SECTION 702

OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT

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SECTION 702:
THE BIG PICTURE

FISA SECTION 702: AT A GLANCE

702 DEFINED

Section 702 of the Foreign Intelligence Surveillance Act (FISA) is a key foreign intelligence authority that helps keep the United States, its citizens, and allies safe and secure.

The authority allows the U.S. Government to collect the communications of individual foreign intelligence targets located overseas who use U.S. electronic communication services such as email and telephone.

Intelligence from Section 702 is used every day to protect the nation from critical threats, inform U.S. Government strategy, and save American lives.

Section 702 provides robust privacy and civil liberties protections and is subject to rigorous oversight from all three branches of government.

WITHOUT THIS AUTHORITY, WE LACK A HOLISTIC PICTURE OF OUR FOREIGN THREATS

RELEVANCE

100%
of the President's intelligence priorities topics reported on by NSA were supported by FISA Section 702 information in 2022.

65%
of all FBI raw technical reporting came from Section 702 in the first half of fiscal year 2023.

59%
of articles in the President's Daily Brief contained 702 information reported by NSA in 2022.

40%
of products in CIA's World Intelligence Review daily analytic publication relied on FISA Section 702 information in 2022.

TIMELINE

Absent Congressional reauthorization, FISA Section 702 will sunset Dec. 31, 2023. Any lapse in this law would have a blinding effect on our insights into hostile foreign actors operating beyond our borders.

COMPARING FISA SECTION 702 & FISA TITLE I

FISA SECTION 702

TARGETS

Specific, non-U.S. persons located overseas with a reasonable belief that the target possesses foreign intelligence.

No U.S. persons, or any person in the United States, may be targeted using Section 702.

HOW TARGETING IS AUTHORIZED

The Attorney General and Director of National Intelligence issue topical certifications annually, as well as multiple sets of legal procedures required by the statute.

HOW COLLECTION OCCURS

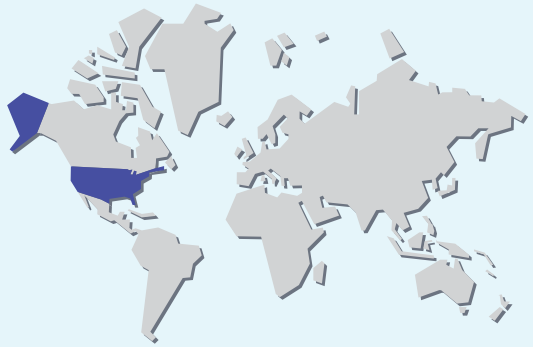
The government compels the assistance of U.S. electronic communication service providers.

FISA TITLE I

TARGETS

Foreign powers or their agents.

Under FISA Title I, applicable U.S. persons and individuals inside the United States can be targeted.



HOW TARGETING IS AUTHORIZED

The Intelligence Community obtains an individualized probable cause warrant from the Foreign Intelligence Surveillance Court establishing that each target is a foreign power or agent of a foreign power and that the targeted account is used or about to be used by a foreign power or their agent.

HOW COLLECTION OCCURS

Collection may occur with or without the assistance of an electronic communication service provider.

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MISSION IMPACT

702 TOP HEADLINES

NORTH KOREAN IT FRAUD EXPOSED

FISA Section 702 data was vital in warning the international community, the private sector, and the public about efforts to deploy information technology workers to commit fraud against a global industry, including against U.S. businesses, to generate revenue for the Democratic People's Republic of Korea nuclear program.

TERRORIST PLANS FOILED, TERRORIST LEADERS REMOVED

The authority has been critical to the IC's successful counterterrorism program. In 2009, it protected the nation from an al-Qaeda attack by Najibullah Zazi, who intended to detonate explosives on Manhattan subway lines. In 2014, Section 702 again prevented attacks by assisting in the removal of ISIS leader, Hajji Iman. In 2022, 702 contributed to the U.S. Government operation against Ayman al-Zawahiri, a last remaining 9/11 architect.

CYBERATTACKS REVEALED, MITIGATIONS DEVELOPED

FISA Section 702-acquired information revealed that a foreign adversary had conducted a cyberattack against critical U.S. Government systems and gained extensive access to non-public records and documents.

