



The DOJ Releases Additional Documents Concerning Collection Activities Authorized by President George W. Bush Shortly After the Attacks of September 11, 2001

December 12, 2014

Today the Department of Justice, in coordination with the Office of the Director of National Intelligence and other elements of the Intelligence Community, is releasing six Foreign Intelligence Surveillance Court (“FISC”) documents related to surveillance activities originally authorized by President George W. Bush shortly after the attacks of September 11, 2001.

On December 21, 2013, [the DNI declassified the existence of collection activities authorized by President Bush](#). As described in the statement issued at that time, starting on October 4, 2001, President Bush authorized the Secretary of Defense to employ the capabilities of the Department of Defense, including the National Security Agency, to collect foreign intelligence by electronic surveillance in order to detect and prevent acts of terrorism within the United States.

The collection of communications content under what has come to be known as the Terrorist Surveillance Program (“TSP”) and presidential authorization ended in January 2007 when the U.S. Government transitioned the program to FISA authority under orders of the FISC. The documents released today concern the transition of the TSP from presidential authority to FISC orders between January 2007 and August 2007 and include the FISC’s opinions authorizing this collection under Title 1 of FISA.

In August 2007, Congress enacted the Protect America Act (“PAA”) and the collection of communications of non-U.S. persons reasonably believed to be located outside of the United States for foreign intelligence information was transitioned to that authority. In 2008, the Foreign Intelligence Surveillance Court of Review [upheld the constitutionality of the Government’s collection program under the PAA](#). As explained in the IContheRecord post on the PAA, the PAA expired in February 2008 and was replaced by the Foreign Intelligence Surveillance Act (“FISA”) Amendments Act of 2008 (“FAA”), which remains in effect. Today, Section 702 of the FAA authorizes, under FISC oversight, the targeting of non-U.S. persons reasonably believed to be located outside the United States to acquire foreign intelligence information.

Although no longer in effect, the documents disclosed today show the history of the government’s post-September 11, 2001, collection of communications content for foreign intelligence purposes. The documents make clear the FISC’s independent and searching review of government applications and, together with Congress’ passage of the PAA and FAA, demonstrate the role of the judicial and legislative branches in regulating executive branch surveillance activities.



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- [Memorandum of Law December 13, 2006](#)
- [Supplemental Memorandum of Law and Declaration January 2, 2007](#)
- [FISC Order January 10, 2007](#)
- [FISC Order \(Foreign Order\) January 10, 2007](#)
- [FISC Order and Memorandum Opinion April 3, 2007](#)
- [FISC Order April 5, 2007](#)