FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE
Date: 09/21/2009

To: All Field Offices
Attn: SACs/NSB ASACs/JTTF SSAs
Office Special Technology
Attn: BAD Grever
Counterintelligence
Attn: AD Daniel L. Cloyd
WMD Directorate
Attn: AD Vahid Majidi
Intelligence Directorate
Attn: AD Kevin Favreau
All Legats
General Counsel
Attn: NSLB
Director's Office
Attn: Corporate Policy Office
Attn: Office of Integrity & Compliance

From: Counterterrorism
CXS/Electronic Communications Analysis Unit, Room 4343
Contact: UC

Approved By: Heimbach Michael J
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Drafted By:

Case ID #:

Title: ELECTRONIC COMMUNICATIONS ANALYSIS SPECIAL PROJECTS;
CT - GLOBAL EXTREMIST INSPIRED

FISA, SECTION 702
CTD/CXS INVOLVEMENT;
CT - GLOBAL EXTREMIST INSPIRED

Synopsis: (NF) To inform certain Headquarters components
and all Field Offices and Legal Attaches that the FBI will soon
retain for its analysis, use, and dissemination, Intelligence
Community data acquired through search and surveillance of email
accounts used by non-U.S. persons overseas pursuant to the

SECRET/NOFORN

FAA-604
Foreign Intelligence Surveillance Act, 50 U.S.C. § 1881a [Section 702].

(U) Under Section 702 of the Foreign Intelligence Surveillance Act (FISA), added as part of the FISA Amendments Act of 2008, the United States may lawfully obtain information from U.S.-based communications service providers of non-U.S. persons who are reasonably believed to be located outside the United States. The conditions - non-U.S. persons reasonably believed to be located outside the United States - are requirements that must be met to authorize.

Collection of Data by Topic

(U/NF) Activities under FISA Section 702 are governed by "certifications" executed jointly by the Attorney General and Director of National Intelligence.

FAA-605
To: All Field Offices
From: Counterterrorism
Re: C 09/21/2009

Application: FISA 702 Authority vs. Traditional FISA

Under FISA Section 702 authority, an intelligence agency can internally determine that a significant purpose of collecting on a particular selector (e.g., an email address) is to obtain foreign intelligence information and that there is a reasonable belief that the target account is used by a non-U.S. person reasonably believed to be located outside the United States.

In comparison, traditional FISA applications require a showing to a neutral court that there is probable cause to believe the target is an agent of a foreign power and that the facility to be surveilled is used by the subject.
To: All Field Offices
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Re: (S)

09/21/2009

(SECRET/NOFORN)

Parsing the Data Categorically

Coordination

Access

(SECRET/NOFORN)

before any use or dissemination of this data outside of the FBI; and
To: All Field Offices
From: Counterterrorism

Re: 021

09/31/2009

How the Data Will Look

FISA Section 702 Standard Minimization Procedures (SMP)

A modified version of the traditional FISA SMP apply to FISA Section 702 data (hereinafter, FISA Section 702 SMP). Additionally, the FBI's SMP Policy Implementation Guidelines, dated October 31, 2008, is being updated to include modifications to the SMP as they pertain to FISA Section 702 data.

For purposes of distinction, it is important to know that FISA Section 702 differs from traditional FISA in the following ways:

1. For a traditional FISA, there must be probable cause that a user of a targeted facility is an "Agent of a Foreign Power;" under FISA Section 702, there must be a reasonable belief that the user is a non-USPER located outside the United States.
In accordance with FBI policy, the Section Chief from CXS is responsible for designating Case Coordinators via BC for FISA Section 702 acquisition. The CXS Section Chief has designated Primary and Additional Case Coordinators from within CXS, as well as several Additional Case Coordinators from within CD and WMDD. Designation of Additional Case Coordinators to apply minimization markings—whether at FBIHQ or at the FBI Field Office level—remains the responsibility of the CXS Section Chief. CXS will review designations semi-annually to remove or add designees. Case Coordinators must first receive required legal training. This required training includes the 2008 FISA SMP training and 2009 FISA Section 702 training, both of which are hosted on [redacted].

Field office leadership is encouraged to review the updated FISA SMP Policy Implementation Guidelines that are forthcoming from the National Security Law Branch (NSLB). The revised Policy Implementation Guidelines will incorporate changes made as a result of FISA Section 702. Adherence to the stated policy is particularly important to ensure compliance with the SMP.
To: All Field Offices  From: Counterterrorism
Re:  
Date: 09/21/2009

LEAD(s): 
Set Lead 1: (Info)

ALL RECEIVING OFFICES

(U) For information of addressees.

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