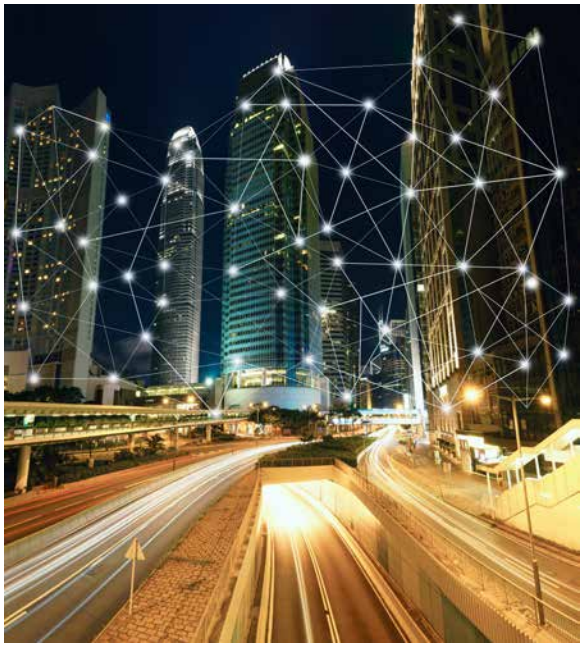
FISA Section 702-acquired information enabled the IC's development of mitigations to protect critical U.S. Government systems compromised by a foreign adversary's cyberattack.

The IC used information from 702 to discover that a foreign adversary had used a cyberattack to acquire sensitive information related to the U.S. military.

MALIGN ACTIVITIES INTERRUPTED

FISA Section 702-acquired information helped the IC discover and interrupt a foreign adversary's plan to obtain sensitive technological information that could be used to undermine U.S. national security.

FISA Section 702 has identified key economic security risks, including strategic malign investment by foreign actors in certain U.S. companies.



702 TOP HEADLINES, CONTINUED

WMD PROLIFERATION COUNTERED

FISA Section 702-acquired information related to sanctioned foreign adversaries was used in U.S. Government efforts to stop components for weapons of mass destruction from reaching foreign actors.

Without FISA Section 702 collection, the State Department's ability to hold nations accountable for adhering to international obligations regarding weapons of mass destruction would be significantly degraded. For example, FISA Section 702 information is a critical input to and provides some of the most meaningful reporting in the classified portion of the 2023 Annual Report on Compliance with the Chemical Weapons Convention.

RANSOMWARE ATTACKS MITIGATED & PREVENTED

FISA Section 702-acquired information successfully identified and mitigated an Iranian ransomware attack against a non-profit organization's systems in 2022. Within one week, this intelligence enabled the U.S. Government to respond to, mitigate, and ultimately recover the organization's information without paying the ransom.

FISA Section 702-acquired information has been used to identify multiple foreign ransomware attacks on U.S. critical infrastructure. This intelligence positioned the U.S. Government to respond to and mitigate these events — and in some instances prevent significant attacks on U.S. networks.

702 FAST FACTS

100%

of the President's intelligence priorities topics reported on by NSA were supported by FISA Section 702 information in 2022.

70%

of successful weapons and counterproliferation disruptions supported by CIA from 2018 to 2022 were supported by FISA Section 702 collection.

59%

of articles in the President's Daily Brief contained 702 information reported by NSA in 2022.

COLONIAL PIPELINE RANSOM RECOVERED

FISA Section 702 played an important role in the U.S. Government's response to the cyberattack on Colonial Pipeline in 2021. Using FISA Section 702, the Intelligence Community acquired information that verified the identity of the hacker, as well as information that enabled U.S. Government efforts to recover the majority of the ransom.

DIPLOMATIC EFFORTS BOLSTERED

In 2021, information derived from FISA Section 702 enabled U.S. diplomats to demarche a Middle Eastern country over its efforts to monitor and track dissidents abroad, as well as dissidents here in the United States.

FISA Section 702 data helped expose efforts by foreign powers, including the People's Republic of China, to coerce nations to oppose international responses to human rights violations. This reporting enabled U.S. diplomats to assist countries in shielding themselves from coercion and influence.

40%

of products in CIA's World Intelligence Review daily analytic publication relied on FISA Section 702 information in 2022.

20%

of NSA's intelligence reports in 2022 contained FISA Section 702 information, 85% of which were sourced only to Section 702.

UNIQUE INSIGHTS ON FOREIGN CARTELS, DRUG TRAFFICKING

FISA Section 702-acquired information revealed:

Foreign actors' illicit plans to smuggle methamphetamine across the U.S. border.

The quantities and potency of drugs, including fentanyl, destined for illegal transfer to the United States, as well as specific smuggling techniques used to avoid detection.

The involvement of a foreign official in one foreign narcotics trafficker's scheme to transport fentanyl pills within the United States.

