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SPECIFIC NEED TO KNOW~~

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

IN RE

Docket Number:

(S)

DECLARATION OF

NSA PROGRAM MANAGER FOR COUNTERTERRORISM SPECIAL PROJECTS

I, declare as follows:

1. ~~(TS//SI)~~ I am the Program Manager for NSA's Counterterrorism Special Projects. In that capacity, I am responsible to the Director of NSA for overseeing and integrating NSA's collection, processing and dissemination of foreign intelligence information from special source terrorist communications. I am also responsible for defining and implementing more effective means of

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executing NSA's mission with respect to such communications, and for ensuring full compliance with all legal and policy requirements. [REDACTED]

[REDACTED]
[REDACTED] In addition to my current position, in the past I have held positions at NSA and/or in the intelligence community that required me to understand, among other things, the technical aspects of the collection of signals intelligence.

These prior positions include the following: (1) I helped design and implement NSA's

[REDACTED] (2) I developed the NSA collection, analysis and reporting response strategy following the [REDACTED] (3) I served as the lead analyst for the NSA response to the [REDACTED] and (4) I served as the Executive Assistant to the Deputy Director of Central Intelligence and later to the Director of Central Intelligence.

2. (TS//SI) I make this declaration in support of the Government's December 13, 2006, Application ("Government's Application") to conduct electronic surveillance pursuant to the Foreign Intelligence Surveillance Act of 1978, 50 U.S.C. §§ 1801-1862, as amended ("FISA"). As set forth in the Declaration of Lieutenant General Keith B. Alexander, Director of the National Security Agency ("NSA") (Exhibit C of the Government's Application) ("NSA Declaration"), the surveillance authority requested will enable NSA to target the communications of [REDACTED]

[REDACTED]
[REDACTED]
¹ (S//SI//NF//OC) For purposes of this Declaration, the phrase [REDACTED]
[REDACTED]

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[REDACTED] in the United States and abroad. This authority also will enable NSA to disseminate relevant information to support the efforts of the United States, and in particular the FBI, to detect and prevent terrorist acts against the United States. NSA will accomplish this by targeting for collection communications where there are reasonable grounds to believe that one of the communicants is a member or agent of [REDACTED] [REDACTED] and also that the communication is to or from a foreign country. A significant purpose of the surveillance is to obtain foreign intelligence necessary to protect the United States from actual or potential

[REDACTED]

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~~TOP SECRET//COMINT//NOFORN//MR~~attacks, other grave hostile acts, sabotage, or international terrorism by [REDACTED]
[REDACTED]

3. (S//SI) This declaration is divided into three sections. First, it provides an overview of NSA's signals intelligence ("SIGINT") collection system. Second, it briefly describes the need for an agile and effective early warning surveillance system to counter the threat the targeted foreign powers pose to the United States. Finally, it explains why the proposed surveillance would establish under FISA a technologically feasible and effective early warning surveillance system. My statements in this declaration are based on my personal knowledge of SIGINT collection and NSA operations, my review of the Application, information available to me in my capacity as the [position/title], and the advice of counsel.

I. (U) Overview of the National Security Agency's SIGINT system

4. (U) The NSA was established by Presidential Directive in 1952 as a separately organized agency within the Department of Defense. Under Executive Order 12333, § 1.12(b), as amended, NSA's cryptologic mission includes three functions: (1) to collect, process, and disseminate signals intelligence information for national foreign intelligence and counterintelligence purposes and the support of military operations; (2) to conduct information security activities; and (3) to conduct operations security training for the U.S. Government.

5. (S) NSA's SIGINT responsibilities include establishing and operating an effective unified organization to conduct SIGINT activities as set forth in Executive Order No. 12333. In performing its SIGINT mission, NSA has developed a sophisticated worldwide SIGINT collection

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network that acquires, among other things, foreign and international electronic communications and related information.

6. (S) NSA's collection and analysis of SIGINT for foreign intelligence purposes serves two primary goals. The first and most important goal is to gain as much information as possible in order to allow the United States to counter threats to the nation's security. The second goal is to obtain information critical to the formulation of U.S. foreign policy. Foreign intelligence information provided by NSA is relevant to a wide range of important issues, including international terrorism, threat warnings and readiness, military order of battle, arms proliferation, and foreign aspects of international narcotics trafficking.

7. (S) NSA's ability to produce foreign intelligence information depends on its access to foreign and international electronic communications. Foreign intelligence produced by SIGINT activities is an extremely important part of the overall foreign intelligence information available to the United States and is often unobtainable by other means.

