] instances in which the respective delays were 131 and 53 business days, [redacted] due to incident reports being inadvertently lost by an agency. Otherwise, the longest delay was 13 business days. Without those [redacted] instances, the average delay was approximately four days.

facility was reasonably believed to be located outside the United States (the "foreignness determination") and identify the foreign power or foreign territory about which NSA expects to obtain foreign intelligence information pursuant to the tasking. According to the procedures, the purpose of the citation is to "enable those responsible for conducting oversight to locate and review the information that led NSA analysts to conclude that a target is reasonably believed to be outside the United States."

~~(S)~~ According to requirements set forth in the NSA targeting procedures, NSD and ODNI conducted regular Section 702 oversight reviews in order to evaluate NSA's implementation of its targeting procedures. Two such reviews occurred during this reporting period. During the review, NSD and ODNI identified isolated instances in which NSA may not have complied with the documentation requirements in the targeting procedures. Of the approximately [redacted] taskings assessed during the reporting period of reviews, NSD and ODNI have, to date, identified approximately [redacted] instances in which NSA may have failed to cite sources that NSD and ODNI assessed were adequate to demonstrate a reasonable basis for believing that the user of the account was located outside the United States. Additionally, NSD and ODNI have identified approximately [redacted] instances in the course of these bimonthly reviews in which NSD and ODNI are still attempting to determine whether NSA cited sources that NSD and ODNI assess are adequate to demonstrate a reasonable basis for believing the user of the account was located outside the United States. During the reporting period, NSA reported no instances in which it identified taskings based upon similarly insufficient documentation.

~~(S)~~ (E) Minimization Incidents[53]

~~(S)~~ (1) Incomplete Purge

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [redacted] 2014. As detailed in that [redacted] incident regarding NSA retention of information [redacted] On [redacted] o FISA that NSA analysts marked for purge with the disposition code [redacted] were incorrectly posted to the MPL [redacted] thus delaying the purge process for those objects. [redacted] After objects marked [redacted] are added to the MPL, they are processed for purge completion.

~~(TS//SI//NF)~~ The [redacted] objects acquired pursuant to FISA and marked [redacted]

[53] ~~(S)~~ The Government is investigating [redacted] additional incidents.

[redacted] In [redacted] 2013 and [redacted] 2014, NSA personnel recognized and attempted to correct the errors [redacted] Thus, purge completion of the [redacted] objects was delayed when they were placed on the MPL [redacted]

~~(TS//SI//NF)~~ On [redacted] 2014, NSA identified the error and began the process of purging the [redacted] objects. As of [redacted] 2014, all of the misidentified objects were placed on the MPL in purge state. The Government will further update the Court on the disposition of affected communications related to this incident.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

~~(S)~~ **(2) Query Using United States Person Identifier**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted], 2014, [redacted] NSA advises that all results had expired from NSA systems by [redacted] 2014. NSA further advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

~~(S)~~ **(3) Overly-Broad Query**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted] 2014, an analyst conducted an overly broad search against data acquired from multiple authorities, including Section 702. NSA advises that the analyst realized his error immediately, canceled the query, and deleted the corresponding results. NSA further advises that the analyst has been reminded of the Section 702 query requirements.

[54] ~~(TS//SI//NF)~~ NSA has identified [redacted] objects acquired pursuant to Title I and Section 702, [redacted]

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

~~(S)~~ **(4) Overly-Broad Query**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted] 2014, an analyst conducted an overly broad search against data acquired from multiple authorities, including Section 702. NSA advises that the analyst recognized the error upon viewing the results, and immediately deleted the results.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2014.

~~(S)~~ **(5) Query Using a United States Person Identifier**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted] 2014, an NSA analyst used the identifier of a United States person, subject to acquisition pursuant to Title I and 705(b), as part of a query against data acquired from multiple authorities, including Section 702 upstream data. The United States person identifier had not been approved as a query term in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. On [redacted] 2014, an NSA auditor discovered the error, and NSA advises that the query and its results were deleted the same day. NSA further advises that the analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2014.

~~(S)~~ **(6) Overly-Broad Query**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted] 2014, an NSA analyst, due to a typographical error, inadvertently conducted an overly broad query against data acquired from several authorities, including Section 702 data. NSA advises that the query returned no results, and that the analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2014.

~~(S)~~ **(7) Overly Broad Queries**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted], 2014, an NSA analyst conducted, due to incorrectly formulated [redacted] searches, overly broad queries against data acquired from several authorities, including Section 702. Upon seeing the results, the NSA analyst realized the error and deleted the results. NSA advises that the analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2014.

