



NATIONAL SECURITY AGENCY  
CENTRAL SECURITY SERVICE  
OFFICE OF THE INSPECTOR GENERAL



22 March 2019

TO: DISTRIBUTION

SUBJECT: (U//~~FOUO~~) Report on the Review of the National Security Agency/Central Security Service's Deletion of Certain USA FREEDOM Act Data (ST-18-0008) – Special Study

(U) Summary

~~(TS//SI//NF)~~ Following the discovery that the National Security Agency/Central Security Service (NSA) received inaccurate call detail records (CDRs) pursuant to the USA FREEDOM Act (UFA), and a subsequent request by two U.S. Senators for an independent review of certain aspects of NSA's UFA program, including whether NSA's deletion was sufficient to ensure that all inaccurate CDRs were deleted, the NSA Office of the Inspector General (OIG) conducted a limited scope study of NSA's deletion of CDRs and data derived from those CDRs (hereafter collectively referred to as "UFA data objects") ingested prior to 23 May 2018.<sup>1</sup> The OIG generally found that NSA had been successful in deleting the [redacted] UFA data objects derived from CDRs that it received from U.S. telecommunications service providers under the UFA program; however, we identified [redacted] that should have been deleted, but were not based upon NSA's mistaken assumption regarding the age-off configurations for a single signals intelligence (SIGINT) repository [redacted].<sup>2</sup> As a result, we make one recommendation to assist the Agency in strengthening its controls in the event that a future UFA

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<sup>1</sup> (U) The OIG also continues to consider additional controls associated with NSA's UFA program for possible future review.

<sup>2</sup> ~~(TS//SI//NF)~~ Beginning on 29 November 2015, the UFA amendments to the Foreign Intelligence Surveillance Act (FISA) provided a new mechanism for the Government to obtain orders for targeted production of CDRs relating to authorized investigations to protect against international terrorism. NSA stated that, on 30 November 2015, the Foreign Intelligence Surveillance Court (FISC) approved the first application under the targeted CDR production provisions of UFA. [redacted]

[redacted] Communications metadata is the dialing, routing, addressing, or signaling information associated with electronic communication events. Communications metadata does not contain the content of communications. [redacted]

[redacted]

Classified By [redacted]  
Derived From: NSA/CSSM 1-52  
Dated: 20180110  
Declassify On: 20440322

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deletion is required, and one recommendation for the Agency to consider whether it needs to reissue or revise its notifications to the FISC and the Congress, as detailed below.

(U) Background

~~(TS//SI//NF)~~ NSA reported to the FISC, through the Department of Justice National Security Division via a Rule 13(b) Disclosure of Non-Compliance notification, "Supplemental Notice Regarding Applications of the Federal Bureau of Investigation for Orders Requiring the Production of Call Detail Records to the National Security Agency, Various Docket Numbers," dated 4 June 2018, that [redacted] and from approximately [redacted]

[redacted] provided inaccurate CDRs (caused by system errors) to NSA while responding to various docket numbers approved pursuant to UFA. NSA further stated that because the [redacted] could not identify the affected CDRs for NSA due to legal restrictions, and because NSA had no way to independently determine which CDRs contained inaccurate information, NSA did not have a viable way to remove affected UFA data objects and retain unaffected UFA data objects. As a result, on 23 May 2018, NSA began deleting from its SIGINT repositories all UFA data objects ingested prior to that date.<sup>3</sup> [redacted]

[redacted]

On [redacted] NSA notified the OIG that all UFA data objects ingested prior to 23 May 2018 had either been deleted or aged-off from NSA's SIGINT repositories. Subsequently, the OIG conducted independent verification testing from September through mid-October 2018.

