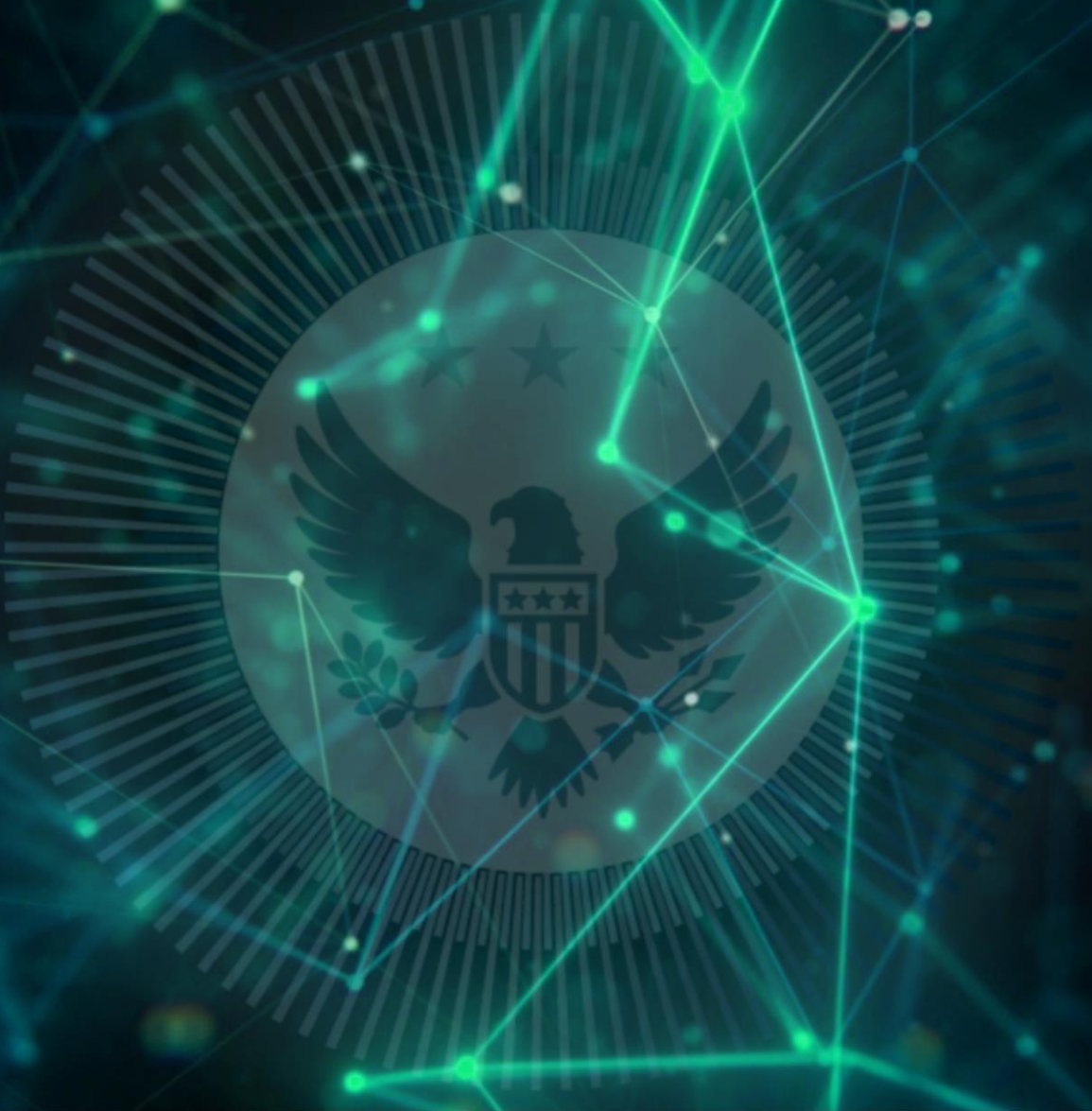




THE  
PRIVACY AND CIVIL LIBERTIES  
OVERSIGHT BOARD



REPORT ON THE SURVEILLANCE PROGRAM OPERATED  
PURSUANT TO SECTION 702 OF THE FOREIGN  
INTELLIGENCE SURVEILLANCE ACT

STAFF REPORT

APRIL 2, 2026

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**Privacy and Civil Liberties Oversight Board**

Beth A. Williams, Board Member

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## EXECUTIVE SUMMARY

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The staff of the Privacy and Civil Liberties Oversight Board (PCLOB) issues this report in advance of the April 2026 deadline for the reauthorization of the intelligence collection program operated pursuant to Section 702 of the Foreign Intelligence Surveillance Act (FISA) of 1978 (the “Section 702 program” or “the program”).<sup>1</sup> This is PCLOB’s third report reviewing the Section 702 program in a span of twelve years. PCLOB issued prior reports in 2014 and 2023 providing comprehensive unclassified descriptions of the program.<sup>2</sup> A classified version of this report, with significant additional information, has been provided to the White House, relevant executive branch agencies, and Congress.

The focus of this report is limited to evaluating how the program has changed since 2023. Specifically, this report explains how the Intelligence Community has implemented technical, statutory, policy, and procedural changes to the Section 702 program, and how those changes have affected both the program’s privacy and civil liberties implications and its national security value.

The report concludes that the Section 702 program remains one of the country’s most valuable tools for foreign intelligence collection. Since 2023, the Section 702 program has continued to provide critical information to America’s leaders and has been leveraged operationally to defend the country against a wide variety of foreign threats. Section 702 has robust privacy and civil liberties protections intended to minimize its impact on U.S. persons. It is scrutinized by all three branches of government, and is subject to extensive transparency reporting.

Although there has not yet been sufficient time and collection of data following the enactment of the Reforming Intelligence and Securing America Act (RISAA) in 2024 to evaluate fully the impact of these reforms, PCLOB assesses that the reforms thus far have positively impacted U.S. person privacy and civil liberties and agency compliance with the Section 702 procedures.

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<sup>1</sup> The initiation of this oversight project was approved by a quorate Board in December 2024. The report reflects the analysis of the Privacy and Civil Liberties Oversight Board’s staff but has not been voted on or approved by a quorate Board. Per the Board’s Sub-Quorum Policy, adopted October 23, 2024, all conditions for publication of this report have been met. See Priv. and C.L. Oversight Bd., *Sub-Quorum Authorities and Operations when Position of Chair is Vacant, Policy 102-01*, § 6.1.C (Oct. 23, 2024).

<sup>2</sup> Priv. and C.L. Oversight Bd., *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act*, at 172 (2023) [hereinafter 2023 PCLOB 702 Report]; Priv. and C.L. Oversight Bd., *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act*, at 111-12 (2014) [hereinafter 2014 PCLOB 702 Report].



## A. The Section 702 Program

Section 702 statutorily authorizes the government to target non-U.S. persons, reasonably believed to be outside the United States, in order to collect foreign intelligence information.<sup>3</sup> The foreign intelligence information currently authorized for collection is focused on specific categories: counterterrorism, foreign governments, countering proliferation, and international counternarcotics.

The program requires individualized targeting of non-U.S. persons located outside the United States who are likely to have information related to those categories. For that reason, both the Board’s 2014 and 2023 reports stated that the Section 702 program is not a “bulk” collection program.<sup>4</sup>

Each year, the Attorney General and Director of National Intelligence (DNI) must make certifications to the Foreign Intelligence Surveillance Court (FISC) regarding the program’s purposes and procedures. The FISC reviews the certifications and each agency’s compliance record, considers additional views of *amici curiae*, and approves the certifications if it finds the program to be lawful and reasonable under the Fourth Amendment.

Although the government may use Section 702 only to target non-U.S. persons, communications of U.S. persons or information concerning them may be incidentally collected when a lawfully targeted non-U.S. person communicates with or about a U.S. person.<sup>5</sup> This is different in scope and kind than if a U.S. person were targeted for collection—which is not permitted under Section 702 and would require a court order under a different provision of FISA.

The Board has previously and unanimously concluded that because Section 702 “disallows comprehensive monitoring of any U.S. person, and prohibits deliberately acquiring even a single communication that is known to be solely among people located within the United

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<sup>3</sup> 50 U.S.C. § 1881a(a), (b)(3), (h)(2)(A)(vi).

<sup>4</sup> 2023 PCLOB 702 Report, *supra*, at 172; 2014 PCLOB 702 Report, *supra*, at 111-12.

<sup>5</sup> Courts have uniformly held this incidental collection to be lawful and reasonable under the Fourth Amendment. As the FISC noted, “All three United States Circuit Courts of Appeals to consider the issue [the Second, Ninth, and Tenth Circuits] have held that the incidental collection of a U.S. person’s communications under Section 702 does not require a warrant and is reasonable under the Fourth Amendment.” 2023 Section 702 Certification Memorandum Opinion and Order, at 68 (FISC Apr. 11, 2023) [hereinafter Apr. 11, 2023 FISC Opinion]; *see also* 2023 PCLOB 702 Report, *supra*, at B-7-B-8. In discussing the reasonableness analysis, the Second Circuit explained, “The communications of terrorist operatives abroad with persons inside the United States is thus of particular importance, and at least as important as monitoring the communications of foreign terrorists abroad among themselves.” *United States v. Hasbajrami*, 945 F.3d 641, 666-67 (2d Cir. 2019).



