U.S. FOREIGN INTELLIGENCE SURVEILLANCE COURT
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EXHIBIT A

PROCEDURES USED BY THE NATIONAL SECURITY AGENCY FOR TARGETING NON-UNITED STATES PERSONS REASONABLY BELIEVED TO BE LOCATED OUTSIDE THE UNITED STATES TO ACQUIRE FOREIGN INTELLIGENCE INFORMATION PURSUANT TO SECTION 702 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978, AS AMENDED

~~(S)~~ These procedures address: (I) the manner in which the National Security Agency/Central Security Service (NSA) will determine that a person targeted under section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA or "the Act"), is a non-United States person reasonably believed to be located outside the United States ("foreignness determination"); (II) the post-targeting analysis done by NSA to ensure that the targeting of such person does not intentionally target a person known at the time of acquisition to be located in the United States and does not result in the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of acquisition to be located in the United States; (III) the documentation of NSA's foreignness determination; (IV) compliance and oversight; and (V) departures from these procedures.

I. ~~(S)~~ DETERMINATION OF WHETHER THE ACQUISITION TARGETS NON-UNITED STATES PERSONS REASONABLY BELIEVED TO BE LOCATED OUTSIDE THE UNITED STATES

~~(S)~~ NSA determines whether a person is a non-United States person reasonably believed to be outside the United States in light of the totality of the circumstances based on the information available with respect to that person, including [redacted]

~~(S)~~ NSA analysts examine the following three categories of information, as appropriate under the circumstances, to make the above determination: (1) they examine the lead information they have received regarding the potential target or the facility that has generated interest in conducting surveillance [redacted]; (2) they conduct research [redacted] to determine whether NSA knows the location of the person, or knows information that would provide evidence concerning that location; and (3) they conduct [redacted] to determine or verify information about the person's location. NSA may use information from any one or a

[redacted]

combination of these categories of information in evaluating the totality of the circumstances to determine that the potential target is located outside the United States.

~~(TS//SI)~~ Acquisitions conducted under these procedures will be limited to communications to or from persons targeted in accordance with these procedures. In addition, in those cases where NSA uses "upstream" collection techniques to acquire Internet transactions[1] to or from a person targeted in accordance with these procedures, NSA will employ an Internet Protocol filter to limit such acquisitions to Internet transactions that originate and/or terminate outside the United States, [redacted]

~~(S)~~ Lead Information

~~(S)~~ When NSA proposes to direct surveillance at a target, it does so because NSA has already learned something about the target or the facility or facilities the target uses to communicate. Accordingly, NSA will examine the lead information to determine what it reveals about the physical location of the target, including [redacted]

~~(S)~~ The following are examples of the types of lead information that NSA may examine:

a) [redacted]

b)

c)

d)

[1] ~~(TS//SI//NF)~~ For purposes of these procedures, an "Internet transaction" is an Internet communication acquired through NSA's upstream collection techniques that may contain information or data representing either a discrete communication [redacted] or multiple discrete communications [redacted]. Acquisitions of Internet transactions to or from a person targeted in accordance with these procedures are permitted regardless of whether the transaction contains information or data representing either a discrete communication or multiple discrete communications. Acquisitions of Internet transactions that are not to or from a person targeted in accordance with these procedures are not permitted, regardless of whether the transaction contains a discrete communication to or from a person targeted in accordance with these procedures.

e) [redacted]

~~(S)~~ Information NSA Has About the Target's Location and/or Facility or Facilities Used by the Target

~~(S)~~ NSA may also review information in its databases, including repositories of information collected by NSA and by other intelligence agencies, [redacted] to determine if the person's location, or information providing evidence about the person's location, is already known. The NSA databases that would be used for this purpose contain information culled from signals intelligence, human intelligence, law enforcement information, and other sources. For example, [redacted]

~~(S)~~ **NSA** [redacted]

~~(S)~~ NSA may also [redacted] to assist it in making determinations concerning the location of the person at whom NSA intends to direct surveillance. For example, NSA may examine the following types of information:

[redacted]

~~(S)~~ Assessment of the Non-United States Person Status of the Target

~~(S)~~ In many cases, the information that NSA examines in order to determine whether a target is reasonably believed to be located outside the United States may also bear upon the non-United States person status of that target. For example [redacted]. Similarly, information contained in NSA databases, including repositories of information collected by NSA and by other intelligence agencies, may indicate that the target is a non-United States person.