(U//FOUO) Prior to verification testing, the OIG obtained from NSA a list that it certified to be accurate and complete of all repositories (hereafter referred to as "declared SIGINT repositories") that retained UFA data objects ingested prior to 23 May 2018. The OIG further obtained from NSA the actions it took to delete or age-off UFA data objects from the declared SIGINT repositories. It is important to note that the OIG does not have the capability to search NSA systems to independently verify that the NSA-declared SIGINT repositories are the only systems that retain UFA data objects. If NSA were to retain UFA data objects outside of the declared SIGINT repositories (e.g., shared directories accessible by trained and authorized NSA personnel), the OIG would have no way to detect that data.<sup>4</sup> As a result, the OIG focused its review only on

<sup>3</sup> ~~(TS//SI//NF)~~ NSA stated that, as authorized, it retained UFA data objects ingested prior to 23 May 2018 that support disseminated NSA SIGINT product reports. In a Rule 13(b) Disclosure of Non-Compliance notification filed with the FISC on 4 June 2018, NSA stated that it had determined that information in one report [redacted]

[redacted] was believed to contain inaccurate information from CDRs [redacted]. NSA further stated that, on [redacted] it had reissued the information in report [redacted] into report [redacted] after making the necessary revisions regarding correlations of data for the recalled report. Lastly, NSA stated that it had successfully revalidated [redacted] SIGINT product reports (includes the reissued report discussed above) [redacted]

<sup>4</sup> (U//FOUO) On 5 September 2018, NSA issued a notice to analysts and technical personnel titled, "Your Responsibility for the Deletion of Title V, USA FREEDOM Act Data." NSA personnel were instructed to review their personal files and working papers for UFA data objects ingested prior to 23 May 2018. If UFA data objects were

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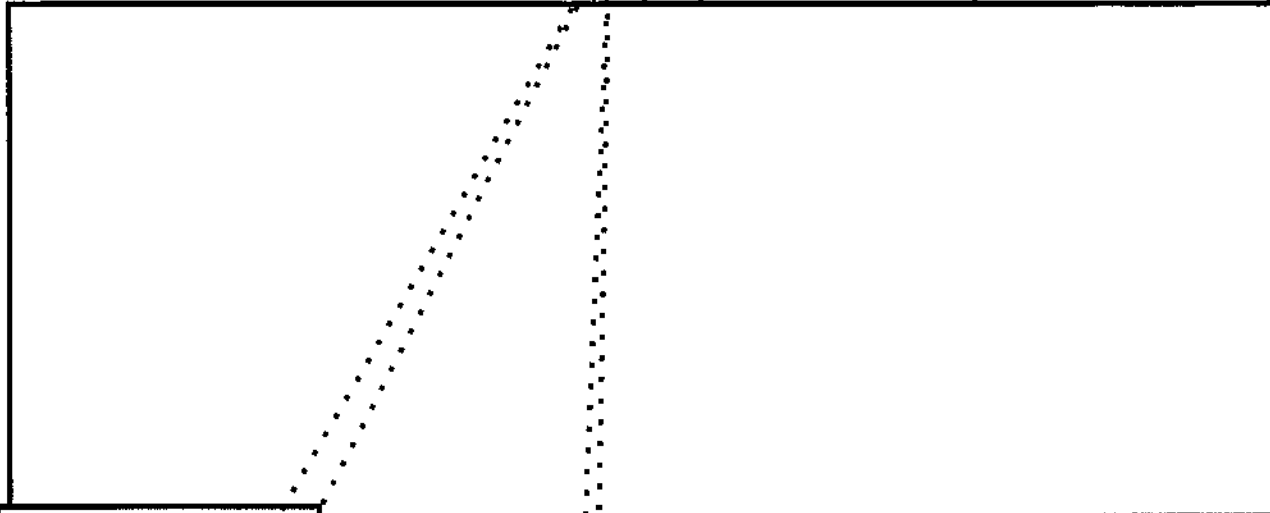
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the NSA-declared SIGINT repositories. For the declared SIGINT repositories, the OIG requested and obtained system-generated reports from September 2018 that documented either all UFA data objects retained in those repositories or the presence of UFA data objects ingested prior to 23 May 2018.

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(U) Results

~~(TS//SI//NF)~~ Based on the OIG's review of system reports obtained for the [redacted]



[redacted] Subsequently, the OIG requested and [redacted] based on the results of a system search, confirmed that the [redacted] had been deleted from [redacted]

~~(TS//SI//NF)~~ The NSA Office of Counterterrorism, in coordination with the Office of General Counsel (OGC), Office of Compliance for Capabilities, and [redacted] determined that the remaining [redacted] data objects that support disseminated NSA SIGINT product reports should remain in [redacted] to ensure that NSA maintains the source information for those reports. At that time, NSA had not yet notified the FISC that it had completed the deletion of all UFA data objects ingested prior to 23 May 2018 in response to an earlier compliance problem.<sup>6</sup> Therefore, OGC concluded that NSA's delay in deleting the [redacted] data objects was not a new compliance violation.

