



U. S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 9, 2015

The Honorable Amy Klobuchar  
Member  
Committee on the Judiciary  
United States Senate  
Washington, D.C. 20510

Dear Senator Klobuchar:

Please find enclosed responses to questions arising from the December 11, 2013, appearance of Deputy Attorney General James Cole and then-National Security Agency director General Keith B. Alexander before the Committee, at a hearing entitled "Continued Oversight of U.S. Government Surveillance Authorities." We hope this information is helpful. Please do not hesitate to contact this office if we may be of additional assistance to you. The Office of Management and Budget has advised us that there is no objection to submission of this letter from the perspective of the Administration's program.

Sincerely,

Peter J. Kadzik  
Assistant Attorney General

Enclosure

cc: The Honorable Charles Grassley  
Chairman

The Honorable Patrick J. Leahy  
Ranking Minority Member

**Hearing Before the  
Committee on the Judiciary  
United States Senate**

**Entitled  
“Continued Oversight of U.S. Government Surveillance Authorities”**

**December 11, 2013**

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**Questions for the Record from Senator Klobuchar for**

**General Keith B. Alexander**

**and**

**Deputy Attorney General James M. Cole**

**Private Sector Disclosure**

**A number of leading technology firms, including Google, Apple, Yahoo, Facebook, AOL, Twitter, LinkedIn, and Microsoft, have signed an open letter calling for greater limitations on bulk collection and more transparency of the government’s requests for data.**

- **Some of the legislation this committee may consider would allow companies to disclose the demands they receive from the government for bulk collection of customer data. Do you support such measures?**

**Answer:**

We understand the concerns that specific companies have expressed regarding their ability to inform their customers of how often data is provided to the Government in response to legal process. Accordingly, on January 27, 2014, the Administration acted to allow more detailed semi-annual disclosures by companies about the number of FISA orders issued to communications providers and the number of customer accounts targeted under those orders. As a result, a number of providers dismissed their lawsuit against the Department of Justice seeking greater disclosure. The policy reflects the Executive Branch’s continuing commitment to making information about the Government’s intelligence activities publicly available where consistent with the national security of our nation. We will review proposed legislation on these issues and work constructively with the Committee on approaches that balance transparency interests with national security.

- **Is there an alternate arrangement that could be made between the government and these companies to allow rapid access to necessary data while not engaging in bulk collection?**

**Answer:**

We understand this question to address the bulk collection of telephony metadata, which does not involve these companies. With regard to the bulk collection of telephony metadata, on January 17, 2014, the President directed a transition that will end the bulk Section 215 program as it currently exists. As part of that transition, the Administration consulted with Congress, the private sector, privacy and civil liberties groups, and other interested groups. For example, the Administration solicited information on U.S. industry's commercially available capabilities that could provide a viable alternative to the current program, and also held a listening session with experts and advocates to explore a range of expert outside opinions. Throughout this process, we welcomed public debate and discussion about how best to strike the right balance between our national security and the privacy of our citizens. On the basis of these consultations, and after having carefully considered the available options, the President decided, on March 27, 2014, on a proposal that, with the passage of appropriate legislation, will allow the government to end bulk collection of telephony metadata records under Section 215, while ensuring that the government has access to the information it needs to meet its national security requirements. The Administration has urged Congress to pass such legislation and supported efforts to pass the USA FREEDOM Act.

- **I understand American technology firms are increasingly concerned that their association, knowingly or unknowingly, with the NSA's bulk collection is threatening their business overseas, costing them the trust of consumers and generating support for burdensome new foreign regulations on U.S. tech companies. Have you considered the impact of these revelations, and continued bulk collection, on our businesses?**

**Answer:**

The Administration understands the difficult position that technology firms have been put in as a result of the unauthorized intelligence disclosures relating to lawful demands by the U.S. Government for data they possess. In December 2013, the President and the Vice President met with executives from leading technology firms to discuss issues of shared importance to the federal government and the technology sector, including the national security and economic impacts of these unauthorized intelligence disclosures and the national security interests at stake. In response to requests by companies to be able to provide more information about the national security and law enforcement requests that they receive from the government, and consistent with the President's direction in his speech on January 17, 2014, the Government now enables

communications providers to make public more information than ever before about the number of national security orders and requests issued to them, and the number of customer accounts targeted under those orders and requests. Permitting these detailed disclosures will allow companies to illustrate that national security orders and requests affect only a tiny percentage of their users, even taking all of the demands together, and thus to refute inaccurate reports that companies cooperate with the Government in dragnet surveillance of all of their customers.