

~~SECRET//NOFORN~~

~~(S)~~ **National Counterterrorism Center Standard Minimization Procedures for Information Acquired by the Federal Bureau of Investigation Pursuant to Title I, Title III, or Section 704 or 705(b) of the Foreign Intelligence Surveillance Act**

~~(S)~~ With respect to the retention, processing, and dissemination of raw information the National Counterterrorism Center (NCTC) receives from the Federal Bureau of Investigation (FBI) that is acquired pursuant to Title I, Title III, or Section 704 or 705(b) of the Foreign Intelligence Surveillance Act of 1978, as amended (FISA or "the Act"), 50 U.S.C. §§ 1801-1812, 1821-1829, 1881c, 1881d(b), NCTC will follow these minimization procedures. These procedures do not authorize NCTC to directly acquire or collect information pursuant to the Act.

~~(S)~~ Except as provided in Section E below, [REDACTED]

~~(S)~~ **A. GENERAL PROVISIONS**

- ~~(S)~~ The Attorney General has adopted these procedures after concluding that they meet the requirements of minimization procedures, as defined in the Act at Title 50, United States Code, Sections 1801(h) and 1821(4). In accordance with Title 50, United States Code, Section 403-1(f)(6), the Director of National Intelligence (DNI) has provided assistance to the Attorney General with respect to the dissemination procedures set forth herein so that FISA-acquired information may be used efficiently and effectively for foreign intelligence purposes.
- ~~(S)~~ Pursuant to Title 50, United States Code, Sections 1806(a) and 1825(a), no information acquired pursuant to FISA may be used or disclosed by Federal officers or employees except for lawful purposes. Information from electronic surveillance, [REDACTED] conducted under FISA concerning United States persons may be used and disclosed by NCTC employees without the consent of such United States persons only in accordance with these minimization procedures and any modified or supplemental minimization procedures that may apply. These procedures do not apply to publicly available information concerning United States persons, and do not apply to information that is acquired, retained, or disseminated with a United States person's consent. Except for the provisions set forth below regarding attorney-client communications, the use of FISA-acquired information in proceedings in the United States and foreign countries, the disclosure of raw FISA-acquired information, and the use of caveats and other markings on FISA-acquired or FISA-derived information, these procedures do not apply to information solely concerning non-United States persons.



~~SECRET//NOFORN~~

Classified by: Eric H. Holder, Jr.
Attorney General

Reason: 1.4(c)

Declassify on: 15 March 2037

~~SECRET//NOFORN~~

3. ~~(S)~~ **Definitions.** These procedures adopt all definitions set forth in 50 U.S.C. §§ 1801 and 1821, including those for the terms “foreign intelligence information,” “United States person,” and “Attorney General.” In addition, as used herein:
- a. “information” herein means all data and content acquired by FBI pursuant to the Act and provided to NCTC, including contents as defined in 50 U.S.C. § 1801(n).
 - b. “metadata” means dialing, routing, addressing, or signaling information associated with a communication, but does not include information concerning the substance, purport, or meaning of the communication.
 - c. “NCTC employee” means (i) individuals directly employed by NCTC, (ii) personnel detailed to NCTC from other departments or agencies who work under NCTC management and supervision in a manner substantially the same as individuals directly employed by NCTC, and (iii) contractors working under NCTC management and supervision who are authorized to perform services in support of NCTC on FISA-related matters.
 - d. “nonpublicly available information” means information that a member of the public could not obtain on request, by research in information generally available to the public, or by casual observation.
 - e. “raw” information is FISA-acquired information that (i) is in the same or substantially the same format as when FBI acquired it, or (ii) has been processed only as necessary to render it into a form in which it can be evaluated to determine whether it reasonably appears to be foreign intelligence information or to be necessary to understand foreign intelligence information or assess its importance.
 - f. “review” of information occurs when an NCTC employee actually accesses information.
 - g. 
 - h. 
 - i. “United States person identity” means (1) the name, unique title, or address of a United States person, or (2) other personal identifiers of a United States person when appearing in the context of activities conducted by that person or activities conducted

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

by others that are related to that person. A reference to a product by brand name or manufacturer's name, or the use of a name in a descriptive sense, e.g., "Monroe Doctrine," is not a United States person identity.

