

1 CHAD A. READLER
Acting Assistant Attorney General

2 JOSEPH H. HUNT
3 Director, Federal Programs Branch

4 ANTHONY J. COPPOLINO
Deputy Branch Director

5 JAMES J. GILLIGAN
6 Special Litigation Counsel

7 RODNEY PATTON
Senior Counsel

8 JULIA A. BERMAN
9 TIMOTHY A. JOHNSON
Trial Attorneys

10 U.S. Department of Justice
11 Civil Division, Federal Programs Branch
12 20 Massachusetts Avenue, N.W., Room 6102
Washington, D.C. 20001
13 E-mail: james.gilligan@usdoj.gov
Phone: (202) 514-3358
14 Fax: (202) 616-8470

15 *Attorneys for the Government Defendants
Sued in their Official Capacities*

16 **UNITED STATES DISTRICT COURT**
17 **NORTHERN DISTRICT OF CALIFORNIA**
OAKLAND DIVISION

18)
19) CAROLYN JEWEL, *et al.*,)

20) Plaintiffs,)

21) v.)

22) NATIONAL SECURITY AGENCY, *et al.*,)

23) Defendants.)
24)

Case No. 4:08-cv-04373-JSW

**GOVERNMENT DEFENDANTS’
ANSWER**

Hon. Jeffrey S. White

25 Defendants National Security Agency (NSA), the Department of Justice, the United
26 States of America, Donald J. Trump, in his official capacity as President of the United States,
27 Michael P. Dempsey, in his official capacity as Acting Director of National Intelligence, Admiral
28

1 Michael S. Rogers, in his official capacity as Director of the NSA, and Dana J. Boente, in his
2 official capacity as Acting Attorney General of the United States¹ (collectively, the “Government
3 Defendants”), answer Plaintiffs’ Complaint for Constitutional and Statutory Violations, Seeking
4 Damages, Declaratory, and Injunctive Relief (Dkt. No. 1) (hereinafter, the “Complaint”), as
5 follows:²

6 **FIRST DEFENSE**

7 The Court lacks subject matter jurisdiction over the claims asserted, inasmuch as
8 Plaintiffs have not established their standing to sue.

9 **SECOND DEFENSE**

10 Plaintiffs’ claims are moot.

11 **THIRD DEFENSE**

12 Plaintiffs’ claims for monetary relief are barred, in part, by sovereign immunity.

13 **FOURTH DEFENSE**

14 The activities actually carried out under the President’s Surveillance Program, described
15 in paragraph 4, below, were lawful pursuant to Presidential and/or statutory authority.

16 **FIFTH DEFENSE**

17 The Complaint fails to state claims on which relief may be granted.

18 The Government Defendants answer below the numbered paragraphs of the Complaint:

19 1. This paragraph constitutes Plaintiffs’ characterization of the nature of this action,
20 to which no response is required.

21 2. This paragraph constitutes Plaintiffs’ characterization of the nature of this action,
22 to which no response is required.

23
24 ¹ Pursuant to Federal Rule of Civil Procedure 25(d) Defendants Trump, Dempsey,
25 Rogers, and Boente are automatically substituted as defendants sued in their official capacities in
26 lieu of, respectively, Defendants George W. Bush, former President of the United States,
27 Admiral (Ret.) John M. McConnell, former Director of National Intelligence, General Keith B.
28 Alexander, former Director of the NSA, and Michael B. Mukasey, former Attorney General of
the United States.

² This answer is not submitted on behalf of Defendants Bush, Cheney, Addington,
McConnell, Negroponte, Hayden, Alexander, Gonzales, Mukasey, and Ashcroft so far as they
are sued in their personal capacities. They retain their rights to plead separately and to raise any
defenses available to them.

1 3. Denied.

2 4. Admit that starting on October 4, 2001, then-President Bush authorized the
3 Secretary of Defense to employ the capabilities of the Department of Defense, including the
4 NSA, to collect foreign intelligence by electronic surveillance in order to detect and prevent acts
5 of terrorism within the United States. Then-President Bush authorized the NSA to collect (1) the
6 contents of certain international communications, an activity referred to and publicly
7 acknowledged by then-President Bush as the Terrorist Surveillance Program (TSP), and
8 (2) telephony and Internet non-content information (referred to as "metadata") in bulk, subject to
9 various conditions. Collectively these Presidentially authorized NSA intelligence-collection
10 activities have been publicly acknowledged and referred to by the United States Government as
11 the President's Surveillance Program (PSP). To the extent the allegations of this paragraph
12 exceed the scope of or are inconsistent with the foregoing admissions, they are denied. Also
13 deny that the PSP was a "program of dragnet surveillance" such as that alleged in paragraph 3.

14 5. Admit that the collection of communications content under the TSP was targeted
15 at one-end-foreign communications where a communicant was reasonably believed to be a
16 member or agent of al-Qa'ida or an affiliated terrorist organization, or (from October 2001 until
17 March 2004) a member or agent of other international terrorist organizations. Such collection
18 was conducted without warrant or court order issued by the Foreign Intelligence Surveillance
19 Court (FISC) pursuant to the Foreign Intelligence Surveillance Act (FISA). To the extent the
20 allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
21 admissions, they are denied.

22 6. Admit that the PSP, in addition to content collection under the TSP, included bulk
23 collection of telephony and Internet non-content metadata, subject to various conditions.

24 7. Admit that the PSP, in addition to content collection under the TSP, included bulk
25 collection of telephony and Internet non-content metadata, subject to various conditions.