States, the program would serve as a relatively poor vehicle to repress domestic dissent, monitor American political activists, or engage in other politically motivated abuses of the sort that came to light in the 1970s and prompted the enactment of FISA.”<sup>6</sup>

But compliance—particularly with regard to querying—has not been perfect. Both the FISC in 2021 and the Board’s report in 2023 detailed significant previous compliance issues regarding the improper querying of lawfully collected data. In particular, prior to 2023, many of the compliance incidents involved the Federal Bureau of Investigation’s (FBI) failure to apply the querying standard properly when searching unminimized Section 702-acquired information.<sup>7</sup>

As part of Section 702’s reauthorization in 2024, Congress added numerous statutory requirements to help ensure appropriate querying. Based on data available so far, PCLOB assesses, consistent with the 2025 conclusions of the FISC and the Department of Justice’s Office of the Inspector General (DOJ OIG), that these reforms appear to be working and that FBI querying compliance has been high.<sup>8</sup>

## **B. 2026 Key Findings**

### **1. Use and Value of Section 702**

The Section 702 program remains highly valuable to countering an array of critical foreign threats. The country is safer with it than without it.

- Since 2023, Section 702 has been leveraged operationally to capture foreign terrorists, to defend against cyber and other attacks on critical infrastructure, and to interdict illegal international narcotics trafficking.

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<sup>6</sup> 2014 PCLOB 702 Report, *supra*, at 114; see 50 U.S.C. § 1881a(b)(1)-(4) (an acquisition authorized under Section 702 may not intentionally “target any person known at the time of acquisition to be located in the United States,” “target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States,” “target a United States person reasonably believed to be located outside the United States,” “acquire any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States”).

<sup>7</sup> 2023 PCLOB 702 Report, *supra*, at 145.

<sup>8</sup> U.S. Dep’t of Just., *A Review of the Federal Bureau of Investigation’s Querying Practices Under Section 702 of the Foreign Intelligence Surveillance Act, 26-002*, at 51 (Oct. 2025) [hereinafter DOJ OIG Report] (“Based on [NSD and FBI oversight] reports, it appears that the FBI is no longer engaging in the widespread noncompliant querying of U.S. persons that was pervasive just a few years ago.”); 2025 Section 702 Certification Memorandum Opinion and Order, at 33 (FISC March 18, 2025) [hereinafter March 18, 2025 FISC Opinion] (“After a series of reforms, some of which are codified in RISAA, the FBI seems to be improving its implementation of the general querying standard...”).



- In 2024, 59% of the articles included in the President’s Daily Brief contained Section 702 information reported by the National Security Agency (NSA); this number increased to 63% in 2025.
- U.S. person queries of Section 702-acquired information continue to have significant national security value. PCLOB has been apprised of a number of threats to human life and critical infrastructure since 2023 that were thwarted or averted in part due to information gleaned from U.S. person queries.

## 2. Targeting and Collection

The Intelligence Community’s compliance with targeting procedures continues to be near 100%, which means that, overwhelmingly, it is not targeting U.S. persons, even inadvertently or mistakenly, and it is not targeting non-U.S. persons located abroad without a valid foreign intelligence purpose.

- From December 2018 through May 2021, NSA had a targeting compliance rate of 99.85% or better and FBI had a targeting compliance rate of 99.99% or better, as PCLOB reported in 2023.<sup>9</sup> Since then, the figures have not substantially changed: from 2021 through 2024, NSA and FBI had targeting compliance rates of at least 99.82% and 99.96%, respectively.<sup>10</sup>

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<sup>9</sup> Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2020-31 May 2021*, at 36, 40 (Aug. 2022) [hereinafter 26<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2020-30 November 2020*, at 37, 41 (Apr. 2022) [hereinafter 25<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2019-31 May 2020*, at 38, 42 (Dec. 2021) [hereinafter 24<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2019-30 November 2019*, at 39, 43 (Sept. 2021) [hereinafter 23<sup>rd</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2018-31 May 2019*, at 39, 43 (Aug. 2021) [hereinafter 22<sup>nd</sup> Joint Assessment].

<sup>10</sup> Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *33<sup>rd</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2024-30 November 2024*, at 12, 21 (Feb. 2026) [hereinafter 33<sup>rd</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *32<sup>nd</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2023-31 May 2024*, at 11, 20 (May 2025) [hereinafter 32<sup>nd</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *31<sup>st</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2023-30 November 2023*, at 11, 20 (Jan. 2025) [hereinafter 31<sup>st</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *30<sup>th</sup> Semiannual Assessment of Compliance with*



The Intelligence Community has only recently implemented its new statutory authority to use Section 702 to counter the international production, distribution, or financing of illicit drugs—as authorized by the FISC-approved “Certification D.”

- Generally, only NSA and the Central Intelligence Agency (CIA) may receive, query, and disseminate unminimized Section 702 information acquired pursuant to Certification D.
- NSA’s and CIA’s Section 702 procedures accompanying Certification D highlight FISA’s “necessity” standard for U.S. persons, as required by the FISC.

The government has reported to PCLOB that it has adhered to its commitments to Congress and has applied the amended definition of electronic communication service provider (ECSP) in a limited manner consistent with those commitments.

The government ceased performing “abouts” collection—the practice of acquiring communications that contain a reference to, but are neither to nor from, an authorized target—in 2017. Such collection is now expressly prohibited by RISAA and has not resumed.

### 3. Querying

FBI continues to have access only to unminimized Section 702 information that relates to a predicated national security investigation. For 2025, that continued to account for approximately 3% of Section 702 targets.

FBI U.S. person query numbers have declined steeply:

- Since 2023, the total number of U.S. person queries conducted by FBI has dropped significantly, by approximately 87%, from 57,094 in 2023 to 7,413 in 2025.<sup>11</sup>

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*Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2022-31 May 2023*, at 11, 20 (Jan. 2025) [hereinafter 30<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *29<sup>th</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2022-30 November 2022*, at 12, 22 (Sept. 2024) [hereinafter 29<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *28<sup>th</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2021-31 May 2022*, at 22, 44 (Feb. 2024) [hereinafter 28<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2021-30 November 2021*, at 20, 41 (March 2023) [hereinafter 27<sup>th</sup> Joint Assessment].

<sup>11</sup> PCLOB Correspondence with ODNI (Feb. 11, 2026); Off. of the Dir. of Nat’l Intel., *Annual Statistical Transparency Report Regarding the Intelligence Community’s Use of National Security Surveillance Authorities, Calendar Year 2023*, at 25 (Apr. 2024).



- The significant decline in U.S. person query numbers suggests that RISAA’s mandates and FBI’s reforms are working to deter FBI personnel from conducting unnecessary queries. However, the government identified other factors—the administrative burden associated with running a query, audit fatigue, and fear of professional reprisals for making a mistake—that raise concerns. A failure to conduct U.S. person queries, where appropriate, could lead to a failure to identify threats, make crucial connections, and protect national security.

FBI has implemented all RISAA query mandates, including pre-approval requirements for U.S. person queries, sensitive queries, and batch jobs. This has had a positive impact on FBI’s compliance with querying procedures.

- In the first year after RISAA was enacted, from April 2024 to November 2024, 98.5% of FBI’s U.S. person queries were compliant with the querying procedures.<sup>12</sup>

There have been no reported improper evidence of a crime-only queries post-RISAA.

Sensitive queries by FBI—query terms relating to certain sensitive individuals, organizations or groups such as political, media, and religious organizations or individuals prominent in such organizations—have increased from 227 in 2024, to 839 in 2025.

Current use of Section 702-acquired information for vetting non-U.S. person travel applicants to the United States may not be meeting congressional national security objectives.

- RISAA does not require the vetting of all foreign travelers to the United States against information collected pursuant to Section 702. Rather, it requires that at least one agency’s querying procedures enable the vetting of all non-U.S. persons applying for travel to the United States.

#### 4. Accountability

Every U.S. person query conducted by FBI is now subject to three reviews—one prior to the query, and two subsequent audits.

FBI technology systems need improvement but are undergoing updates.

- Privacy risks associated with FBI’s previous use of a “filter function” within FBI’s primary FISA electronic and data storage system were likely to have been minimal because, except in rare circumstances, the results of the filter function would have significantly overlapped with the result of the broader initial query.

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<sup>12</sup> U.S. Dep’t of Just., *Semiannual Report of the Attorney General Concerning Acquisitions Under Section 702 of the Foreign Intelligence Surveillance Act*, at 121 (March 2025) [hereinafter 33<sup>rd</sup> AG SAR].



Since 2022, FBI personnel who approve or conduct queries must complete annual training.

FBI has implemented new measures to address query noncompliance, including:

- Implementing escalating accountability measures for query violations;
- Instituting a “Field Office Health Measure,” under which FBI field office leaders are held accountable for monitoring FISA compliance in annual reviews that impact bonuses and the potential for promotion; and
- Assessing and appropriately reporting query violations.

