



Known Government Documents Related to the NSA Surveillance Program

Date	Author	Description	Source
9/25/2001	Office of Legal Counsel (OLC) Deputy Assistant Attorney General John Yoo	A 13-page memorandum to Associate Deputy Attorney General David Kris entitled “Constitutionality of Amending Foreign Intelligence Surveillance to Change the ‘Purpose’ Standard for Searches.”	Released ¹
10/4/2001	White House [David Addington, Counsel to the Vice President] ²	Top Secret codeword ³ classified (Sensitive Compartmented Information) presidential authorization of the NSA Program, marked “White House Office-controlled Document.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President. (Hereafter “Presidential Authorization for NSA Program”).	Office of the Vice President’s response to Senator Leahy subpoena for information about the NSA surveillance program (8/07/2007) (hereafter “OVP Response to Leahy Subpoena”) ⁴
10/4/2001	OLC Deputy Assistant Attorney General [John Yoo] ⁵	A 36-page memorandum to White House Counsel Gonzales, created “in response to a request from the White House for OLC’s views regarding what legal standards might govern the use of certain intelligence methods to monitor communications by potential terrorist.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	<i>EPIC/ACLU v. DOJ</i> , 06-cv-0214 (D.D.C.), and existence disclosed in an Oct. 2007 declaration of Steven Bradbury (hereinafter “Bradbury Decl.”), ⁶ at 22; OVP Response to Leahy Subpoena
10/20/2001	Attorney General John Ashcroft	A one-page memorandum to FBI Director Robert S. Mueller III, “advising the Director that certain intelligence collection activities are legal and have been appropriately authorized.”	Bradbury Decl. at 11; Eric Lichtblau, <i>Bush’s Law</i> at 137-38.
11/2/2001	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
11/2/2001	OLC Deputy Assistant Attorney General [John Yoo]	A 24-page memorandum to Attorney General Ashcroft, “prepared in response to a request from the Attorney General for OLC’s opinion	Bradbury Decl., at 22; OVP Response to Leahy Subpoena

¹ <http://www.usdoj.gov/opa/documents/memoforeignsurveillanceact09252001.pdf>

² According to White House Chief of Staff Andrew Card, David Addington was “a drafter, not *the* drafter” of the Program’s Presidential Authorizations. Barton Gelman, *Angler*, at 283; *see also Angler* at 143.

³ The code word for the NSA surveillance program is “Stellar Wind.” Daniel Klaidman, *Now We Know What the Battle Was About*, Newsweek (Dec 13, 2008), <http://www.newsweek.com/id/174602/>

⁴ <http://leahy.senate.gov/press/200708/07-08-20%20vp%20letter.pdf>

⁵ Until May 2003, John Yoo was the only Deputy Assistant Attorney General in the Office of Legal Counsel who was ‘read-in’ to the Program.

⁶ http://s3.amazonaws.com/publicassets/missing_memos/Bradbury_1.pdf



		concerning the legality of certain communications intelligence activities.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	
11/5/2001	OLC Deputy Assistant Attorney General John Yoo	A memorandum to Associate Deputy Attorney General [David Kris] ⁷ concluding that the Deputy Attorney General can approve warrantless electronic surveillance against people within the U.S. or U.S. citizens abroad when the information is collected for intelligence purposes rather than for law enforcement.	Released ⁸
11/30/2001	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
1/9/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
1/9/2002	Deputy Assistant Attorney General, OLC [John Yoo]	A two-page memorandum for Attorney General John Ashcroft, which “relates to the Attorney General’s review of the legality of the President’s order authorizing the TSP in the course of considering that program’s reauthorization, which was done approximately every 45 days.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Bradbury Decl at 9; OVP Response to Leahy Subpoena
2/8/2002	OLC Deputy Assistant Attorney General John Yoo	An at least 13-page memorandum to William J. Haynes II, the General Counsel of the Department of Defense, “prepared in response to a request for OLC views regarding the legality of certain hypothetical activities.”	Bradbury Decl. at 21-22; Bradbury January 15, 2009 Memo ⁹
3/14/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
4/18/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
5/17/2002	Department of Justice	Department of Justice memo, responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	OVP Response to Leahy Subpoena

⁷ “David S. Kris was the Associate Deputy Attorney General for national security issues in the United States Department of Justice (DOJ) from 2000 to 2003.” http://en.wikipedia.org/wiki/David_S._Kris; *see also* Litchblau, *Bush’s Law*, at 140-142 (Deputy Attorney General Larry “Thompson asked one of his top deputies, David Kris, to write him a memo analyzing the troubling question of whether he should sign” warrantless wiretapping applications stemming from unknown sources).

