

All redacted information exempt under b(1) and/or b(3) except where otherwise noted.

~~TOP SECRET//COMINT//NOFORN~~

U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT CLERK OF COURT

WASHINGTON, D.C.



Docket No.: PR TT

DECLARATION OF [REDACTED] CHIEF, SPECIAL FOREIGN INTELLIGENCE SURVEILLANCE ACT OVERSIGHT AND PROCESSING, OVERSIGHT AND COMPLIANCE, SIGNALS INTELLIGENCE DIRECTORATE, THE NATIONAL SECURITY AGENCY (NSA)

(U) I, [REDACTED] declare as follows:

1. ~~(TS//SI//NF)~~ I submit this Declaration in response to the [REDACTED] Supplemental Order issued in docket number PR/TT [REDACTED] in which the Foreign Intelligence Surveillance Court ordered that:

The government shall, within 20 days of the date of this order, submit a declaration correcting the inaccuracy regarding the number of reports specified at paragraph 14 of the [REDACTED] Declaration and providing the complete and "updated description of NSA's dissemination practices" promised in the Supplemental Declaration.

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Classified by: NSA/CSSM 1-52, Dated 8 January, 2007

Reason: 1.4(c)

~~Declassify on:~~ [REDACTED]

31 August 2009 Production

2. ~~(TS//SI//NF)~~ In my Supplemental Declaration filed on [REDACTED] (“[REDACTED] Supplemental Declaration”), I explained that the number of PR/TT-related reports produced and disseminated by the NSA may have been larger than the [REDACTED] reported to the Court in my [REDACTED] Declaration, attached as Exhibit B to the Application in docket number PR/TT [REDACTED], (“Exhibit B”). See [REDACTED] Supp. Decl. at 2-3. The NSA has since reviewed its records of all reports issued that may have included PR/TT-derived information, including the records of reports written by analysts not specifically authorized to query the PR/TT metadata. Based on that review the NSA has concluded that, as of [REDACTED] the reports issued that included PR/TT-derived information included the following:

(a) ~~(TS//SI//NF)~~ [REDACTED] reports written by PR/TT-cleared analysts. The NSA disseminated these reports to several different agencies within the Intelligence Community, including the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), and the National Counterterrorism Center (NCTC). The NSA also released excerpted information from one of these reports [REDACTED] to the [REDACTED] and excerpted information from another [REDACTED] to the [REDACTED]

(b) ~~(TS//SI//NF)~~ One (1) report written by a non-PR/TT-cleared analyst. The NSA disseminated this report, dated [REDACTED] to authorized customers including the CIA, FBI, Army INSCOM, the Director of National Intelligence, the Defense Intelligence Agency, and the Air Force OSI. This report described [REDACTED]



3. ~~(TS//SI//NF)~~ To identify the total number of reports produced and disseminated that contained PR/TT-derived information, the NSA reviewed all analyst reporting records, including the records of reports written by non-PR/TT-cleared analysts, from the Court's initial authorization in July 2004 in docket number PR/TT [REDACTED] until [REDACTED]. When drafting reports, all NSA analysts, including both PR/TT-cleared analysts and non-PR/TT-cleared analysts, are trained to include in any reporting record the sources of the information contained in a report. The NSA's review included an examination of these records, including the fields of each record that might include references to PR/TT-derived source information. The NSA then audited the reports that referenced PR/TT-derived information as a source, and excluded those that referenced PR/TT sources but in fact that did not contain PR/TT-derived information. Through this methodology the NSA was able to determine that [REDACTED] were reports were produced and disseminated from inception of the PR/TT to [REDACTED].¹

4. ~~(TS//SI//NF)~~ NSA disseminates PR/TT-derived foreign intelligence information through its longstanding foreign intelligence dissemination processes, governed by the United States Signals Intelligence Directive 18 (USSID 18). All NSA analysts, including PR/TT-cleared analysts and non-PR/TT-cleared analysts, are trained on the requirements of USSID 18

¹ ~~(TS//SI//NF)~~ Admittedly, this methodology would not account for reports issued with PR/TT-derived data that mistakenly failed to reference PR/TT sources. Moreover, this methodology does not take into consideration those disseminations made outside of reports through the process described in the preliminary notice of compliance incident filed with the Court on [REDACTED].

and all analysts are required to follow USSID 18 when disseminating PR/TT-derived information outside the NSA.

5. ~~(TS//SI//NF)~~ Section 7 of USSID 18 describes the dissemination procedures to be followed by NSA analysts. Section 7.1 mandates that

All SIGINT reports will be written so as to focus solely on the activities of foreign entities and persons and their agents. Except as provided in Section 7.2., FOREIGN INTELLIGENCE information concerning U.S. PERSONS must be disseminated in a manner which does not identify the U.S. PERSON. Generic or general terms or phrases must be substituted for the identity (e.g., "U.S. firm" for the specific name of a U.S. CORPORATION or "U.S. PERSON" for the specific name of a U.S. PERSON).

Section 7.2, and in particular Section 7.2(c), restricts the dissemination of U.S. person identities.² That section authorizes the dissemination of a U.S. person identity if: (1) a determination is made by an appropriate approval authority that the recipient has a need for the identity for the performance of his official duties, and (2) the identity of the U.S. person is necessary to understand the foreign intelligence information or to assess its importance.

6. ~~(TS//SI//NF)~~ Section 7.3 of USSID 18 lists the approval authorities who may approve the dissemination of U.S. person identities. Among those who may approve the dissemination of a U.S. person identity are the Director of the NSA, the Director and Deputy Director of the Signals Intelligence Directorate, and the Senior Operations Officer (SOO) of the National SIGINT Operations Center, NSA's 24-hours, seven days a week watch center. In an emergency situation, however, where the identity of a U.S. person is pertinent to the safety of

² ~~(TS//SI//NF)~~ Neither Section 7.2(a) nor (b) is applicable to U.S. person information derived from a PR/TT metadata query. Section 7.2(a) allows for the dissemination of U.S. person information when the U.S. person has consented, and Section 7.2(b) allows for the dissemination of publicly available information about a U.S. person.

any person or organization, USSID 18 permits signals intelligence production organizations to disseminate that U.S. person identity.

7. ~~(TS//SI//NF)~~ NSA disseminates U.S. person identities in accordance with USSID
18. NSA will provide the National Security Division of the Department of Justice and the Court with a report identifying which of the [REDACTED] reports that included PR/TT-derived information contained U.S. person identities. For each such report, NSA will identify the provisions of USSID 18 NSA relied upon to disseminate those U.S. person identities.

(U) I declare under penalty of perjury that the foregoing is true and correct.

Signed this [REDACTED]

[REDACTED]

Chief, FISA Oversight and Processing,
Oversight and Compliance
Signals Intelligence Directorate
National Security Agency