26 Otherwise this paragraph is denied, except that the Government Defendants can neither admit
27 nor deny allegations regarding the scale on which the NSA collected telephony and Internet
28

1 metadata under the PSP without revealing or tending to reveal classified national-security
2 information that is subject to protection from disclosure by law.

3 8. The Government Defendants can neither admit nor deny the allegations of this
4 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 9. Deny that the content surveillance authorized under the PSP is continuing, that it
8 involved acquisition of the content of the telephonic and electronic communications of
9 “practically every American who uses the phone system or the Internet,” or that it constituted a
10 “suspicionless general search through the nation’s communications networks.” Otherwise, the
11 Government Defendants can neither admit nor deny the allegations of this paragraph, which
12 purport to concern operational details of NSA intelligence-gathering activities, without revealing
13 or tending to reveal classified national-security information that is subject to protection from
14 disclosure by law.

15 10. Admit that the PSP involved bulk collection, subject to various conditions, of
16 telephony and Internet metadata pertaining to communications involving U.S. persons located in
17 the United States, and included such non-content information as the dates, times, durations, and
18 originating and receiving numbers of telephone calls, and the dates, times, and “to” and “from”
19 lines of e-mail. Deny that the bulk collection of telephony and Internet metadata pertaining to
20 communications involving U.S. persons located in the United States is ongoing. This paragraph
21 also contains a conclusion of law to which no response is required. Otherwise, the Government
22 Defendants can neither admit nor deny the allegations of this paragraph, which purport to
23 concern operational details of NSA intelligence-gathering activities, without revealing or tending
24 to reveal classified national-security information that is subject to protection from disclosure by
25 law.

26 11. The Government Defendants lack sufficient knowledge or information to form a
27 belief as to the truth or falsity of the allegation that the PSP has been referred to as “a vast ‘data-
28 mining’ operation.” Otherwise, the Government Defendants can neither admit nor deny the

1 allegations of this paragraph, which purport to concern operational details of NSA intelligence-
2 gathering activities, without revealing or tending to reveal classified national-security
3 information that is subject to protection from disclosure by law.

4 12. The Government Defendants lack sufficient knowledge or information to form a
5 belief as to the truth or falsity of the allegations of this paragraph.

6 13. This paragraph contains conclusions of law to which no response is required.
7 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 14. This paragraph constitutes Plaintiffs' characterization of the nature of this action,
12 to which no response is required.

13 15. This paragraph constitutes a conclusion of law to which no response is required.

14 16. This paragraph constitutes a conclusion of law to which no response is required.

15 17. This paragraph constitutes a conclusion of law to which no response is required.

16 18. This paragraph constitutes a conclusion of law to which no response is required.

17 19. This paragraph constitutes a conclusion of law to which no response is required.

18 20. The Government Defendants lack sufficient knowledge or information to form a
19 belief as to the truth or falsity of this paragraph.

20 21. The Government Defendants lack sufficient knowledge or information to form a
21 belief as to the truth or falsity of this paragraph.

22 22. The Government Defendants lack sufficient knowledge or information to form a
23 belief as to the truth or falsity of this paragraph.

24 23. The Government Defendants lack sufficient knowledge or information to form a
25 belief as to the truth or falsity of this paragraph.

26 24. The Government Defendants lack sufficient knowledge or information to form a
27 belief as to the truth or falsity of this paragraph.

1 25. Admit that the NSA is an agency within the United States Department of Defense
2 and is responsible for, among other duties, providing foreign-signals intelligence about
3 international terrorists and foreign powers, organizations, and persons to U.S. Government
4 policy makers and military forces with an official need for such intelligence. Admit that the
5 NSA conducted intelligence-collection activities carried out under the PSP. To the extent the
6 allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
7 admissions, they are denied.

8 26. Denied.

9 27. Admit the first sentence. Admit that the Director of the NSA was the ultimate
10 authority within the NSA responsible for overseeing and directing the NSA's operations and
11 functions, which included, until its termination, implementation of the PSP. To the extent the
12 allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
13 admissions, they are denied.

14 28. Admit.

15 29. Admit that former President Bush authorized the PSP. Otherwise this paragraph
16 is denied.

17 30. Deny the first sentence. The phrase "creation, development, and implementation
18 of the [PSP]" is too vague and ambiguous for the Government Defendants to form a belief as to
19 the truth or falsity of sentence two.

20 31. Deny the first sentence. Admit the second sentence. The phrase "creation,
21 development, and implementation of the [PSP]" is too vague and ambiguous for the Government
22 Defendants to form a belief as to the truth or falsity of sentence three. As to sentence four, admit
23 that defendant Addington is reported to have drafted the Presidential authorizations of the PSP.
24 To the extent the allegations of this paragraph exceed the scope of or are inconsistent with the
25 foregoing admission, they are denied.

26 32. Admit that the U.S. Department of Justice is a Cabinet-level department of the
27 United States Government, and that its mission is to enforce the law and defend the interests of
28 the United States according to the law; to ensure public safety against threats foreign and

1 domestic; to provide federal leadership in preventing and controlling crime; to seek just
2 punishment for those guilty of unlawful behavior; and to ensure fair and impartial administration
3 of justice for all Americans.

4 33. Denied.

5 34. Admit the first sentence. The phrase “creation, development, and implementation
6 of the [PSP]” is too vague and ambiguous for the Government Defendants to form a belief as to
7 the truth or falsity of sentence two. As to sentence three, admit that as Attorney General
8 defendant Gonzales approved Presidential authorizations of the PSP as to form and legality. To
9 the extent the allegations of this paragraph exceed the scope of or are inconsistent with the
10 foregoing admission, they are denied.

