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(U) Report of Annual Review Pursuant to Section 702(l) of the Foreign Intelligence Surveillance Act for Period 9/1/2012 through 8/31/2013

(U) Subsection 702(l)(3) of the Foreign Intelligence Surveillance Act (FISA) of 1978, as amended by the FISA Amendments Act of 2008 (FAA), requires the head of an agency conducting acquisitions pursuant to section 702 of the FISA to conduct an annual review to determine whether there is reason to believe that foreign intelligence has been or will be obtained from the acquisitions authorized under subsection 702(a) of the FISA and to use the review to evaluate the adequacy of minimization procedures utilized by that agency as well as to evaluate the application of the minimization procedures to a particular acquisition, as appropriate, authorized under subsection 702(a) of the FISA.

(U) The statutory provision requires that the review shall provide, with respect to acquisitions authorized under subsection 702(a) of the FISA: (i) an accounting of the number of disseminated intelligence reports containing a reference to a U.S.-person identity; (ii) an accounting of the number of U.S.-person identities subsequently disseminated by the National Security Agency (NSA) in response to requests for identities that were not referred to by name or title in the original reporting; (iii) the number of targets that were later determined to be located in the United States and, to the extent possible, whether communications of such targets were reviewed; and (iv) a description of any procedures developed by the head of such element of the Intelligence Community and approved by the Director of National Intelligence to assess, in a manner consistent with national security, operational requirements, and the privacy interests of U.S. persons, the extent to which the acquisitions authorized under subsection 702(a) of the FISA acquire communications of U.S. persons, and the results of any such assessment. Subsection 702(l)(3)(C) of the FISA further provides that this review shall be provided to: the Foreign Intelligence Surveillance Court (FISC); the Attorney General; the Director of National Intelligence; the Congressional intelligence committees; and the Committees on the Judiciary of the House of Representatives and the Senate.

(U) The Director of the National Security Agency (NSA) has conducted an annual review of NSA acquisitions authorized under subsection 702(a) of the FISA and hereby provides the results of its review conducted in accordance with subsection 702(l)(3) of the FISA for the 12-month period ending on August 31, 2013.

(U) Foreign Intelligence Obtained

~~(S//SI//NF)~~ During the period covered by this report, NSA has acquired foreign intelligence information under [redacted] separate certifications authorized by the Attorney General and the Director of National Intelligence, with Certifications [redacted] leading to the acquisition of foreign intelligence information as a result of targeting [redacted]

[redacted]
[redacted]
[redacted]

Classified By: [redacted] (b)(3)(A)
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[REDACTED]

~~(TS//SI//NF)~~ NSA acquired valuable foreign intelligence information during the period covered by this annual review that enabled the NSA to disseminate more than [REDACTED] intelligence product reports.¹ Foreign intelligence highlights from information acquired during this reporting period include: [REDACTED]

[REDACTED]

As of August 31, 2013, NSA continued to acquire information pursuant to [REDACTED] certifications authorized by the Attorney General and the Director of National Intelligence regarding the subject matter areas identified in the previous paragraph, and this information continues to provide valuable foreign intelligence information. Given the wealth of valuable foreign intelligence information acquired during this reporting period, there is every reason to believe that acquisition pursuant to FISA section 702 provides and will continue to provide one of the most lucrative and most valuable sources for foreign intelligence available to NSA.

(U) Adequacy of Minimization Procedures

~~(S//SI//NF)~~ NSA continually evaluates the minimization procedures applicable to the information that is acquired pursuant to subsection 702(a) of FISA as well as the application of the minimization procedures to particular acquisitions (i.e., the [REDACTED] certifications cited above). These are minimization procedures that the Attorney General, in consultation with the Director of National Intelligence, has adopted and that the FISC has approved for application to NSA's FISA subsection 702(a) data acquisitions. NSA will continue to evaluate its minimization procedures to ensure they protect the privacy interests of U.S. persons while affording the Intelligence Community timely access to foreign intelligence information.

~~(S//SI//NF)~~ On July 31, 2013, the Attorney General and the Director of National Intelligence submitted to the FISC [REDACTED] applications seeking to reauthorize the [REDACTED] 2012 certifications discussed above. During the period of time the FISC was reviewing those applications, on August 13, 2013, the Department of Justice (DoJ) filed a preliminary notice of a compliance incident with the FISC that advised the Court that [REDACTED] that NSA oversight personnel rely on as one of several post-tasking checks to determine if the users of telephony selectors [REDACTED] have

¹(U) These reports were based either in whole or in part on information acquired pursuant to subsection 702(a) of the FISA.

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entered the United States did not always account for selectors that had been tasked in [REDACTED]

[REDACTED] On August 30, 2013, the FISC issued a memorandum opinion with accompanying order approving NSA's renewal of the section 702 Certifications, effective September 10, 2013, pertaining to prospective collection for one year, on the basis that NSA had fixed the issue, [REDACTED]

[REDACTED] In addition, the FISC extended the time it had to review the retrospective application of the 2013 section 702 minimization procedures to previously acquired section 702 collection, pending NSA's complete review and adjudication of all potential roaming incidents. Upon completion of its review and adjudication of the potential roaming incidents affected by this incident, NSA identified an additional issue that may have impacted the effectiveness of NSA's [REDACTED]

[REDACTED] On October 29, 2013, DoJ filed a preliminary notice of a possible compliance incident with the FISC identifying that certain relevant telephony data acquired by NSA and associated with [REDACTED]