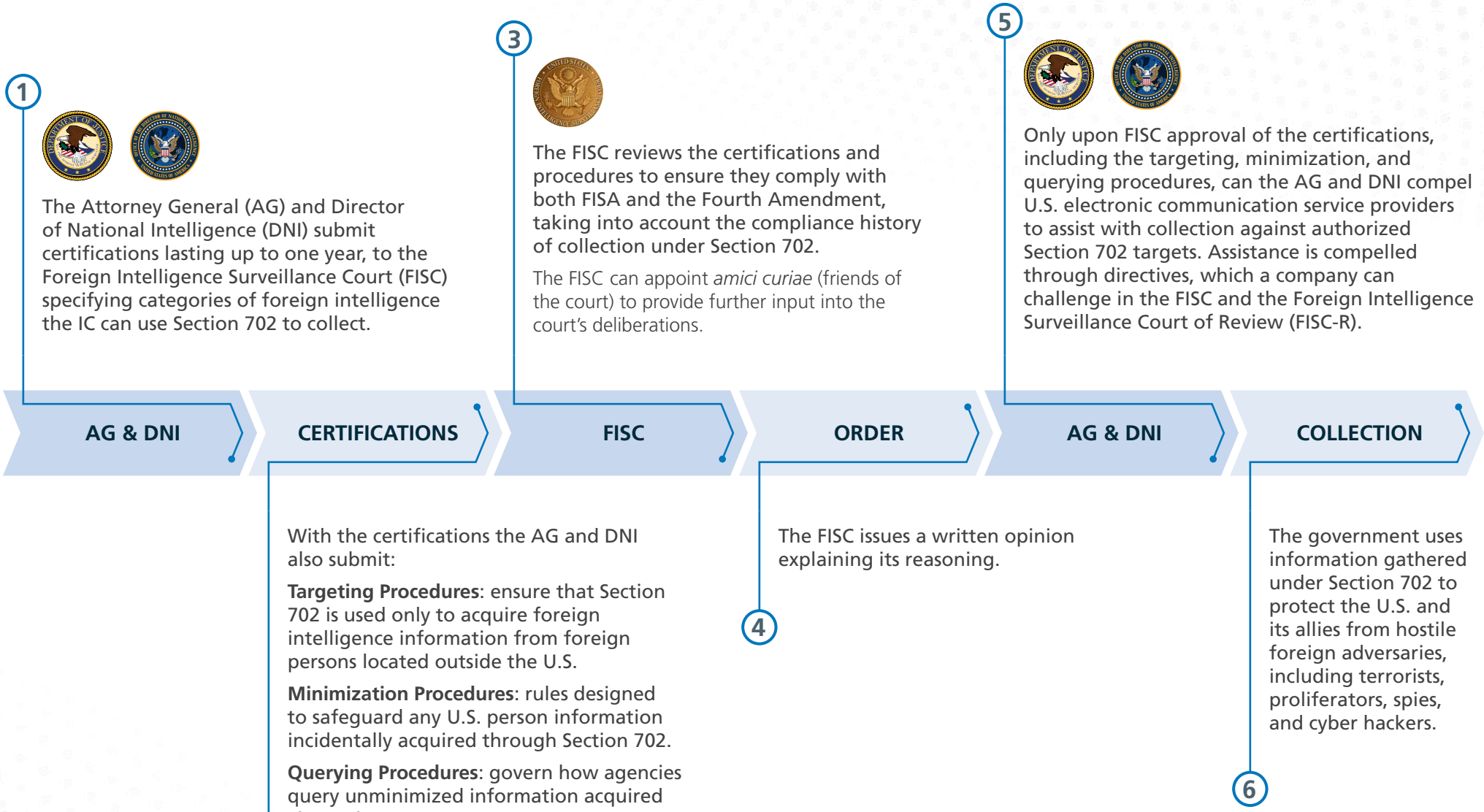
A different foreign narcotics trafficker's purchase of a vast quantity of pills for transfer to the United States.

Insights that have informed the U.S. Government's understanding of the Chinese origins of a chemical used to synthesize fentanyl.

3

PROCESS & OVERSIGHT

APPROVAL PROCESS



SECTION 702 IN USE

The use of Section 702 involves a number of key steps, each of which has specific privacy and civil liberties protections built into it. Words like targeting, querying, and collection are everyday words in the U.S. Government's secure spaces. The specific meanings of those words are described in more detail below.

Research is performed to determine that the proposed target is a non-U.S. person, reasonably believed to be located outside the U.S., and expected to communicate foreign intelligence.

All targeting goes through NSA, where three analysts with specialized training review every proposed 702 targeting before it is approved.

TARGETING

Targeting is when the IC directs its collection efforts to a specific person or entity (the target) to obtain foreign intelligence information. The target of the collection under 702 MUST be a non-U.S. person, outside the U.S., and be likely to possess, receive, or communicate foreign intelligence.

COLLECTION

Once the IC approves targeting, the U.S. Government legally compels certain U.S. electronic communication service providers to give the government the target's communications.

FBI, CIA, and NCTC only receive a small portion of the 702 collection relating to their agency's missions.

The Department of Justice reviews a record of every targeting decision. External oversight occurs throughout the intelligence process.

Queries are how analysts identify the foreign intelligence information within previous, lawfully collected communications.

Additional rules apply to queries using terms associated with U.S. persons.

QUERY

Once the collection is obtained, analysts conduct "queries" to retrieve specific communications by using terms designed to find relevant foreign intelligence. Queries do not produce new intelligence.