8. (S//SI) While signals intelligence produces critical foreign intelligence information, collecting this intelligence poses a formidable and constantly evolving challenge. The sheer volume and variety of electronic communications, and the rapid pace of technological change, make the effective collection of SIGINT exceedingly difficult. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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9. ~~(TS//SI//NF//OC)~~ The technological infrastructure that supports NSA's foreign intelligence information collection network has taken years to develop at a cost of billions of dollars and an incalculable expenditure of human effort. NSA's SIGINT collection network relies on a diverse and sophisticated suite of collection and processing technologies. Examples of the communications NSA intercepts around the globe include:



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II. (U) The Government's Proposed Surveillance

10. (TS//SI) The Government's Application to this Court seeks authorization to conduct surveillance that will serve as part of NSA's signals intelligence system. The proposed surveillance would establish a critical component of an early warning system under FISA designed to alert the U.S. Government to the presence and intentions of members and agents of [REDACTED]

11. (S) The foreign powers targeted in this Application— [REDACTED]

[REDACTED] pose the greatest threats to the United States. Declaration of John S. Redd, Director of the National Counterterrorism Center (Exhibit B of the Government's Application) ("NCTC Declaration") at ¶¶ 155-157.

12. (TS//SI) The Intelligence Community believes that the United States must continue to use every collection tool available to prevent future attacks by [REDACTED] international terrorist groups. Id. at ¶ 157. The NCTC Declaration makes it clear that [REDACTED] intend to undertake future terrorist attacks and to continue to develop their existing capabilities in order to execute a potentially catastrophic attack in the United States. Id. at ¶ 17. It

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describes in detail the tactics and techniques [REDACTED] employs in seeking to carry out such attacks.

Id. at ¶¶ 17-27.

13. (TS//SI//NF) [REDACTED] the NCTC Declaration states that the U.S. Government regards

[REDACTED] highest concern. Id. at ¶ 102. The Intelligence Community regards [REDACTED]

[REDACTED] Id. at ¶ 96. The NCTC Declaration notes that

intelligence reporting continues to yield examples of potential [REDACTED] contingency planning for

future attacks on U.S. interests, [REDACTED] Id. at ¶ 103.

14. (TS//SI//NF) In addition, the foreign powers targeted in the Government's Application

[REDACTED] make extensive use of modern telecommunications networks, including

the Internet. [REDACTED]

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15. (TS//SI)

16. (TS//SI//NF)

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[REDACTED]

17. (TS//SI) The combination of the urgent threat to the United States posed by these foreign powers and the techniques they employ to evade detection by the U.S. Government underscores the need for an agile and efficient early warning system designed to detect their activities as quickly as possible. [REDACTED]

[REDACTED] present critical challenges for the nation's communications intelligence capabilities. NSA's SIGINT system is essential to our ability to identify the enemy and to detect and disrupt its plans for further attacks on the United States. Signals intelligence often is the only means the United States has to learn the identities of particular individuals who are involved in terrorist activities and the existence of particular terrorist threats.

18. (TS//SI//NF//OC) Accordingly, as detailed in the Government's Application, the "facilities" at which the electronic surveillance would be directed are: for telephone calls,

[REDACTED]
[REDACTED] and for e-mails,³ [REDACTED]

19. (TS//SI//NF//OC) NSA has reasonable grounds to believe that [REDACTED] e-mail

³ (TS//SI) The Government uses the term "e-mail" herein to refer to [REDACTED]
[REDACTED] As described in the NSA Director's Declaration at Exhibit C of the Government's Application, NSA will target for collection such electronic communications by [REDACTED]
[REDACTED]

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addresses and telephone numbers are being used by agents or members of these foreign powers. Moreover, both the agents and members of these groups, and the telephone numbers and e-mail addresses from which they are communicating, are changing constantly. As a result, each month NSA likely will add to this list between [REDACTED] additional telephone numbers and e-mail addresses used by the targets, as well as remove other numbers and addresses. The majority of these new addresses will be foreign e-mail addresses.

III. (U) The Proposed Surveillance Would Establish a Technologically Feasible and Effective Means for Collecting Vital Intelligence that Would Otherwise Be Lost

20. (TS//SI//NF//OC) The proposed surveillance set forth in the Government's Application would provide for a technologically feasible and effective means of establishing an early warning surveillance system under FISA. [REDACTED]

[REDACTED]

[REDACTED] As described in detail below, the advantages of the proposed surveillance are (1) increased speed and agility in the collection of intelligence; and (2) with respect to e-mail, the ability to obtain additional, crucial information about suspected terrorists that we have not obtained under the customary approach of collecting only communications to and

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from specific e-mail addresses.

