

NSA DESTROYED ITS ILLEGAL CONTENT-AS- METADATA DATA IN 2011

The government released a bunch more documents in its several legal battles with EFF today. One of those is the newly-declassified declaration SID Director Theresa Shea submitted back in March about how difficult it would be to retain the phone dragnet data relevant in EFF's phone dragnet suit, First Unitarian.

There are a number of interesting things in the declaration (including probably outdated claims about NSA's efforts to roll out a new architecture integrating Section 215 data in with the rest of the dragnets). But I find this revelation quite interesting.

The NSA's collection of bulk Internet metadata transitioned to FISC authority under section 402 of FISA in July 2004. Until December 2009, these data were subject to the FISC's orders to a 4.5-year retention limit, after which, pursuant to a change in the FISC orders, these data could be retained for up to five years. In December 2011, the Government decided not to seek FISC reauthorization of the NSA's bulk collection of Internet metadata because the program had not met operational expectations. Because the NSA did not intend thereafter to use the Internet metadata it had retained for purposes of producing or disseminating foreign intelligence information, in keeping with the principle underlying the destruction requirements by the FISC, the NSA destroyed the remaining bulk Internet metadata in December 2011.

Poof! Proof of at least 2.5 years (figuring 2007 to October 2009; there should be a gap after that, followed by what I assume is a period of legal but not very useful data) of illegal collection of US person content in the US, gone!

Mind you, I'm glad they're not sitting on all our Internet content-as-metadata anymore, but I do find it interesting they've destroyed the evidence of their crime.