DISSEMINATION

Once foreign intelligence is identified, the IC takes action — such as writing a report for the president, military, or other U.S. Government agencies that can prevent or disrupt a particular threat.

The IC releases statistics annually on the number of intelligence reports that include masked references to U.S. persons.

The IC protects U.S. person identities within the reports it writes from 702 information.

OVERSIGHT

The government's use of Section 702 is subject to extensive and rigorous oversight by all branches of government.

FISC

Evaluates the program annually to ensure compliance with FISA and the Constitution.

CONGRESS

Receives regular reports on the government's use of Section 702 and all instances of non-compliance.

PUBLIC TRANSPARENCY

In addition to declassified and publicly released statements and FISC opinions, the IC publishes an annual report with statistics on how national security authorities, such as Section 702, are used.

IC ELEMENT INTERNAL OVERSIGHT

Compliance officers, lawyers, civil liberties and privacy officers, and Inspectors General at each IC element provide oversight.

PRIVACY & CIVIL LIBERTIES OVERSIGHT BOARD

Receives regular reports on the Section 702 program.

DOJ & ODNI

Conduct compliance reviews at least every two months at each agency that receives unminimized Section 702 information, including reviews of targeting decisions, disseminations of U.S. person information, and U.S. person queries.

4

PROTECTING U.S. PERSON INFORMATION

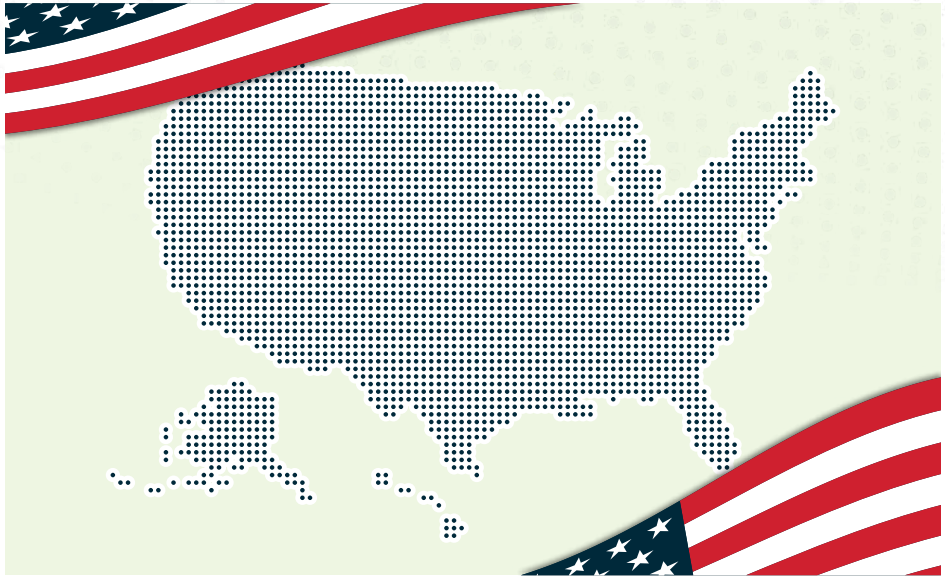
PROTECTING U.S. PERSON PRIVACY

CAN THE IC USE SECTION 702 TO COLLECT U.S. PERSON COMMUNICATIONS?

- The government cannot use Section 702 to target U.S. persons or anyone located in the United States.
- It is possible that a foreign person who has been targeted under Section 702 may communicate with, or discuss information concerning, a U.S. person. Numerous requirements protect U.S. person information throughout the implementation of Section 702.

WHAT HAPPENS IF AN ANALYST FINDS U.S. PERSON INFORMATION IN SECTION 702 COLLECTION?

- Each agency's minimization procedures require that the Agency properly handles and protects any U.S. person information found in Section 702 collection. Safeguards include:
  - **Access Controls**: Only analysts who are trained on the minimization procedures can see the collection.
  - **Age Off Requirements**: After a set period of time, the IC must delete any unminimized Section 702 information, regardless of the nationality of the communicants.
  - **Dissemination Restrictions**: Analysts cannot share (i.e., disseminate) any information that identifies a U.S. person with another agency or entity, unless it falls within one of a few exceptions, such as being necessary to understand foreign intelligence information.



