

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

IN RE APPLICATION OF THE FEDERAL
BUREAU OF INVESTIGATION FOR AN
ORDER REQUIRING THE PRODUCTION
OF TANGIBLE THINGS

Docket No. BR 13-109

ORDER

The Clerk of the Court received a letter from the Center for National Security Studies (“Center”) on September 26, 2013. In the letter, the Center makes several requests in connection with the possible renewal of authorities granted by the Court on July 19, 2013. On that date in the above-captioned docket, the Court entered an order pursuant to 50 U.S.C. § 1861 requiring the ongoing daily production to the National Security Agency of certain telephone call detail records in bulk. The order and the Court’s supporting amended memorandum opinion were declassified in substantial part by the Executive Branch and published by the Court on September 17, 2013. See <http://www.uscourts.gov/uscourts/courts/fisc/br13-09-primary-order.pdf>. The order in Docket Number BR 13-109 is set to expire on October 11, 2013, at 5:00 p.m. Eastern Time.

In the event the government applies for an order requiring the continuing bulk production of call detail records beyond October 11, the Center asks the Court to: (1) “direct the Government . . . to file on the public record an application and supporting brief that sets forth its argument on the legality of bulk telephony metadata collection;” (2) “establish a briefing schedule that enables interested persons or organizations to submit briefs [of] amicus curiae responding to the Government’s submission;” and (3) consider entertaining the matter en banc pursuant to 50 U.S.C. § 1803(a)(2). See Center Letter at 1-2.

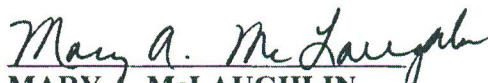
FISC Rule 6 describes the means by which relief may be requested from this Court. Under Rule 6(d), the Center must make its requests by motion. The Center asks that “[i]f a formal motion is required,” the Court “treat [its] letter as a motion or advise [it] that it should be refiled as such.” Center Letter at 2. Because the Center’s letter fails to comply with the FISC Rules in several respects, the Court declines to treat it as a motion. See FISC Rule 7(c)(2) (form of submissions); Rule 7(h)(1) (bar information); Rule 7(i) (security clearance information); Rule 63 (practice before the Court).

The Center may re-submit its requests in the form of a motion that complies with all applicable requirements of the FISC Rules. Any such submission, however, should address the

question whether the Center's requests are foreclosed in whole or in part by the language and structure of Section 1861. See, e.g., 50 U.S.C. § 1861(c)(1) (directing the Court to "enter an ex parte order"), (d) (restricting disclosures relating to orders issued under § 1861), and (f) (providing detailed procedures for challenges to production orders pursuant to which only the recipient of a production order may contest the legality of that order, and requiring that such challenges be filed "under seal").

The FISC Rules are available at <http://www.uscourts.gov/uscourts/rules/FISC2010.pdf>.

SO ORDERED, this 9th day of October, 2013, in Docket No. BR 13-109.


MARY A. McLAUGHLIN
Judge, United States Foreign
Intelligence Surveillance Court