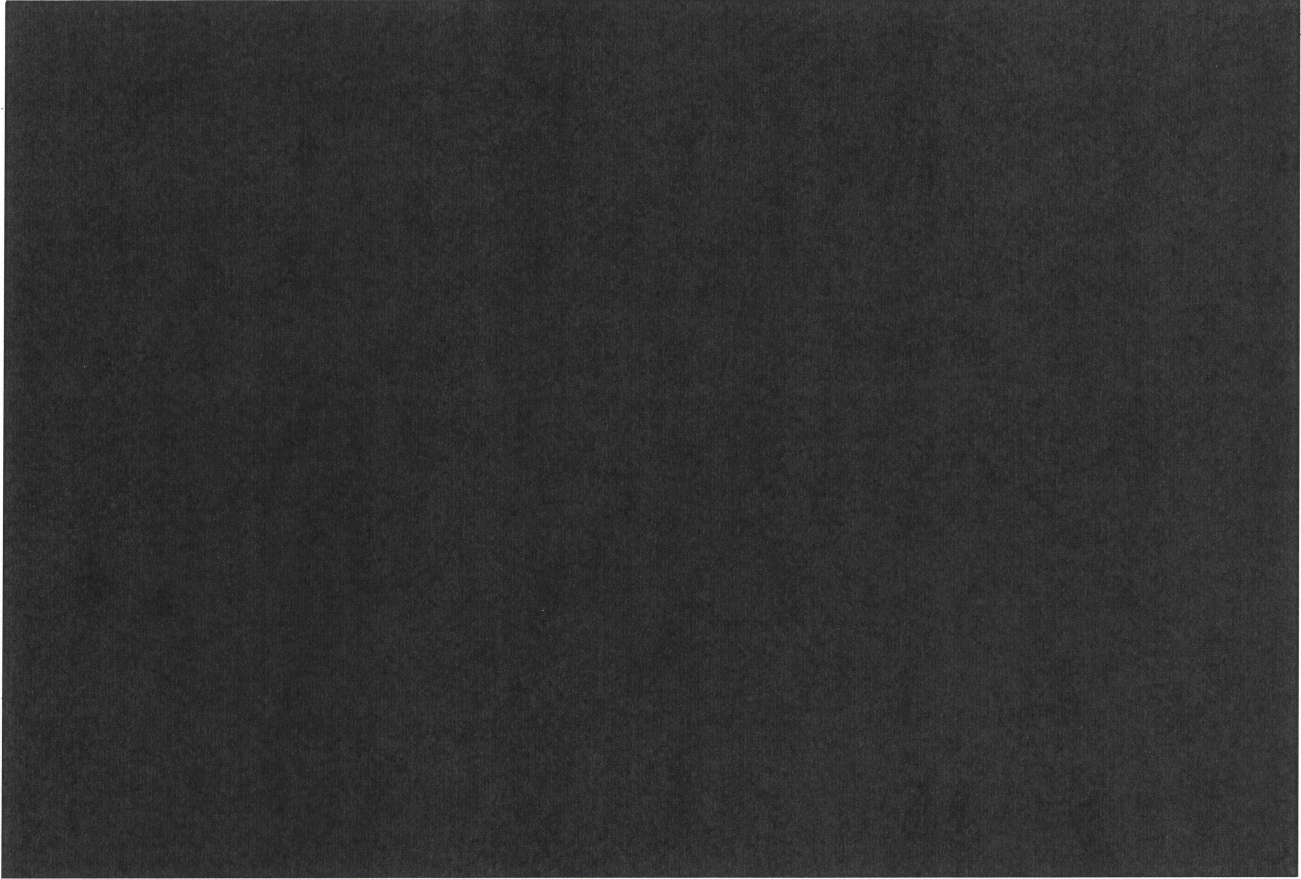


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UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT
2011 NOV 29 PM 4:14
FRANKLYN HALL
COURT



NOTICE

THE UNITED STATES OF AMERICA, through the undersigned Department of Justice attorney, respectfully submits this notice concerning the above-captioned matters. ~~(S//OC/NF)~~

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~~Classified by: Tashina Gauhar, Deputy Assistant
Attorney General, NSD, DOJ
Reason: 1.4(c)
Declassify on: 29 November 2036~~