*Amici curiae* are now required to participate in all annual Section 702 certification FISC proceedings.

Certain members of Congress and staff are permitted to attend FISC proceedings, but attendance is limited by current procedures.



## I. INTRODUCTION

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### A. Background

The Privacy and Civil Liberties Oversight Board (“the Board”) has released two prior reports on the program operated pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978 (FISA).<sup>13</sup> The 2014 report provided the first comprehensive unclassified description of the Section 702 program in operation. In September 2023, the Board released a follow-on report to address the changes to the Section 702 program that had occurred in the preceding nine years. Subsequently, in April 2024, Congress passed and the President signed into law the Reforming Intelligence and Securing America Act (RISAA), which reauthorized FISA Section 702 for two years and imposed significant new amendments and limitations.

RISAA’s changes included more stringent requirements for queries conducted by the Federal Bureau of Investigation (FBI), increased training and reporting requirements, new disciplinary rules for noncompliance, and a requirement that the Foreign Intelligence Surveillance Court (FISC) appoint *amici curiae* to assist it in considering Section 702 certifications or procedures submitted for judicial review and approval. RISAA also expanded certain aspects of the program, including an expansion of the definition of electronic communication service provider and an expansion of the definition of foreign intelligence information to include the international production, distribution, or financing of certain illicit drugs and precursors. RISAA also required the Attorney General, in consultation with the Director of National Intelligence (DNI), to ensure that “any [querying] procedures for one or more agencies . . . enable the vetting of all non-United States persons who are being processed for travel to the United States using terms that do not qualify as United States person query terms. . . .”<sup>14</sup>

In December 2024, the Board authorized an oversight project to provide an update to its 2023 report to focus on recent programmatic changes and compliance. In accordance with the Board’s project description, this report evaluates how the Intelligence Community has implemented legislative changes as well as technical, policy, and procedural updates to the Section 702 program that impact privacy and civil liberties.

Pursuant to PCLOB’s statutory obligation, PCLOB provides this report in an unclassified format to the greatest extent possible, consistent with the protection of classified information and applicable law.<sup>15</sup> At PCLOB’s request, the Intelligence Community declassified and decontrolled

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<sup>13</sup> See generally Priv. and C.L. Oversight Bd., *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act* (2023) [hereinafter 2023 PCLOB 702 Report]; see also Priv. and C.L. Oversight Bd., *Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act* (2014) [hereinafter 2014 PCLOB 702 Report].

<sup>14</sup> Reforming Intelligence and Securing America Act (RISAA), Pub. L. No. 118-49, § 24, 138 Stat. 862, 893 (2024).

<sup>15</sup> 42 U.S.C. § 2000ee(f)(1).



further information for inclusion in this report. The full classified version of this report, which contains significant additional information about certain subjects addressed here, has been provided to the White House, relevant executive branch agencies, and Congress.<sup>16</sup>

## **B. Investigative Scope and Methodology**

In preparing this report, PCLOB conducted a comprehensive review of changes made to the Section 702 program since 2023, as well as Intelligence Community compliance with both new and pre-existing requirements.<sup>17</sup> PCLOB engaged in briefings with the Office of the Director of National Intelligence (ODNI), the National Security Agency (NSA), FBI, the Central Intelligence Agency (CIA), the National Counterterrorism Center (NCTC), and the Department of Justice (DOJ), and received an extensive amount of classified and unclassified material from the agencies, and exchanged numerous rounds of oral and written correspondence.

This report evaluates the operation of the Section 702 program since 2023 and is not intended to be a comprehensive description of the program. Furthermore, this report’s analysis of the Attorney General and DNI annual Section 702 certifications and the government’s accompanying targeting, minimization, and querying procedures are current as of those approved by the FISC in 2025.

It should be noted that due to the recent enactment of RISAA in mid-2024, the data and information available—including both use and compliance trends—are necessarily limited. As such, it is not possible to assess fully the results of RISAA’s reforms. Nevertheless, PCLOB has endeavored to describe and evaluate the information currently available. Although initial indications are encouraging, more time and agency reporting will be necessary to provide a greater understanding of RISAA’s impact.

## **C. Report Organization**

Part II provides a brief history and overview of Section 702 as well as a description of the national security value of the program, concentrating on use cases and trends since 2023. Part III describes the significant changes to the Section 702 program since 2023, focusing on privacy and civil liberties impacts, with key emphasis on targeting and collection, querying, and measures of compliance and accountability. Part IV includes PCLOB’s conclusions and evaluations of the Section 702 program as it currently operates.

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<sup>16</sup> Board Member Williams and the PCLOB staff thank the Intelligence Community, and especially ODNI’s Office of Civil Liberties, Privacy, and Transparency, for its cooperation and assistance with PCLOB’s requests for information during the preparation of this report.

<sup>17</sup> This report focuses on the significant changes to Section 702 procedures that were voluntarily instituted by agencies, approved by the FISC, or directed by RISAA. There have been other, more minor changes to Section 702 procedures that agencies have instituted since PCLOB’s 2023 report that are not discussed here. PCLOB has investigated the intent and impact of these changes, and has concluded that they do not raise novel issues with regard to privacy and civil liberties.



## II. DESCRIPTION AND HISTORY

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In 2008, Congress amended FISA, adding a new provision, Section 702.<sup>18</sup> Section 702 permits the Attorney General and the DNI jointly to authorize the collection of foreign intelligence information by targeting only non-U.S. persons reasonably believed to be located outside the United States.<sup>19</sup>

### A. Brief History of the Section 702 Program<sup>20</sup>

On September 11, 2001, al-Qa'ida terrorists killed almost 3,000 people on U.S. soil. At the time, the country did not know if further attacks were imminent. In response, then-President George W. Bush issued a classified presidential authorization directing the collection of certain foreign intelligence information by electronic surveillance in order to prevent acts of terrorism within the United States. In August 2007, responding to concerns that the collection was not congressionally authorized, Congress enacted and the President signed the Protect America Act of 2007 (PAA), a temporary measure that was set to expire 180 days after its enactment, and the legislative forerunner to what is now Section 702 of FISA.<sup>21</sup> In 2008, Congress enacted the FISA Amendments Act, which replaced the expired PAA provisions with the new Section 702 and set a five-year expiration date.<sup>22</sup> The legislation renewed the PAA's provisions authorizing "targeting of foreign terrorists and other foreign intelligence targets reasonably believed to be located outside the United States" without individualized FISC orders.<sup>23</sup> The law "also significantly increased the protections of the civil liberties of U.S. persons located inside and outside the United States."<sup>24</sup> Among these protections was a prohibition on reverse targeting of U.S. persons or persons located inside the United States under Section 702,<sup>25</sup> as well as new requirements on reporting and disclosure.<sup>26</sup>

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<sup>18</sup> Foreign Intelligence Surveillance Act of 1978 Amendments Act (FAA) of 2008, Pub. L. No. 110-261, 122 Stat. 2426 (2008).

<sup>19</sup> *Id.* FISA defines "United States persons" or "U.S. persons" as U.S. citizens, U.S. lawful permanent residents (green card holders), groups substantially composed of U.S. citizens or lawful permanent residents, and corporations incorporated in the U.S. (not including those considered to be foreign powers). 50 U.S.C. § 1801(i).

<sup>20</sup> More fulsome histories of the Section 702 program are found in PCLOB's 2014 and 2023 reports. *See generally* 2023 PCLOB 702 Report, *supra*; *see also* 2014 PCLOB 702 Report, *supra*.

<sup>21</sup> Protect America Act of 2007, Pub. L. No. 110-55, § 6(c), 121 Stat. 552 (2007).

<sup>22</sup> Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008, § 403(b)(1).

<sup>23</sup> S. Rep. No. 110-209, at 6 (2007).

<sup>24</sup> *Id.*; *see* 50 U.S.C. § 1881a(b).

<sup>25</sup> 50 U.S.C. § 1881a(b)(2); *see* S. Rep. No. 110-209, at 6, 14-15. Reverse targeting is targeting a person outside the United States as a pretext, when the real intention is to acquire the communications of someone inside the United States.

<sup>26</sup> 50 U.S.C. § 1881a(l)-(m); *see* S. Rep. No. 110-209, at 6-17.



In December 2012, Congress reauthorized the statute for another five years without changes. After a short-term reauthorization at the end of 2017, in January 2018, Congress again reauthorized Section 702 for five years, but enacted several amendments. Among these amendments were provisions requiring Intelligence Community agencies to have specific procedures for querying data, restricting collection of communications that are not to or from a target (so-called “abouts” collection), enhancing the role of the *amici curiae* at the FISC, and adding new oversight and reporting requirements.

