

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

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT

2018 JUN 13 PM 3:05

LEEANN FLYNN HALL
CLERK OF COURT

IN RE OPINIONS & ORDERS ISSUED BY THIS COURT ADDRESSING BULK COLLECTION OF DATA UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

Docket No. Misc. 13-08

IN RE OPINIONS & ORDERS OF THIS COURT CONTAINING NOVEL OR SIGNIFICANT INTERPRETATIONS OF LAW

Docket No. Misc. 16-01

MOTION TO CONSOLIDATE DOCKET NOS. MISC. 13-08 & 16-01

For reasons of judicial economy and to avoid unnecessary delay, Movants respectfully request that the Court join Docket Nos. Misc. 13-08 and 16-01 for resolution.

The Court has ordered the parties to brief the question of subject matter jurisdiction in No. Misc. 13-08, which was filed on November 7, 2013. *See* Mot. for Release of Court Records (No. Misc. 13-08). Presently pending before the Court is another right-of-access motion filed by Movant American Civil Liberties Union on October 19, 2016. *See* Mot. for Release of Court Records (No. Misc. 16-01). That motion seeks access to FISC opinions containing novel or significant interpretations of law issued between September 11, 2001, and the passage of the USA Freedom Act on June 2, 2015.¹ The motion was fully briefed on the merits nearly a year ago, as of June 29, 2017. Nonetheless, no decision has been issued nor has the Court requested additional briefing from the parties on any of the jurisdictional issues raised in this proceeding.

¹ Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act (“USA FREEDOM Act”), Pub. L. No. 114-23, 129 Stat. 268 (2015).

Because the legal issues raised by the two motions overlap extensively, including the question of subject matter jurisdiction addressed in the briefing underway in No. Misc. 13-08, Movants respectfully request that the Court join the two matters for resolution. Consideration of the two motions together will significantly promote judicial economy because it will allow both cases to be fully briefed and addressed in this Court without delay—and will avoid the need for a further round of jurisdictional briefing in No. Misc. 16-01, where the parties have not had the opportunity to address these issues. Proceeding sequentially, by contrast, will extend the timeline for resolution and add to the Court’s workload. Given the similarity of the claims of access underlying both motions, consolidation will align both matters for an ultimate decision.²

CONCLUSION

For the foregoing reasons, Movants respectfully request that the Court consolidate Docket Nos. Misc. 13-08 and 16-01 for resolution.

Dated: June 13, 2018

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Respectfully submitted,

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² Movants conferred with the government concerning this motion to join the two matters. The government indicated that it opposes consolidation.

* This motion has been prepared with the assistance of Yale Law School student, Christine D’alessandro. The motion does not purport to present the institutional views of Yale Law School, if any.

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CERTIFICATE OF SERVICE

I, Patrick Toomey, certify that on this day, June 13, 2018, a copy of the foregoing motion was served on the following persons by the methods indicated:

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