~~(S)~~ **(8) Overly Broad Queries**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that in [redacted] 2014 an NSA analyst conducted, due to incorrectly formulated [redacted] searches, overly broad queries against data acquired from several authorities, including Section 702. NSA advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(9) Overly-Broad Query**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted] 2014 an NSA linguist conducted an overly broad query against data acquired from several authorities, including Section 702. On [redacted], 2014, an NSA auditor discovered the inappropriate query. NSA advises that query results have aged off NSA systems. NSA further advises that the linguist has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(10) Overly-Broad Query**

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key

words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted], 2015, an NSA analyst conducted, due to an incorrectly formulated [redacted] search, an overly broad query against data acquired from several authorities, including Section 702. The NSA analyst immediately realized the error, and deleted the results. NSA advises that the analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ (11) Query Using a United States Person Identifier

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted] 2015, an NSA analyst used a [redacted] as part of a query against multiple authorities, including Section 702 upstream data. The [redacted] had not been approved as a query term in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. NSA advises that all results were deleted on [redacted], 2015. NSA further advises that this analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ (12) Query Using a United States Person Identifier

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. NSA reported that on [redacted] 2015, an NSA analyst used a presumed United States person's facility[55] as part of a query against multiple authorities, including Section 702. The facility had not been approved as a query term in accordance with NSA internal procedures. On [redacted] 2015 an NSA auditor discovered the error, and the results were deleted. NSA further advises that this analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ (13) Query Using a United States Person Identifier

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers,

[55] ~~(S//NF)~~ [redacted]

such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted] 2015, an NSA analyst used a United States person's e-mail account as part of a query against multiple authorities, including Section 702 upstream data.[56] The United States person identifier had not been approved as a query term in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. Upon reviewing the results, the analyst recognized the error and reported the matter. NSA further advises that this analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ (14) Query Using a United States Person Identifier

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted] 2015, an NSA analyst used a United States person identifier as part of a query against multiple authorities, including Section 702 upstream data. The United States person identifier had not been approved as a query term in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. NSA advises that all results were deleted on [redacted], 2015. NSA further advises that this analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ (15-16) Queries Using United States Person Identifiers

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. In [redacted] 2014, [redacted] it was not clear to the NSA analyst that some of the selectors were used by United States persons. Consequently, the NSA analyst used the United States person identifiers as part of [redacted] queries against data acquired from multiple sources, possibly including Section 702-acquired upstream data. The United States person identifiers had not been approved as

[56] ~~(S//NF)~~ [redacted]

query terms in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. On [redacted], 2015, the NSA analyst discovered the error, and attempted to discontinue the queries. However, due to an unknown error, additional queries were conducted using some of the United States person selectors on one additional occasion. NSA advises that all results from all queries were deleted. NSA further advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ (17) Overly-Broad Query

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." NSA reported that on [redacted], 2015, an NSA analyst conducted an overly broad query against data acquired from several authorities, including Section 702-acquired data. On [redacted], 2015, an NSA auditor discovered the inappropriate query, and the results of the query were deleted that same day. NSA advises that the analyst has been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ (18) Improper Dissemination of Domestic Communications

~~(TS//SI//NF)~~ According to Section 5 of NSA's Section 702 minimization procedures, domestic communications must "be promptly destroyed upon recognition unless the Director (or Acting Director) of NSA specifically determines, in writing, and on a communication-by-communication basis, that the sender or intended recipient of the domestic communication had been properly targeted under section 702 of the Act, and the domestic communication satisfies one or more of" several enumerated conditions. NSA advises that on [redacted] 2015, an NSA analyst improperly disseminated a domestic communication. On [redacted] 2015, the analyst recognized the error, recalled the dissemination, marked the communication for deletion, and reported the matter.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ (19) Improper (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(TS//SI//NF)~~ This incident involves the improper (b)(1); (b)(3); (b)(7)(E) [redacted] NSA's minimization procedures permit NSA to provide unminimized Section 702-acquired communications to FBI and CIA, (b)(1); (b)(3); (b)(7)(E) [redacted]

[redacted] NSA emergency detasked the facility on [redacted] 2015.

~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(20) Improper** (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(TS//SI//NF)~~ This incident involves the improper (b)(1); (b)(3); (b)(7)(E) [redacted] NSA's minimization procedures permit NSA to provide unminimized Section 702-acquired communications to FBI and CIA, (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(21) Improper Dissemination of Information Concerning a United States Person**

~~(S//NF)~~ This incident involves the dissemination of United States person information in a manner contrary to the requirements of Section 6(b) of NSA's Section 702 Minimization Procedures. Specifically, on [redacted] 2015, an NSA analyst discovered that NSA issued a report which included the name of a United States person whose identity was not foreign intelligence information. On [redacted] 2015, NSA recalled the report and reissued it without the United States person information.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(22) Improper Dissemination of Information Concerning a United States Person**

