# Exhibit 1


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POLITICS

# Letter Tells of U.S. Searches for Emails and Calls

By CHARLIE SAVAGE APRIL 1, 2014

WASHINGTON — United States intelligence analysts have searched for Americans' emails and phone calls within the repository of communications that the government collects without a warrant, according to a letter from James R. Clapper Jr., the director of national intelligence, to Senator Ron Wyden, Democrat of Oregon.

The March 28 letter was not the first official confirmation that both the National Security Agency and the C.I.A. had carried out such searches. But its release served to elevate attention to the fact that the activity, which Mr. Wyden has criticized as a "backdoor search" loophole to warrant requirements, was not just theoretical.

"It is now clear to the public that the list of ongoing intrusive surveillance practices by the N.S.A. includes not only bulk collection of Americans' phone records, but also warrantless searches of the content of Americans' personal communications," Mr. Wyden said in a joint statement with Senator Mark Udall, Democrat of Colorado. "This is unacceptable. It raises serious constitutional questions, and poses a real threat to the privacy rights of law-abiding Americans."

A 2008 law, the FISA Amendments Act, legalized the warrantless surveillance program that the Bush administration created after the terrorist attacks of Sept. 11, 2001. The law permits the government to intercept phone calls and emails without a warrant and on domestic soil, as long as the surveillance target is a noncitizen who lives abroad.

In fall 2011, the Obama administration obtained the approval of the Foreign Intelligence Surveillance Court for analysts to search for "U.S. person identifiers" in the repository, enabling them to pull out phone calls and emails involving Americans that had been intercepted because the people involved had been in contact with a foreign target.

Hints that the rules permitted that activity first appeared in pointed questions by Mr. Wyden. In 2012, when the FISA Amendments Act was up for renewal, he led an unsuccessful legislative push to begin requiring judicial approval to search the communications gathered under the program.

A document leaked by the former N.S.A. contractor Edward J. Snowden, published by The Guardian in early August, brought the rule change to light. Mr. Clapper's office declassified and released documents about surveillance in response to the leaks. One, released later in August, discussed the rule change and noted that internal overseers had found no rule violations with N.S.A. and C.I.A. searches for Americans' information.

Still, when Mr. Wyden asked Mr. Clapper at a Jan. 29 hearing whether any such searches had been conducted, he declined to answer, saying, "There are very complex legal issues here." He agreed to respond in writing, resulting in the March 28 letter.

The government has not said how often it has used the power to examine Americans' communications.

Last month, the issue also arose at a hearing by the Privacy and Civil Liberties Oversight Board, an independent federal watchdog group that is examining how the government is using the FISA Amendments Act.

Brad Wiegmann, a deputy assistant attorney general for the Justice Department's National Security Division, testified that searching the database for Americans' communications without a warrant did not raise Fourth Amendment concerns because the information had been lawfully collected by the government.

Later in the oversight board's hearing, one of its members, Patricia Wald, a retired appeals court judge, asked why it would not be appropriate to require analysts to get court approval to pull up Americans' communications.

Robert S. Litt, the general counsel for the Office of the Director of National Intelligence, replied that imposing that rule would be an operational burden and would make the surveillance court extremely unhappy because of the frequency with which analysts query the database.

Judge Wald replied, "I suppose the ultimate question for us is whether or not the inconvenience to the agencies, or even the unhappiness of the FISA court, would be the ultimate criteria."

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DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

MAR 2 8 2014

The Honorable Ron Wyden
United States Senate
Washington, DC 20510

Dear Senator Wyden:

During the January 29, 2014, Worldwide Threat hearing, you cited declassified court documents from 2011 indicating that NSA sought and obtained the authority to query information collected under Section 702 of the Foreign Intelligence and Surveillance Act (FISA), using U.S. person identifiers, and asked whether any such queries had been conducted for the communications of specific Americans.

As reflected in the August 2013 Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702, which we declassified and released on August 21, 2013, there have been queries, using U.S. person identifiers, of communications lawfully acquired to obtain foreign intelligence by targeting non U.S. persons reasonably believed to be located outside the U.S. pursuant to Section 702 of FISA. These queries were performed pursuant to minimization procedures approved by the FISA Court as consistent with the statute and the Fourth Amendment. As you know, when Congress reauthorized Section 702, the proposal to restrict such queries was specifically raised and ultimately not adopted.

For further assistance, please do not hesitate to contact Deirdre M. Walsh in the Office of Legislative Affairs, at (703) 275-2474.

Sincerely,

James R. Clapper