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On April 13, 2011, the Director of National Intelligence and the Attorney General executed amendments to the above-captioned certifications. Those amendments authorized, *inter alia*, the use of the National Security Agency (NSA) section 702 minimization procedures submitted with DNI/AG 702(g) Certifications [REDACTED] [REDACTED] in connection with foreign intelligence information acquired in accordance with the above-captioned certifications. On October 3, 2011, this Court issued a Memorandum Opinion and Order finding, *inter alia*, those NSA section 702 minimization procedures deficient in certain respects. *See In re DNI/AG 702(g) Certifications* [REDACTED] Docket Nos [REDACTED] [REDACTED] Order at 3 (USFISC Oct. 3, 2011). The Court further ordered the Government to, at its election, correct within thirty days the deficiencies identified in the Memorandum Opinion and Order, or cease the implementation of the certifications to the extent they permit acquisitions implicating the deficiencies. *See id.* at 3-4.

~~(S//OC/NF)~~

On October 31, 2011, the Director of National Intelligence and the Attorney General executed amendments to DNI/AG 702(g) Certifications [REDACTED] [REDACTED]. Those amendments authorized the immediate use of amended NSA section 702 minimization procedures containing additional provisions intended to correct the deficiencies identified by the Court in its Memorandum Opinion and Order of October 3, 2011. In particular, the amended NSA section 702 minimization procedures require

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that as certain specific types of Internet transactions are acquired under DNI/AG 702(g) Certifications [REDACTED], those transactions shall be segregated and subjected to special access and handling rules. The amended NSA section 702 minimization procedures also limit NSA's retention of all Internet transactions acquired under DNI/AG 702(g) Certifications [REDACTED] and impose additional requirements that must be met before NSA analysts can use information contained in the transactions. The amended certifications, along with the amended NSA section 702 minimization procedures, were submitted to the Court for its review on October 31, 2011. ~~(TS//SI//OC/NF)~~

As explained to the Court in the Government's Response to the Court's Briefing Order of October 13, 2011, the Government cannot retrospectively apply all of the additional requirements in the amended NSA section 702 minimization procedures to communications that have already been acquired under the above-captioned certifications, all of which have already expired. See Government's Response to the Court's Briefing Order of Oct. 13, 2011, Docket Nos [REDACTED] [REDACTED] filed Nov. 22, 2011, at 2-3 & n.1. In particular, it is technically infeasible for NSA to apply the above-discussed segregation process to communications that have already been acquired under the above-captioned certifications. *Id.* at 2-3. The Government continues to evaluate the most appropriate means of handling communications acquired under the above-captioned certifications, and accordingly

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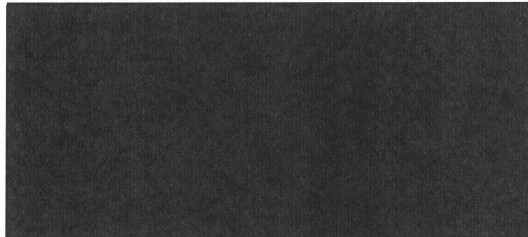
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intends to expeditiously submit to the Court amended NSA minimization procedures.

~~(TS//SI//OC/NF)~~

In the interim, and as more specifically described in the Government's Response to the Court's Briefing Order of October 13, 2011, NSA has been applying and will continue to apply the additional requirements in the amended NSA section 702 minimization procedures that can feasibly be applied to Internet transactions that have already been acquired under the above-referenced certifications. ~~(TS//SI//OC/NF)~~

Respectfully submitted,



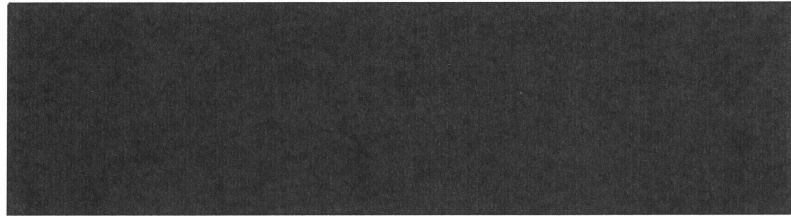
National Security Division
U.S. Department of Justice

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VERIFICATION

I declare under penalty of perjury that the facts set forth in the attached Notice of Clarification, are true and correct based upon my best information, knowledge and belief. Executed pursuant to Title 28, United States Code, § 1746, on this 29th day of November, 2011. (S)



Signals Intelligence Directorate Compliance Architect
National Security Agency

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APPROVAL

I hereby approve the filing of this Verified Notice with respect to the above-captioned docket numbers with the United States Foreign Intelligence Surveillance Court. ~~(S)~~



Eric H. Holder, Jr.
Attorney General of the United States

11-29-11
Date

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