4. ~~(S)~~ **Presumptions.** For the purposes of these procedures:


- a. If an individual is known to be located in the United States, [REDACTED] he or she should be presumed to be a United States person unless the individual is identified as an alien who has not been admitted for permanent residence, or unless the totality of circumstances gives rise to the reasonable belief that the individual is not a United States person.
- b. If an individual is known or reasonably believed to be located outside the United States, he or she should be presumed to be a non-United States person unless the individual is identified as a United States person or the totality of circumstances gives rise to the reasonable belief that the individual is a United States person.
- c. In [REDACTED] if it is not known whether an individual is located in or outside the United States, he or she should be presumed to be a non-United States person unless the individual is identified as a United States person or the totality of circumstances gives rise to the reasonable belief that the individual is a United States person. NCTC shall only apply this presumption in cases that FBI has identified to NCTC as [REDACTED]

5. ~~(S)~~ **Departures.**

- a. If NCTC believes that a situation requires it to act inconsistently with these procedures to protect the national security of the United States, or to protect life or property from serious harm, NCTC will promptly contact the Office of Intelligence of the National Security Division (NSD) of the Department of Justice (DOJ) to request that these procedures be modified. NCTC will promptly notify FBI of any such request. The United States may obtain modifications to these procedures with the approval of the Attorney General and a determination by the FISC that the modified procedures meet the definition of minimization procedures under FISA.
- b. If NCTC determines that it must take action in apparent departure from these procedures in order to protect against an immediate threat to human life and that it is not feasible to obtain a timely modification of these procedures, NCTC may take such action immediately. NCTC will promptly report the action taken to NSD and FBI. NSD will promptly notify the Foreign Intelligence Surveillance Court (FISC) of any such activity.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

6. ~~(S//NF)~~ Nothing in these procedures shall prohibit:
- a. The retention or processing of information necessary for the maintenance of technical databases, so long as only administrative or technical personnel have access to such databases;
 - b. The retention or processing of information in emergency data backup systems, provided that only administrative or technical personnel have access to such systems. In the event that information from such systems must be used to restore lost, destroyed, or inaccessible data, NCTC shall apply these procedures to the transferred data;
 - c. NCTC's access to FISA-acquired information that FBI, CIA, or NSA may disseminate to NCTC pursuant to their respective FISC-authorized minimization procedures; or
 - d. The retention, processing, or dissemination of information reasonably necessary to (i) comply with specific constitutional, judicial, or legislative mandates, or (ii) conduct lawful oversight of NCTC's retention, processing, or dissemination of information under any section of FISA.
7. ~~(S)~~ **Compliance With Crimes Reporting Obligations.** Notwithstanding other provisions of these minimization procedures, information that is not foreign intelligence information, but reasonably appears to be evidence of a crime that has been, is being, or is about to be committed, may be retained and disseminated (including United States person identities) to the FBI and other appropriate federal law enforcement authorities, in accordance with Title 50, United States Code, Sections 1806(b) and 1825(c), Executive Order No. 12333 (as amended), and any other applicable crimes reporting requirements or procedures. See Section A(10) below.
- 

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

B. ~~(S)~~ RETENTION

1. ~~(S)~~ NCTC may maintain raw information. Raw information must be maintained in a manner that (a) clearly identifies it as raw information collected by FBI pursuant to FISA, (b) only permits such information to be accessed by NCTC employees who have received training in applying these procedures to raw FISA-acquired information, and (c) enables NCTC to mark or otherwise identify communications or other information that meet the standard set forth in paragraph B(3) herein. The retention provisions herein apply notwithstanding other Attorney General guidelines governing NCTC's retention of information.

2. ~~(S)~~ Subject to the above:



3. ~~(S)~~ Nonpublicly available information concerning a consenting United States person that an NCTC employee responsible for applying these procedures has determined reasonably appears to be foreign intelligence information, to be necessary to understand foreign intelligence information or assess its importance, or to be evidence of a crime may also be retained and used for further analysis without the limitations set forth in paragraph B(1) above. Such information shall be clearly identified in NCTC systems and records as information that was collected by FBI pursuant to FISA and that is subject to these procedures. These procedures do not limit the time period for which NCTC may retain such information. Information that is evidence of a crime that has been, is being,

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

or is about to be committed, but is not foreign intelligence information, may only be retained or disseminated for law enforcement purposes.