After another short-term extension, on April 20, 2024, Congress reauthorized Section 702 for two more years. As described in further detail below, RISAA codified and expanded a number of remedial measures undertaken by FBI from 2021 through 2023 aimed at improving its querying practices, including increased accountability measures and regular auditing of FBI U.S. person querying decisions by DOJ. RISAA also permanently prohibited “abouts” collection, added a new category of electronic communication service providers (ECSPs), expanded the definition of foreign intelligence information to include countering international narcotics trafficking, directed that there be procedures for travel vetting of non-U.S. persons, required participation of at least one *amicus curiae* in the Section 702 annual certification process, and provided for congressional access to FISC proceedings.

In addition to the statutory restrictions put in place by Congress, the government’s use of Section 702 is also limited by applicable executive branch directives and policies, including Executive Order (E.O.) 14086. The order, issued in October 2022, established enhanced safeguards for U.S. signals intelligence activities, including those authorized under Section 702.<sup>27</sup> Among other things, E.O. 14086 incorporated the principles of “necessity” and “proportionality” in the conduct of signals intelligence activities, denoted twelve “legitimate objectives” for which signals intelligence can be collected and four “prohibited” objectives for which it cannot, directed that the ODNI Civil Liberties Protection Officer participate in assessing signals intelligence collection priorities, required that the retention and dissemination standards for personal information collected through signals intelligence for non-U.S. persons generally align with those for U.S. persons, and imposed training and oversight obligations.<sup>28</sup>

### **B. Description of Section 702**

Section 702 of FISA authorizes the government to target non-U.S. persons reasonably believed to be located outside the United States in order to collect foreign intelligence information using the compelled assistance of ECSPs.<sup>29</sup> The government may target only foreign individuals who are

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<sup>27</sup> Exec. Order No. 14086, *Enhancing Safeguards for United States Signals Intelligence Activities*, 87 Fed. Reg. 62283, § 1 (Oct. 14, 2022).

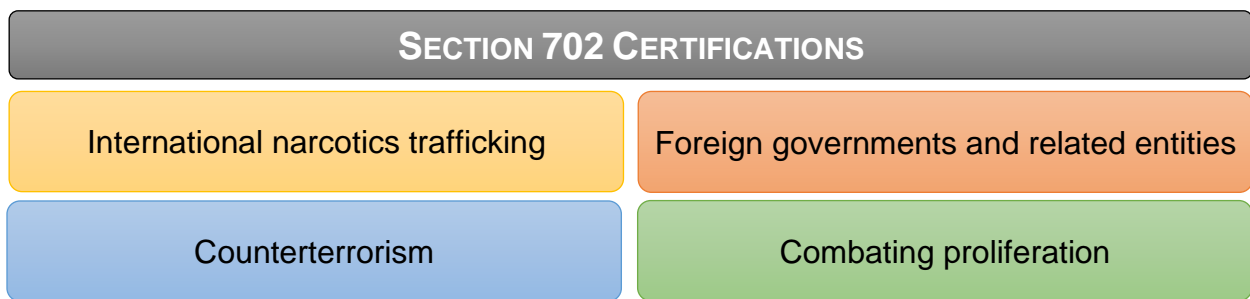
<sup>28</sup> See generally *id.*; see also Priv. and C.L. Oversight Bd., *Review of Policies and Procedures Implementing Enhanced Safeguards for U.S. Signals Intelligence Activities* (Sept. 25, 2025).

<sup>29</sup> 50 U.S.C. § 1881(b)(4) (defining ECSP).



expected to communicate, receive, or possess foreign intelligence information within given categories of intelligence previously authorized by the Attorney General and the DNI and approved by the FISC.<sup>30</sup>

There are currently four certifications under which foreign intelligence information may be obtained pursuant to Section 702. These certifications authorize the collection of foreign intelligence information about foreign governments and related entities, counterterrorism, combating proliferation, and international narcotics trafficking.<sup>31</sup> Cybersecurity-related targets may fall under any of these categories.



The Section 702 certifications submitted annually to the FISC must be accompanied by the following procedures:

- *Targeting procedures* govern how NSA and FBI collect information pursuant to Section 702. They must be “reasonably designed” to ensure that surveillance is “limited to targeting [non-U.S.] persons reasonably believed to be located outside the United States” and to prevent the intentional acquisition of wholly domestic communications.<sup>32</sup>
- *Querying procedures* govern the manner in which the Intelligence Community retrieves information that has already been lawfully collected under Section 702 using terms such as a name, email address, or telephone number.<sup>33</sup> The querying procedures must be

<sup>30</sup> *Id.* § 1881a(a); Off. of the Dir. of Nat’l Intel., *Section 702: Targeting Under FISA Section 702* (2023), [https://www.dni.gov/files/FISA\\_Section\\_702/Targeting\\_Under\\_Section\\_702\\_FISA.pdf](https://www.dni.gov/files/FISA_Section_702/Targeting_Under_Section_702_FISA.pdf) [hereinafter Section 702: Targeting Under FISA Section 702]. A U.S. person cannot be a target under Section 702.

<sup>31</sup> Off. of the Dir. of Nat’l Intel, *ODNI Releases March 2025 FISC Section 702 Certification Opinion and Related Procedures* (Sept. 12, 2025), <https://www.dni.gov/index.php/newsroom/press-releases/press-releases-2025/4109-pr-29-25>; Off. of the Dir. of Nat’l Intel, *ODNI Releases February 2025 FISC Certification D Opinion and April 2025 FISC Amended Certification D Opinion and Agency Procedures* (Aug. 19, 2025), <https://www.intelligence.gov/ic-on-the-record-database/declassified/odni-releases-february-2025-fisc-certification-d-opinion-and-april-2025-fisc-amended-certification-d-opinion-and-agency-procedures>.

<sup>32</sup> 50 U.S.C. § 1881a(d).

<sup>33</sup> Prior to 2018, agencies were not required to adopt a separate set of procedures regarding queries. In the 2018 Reauthorization Act, Congress required that all agencies with access to unminimized Section 702-acquired



consistent with the Fourth Amendment and must “include a technical procedure whereby a record is kept of each United States person query term used for a query.”<sup>34</sup> Agencies’ querying procedures require that each query of unminimized Section 702 content or noncontent information acquired pursuant to Section 702 must be reasonably likely to retrieve foreign intelligence information, as defined by FISA, unless otherwise specifically excepted. To meet this standard, the procedures require that each query meet a three-pronged standard: (1) Purpose—the person conducting the query must have the purpose of retrieving foreign intelligence information, (2) Justification—the person conducting the query must have a specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information, (3) Design—the query must be reasonably tailored to retrieve foreign intelligence information without unnecessarily retrieving other information.<sup>35</sup>

- *Minimization procedures* govern the acquisition, retention, and dissemination of information, including non-publicly available information concerning unconsenting U.S. persons, that is acquired by targeting non-U.S. persons reasonably believed to be located outside the United States.<sup>36</sup> The minimization procedures require that non-publicly available information that identifies any U.S. person and is not foreign intelligence information “shall not be disseminated in a manner that identifies any United States person, without such person’s consent, unless such person’s identity is necessary to understand foreign intelligence information or assess its importance.”<sup>37</sup>

Each year the FISC must find that the certification packages submitted contain all statutorily required elements, including that the Attorney General and the DNI have attested that a significant

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information develop separate querying procedures “consistent with the requirements of the Fourth Amendment to the Constitution” and submit them annually to the FISC for its review and approval. *Id.* § 1881a(f)(1), (f)(3).

<sup>34</sup> *Id.* § 1881a(f).

<sup>35</sup> See Nat’l Sec. Agency, *Querying Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4 (Jan. 2025) [hereinafter Jan. 2025 NSA Querying Procedures]; Fed. Bureau of Investigation, *Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4 (Jan. 2025) [hereinafter Jan. 2025 FBI Querying Procedures]; Cent. Intel. Agency, *Querying Procedures Used by the Central Intelligence Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 3 (Jan. 2025) [hereinafter Jan. 2025 CIA Querying Procedures]; Nat’l Counterterrorism Ctr., *Querying Procedures Used by the National Counterterrorism Center in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 3 (Jan. 2025) [hereinafter Jan. 2025 NCTC Querying Procedures].

<sup>36</sup> 50 U.S.C. § 1801(h).

<sup>37</sup> *Id.* § 1801(h)(2). Notwithstanding this requirement, the procedures must allow for the retention and dissemination of U.S. person information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for law enforcement purposes. 50 U.S.C. § 1801(h)(3).



purpose of the program is to obtain foreign intelligence information, that the procedures are designed as described above, and that the procedures are consistent with the requirements of the Fourth Amendment, including as applied.<sup>38</sup> The FISC does not automatically approve the certifications and procedures. Rather, it can—and often has—required the government to amend procedures, to submit reports on compliance with the procedures, or to provide more information to the court. Furthermore, the FISC accepts arguments from an *amicus curiae* to aid in its assessment of whether the certifications and procedures are lawful, and requires the government to respond to the arguments presented by the *amicus curiae*.<sup>39</sup>

Once Section 702 acquisition has been authorized by the FISC, the Attorney General and the DNI may submit written directives to ECSPs compelling the providers' assistance in the acquisition, according to the FISC-approved targeting procedures. Data is collected only by NSA and FBI, but personnel from NSA, FBI, CIA, and NCTC can access certain unminimized information (i.e., information that has not yet been incorporated into finished intelligence reports) depending, among other things, on the certification under which the data was collected.<sup>40</sup> FBI, however, can only access unminimized information that relates to a predicated national security investigation, which is a small fraction of the total collection.