A. ~~(C)~~ **Increased Speed and Agility**

21. ~~(TS//NF//OC)~~ First, the proposed surveillance would allow NSA to collect intelligence with greater speed and agility than would be possible by filing individual FISA applications or requests for emergency approval. The Government's ability to move quickly to intercept communications is critical to the effective operation of an early warning system. When the Government obtains information suggesting there are reasonable grounds to believe that a particular telephone number or e-mail address is being used by a terrorist operative, it must move as expeditiously as possible to initiate surveillance. To be effective, NSA must be able to employ its early warning surveillance capabilities to [REDACTED]

[REDACTED]

22. ~~(TS//SI)~~ Under the proposed surveillance system, trained NSA intelligence analysts would make targeting decisions after determining and properly documenting that the minimization probable cause standard is met – that is, there are reasonable grounds to believe that one of the communicants is an agent or member of one of the targeted foreign powers and that the communication is to or from a foreign country. In the case of a telephone number or e-mail address that is reasonably believed to be used by a person outside the United States, [REDACTED]

[REDACTED]

[REDACTED] In the case of a telephone number that is reasonably

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believed to be used by a person inside the United States, for which NSA would be required to obtain the approval of a high-ranking Department of Justice official prior to initiating surveillance, NSA would still be able to begin receiving communications [REDACTED] of identifying a new telephone number.

23. (TS//SI//NF) The more typical approach of filing individual applications directed at specific e-mail addresses and telephone numbers used by terrorists cannot operate with the speed and agility needed to accomplish the objectives of the proposed surveillance and necessarily does not implement the critical early warning capability that is the purpose of the surveillance proposed in the Government's Application. [REDACTED]

[REDACTED]

24 (TS//SI//NF//OC) [REDACTED]

[REDACTED]

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[REDACTED]

In addition, each month NSA likely will add to this list between [REDACTED] additional telephone numbers and e-mail addresses used by the targets. At the same time, it also routinely will remove numerous such telephone numbers and e-mail addresses from this list. That would translate to filing a motion to amend a FISA order (or seeking Attorney General emergency authority) as many as [REDACTED] times each day, or filing one motion (or seeking one Attorney General authorization and filing a related application with the Court) covering as many as [REDACTED] new selectors each day under the customary framework of directing surveillance at specific telephone numbers and e-mail addresses. Any attempt by NSA to meet the demands of such an increase in individual FISA submissions would likely have severe impact on its operational effectiveness.

25. (TS//SI//NF) As described above, terrorists are adept at exploiting the features of the global communications system, particularly the Internet, to evade detection through a variety of means. [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED] Thus, in certain cases, seeking emergency authorization before initiating collection on a newly identified e-mail address or telephone number will inevitably result in the loss of valuable intelligence, even given efficient processing of applications.

26. (S//SI) In short, compared to the more common approach under FISA of filing individual applications directed at facilities that are specific telephone numbers and e-mail addresses, the Government's proposed surveillance provides the necessary speed and agility to follow up quickly on new leads and to allow the Government to obtain actionable intelligence information that otherwise might be lost or obtained too late. It is always advantageous to collect signals intelligence as quickly as possible. Thus, one of the most important features of the proposed early warning surveillance is the ability to move as quickly as possible to conduct surveillance on the communications of suspected terrorists.