11 35. As to sentence one, admit that John D. Ashcroft was Attorney General of the
12 United States from February 2001 to February 2005. As to sentence two, admit that as Attorney
13 General defendant Ashcroft approved Presidential authorizations of the PSP as to form and
14 legality. To the extent the allegations of this paragraph exceed the scope of or are inconsistent
15 with the foregoing admissions, they are denied.

16 36. Denied.

17 37. Admit the first sentence. Admit that the Director of National Intelligence serves
18 as the head of the Intelligence Community, overseeing and directing the implementation of the
19 National Intelligence Program, which included, until its termination, the PSP. To the extent the
20 allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
21 admission, they are denied.

22 38. The Government Defendants lack sufficient knowledge or information to form a
23 belief as to the truth or falsity of this paragraph.

24 39. Admit that then-President Bush first authorized the PSP, in writing, on October 4,
25 2001, and that the activities actually carried out under the PSP were conducted without warrant
26 or court order. The allegations that President Bush acted “in concert” with other named and
27 unnamed Defendants, and “without statutory authorization,” constitute conclusions of law to
28

1 which no response is required. To the extent the remaining allegations of this paragraph exceed
2 the scope of or are inconsistent with the foregoing admission, they are denied.

3 40. Deny that the PSP “continues to this day.” Admit that the NSA began PSP
4 operations on or about October 6, 2001. To the extent the remaining allegations of this
5 paragraph exceed the scope of or are inconsistent with the foregoing admission, they are denied.

6 41. Admit that the PSP was re-authorized by President Bush, in writing, every 30-60
7 days. Otherwise, the allegations of this paragraph are denied.

8 42. The Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 43. The Government Defendants can neither admit nor deny the allegations of this
13 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
14 without revealing or tending to reveal classified national-security information that is subject to
15 protection from disclosure by law.

16 44. Admit that by early March 2004 certain senior officials in the Department of
17 Justice had come to the conclusion that prior legal analyses of the PSP were insufficient to justify
18 particular aspects of the program as then being implemented. To the extent the remaining
19 allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
20 admission, they are denied.

21 45. Admit that on March 9, 2004, then-Acting Attorney General James Comey
22 advised then-Vice President Cheney and a number of White House officials that he would not
23 approve particular aspects of the PSP, as then being implemented, as to form and legality. Admit
24 that the then-current Presidential authorization of the PSP was due to expire on March 11, 2004.
25 To the extent the remaining allegations of this paragraph exceed the scope of or are inconsistent
26 with the foregoing admission, they are denied.

27 46. Admit that on March 11, 2004, then-President Bush signed a new authorization of
28 the PSP, which was not approved as to form and legality by the Attorney General. To the extent

1 the remaining allegations of this paragraph exceed the scope of or are inconsistent with the
2 foregoing admission, they are denied.

3 47. Admit that the March 11, 2004, Presidential authorization of the PSP was
4 approved as to form and legality by then-Counsel to the President Gonzales. Admit also that the
5 March 11, 2004, Presidential authorization of the PSP contained a statement that the exercise
6 therein of the President's Article II authority as Commander-in-Chief "displace[s] the provisions
7 of law, including the Foreign Intelligence Surveillance Act and chapter 119 of Title 18 of the
8 United States Code (including 18 U.S.C. §2511(f) relating to exclusive means), to the extent of
9 any conflict between the provisions and such exercises under Article II." To the extent the
10 remaining allegations of this paragraph exceed the scope of or are inconsistent with the foregoing
11 admission, they are denied.

12 48. The Government Defendants can neither admit nor deny the allegations of this
13 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
14 without revealing or tending to reveal classified national-security information that is subject to
15 protection from disclosure by law.

16 49. This paragraph states a conclusion of law to which no response is required.

17 50. This paragraph states a conclusion of law to which no response is required.

18 51. This paragraph states a conclusion of law to which no response is required.

19 52. The Government Defendants lack sufficient knowledge or information to form a
20 belief as to the truth or falsity of this paragraph.

21 53. Admit.

22 54. Admit.

23 55. The Government Defendants can neither confirm nor deny whether they possess
24 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 56. The Government Defendants can neither confirm nor deny whether they possess
28 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 57. The Government Defendants can neither confirm nor deny whether they possess
4 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 58. The Government Defendants can neither confirm nor deny whether they possess
8 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 59. The Government Defendants can neither confirm nor whether they possess
12 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 60. The Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 61. The Government Defendants can neither admit nor deny the allegations of this
20 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
21 without revealing or tending to reveal classified national-security information that is subject to
22 protection from disclosure by law.

23 62. The Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 63. The Government Defendants can neither admit nor deny the allegations of this
28 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 64. The Government Defendants can neither admit nor deny the allegations of this
4 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 65. The Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 66. The Government Defendants can neither admit nor deny the allegations of this
12 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 67. The Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 68. The Government Defendants can neither admit nor deny the allegations of this
20 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
21 without revealing or tending to reveal classified national-security information that is subject to
22 protection from disclosure by law.

23 69. The Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 70. Deny that the PSP involved “indiscriminate[]” acquisition of communications.
28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 71. The Government Defendants can neither admit nor deny the allegations of this
5 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
6 without revealing or tending to reveal classified national-security information that is subject to
7 protection from disclosure by law.

8 72. The Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 73. The Government Defendants can neither admit nor deny the allegations of this
13 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
14 without revealing or tending to reveal classified national-security information that is subject to
15 protection from disclosure by law.