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<sup>38</sup> *Id.* § 1881a(j)(3)(A).

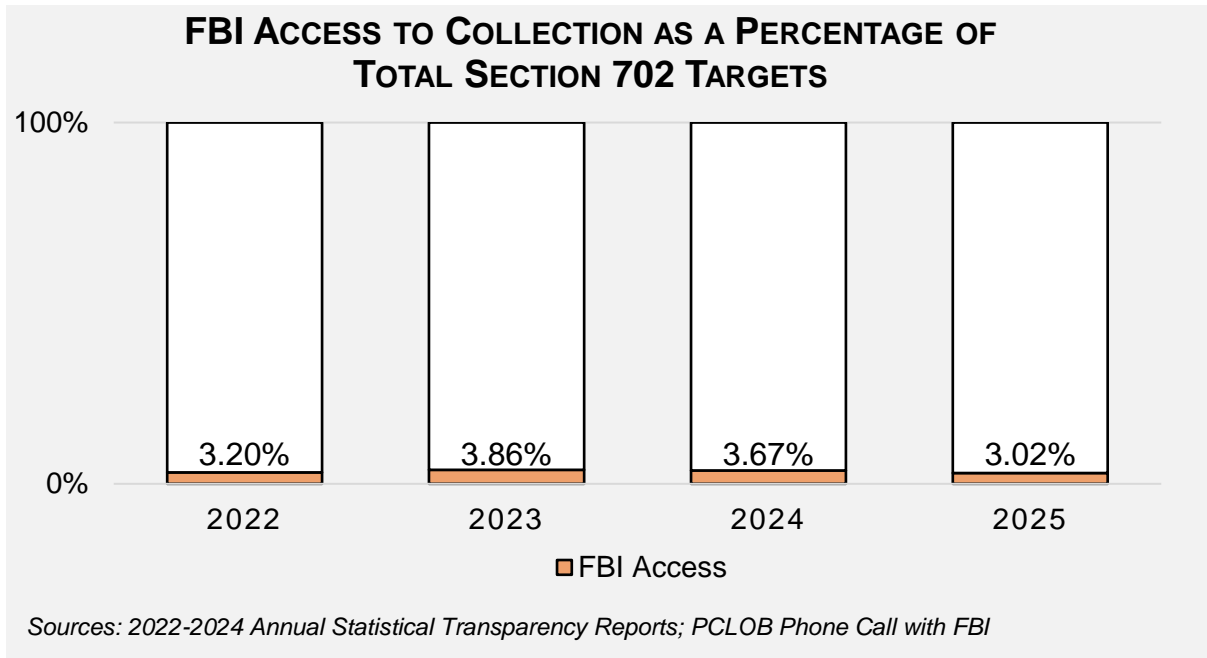
<sup>39</sup> RISAA § 5(b).

<sup>40</sup> For example, and as discussed below, only NSA and CIA may receive, query, and disseminate unminimized Section 702 information acquired pursuant to Certification D for their operational and analytic purposes.



## PART II: DESCRIPTION AND HISTORY

As PCLOB previously reported, FBI received information collected from approximately 3.2% of Section 702 targets in 2022.<sup>41</sup> That amount has remained relatively consistent. For 2025, FBI continued to have access only to information collected from approximately 3.02% of Section 702 targets.<sup>42</sup>



Although the government may use Section 702 only to target non-U.S. persons, communications of U.S. persons may be incidentally collected when a U.S. person communicates with a lawfully targeted non-U.S. person located outside the United States.<sup>43</sup> When this occurs, only the communications that the U.S. person had with the foreign target are collected.

Because Section 702 “disallows comprehensive monitoring of any U.S. person, and prohibits deliberately acquiring even a single communication that is known to be solely among people located within the United States,” the Board has previously and unanimously concluded that “the

<sup>41</sup> 2023 PCLOB 702 Report, *supra*, at 77.

<sup>42</sup> PCLOB Phone Call with FBI (Sept. 2025).

<sup>43</sup> Courts have uniformly held this incidental collection to be lawful and reasonable under the Fourth Amendment. As the FISC noted, “All three United States Circuit Courts of Appeals to consider the issue [the Second, Ninth, and Tenth Circuits] have held that the incidental collection of a U.S. person’s communications under Section 702 does not require a warrant and is reasonable under the Fourth Amendment.” 2023 Section 702 Certification Memorandum Opinion and Order, at 68 (FISC Apr. 11, 2023) [hereinafter Apr. 11, 2023 FISC Opinion]; *see also* 2023 PCLOB 702 Report, *supra*, at B-7-B-8. In discussing the reasonableness analysis, the Second Circuit explained, “The communications of terrorist operatives abroad with persons inside the United States is thus of particular importance, and at least as important as monitoring the communications of foreign terrorists abroad among themselves.” *United States v. Hasbajrami*, 945 F.3d 641, 666-67 (2d Cir. 2019).



program would serve as a relatively poor vehicle to repress domestic dissent, monitor American political activists, or engage in other politically motivated abuses of the sort that came to light in the 1970s and prompted the enactment of FISA.”<sup>44</sup>

## C. Use and Value of Section 702

### 1. Section 702 Remains a Vital National Security Tool

Since 2023, Section 702 has contributed significant national security value to the United States, and PCLOB continues to assess that the United States is safer with the Section 702 program than without it.<sup>45</sup> Section 702-acquired information has been highly valuable in

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**The United States is safer with the Section 702 program than without it.**

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protecting the United States from a multitude of foreign threats. Since 2023, Section 702-derived information has, among other things, enabled the U.S. government to thwart terrorist attacks, identify and capture members of terrorist groups, locate and facilitate the return of hostages, discover and disrupt international drug trafficking networks, vet non-U.S. persons seeking to travel to the United States for connections to international terrorism and drug trafficking, prevent, detect, and respond to cybersecurity attacks, and counter the proliferation of sensitive technologies. Information collected under Section 702 has continued to inform national decision-makers, provided insight into foreign adversaries’ organizational goals, strategies, and objectives, and has identified the capabilities of hostile actors.

Section 702 plays an outsized role in informing the President and other decision-makers of threats to U.S. national security. In 2024, 59% of the articles included in the President’s Daily Brief contained Section 702 information reported by NSA; this number increased to 63% in 2025.<sup>46</sup>

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<sup>44</sup> 2014 PCLOB 702 Report, *supra*, at 114; *see* 50 U.S.C. § 1881a(b)(1)-(4) (an acquisition authorized under Section 702 may not intentionally “target any person known at the time of acquisition to be located in the United States,” “target a person reasonably believed to be located outside the United States if the purpose of such acquisition is to target a particular, known person reasonably believed to be in the United States,” “target a United States person reasonably believed to be located outside the United States,” “acquire any communication as to which the sender and all intended recipients are known at the time of the acquisition to be located in the United States”).

<sup>45</sup> 2023 PCLOB 702 Report, *supra*, at 201, B-10.

<sup>46</sup> Nat’l Sec. Agency, *Report of Annual Review Pursuant to Section 702(m) of the Foreign Intelligence Surveillance Act for Period 1/01/2024 through 12/31/2024*, at 1.



Section 702 information contributed to 24% of NSA’s intelligence reports in both 2024 and 2025.<sup>47</sup> Similarly, the majority of FBI’s unminimized technical reporting on Iran (77%), Russia (77%), China (53%), cyber threats (95%), emerging and disruptive technologies (89%), and weapons development and proliferation (93%) during the second half of FY2025 relied upon information acquired pursuant to Section 702.<sup>48</sup> Section 702 provides actionable intelligence: CIA Director John Ratcliffe testified in March 2025 that Section 702-acquired information was responsible for 70% of CIA’s successes in countering the proliferation of advanced weapons and 90% of CIA’s successful interdictions of synthetic drugs.<sup>49</sup>

VALUE OF SECTION 702 TO CIA

- **70%** of successes in countering proliferation of advanced weapons
- **90%** of successful synthetic drug interdictions

Below are some of the specific ways that the U.S. government has leveraged Section 702 to address threats to U.S. national security since 2023.

i. Counterterrorism

Terrorism remains a persistent threat to the United States, both at home and abroad. According to the Intelligence Community’s most recent Annual Threat Assessment, terrorist groups such as the Islamic State of Iraq and ash-Sham (ISIS) and al-Qa’ida “persist in efforts to rebuild and threaten the U.S. Homeland and our global interests,” including by “executing information operations to spread propaganda and inspire or enable individuals located in or with access to the West[,] ... virtually recruiting U.S.-based aspirants to encourage and enable potential attacks,” and “launch[ing] operations targeting the U.S.”<sup>50</sup> And while the Intelligence Community is “continuing to assess how the U.S.-Israel-Iran conflict will affect the worldwide terrorism landscape,” it warned in its 2026 Annual Threat Assessment that “Iran and Iranian-aligned terrorist actors ... remain capable of asymmetrically attacking U.S. interests and our allies in the Middle East.”<sup>51</sup>

Since 2023, Section 702 has continued to provide the United States with intelligence that has been critical to discovering and disrupting foreign terrorist plots, identifying and locating counterterrorism targets, and responding to threats against U.S. military installations overseas. For example:

<sup>47</sup> PCLOB Correspondence with ODNI (March 20, 2026).

