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All withheld information exempt under (b)(1) and (b)(3) unless otherwise noted.

Approved for Public Release



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12 January 2016

The Honorable James R. Clapper, Jr.  
Director of National Intelligence  
Washington, DC 20511

Dear Director Clapper:

(U) Section 702 (l) (2) of the Foreign Intelligence Surveillance Act (FISA) of 1978, as amended by the FISA Amendments Act of 2008 (FAA), authorizes the National Security Agency/Central Security Service (NSA) Office of the Inspector General (OIG) to assess the Agency's compliance with procedures for targeting non-U.S. persons reasonably believed to be outside the United States and minimization procedures pertaining to such collection. My Office reviews incidents involving compliance with procedures for targeting non-U.S. persons reasonably believed to be outside the United States and incidents involving minimization of U.S. person information as they are reported to the OIG and quarterly. Each incident is evaluated by NSA against the targeting and minimization procedures adopted by the Attorney General, in consultation with the Director of National Intelligence, and approved by the Foreign Intelligence Surveillance Court. This letter covers the 12-month period ending 31 August 2015.

(U//FOUO) During the reporting period, the OIG completed one special study of the FAA §702 program as part of the larger study, *Implementation of §215 of the USA PATRIOT Act and §702 of the FISA Amendments Act of 2008*. The study, requested by members of the Senate Committee on the Judiciary, documents NSA's implementation of the FAA §702 authority, the controls used to protect U.S. person privacy, past incidents of non-compliance, and use of FAA §702 data to support intelligence missions.

(S//NF) In compliance with the FAA §702 targeting and minimization procedures, [REDACTED] intelligence reports were disseminated by NSA [REDACTED] based on signals intelligence (SIGINT) derived in whole or in part from FAA §702 authorized collection. Of the [REDACTED] disseminated reports, 4,318 contained one or more references to U.S. persons.<sup>1</sup>

<sup>1</sup> (S//NF) NSA does not maintain records that allow it to readily determine, in reports that include information from several sources, from which source a reference to a U.S. person was derived. Accordingly, the references to U.S. person identities might have resulted from collection pursuant to FAA §702 or from other authorized SIGINT activity NSA conducted that was reported in conjunction with information acquired under FAA §702. For the

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(U//~~FOUO~~) Consistent with the requirements of the FAA §702 minimization procedures, NSA released [REDACTED] U.S. person identities not referred to by name or title in the original reporting.<sup>2</sup> The majority of these requests were received from elements of the United States Intelligence Community and federal law enforcement agencies.

(S//NF) During this reporting period, NSA determined that, on [REDACTED] occasions, selectors belonging to non-U.S. persons reasonably believed to be outside the United States at the time of tasking were later suspected or confirmed to have been accessed from within the United States. [REDACTED] Of the [REDACTED] cases, [REDACTED] were located through [REDACTED] and [REDACTED] through [REDACTED].

(U) As explained in the OIG's quarterly report to the President's Intelligence Oversight Board on NSA activities, compliance incidents occurred under such circumstances as:

- (U//~~FOUO~~) Tasked selector not meeting the requirements of the certification,
- (U//~~FOUO~~) System errors resulting in improper storage or access,
- (U//~~FOUO~~) Delayed detasking of targets identified, post-tasking, as U.S. persons or traveling in the United States,
- (U//~~FOUO~~) Dissemination errors,
- (U//~~FOUO~~) Poor construction of database queries, and
- (U//~~FOUO~~) Post-tasking discovery of U.S. person status.

(U) Action has been taken to correct mistakes, and management processes have been reviewed and adjusted to reduce the risk of unauthorized acquisition and improper retention of U.S. person communications.

(U) This is the seventh year for which the OIG has reviewed for the Congress the Agency's compliance with FAA §702. To ensure consistency between DIRNSA's report of the annual review

previous reporting period, NSA reported that 3,966 intelligence reports contained one or more references to U.S. persons, including references to U.S. electronic communications providers as part of a communications identifier. (S//NF) The Central Intelligence Agency (CIA) does not conduct acquisitions under FAA §702. However, it [REDACTED] and disseminates information based on those communications. CIA provided the following information to NSA for inclusion in this report. [REDACTED]

<sup>2</sup> (S//NF) For the previous reporting period, NSA reported that [REDACTED] identities were disseminated in response to requests for identities not referred to by name or title in the original reporting. For the current reporting period, approximately 20% of the disseminated U.S. person identities were proper names of individuals or their titles. In the majority of instances, the released identity information consisted of [REDACTED]

conducted in accordance with FAA §702 (l) (3) and this OIG report, the OIG and the Signals Intelligence Directorate worked together to achieve a common understanding of the reporting requirements and have agreed on a methodology for accumulating and analyzing compliance statistics.

(U) The OIG continues to exercise oversight of Agency intelligence activities.



DR. GEORGE ELLARD  
Inspector General

Copy Furnished:  
Mr. Irvin C. McCullough III  
Inspector General of the Intelligence Community