16 74. Deny any suggestion in this paragraph that the PSP involved indiscriminate
17 acquisition of communications. Otherwise, the Government Defendants can neither admit nor
18 deny the allegations of this paragraph, which purport to concern operational details of NSA
19 intelligence-gathering activities, without revealing or tending to reveal classified national-
20 security information that is subject to protection from disclosure by law.

21 75. The Government Defendants can neither admit nor deny the allegations of this
22 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
23 without revealing or tending to reveal classified national-security information that is subject to
24 protection from disclosure by law.

25 76. This paragraph contains conclusions of law to which no response is required.
26 Admit that the activities actually carried out under the PSP were conducted without warrant or
27 court order. Otherwise, the Government Defendants can neither admit nor deny the allegations
28 of this paragraph, which purport to concern operational details of NSA intelligence-gathering

1 activities, without revealing or tending to reveal classified national-security information that is
2 subject to protection from disclosure by law.

3 77. Admit that the bulk metadata and content collection activities actually carried out
4 under the PSP were not conditioned on a judicial finding of probable cause, and that bulk
5 metadata collection also was not conditioned on individualized suspicion. Deny that collection
6 of communications content under the PSP was not conditioned on individualized suspicion.
7 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 78. Admit that the bulk metadata and content collection activities actually carried out
12 under the PSP were not conditioned on a judicial finding of probable cause, and that bulk
13 metadata collection also was not conditioned on individualized suspicion. Deny that collection
14 of communications content under the PSP was not conditioned on individualized suspicion.
15 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 79. To the extent the allegations of this paragraph are meant to suggest that the
20 activities actually carried out under the PSP were conducted without reason to believe that the
21 intelligence acquired was relevant to the detection and prevention of acts of terrorism within the
22 United States, they are denied. Otherwise, the Government Defendants can neither admit nor
23 deny the allegations of this paragraph, which purport to concern operational details of NSA
24 intelligence-gathering activities, without revealing or tending to reveal classified national-
25 security information that is subject to protection from disclosure by law.

26 80. This paragraph contains a conclusion of law to which no response is required.
27 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
28 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 81. The Government Defendants can neither admit nor deny the allegations of this
4 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 82. The Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 83. The Government Defendants can neither admit nor deny the allegations of this
12 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 84. The Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 85. The Government Defendants cannot confirm or deny whether they possess
20 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
21 without revealing or tending to reveal classified national-security information that is subject to
22 protection from disclosure by law.

23 86. The Government Defendants cannot confirm or deny whether they possess
24 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 87. The Government Defendants cannot confirm or deny whether they possess
28 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 88. The Government Defendants cannot confirm or deny whether they possess
4 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 89. The Government Defendants cannot confirm or deny whether they possess
8 sufficient knowledge or information to form a belief as to the truth or falsity of this paragraph
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 90. The Government Defendants can neither admit nor deny the allegations of this
12 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 91. The Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 92. This paragraph contains conclusions of law to which no response is required.
20 Admit that the activities actually carried out under the PSP were conducted without warrant or
21 court order. Otherwise, the Government Defendants can neither admit nor deny the allegations
22 of this paragraph, which purport to concern operational details of NSA intelligence-gathering
23 activities, without revealing or tending to reveal classified national-security information that is
24 subject to protection from disclosure by law.

25 93. Admit that the bulk metadata and content collection activities actually carried out
26 under the PSP were not conditioned on a judicial finding of probable cause, and that bulk
27 metadata collection also was not conditioned on individualized suspicion. Deny that collection
28 of communications content under the PSP was not conditioned on individualized suspicion.

1 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
2 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
3 without revealing or tending to reveal classified national-security information that is subject to
4 protection from disclosure by law.

5 94. Admit that the bulk metadata and content collection activities actually carried out
6 under the PSP were not conditioned on a judicial finding of probable cause, and that bulk
7 metadata collection also was not conditioned on individualized suspicion. Deny that collection
8 of communications content under the PSP was not conditioned on individualized suspicion.

9 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
10 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
11 without revealing or tending to reveal classified national-security information that is subject to
12 protection from disclosure by law.

13 95. To the extent the allegations of this paragraph are meant to suggest that the
14 activities actually carried out under the PSP were conducted without reason to believe that the
15 intelligence acquired was relevant to the detection and prevention of acts of terrorism within the
16 United States, they are denied. Otherwise, the Government Defendants can neither admit nor
17 deny the allegations of this paragraph, which purport to concern operational details of NSA
18 intelligence-gathering activities, without revealing or tending to reveal classified national-
19 security information that is subject to protection from disclosure by law.

20 96. This paragraph contains a conclusion of law to which no response is required.
21 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
22 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
23 without revealing or tending to reveal classified national-security information that is subject to
24 protection from disclosure by law.

25 97. The Government Defendants can neither admit nor deny the allegations of this
26 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
27 without revealing or tending to reveal classified national-security information that is subject to
28 protection from disclosure by law.

1 98. This paragraph constitutes Plaintiffs’ definition of the purported class, to which
2 no response is required.

3 99. This paragraph constitutes Plaintiffs’ characterization of the nature of this action,
4 to which no response is required.

5 100. This paragraph constitutes Plaintiffs’ definition of the purported class, to which
6 no response is required.

7 101. This paragraph constitutes Plaintiffs’ definition of the purported class, to which
8 no response is required.

9 102. This paragraph constitutes a conclusion of law and a reservation of claimed rights,
10 to which no response is required.

11 103. The first sentence of this paragraph constitutes a conclusion of law to which no
12 response is required. Deny that the “precise number of persons in the class and their identities
13 and addresses may be ascertained” from the Government Defendants’ records. The Government
14 Defendants lack sufficient knowledge or information to form a belief as to the truth or falsity of
15 the remainder of this paragraph.

