



**NATIONAL SECURITY AGENCY**  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

13 November 2012

The Honorable Ron Wyden  
United States Senate  
223 Dirksen Senate Office Building  
Washington, DC 20510

Dear Senator Wyden:

Thank you for your letter dated 10 October 2012 concerning issues related to the National Security Agency's (NSA's) handling of U.S. person communications. As you know, NSA takes great care to protect the civil liberties and privacy interests of U.S. persons in the conduct of its mission.

Your letter requested clarity and further information with respect to my extemporaneous response to a question posed by a member of the audience following my formal presentation on cybersecurity delivered on 27 July 2012 at DEFCON 20. At the conference, a member of the audience asked me: "Does NSA really keep a file on everyone [in the United States] and, if so, can I see mine?" I responded: "Absolutely not. And anybody who would tell you that we're keeping files or dossiers on the American people know[s] that's not true and let me tell you why. First, under our Agency we have a responsibility. Our job is foreign intelligence." I then gave a short explanation of how we execute our foreign intelligence mission and the oversight provided by all three branches of government, including Congress, before reiterating that "the story that we have millions or hundreds of millions of dossiers on people is absolutely false." I referred to the fact that Section 702 of the Foreign Intelligence Surveillance Act, as amended by the FISA Amendments Act of 2008 (FAA 702), permits the targeting only of communications of non-U.S. persons reasonably believed to be located outside of the United States. Finally, I highlighted the role served by minimization procedures to provide additional protection to incidentally collected communications of U.S. persons.

First, with respect to the reference to minimization procedures, my response should be understood in the context in which it was made. I noted at the outset that NSA has a foreign intelligence mission, and my subsequent reference focused on the type of circumstance in which U.S. person information may be disseminated when this foreign intelligence requirement is not met (e.g., when there is evidence of a crime). As you are aware, the statutory requirements for minimization procedures are a matter of public record:

- Section 101(h)(1) of FISA requires that minimization procedures must be "reasonably designed...to minimize the acquisition and retention and prohibit the dissemination, of nonpublicly available information concerning unconsenting U.S. persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information."



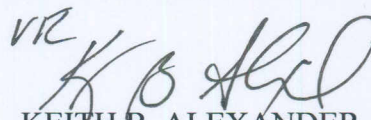
- Section 101(h)(2) of FISA requires that “nonpublicly available information which is not foreign intelligence information shall not be disseminated in a manner that identifies any U.S. person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance.”
- Section 101(h)(3) of FISA permits both retention and dissemination where there is “evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes.”
- Section 101(h)(4) of FISA permits disclosure, dissemination, or use for any purpose or retention for 72 hours, or longer if a determination is made by the Attorney General, “if the information indicates a threat of death or serious bodily harm to any person.”

Second, my response did not refer to or address whether it is possible to identify the number of U.S. person communications that may be lawfully but incidentally intercepted pursuant to foreign intelligence collection directed against non-U.S. persons located outside the United States as authorized under FAA 702.

In your letter, you asked for unclassified answers to several questions that you feel are important to allow the public to better understand my remarks delivered at the conference. While I appreciate your desire to have responses to these questions on the public record, they directly relate to operational activities and complete answers would necessarily include classified information essential to our ability to collect foreign intelligence. Indeed, as you are aware, these very questions were recently addressed in a classified letter to you from the Director of National Intelligence dated 24 August 2012.

Finally, as you are also aware, senior officials from the Administration, including the Office of the Director of National Intelligence, the Justice Department, and NSA, have testified and briefed before the relevant Congressional committees on multiple occasions over the past year. We have also conducted numerous sessions with committee staff and counsel, as well as correspondence and discussions with individual Senators and Representatives. As a result of the many briefings, hearings, and other interactions between the Intelligence Committees and the Administration, there exists a comprehensive Congressional record relating to all of NSA’s foreign intelligence activities (including information relevant to the questions you pose).

Again, thank you for your ongoing interest in these issues. Regardless of differences that may exist on policy issues, I cannot overstate the importance or value of ongoing Congressional interest and oversight of NSA’s operations, acting on behalf of the American people. If you have further questions, please contact me personally or have your staff contact my Associate Director for Legislative Affairs, Ethan L. Bauman, at (301) 688-7246.

  
KEITH B. ALEXANDER  
General, U.S. Army  
Director, NSA

Copy Furnished:

The Honorable Mark Udall

The Honorable Dianne Feinstein

Chairman, Select Committee on Intelligence

The Honorable Saxby Chambliss

Vice Chairman, Select Committee on Intelligence