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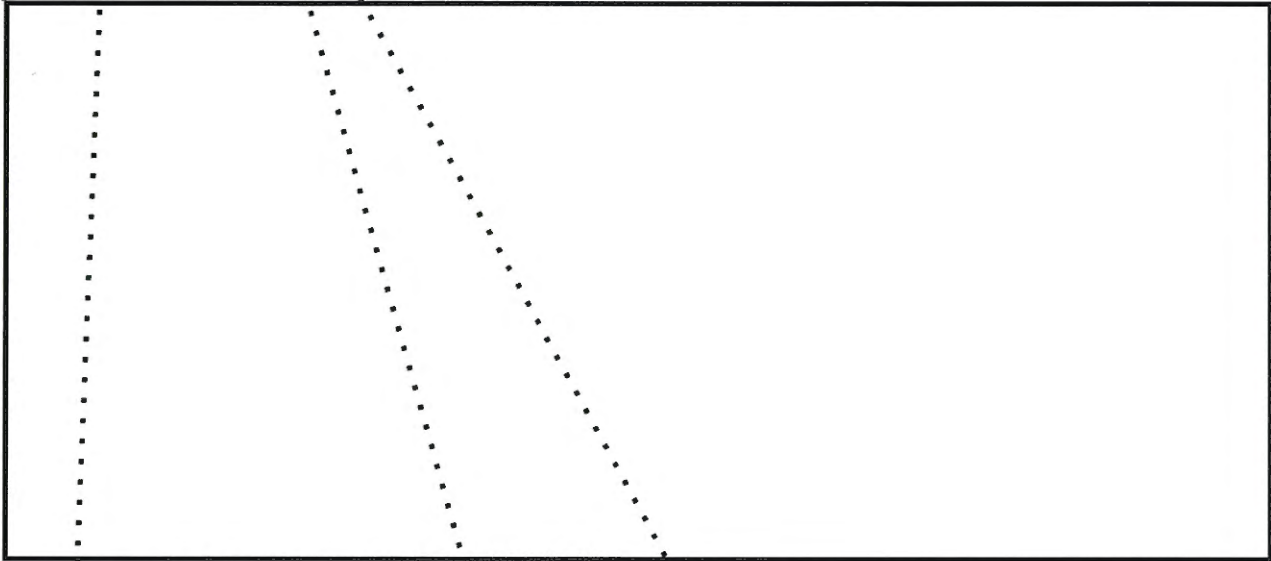
U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
MAY -3 PM 3:46
LEEANN FLYNN HALL
CLERK OF COURT


(b) (1)
(b) (3)-50 USC 3024(i)


UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.



~~(TS//SI//NF)~~ DESCRIPTION OF THE NATIONAL SECURITY
AGENCY'S 

~~(TS//SI//NF)~~ The government hereby responds to this Court's Order of April 23,
2018, in the above-captioned matters, in which this Court, *inter alia*, directed the
government to file by May 3, 2018, "a pleading setting forth 



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Classified by: Chief, Operations Section, OI, NSD, DOJ
Reason: DOJ/NSI SCG 1 INT dated 20120701, NSA
SCG dated 20180110
Declassify on: 20430430

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[REDACTED] the manner and circumstances of such collection, and the types of communications or other information the government expects to acquire."¹

~~(TS//SI//NF)~~ [REDACTED] is conducted using the National Security Agency's (NSA) upstream collection techniques. As this Court is aware, in March 2017, NSA [REDACTED] pursuant to section 702 of the Foreign Intelligence Surveillance Act, as amended (FISA or "the Act"), 50 U.S.C. § 1881a. See *Government's Ex Parte Submission of Amendments to DNI/AG 702(g) Certifications and Ex Parte Submission of Amended Targeting and Minimization Procedures*,