16 104. This paragraph constitutes a conclusion of law to which no response is required.

17 105. This paragraph constitutes a conclusion of law to which no response is required.

18 106. This paragraph constitutes a conclusion of law to which no response is required.

19 107. This paragraph constitutes a conclusion of law to which no response is required.

20 108. The Government Defendants incorporate herein by reference their responses to
21 paragraphs 1-107 of the Complaint.

22 109. This paragraph constitutes a conclusion of law to which no response is required.

23 110. This paragraph contains conclusions of law to which no response is required.
24 Admit that the bulk metadata and content collection activities actually carried out under the PSP
25 were not conditioned on a judicial finding of probable cause, and that bulk metadata collection
26 also was not conditioned on individualized suspicion. Otherwise, the Government Defendants
27 can neither admit nor deny the allegations of this paragraph, which purport to concern
28 operational details of NSA intelligence-gathering activities, without revealing or tending to

1 reveal classified national-security information that is subject to protection from disclosure by
2 law.

3 111. This paragraph contains conclusions of law to which no response is required.
4 Admit that the bulk metadata and content collection activities actually carried out under the PSP
5 were not conditioned on a judicial finding of probable cause, and that bulk metadata collection
6 also was not conditioned on individualized suspicion. Otherwise, the Government Defendants
7 can neither admit nor deny the allegations of this paragraph, which purport to concern
8 operational details of NSA intelligence-gathering activities, without revealing or tending to
9 reveal classified national-security information that is subject to protection from disclosure by
10 law.

11 112. This paragraph contains conclusions of law to which no response is required.
12 Admit that the bulk metadata and content collection activities actually carried out under the PSP
13 were not conditioned on a judicial finding of probable cause, and that bulk metadata collection
14 also was not conditioned on individualized suspicion. Otherwise, the Government Defendants
15 can neither admit nor deny the allegations of this paragraph, which purport to concern
16 operational details of NSA intelligence-gathering activities, without revealing or tending to
17 reveal classified national-security information that is subject to protection from disclosure by
18 law.

19 113. This paragraph contains conclusions of law to which no response is required.
20 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
21 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
22 without revealing or tending to reveal classified national-security information that is subject to
23 protection from disclosure by law.

24 114. This paragraph constitutes a conclusion of law to which no response is required.
25 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
26 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
27 without revealing or tending to reveal classified national-security information that is subject to
28 protection from disclosure by law.

1 115. This paragraph contains conclusions of law to which no response is required.
2 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
3 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
4 without revealing or tending to reveal classified national-security information that is subject to
5 protection from disclosure by law.

6 116. This paragraph contains conclusions of law to which no response is required. To
7 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
8 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
9 this paragraph, which purport to concern operational details of NSA intelligence-gathering
10 activities, without revealing or tending to reveal classified national-security information that is
11 subject to protection from disclosure by law.

12 117. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
13 required.

14 118. The Government Defendants incorporate herein by reference their responses to
15 paragraphs 1-117 of the Complaint.

16 119. This paragraph constitutes a conclusion of law to which no response is required.

17 120. This paragraph contains conclusions of law to which no response is required.
18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 121. This paragraph contains conclusions of law to which no response is required.
23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 122. This paragraph contains conclusions of law to which no response is required.
28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 123. This paragraph contains conclusions of law to which no response is required.
5 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
6 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
7 without revealing or tending to reveal classified national-security information that is subject to
8 protection from disclosure by law.

9 124. This paragraph constitutes a conclusion of law to which no response is required.
10 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
11 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
12 without revealing or tending to reveal classified national-security information that is subject to
13 protection from disclosure by law.

14 125. This paragraph contains conclusions of law to which no response is required.
15 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 126. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
20 required.

21 127. The Government Defendants incorporate herein by reference their responses to
22 paragraphs 1-126 of the Complaint.

23 128. The Government Defendants lack sufficient knowledge or information to form a
24 belief as to the truth or falsity of this paragraph.

25 129. This paragraph contains conclusions of law to which no response is required.
26 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
27 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
28

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 130. This paragraph contains conclusions of law to which no response is required.
4 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
5 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
6 without revealing or tending to reveal classified national-security information that is subject to
7 protection from disclosure by law.

8 131. This paragraph contains conclusions of law to which no response is required.
9 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
10 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
11 without revealing or tending to reveal classified national-security information that is subject to
12 protection from disclosure by law.

13 132. This paragraph constitutes a conclusion of law to which no response is required.
14 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
15 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
16 without revealing or tending to reveal classified national-security information that is subject to
17 protection from disclosure by law.

18 133. This paragraph contains conclusions of law to which no response is required.
19 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
20 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
21 without revealing or tending to reveal classified national-security information that is subject to
22 protection from disclosure by law.

23 134. This paragraph contains conclusions of law to which no response is required. To
24 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
25 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
26 this paragraph, which purport to concern operational details of NSA intelligence-gathering
27 activities, without revealing or tending to reveal classified national-security information that is
28 subject to protection from disclosure by law.

1 135. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
2 required.

3 136. The Government Defendants incorporate herein by reference their responses to
4 paragraphs 1-135 of the Complaint.

5 137. The Government Defendants lack sufficient knowledge or information to form a
6 belief as to the truth or falsity of this paragraph.

7 138. This paragraph contains conclusions of law to which no response is required.
8 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 139. This paragraph contains conclusions of law to which no response is required.
13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 140. This paragraph constitutes a conclusion of law to which no response is required.
18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 141. This paragraph contains conclusions of law to which no response is required.
23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 142. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
28 required.