~~(S//NF)~~ This incident involves the dissemination of United States person information in a manner contrary to the requirements of Section 6(b) of NSA's Section 702 Minimization Procedures. Specifically, on [redacted], 2015, NSA issued a report which contained names of United States persons whose identities were not foreign intelligence information. A [redacted] analyst discovered the error and notified NSA. On [redacted] 2015, NSA recalled the report and reissued it without the United States person information.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ **(23) Query Using a United States Person Identifier**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. Additionally, section 3(b)(5) prohibits using United States person identifiers to query Internet communications acquired through NSA's upstream collection techniques. NSA reported that on [redacted], 2015, an NSA analyst used a United States person identifier as part of a query against multiple authorities, including Section 702 upstream data. The United States person identifier had not been approved as a query term in accordance with NSA internal procedures, and querying United States person information against Section 702-acquired upstream collection is barred by the minimization procedures. NSA advises that all results were deleted on [redacted], 2015. NSA further advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ **(24) Query Using a United States Person Identifier**

~~(TS//SI//NF)~~ Although section 3(b)(5) of NSA's Section 702 minimization procedures permits the scanning of storage media using United States person identifiers, such queries are to first be approved in accordance with NSA internal procedures. NSA reported that on [redacted] 2015, an NSA analyst mistakenly used a United States person identifier as part of a query against multiple authorities, including Section 702 data. Although the query did not run against upstream-acquired data, the United States person identifier had not been approved as a query term in accordance with NSA internal procedures. An NSA auditor discovered the error on [redacted] 2015, and all results were deleted on [redacted] 2015. NSA further advises that the relevant personnel have been reminded of the Section 702 query requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ **(25) Overly-Broad Query**

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [redacted] 2015. As detailed in that notice, NSA reported that an NSA analyst conducted [redacted] overly broad queries the previous day. The queries at issue were of NSA repositories containing information collected under multiple authorities, including NSA Section 702 upstream collection. While running [redacted] queries, the analyst used terms and phrases, which if connected together properly, would have limited the selection terms to those reasonably designed to return foreign intelligence information. The analyst, however, inadvertently constructed the queries using [redacted] esulting in an extremely large number of search results. Due to the error, the resulting queries were not

limited to those terms reasonably designed to return foreign intelligence information. On [redacted] 2015, NSA deleted all results from these queries. NSA has not identified any reporting that resulted from foreign intelligence information returned by these queries, and advised that the analyst has been reminded of applicable query requirements in the SMPs.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.[57]

(U) **(F) Other Issues**[58]

~~(S)~~ **(1) Unauthorized Access to Section 702 Data**

~~(TS//SI//NF)~~ According to section IV of NSA's Section 702 targeting procedures, raw Section 702 data must be stored in authorized repositories and accessed only by authorized personnel. NSA advises that on [redacted], 2014, an analyst e-mailed a "tip" containing unminimized Section 702 collection to NSA employees who were not authorized to receive the data. NSA advises that the unauthorized recipients did not further disseminate the information and that the e-mails were deleted. NSA also advises that the information was subsequently assessed to be foreign intelligence information and properly disseminated. NSA further advises that the relevant personnel have been reminded of the Section 702 data access requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

~~(S)~~ **(2) Unauthorized Access to Section 702 Data**

~~(TS//SI//NF)~~ According to section IV of NSA's Section 702 targeting procedures, raw Section 702 data must be stored in authorized repositories and accessed only by authorized personnel. NSA advises that on [redacted], 2015, an analyst stored unminimized Section 702 collection in a particular database from which [redacted] NSA employees, who are not authorized to do so, reviewed the Section 702 data. NSA advises that the unauthorized recipients did not further disseminate the information and that the information was deleted from the database. NSA also advises that the relevant personnel have been reminded of the Section 702 data access requirements.

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

~~(S)~~ **(3) Unauthorized Access to Section 702 Data**

~~(TS//SI//NF)~~ According to section IV of NSA's Section 702 targeting procedures, raw Section 702 data must be stored in authorized repositories and accessed only by authorized personnel. NSA advises that on [redacted], 2015, an analyst attempted to

[57] (U) In the [redacted] 2015, letter, the government incorrectly advised that NSA reported the matter on [redacted], 2015.

