

All redacted
information
exempt under
b(1) and/or b(3)
except where
otherwise noted.

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, DC

Docket Number PR/TT [REDACTED] and
previous dockets

SUPPLEMENTAL ORDER

On [REDACTED] the government notified the Court of a potential compliance incident concerning the National Security Agency's ("NSA") activities conducted pursuant to the Court's orders in docket number PR/TT [REDACTED] and previous dockets. Preliminary Notice of a Potential Compliance Incident, Docket No. PR/TT [REDACTED] and Previous Dockets (filed [REDACTED] and attached hereto) ("Preliminary Notice"). The government notified the Court that the

[REDACTED] Preliminary Notice at 2. The government has been

receiving this information since the FISC's first authorization in docket number PR/TT [REDACTED]

Id. at 3. Further, [REDACTED]

[REDACTED]

[REDACTED] Id.

On [REDACTED] the government submitted a proposed renewal application with the Court, in which the government noted that [REDACTED] were [REDACTED] some of which may not have been contemplated by the Orders issued in Docket Number PR/TT [REDACTED] and in previous dockets." Proposed Application for Use of Pen Registers and Trap and Trace Devices for Foreign Intelligence Purposes at 11 ("Proposed Application"). In view of the potential non-compliance, the government reported that, effective [REDACTED] the following restrictions were in place:

- NSA intelligence analysts will not query the information in NSA's PR/TT metadata databases;
- [REDACTED]
- The NSA will not "ingest" PR/TT metadata and other information collected by the extraction and collection devices; and

- Should the Government determine that immediate access to the metadata repository is necessary in order to protect against an imminent threat to human life, the Government will first notify the Court.

Preliminary Notice at 2-3, Proposed Application at 12.

The Court staff, on behalf of the undersigned Judge, informed the government of the Court's concern about the merits of the Proposed Application in view of these recent disclosures, and scheduled a hearing for [REDACTED]. The government orally notified the Court staff on [REDACTED] that it had decided not to submit a final application seeking renewal of the authorities granted in docket number PR/TT [REDACTED]. Accordingly, the Court understands [REDACTED] [REDACTED] devices that have been extracting and collecting information pursuant to the FISC's orders in this matter will cease collecting any such information when the current authority expires, i.e., no later than 5:00 p.m. Eastern Time, [REDACTED]. Further, the Court understands that, since [REDACTED] NSA intelligence analysts have not queried the information in NSA's PR/TT metadata databases that was collected pursuant to FISC orders.

Although the potential for on-going over-collection will cease with the expiration of the current authorities, the Court is concerned that the NSA will continue to retain information pertaining to [REDACTED] electronic communications, including metadata pertaining to communications of United States persons located within the United States who are not the subject of any FBI investigation. Application for Use of Pen Registers and Trap and Trace

Devices for Foreign Intelligence Purposes at 5-6, Docket No. PR/TT [REDACTED] (filed [REDACTED])

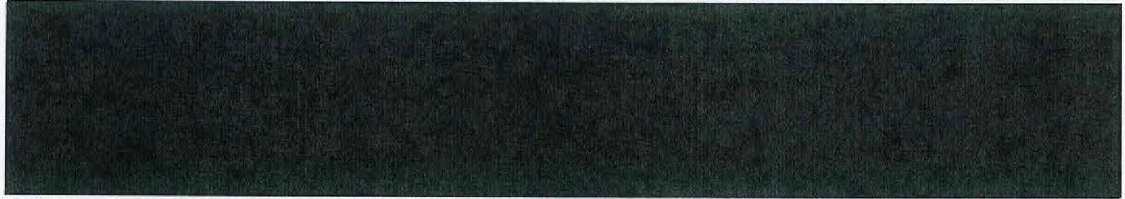
[REDACTED]. The likelihood that some of this information exceeds the scope of what was authorized under the FISC's orders, and indeed, may constitute "content" as defined in 18 U.S.C. §2510 (8) and thus be outside the scope of the pen register statute, impels this Court to issue this Supplemental Order.

Accordingly, consistent with the government's representations in its submissions to the Court, it is hereby

ORDERED:

1. No information of the type that had been authorized for collection under Docket PR/TT [REDACTED] and previous dockets may be collected after 5:00 p.m. Eastern Time, [REDACTED]
[REDACTED]
2. The government shall not access the information obtained pursuant to the FISC's orders in this matter for any analytic or investigative purpose. No later than 5:00 p.m. Eastern Time, [REDACTED] the government shall file with the Court a written description of any accesses that have been made since [REDACTED] and any accesses that are about to be made for any purpose other than an analytic or investigative purpose (e.g., technical experts working with the data to develop effective filtering or segregating technology).

3.



4. In the extraordinary event that the government determines immediate access to the information obtained pursuant to the FISC's orders in this matter is necessary in order to protect against an imminent threat to human life, the government may access the information but shall, by the close of the next business day following such access, provide a written report to the Court describing the circumstances and results of the access.

IT IS SO ORDERED this



REGGIE B. WALTON
Judge, United States Foreign
Intelligence Surveillance Court