1 143. The Government Defendants incorporate herein by reference their responses to
2 paragraphs 1-142 of the Complaint.

3 144. This paragraph constitutes a conclusion of law to which no response is required.

4 145. This paragraph constitutes a conclusion of law to which no response is required.

5 146. This paragraph constitutes a conclusion of law to which no response is required.

6 147. This paragraph constitutes a conclusion of law to which no response is required.

7 148. This paragraph contains conclusions of law to which no response is required.

8 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 149. This paragraph constitutes a conclusion of law to which no response is required.

13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 150. This paragraph contains conclusions of law to which no response is required.

18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 151. This paragraph contains conclusions of law to which no response is required.

23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 152. Admit that the Government Defendants did not notify Plaintiffs or putative class
28 members of, or obtain their consent regarding, any intelligence-gathering activities actually

1 conducted by the NSA. Otherwise, the Government Defendants can neither admit nor deny the
2 allegations of this paragraph, which purport to concern operational details of NSA intelligence-
3 gathering activities, without revealing or tending to reveal classified national-security
4 information that is subject to protection from disclosure by law.

5 153. This paragraph contains a conclusion of law to which no response is required.
6 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
7 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
8 without revealing or tending to reveal classified national-security information that is subject to
9 protection from disclosure by law.

10 154. This paragraph contains conclusions of law to which no response is required. To
11 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
12 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
13 this paragraph, which purport to concern operational details of NSA intelligence-gathering
14 activities, without revealing or tending to reveal classified national-security information that is
15 subject to protection from disclosure by law.

16 155. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
17 required.

18 156. The Government Defendants incorporate herein by reference their responses to
19 paragraphs 1-155 of the Complaint.

20 157. This paragraph constitutes a conclusion of law to which no response is required.

21 158. This paragraph constitutes a conclusion of law to which no response is required.

22 159. This paragraph constitutes a conclusion of law to which no response is required.

23 160. This paragraph constitutes a conclusion of law to which no response is required.

24 161. This paragraph contains conclusions of law to which no response is required.
25 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
26 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
27 without revealing or tending to reveal classified national-security information that is subject to
28 protection from disclosure by law.

1 162. This paragraph constitutes a conclusion of law to which no response is required.
2 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
3 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
4 without revealing or tending to reveal classified national-security information that is subject to
5 protection from disclosure by law.

6 163. This paragraph contains conclusions of law to which no response is required.
7 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 164. This paragraph contains conclusions of law to which no response is required.
12 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
13 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
14 without revealing or tending to reveal classified national-security information that is subject to
15 protection from disclosure by law.

16 165. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
17 consent regarding, any intelligence-gathering activities actually conducted by the NSA.
18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 166. This paragraph constitutes a conclusion of law to which no response is required.
23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 167. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
28 required.

1 168. The Government Defendants incorporate herein by reference their responses to
2 paragraphs 1-167 of the Complaint.

3 169. This paragraph constitutes a conclusion of law to which no response is required.

4 170. This paragraph constitutes a conclusion of law to which no response is required.

5 171. This paragraph constitutes a conclusion of law to which no response is required.

6 172. This paragraph constitutes a conclusion of law to which no response is required.

7 173. This paragraph contains conclusions of law to which no response is required.

8 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 174. This paragraph contains conclusions of law to which no response is required.

13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 175. This paragraph contains conclusions of law to which no response is required.

18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 176. This paragraph contains conclusions of law to which no response is required.

23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 177. This paragraph contains conclusions of law to which no response is required.

28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 178. This paragraph constitutes a conclusion of law to which no response is required.
5 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
6 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
7 without revealing or tending to reveal classified national-security information that is subject to
8 protection from disclosure by law.

9 179. Admit that the Government Defendants did not notify Plaintiffs or putative class
10 members of, or obtain their consent regarding, any intelligence-gathering activities actually
11 conducted by the NSA. Otherwise, the Government Defendants can neither admit nor deny the
12 allegations of this paragraph, which purport to concern operational details of NSA intelligence-
13 gathering activities, without revealing or tending to reveal classified national-security
14 information that is subject to protection from disclosure by law.

15 180. This paragraph constitutes a conclusion of law to which no response is required.
16 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
17 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
18 without revealing or tending to reveal classified national-security information that is subject to
19 protection from disclosure by law.

20 181. This paragraph contains conclusions of law to which no response is required. To
21 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
22 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
23 this paragraph, which purport to concern operational details of NSA intelligence-gathering
24 activities, without revealing or tending to reveal classified national-security information that is
25 subject to protection from disclosure by law.

26 182. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
27 required.

1 183. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
2 required.

3 184. The Government Defendants incorporate herein by reference their responses to
4 paragraphs 1-183 of the Complaint.

5 185. This paragraph constitutes a conclusion of law to which no response is required.

6 186. This paragraph constitutes a conclusion of law to which no response is required.

7 187. This paragraph constitutes a conclusion of law to which no response is required.

8 188. This paragraph constitutes a conclusion of law to which no response is required.

9 189. This paragraph contains conclusions of law to which no response is required.

10 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
11 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
12 without revealing or tending to reveal classified national-security information that is subject to
13 protection from disclosure by law.

14 190. This paragraph contains conclusions of law to which no response is required.

15 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 191. This paragraph contains conclusions of law to which no response is required.

20 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
21 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
22 without revealing or tending to reveal classified national-security information that is subject to
23 protection from disclosure by law.

24 192. This paragraph contains conclusions of law to which no response is required.