<sup>48</sup> Off. of the Dir. of Nat’l Intel., *FY2025 Bi-Annual FISA 702 Review: Q3 and Q4*, at 3 (2026).

<sup>49</sup> *Annual Worldwide Threats Assessment Hearing: Hearing Before the H. Permanent Sel. Comm. on Intel.*, 119th Cong. (2025) (statement of John Ratcliffe, CIA Director).

<sup>50</sup> Off. of the Dir. of Nat’l Intel., *2026 Annual Threat Assessment of the U.S. Intelligence Community*, at 8-9 (March 2026).

<sup>51</sup> *Id.* at 9.



## PART II: DESCRIPTION AND HISTORY

- In late October 2023, Section 702-acquired information allowed FBI to identify and immediately warn the Department of Defense and relevant host nations of a terrorist threat against U.S. military installations inspired by the Israel-Gaza conflict.<sup>52</sup>
- Section 702 information helped the Intelligence Community discover and thwart a planned ISIS-inspired terrorist attack targeting a high-profile concert in Europe. This information enabled foreign law enforcement to identify, monitor, and arrest the plotters, preventing a mass casualty attack.<sup>53</sup>
- Section 702 information enabled the Intelligence Community to find key plotters in the Middle East and Africa who were involved in terrorist operations, resulting in military action by U.S. partners and arrests by foreign partners. This disrupted terrorist organizations in those regions and reduced the threat to the homeland. The terrorists successfully targeted included senior leadership figures as well as individuals heavily involved in extremist global outreach, foreign recruitment, and attack plotting.<sup>54</sup>
- The Intelligence Community used Section 702 collection against overseas ISIS attack plotters to uncover U.S. homeland threats, resulting in several FBI investigations and the seizure of firearms and ammunition.<sup>55</sup>
- The Intelligence Community used Section 702 collection to identify multiple individuals with ties to an overseas ISIS-linked travel facilitation network. This enabled more thorough screening and vetting of U.S.-bound travelers.<sup>56</sup>
- Section 702 collection was used to identify that an al-Qa‘ida member had access to fraudulent travel documents, which contributed to the member’s overseas detention.<sup>57</sup>

### ii. Disrupting Assassination Plots

Since 2023, Section 702 has continued to enhance the U.S. government’s ability to identify and disrupt state-sponsored assassination plots and related threats. For example:

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<sup>52</sup> PCLOB Correspondence with FBI (Jan. 21, 2026).

<sup>53</sup> Off. of the Dir. of Nat’l Intel., Section 702 Vignettes Provided to PCLOB (Feb. 20, 2026).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*



- Section 702-acquired information led FBI to discover that Iranian hackers had conducted extensive research on a former senior U.S. official, enabling FBI to notify the targeted individual so the individual could take appropriate security measures.<sup>58</sup>
- FBI has leveraged Section 702 collection to identify the extent of state-sponsored kidnapping and assassination plots, which contributed to FBI's successful disruption of the plots.<sup>59</sup>

### iii. Countering Illicit Drug Production and Trafficking

Following the passage of RISAA, Section 702 has continued to play a significant role in the discovery and disruption of illicit drug production and trafficking networks and in vetting travel applicants for potential connections to international drug trafficking. As mentioned above, Section 702 is credited with providing information supporting 90% of CIA's successful interdictions of synthetic drugs.<sup>60</sup>

### iv. Recovering Hostages

Section 702 information, including information identified through the approved use of U.S. person queries, provided U.S. diplomats with critical insights about U.S. hostages who had been detained in foreign countries ahead of U.S. efforts to negotiate their releases. This information contributed to the safe return of several U.S. hostages.<sup>61</sup>

### v. Defending Against Cyber Threats

Since 2023, Section 702 has continued to play a crucial role in supporting the U.S. government's ability to prevent, detect, and respond to cyber threats, including those from both state and non-state actors that target U.S. critical infrastructure. For example:

- FBI leveraged Section 702-acquired information to identify efforts by the People's Republic of China to hack a transportation hub in the United States. This information enabled FBI to alert network infrastructure operators so that they could take steps to mitigate the intrusions.<sup>62</sup>

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<sup>58</sup> Fed. Bureau of Investigation, *Foreign Intelligence Surveillance Act (FISA) and Section 702*, <https://www.fbi.gov/how-we-investigate/intelligence/foreign-intelligence-surveillance-act-fisa-and-section-702> (last visited Apr. 1, 2026).

<sup>59</sup> *Id.*

<sup>60</sup> *Annual Worldwide Threats Assessment Hearing, supra* (statement of John Ratcliffe, CIA Director).

<sup>61</sup> Section 702 Vignettes Provided to PCLOB, *supra*.

<sup>62</sup> Fed. Bureau of Investigation, *Foreign Intelligence Surveillance Act (FISA) and Section 702, supra*.



- The Intelligence Community continues to use Section 702 information to detect and disrupt adversarial plots against U.S. critical infrastructure and defense industrial base networks.<sup>63</sup>

vi. Countering the Proliferation of Sensitive Technology

The Section 702 program has been crucial to U.S. government efforts to interdict illicit shipments and deny adversarial nations access to U.S.-origin advanced technologies. CIA reported in March 2025 that Section 702-acquired information was responsible for 70% of its successes in countering the proliferation of advanced weapons.<sup>64</sup> For example, FBI used Section 702-acquired information to discover that intelligence officers of a hostile foreign state were in contact with an unwitting U.S. person in an attempt to acquire sensitive information about the proliferation of weapons of mass destruction.<sup>65</sup>

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Based on PCLOB’s detailed understanding of the Section 702 program—including the unique features that differentiate the program from other intelligence collection methods, and the information provided to PCLOB demonstrating examples of intelligence operations in which Section 702-acquired information provided unique value—PCLOB maintains its assessment that Section 702 continues to be highly valuable in protecting the United States from a wide range of threats. There is little question that Section 702 continues to be a crucial tool to the protection of the national security of the United States.

## 2. U.S. Person Queries Continue to Have Significant National Security Value

Since 2023, U.S. person queries have remained vital to protecting the security of the homeland. They do not involve any additional collection of U.S. person information, and often serve as a preliminary step in an investigation. As the Board explained in its 2023 Report, “[i]ntelligence agencies may conduct queries initially to verify or follow up on lead information, to determine whether a lead merits opening an investigation, and to advance ongoing investigations.”<sup>66</sup> They also help rule out inaccurate tips or leads. Crucially, “U.S. person queries can be used to uncover links between U.S. persons and foreign intelligence threat actors.”<sup>67</sup> They allow the government to retrieve information that has already been collected to determine if there are connections between foreign threats and persons or facilities already inside the United States.

The Board in 2023 specifically noted the value of U.S. person queries when they are “victim queries” or “defensive queries”—for example “when U.S. person queries provided a means to

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<sup>63</sup> Section 702 Vignettes Provided to PCLOB, *supra*.

<sup>64</sup> *Annual Worldwide Threats Assessment Hearing, supra* (statement of John Ratcliffe, CIA Director).

<sup>65</sup> Fed. Bureau of Investigation, *Foreign Intelligence Surveillance Act (FISA) and Section 702, supra*.

<sup>66</sup> 2023 PCLOB 702 Report, *supra*, at 168.

<sup>67</sup> *Id.*



## PART II: DESCRIPTION AND HISTORY

investigate whether hostile cyber actors have compromised individuals' or organizations' electronic communications and to enable the agency to focus its outreach to the potential victims."<sup>68</sup> In particular, U.S. person queries can be especially valuable when a U.S. person may be a potential victim of a hostile foreign actor.

PCLOB has been apprised of a number of threats to human life and critical infrastructure since 2023 that were thwarted or averted in part due to information gleaned from U.S. person queries. For example, in 2023, FBI disrupted a potentially imminent attack by a U.S. person terrorist who had researched and identified specific critical infrastructure sites inside the United States, less than a month after he first was identified and subsequently queried against Section 702 information.<sup>69</sup> Both the initial and iterative U.S. person queries that FBI conducted in this case provided important intelligence that contributed to FBI's investigation into the U.S. person terrorist and allowed authorities to stay ahead of the terrorist's plans as his plot developed and he shifted communications platforms.<sup>70</sup>

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<sup>68</sup> *Id.*

<sup>69</sup> PCLOB Correspondence with FBI (Jan. 21, 2026).