C. ~~(S)~~ PROCESSING

1.

[REDACTED]

2. ~~(S)~~ NCTC may make raw FISA-acquired information available to authorized NCTC personnel on a continuing basis for review, translation, analysis, and use in accordance with these procedures.

[REDACTED]

3. ~~(S)~~ NCTC may find, extract, and analyze metadata associated with all communications received from FBI, regardless of whether such communications are determined to satisfy the standards set forth in these procedures for retention or dissemination. NCTC may use such metadata to analyze communications and may upload or transfer some or all of such metadata to NCTC electronic and data storage systems for authorized foreign intelligence purposes. FISA-acquired metadata received from FBI shall be identified as such in NCTC data repositories.

4. ~~(S)~~ **Third-Party Information.** NCTC may retain and use third-party information in accordance with these procedures if such information meets the standard set forth in Section B(3) of these procedures, and:

- a. is a communication made or received on behalf of the target(s);
- b. concerns activities in which the target(s) is or may be involved; or
- c. concerns a serious threat of injury, loss of life, damage to property, or damage to the national security of the United States.

~~(S)~~ Third-party information that meets the standard set forth in Section B(3) of these procedures but does not satisfy any of the above criteria may be retained in accordance with these procedures, but may not be disseminated or otherwise used. If NCTC believes

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

that such information should be disseminated or otherwise used, it shall proceed in accordance with Sections A(5)(a) or (b) of these procedures.

5. ~~(S)~~ **Sensitive Information.** Particular care should be taken when reviewing information that is sensitive information, as defined below. No sensitive information may be used in an analysis or report unless it is first determined that such information reasonably appears to be foreign intelligence information, necessary to understand foreign intelligence information or assess its importance, or evidence of a crime. Information that reasonably appears to be foreign intelligence information, necessary to understand foreign intelligence information, or necessary to assess the importance of foreign intelligence information may be retained, processed, and disseminated in accordance with these procedures even if it is sensitive information. Information that reasonably appears to be evidence of a crime may be retained, processed, and disseminated for law enforcement purposes in accordance with these procedures, even if it is sensitive information. Sensitive information consists of:

- a. Religious activities of United States persons, including consultations with clergy;
- b. Educational and academic activities of United States persons, including consultations among professors or other teachers and their students;
- c. Political activities of United States persons, including discussions with Members of Congress and their staff, and other elected officials;
- d. Activities of United States persons involving the press and other media;
- e. Sexual and other highly personal activities of United States persons;
- f. Medical, psychiatric, or psychotherapeutic activities of United States persons; and
- g. Matters pertaining to United States person minor children, including student requests for information to aid in academic endeavors.