~~(S)~~ Furthermore, in order to prevent the inadvertent targeting of a United States person, NSA [redacted]

~~(S)~~ [redacted]

~~(S)~~ Assessment of the Foreign Intelligence Purpose of the Targeting

~~(S)~~ NSA must also reasonably assess, based on the totality of the circumstances, that the target is expected to possess, receive, and/or is likely to communicate foreign intelligence information concerning a foreign power or foreign territory. This assessment must be particularized and fact-based, informed by analytic judgment, the specialized training and experience of the analyst, as well as the nature of the foreign intelligence information expected to be obtained. In making this assessment NSA will consider the circumstances that led to NSA's identification of the intended target and other relevant factors which could include, among other things, the following:

a. With respect to telephone communications:

- [redacted]

- [redacted]

b. With respect to Internet communications:

- [redacted]

[2] ~~(TS//SI//NF)~~ [redacted]

[redacted]

II. ~~(S)~~ POST-TARGETING ANALYSIS BY NSA

~~(S//SI)~~ After a person has been targeted for acquisition by NSA, NSA will conduct post-targeting analysis. Such analysis is designed to detect those occasions when a person who when targeted was reasonably believed to be located outside the United States has since entered the United States, and will enable NSA to take steps to prevent the intentional acquisition of any communication as to which the sender and all intended recipients are known at the time of acquisition to be located in the United States, or the intentional targeting of a person who is inside the United States. Such analysis may include:

a) ~~(S)~~ For telephone numbers:

- [redacted]
- NSA analysts may analyze content for indications that a foreign target has entered or intends to enter the United States. Such content analysis will be conducted according to analytic and intelligence requirements and priorities.

b) ~~(S)~~ For electronic communications [redacted]

- Routinely checking all electronic communications [redacted] tasked pursuant to these procedures [redacted] to determine if an electronic communications [redacted] was accessed from inside the United States. [redacted]

- [redacted]

- NSA analysts may analyze content for indications that a target has entered or intends to enter the United States. Such content analysis will be conducted according to analytic and intelligence requirements and priorities.[3]

~~(S)~~ If NSA determines that a target has entered the United States, it will follow the procedures set forth in section IV of this document, including the termination of the acquisition from the target without delay. [redacted]

[3] [redacted]

~~(S)~~ NSA analysts will also analyze content for indications that a target is a United States person.[4] Such content analysis will be conducted according to analytic and intelligence requirements and priorities. If NSA determines that a target who at the time of targeting was believed to be a non-United States person is believed to be a United States person, it will follow the procedures set forth in section IV of this document, including the termination of the acquisition from the target without delay.

III. ~~(S)~~ DOCUMENTATION

~~(S)~~ Analysts who request tasking will document in the tasking database a citation or citations to the information that led them to reasonably believe that a targeted person is located outside the United States. Before tasking is approved, the database entry for that tasking will be reviewed in order to verify that the database entry contains the necessary citations.

~~(S)~~ A citation is a reference that identifies the source of the information, [redacted] The citation will enable those responsible for conducting oversight to locate and review the information that led NSA analysts to conclude that a target is reasonably believed to be located outside the United States.

~~(S)~~ Analysts also will identify the foreign power or foreign territory about which they expect to obtain foreign intelligence information pursuant to the proposed targeting, and will provide a written explanation of the basis for their assessment, at the time of targeting, that the target possesses, is expected to receive, and/or is likely to communicate foreign intelligence information concerning that foreign power or foreign territory.