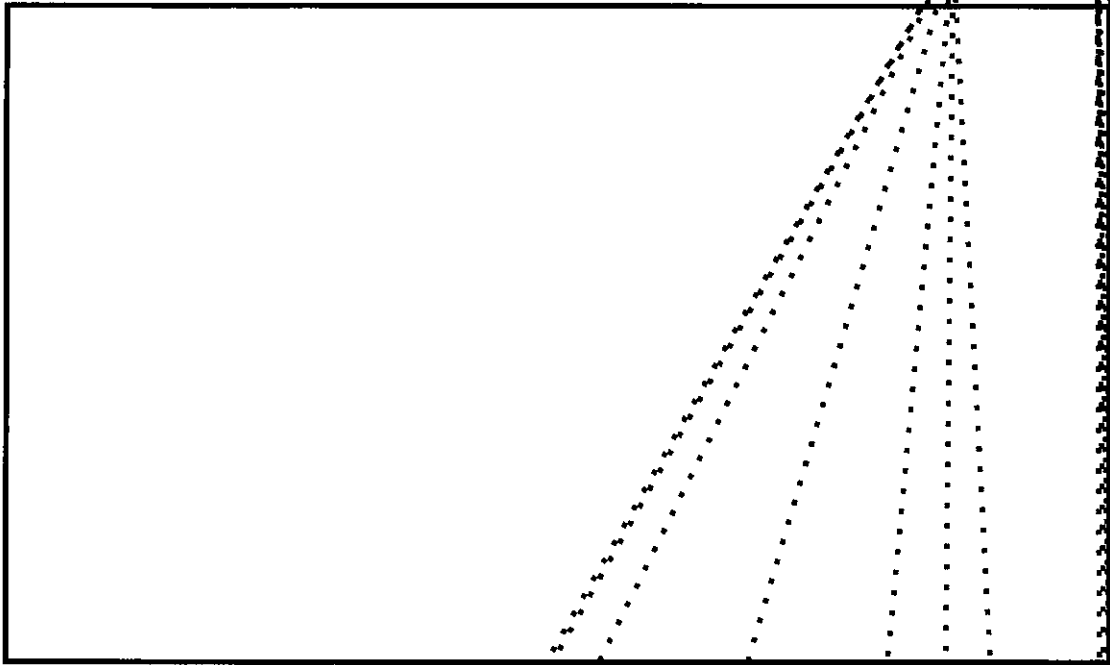
[REDACTED] submitted March 30, 2017 (hereinafter, "2016 Amendments Submission Filing"), at 9-10. At that time, the government advised the Court that NSA intended to modify the manner in which it conducts upstream collection "such that the only acquisition will be to or from section 702 targets." *Id.* at 10. The government further advised that [REDACTED]

~~(TS//SI//NF)~~ The 2016 Amendments Submission Filing identified [REDACTED]

¹~~(TS//SI//NF)~~ The only agency that conducts upstream collection [REDACTED] is the NSA. The Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), and National Counterterrorism Center (NCTC) [REDACTED] B3, 7E per FBI [REDACTED] pursuant to section 702, and do not receive from NSA the unminimized results from any such collection.

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*Id.*² As described in the 2016 Amendments Submission Filing, the tasking of each of these types of selectors would result in the acquisition only of communications to or from section 702 targets. *Id.* [redacted]

[redacted]

[redacted]

[redacted]

[redacted]

Id. at 11.

² (TS//SI//NF) The 2016 Amendments Submission Filing presented these [redacted] types of selectors as an illustrative rather than exhaustive list of the types of selectors that could be [redacted]

[redacted] As discussed below, however, the only types of selectors that NSA has [redacted] to date are included in those types described in the 2016 Amendments Submission Filing. [redacted]

[redacted]

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~~(TS//SI//NF)~~ Following submission of the 2016 Amendments Submission Filing, NSA [redacted] selector types described above. To date, NSA has not [redacted] tasked any other type of selector not identified in the 2016 Amendments Submission Filing. Additionally, of the [redacted] types of selectors that NSA had originally [redacted] [redacted] [redacted]

~~(TS//SI//NF)~~ Only one [redacted] types of selectors identified in the 2016 Amendments Submission Filing -- i.e., [redacted] [redacted] [redacted] Below is a fuller description of how that type of selector has been, [redacted] [redacted] In contrast, each of the other [redacted] types of selectors described in the 2016 Amendments Submission Filing consists entirely of or includes a [redacted] [redacted] The government does not consider the tasking of such selectors [redacted] to constitute [redacted] [redacted] instead, the government considers such taskings to be fundamentally

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no different from other types of surveillance directed at the same types of facilities under other titles of FISA.³

~~(TS//SI//NF)~~ As noted above, NSA has previously conducted, and may resume

conducting under the 2018 Certifications, [redacted]

[redacted]

from persons properly targeted under section 702. All of the [redacted]

previously used for section 702 acquisition are [redacted]

[redacted]

~~(TS//SI//NF)~~ To the extent that the selector includes [redacted]

[redacted]

