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NATIONAL SECURITY AGENCY

FORT GEORGE G. MEADE, MARYLAND 20755-6000

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SEP 10 2009

**MEMORANDUM FOR STAFF DIRECTOR, SENATE SELECT
COMMITTEE ON INTELLIGENCE**

SUBJECT: (U) Congressional Notification – National Security Agency (NSA)
Presentations on Business Records (BR) FISA for the Foreign
Intelligence Surveillance Court (FISC), September 1, 2009 -
INFORMATION MEMORANDUM

(U//~~FOUO~~) This is to notify the Committee of developments regarding the BR FISA program. The Committee has previously been informed of the results of our end-to-end review of this program and corrective actions taken. The Agency has recently provided a successful demonstration of the program to the Foreign Intelligence Surveillance Court (FISC). This is a report on that recent session.

(TS//SI//~~NE~~) On September 1, 2009, at the request of the FISC, NSA hosted Presiding Judge Bates and Judges Walton and Hogan for a series of briefings and demonstrations regarding the BR FISA program. The presentation included a briefing on BR FISA data flow; a demonstration of how analysts log on to NSA systems to access BR FISA data; a demonstration of technical safeguards that prevent queries based on seed numbers that do not meet the Reasonable Articulable Suspicion (RAS) standard; and a demonstration of analyst queries using RAS-approved telephone identifiers. The information was presented in the context of a current operation that concerns a potential threat to the U.S. homeland.

(TS//SI//~~NE~~) This was an opportunity to address concerns raised by Judge Bates in a letter on August 4th to the Attorney General, and more broadly to demonstrate NSA's dedication to compliance with the Court's Orders, including minimization procedures, and how NSA uses the BR FISA program in its counterterrorism missions while appropriately protecting U.S. person privacy. The judges were engaged throughout and asked questions, which were answered by the briefers and other subject matter experts. At the conclusion, the judges expressed their appreciation for the amount and quality of information presented to them.

(TS//SI//~~NF~~) On September 3rd, Judge Walton signed the Renewal Order for the BR FISA. The order, which will remain in effect through

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October 30, 2009, restores to NSA the authority to make RAS determinations as to whether specific telephone identifiers may be used as "seeds" for querying against the BR FISA metadata. We view the signing of the renewal order as an indication that NSA is regaining the Court's confidence in its ability to safeguard U.S. person privacy while using BR FISA data for vital national security missions.

(U) Should you have any questions, please contact [REDACTED] of my staff at [REDACTED]

Ethan L. Bauman
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Associate Director
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Minority Staff Director,
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