IV. ~~(S)~~ OVERSIGHT AND COMPLIANCE

~~(S)~~ NSA will implement a compliance program, and will conduct ongoing oversight, with respect to its exercise of the authority under section 702 of the Act, including the associated targeting and minimization procedures adopted in accordance with section 702. NSA will develop and deliver training regarding the applicable procedures to ensure intelligence personnel responsible for approving the targeting of persons under these procedures, as well as analysts with access to the acquired foreign intelligence information understand their responsibilities and the procedures that apply to this acquisition. NSA has established processes for ensuring that raw traffic is labeled and stored only in authorized repositories, and is accessible only to those who have had the proper training. NSA will conduct ongoing oversight activities and will make any necessary reports, including those relating to incidents of noncompliance, to the NSA Inspector General and OGC, in accordance with its NSA charter. NSA will also ensure that necessary corrective actions are taken to address any identified deficiencies. To that end, NSA will conduct periodic spot checks of targeting decisions and intelligence disseminations to ensure

[4] ~~(S)~~ [redacted]

compliance with established procedures, and conduct periodic spot checks of queries in data repositories.

~~(S)~~ The Department of Justice (DOJ) and the Office of the Director of National Intelligence (ODNI) will conduct oversight of NSA's exercise of the authority under section 702 of the Act, which will include periodic reviews by DOJ and ODNI personnel to evaluate the implementation of the procedures. Such reviews will occur approximately once every two months.

~~(S)~~ NSA will report to DOJ, to the ODNI Office of General Counsel, and to the ODNI Civil Liberties Protection Officer any incidents of noncompliance with these procedures by NSA personnel that result in the intentional targeting of a person reasonably believed to be located in the United States, the intentional targeting of a United States person, or the intentional acquisition of any communication in which the sender and all intended recipients are known at the time of acquisition to be located within the United States. NSA will provide such reports within five business days of learning of the incident. Any information acquired by intentionally targeting a United States person or a person not reasonably believed to be outside the United States at the time of such targeting will be purged from NSA databases.

~~(S)~~ NSA will report to DOJ through the Deputy Assistant Attorney General in the National Security Division with responsibility for intelligence operations and oversight, to the ODNI Office of General Counsel, and to the ODNI Civil Liberties Protection Officer, any incidents of noncompliance (including overcollection) by any electronic communication service provider to whom the Attorney General and Director of National Intelligence issued a directive under section 702. Such report will be made within five business days after determining that the electronic communication service provider has not complied or does not intend to comply with a directive.

~~(S)~~ In the event that NSA concludes that a person is reasonably believed to be located outside the United States and after targeting this person learns that the person is inside the United States, or if NSA concludes that a person who at the time of targeting was believed to be a non-United States person is believed to be a United States person, it will take the following steps:

1) Terminate the acquisition without delay and determine whether to seek a Court order under another section of the Act. If NSA inadvertently acquires a communication sent to or from the target while the target is or was located inside the United States, including any communication where the sender and all intended recipients are reasonably believed to be located inside the United States at the time of acquisition, such communication will be treated in accordance with the applicable minimization procedures.

2) Report the incident to DOJ through the Deputy Assistant Attorney General in the National Security Division with responsibility for intelligence operations and oversight, to the ODNI Office of General Counsel, and to the ODNI Civil Liberties Protection Officer within five business days.

V. ~~(S)~~ DEPARTURE FROM PROCEDURES

~~(S)~~ If, in order to protect against an immediate threat to the national security, NSA determines that it must take action, on a temporary basis, in apparent departure from these procedures and that it is not feasible to obtain a timely modification of these procedures from the Attorney General and Director of National Intelligence, NSA may take such action and will report that activity promptly to DOJ through the Deputy Assistant Attorney General in the National Security Division with responsibility for intelligence operations and oversight, to the ODNI Office of General Counsel, and to the ODNI Civil Liberties Protection Officer. Under such circumstances, the Government will continue to adhere to all of the statutory limitations set forth in subsection 702(b) of the Act.

3/29/17
Date

Jeff Sessions
Attorney General of the United States