

UNCLASSIFIED

UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT

2024 MAY -3 PM 2: 35

MAURA PETERSON
CLERK OF COURT

(U) IN RE DNI/AG 702(h) CERTIFICATION 2024-A
AND PREDECESSOR CERTIFICATIONS.

Docket No. 702(j)-24-01 and
predecessor dockets

(U) IN RE DNI/AG 702(h) CERTIFICATION 2024-B
AND PREDECESSOR CERTIFICATIONS.

Docket No. 702(j)-24-02 and
predecessor dockets

(U) IN RE DNI/AG 702(h) CERTIFICATION 2024-C
AND PREDECESSOR CERTIFICATIONS.

Docket No. 702(j)-24-03 and
predecessor dockets

(U) MOTION TO UNSEAL

(U) THE UNITED STATES OF AMERICA, by and through the undersigned Department of Justice attorney, hereby moves this Court, pursuant to the Foreign Intelligence Surveillance Act of 1978, as amended (hereinafter, "the Act"), to unseal, in the form and for the purpose described below, the documents in the above-captioned matters that are identified in the attached Appendix A (hereinafter, "the identified documents") in order to provide redacted versions of these documents to the Privacy and Civil Liberties Oversight Board (hereinafter "PCLOB" or "the Board").

UNCLASSIFIED

UNCLASSIFIED

I. (U) **Historical and Procedural Background**

A. (U) **The Board's History and Function**

(U) The Board's public website provides the following information regarding its history and mission:

The PCLOB is an independent agency within the Executive Branch established by the 9/11 Commission Act of 2007. The bipartisan, five-member Board is appointed by the President and confirmed by the Senate. The Board's mission is to ensure that the federal government's efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.

U.S. Privacy and Civil Liberties Oversight Board, *History and Mission*,

<https://www.pclob.gov/About/HistoryMission> (last visited September 13, 2023).

(U) The Board has two fundamental purposes: (1) to review and analyze actions the executive branch takes to protect the nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties, and (2) to ensure that liberty concerns are appropriately considered in the development and implementation of law, regulations, and policies related to efforts to protect the nation from terrorism. *See* 42 U.S.C. § 2000ee(c).

(U) The Board's functions include (1) providing advice and counsel, (2) serving an oversight role, and (3) coordinating and otherwise interacting with federal privacy and civil liberties officers. *See id.* at § 2000ee(d). In its oversight role, the Board is required in part to "continually review...the implementation of regulations, policies, and procedures...of the executive branch relating to efforts to protect the Nation from

UNCLASSIFIED

UNCLASSIFIED

terrorism to ensure that privacy and civil liberties are protected[.]” *See id.* at § 2000ee(d)(2)(A). The Board is also required to review other executive branch actions relating to efforts to protect the nation from terrorism, to assess whether they protect privacy and civil liberties, and are consistent with laws, regulations, and policies regarding privacy and civil liberties. *See id.* at § 2000ee(d)(2)(C). To accomplish its functions, the Board is authorized to access, among other materials, all relevant executive branch records, documents, and papers, including classified information. *See id.* at § 2000ee(g)(1)(A).

B. (U) The Court’s Previous Unsealing of Material for Provision to the Board

(U) In the course of carrying out its responsibilities, the Board has historically had an interest in reviewing copies of documents related to Section 702. Thus, the Government has in the past requested, and the Court has ordered, the unsealing of similar materials for their release to the Board. *See, e.g.,* Order Approving Government’s Motion to Unseal, Dkt Nos. 702(j)-23-01, 702(j)-23-02, 702(j)-23-03 (FISA Ct. Oct. 5, 2023).

II. (U) Good Cause Exists for the Court to Unseal the Appendix A Documents

(U) Good cause exists for the Court to unseal the Appendix A documents. The sealed materials identified in Appendix A are relevant to the Board’s responsibilities reviewing other executive branch actions relating to efforts to protect the nation from

UNCLASSIFIED

UNCLASSIFIED

terrorism, to assess whether those efforts protect privacy and civil liberties and are consistent with laws, regulations, and policies regarding privacy and civil liberties. *See* 42 U.S.C. § 2000ee(d)(2)(C). In addition, the Board is authorized to access, among other materials, all relevant executive branch records, documents, and papers, including classified information. *See id.* at § 2000ee(g)(1)(A). Accordingly, good cause exists for the Court to unseal the portions of the Appendix A documents for production to the Board.

III. (U) Conclusion

(U) Accordingly, the Government respectfully requests that the Court unseal, for the purposes described above, redacted copies of the documents listed in Appendix A that the Government intends to provide to the PCLOB. The sealing status of the information redacted in such documents will remain unchanged.

---- The remainder of this page intentionally left blank. ----

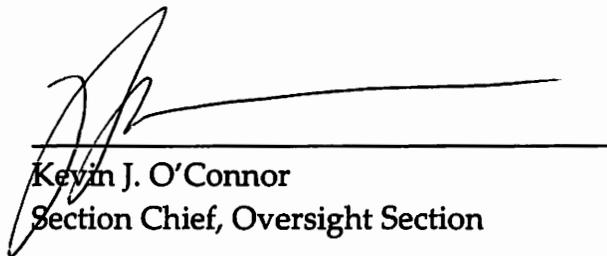
UNCLASSIFIED

(U) Wherefore the United States of America, by counsel, respectfully requests that the Court unseal the documents described above. A proposed order accompanies this motion.

Respectfully submitted,

Melissa MacTough
Deputy Assistant Attorney General

By:



Kevin J. O'Connor
Section Chief, Oversight Section

Office of Intelligence
National Security Division
United States Department of Justice

UNCLASSIFIED

(U) Appendix A

1. (U) The Court's *Memorandum Opinion and Order*, and two additional related orders, in Docket Numbers 702(j)-24-01, 702(j)-24-02, and 702(j)-24-03 (and predecessor dockets), all entered on April 4, 2024.
2. (U) EXHIBIT A: Procedures Used by the National Security Agency for Targeting Non-United States Persons Reasonably Believed to Be Located Outside the United States to Acquire Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
3. (U) EXHIBIT B: Minimization Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
4. (U) EXHIBIT C: Procedures Used by the Federal Bureau of Investigation for Targeting Non-United States Persons Reasonably Believed to Be Located Outside the United States to Acquire Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
5. (U) EXHIBIT D: Minimization Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
6. (U) EXHIBIT E: Minimization Procedures Used by the Central Intelligence Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
7. (U) EXHIBIT G: Minimization Procedures Used by the National Counterterrorism Center in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.

UNCLASSIFIED

UNCLASSIFIED

(U) Appendix A

8. (U) EXHIBIT H: Querying Procedures Used by the National Security Agency in Connection with Acquisition of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
9. (U) EXHIBIT I: Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisition of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
10. (U) EXHIBIT J: Querying Procedures Used by the Central Intelligence Agency in Connection with Acquisition of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.
11. (U) EXHIBIT K: Querying Procedures Used by the National Counterterrorism Center in Connection with Acquisition of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended, filed on March 5, 2024.

UNCLASSIFIED