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UNITED STATES

FOREIGN INTELLIGENCE SURVEILLANCE COURT

WASHINGTON, D.C.

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT

2020 JUL 6 PM 4:00

LEEANN FLYNN HALL
CLERK OF COURT

(U) IN RE ACCURACY CONCERNS REGARDING FBI
MATTERS SUBMITTED TO THE FISC.

Docket No. Misc. 19-02

**(U) SUPPLEMENTAL RESPONSE TO THE COURT'S
CORRECTED OPINION AND ORDER DATED MARCH 5, 2020**

(U) The United States respectfully submits this supplemental response to the Corrected Opinion and Order of the Foreign Intelligence Surveillance Court (FISC or the Court) entered on March 5, 2020 (March 5 Order).¹ Specifically, this response provides the Court with a description of the procedures the Federal Bureau of Investigation (FBI) has implemented to ensure that all FBI personnel participating in the FISA process have completed certain required FISA-related training courses and related testing requirements previously described by the Government in the above-captioned docket.

I. (U) Background on Training

(U) In a declaration filed with the Court on January 10, 2020 (January 10 Response), FBI Director Christopher A. Wray described multiple corrective actions the FBI had taken or planned to take to address the findings of the Office of the Inspector General's December 9, 2019, report, *Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation* (OIG Report). As relevant here, the declaration discussed two training modules the

¹ (U) This Opinion and Order corrected an Opinion and Order that had been issued on March 4, 2020.

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FBI was then planning to develop: (1) a virtual case study (Case Study Training) delivered as mandatory training to all FBI operational personnel, regardless of the program they are assigned to, and (2) a focused virtual or in-person mandatory training centered on the FISA process (FISA Process Training) tailored to FBI personnel who work on FISA applications, to explain the need to be rigorous during each part of the FISA process. January 10 Response, Attachment A at 8. Director Wray instructed the relevant FBI divisions to develop the training by April 30, 2020, so that employees could complete the training by June 30, 2020. *Id.* at 8-9. As noted above, in the March 5 Order, the Court directed the Government to provide confirmation that all FBI personnel participating in the FISA process have completed the training and satisfied any testing requirements. March 5 Order at 18.

(U) As explained in a previous filing with the Court, the Case Study Training covers critical lessons learned from the OIG Report, and is intended to be applicable to all FBI operational employees regardless of division, program, or position.² Supplemental Response to the Court's Order Dated December 17, 2019; the Court's Order Dated January 17, 2020; and the Court's Corrected Opinion and Order Dated March 5, 2020, Attachment A at 2. The primary objective is for operational employees to understand how the lessons learned from the report can be applied to all aspects of the FBI's actions. *Id.* The key learning points of the training are focused on renewed emphasis on rigor, objectivity, accountability and ownership, and providing reliable representations to courts. *Id.* at 2-3. As a testing mechanism, participants who take the Case Study Training must complete "knowledge checks" throughout the course, which consist of

² (U) The FBI Training Division (TD) instructed the heads of the FBI's headquarters and field divisions (the Division Heads) to ensure the following personnel, among others, complete the training, regardless of their assignment: all FBI attorneys, special agents, intelligence analysts, strategic operations specialists, and management and program analysts.

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a combination of general knowledge as well as scenario-based questions. *Id.* at 3. Trainees must ultimately answer all questions correctly to receive credit for completing the course. *Id.*

(U) With respect to the FISA Process Training, FBI developed this training in collaboration with the Office of Intelligence (OI) by significantly revising and updating its current FISA accuracy training, so as to incorporate into the training the enhanced FISA accuracy processes adopted by the FBI in response to the OIG Report. *Id.* at 4. The audience for the new, enhanced course is all FBI personnel who work on national security matters, handle FISA applications, and/or may access FISA-acquired information.³ *Id.* FISA Process Training, which is anticipated to be periodically updated, will be mandatory biennially for those required to complete it. The goal of the training is to facilitate accuracy and completeness in all FISA applications, by equipping employees with knowledge of the historical purpose, rules and regulations, methods, and practices associated with the FISA process. *Id.* At the conclusion of the course, trainees must take a final assessment that evaluates their response to a combination of general knowledge as well as scenario-based questions. *Id.* at 6. Trainees must answer at least 80% of the questions correctly to receive credit for completing the course. *Id.*

II. (U) Ensuring Completion of the Training and Testing Mechanisms

(U) Since the release of the Case Study and FISA Process Training courses, FBI leadership has repeatedly messaged that employees were required to complete the two training courses no later than June 30, 2020. In addition, TD worked with Division Heads to identify the personnel within each respective division who were required to complete the training. On or about June 30, 2020, the FBI Deputy Director sent a message to FBI leadership reminding them that that day was the last day to complete the training. The Deputy Director emphasized that the

³ (U) TD instructed Division Heads to ensure that all personnel meeting those criteria complete the training.

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FBI needed to ensure compliance, and asked recipients to engage with their training coordinators to determine who still needed to complete the training and direct those personnel to do so that day.

(U) On or about July 1, 2020, TD generated spreadsheets for each FBI division identifying, by name, any individual who is required to take the training courses, but who had not then done so. The FBI's Office of the General Counsel (OGC) provided those lists to Divisions Heads on or about July 2, 2020. At the same time, OGC instructed Division Heads that anyone who had not completed the training should be prohibited from participating in the FISA process until they do so. OGC also advised that, prospectively, Division Heads must ensure that all personnel newly assigned to their respective divisions complete the training prior to participating in the FISA process. The FBI's Acting General Counsel reiterated this message during an FBI leadership meeting held on or about July 6, 2020. As of the date of this filing, TD reports that 98% of required personnel have completed the FISA Process Training, and 99% of required personnel have completed the Case Study Training.

III. (U) Conclusion

(U) The above constitutes the Government's supplemental response to the Court's March 5, 2020 Order. The FBI has also reviewed this response and confirmed its accuracy.

Respectfully submitted,

Dated: *July 6, 2020*

George Gonzalez
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Office of Intelligence
National Security Division
U.S. Department of Justice

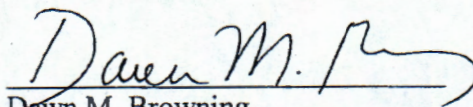
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VERIFICATION

(U) I declare under penalty of perjury that the foregoing supplemental response to the March 5, 2020 Order is true and correct with regard to the Federal Bureau of Investigation's policies and practices based upon my best information, knowledge, and belief.

(U) Executed pursuant to 28 U.S.C. § 1746 on July 6th, 2020.


Dawn M. Browning
Acting General Counsel
Federal Bureau of Investigation

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