- **Use Restrictions**: The government can only rely on FISA information in a criminal proceeding with the approval of the Attorney General. The FBI or DOJ cannot use an American's communications collected incidentally *(see next page)* under Section 702 to prosecute them unless the case relates to national security or a handful of other very serious crimes. Each agency applies enhanced protections to communications subject to Attorney Client privilege.
- **Query Restrictions**: Querying Procedures impose additional restrictions on how analysts retrieve information collected under Section 702. Agency Querying Procedures direct limitations on the purpose and scope of queries, record keeping requirements and additional approvals required for certain queries involving a term associated with a U.S. person. *Refer to pages 18-19 for additional information on queries using terms associated with U.S. persons.*

PROTECTING U.S. PERSON PRIVACY, CONTINUED

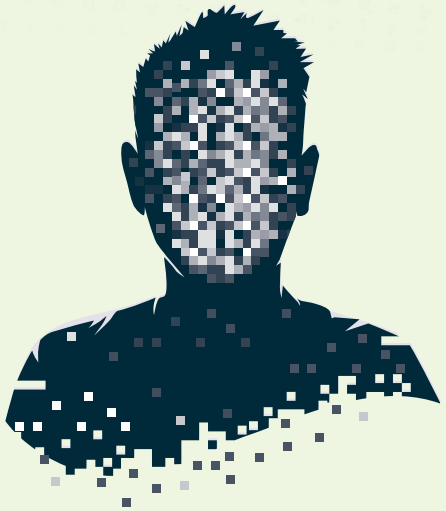
WHY WOULD U.S. PERSON INFORMATION BE COLLECTED UNDER SECTION 702?

- Section 702 may only be used to conduct surveillance on non-U.S. persons located abroad. However, it is possible that a foreign person who has been targeted under Section 702 may communicate with, or discuss information concerning, a U.S. person. The Intelligence Community refers to collection of communications of non-targets (including any U.S. persons) as incidental collection.

THE SCOPE OF INCIDENTAL ACQUISITION OF U.S. PERSON INFORMATION UNDER SECTION 702

- The Intelligence Community has been unable to devise an accurate, repeatable, and meaningful estimate of the rate at which collection of incidental U.S. person communications occurs. The Intelligence Community remains committed to exploring methodologies—including by partnering with private sector experts—to devise such an accurate estimate without unduly violating the privacy of any U.S. persons.
- The Intelligence Community has released a variety of other statistics that provide insight into the scope of intelligence activities targeting foreign persons that involve U.S. persons. The Intelligence Community publishes an Annual Statistical Transparency Report including figures relating to U.S. person queries, the number of intelligence reports which include masked references to U.S. persons, and the number of times the Intelligence Community shared such an un-masked U.S. person's identity with an intelligence customer.

WHAT IS "MASKING"?



NAMED U.S. PERSON #1

"MASKING" is one of the IC's methods for protecting U.S. person privacy. Masking means replacing the identity of the U.S. person with a generic phrase such as "named U.S. person #1". Sometimes, however, it is necessary to refer to a U.S. person to understand the information in an intelligence report.

U.S. PERSON QUERY TERMS EXPLAINED

WHAT IS A QUERY?

Once the IC obtains 702 collection, analysts conduct "queries" to retrieve specific communications for review by using terms designed to find relevant foreign intelligence, much in the way a word or phrase could be used to find a particular email message in an inbox. Court-approved 702 Querying Procedures provide specific rules limiting how analysts can retrieve 702 targets' communications for review.

WHAT IS A U.S. PERSON QUERY TERM?

Analysts can review 702 data using a query term — like an email address or phone number — associated with a U.S. person. These queries do not acquire any new information; they help an analyst review information that has *already been lawfully acquired*. The only U.S. person communications such a query could retrieve are communications with, or in the possession of, an existing foreign intelligence target.

WHAT HAPPENS IF AN AGENCY PERFORMS AN IMPROPER QUERY?

Any query that does not follow the court-approved querying rules, even if due to a typo or similar mistake, is reported to Congress and the Foreign Intelligence Surveillance Court. Agencies deploy a variety of incident mitigations, including requiring additional training to prevent future mistakes.

WHO IS A U.S. PERSON?

A citizen of the U.S.

An alien admitted for permanent residence in the U.S.

An unincorporated association with a substantial number of members who are U.S. citizens and/or legal permanent aliens.

A corporation that is legally formed in the U.S.

WHY WOULD THE IC CONDUCT A QUERY USING A U.S. PERSON QUERY TERM?

Using a query term associated with a U.S. person can help analysts find foreign intelligence information (FBI can also identify evidence of a crime) in the 702 data that has been lawfully acquired. U.S. person query terms are particularly useful in identifying further information about the plans, capabilities, and activities of foreign targets directed against Americans, U.S. businesses, or the U.S. Government. U.S. person query terms support the IC's foreign intelligence mission in a number of ways, including:

PROTECTING CRITICAL U.S. GOVERNMENT INFRASTRUCTURE & U.S. VICTIMS

Queries into 702-acquired data using terms associated with U.S. Government infrastructure can help identify plans for cyberattacks in the communications of known foreign actors — this can help the IC to warn the potential victim, develop patches, and prevent intrusions. Using terms associated with the victim can help understand the goals, intentions, and tradecraft of existing foreign intelligence targets — that can prove critical to preventing future attacks or holding malicious cyber-actors accountable.