~~(TS//SI//NF)~~ Subsequently, on 25 October 2018, NSA reported to the FISC via a Rule 13(b) Disclosure of Non-Compliance notification, "Final Notice Regarding Applications of the Federal Bureau of Investigation for Orders Requiring the Production of Call Detail Records to the National Security Agency, Various Docket Numbers," that, on 22 August 2018, NSA confirmed

found. NSA personnel were instructed to immediately delete the data. The only allowable exception was for UFA data objects that support disseminated NSA SIGINT product reports. The Agency did not require analysts or technical personnel to report whether UFA data objects were subsequently detected and deleted, so there is no data trail for the OIG to audit how much data was detected and deleted as a result of NSA's instruction or otherwise.

<sup>5</sup> ~~(TS//SI//NF)~~ [redacted]

<sup>6</sup> (U) During this limited scope study, the OIG did not review the timeliness of NSA notifications sent to external overseers. The OIG is currently performing a separate study that will generally assess NSA's incident management and reporting controls.

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the deletion of UFA data objects ingested prior to 23 May 2018. NSA further stated that after deleting the UFA data objects, it conducted additional examinations of NSA repositories and found a small number of "CDR remnants" (referring to the [redacted] data objects that the OIG had discovered) in one system, which included some CDR-derived data fields but not the entire CDRs. NSA stated that the CDR remnants were deleted on [redacted]. Separately, on 28 December 2018, NSA sent Congressional Notifications, "Update Regarding the National Security Agency's (NSA) Deletion of Call Detail Records," to the House Permanent Select Committee on Intelligence (HPSCI) and Senate Select Committee on Intelligence (SSCI) to notify them of the OIG's discovery and NSA's deletion of a small number of "CDR remnants" in one system that should have been included in the original deletion completed on [redacted] and were later deleted on [redacted]. In both the notifications to the FISC and to the HPSCI and SSCI, the NSA stated that CDR remnants were in data fields that "are not seen or used by the analyst community, but are used for tracking and management purposes."

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

[Large redacted block]

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

[Redacted block]

**(U) RECOMMENDATION ST-18-0008-1**

~~(U//FOUO)~~ Determine whether the Rule 13(b) notification, issued 25 October 2018, and the Congressional Notifications, issued 28 December 2018, should be reissued or revised to clarify statements regarding CDR remnants.

LEAD ACTION: D2

SECONDARY ACTION: [REDACTED]

**(U) Management Response**

(U) **AGREE** The action requested by the subject recommendation has already been completed.

~~(U//FOUO)~~ Notifications issued to the FISC are written and coordinated by the Department of Justice's National Security Division and written notifications to various committees of the Congress are coordinated by the Agency's Legislative, State, and Local Affairs (P3). Such records are not reissued or revised. Supplemental information, clarifications, and corrections to such records are routinely provided through formal and information Executive Branch engagements with the FISC and Congress, to the extent otherwise necessary to facilitate oversight of NSA intelligence activities within the relevant jurisdictions of these separate branches of Government.

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

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

**(U) OIG Comment**

(U) The planned action meets the intent of the recommendation. This recommendation has been closed.

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**(U) RECOMMENDATION ST-18-0008-2**

**(U//FOUO)** Update applicable procedures so that, regardless of what corporate process NSA uses to delete data in response to a future UFA compliance and/or policy issue, they are sufficient to ensure that the Agency confirms, by reviewing system generated reports, that all UFA data has been deleted from NSA SIGINT repositories. Furthermore, the procedures should include a requirement that, when age-off mechanisms are relied on to delete that UFA data, NSA will confirm the age-off configurations and review system-generated reports to confirm that all UFA data objects are not retrievable.