6. ~~(S)~~ **Privileged Communications.**



~~SECRET//NOFORN~~

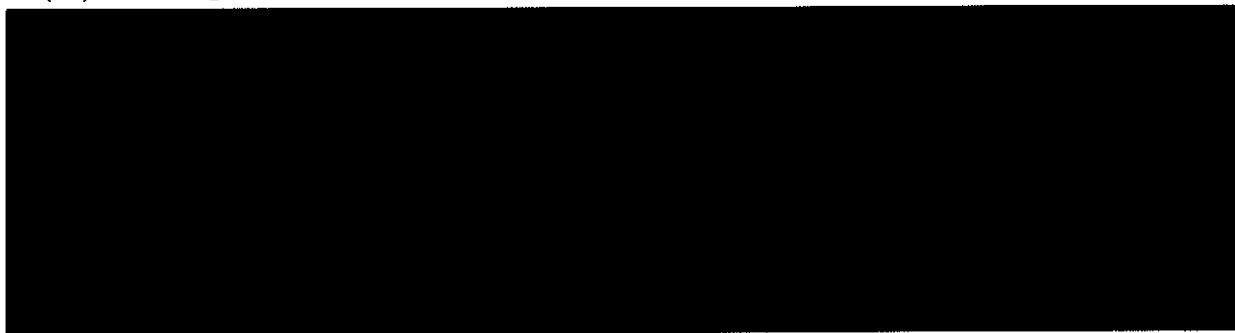
~~SECRET//NOFORN~~

- b. With respect to any other communication where it is apparent to NCTC personnel that the communication is between a person and the person's attorney (or someone acting on behalf of the attorney) concerning legal advice being sought by the former from the latter, such communications relating to foreign intelligence information may be retained and disseminated within the U.S. Intelligence Community if the communications are specifically labeled as being privileged. Such communications may not be disseminated outside of the U.S. Intelligence Community without the prior approval of the Attorney General or Attorney General's designee.
- c. If FBI informs NCTC that particular communications are privileged, NCTC will adopt FBI's conclusion that such communications are privileged. If FBI informs NCTC that particular communications, categories of communications, or communications acquired from particular facilities may contain privileged communications, NCTC will maintain a record of such notice and will maintain such communications in a manner that alerts personnel accessing the communications that they may contain privileged content.

D. ~~(S)~~ DISSEMINATION AND DISCLOSURE

- 1. ~~(S)~~ NCTC may disseminate to federal, state, local, or tribal agencies or officials with responsibilities relating to national security that require access to foreign intelligence information any nonpublicly available information concerning an unconsenting United States person that reasonably appears to be foreign intelligence information, necessary to understand foreign intelligence information, or necessary to assess the importance of foreign intelligence information, if the United States person identity is deleted or otherwise sanitized to prevent the search, retrieval, or review of the identifying information. A generic term may be substituted which does not identify the United States person in the context of the data. If the information cannot be sanitized in such a manner because such person's identity is necessary to understand foreign intelligence information or assess its importance, NCTC may disseminate that identity. NCTC may only disseminate FISA-acquired or FISA-derived information received from FBI in raw form as provided herein.
- 2. ~~(S)~~ Information that is evidence of a crime that has been, is being, or is about to be committed, but is not foreign intelligence information, may only be retained or disseminated for law enforcement purposes. As to all such disseminations, *see* Section A(10) above regarding additional agreements between NCTC and FBI.

3.



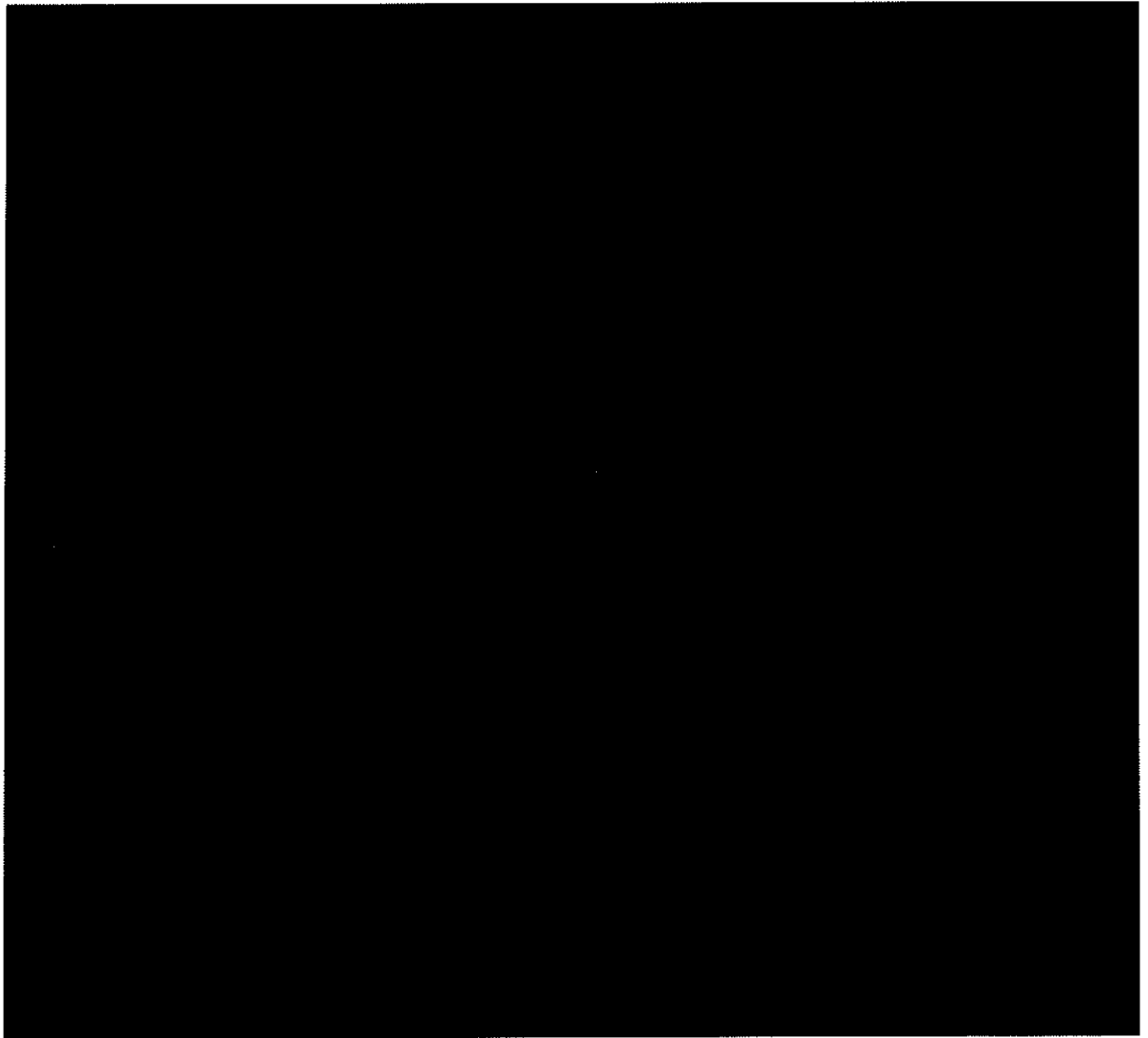
~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