<sup>70</sup> *Id.*



### III. OPERATIONS AND OVERSIGHT

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#### A. Targeting and Collection

Pursuant to Section 702, the communications of non-U.S. persons reasonably believed to be located outside the United States may be targeted through the tasking of selectors.<sup>71</sup> *Targets* are individuals, groups, or entities that are expected to receive, communicate, or possess foreign intelligence information within the scope of a specific Section 702 certification.<sup>72</sup> *Selectors* are communications facilities that are assessed to be used by the target, such as the target's email address or telephone number.<sup>73</sup> The targeting procedures govern this acquisition process.<sup>74</sup> During 2025, the communications of approximately 349,823 non-U.S. persons located abroad were targeted under Section 702.<sup>75</sup>

As noted above, the government may target only non-U.S. persons located outside the United States for collection under Section 702. It may not target any person located inside the United States, or any U.S. person anywhere. To target under Section 702, both the nominating agency and the targeting agency must assess that all known users of the selector are non-U.S. persons reasonably believed to be located outside the United States. In addition, the targeting procedures require that the analyst reasonably assess, based on the totality of the circumstances, that the target is expected to possess, receive and/or is likely to communicate foreign intelligence information related to one of the certifications.<sup>76</sup>

##### 1. The Intelligence Community Has Continued to Maintain a High Targeting Compliance Rate

Agency compliance with the targeting procedures remains high. From December 2018 through May 2021, NSA had a targeting compliance rate of 99.85% or better and FBI had a targeting

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<sup>71</sup> 50 U.S.C. § 1881a(a); Nat'l Sec. Agency, *Minimization Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Concerning the International Production, Distribution, or Financing of Certain Illicit Drugs Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 6 (Dec. 2024) [hereinafter 2025 NSA Cert D Querying Procedures]; see *Oversight of Section 702 of the Foreign Intelligence Surveillance Act and Related Surveillance Authorities: Hearing Before the Sen. Comm. on the Judiciary*, 118th Cong. 6-7 (2023) (joint statement for the record of Chris Fonzone, ODNI General Counsel, et al.) [hereinafter Joint Statement Before the Senate Judiciary Committee].

<sup>72</sup> 50 U.S.C. § 1881a(a), (d).

<sup>73</sup> Apr. 11, 2023 FISC Opinion, *supra*, at 14; see Joint Statement Before the Senate Judiciary Committee, *supra*, at 6-7.

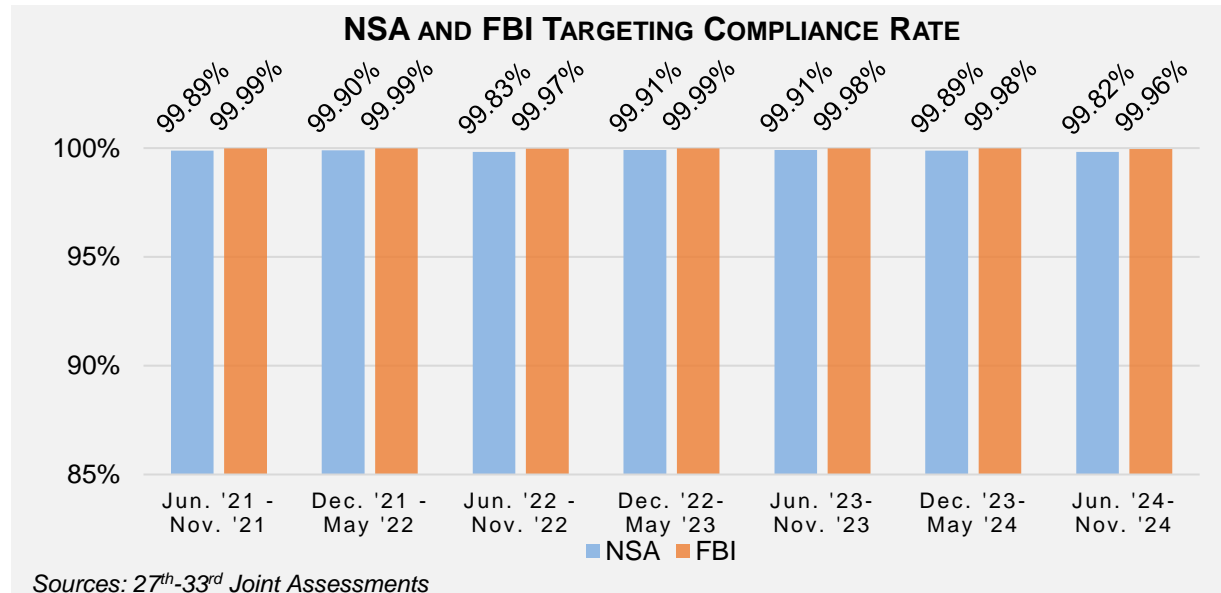
<sup>74</sup> 50 U.S.C. § 1881a(d).

<sup>75</sup> Off. of the Dir. of Nat'l Intel., *Annual Statistical Transparency Report Regarding the Intelligence Community's Use of National Security Surveillance Authorities, Calendar Year 2024*, at 22 (May 2025) [hereinafter 2024 ASTR]

<sup>76</sup> 50 U.S.C. § 1881a(c), (h).



compliance rate of 99.99% or better, as PCLOB reported in 2023.<sup>77</sup> Since then, the figures have not substantially changed: from June 2021 through November 2024, NSA and FBI had targeting compliance rates of at least 99.82% and 99.96%, respectively.<sup>78</sup> These statistics demonstrate that, overwhelmingly, the Intelligence Community is not targeting U.S. persons, even inadvertently or mistakenly, and it is not targeting non-U.S. persons located abroad without a valid foreign intelligence purpose.



<sup>77</sup> 2023 PCLOB 702 Report, *supra*, at B-11. The targeting compliance incident rate reflects the number of incidents implicating NSA or FBI targeting procedures (e.g., tasking errors, detasking delays, documentation errors, notification delays, or overcollection) that occurred in a given period, expressed as a percentage of the average number of communication selectors (e.g., email addresses or phone numbers) that were tasked for collection during the same period.

<sup>78</sup> Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 33<sup>rd</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2024-30 November 2024*, at 12, 21 (Feb. 2026) [hereinafter 33<sup>rd</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 32<sup>nd</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2023-31 May 2024*, at 11, 20 (May 2025) [hereinafter 32<sup>nd</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 31<sup>st</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2023-30 November 2023*, at 11, 20 (Jan. 2025) [hereinafter 31<sup>st</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 30<sup>th</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2022-31 May 2023*, at 11, 20 (Jan. 2025) [hereinafter 30<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 29<sup>th</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2022-30 November 2022*, at 12, 22 (Sept. 2024) [hereinafter 29<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., 28<sup>th</sup> *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2021-31 May 2022*, at 22, 44 (Feb. 2024) [hereinafter 28<sup>th</sup> Joint Assessment]; Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2021-30 November 2021*, at 20, 41 (March 2023) [hereinafter 27<sup>th</sup> Joint Assessment].



## 2. Implementation of the New Section 702 Certification on Counternarcotics Has Only Recently Begun

RISAA expanded the definition of foreign intelligence information to enable the use of Section 702 to counter international narcotics trafficking. “Foreign intelligence information” is defined as information that relates to the ability of the United States to protect against statutorily enumerated threat categories such as international terrorism.<sup>79</sup> If this information concerns a U.S. person, the standard is higher: the information must be *necessary* to the ability of the United States to protect against the threat categories.<sup>80</sup>

RISAA added a new threat category: “international production, distribution, or financing of illicit synthetic drugs, opioids, cocaine, or other drugs driving overdose deaths, or precursors of any aforementioned.”<sup>81</sup>

### FOREIGN INTELLIGENCE INFORMATION

Information that relates to, and if concerning a **U.S. person** is **necessary** to, the ability of the United States to protect against:

Actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power

Sabotage, international terrorism, or the international proliferation of weapons of mass destruction by a foreign power or an agent of a foreign power

Clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power

International production, distribution, or financing of illicit synthetic drugs, opioids, cocaine, or other drugs driving overdose deaths, or precursors of any aforementioned

In December 2024, following RISAA’s enactment, the government submitted to the FISC for its approval Certification D, which would authorize collection of the new category of foreign intelligence information, and its accompanying targeting, minimization, and querying procedures.<sup>82</sup>

<sup>79</sup> 50 U.S.C. § 1801(e).

<sup>80</sup> *Id.*

<sup>81</sup> *Id.* § 1801(e)(1)(D).

<sup>82</sup> 2025 Section 702 Certification Memorandum Opinion and Order, at 1 (FISC Feb. 20, 2025) [hereinafter Feb. 20, 2025 FISC Opinion].