⁸ <http://www.usdoj.gov/olc/25.htm>

⁹ <http://www.usdoj.gov/opa/documents/memostatusolcopinions01152009.pdf>



5/21/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
6/24/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
7/30/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
9/10/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
10/11/2002	Deputy Assistant Attorney General in OLC [John Yoo]	A nine-page memorandum to Attorney General John Ashcroft, “prepared in response to a request for OLC’s views concerning the legality of certain communications intelligence activities.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Bradbury Decl. at 22; OVP Response to Leahy Subpoena
10/15/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
11/18/2002	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
11/19/2002	Assistant Director, Counter-Terrorism Division, FBI [Larry A. Medford] ¹⁰	Internal memorandum to the FBI Director “concerning certain issues and proposals regarding the TSP as well as a summary of information concerning the FBI’s participation in the TSP.”	Nov. 2007 Declaration of David Hardy (Hardy Decl.) at 22. ¹¹
1/8/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
1/23/2003	Assistant Director, Counter-Terrorism Division, FBI [Larry A. Medford]	Internal memorandum to the FBI Director “concerning certain issues and proposals regarding the FBI’s participation in the TSP and the staffing of FBI personnel who are involved with the TSP.”	Hardy Decl. at 23
2/7/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
2/20/2003	Assistant Director, Counter-Terrorism Division, FBI [Larry A. Medford]	Internal memorandum to the FBI Director “concerning the staffing of FBI personnel who are involved with the TSP as well as a background and summary of investigative information concerning the use of the TSP in a specific FBI counterterrorism investigation.”	Hardy Decl. at 23
2/25/2003	Deputy Assistant Attorney	A 12-page memorandum for Attorney General Ashcroft “prepared in	Bradbury Decl. at 21; OVP

¹⁰ <http://web.archive.org/web/20030205055412/www.fbi.gov/libref/executives/asstmain.htm>

¹¹ http://www.aclu.org/images/nsaspying/asset_upload_file285_33266.pdf



	General for OLC [John Yoo]	response to a request from the Attorney General for legal advice concerning the potential use of certain information collected in the course of classified foreign intelligence activities.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Response to Leahy Subpoena
3/17/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
4/22/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
5/30/2003	Deputy Assistant Attorney General for OLC ¹²	A 19-page memorandum to the General Counsel of another Executive Branch agency.	Bradbury Decl. at 26
6/11/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
7/14/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
9/10/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
10/15/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
11/??/2003	Jack L. Goldsmith, III, Assistant Attorney General, OLC	Draft memorandum to Attorney General John Ashcroft “entitled ‘Review of Legality of the [NSA] Program.’”	Lichtblau, <i>Bush’s Law</i> , at 176
12/9/2003	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
1/14/2004	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
3/9/2004	FBI Office of the General Counsel	“A package of four documents concerning the TSP and participation in the TSP and other issues regarding FBI counterterrorism investigations,” which were obtained from the working files of FBI General Counsel Valerie Caproni. It “contains a discussion of operational details and statistics related to the use of and reliance on the TSP by the FBI.”	Hardy Decl. at 25; Hardy Ex. A at 7
3/9/2004	FBI	A PowerPoint slide presentation.	Hardy Ex. A at 1 ¹³
3/11/2004	David Addington, Counsel to the	Revised Presidential Authorization for NSA Program, with a	Gelman, <i>Angler</i> at 311-313; OVP

¹² John Yoo stepped down from his position as Deputy Assistant Attorney General for the Office of Legal Counsel in May 2003.

