OMAHA! OMAHA! THE ALERT THAT WON'T ALERT

The FISA Court just released the January 3, 2014 phone dragnet order, DOJ's motion to amend it to meet Obama's new dragnet terms, and the approval for that.

But those changes are of the least interest in these documents. I'll explain the loophole to the changes tomorrow.

For now, consider that the NSA reportedly can't get its automated chaining program to work. In the motion to amend, footnote 12 — which modifies part of some entirely redacted paragraphs describing its new automated alert approved back in 2012 — reads:

> The Court understands that to date NSA has not implemented, and for the duration of this authorization will not as a technical matter be in a position to implement, the automated query process authorized by prior orders of this Court for analytical purposes. Accordingly, this amendment to the Primary Order authorizes the use of this automated query process for development and testing purposes only. No query results from such testing shall be made available for analytic purposes. Use of this automated query process for analytical purposes requires further order of this Court.

PCLOB describes this automated alert this way.

> In 2012, the FISA court approved a new and automated method of performing queries, one that is associated with a new infrastructure implemented by the NSA to process its calling records.68 The essence of this new process is that,

> instead of waiting for individual
> analysts to perform manual queries of
> particular selection terms that have
> been RAS approved, the NSA's database
> periodically performs queries on all
> RAS-approved seed terms, up to three
> hops away from the approved seeds. The
> database places the results of these
> queries together in a repository called
> the "corporate store."

It has been 15 months since FISC approved this alert, but NSA still can't get it working.

I suspect this is the root of the stories claiming NSA can only access 30% of US phone records.

And I think it probably does have to do with cell data and what they get from other programs — just not in the way the reports said it did.

I'll explain that in a follow-up.