[58] ~~(S)~~ The government is still investigating one possible incident.

coordinate, via e-mail, a report containing Section 702-acquired information with [redacted] language analysts. When sending the e-mail, the analyst mistyped one of the language analyst's names, and the e-mail was inadvertently sent to an employee detailed to NSA [redacted] who was not authorized to review unminimized Section 702 data. Upon scanning the e-mail on [redacted] 2015, the detailee recognized the error and reported the matter. NSA advises that the detailee did not further disseminate the information and that the e-mail was deleted. NSA advises that the relevant personnel have been reminded of the need to carefully review e-mails prior to sending.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ (4) Unauthorized Access to Section 702 Data

~~(TS//SI//NF)~~ According to section IV of NSA's Section 702 targeting procedures, raw Section 702 data must be stored in authorized repositories and accessed only by authorized personnel. NSA advises that, from [redacted] 2015, [redacted] used by NSA instructors and students contained raw Section 702 data. On [redacted] 2015, an NSA instructor who was not authorized to access raw Section 702 data reviewed a student's Section 702 work product [redacted].[59] The instructor recognized the error and reported the matter. NSA advises that all Section 702 data was purged [redacted] 2015.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2015.

~~(S)~~ (5) Unauthorized Access to Section 702 Data

~~(TS//SI//NF)~~ According to section 3(b)(5) of NSA's Section 702 minimization procedures, "[c]omputer selection terms used for scanning, such as telephone numbers, key words or phrases, or other discriminators, will be limited to those selection terms reasonably likely to return foreign intelligence information." According to section IV of NSA's Section 702 targeting procedures, raw Section 702 data must be stored in authorized repositories and accessed only by authorized personnel. While an analyst was assigned to a particular group, the analyst received the daily results of queries run against Section 702 data. When the analyst was reassigned in [redacted], access to the results of those daily queries should have been removed. On [redacted] 2015, an NSA auditor discovered that the analyst still had access to the query results. NSA advises that the analyst's access was removed on [redacted] 2015, and that the analyst did not view of any the query results after being transferred in [redacted].

(U) NSA informed NSD and ODNI of this incident on [redacted], 2015.

[59] ~~(S)~~ The instructor had a pending request for authorization to access raw Section 702 data.

~~(S)~~ (G) Reported Incidents that Appear at this Time to Not Be Compliance Incidents.

~~(S//NF)~~ NSA is required to report to NSD and ODNI incidents other than those it assesses to be compliance matters. The NSA's targeting procedures require that whenever NSA "concludes that a person is reasonably believed to be located outside the United States and after targeting this person learns that the person is inside the United States, or if NSA concludes that a person who at the time of targeting was believed to be a non-United States person was in fact a United States person," NSA must terminate the acquisition without delay and report the incident to NSD and ODNI. NSD reviews each of these incidents and, as necessary, asks questions of NSA or other relevant agencies regarding the initial tasking and the subsequent detasking of facilities used by these targeted individuals to ensure that no compliance incident has in fact occurred. It is also NSD's practice to confirm with each agency that may have received the unminimized acquisitions from a facility involved in one of these incidents that the agency has completed any purges required by the procedures. NSD does not consider a reported incident to be closed until all outstanding questions have been answered and all purges have been confirmed.

~~(S)~~ This quarterly report includes all incidents reported to NSD and ODNI between December 1, 2014, and February 28, 2015, determined to be compliance matters. There are, however, approximately [redacted] incidents for which NSD is awaiting additional information before deciding that these incidents can be closed.

II. (U) Incidents of Noncompliance with the CIA Minimization Procedures

~~(S//NF)~~ CIA does not task facilities under the Section 702(g) certifications, though it can nominate facilities to be tasked by NSA. CIA does, however, receive raw, unminimized data as a result of NSA's and FBI's acquisition of foreign intelligence information under the certifications. CIA must minimize such information in accordance with CIA's minimization procedures. During the reporting period, NSD and ODNI have conducted one review of CIA's application of its minimization procedures.

(U) During the reporting period, the government reported no instances of noncompliance with CIA's procedures.

III. (U) Incidents of Noncompliance with the FBI Targeting or Minimization Procedures

~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted] NSA must comply with the NSA targeting procedures in tasking the account (b)(1); (b)(3); (b)(7)(E) [redacted], FBI must then review the NSA's foreignness determination for each facility [redacted] (b)(1); (b)(3); (b)(7)(E)

[60] ~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(b)(1); (b)(3); (b)(7)(E) [redacted]

NSD and ODNI conducted two joint targeting reviews during the reporting period in order to monitor FBI's targeting practices.

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S)~~ (b)(1); (b)(3); (b)(7)(E) [redacted] NSD and ODNI conducted one joint minimization review during the reporting period in order to monitor FBI's minimization practices.

~~(S)~~ During the reporting period, the following compliance incidents were identified.[61]

~~(S)~~ **(1) Incomplete** (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(U) This incident was discovered during a January 2015 joint NSD and ODNI review at FBI.

(b)(1); (b)(3); (b)(7)(E) [redacted]

[61] ~~(S//NF)~~ The government is still investigating one possible incident of non-compliance with the FBI's procedures.