EXPOSING TERRORIST PLOTS

702 queries using U.S. person terms can help the IC identify international threats to U.S. persons or the U.S. homeland. This allows the U.S. Government to better understand foreign terrorist organizations, disrupt terrorist plots, and expose terrorist recruiting efforts.

DETERMINING IF U.S. PERSONS OR COMPANIES ARE BEING TARGETED

The FBI uses U.S. person queries of Section 702 data to help determine if U.S. persons or companies are being targeted by hostile foreign intelligence services or malicious foreign cyber actors, so that the FBI can understand the full scope of those malicious activities and provide warnings to the U.S. victims. U.S. person queries are used, in limited circumstances, to help identify U.S. persons who actively work with hostile foreign powers to harm U.S. national security.

CONDUCTING SAFE OPERATIONS

The CIA uses U.S. person queries of 702 data to protect officers and agents from adversaries, and to determine if U.S. people or businesses are under threat from foreign actors. CIA shares FISA 702-based information about potential threats with our U.S. Government partners, who take action under their authorities.

5

COMPLIANCE

NSA COMPLIANCE

NSA strives to continuously enhance its compliance posture by leveraging human and technical controls; its expert compliance organization; and advancing a culture of compliance from the top down.

ORGANIZATION

SPECIALIZED COMPLIANCE OFFICERS

- Compliance officers are positioned throughout NSA to provide guidance, perform auditing, analyze trends, and mitigate and report incidents. Analytic workflows require documentation and justification before actions are taken. NSA tools are certified against authority-specific rules. People focused on analyzing compliance trends determine effectiveness of training procedures. Analysis informs enhancements and improvements.

TECHNICAL CONTROLS

- Section 702 collection is stored in systems designed to comply with court-approved rules. NSA leverages automation and machine-learning to complement human controls and internal oversight.

CULTURE OF COMPLIANCE

- NSA leadership reiterates that compliance is not only the obligation of personnel with the word in their title. When instances of non-compliance occur, NSA investigates, reports it to overseers, and works to prevent it from reoccurring.

200+ Compliance Officers

100% of all Section 702 targeting decisions reviewed by DOJ

More than **99**% of Targeting Decisions were compliant and without incident since last reauthorization.

PROCEDURES

TARGETING

- NSA conducts Section 702 targeting on behalf of the IC, including pre-targeting due diligence as well as ongoing manual and automatic activities to ensure continued compliance.
- Three analysts with specialized training review any proposed 702 targeting prior to approval.

QUERYING

- Pre-approval for U.S. person query terms to be used in content queries requires Office of General Counsel and NSA Compliance review.
- NSA developed policy requirements for certain U.S. person queries such that they require additional pre-approvals by leadership, up to and including the Director of NSA.

POST-QUERY AUDITING

NSA combines human review with machine learning techniques to maximize auditing effectiveness.

DISSEMINATION

- Technical requirements restrict access to personnel with appropriate training and a need to know.
- Systems enable record keeping of disseminations of previously masked U.S. person identities for oversight purposes.

FBI COMPLIANCE & RECENT REMEDIAL MEASURES

The FBI implemented a series of remedial measures to improve its compliance.

2021-2022 CHANGES

OPT-IN

FBI systems for storing unminimized Section 702 information now require personnel to affirmatively "opt-in" to query that information, reducing the risk of inadvertent queries.

BATCH QUERY APPROVAL

FBI personnel must now obtain attorney approval to conduct a "batch job," consisting of the use of a specific tool in FBI system(s) to conduct multiple sequential queries at the same time.

SENSITIVE QUERY APPROVAL

FBI personnel must now obtain attorney approval to conduct sensitive queries, such as those involving members of academia or religious figures. The FBI's Deputy Director must also personally approve certain sensitive queries, such as those involving domestic public officials, political campaigns, or journalists.

NEW GUIDANCE & TRAINING

FBI has updated and expanded its Section 702 training, incorporating new DOJ/ODNI guidance on query rules, and personnel must now complete the training annually to maintain their access to FISA information. This updated guidance was recently declassified and publicly released on FBI's website in the interest of transparency.

2023 CHANGES

FISA QUERY ACCOUNTABILITY PROCEDURES

Established a series of escalating consequences for violations involving negligence:

- An initial violation will trigger immediate suspension of FISA access while the employee:
  1. retakes all mandatory FISA training,
  2. executes a signed certification that will be placed in the employee's personnel files, and
  3. receives mandatory one-on-one counseling with their field office attorney.
- Subsequent violations will trigger further measures, up to and including indefinite loss of FISA access, reassignment to a new role, and/or referral to FBI's Inspection Division to review potentially reckless conduct and impose additional penalties as appropriate.

EVALUATING FIELD OFFICE EXECUTIVES ON FISA COMPLIANCE

Beginning in fiscal year 2024, FBI field office leaders (i.e. Special Agents in Charge and Assistant Directors in Charge) will be evaluated on FISA compliance within their field offices in their annual ratings, which can affect their eligibility for promotion and annual bonuses.