¹³ http://www.aclu.org/images/nsaspying/asset_upload_file222_33267.pdf



	Vice President	signature line for Counsel to the President instead of the Attorney General, which asserts that President Bush relies upon his own authority to certify the Program as lawful, expressly overriding the Justice Department and any act of Congress that purported to constrain his power as commander-in-chief. Amended by presidential memoranda of March 19, 2004 and April 2, 2004.	Response to Leahy Subpoena
3/11/2004	Jack L. Goldsmith, III, Assistant Attorney General, OLC	A one-page letter to White House Counsel Gonzales seeking clarification regarding advice that OLC had been requesting to provide concerning classified foreign intelligence activities.	Bradbury Decl. at 7; Gelman, <i>Angler</i> at 315
3/12/2004	Jack L. Goldsmith, III, Assistant Attorney General, OLC	A one-page memorandum to Deputy Attorney General James Comey ¹⁴ providing legal advice concerning certain decisions relating to classified foreign intelligence activities.	Bradbury Decl. at 7
3/12/2004	FBI Director Robert Mueller	An eight-page collection of the FBI Director’s handwritten notes, covering the time frame of March 1, 2004 to March 12, 2004, and eight pages from the FBI Director’s personal calendar, also covering the time frame of March 1, 2004, to March 12, 2004.	Hardy Decl. at 44; partially released ¹⁵
3/13/2004	FBI	An e-mail “among a FBI executive, the GC [Valerie Caproni], ¹⁶ and the DGC regarding a certain administrative process used by the FBI in connection with the TSP and seeks guidance regarding the FBI’s use of TSP information”	Hardy Decl at 48
3/13-14/2004	Alberto Gonzales, Counsel to the President	A 21-paragraph note regarding a March 10, 2004, meeting with Congresses’ Gang of Eight. “Gonzales told the [Office of the Inspector General] that President Bush directed him to memorialize the March 10, 2004, meeting. Gonzales stated that he drafted notes about the meeting in a spiral notebook in his White House Counsel’s Office within a few days of the meeting, probably on the weekend immediately following the meeting. Gonzales stated that he wrote the notes in a single sitting except for one line, which he told us he wrote within the next day. Gonzales said that his intent in drafting	Office of the Inspector General Report of Investigation Regarding Allegations of Mishandling of Classified Documents by Attorney General Alberto Gonzales ¹⁷

¹⁴ On or around March 4, 2004, DAG Comey became the acting Attorney General after Ashcroft was placed in GWU hospital for acute pancreatitis. Ashcroft remained in the hospital until March 14, 2004, after which Comey “continue[d] to run the Department while Attorney General Ashcroft recuperate[d].”

¹⁵ http://www.aclu.org/images/nsaspying/asset_upload_file326_33270.pdf

¹⁶ <http://web.archive.org/web/20040413202914/www.fbi.gov/libref/executives/caproni.htm>

¹⁷ <http://www.usdoj.gov/oig/special/s0809/report.htm>



		the notes was to record the reactions of the congressional leaders during the meeting, as opposed to recording any operational details about the program that were discussed. In the notes, Gonzales listed who was present, followed by a general summary of the briefing given to the congressional leaders by intelligence agency officials, and the congressional leaders' responses to the briefing." The note contains "three paragraphs about the NSA surveillance program [that] contain SCI information based on references to operational aspects of the program as well as the use of the codeword for the program in conjunction with these operational aspects."	
3/14/2004	Unknown [Jack L. Goldsmith, III] ¹⁸	A five-page document, dated March 14, 2004, which consists of bullet points related to an undated two-page document entitled "Presentation: Where DOJ is on [REDACTED]," ¹⁹ and purportedly contains "preliminary legal analysis of OLC."	Bradbury Decl. at 35
3/15/2004	Jack L. Goldsmith, III, Assistant Attorney General, OLC	A three-page memorandum to Deputy Attorney General James Comey outlining "preliminary OLC views with respect to certain legal issues concerning classified foreign intelligence activities." Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Bradbury Decl. at 6; OVP Response to Leahy Subpoena
3/16/2004	James B. Comey, acting Attorney General and Deputy Attorney General	A two-page memorandum to White House Counsel Alberto Gonzales, containing "legal recommendations regarding classified foreign intelligence activities," attaching a previous memorandum by Jack Goldsmith.	Bradbury Decl. at 6; Written Questions to Former Deputy Attorney General James B. Comey Submitted by Senator Patrick Leahy at 2 ²⁰
3/19/2004	Unknown	Presidential memorandum amending the March 11, 2004 Presidential Authorization.	OVP Response to Leahy Subpoena
3/22/2004	Assistant Attorney General for OLC	A three-page memorandum to Deputy Attorney General James "confirming oral advice on particular matter concerning classified foreign intelligence activities."	Bradbury Decl. at 6
3/30/2004	James B. Comey, Deputy Attorney General	A five-page document to the Attorney General Ashcroft providing an outline to a briefing including a "summary of preliminary OLC	Bradbury Decl. at 30

¹⁸ Goldsmith was the only then current OLC attorney who was read-in to the Program.

¹⁹ The redacted word is a "classified codename." The codename for the Program, "Stellar Wind," is itself classified.