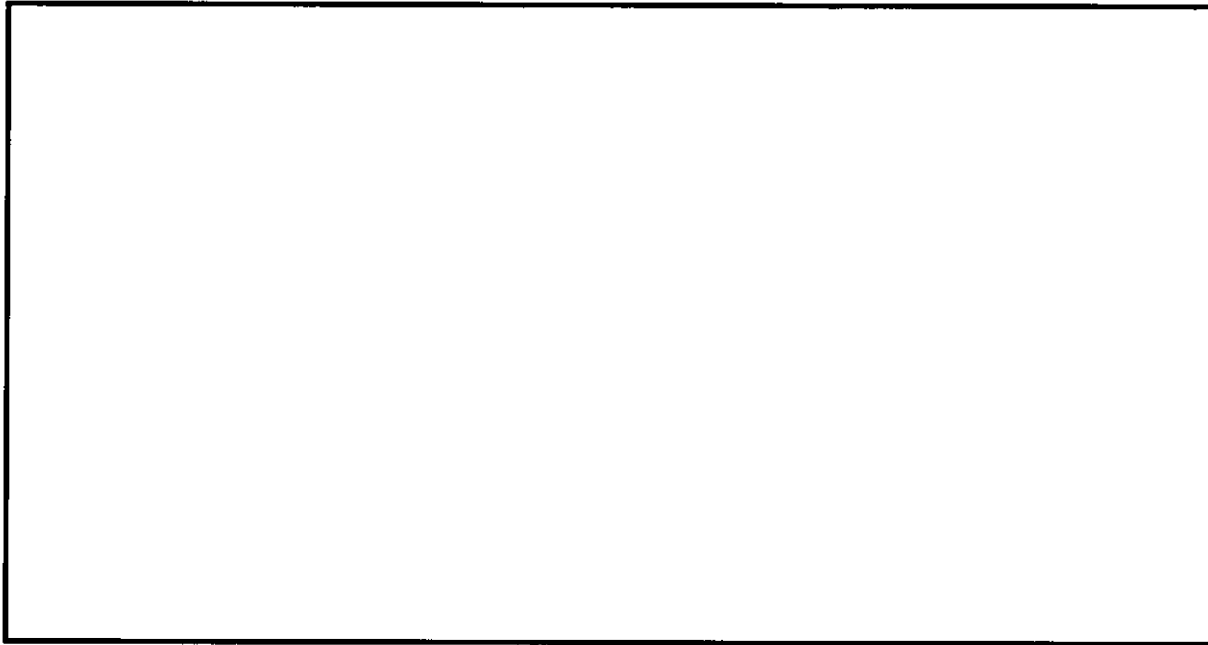
~~(TS//SI//NF)~~ [redacted]

[redacted]

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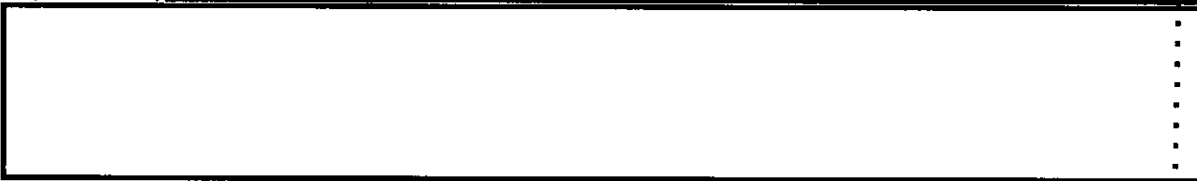
~~(TS//SI//NF)~~ Although NSA has only conducted collection with respect to



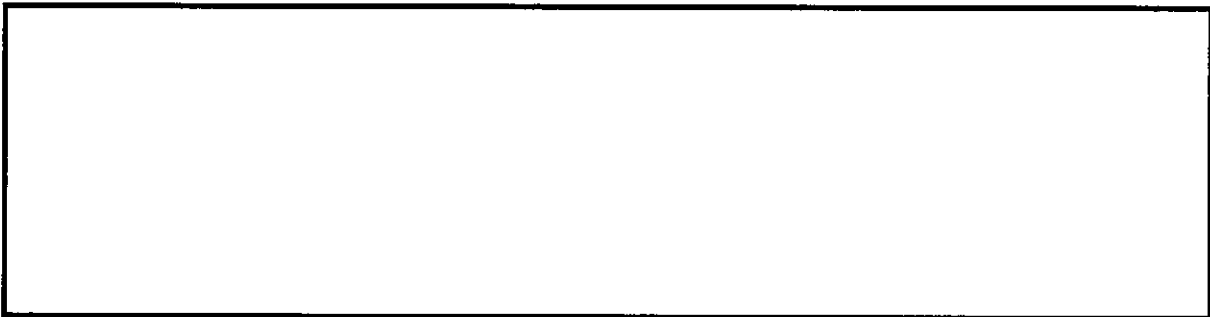
~~(TS//SI//NF)~~ [Redacted]