INTERNAL AUDIT FINDINGS

FBI's Office of Internal Auditing tested the effectiveness of the query compliance controls implemented in 2021-2022, and recommended a series of further reforms. The FBI is implementing all eleven recommendations, including a requirement for users to enter a written justification for all U.S. person queries prior to conducting the query.

CIA & NCTC COMPLIANCE

CIA and NCTC deploy resources, policies, and care to ensure compliance with their applicable Querying and Minimization Procedures.

CIA

CIA has a strong record of compliance with the FISA 702 program. CIA has only had a small number of compliance incidents since the program began in 2008, all of which have been reported to Congress.

- Only a small percentage of CIA officers have access to CIA's FISA Section 702 systems. CIA requires officers to be trained on legal standards, policies, and procedures before gaining such access. Similarly, only officers with a mission need may access the data.
- CIA has a dedicated office and several lawyers responsible for the FISA 702 program, to include training, access to FISA information, requesting collection, compliance with all court-approved procedures, as well as use and dissemination of FISA-derived information.
- CIA officers conduct research and analysis to focus requests for 702 collection on a specific person or entity that would provide foreign intelligence information. All requests for Section 702 collection are reviewed internally prior to being communicated to NSA.

NCTC

NCTC maintains a strong compliance record, demonstrated by the Center's ability to optimize the use of FISA data in support of its counterterrorism mission while consistently maintaining a low number of compliance incidents over the course of several years.

- NCTC's FISA Compliance Program is structured to prevent and detect compliance violations and to facilitate compliance monitoring and enforcement activities.
- NCTC compliance officers partner with ODNI Office of General Counsel attorneys to lead NCTC's FISA Compliance Program, with direct support from mission users and supervisors, system developers, and additional subject matter experts as required.
- FISA compliance officers manage, coordinate, and monitor NCTC's FISA compliance safeguards, including but not limited to, conducting risk-based training and awareness activities; managing NCTC access to FISA data; investigating, managing, and reporting compliance incidents; providing guidance and operational support to mission users; and capturing programmatic data-use metrics and value assessments.

6

SECTION 702:
FAQ

702 FAQ

IS THERE AN ALTERNATIVE FOREIGN INTELLIGENCE AUTHORITY THAT COULD REPLACE 702?

No other foreign intelligence authority can replicate Section 702's speed, agility, and insights. It also plays an important enabling function for IC operations that lead to new discoveries in other authorities.

IS 702 USED TO TARGET U.S. PERSONS?

No — Section 702 may not be used to target Americans anywhere in the world or any person inside the United States, regardless of nationality — no exceptions. Rather, a 702 target is a specific foreign person or entity outside the United States reasonably likely to possess, receive, or communicate foreign intelligence information.

WHY CAN'T THE IC GET A WARRANT BEFORE CONDUCTING A QUERY USING A U.S. PERSON QUERY TERM?

Changes to the IC's limited authority to conduct queries using U.S. person query terms, including the imposition of a specific prior FISC authorization or warrant requirement on some or all such queries, would jeopardize the IC's ability to discover and report on actionable (i.e. timely) threats to the national security interests of the United States and its citizens.

DO QUERIES RESULT IN NEW COLLECTION?

Queries do not result in new Section 702 collection. Rather, queries are the mechanism by which the IC reviews the information that has been lawfully collected under Section 702. CIA, FBI, and NCTC can only perform queries into the subset of 702 collection that they receive from NSA.

WHAT IS MASKING?

"Masking" is one of the IC's methods for protecting U.S. person privacy. In the vast majority of circumstances, U.S. person information incidentally acquired pursuant to Section 702 is not included in intelligence reporting. Sometimes, however, it is necessary to refer to a U.S. person in an intelligence report. In these cases, one way the IC continues to protect U.S. person privacy is by "masking" the U.S. person's identity. Masking means replacing the identity of the U.S. person with a generic phrase such as "named U.S. person #1."

WHAT IS INCIDENTAL COLLECTION?

Communications generally happen between two or more people. As a result, Section 702 collects communications by Section 702 targets with other Section 702 targets, but it also collects communications between Section 702 targets and persons who are not targeted under Section 702. The Intelligence Community refers to collection of communications of non-targets (including any U.S. persons) as incidental collection.

702 FAQ, CONTINUED

WHAT HAS THE FBI DONE TO ADDRESS THEIR RECENTLY DISCLOSED COMPLIANCE ISSUES?

The FBI has implemented a number of remedial measures *(see page 22)* aimed at addressing the kinds of query non-compliance documented in recently released reports and court opinions. In addition, FBI has new training that clarifies the standards that all queries of Section 702 data have to meet. All FBI personnel have been retrained since then, and must retake their training annually to keep access to FISA systems.