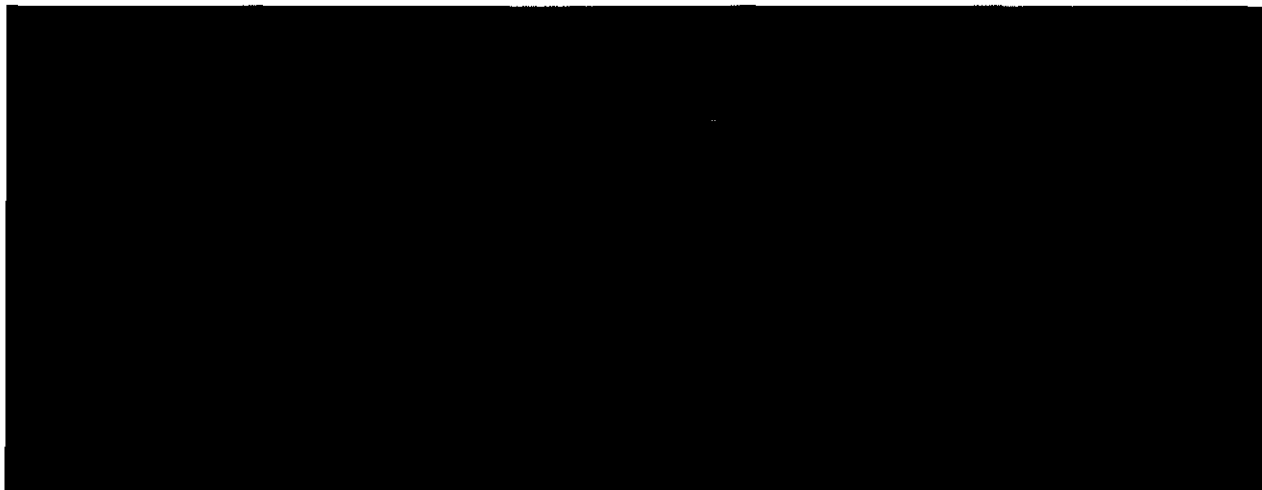
B. (U) Collection of Additional Foreign Intelligence

27. (TS//SI//NF//OC) In addition to providing for the speed and agility that is essential to an effective early warning system, the proposed surveillance would enable NSA to collect other forms of critical foreign intelligence that it could not obtain under the more customary framework of directing surveillance at specified e-mail addresses and collecting only communications to and from them. [REDACTED]

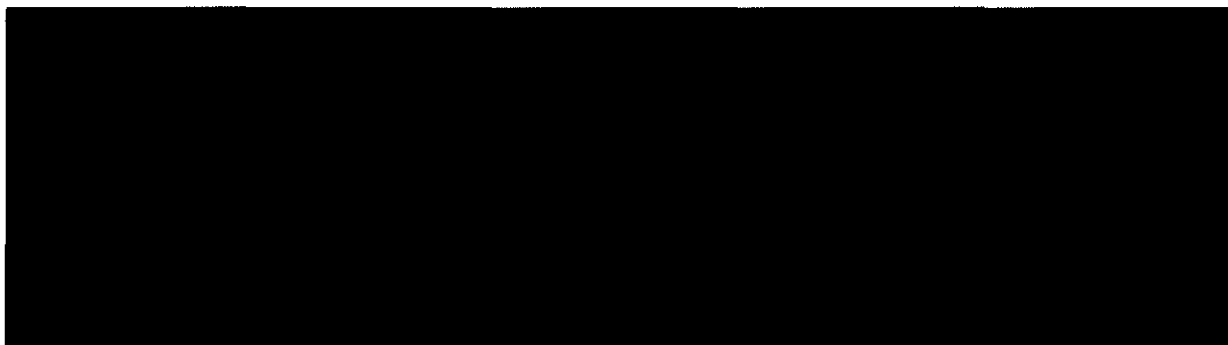
[REDACTED]

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28. (TS//SI) First, under the proposed surveillance, NSA would collect electronic communications that contain the targeted e-mail address in the substantive contents of a communication between two third parties. Thus, even when an e-mail is not to or from the targeted e-mail address, NSA would collect the communication as long as the contents of the communication contained the e-mail address. For example, if an unknown [REDACTED] passes a targeted address to another unknown terrorist, NSA would collect that e-mail. [REDACTED]



29. (TS//SI) [REDACTED]



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[REDACTED]

30. (TS//SI)

[REDACTED]

[REDACTED]

31 (TS//SI)

[REDACTED]

[REDACTED]