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



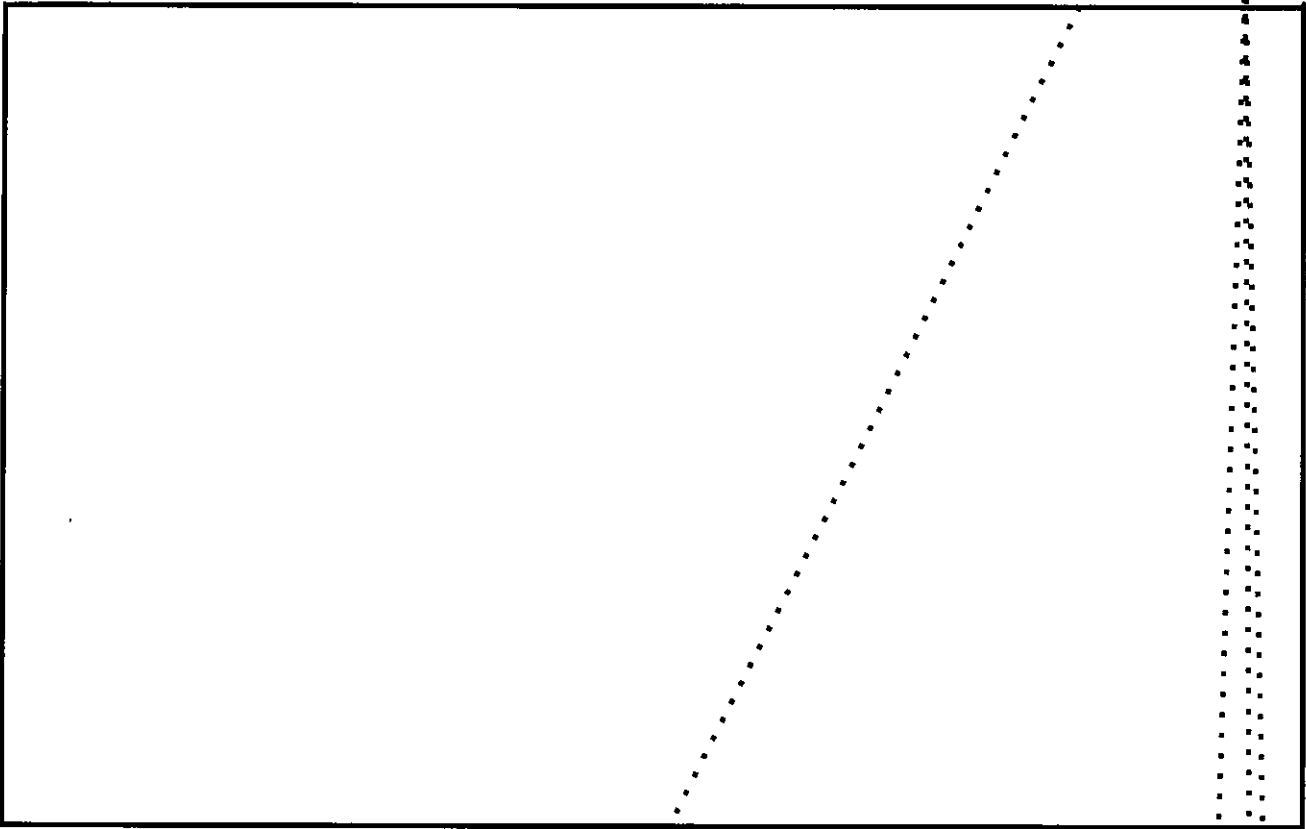
~~(TS//SI//NF)~~ [Redacted]



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[Redacted]

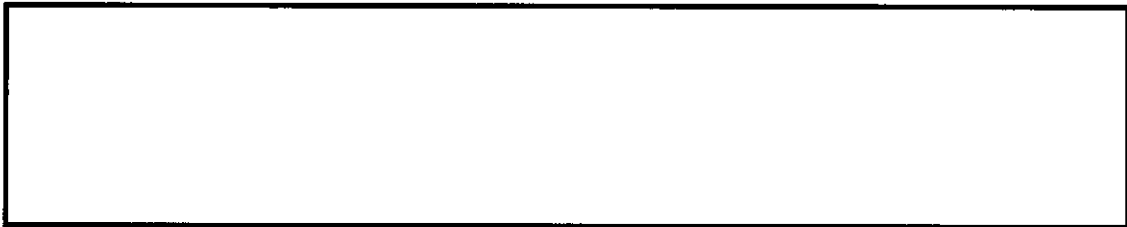
[Redacted]

it will take steps to ensure that the

communications that will be collected through such acquisition will be only those to or from section 702 targets; to the extent that NSA were to acquire any communications that it assesses are not to or from a section 702 target, such communications would be considered unauthorized collection and would be destroyed.