[62] ~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S)~~ (2) Improper Dissemination of United States Person Identifiers

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(U) This incident was discovered during a November 2014 joint NSD and ODNI review at FBI.

~~(S)~~ (3) Incomplete (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on March 12, 2015. As detailed in that notice, FBI reported an error (b)(1); (b)(3); (b)(7)(E) [redacted]

(b)(1); (b)(3); (b)(7)(E) [redacted]

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[63] ~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

[64] ~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

[65] ~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

~~(S//NF)~~ (b)(1); (b)(3); (b)(7)(E) [redacted]

(U) FBI informed NSD and ODNI of this incident on December 23, 2014.

~~(S)~~ **(4) E-mail accounts** [redacted]

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on March 4, 2015. As detailed in that notice, during a (b)(1); (b)(3); (b)(7)(E) [redacted] review at [redacted]

(b)(1); (b)(3); (b)(7)(E)

[redacted]

(b)(1); (b)(3); (b)(7)(E) [redacted]

(U) This incident was discovered during an NSD review (b)(1); (b)(3); (b)(7)(E) [redacted]

IV. (U) Incidents of Noncompliance by an Electronic Communication Service Provider

~~(S)~~ (1) Provider [redacted] Change

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [redacted] 2014. As detailed in that notice, NSA reported collection of communications from accounts not tasked pursuant [redacted] as a result of a provider error. [redacted]

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

~~(S)~~ (2) [redacted] Overproduction

~~(TS//SI//NF)~~ This incident was initially reported to the Court in a Rule 13(b) notice filed on [redacted], 2015. As detailed in that notice, NSA reported an error [redacted] that resulted in an apparent overproduction of data. Specifically, NSA [redacted]

[67] ~~(TS//SI//NF)~~ [redacted]

[redacted] On [redacted] 2014, [redacted] terminated all Section 702 collection from [redacted] with respect to the [redacted] tasked accounts.

~~(S)~~ The Government is still confirming the necessary purges.

(U) NSA informed NSD and ODNI of this incident on [redacted] 2014.

(U) UPDATES ON INCIDENTS OF NONCOMPLIANCE REPORTED IN PREVIOUS REPORTS

~~(S)~~ There were a number of matters discussed in previous quarterly reports for which NSD stated that it was continuing to gather information. The following provides relevant updates to the matters that remained outstanding in the previous reports. A substantial majority of these matters were first discussed in the previous quarterly report, covering the period from September 1 through November 30, 2014. For ease of reference, the letters and numbers referencing the incidents below have been retained from that previous report. Gaps in the letter or numbering sequence indicate that no updates from the previous report were necessary. Several incidents first reported in prior quarterly reports for which new information has been gathered are reported at the conclusion of this section.

~~(S)~~ Updates On Incidents First Reported in the Previous Quarterly Report

I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and Minimization Procedures

~~(S)~~ (A) Tasking Errors

~~(S)~~ (31) Retasking of Facilities due to a System Error

~~(S//NF)~~ In the previous quarterly report, the Court was updated regarding a tasking error involving [redacted] facilities that NSA had previously detasked. As of previous quarterly report, NSD was awaiting final purge confirmation from NSA. NSA

[redacted]

[redacted]

~~(S)~~ **(B) Detasking Errors.**

[redacted]

[redacted]

~~(S)~~ **(C) Noncompliance with a Notification Requirement.**

~~(S)~~ In the previous quarterly report, NSD advised the FISC that there were [redacted] incidents involving circumstances in which NSA did not notify NSD and ODNI within the required five business days. At the time of the previous quarterly report, NSD was awaiting final confirmation from NSA regarding the purge of [redacted] facilities. NSA now advises that the unique identifiers of the relevant objects from [redacted] the facilities were placed on the MPL in purge state as of [redacted], 2015. NSA further advises that it identified no reporting based on this collection. With respect to the remaining facility, NSD is still confirming the necessary purges.

~~(S)~~ **(F) Overcollection Incidents**

~~(S)~~ **(1) NSA [redacted] Incident**

~~(TS//SI//NF)~~ In the previous quarterly report, the Court was updated regarding a overcollection in NSA Section 702 upstream collection. Specifically, NSA reported that on [redacted]

[68] ~~(S)~~ [redacted].

