

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

U.S. FOREIGN  
INTELLIGENCE  
SURVEILLANCE COURT

2013 SEP 27 PM 4:46

LEEANN FLYNN HALL  
CLERK OF COURT

IN RE: DIRECTIVES PURSUANT TO SECTION )  
105B OF THE FOREIGN INTELLIGENCE )  
SURVEILLANCE ACT )  
\_\_\_\_\_ )

Docket No. 105B(g) 07-01

**THE UNITED STATES' THIRD RESPONSE  
TO THIS COURT'S JULY 15, 2013 ORDER**

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In its Order of July 15, 2013, this Court directed the Government to “conduct a declassification review” of the Court’s April 25, 2008 Memorandum Opinion in this case and the “legal briefs submitted by the parties to this Court in this matter.” Order at 3. The Court further directed the Government to “report to the Court by July 29, 2013, with estimated dates by which it will be able to complete its review of the two categories of documents.” *Id.* As background, the U.S. Foreign Intelligence Surveillance Court of Review issued an Order on January 12, 2009, in this case which placed under seal all classified information in this matter and defined “classified information” as “any information, document, or portion of a document, not included in the published, redacted opinion, that has been and remains classified by an Executive Branch agency or official pursuant to applicable Executive Orders.” *In re Directives Pursuant to Section 105B of the Foreign Intelligence Surveillance Act*, 551 F.3d 1004, 1017 (Foreign Intel. Surv. Ct. of Rev. 2008)).

On July 29, 2013, the Government estimated that it would be able to complete its review of the April 25, 2008 Memorandum Opinion by Thursday, September 12, 2013, and the briefs and materials cited by the Court in the opinion by Friday, September 27, 2013. On Thursday, September 12, 2013, the Government submitted the Court’s opinion and an accompanying order to the Court for review. After careful review of the briefs and materials cited by the Court in the opinion by senior intelligence officials and the U.S. Department of Justice, the Executive Branch has decided that it would be appropriate to declassify certain information in these documents—making possible the publication of much of these briefs and materials. The briefs and materials,

however, still contain information that remains classified. Thus, the public versions of the briefs and materials must remain redacted in part.<sup>1</sup>

All of the text that the Government has determined remains classified in these documents is contained in text boxes.<sup>2</sup> Upon completion of the Court's review, the Director of National Intelligence will formally declassify the redacted versions provided to the Court. The Government then will provide the Court with redacted versions of the briefs and materials, appropriate for publication, that black out the information currently contained in the text boxes and strike through any classification markings that are no longer valid.

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<sup>1</sup> In addition, the Government has redacted the names of certain government employees and non-government individuals appearing in these documents.

<sup>2</sup> The Government is not producing herein one document initially identified in the Government's July 29, 2013 submission's Appendix A as "Government brief dated 03/19/08" because that document is a previously redacted version of another document separately listed in Appendix A, which is included in the instant production to the Court. Additionally, the Government is still in the process of reviewing the document identified in Appendix A as "Government document dated 02/20/08." The Government will continue its review of this document as part of its ongoing review of other materials in this matter identified in Appendix A as "Group (c)." The Government will provide a status report on the review of the Group (c) documents within thirty days of this filing.

September 27, 2013

Respectfully submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the United States' Third Response to this Court's July 15, 2013 Order and classified attachments were served by hand-delivery on this 27th day of September, 2013, to the Litigation Security Officer, Christine Gunning, or her delegate, for forwarding to the Court. Additionally, a copy of the response, without attachments, was served by the Government via Federal Express overnight delivery on this 27th day of September, 2013, addressed to:

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Nicholas J. Patterson