a.



b.



c.

4. ~~(S//NF)~~ In addition to disseminations otherwise permitted by these procedures, NCTC may disclose to FBI, the Central Intelligence Agency (CIA), and/or the National Security Agency (NSA) raw information, provided that the receiving agency handle such raw information in accordance with FISC-approved minimization procedures applicable to that agency. All disclosures of raw information under this paragraph shall be conducted in a manner that clearly indicates to the receiving agency or agencies that the disclosed information is raw FISA-acquired information collected by FBI.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

5. ~~(S)~~ **Procedures for technical or linguistic assistance.** NCTC may receive information or communications that, because of their technical or linguistic content, may require further analysis by other federal agencies (collectively, "assisting federal agencies") to assist NCTC in determining their meaning or significance. Consistent with the other provisions of these procedures, NCTC is authorized to disclose FISA-acquired information to assisting federal agencies for further processing and analysis. The following restrictions apply with respect to any materials so disseminated:
- a. Disclosure to assisting federal agencies will be solely for translation or analysis of such information or communications. Assisting federal agencies will make no use of any information or any communication of or concerning any person except to provide technical or linguistic assistance to NCTC. ~~(S)~~
 - b. Disclosure will be only to those personnel within assisting federal agencies involved in the translation or analysis of such information or communications. The number of such personnel shall be restricted to the extent reasonably feasible. There shall be no further disclosure of this raw data within assisting federal agencies. ~~(S)~~
 - c. Assisting federal agencies shall make no permanent agency record of information or communications of or concerning any person referred to in FISA-acquired information disclosure by NCTC to assisting federal agencies, provided that assisting federal agencies may maintain such temporary records as are necessary to enable them to assist NCTC with the translation or analysis of such information. Records maintained by assisting federal agencies for this purpose may not be disclosed within the assisting federal agency, except to personnel involved in providing technical assistance to NCTC. ~~(S)~~
 - d. Upon the conclusion of such technical assistance to NCTC, all copies in any form of the FISA-acquired information will either be returned to NCTC or be destroyed, with an accounting of such destruction made to NCTC. ~~(S)~~
 - e. Any information that assisting federal agencies provide to NCTC as a result of such technical assistance may be disseminated by NCTC in accordance with the applicable minimization procedures. ~~(S)~~
6. ~~(S)~~ **Caveats.**
- a. Disseminations pursuant to Section D(1) or (2) by NCTC of FBI-collected FISA-acquired or FISA-derived information to federal, state, local, or tribal agencies or officials of or within the United States will bear a legend indicating, in substance, that: (i) the dissemination includes FISA-acquired or FISA-derived information collected by the FBI; (ii) the information, and any information derived therefrom, may only be used in, or in connection with, a domestic or foreign legal or administrative proceeding with the advance authorization of the Attorney General; (iii) any recipient interested in obtaining such authorization should contact FBI Headquarters; and (iv) any reproduction, dissemination, or communication (including but not limited to oral

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

briefings) of the disseminated information must be accompanied by a statement of these restrictions. Wherever feasible, NCTC will indicate which portions of documents contain FBI-collected FISA-acquired or FISA-derived information, to permit recipients to identify the information to which the FISA-related restrictions apply.