[69] ~~(S//NF)~~ [redacted]

~~(TS//SI//NF)~~ [redacted]

(U) **(G) Other Issues**

[redacted]

[70] ~~(TS//NF)~~ [redacted]

[71] ~~(S)~~ [redacted]

[redacted]

[redacted]

[72] ~~(S)~~ [redacted]

[73] ~~(TS//SI//NF)~~ [redacted]

[redacted]

~~(S)~~ **(G) Reported Incidents that Appear at this Time to Not Be Compliance Incidents.**

~~(S)~~ The previous quarterly report included all incidents reported to NSD and ODNI determined to be compliance matters. There were, however, [redacted] incidents for which NSD was awaiting confirmation that all required purges have been completed ([redacted] from NSA and [redacted] from FBI). For [redacted] incidents, NSA now advises that it acquired no relevant data from the facilities. For [redacted] incidents, NSA now advises that the unique identifiers of the relevant objects from the facilities were placed on the MPL in purge state as of [redacted] 2015. NSA further advises that it identified no reporting based on this collection. For the remaining [redacted] facilities, NSD is still confirming the necessary purges.

~~(S)~~ For [redacted] facilities, FBI advises that it purge the relevant data from FBI systems as of [redacted] (b)(1); (b)(3); (b)(7)(E) FBI further advises that it recalled [redacted] disseminations based on this collection. For [redacted] (b)(1); (b)(3); (b)(7)(E), NSD is still confirming the necessary purges.

~~(S)~~ UPDATES ON INCIDENTS OF NONCOMPLIANCE REPORTED IN PRIOR QUARTERLY REPORTS

I. ~~(S)~~ Incidents of Noncompliance with the NSA Targeting and Minimization Procedures

~~(S)~~ (E) Minimization Incidents.

~~(S)~~ (1) [redacted] Database

~~(S//SI//REL TO USA, FVEY)~~ In the previous quarterly reports, the Court was updated regarding NSA's efforts to evaluate transcripts stored in a database known as [redacted] that may have been retained longer than permitted. [redacted]

[redacted]

~~(S)~~ **(F) Overcollection Incidents.**

~~(S)~~ **(1) Overcollection Incident Related to** [redacted]

~~(TS//SI//NF)~~ In the previous quarterly report, the Court was updated regarding an overcollection incident involving the acquisition of [redacted]

~~(S)~~ **(C) Noncompliance with a Notification Requirement.**

~~(S)~~ At the time of the previous quarterly report, NSD was awaiting final confirmation from NSA regarding one incident for which there was a notification delay. With the exception of one communication, NSA now advises that the unique identifiers of the relevant objects were placed on the MPL in purge state as of [redacted], 2014. NSA further advised that it identified no reporting based on this collection. With respect to the remaining communication, NSA executed the necessary waiver on [redacted], 2014.

~~(S)~~ **(H) Reported Incidents that Appear at this Time to Not Be Compliance Incidents**

~~(S)~~ The previous quarterly reports included all incidents reported to NSD and ODNI that were determined to be compliance matters. There were, however, [redacted] incidents for which NSD was awaiting confirmation from NSA that all required purges have been completed. For [redacted] incidents, NSA now advises that it acquired no relevant data from the facility. For [redacted] incidents, NSA now advises that the unique identifiers of the relevant objects from the facilities were placed on the MPL in purge state as of [redacted] 2014. NSA further advises that it recalled one report based on this collection. For [redacted] incidents, NSA executed destruction waivers and advises that the unique identifiers of the relevant remaining objects from

the facilities were placed on the MPL in purge state. For the remaining facility, NSD is still confirming the necessary purges.

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted. Approved for Public Release

U.S. Department of Justice

National Security Division

U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT

2015 MAR 20 PM 4:53

LEEANN FLYNN HALL CLERK OF COURT

~~SECRET//NOFORN~~

Washington, D.C. 20530

March 20, 2015

The Honorable Thomas F. Hogan
United States Foreign Intelligence Surveillance Court
333 Constitution Avenue, N.W.
Washington, D.C. 20001

(U) Re: Quarterly Report Concerning Compliance Matters Under Section 702 of FISA

Dear Judge Hogan:

~~(S//NF)~~ The attached report is submitted pursuant to Rule 13(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court (hereinafter, "the Court") and in compliance with Your Honor's August 25, 2009, instructions regarding providing timely and effective notification to the Court of compliance issues involving the Government's implementation of its authorities under Section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA). As described in a February 4, 2010, letter to the Court, the Department of Justice's National Security Division has filed prompt notices to the Court regarding compliance matters in several categories of particular concern. This report provides the Court with further information regarding those incidents, and notifies the Court of other compliance incidents that did not fall within the specified categories. For ease of reference to the Court, this report contains the text, modified for internal consistency, of the latest Rule 13(b) notice regarding each compliance matter previously reported. Where additional information has been obtained since the filing of the latest Rule 13(b) notice, this information is delineated. In addition, the attached report updates the Court on incidents included in prior Quarterly Reports that were not fully resolved. Please contact me if you have any questions regarding the compliance matters discussed in the attached report.