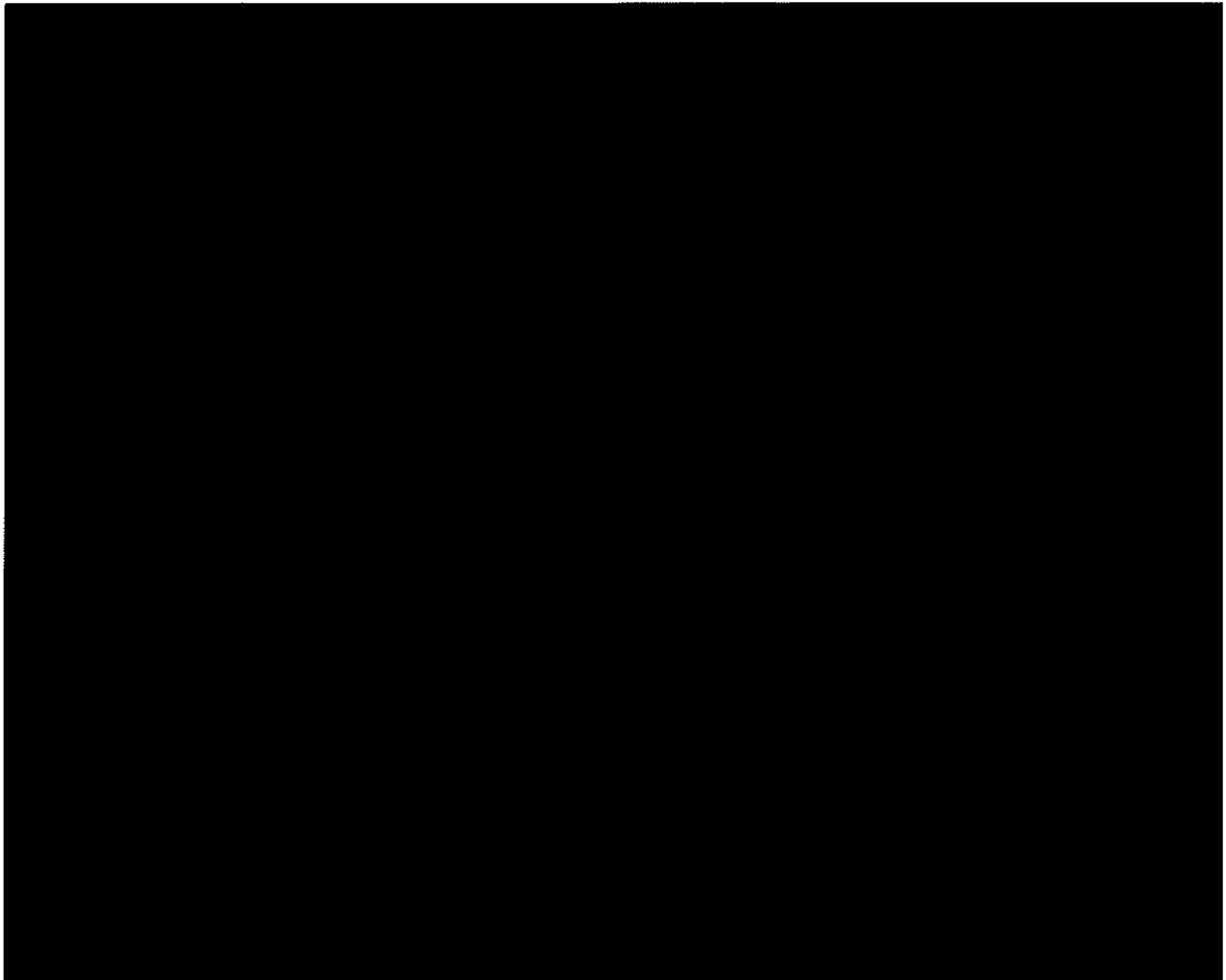
32. (TS//SI)


[REDACTED]

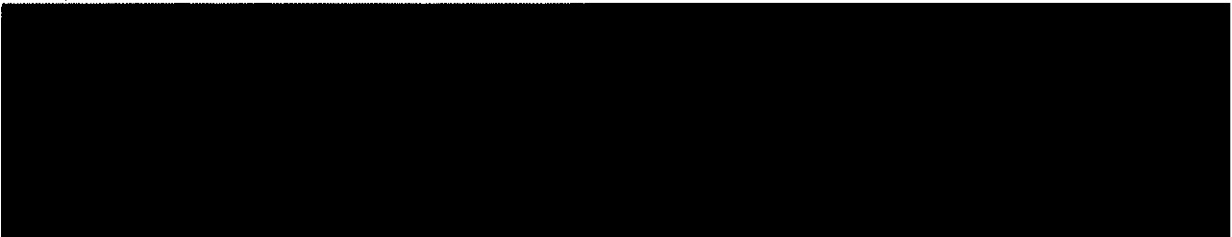
[REDACTED]

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33. (TS//SI) Under the proposed method of conducting electronic surveillance, then, NSA will be in a position not only to learn information about the activities of its targets, but also to discover information about new potential targets that it may never have otherwise acquired. 



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IV. (U) Conclusion

34. For all these reasons, [REDACTED]

[REDACTED]

The proposed surveillance set forth in the Government's Application will allow NSA to establish under FISA an early warning system to detect and prevent terrorist activities by the targeted foreign powers.

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

Signed this _____ day of _____, 2007.

b(3), b(6), and

NSA Program Manager
Counterterrorism Special Project

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