25 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
26 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
27 without revealing or tending to reveal classified national-security information that is subject to
28 protection from disclosure by law.

1 193. This paragraph contains conclusions of law to which no response is required.
2 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
3 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
4 without revealing or tending to reveal classified national-security information that is subject to
5 protection from disclosure by law.

6 194. This paragraph constitutes a conclusion of law to which no response is required.
7 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 195. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
12 consent regarding, any intelligence-gathering activities actually conducted by the NSA.
13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 196. This paragraph constitutes a conclusion of law to which no response is required.
18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 197. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
23 required.

24 198. The Government Defendants incorporate herein by reference their responses to
25 paragraphs 1-197 of the Complaint.

26 199. This paragraph constitutes a conclusion of law to which no response is required.

27 200. This paragraph constitutes a conclusion of law to which no response is required.

28 201. This paragraph constitutes a conclusion of law to which no response is required.

1 202. This paragraph constitutes a conclusion of law to which no response is required.

2 203. This paragraph contains conclusions of law to which no response is required.

3 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
4 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 204. This paragraph contains conclusions of law to which no response is required.

8 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 205. This paragraph contains conclusions of law to which no response is required.

13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 206. This paragraph contains conclusions of law to which no response is required.

18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 207. This paragraph contains conclusions of law to which no response is required.

23 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
24 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
25 without revealing or tending to reveal classified national-security information that is subject to
26 protection from disclosure by law.

27 208. This paragraph constitutes a conclusion of law to which no response is required.

28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 209. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
5 consent regarding, any intelligence-gathering activities actually conducted by the NSA.

6 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
7 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
8 without revealing or tending to reveal classified national-security information that is subject to
9 protection from disclosure by law.

10 210. This paragraph constitutes a conclusion of law to which no response is required.
11 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
12 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 211. This paragraph contains a conclusion of law, and otherwise constitutes Plaintiffs'
16 prayer for relief, to neither of which is a response required.

17 212. The Government Defendants incorporate herein by reference their responses to
18 paragraphs 1-211 of the Complaint.

19 213. This paragraph constitutes a conclusion of law to which no response is required.

20 214. This paragraph contains conclusions of law to which no response is required.
21 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
22 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
23 without revealing or tending to reveal classified national-security information that is subject to
24 protection from disclosure by law.

25 215. This paragraph constitutes a conclusion of law to which no response is required.
26 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
27 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
28

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 216. Admit that the Government Defendants did not notify Plaintiffs or putative class
4 members of, or obtain their consent regarding, any intelligence-gathering activities actually
5 conducted by the NSA. Otherwise, the Government Defendants can neither admit nor deny the
6 allegations of this paragraph, which purport to concern operational details of NSA intelligence-
7 gathering activities, without revealing or tending to reveal classified national-security
8 information that is subject to protection from disclosure by law.

9 217. This paragraph constitutes a conclusion of law to which no response is required.
10 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
11 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
12 without revealing or tending to reveal classified national-security information that is subject to
13 protection from disclosure by law.

14 218. This paragraph contains conclusions of law to which no response is required. To
15 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
16 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
17 this paragraph, which purport to concern operational details of NSA intelligence-gathering
18 activities, without revealing or tending to reveal classified national-security information that is
19 subject to protection from disclosure by law.

20 219. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
21 required.

22 220. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
23 required.

24 221. The Government Defendants incorporate herein by reference their responses to
25 paragraphs 1-220 of the Complaint.

26 222. This paragraph constitutes a conclusion of law to which no response is required.

27 223. This paragraph contains conclusions of law to which no response is required.
28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 224. This paragraph constitutes a conclusion of law to which no response is required.
5 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
6 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
7 without revealing or tending to reveal classified national-security information that is subject to
8 protection from disclosure by law.

9 225. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
10 consent regarding, any intelligence-gathering activities actually conducted by the NSA.
11 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
12 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
13 without revealing or tending to reveal classified national-security information that is subject to
14 protection from disclosure by law.

15 226. This paragraph constitutes a conclusion of law to which no response is required.
16 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
17 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
18 without revealing or tending to reveal classified national-security information that is subject to
19 protection from disclosure by law.

20 227. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
21 required.

22 228. The Government Defendants incorporate herein by reference their responses to
23 paragraphs 1-227 of the Complaint.

24 229. This paragraph constitutes a conclusion of law to which no response is required.

25 230. This paragraph contains conclusions of law to which no response is required.
26 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
27 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
28

1 without revealing or tending to reveal classified national-security information that is subject to
2 protection from disclosure by law.

3 231. This paragraph constitutes a conclusion of law to which no response is required.
4 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
5 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
6 without revealing or tending to reveal classified national-security information that is subject to
7 protection from disclosure by law.

8 232. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
9 consent regarding, any intelligence-gathering activities actually conducted by the NSA.
10 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
11 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
12 without revealing or tending to reveal classified national-security information that is subject to
13 protection from disclosure by law.

14 233. This paragraph constitutes a conclusion of law to which no response is required.
15 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
16 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
17 without revealing or tending to reveal classified national-security information that is subject to
18 protection from disclosure by law.

19 234. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
20 required.

21 235. The Government Defendants incorporate herein by reference their responses to
22 paragraphs 1-234 of the Complaint.

23 236. This paragraph constitutes a conclusion of law to which no response is required.

24 237. This paragraph contains conclusions of law to which no response is required.
25 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
26 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
27 without revealing or tending to reveal classified national-security information that is subject to
28 protection from disclosure by law.

1 238. This paragraph constitutes a conclusion of law to which no response is required.
2 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
3 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
4 without revealing or tending to reveal classified national-security information that is subject to
5 protection from disclosure by law.