Respectfully submitted,

(b)(6); (b)(7)(C) [redacted]

Kevin J. O'Connor
Chief, Oversight Section
Office of Intelligence, NSD
U.S. Department of Justice

~~SECRET//NOFORN~~

Classified by: Chief, Oversight Section, OI, NSD, DOJ
Derived from: NSA/CSSM 1-52; FBI NSICG INV; CIA NSCG
Declassify on: 20400320

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted. Approved for Public Release

~~SECRET//ORCON,NOFORN~~

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT
2010 [redacted] PM 5:22
LEEANN FLYNN HALL
CLERK OF COURT

[redacted]

~~UNDER SEAL~~

Docket No. [redacted]

GOVERNMENT'S SUPPLEMENTAL REPORT REGARDING NSA'S POST-TARGETING ANALYSIS (~~S~~)

THE UNITED STATES OF AMERICA, through the undersigned Department of Justice attorney, respectfully submits the attached supplemental report regarding the processes that the National Security Agency (NSA) has implemented to comply with its targeting procedures under section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended. These processes were discussed in part during a hearing before the Court on [redacted] 2010. ~~(S//OC,NF)~~

Respectfully submitted,

(b)(6); (b)(7)(C)

[redacted]

Attorney-Advisor
National Security Division
United States Department of Justice

~~SECRET//ORCON,NOFORN~~

~~Classified by:~~ ~~David S. Kris, Deputy Assistant Attorney General, NSD, DOJ~~
~~Reason:~~ ~~1.4(c)~~
~~Declassify on:~~ [redacted] ~~2035~~

Supplemental Report Regarding NSA's Post-Targeting Analysis ~~(S)~~

During the [redacted] 2010, hearing held by the Court with respect to DNI/AG 702(g) [redacted] (hereinafter "the [redacted] hearing"), the Government provided additional information about the National Security Agency's (NSA) efforts to identify use of targeted electronic communications accounts/addresses/identifiers (hereinafter, "targeted accounts") by users located in the United States. In particular, the Government described NSA's use of [redacted], known as [redacted], to generate and prioritize alerts of [redacted]. The Government also provided information to the Court regarding NSA's efforts to reduce the backlog of alerts generated by [redacted] that receive further manual review by NSA analysts. (~~S//SI//~~[redacted]

At the time of the [redacted] hearing, NSA reported to the Court that approximately [redacted] alerts remained [redacted] awaiting final resolution by NSA analysts, with the oldest alert dating to [redacted] As of [redacted] 2010, NSA had further reduced its backlog to approximately [redacted] such alerts.[2] Of those [redacted] alerts, approximately 21% were less than one week old, approximately 32% were between one week and one month old, and approximately 47% were between one month and four months old, the oldest of which dated back to [redacted] Although the resolution [redacted] is not yet complete, NSA's initial assessment is that [redacted] likely did not occur from within the United States. (~~S//SI//~~[redacted])

[1] Confirming its initial assessment, NSA ultimately determined that this alert was not indicative of the user's location. ~~(S)~~

[2] The [redacted] system [redacted] meaning that there will always be alerts in the queue for processing. Accordingly, NSA's internal emphasis is not on eliminating all alerts from the queue, but rather on ensuring that alerts are processed accurately and efficiently. (~~S//SI//~~[redacted]

~~Derived From: NSA/CSSM 1-52~~
~~Dated: 20070108~~
~~Declassify On: 20350401~~

NSA is taking active steps to continue to reduce this backlog. As discussed in part during the [redacted] hearing, since inception of the [redacted] process, each business day NSA conducts an initial triage on alerts generated the prior day (or days, for alerts generated over a weekend or holiday). This initial triage is done [redacted] by NSA analysts i[redacted] This [redacted] enables NSA to more quickly identify those alerts that have a higher probability of being indicative of a target's presence in the United States -- even those alerts that may [redacted] As a result of this triage, alerts with a low probability of being indicative of location -- and thus more likely to be false positives -- will be reviewed after other alerts that are more likely to indicate that a targeted account has been active from the United States. Therefore, alerts assessed as likely false positives -- [redacted] ~~(TS//SI/~~[redacted]

Subsequent to the [redacted] hearing, NSA established guidelines to ensure that the [redacted] post-tasking checks required by the NSA targeting procedures are completed in a timely and effective manner. First, the initial triage of all new prioritized alerts (described above) will continue to occur the same business day that the alerts are received. Second, NSA will begin a further assessment of each prioritized alert no later than five business days after receipt. This further assessment may include:

- [redacted]
- [redacted]

[3] [redacted]

- [redacted]

Although this further research must begin within five business days, depending on the complexity and volume of alerts, in some cases, it may take NSA longer than five business days to fully resolve an alert. ~~(TS//SI//~~[redacted]