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

[Redacted]



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[REDACTED]

[REDACTED]

"NSA will take the appropriate steps

to ensure . . . that the future tasking of any selector

[REDACTED]

[REDACTED]

will be implemented in a manner that will acquire only

communications to or from a section 702 target." 2016 Amendments Submission Filing

at 11.

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(U) VERIFICATION

~~(TS//SI//NF)~~ I declare under penalty of perjury that the facts included in the foregoing Description of the National Security Agency's [redacted] are true and correct based upon my best information, knowledge, and belief. Executed pursuant to Title 28, United States Code, § 1746, on this 3rd day of May, 2018.

[redacted]

(b) (3) - P.L. 86-36
(b) (6)

FAA 702 Mission Area Lead
Cybersecurity Operations Enterprise
National Security Agency

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U.S. Department of Justice
National Security Division

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Washington, D.C. 20530

August 24, 2017

The Honorable Rosemary M. Collyer
United States Foreign Intelligence Surveillance Court
333 Constitution Avenue, N.W.
Washington, D.C. 20001

(b) (1)
(b) (3) -50 USC 3024 (i)

Re: ~~(S//NF)~~ Preliminary Notice of Compliance Incident
Regarding Collection Pursuant to Section 702

Dear Judge Collyer:

~~(TS//SI//NF)~~ Pursuant to Rule 13(b) of the Rules of Procedure for the Foreign Intelligence Surveillance Court, effective November 1, 2010, this letter provides preliminary notice of a compliance incident. Specifically, on [redacted] the National Security Agency (NSA) informed the National Security Division (NSD) and the Office of the Director of National Intelligence (ODNI) of an incident involving communications acquired through NSA's Section 702 upstream Internet collection [redacted]

[redacted] Section 3(b)(4)b of NSA's Section 702 minimization procedures states, "Internet transactions acquired on or after March 18, 2017, that are not to or from persons targeted in accordance with NSA's section 702 targeting procedures are unauthorized acquisitions and therefore will be destroyed upon recognition."

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

[redacted]

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

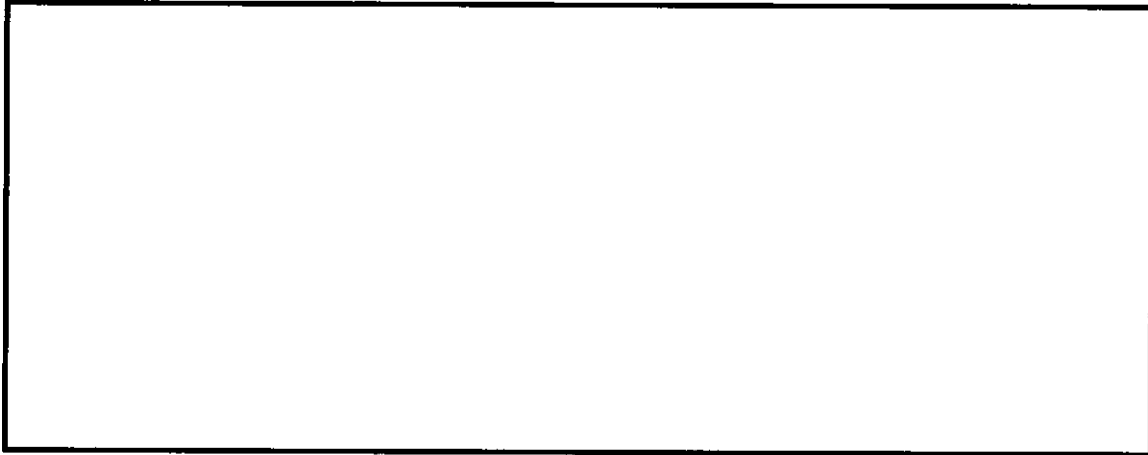
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Classified by: Chief, Oversight Section, OI, NSD, DOJ
Derived from: NSA/CSSM 1-52
Declassify on: 20420824

OI Tracking No. 148148

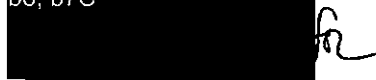
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(U) The Department of Justice will include this issue in its quarterly report to the Court regarding Section 702 compliance occurrences. The report will include the status of any required purges.

Respectfully submitted,

b6, b7C



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

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