

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

U.S. FOREIGN  
INTELLIGENCE  
SURVEILLANCE COURT  
2015 NOV 24 PM 1:53  
LEEANN FLYNN HALL  
CLERK OF COURT

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IN RE APPLICATION OF THE  
FEDERAL BUREAU OF INVESTIGATION  
FOR AN ORDER REQUIRING THE  
PRODUCTION OF TANGIBLE THINGS

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Docket Number: BR 15-99

**NOTICE REGARDING PROCEDURES FOR THE RETENTION  
AND USE AFTER NOVEMBER 28, 2015, OF CALL DETAIL RECORDS  
PREVIOUSLY PRODUCED PURSUANT TO THIS COURT'S ORDERS**

The Government submits the procedures described below for the retention and use after November 28, 2015, of call detail records produced pursuant to this Court's orders in docket number BR 15-99 and prior related dockets ("BR metadata"). These procedures have been adopted by the Attorney General.

1. In docket number BR 15-99, the Government sought authorization for the continued production of bulk call detail records to the National Security Agency (NSA) until November 28, 2015, at 11:59 p.m. Eastern Time. This date was proposed in order to align the expiration of Court authorization with the end of the 180-day transition period authorized by the USA FREEDOM Act. On August 27, 2015, in docket number BR 15-99, the Honorable Michael W. Mosman of this Court approved the Government's Application and issued orders requiring the production of the bulk call detail records.

As requested by the Government, the Court's authorization expires on November 28, 2015, at 11:59 p.m. Eastern Time.

2. The Government's Application in docket number BR 15-99 sought Court approval to retain and use call detail records after November 28, 2015, for two limited purposes. First, authorization to access the bulk call detail records until February 29, 2016, to verify the completeness and accuracy of call detail records produced under the new targeted productions authorized by the USA FREEDOM Act of 2015, Pub. L. No. 114-23, 129 Stat. 268 (2015). Second, authorization to preserve the bulk call detail records, consistent with the Opinion and Order of this Court issued on March 12, 2014, in docket number BR 14-01, until relieved of its obligation to preserve such records in pending civil litigation.

3. With respect to the information that NSA has received as a result of the Court's Order in docket number BR 15-99 or predecessor Orders of this Court requiring the production to NSA of call detail records, NSA will strictly adhere to the limitations and procedures set out at paragraphs A. through E. below.

A. The Government will not access the BR metadata for any purpose except as described herein.

B. NSA will store the BR metadata in repositories within secure networks under NSA's control. The BR metadata will carry unique markings such that software and other controls (including user authentication services) can restrict access to it to

authorized personnel who have received appropriate and adequate training with regard to this authority. NSA will restrict access to the BR metadata to authorized personnel who have received appropriate and adequate training.

C. Until February 29, 2016, appropriately trained and authorized NSA technical personnel may access the BR metadata to verify the completeness and accuracy (i.e., data integrity) of the call detail records produced under the targeted production provisions of the USA FREEDOM Act.

D. To meet its preservation obligations in pending litigation in which the plaintiffs purport to challenge the collection of BR metadata, First Unitarian Church of Los Angeles, et al., v. National Security Agency, et al., No. C 13-03287-JSW (N.D. Cal.), and Jewel, et al., v. National Security Agency, et al. No. C 08-04373-JSW (N.D. Cal.), the Government may preserve and/or store BR metadata in a format that precludes any access or use for any purpose, provided that:

- (i) NSA technical personnel may access BR metadata only for the purpose of ensuring continued compliance with the Government's preservation obligations to include taking reasonable steps designed to ensure appropriate continued preservation and/or storage, as well as the continued integrity of the BR metadata;
- (ii) should any further accesses to the BR metadata be

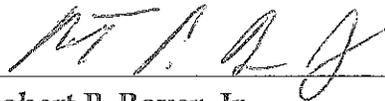
required for civil litigation purposes, such accesses will occur only following prior written notice specifically describing the nature of and reason for the access; and (iii) the Government will promptly notify the Court of any material developments in civil litigation pertaining to the BR metadata.

E. All BR metadata will be destroyed as expeditiously as possible after February 29, 2016, or resolution of the preservation issues raised by plaintiffs in Jewel, et al., v. National Security Agency, et al. No. C 08-04373-JSW (N.D. Cal.), and First Unitarian Church of Los Angeles, et al., v. National Security Agency, et al. No. C 13-03287-JSW (N.D. Cal.), whichever is later, provided disseminations of BR metadata that NSA disseminated in accordance with approved minimization procedures, query results of the BR metadata that form the basis of such disseminations, and summary reports prepared by NSA technical personnel for the technical purposes described in subparagraph C above may be retained.

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The Government respectfully submits that the minimization procedures contained herein are consistent with the definition of "minimization procedures" as set forth by 50 U.S.C. § 1861(g)(2), and that the Court direct the Government to follow them for the period beginning after November 28, 2015.

Respectfully submitted,



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APPROVAL

I hereby approve the filing of this Notice with the United States Foreign Intelligence Surveillance Court and the use of the procedures described therein.

11/24/2015

Date



**Loretta E. Lynch**

Attorney General of the United States

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Date

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**Sally Quillian Yates**

Deputy Attorney General of the United States

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