

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

IN RE: DIRECTIVES PURSUANT TO SECTION)
105B OF THE FOREIGN INTELLIGENCE) Docket No. 08-01
SURVEILLANCE ACT)
_____)

THE UNITED STATES' THIRD CLASSIFICATION REVIEW STATUS REPORT

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In its Order of June 28, 2013, this Court directed the Government “to conduct a new classification review” of the Court’s August 22, 2008, Opinion in this case and the parties’ legal briefs filed in this case. Order at 3. The Court further directed the Government “to report back to the Court by July 12, 2013, with estimated dates by which it will be able to complete its review.” *Id.* This Court also noted that an Order it issued on January 12, 2009, in this case placed under seal all classified information in this matter and defined “classified information” as “any information, document, or portion of a document, not included in the published, redacted opinion, that has been and remains classified by an Executive Branch agency or official pursuant to applicable Executive Orders.” *Id.* at 2 (quoting *In re Directives Pursuant to Section 105B of the Foreign Intelligence Surveillance Act*, 551 F.3d 1004, 1017 (Foreign Intel. Surv. Ct. of Rev. 2008)).

On July 12, 2013, the Government estimated that it would be able to complete its review by Monday, August 26, 2013. On Friday, August 23, 2013, the Government—in light of its recent declassification and public release of documents related to certain sensitive National Security Agency programs¹ and the ongoing reviews of other materials which may affect the instant review—estimated that it would be able to complete its review by Tuesday, September 10, 2013. On September 10, 2013, the Government provided this Court, for its review, with the Court’s opinion and the majority of the parties’ briefs—which had undergone a new classification review. The Government also informed the Court that it was in the process of reviewing two additional documents in this matter and estimated that it would be in a position to

¹ See Office of the Director of Nat’l Intelligence, DNI Declassifies Intelligence Community Documents Regarding Collection Under Section 702 of the Foreign Intelligence Surveillance Act (FISA) (Aug. 21, 2013), *available at* <http://www.dni.gov/index.php/newsroom/press-releases/191-press-releases-2013/915-dni-declassifies-intelligence-community-documents-regarding-collection-under-section-702-of-the-foreign-intelligence-surveillance-act-fisa>.

finalize the review of those documents and present them to the Court by Tuesday, September 24, 2013.

After careful review of these two additional documents by senior intelligence officials and the U.S. Department of Justice, the Executive Branch has decided that it would be appropriate to declassify certain information in this matter—making possible the publication of portions of these two documents. The two documents, however, still contain information that remains classified. Thus, the public versions of these documents must remain redacted in part.²

All of the text that the Government has determined remains classified in these documents is contained in text boxes.³ Upon completion of the Court's review, the Director of National Intelligence will formally declassify the redacted versions provided to the Court. The Government then will provide the Court with redacted versions of the documents, appropriate for publication, that black out the information currently contained in the text boxes and strike through any classification markings that are no longer valid.


² In addition, the Government has redacted the names of certain government employees appearing in these documents.

³ The Government is not producing an exhibit to one of the documents because the exhibit is a document from the proceedings before the U.S. Foreign Intelligence Surveillance Court (FISC) and will be reviewed as part of the FISC classification review. Additionally, as the Government stated in its previous classification review status report filed on September 10, 2013, the Government is not providing the Joint Appendix and Ex Parte Appendix at this time. A substantial portion of the appendices contain information related to the FISC proceedings in this matter and the Government is planning to perform the classification review of these documents in conjunction with its review of the FISC documents. The Government will provide a status report on the review of this exhibit and these appendices within sixteen days of this filing.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the United States' Third Classification Review Status Report and classified attachments was served by hand-delivery on this 24th day of September, 2013, to the Litigation Security Officer, Christine Gunning, or her delegate, for forwarding to the Court. A copy of the report, without the attachments, was served by the Government via Federal Express overnight delivery addressed to:

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