6 239. Admit that the Government Defendants did not notify Plaintiffs or putative class
7 members of, or obtain their consent regarding, any intelligence-gathering activities actually
8 conducted by the NSA. Otherwise, the Government Defendants can neither admit nor deny the
9 allegations of this paragraph, which purport to concern operational details of NSA intelligence-
10 gathering activities, without revealing or tending to reveal classified national-security
11 information that is subject to protection from disclosure by law.

12 240. This paragraph constitutes a conclusion of law to which no response is required.
13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 241. This paragraph contains conclusions of law to which no response is required. To
18 the extent this paragraph is intended to refer to activities actually carried out under the PSP, it is
19 denied. Otherwise, the Government Defendants can neither admit nor deny the allegations of
20 this paragraph, which purport to concern operational details of NSA intelligence-gathering
21 activities, without revealing or tending to reveal classified national-security information that is
22 subject to protection from disclosure by law.

23 242. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
24 required.

25 243. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
26 required.

27 244. The Government Defendants incorporate herein by reference their responses to
28 paragraphs 1-243 of the Complaint.

1 245. This paragraph constitutes a conclusion of law to which no response is required.

2 246. This paragraph contains conclusions of law to which no response is required.

3 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
4 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
5 without revealing or tending to reveal classified national-security information that is subject to
6 protection from disclosure by law.

7 247. This paragraph constitutes a conclusion of law to which no response is required.

8 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
9 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
10 without revealing or tending to reveal classified national-security information that is subject to
11 protection from disclosure by law.

12 248. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
13 consent regarding, any intelligence-gathering activities actually conducted by the NSA.

14 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
15 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
16 without revealing or tending to reveal classified national-security information that is subject to
17 protection from disclosure by law.

18 249. This paragraph constitutes a conclusion of law to which no response is required.

19 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
20 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
21 without revealing or tending to reveal classified national-security information that is subject to
22 protection from disclosure by law.

23 250. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
24 required.

25 251. The Government Defendants incorporate herein by reference their responses to
26 paragraphs 1-250 of the Complaint.

27 252. This paragraph constitutes a conclusion of law to which no response is required.

1 253. This paragraph contains conclusions of law to which no response is required.
2 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
3 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
4 without revealing or tending to reveal classified national-security information that is subject to
5 protection from disclosure by law.

6 254. This paragraph contains conclusions of law to which no response is required.
7 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
8 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
9 without revealing or tending to reveal classified national-security information that is subject to
10 protection from disclosure by law.

11 255. Admit that the Government Defendants did not notify Plaintiffs of, or obtain their
12 consent regarding, any intelligence-gathering activities actually conducted by the NSA.
13 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
14 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
15 without revealing or tending to reveal classified national-security information that is subject to
16 protection from disclosure by law.

17 256. This paragraph constitutes a conclusion of law to which no response is required.
18 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
19 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
20 without revealing or tending to reveal classified national-security information that is subject to
21 protection from disclosure by law.

22 257. This paragraph contains a conclusion of law, and otherwise constitutes Plaintiffs'
23 prayer for relief, to neither of which is a response required.

24 258. The Government Defendants incorporate herein by reference their responses to
25 paragraphs 1-257 of the Complaint.

26 259. This paragraph contains conclusions of law to which no response is required.

27 260. This paragraph contains conclusions of law to which no response is required.
28 Otherwise, the Government Defendants can neither admit nor deny the allegations of this

1 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
2 without revealing or tending to reveal classified national-security information that is subject to
3 protection from disclosure by law.

4 261. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
5 required.

6 262. The Government Defendants incorporate herein by reference their responses to
7 paragraphs 1-261 of the Complaint.

8 263. This paragraph contains conclusions of law to which no response is required.

9 264. This paragraph contains conclusions of law to which no response is required.

10 Otherwise, the Government Defendants can neither admit nor deny the allegations of this
11 paragraph, which purport to concern operational details of NSA intelligence-gathering activities,
12 without revealing or tending to reveal classified national-security information that is subject to
13 protection from disclosure by law.

14 265. This paragraph constitutes Plaintiffs' prayer for relief, to which no response is
15 required.

16 Paragraphs A-G, designated as Plaintiffs' Prayer for Relief, require no response, but to
17 the extent a response is deemed necessary, the Government Defendants deny that Plaintiffs are
18 entitled to the relief prayed for, or to any relief whatsoever.

19 Plaintiffs' Jury Demand also requires no response, but to the extent a response is deemed
20 necessary, the Government Defendants deny that Plaintiffs are entitled to a trial by jury of the
21 claims asserted in the Complaint.

22 WHEREFORE, having fully answered, the Government Defendants respectfully request
23 that Plaintiffs' claims against the Government Defendants be dismissed, with prejudice, and that
24 the Court award the Government Defendants such other and further relief as this Court may
25 deem just and proper.

26
27 Dated: February 6, 2017
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

JOSEPH H. HUNT
Director, Federal Programs Branch

ANTHONY J. COPPOLINO
Deputy Branch Director

By: /s/ James J. Gilligan
JAMES J. GILLIGAN
Special Litigation Counsel

RODNEY PATTON
Senior Counsel

JULIA A. BERMAN
Trial Attorney

TIMOTHY A. JOHNSON
Trial Attorney

U.S. Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue, N.W., Room 6102
Washington, D.C. 20001
E-mail: james.gilligan@usdoj.gov
Phone: (202) 514-3358
Fax: (202) 616-8470

*Attorneys for the Government Defendants
Sued in their Official Capacities*