WHAT TYPES OF FOREIGN INTELLIGENCE CAN THE IC USE TO JUSTIFY A TARGETING?

Section 702 targets must be non-U.S. persons, located outside of the United States, who are reasonably likely to possess, receive, or communicate foreign intelligence about a topic authorized through an approved certification. In April 2023, the FISC reauthorized the IC to seek certain foreign intelligence relating to 1) foreign governments, 2) counter-terrorism, and 3) combating proliferation.

HOW DOES THE IC USE A FOREIGN INTELLIGENCE TOOL TO SUPPORT CYBERSECURITY?

When the IC learns about adversaries' plans to conduct malicious cyber activities, the IC may use that information to inform U.S. Government agencies, U.S. companies, and U.S. citizens about the risks or possible mitigations.

WHAT INFORMATION DOES THE IC MAKE AVAILABLE PUBLICLY ABOUT 702?

ODNI regularly releases various reports, court opinions, assessments on compliance, and other 702 related documents for the public. This information can be found at Intelligence.gov/IC-on-the-record-database.

HOW MUCH 702 DATA DOES FBI GET ACCESS TO?

FBI only requests access to unminimized Section 702 data that relates to an open, fully predicated national security investigation. In 2022, FBI had access to data from approximately 3.2% of Section 702 targets. In 2021, FBI had access to data from approximately 4.4% of Section 702 targets.

WHAT RULES ARE IN PLACE TO PROTECT THE PRIVACY AND CIVIL LIBERTIES OF NON-U.S. PERSONS?

In addition to the statutory requirements and FISC-approved procedures, agencies are also required to apply additional measures to protect the privacy and civil liberties of all persons. The protections established by Presidential Policy Directive 28 – "Signals Intelligence Activities" and subsequently Executive Order 14086 "Enhancing Safeguards for United States Signals Intelligence Activities" apply to Section 702 activities.

702 FAQ, CONTINUED

WHAT DOES IT MEAN FOR A QUERY TO BE REASONABLY LIKELY TO RETRIEVE FOREIGN INTELLIGENCE?

The reasonably likely to retrieve foreign intelligence standard requires that:

1. a query cannot be overly broad, but rather must be designed to extract foreign intelligence information;
2. a query have an authorized purpose and not be run for personal or improper reasons; and
3. there must be a reasonable basis to expect the query will return foreign intelligence information.

CAN THE IC TARGET A NON-U.S. PERSON TO INTENTIONALLY ACQUIRE INFORMATION ABOUT A U.S. PERSON?

No — the IC cannot target a non-U.S. person who is located outside the U.S. for the purpose of collecting the communications of a person reasonably believed to be located in the U.S. or a U.S. person.

HOW DOES THE IC DETERMINE WHOM TO TARGET?

The National Intelligence Priorities Framework guides the IC's efforts to collect foreign intelligence insights most relevant to the needs of the President and other senior policymakers.

DOES NSA STILL PERFORM "ABOUTS" COLLECTION?

No – NSA is currently not performing "abouts" collection, which was a form of collection where, in certain circumstances, NSA could acquire a communication that was neither to nor from the intended target, but included a reference to the target.

DOES SECTION 702 PERMIT WARRANTLESS SURVEILLANCE?

Although Section 702 does not require an individualized probable cause warrant to acquire the communications of certain non-U.S. person targets located outside of the United States, it does not mean that Section 702 is without judicial oversight. The FISC reviews the certifications as well as the targeting, minimization, and querying procedures annually for adherence to statutory and constitutional requirements.

HOW DOES THE IC REMEDY COMPLIANCE INCIDENTS?

Any instance of non-compliance must be reported promptly to DOJ, the FISC, and Congress. IC elements take a variety of steps depending on the circumstance to remedy an incident, including but not limited to: deleting non-compliant data, recalling intelligence reports, re-training personnel, or even modifying systems.

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SECTION 702: REFERENCE MATERIALS

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Additional information is available at INTEL.GOV/FISA, including:

FISA SECTION 702: A One Page Overview

CATEGORIES OF FISA: The Foreign Intelligence Surveillance Act

THE FOREIGN INTELLIGENCE SURVEILLANCE COURT: Understanding the Role of the FISC

TARGETING UNDER FISA SECTION 702: Who Can (and Can't) Be Targeted?

MINIMIZING U.S. PERSON INFORMATION: Under FISA Section 702

FINDING THE FOREIGN INTELLIGENCE INFORMATION: Queries of Section 702 Information

OVERSEEING SECTION 702: Multi-layered Oversight to Protect Privacy and Civil Liberties

SECTION 702: Incidental Collection in a Targeted Intelligence Collection Program

WHEN IS IT PERMISSIBLE TO IDENTIFY AN AMERICAN IN AN INTELLIGENCE REPORT? Minimizing, Masking, and Unmasking Identities

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