LEAD ACTION   
SECONDARY ACTION

**(U) Management Response**

**(U//FOUO) AGREE**

[Redacted Management Response]

**(U) OIG Comment**

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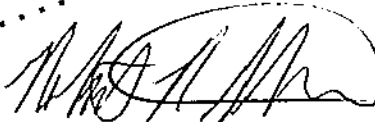
(U) The planned action meets the intent of the recommendation.

(U) In accordance with NSA/CSS Policy 1-60, *NSA/CSS Office of the Inspector General*, 24 March 2016, and IG-11925-18, *Follow-up Procedures for OIG Final Report Recommendations*, 1 August 2018, actions on OIG recommendations are subject to monitoring and follow-up until completion. To request that a recommendation be closed, please provide sufficient evidence to show that actions have been taken that fully comply with the recommendation. If you believe an action to be overtaken by events (OBE) and no longer applicable, please provide a justification and evidence. If a planned action will not be completed by the original target completion date identified in the report, please provide the reason for the delay and forward a revised target completion date to the OIG. All requests related to recommendation closure, including those recommendations believed to be OBE, should be submitted to Follow-up Program Manager, at DL D1\_Followup (ALIAS) D1.

(U) Further, each tasked Directorate should add recommendations listed in this report to its existing OIG open recommendations for inclusion in the bimonthly updates to the OIG, which are due 1 January, 1 March, 1 May, 1 July, 1 September, and 1 November. A separate action will be sent for the 1 March and 1 September bimonthly updates in advance of the release of the OIG's Semi-Annual Report to Congress.

(U//~~FOUO~~) We appreciate the courtesy and cooperation extended to the evaluators throughout the review. For additional information, please contact [redacted] on 963-0922(s) or via e-mail at [redacted]

[redacted]  
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ROBERT P. STORCH  
Inspector General

**(U) This report might not be releasable under the Freedom of Information Act or other statutes and regulations. Consult the NSA/CSS Inspector General Counsel before releasing or posting all or part of this report.**

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ST-18-0008

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 J. Mulligan

(U//~~FOUO~~) cc:

D2: P. Morris

D5: R. Richards

P7: P. Reynolds

OGC

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**(U) APPENDIX A: MANAGEMENT RESPONSES**

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**NSA/CSS OFFICE OF THE INSPECTOR GENERAL  
MANAGEMENT RESPONSE FORM**

**MEMORANDUM**

**TO:** Office of the Inspector General (OIG)

**FROM:** Office of General Counsel, Operational Authorities Practice Group (D21)

**DATE:** 12 March 2019

**SUBJECT:** (U//~~FOUO~~) ST-18-0008 -- Special Study - Draft Report on the Review of NSA/CSS's Deletion of Certain USA FREEDOM Act Data.

(U//~~FOUO~~) This memorandum provides the NSA/CSS OIG response to the subject draft report.

(U//~~FOUO~~) **IG Recommendation 1:** (U//~~FOUO~~) Determine whether the Rule 13(b) notification, issued 25 October 2018, and the Congressional Notifications, issued 28 December 2018, should be reissued or revised to clarify statements regarding CDR remnants.

(U//~~FOUO~~) Agree   X   or Disagree       

(U//~~FOUO~~) Target Completion Date: N/A

(U//~~FOUO~~) Coordinated with Secondary Actionee(s): Yes        No   X  

(U//~~FOUO~~) Secondary Actionee POC: N/A

(U//~~FOUO~~) Date of Coordination: N/A

(U//~~FOUO~~) Management's Comments:

- (U//~~FOUO~~) The action requested by the subject recommendation has already been completed.
- (U//~~FOUO~~) Notifications issued to the Foreign Intelligence Surveillance Court (FISC) are written and coordinated by the Department of Justice's National Security Division and written notifications to various committees of the Congress are coordinated by the Agency's Legislative, State, and Local Affairs (P3). Such records are not reissued or revised. Supplemental information, clarifications, and corrections to such records are routinely provided through formal and informal Executive Branch engagements with the FISC and Congress, to the extent otherwise necessary to facilitate oversight of NSA intelligence activities within the relevant jurisdictions of these separate branches of Government.