In order to meet the above-described guidelines, NSA has increased personnel resources devoted to conducting [redacted] post-tasking checks; NSA will continue to monitor these resources and adjust them as needed. Additionally, NSA has implemented improved management of the initial triage process, to include [redacted] reprioritization of alerts most likely to be indicative of U.S. location. With respect to [redacted] By doing this, NSA believes its analysts will be able to resolve numerous related alerts at the same time, making the process more efficient. NSA also is in the process of implementing several other improvements:

- [redacted]

---

[4] [redacted]

Current efforts have already removed at [redacted] alerts in this manner, and continued modification will help prevent future alerts [redacted] ~~(TS//SI//~~ [redacted]

The Department of Justice and the Office of the Director of National Intelligence will continue to closely monitor both the alerts in process and NSA's implementation of the improvements it has made or is in the process of making in order to comply with its newly-established internal guidelines. Moreover, as NSA continues to improve its capabilities to ensure the alerts are processed accurately and efficiently, these guidelines and processes may be further refined over time. ~~(TS//SI~~ [redacted]

Respectfully submitted,

(b)(3) [redacted]

Signals Intelligence Directorate
National Security Agency

All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted. Approved for Public Release

U.S. Department of Justice

National Security Division

Washington, D.C. 20530

[redacted] 2010

The Honorable Mary A. McLaughlin
Judge
United States Foreign Intelligence Surveillance Court
Washington, D.C.

Dear Judge McLaughlin:

I am pleased to provide certain additional information related to certain issues raised and discussed during our meeting on [redacted] 2010, concerning the matters currently pending before the Court in In re: [redacted]. ~~(S)~~

Identification of [redacted] Information within NSA Systems ~~(S)~~

As the Court is aware from the testimony provided by the government on [redacted], 2010, and from supplemental information provided to the Court on [redacted] 2010, the National Security Agency (NSA) stores unminimized and unevaluated signals intelligence (SIGINT) data in its [redacted]. [redacted] For the reasons more fully explained in our [redacted] 2010 [redacted] has proposed separate and distinct purge requirements for each class of information. ~~(TS//SI//NF)~~

According to NSA, certain of its systems contain multiple classes of information, For example, a certain system could include both [redacted] information. According to NSA, every system that obtains/retains [redacted] information from an [redacted] has, along with other purge-specific requirements, explicit requirements to maintain traceability in their system -- including the ability to distinguish [redacted] information from other categories of information the system may contain. This could be accomplished in a number of ways, such as [redacted]

~~Classified by: David S. Kris, Assistant Attorney General, NSD, DOJ~~
~~Reason: 1.4(c)~~
~~Declassify on: [redacted], 2035~~

The Resolution of Alerts ~~(S)~~

On Friday, [redacted] 2010, the government submitted to the Court its Supplemental Report Regarding NSA's Post-Targeting Analysis. Following its review of the report, the Court expressed concern that allowing an alert to go unresolved for an extended period of time may not by consistent with NSA's targeting procedures, which specifically provide that [redacted] ~~(TS//S//NF)~~

As noted in the government's [redacted] 2010 Supplemental Report, each business day NSA conducts an initial triage of the alerts generated the previous day by the [redacted] process. This initial triage, performed by analysts, allows NSA to quickly identify those alerts that have a higher probability of being indicative of a target's presence in the U.S. Those alerts that have a low probability of being indicative of location – and therefore are more likely to be false positives – are reviewed after other alerts of higher interest. [redacted] consistency in the management of this process given the diversity of targets and reasons for alerts. To ensure that alerts do not go unresolved for an unreasonable period of time, NSA has [redacted] ~~(TS//SI//NF)~~

NSA reports that on average it receives [redacted] prioritized alerts (e.g. Urgent, High, Medium, Low) per day through the [redacted] process. Within a given week, however, a single selector could, and often does, receive multiple alerts. For example, during the first week of May 2010, [redacted] selectors generated a total of [redacted] alerts resulting in [redacted] incident (roaming) reports being forwarded to the Department of Justice and the Office of the Director of National Intelligence. [redacted] alerts continue to be researched. Given the procedures in place as outlined in the government's [redacted] 2010 Supplemental Report which are designed to identify, prioritize and resolve those alerts having a higher probability of being indicative of a target's presence in the United States, the government believes that [redacted] to resolve alerts is reasonable. ~~(TS//SI//NF)~~

NSA intends to provide the Court with further updates regarding its certification of systems to receive and properly handle FAA 702 data going forward as well as its efforts to remediate the purge compliance issue on or before Wednesday, [redacted] 2010. ~~(TS//SI//NF)~~

The government would like to thank both you and your staff for your consideration of [redacted]. Should the Court have any additional questions, comments or concerns, please do not hesitate to contact me. (U)

Sincerely,

(b)(6); (b)(7)(C)
Deputy Section Chief, Operations
Office of Intelligence