- b. All disseminations pursuant to Section D(3) by NCTC of FBI-collected FISA-acquired information will bear a legend indicating that the disseminated information may not be used or disseminated for any purpose by the recipient without the advance authorization of the Director of NCTC. Such legend need not indicate that the information was collected by FBI or was acquired pursuant to FISA. NCTC shall refer any request for authorization to use or disseminate FBI-collected FISA-acquired information to FBI Headquarters. This caveat and authorization process may also be substituted for the caveat and process in paragraph D(6)(a) for specific disseminations under circumstances (e.g., security concerns) that require nondisclosure of the agency that collected the disseminated information, or nondisclosure of the authority pursuant to which the disseminated information was acquired.
- c. Any dissemination made for a law enforcement purpose must bear a caveat stating, in substance, that the disseminated information may only be used in a legal or administrative proceeding with the advance authorization of the Attorney General.
- d. In addition to disseminations otherwise authorized under these procedures, NCTC may disseminate foreign intelligence information as defined at 50 U.S.C. § 1801(e) to federal, state, local, territorial, and tribal authorities, foreign officials and entities, and private sector entities that have a substantial bearing on homeland security for the purposes of and in accordance with Homeland Security Presidential Directive 6 and the Memorandum of Understanding on the Integration and Use of Screening Information to Protect Against Terrorism and applicable addenda thereto. Disseminations made pursuant to this provision are not subject to the caveat requirements set forth above in sections 6(a), (b), and (c).

E.



1.

~~SECRET//NOFORN~~

~~SECRET//NOFORN~~

2.

3.

4.

F. ~~(S)~~ TRAINING, DATA STORAGE AND ACCESS, AND OVERSIGHT

1. ~~(S)~~ In consultation with NSD, NCTC will develop and deliver training regarding the applicable procedures to ensure personnel responsible for applying these procedures understand their responsibilities under these procedures.
2. ~~(S)~~ NCTC will ensure that raw information is only accessible to NCTC employees (as defined above) who have received the required training. NCTC will maintain logs or records of users authorized to access the raw information. NCTC will ensure that the marking, moving, or other identification of information received in raw form as meeting the standard set forth in paragraph B(3) is tracked and auditable, and that a user who moves a particular communication is identifiable.
3. ~~(S)~~ All FISA-acquired information retained by NCTC will be retained under appropriately secure conditions that limit access to such information only to authorized users and recipients in accordance with these procedures. The retention procedures herein apply to FISA-acquired information retained in any form. NCTC electronic and data storage systems may permit multiple authorized users to access the information.

~~SECRET//NOFORN~~

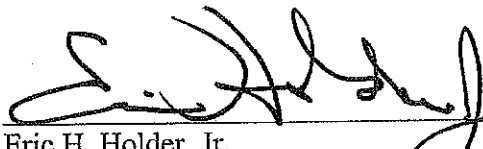
simultaneously or sequentially and to share or transfer FISA-acquired information between systems.

4. ~~(S)~~ NCTC's compliance with these procedures shall be subject to periodic review by NSD. NSD shall be permitted access to all information and materials necessary to evaluate NCTC's compliance with these procedures, consistent with the need to protect the security of NCTC sources and methods. NCTC shall maintain copies of disseminations of nonpublicly available information concerning unconsenting United States persons and make such disseminations available for review by NSD.
5. ~~(S)~~ NCTC shall refer all significant questions relating to the interpretation of these procedures to NSD.

G. (U) REVIEW OF PROCEDURES

~~(S)~~ The Attorney General, or a designee, in consultation with NCTC, shall review these procedures and determine whether they remain appropriate in light of the technology and practices used by NCTC no later than five years from the date these procedures are signed, and every five years thereafter. A written report of such review shall be provided to the Court within six months of the completion of the review.

4-20-12
Date


Eric H. Holder, Jr.
Attorney General of the United States

~~SECRET//NOFORN~~