[REDACTED] NSA fixed the technical issues and subsequently amended its minimization procedures to account for use of any information that may have been acquired during a period of time where there is uncertainty about the location of the target of the acquisition because the [REDACTED] post-tasking checks were not working as intended. For such information, NSA has implemented internal procedures which essentially require NSA to make an additional analysis to confirm the foreignness of the target before the acquired communications may be used. In consideration of the amended minimization procedures to account for data that may have been affected by these compliance incidents, the FISC issued its decision as to the retrospective application of the 2013 section 702 minimization procedures on December 13, 2013, finding that the revised minimization procedures satisfy the requirements of the FISA statute and the Fourth Amendment.

i. (U) Number of Disseminated Intelligence Reports Containing a Reference to a U.S. Person Identity

~~(S//NF)~~ During the period of this report, NSA disseminated 3,477 intelligence reports that contained one or more references to U.S. persons.^{3, 4} During the previous reporting period, NSA

² (U//~~FOUO~~) NSA sent a Congressional Notification on this incident on August 26, 2013 with the subject of "Congressional Notification – Post-Tasking Controls – INFORMATION MEMORANDUM"

³ (U//~~FOUO~~) NSA does not maintain records that allow it to readily determine, in the case of a report that includes information from several sources, from which source a reference to a U.S. person came. Accordingly, the references to U.S.-person identities may have resulted from collection pursuant to subsection 702(a) of the FISA or from other authorized Signals Intelligence activity conducted by NSA that was reported in conjunction with information acquired under section 702.

⁴ ~~(S//NF)~~ The Central Intelligence Agency (CIA) does not conduct acquisitions under subsection 702(a) of the FISA. CIA, however, receives unminimized communications from NSA and FBI, and disseminates information based on that information. CIA provided the following information to NSA for inclusion in this report. [REDACTED]

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stopped counting references to U.S. service providers contained in an e-mail address as a U.S. person reference if the e-mail address was used by a non-U.S. person. For example, a reference in a disseminated report that Target A communicated using email account TargetA@USprovider.com is no longer included as a report referencing a U.S.-person identity if Target A is a non-U.S. person. Because this change was in effect for the whole current reporting period, the total number of NSA intelligence reports counted for this report as containing one or more references to U.S. persons is significantly lower than last year.⁵

ii. (U) Accounting of U.S.-Person Identities Disseminated in Response to Requests for Information

(U//~~FOUO~~) During the current reporting period, NSA disseminated, after concluding that the requirements of its minimization procedures had been satisfied, [REDACTED] U.S.-person identities that were not referred to by name or title in the original reporting. The majority of these requests were received from elements of the United States Intelligence Community or from Federal law enforcement agencies.

iii. (U) Accounting of the Number of Targets Later Determined to be in the United States

(U) NSA targets persons under subsection 702(a) by tasking their means of communications (e.g., email addresses, telephone numbers) in order to acquire foreign intelligence information; these targets do not include known U.S. persons. In addition, NSA has developed targeting procedures in accordance with the statutory requirements of subsection 702(a) of the FISA that are reasonably designed to ensure that any acquisitions under subsection 702(a) are limited to targeting non-U.S. persons reasonably believed to be located outside the United States. These targeting procedures have been reviewed and approved by the Attorney General, in consultation with the Director of National Intelligence and the FISC, and they

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[REDACTED]

⁵ ~~(S//NF)~~ For the previous reporting period, NSA reported that 4,932 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.

⁶ (U) Of note, fewer than a quarter of the [REDACTED] their titles. In the majority of instances [REDACTED]

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include the use of [REDACTED] and analysts' review of acquired information to determine whether NSA targets are subsequently determined to be inside the United States.

~~(S//NF)~~ During this reporting period, NSA tasked for collection an average of approximately [REDACTED] individual means of communications under subsection 702(a) of the FISA (approximately [REDACTED] electronic communications accounts and approximately [REDACTED] telephone numbers) at any given time. During the timeframe for this report, NSA determined that on [REDACTED] occasions, there came a point at which NSA no longer had a reasonable belief that the non-U.S.-person targeted was located outside the United States. In most of these cases it was a combination of [REDACTED] used by NSA to inform the continued validity of its [REDACTED] outside the United States and the [REDACTED] that led to the determination that the targets' means of communications were not being used by persons reasonably believed to be outside the United States. In other cases it was only NSA's [REDACTED] that revealed that the means of communications used by NSA targets were used by persons while they were likely not located outside the United States.

iv. (U) Description of Any Procedures Developed During the Reporting Period

(U) During the current reporting period, no additional procedures were developed by NSA or approved by the Director of National Intelligence to assess the extent to which the acquisitions authorized under subsection 702(a) of FISA acquire the communications of U.S. persons beyond the procedures referenced within this annual report.⁷ NSA believes that existing targeting and minimization procedures and related safeguards, as implemented and overseen internally by NSA and externally by the Department of Justice, the Office of the Director of National Intelligence, and the FISC, together provide assurances that subsection 702(a) authorities are being executed reasonably and with due care. To the extent that communications of U.S.-persons or persons in the United States are acquired as NSA targets persons outside the United States who are not U.S.-persons, the communications are treated in accordance with applicable legal and policy requirements in order to safeguard the privacy interests of U.S.-persons and persons in the United States.

⁷(U) This report has referenced targeting and minimization procedures adopted by the Attorney General in consultation with the Director of National Intelligence.

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