²⁰ Comey testified that "I recall sending one memorandum to the White House, after March 10, which I believe attached a memorandum written by Goldsmith." <http://leahy.senate.gov/press/200705/052507ComeyResponse.pdf>



		conclusions concerning the TSP and other intelligence activities; a discussion of issues for decision concerning these intelligence activities; a description of advice provided by OLC to other Executive Branch agencies and components concerning these activities; and an identification of legal issues requiring further discussion.”	
3/??/2004 (“shortly after March 10,” likely between 3/12 and 3/16)	Alberto Gonzales, Counsel to the President	Memo to the Justice Department that “rejected every point in the [March 11] letter the Goldsmith and Philbin had brought to Gonzales at home. ... The document reiterated the president’s sole authority to decide the law and reasserted the lawfulness of every element in the program. Any adjustments would come for strictly operational reasons, at the president’s own discretion.”	Gelman, <i>Angler</i> at 321; Written Questions to Former Deputy Attorney General James B. Comey Submitted by Senator Patrick Leahy at 2
3/??/2004	Special Assistant to the Director of the FBI [Drew S. Parenti] ²¹	A “collection of handwritten notes of the FBI Director’s Special Assistant regarding the pre-March 2004 chronology of events surrounding the TSP.”	Hardy Decl. at 45.
4/2/2004	Unknown	Presidential memorandum amending the March 11, 2004 Presidential Authorization.	OVP Response to Leahy Subpoena
5/5/2004	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
5/6/2004	Jack L. Goldsmith, III, Assistant Attorney General in OLC	A 108-page memorandum to Attorney General Ashcroft “prepared in response to a request from the Attorney General that OLC perform a legal review of classified foreign intelligence activities.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Bradbury Decl. at 21; OVP Response to Leahy Subpoena
6/23/2004	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
7/16/2004	Jack L. Goldsmith, III, Assistant Attorney General in OLC	A nine-page memorandum to Attorney General Ashcroft, “evaluating the implications of a recent Supreme Court decision ²² for certain foreign intelligence activities.” Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Bradbury Decl. at 22; OVP Response to Leahy Subpoena
8/9/2004	Daniel Levin, Acting Assistant	A one-page memorandum to Deputy Attorney General James	Bradbury Decl. at 5; OVP

²¹ Mueller appointed Drew S. Parenti as Special Assistant to the Director on February 24, 2004.

<http://www.fbi.gov/pressrel/pressrel04/parenti022404.htm>

²² *Hamdi v. Rumsfeld*, 542 U.S. 507 (2004) was decided on June 28, 2004.



	Attorney General in OLC	Comey, entitled “Proposed Memorandum,” containing OLC’s advice on decision to be made by Deputy Attorney General regarding intelligence collection activity. Responsive to a subpoena about the surveillance program and in the possession of the Office of the Vice President.	Response to Leahy Subpoena
After 9/14/2004	FBI	Undated five-page document entitled “Chronology” which details events regarding the TSP from 9/14/01 to 9/14/04.	Hardy Decl. at 45
9/15/2004	Deputy Attorney General James Comey	A one-page memorandum to FBI Director Mueller entitled “National Security Agency Collection Activity.”	Bradbury Decl. at 25
9/17/2004	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
10/6/2004	Counter-Terrorism Division, FBI	An Intelligence Report “concerning the importance and value of information collected by the TSP and acted on by the FBI in several FBI counterterrorism investigations. This Intelligence Report consists of backgrounds and summaries of these investigations with specific investigative information as to the use and value of TSP information in the successful accomplishments within these investigation.”	Hardy Decl. at 39
11/17/2004	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
11/23/2004	Counter-Terrorism Division, FBI	An internal memorandum “concerning investigative leads generated by TSP information and acted on by the FBI in certain FBI counterterrorism investigations. This memorandum delineates the actions and tasks performed by the FBI Unit in CTD that is responsible for the administration of the TSP pursuant to these investigative leads.”	Hardy Decl. at 28
11/23/2004	FBI Office of the General Counsel	A document “containing questions and answers regarding certain statistical and investigative information regarding the TSP with handwritten comments and marginalia.”	Hardy Decl. at 44-45
1/11/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
3/1/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
4/19/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
6/14/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy



			Subpoena
7/26/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
9/10/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
10/26/2005	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
12/13/2005	White House [David Addington, Chief of Staff to the Vice President] ²³	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
1/19/2006	Attorney General Alberto Gonzales	A 40-page memo entitled "Legal Authorities Supporting The Activities Of The National Security Agency Described By The President."	Released ²⁴
1/27/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
3/21/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
5/16/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
7/6/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
9/6/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
10/24/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena
12/8/2006	White House [David Addington]	Presidential Authorization for NSA Program.	OVP Response to Leahy Subpoena

²³ Addington "replace[d] I. Lewis "Scooter" Libby Jr. as Cheney's chief of staff upon Libby's resignation after being indicted on charges of perjury and obstruction of justice on October 28, 2005." http://en.wikipedia.org/wiki/David_Addington

²⁴ <http://www.usdoj.gov/olc/2006/nsa-white-paper.pdf>