- (S//~~FOUO~~) [Redacted]

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Derived From: NSA/CSSM 1,52  
Dated: 20130930  
Declassify On: 20110301

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[Redacted]

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

(U//FOUO) Lead Action: D2

(U//FOUO) Secondary: [Redacted]

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(U//FOUO) Additional Comments: N/A

[Redacted]

Associate General Counsel, Operational Authorities

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MANAGEMENT RESPONSE FORM

MEMORANDUM

TO: Office of the Inspector General (OIG)

FROM: [Redacted]

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DATE: 11 March 2019

SUBJECT: UFA Delete Report, ST-18-0008

(U//~~FOUO~~) This memorandum provides the NSA/CSS OIG response to the subject draft report.

(U//~~FOUO~~) IG Recommendation 2:

(U//~~FOUO~~) Update applicable procedures so that, regardless of what corporate process NSA uses to delete data in response to future UFA compliance and/or policy issues, they are sufficient to ensure that the Agency confirms, by reviewing review system-generated reports, that all UFA data has been deleted from NSA, SIGINT repositories. Furthermore, the procedures should include a requirement that, when age-off mechanisms are relied on to delete that UFA data, NSA will confirm the age-off configurations and review system-generated reports to confirm that all UFA data objects are not retrievable.

LEAD ACTION: [Redacted]

Secondary Action: [Redacted]

(U//~~FOUO~~) Agree  or Disagree

(U//~~FOUO~~) Target Completion Date: 09/30/2019

(U//~~FOUO~~) Coordinated with Secondary Action(s): Yes  No

(U//~~FOUO~~) Management's Comments:

(U//~~FOUO~~) [Redacted] have coordinated their response on this action.

- (U//~~FOUO~~) [Redacted]

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- (U//FOUO) [Redacted]
- (U//FOUO) [Redacted]

(U//FOUO) Lead Action: [Redacted] will coordinate the procedures review. [Redacted] will lead the verification in the event of a future deletion.

(U//FOUO) Additional Comments - [Redacted]

(U//FOUO) Thank you for the opportunity to review and respond to the OIG draft report. If you have further questions or concerns, please contact the [Redacted] 992-5053.

[Redacted Signature]

JONATHAN L. DARBY  
Director of Operations, NSA/CSS

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NSA/CSS OFFICE OF THE INSPECTOR GENERAL  
MANAGEMENT RESPONSE FORM

MEMORANDUM

TO: Office of the Inspector General (OIG)

FROM: [Redacted]

DATE: 11 March 2019

SUBJECT: UFA Delete Report, ST-18-0008

(U//~~FOUO~~) This memorandum provides the NSA/CSS OIG response to the subject draft report.

(U//~~FOUO~~) IG Recommendation 2:

(U//~~FOUO~~) Update applicable procedures so that, regardless of what corporate process NSA uses to delete data in response to future UFA compliance and/or policy issues, they are sufficient to ensure that the Agency confirms, by reviewing review system-generated reports, that all UFA data has been deleted from NSA SIGINT repositories. Furthermore, the procedures should include a requirement that, when age-off mechanisms are relied on to delete that UFA data, NSA will confirm the age-off configurations and review system-generated reports to confirm that all UFA data objects are not retrievable.

LEAD ACTION: [Redacted]  
Secondary Action: [Redacted]

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(U//~~FOUO~~) Agree X or Disagree     

(U//~~FOUO~~) Target Completion Date: 09/30/2019

(U//~~FOUO~~) Coordinated with Secondary Action(s): Yes X No     

(U//~~FOUO~~) Management's Comments:

(U//~~FOUO~~) [Redacted] have coordinated their response on this action.

- (U//~~FOUO~~) [Redacted]

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- (U//~~FOUO~~) [Redacted]
- (U//~~FOUO~~) [Redacted]

(U//~~FOUO~~) Lead Action: [Redacted] will coordinate the procedures review [Redacted] will lead the verification in the event of a future deletion.

(U//~~FOUO~~) Additional Comments - [Redacted]

(U//~~FOUO~~) Thank you for the opportunity to review and respond to the OIG draft report. If you have further questions or concerns, please contact the Capabilities Leadership Support Services, [Redacted] 992-5053.

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X [Redacted]  
Gregory L. Smithberger

(b) (6)

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