215/NSA Case Study

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215/NSA: Why is this a problem?

• Bulk collection v. targeted collection
• Metadata discovered to be a previously unknown risk
• Timeline or ability to reach back to search data prior to the authorization
• Judge/Lawyer knowledge of technical details
• Lack of transparency in the courts and legal departments
• Demonstrating that the risk justifies bulk collection
• Target of abuse by next leadership
215/NSA: Where does the problem belong?

• The FISA system is very legalistic: it is primarily based on law and has little policy

• Privacy is often handled by legal/compliance offices, rules are set by DoJ, and legal offices are typically not transparent

• Do we need a separate profession or role, such as civil rights office?
  – If so, how would we ensure separation from the legal office (e.g., Inspector General)
215/NSA: What are the set of requirements to build to?

- Require the companies to store the data and receive and process the queries.
- Avoid creating specific technical requirements in law, but allow policy to communicate design principles.
- Improve scientific knowledge regarding private information processing, de-identification, etc. (ex. NIST facial recognition study).