



30 December 2011

The Honorable Michael J. Rogers
 Chairman, Permanent Select
 Committee on Intelligence
 United States House of Representatives
 Capitol Visitor Center HVC-304
 U.S. Capitol Building
 Washington, DC 20515-6415

Dear Representative Rogers:

(U//~~FOUO~~) The FISA Amendments Act of 2008 (FAA) authorizes the National Security Agency/Central Security Service (NSA/CSS) Office of the Inspector General (OIG) to assess the Agency's compliance with procedures for targeting certain persons, other than U.S. persons (USPs) outside the United States. My office reviews the collection, processing, and reporting of data at least quarterly. Incidents involving compliance with procedures for targeting certain persons, other than USPs, outside the United States and incidents involving minimization of USP information are reported to the OIG as they occur and quarterly. Each incident is evaluated against the targeting and minimization procedures set forth in the FAA and in NSA/CSS directives. This report covers 1 September 2010 through 31 August 2011.

(S//~~REL TO USA, FVEY~~) In compliance with the targeting and minimization procedures of §702 of the FAA, NSA/CSS disseminated intelligence reports based on SIGINT derived from FAA §702 authorized collection. Of the [] disseminated reports, [] contained a reference to a USP. In addition, NSA/CSS released [] USP identities in response to customer requests, some of which were not unique.

(b)(1)

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

(S//~~REL TO USA, FVEY~~) During this reporting period, [] valid foreign targets who were reasonably believed to be located outside the United States at the time of tasking were later suspected or confirmed to be in the United States. In each instance, NSA/CSS targeted selectors that at the time of targeting were confirmed to be outside the United States but were later []

[]
 []
 []

Compliance incidents occurred under such circumstances

as:

- (U//~~FOUO~~) Delays in implementing minimization procedures and purging unauthorized collection. (b)(1)
- (U//~~FOUO~~) Analyst misunderstanding of the authority. (b)(3)-P.L. 86-36
 (b)(3)-18 USC 798
- (U//~~FOUO~~) Poor construction of database queries, and (b)(3)-50 USC 3024(i)

Derived From: NSA/CSSM 1-52

Dated: 20070108

Declassify On: 20320108

~~SECRET//REL TO USA, FVEY~~

- (U//~~FOUO~~) System errors.

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

(U//~~FOUO~~) This is the third year for which the OIG has assessed for the Congress the Agency's compliance with FAA §702. After the OIG filed its report for the year ending 31 August 2010, discrepancies were identified between the data provided to the OIG by the Signals Intelligence Directorate (SID) and similar information contained in a draft Agency Report of Annual Review Pursuant to Section 702(l) of the Foreign Intelligence Surveillance Act prepared by the NSA Office of General Counsel (OGC). It was determined that different methodologies had been used to provide the information. The statistics were compiled differently for the number of reports disseminated based on FAA §702 collection and for the number of USPs referenced in reporting. There were no differences in reporting for the number of USP identities released in response to customer requests.

(U//~~FOUO~~) The following table contains data for all three years of reporting using a consistent methodology. When reconstructing the data, we discovered that we were unable to confirm exactly how – of several possible legitimate counting methods – the numbers provided to us on USPs referenced in reporting for 2009 and 2010 had been compiled. For the current year and retrospectively for 2009 and 2010, the table reflects the total number of USP identities referenced in reports derived from FAA §702 collection, regardless of the number of times an individual identity was released or the number of USP identities per report. In addition, the 2010 data initially provided to us on the number of reports disseminated excluded reports produced by Signals Intelligence organizations outside NSA's headquarters complex [REDACTED]

[REDACTED] That number has been adjusted.

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

~~(S//REL TO USA, FVEY)~~

Report	Reports Disseminated Based on FAA §702 Collection	USPs Referenced in Reporting
September 2008 – August 2009	[REDACTED]	[REDACTED] (b)(1)
September 2009 – August 2010	[REDACTED]	[REDACTED] (b)(3)-P.L. 86-36
September 2010 – August 2011	[REDACTED]	[REDACTED]

~~(S//REL TO USA, FVEY)~~

(U//~~FOUO~~) To ensure consistency of reporting for the year ending 31 August 2011 and for future years, the OIG, OGC, and SID worked together to achieve a common understanding of the reporting requirements for the two reports and have agreed on a methodology for accumulating and analyzing the compliance statistics. The process has been standardized to ensure continued accuracy and is being documented for future reporting. The table above presents the reportable figures agreed on by the OIG and OGC for all three years for which reports have been required.

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



GEORGE ELLARD
Inspector General

Copy Furnished:

The Honorable C.A. Ruppersberger
Ranking Member, Permanent Select
Committee on Intelligence