Under these procedures, generally only NSA and CIA may receive, query, and disseminate unminimized Section 702 information acquired pursuant to Certification D.<sup>83</sup> NSA and CIA may disseminate Certification D information to NCTC and FBI and other law enforcement agencies only if it is minimized.<sup>84</sup> In addition, heightened dissemination requirements apply to evidence of crime information acquired pursuant to Certification D that does not also constitute foreign intelligence information. The government advised the FISC that, though this restriction is not required by FISA, “the addition of these heightened dissemination requirements helps ensure that [Certification D] does not become an instrument of ordinary crime control.”<sup>85</sup>

While the FISC approved Certification D, all proposed targeting procedures, and FBI’s proposed minimization and querying procedures, finding them consistent with applicable statutory and constitutional requirements, the FISC rejected CIA’s and NSA’s original proposed minimization and querying procedures because “they [did] not adequately account for the higher necessity standard in the definition of foreign intelligence information concerning U.S. persons.”<sup>86</sup> The court found “it [] unclear what restrictions would apply, if any, to disseminations of U.S.-person information concerning covered illicit drugs that do not meet the higher [U.S. person] necessity standard” required by the statute and would not constitute foreign intelligence information.<sup>87</sup>

The court reasoned that Certification D collection under the procedures as originally proposed likely would include information about drug crimes involving U.S. persons that might be relevant to prosecuting those crimes but would not be *necessary* to protecting against international narcotics trafficking, as required by the statute.<sup>88</sup> Though the FISC-approved procedures for the other Section 702 certifications do not expressly acknowledge FISA’s higher U.S. person necessity standard, the FISC drew a distinction with Certification D and required that this necessity standard be explicitly delineated in the procedures. This was because the FISC found that the “broad scope of information potentially covered by Certification D makes it far more likely that a substantial volume of information acquired will not meet the U.S.-person [necessity] standard.”<sup>89</sup> The FISC therefore directed NSA and CIA to address these deficiencies in their proposed minimization and querying procedures within 30 days of the order.<sup>90</sup>

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<sup>83</sup> Off. of the Dir. of Nat’l Intel., Powerpoint on the Implementation Status of RISAA Reforms (July 2025); *id.* at 7-8.

<sup>84</sup> Feb. 20, 2025 FISC Opinion, *supra*, at 7-8.

<sup>85</sup> *Id.* at 36 n. 20.

<sup>86</sup> *Id.* at 2.

<sup>87</sup> *Id.* at 37.

<sup>88</sup> *See id.* at 36.

<sup>89</sup> *Id.* at 39.

<sup>90</sup> *Id.* at 2.



In March 2025, NSA and CIA submitted amended minimization and querying procedures addressing the issues identified by the FISC. The amended minimization and querying procedures expressly acknowledged the U.S. person necessity standard and provided guidance for Intelligence Community personnel on how to interpret the standard.<sup>91</sup> The amended minimization procedures also required documentation concerning determinations of the necessity to disseminate or retain U.S. person information.<sup>92</sup>

The FISC approved the government’s amended procedures in April 2025, finding that the amended procedures were consistent with the requirements of Section 702 and the Fourth Amendment.<sup>93</sup> It also required the government to report on the training of Intelligence Community personnel who could access information collected under Certification D, on quarterly statistics of querying and dissemination of U.S. person information collected under Certification D, and random samples of the actual queries of that information, including the written justifications for them and their results.<sup>94</sup>

This process was consistent with the FISC’s history of close review of government proposed procedures and requests pursuant to Section 702. The court examined Certification D and its accompanying procedures in detail, considered the *amici’s* arguments, required the government to revise the procedures to more closely track the statutory language, and implemented close and continuing oversight.

Certification D was only recently approved for use in mid-2025. Because of its very recent implementation, it will take additional time to evaluate the privacy and civil liberties impact of the new certification fully.

### **3. The Application of the Amended “Electronic Communication Service Provider” Definition Has Remained Circumscribed**

RISAA amended the definition of ECSP in FISA to add a new category of service provider, expanding the scope of providers on which the government can serve directives. Prior to RISAA, a provider qualified as an ECSP under at least one of the following statutory categories:

- (A) a telecommunications carrier . . .;
- (B) a provider of electronic communication service . . .;
- (C) a provider of a remote computing service . . .;

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<sup>91</sup> 2025 Section 702 Certification Memorandum Opinion and Order, at 10-11 (FISC Apr. 9, 2025) [hereinafter Apr. 9, 2025 FISC Opinion].

<sup>92</sup> *Id.* at 11.

<sup>93</sup> *Id.* at 16.

<sup>94</sup> *Id.* at 17.



- (D) any other communication service provider who has access to wire or electronic communications either as such communications are transmitted or as such communications are stored; or
- (E) an officer, employee, or agent of an entity described [above].<sup>95</sup>

In 2022, the FISC ruled that a provider who had been served a directive was not an ECSP within the pre-RISAA definition and thus could not be compelled to provide foreign intelligence information pursuant to Section 702.<sup>96</sup> In response to this ruling and “to address unforeseen changes in Internet technology,” Section 25 of RISAA expanded the definition of ECSP to include “any other service provider who has access to equipment that is being or may be used to transmit or store wire or electronic communications,” alongside the caveat that it could not apply to “a public accommodation facility,” “a dwelling,” “a community facility,” or “a food service establishment.”<sup>97</sup> Additionally, RISAA added “custodians” to the list of “officers, employees, and agents” of providers that also qualified as ECSPs.<sup>98</sup>

In response to concerns that the new definition of ECSP was overly broad, DOJ in April 2024, prior to RISAA’s passage, sent letters to Congress stating that Section 25 of RISAA is “a technical amendment to address the changes in internet technology in the 15 years since Section 702 was passed,” is “narrowly tailored,” and “is in response to the [FISC’s] identification of a need for a legislative fix” to address the type of service provider that the FISC and FISC-R, the FISC’s appellate court, found did not fit within FISA’s ECSP definition.<sup>99</sup> DOJ committed to “applying [the Section 25] definition of ECSP exclusively to cover . . . technology companies that provide the service the FISC [and the FISC-R] concluded fell outside the [pre-RISAA] definition [in 2022].”<sup>100</sup> DOJ also committed to “report[ing] to Congress every six months regarding any

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<sup>95</sup> 50 U.S.C. § 1881(b)(4). Elements (A), (B), and (C) are defined by reference to other statutes. “Telecommunications carrier” is defined in the Telecommunications Act (47 U.S.C. § 153); “provider of electronic communication service” is defined in 18 U.S.C. § 2510; and “provider of a remote computing service” is defined in 18 U.S.C. § 2711.

<sup>96</sup> 2022 FISC ECSP Opinion, at 20 (2022), <https://www.intel.gov/assets/documents/702-documents/declassified/2022-FISC-ECSP-OPINION.pdf>. The FISC’s ruling was later appealed by the government to the FISC-R, the FISC’s appellate court, which upheld the FISC’s opinion in 2023. 2023 FISC-R ECSP Opinion, at 19-20 (2023), [https://www.intel.gov/assets/documents/702-documents/declassified/2023\\_FISC-R\\_ECSP\\_Opinion.pdf](https://www.intel.gov/assets/documents/702-documents/declassified/2023_FISC-R_ECSP_Opinion.pdf).

<sup>97</sup> See U.S. Dep’t of Just., *Semiannual Report of the Attorney General Concerning Acquisitions Under Section 702 of the Foreign Intelligence Surveillance Act*, at 5-6 (March 2025) [hereinafter 33<sup>rd</sup> AG SAR]; 50 U.S.C. § 1881(b)(4)(E).

<sup>98</sup> 50 U.S.C. § 1881(b)(4)(F).

<sup>99</sup> Letter from Att’y Gen. Merrick B. Garland to the Sen. Majority and Minority Leaders (Apr. 18, 2024), <https://www.justice.gov/opa/media/1348621/dl?inline> [hereinafter AG Garland Letter]; Letter from Ass. Att’y Gen. Carlos Uriarte to the Chairman of the Sen. Sel. Comm. on Intel., at 1-2 (Apr. 17, 2024), <https://www.justice.gov/opa/media/1348621/dl?inline> [hereinafter AAG Uriarte Letter].

<sup>100</sup> AG Garland Letter, *supra*; AAG Uriarte Letter, *supra*, at 3.



applications of the updated definition” of electronic communication service provider in RISAA.”<sup>101</sup> DOJ has reported to PCLOB that it is following the commitments stated in its letters.

#### 4. “Abouts” Collection Is Expressly Prohibited and Has Not Resumed

The government had previously used Section 702 to acquire communications that contained a reference to, but were neither to nor from, an authorized target—a practice known as “abouts” collection. NSA suspended “abouts” collection in 2017.<sup>102</sup> When Congress reauthorized Section 702 in 2018, it codified a statutory prohibition on “abouts” collection, but established a process by which the government could re-initiate the practice after notifying Congress and allowing for congressional review or upon determining that “abouts” collection was necessary due to exigent circumstances.<sup>103</sup> RISAA, however, removed the option for the government to re-initiate “abouts” collection, with the result being that “abouts” collection is now expressly prohibited by statute.<sup>104</sup>

The government informed PCLOB that it has not re-initiated “abouts” collection since voluntarily suspending the practice in 2017.<sup>105</sup> Following the passage of RISAA, the Attorney General, in consultation with the DNI, adopted revised guidelines governing acquisitions under Section 702 that expressly prohibit the use of Section 702 to “intentionally acquire any communications that contain a reference to, but are not to or from,” an authorized target.<sup>106</sup>

### B. Querying

Querying, as noted above, allows personnel to retrieve unminimized Section 702-acquired data for specific information to support intelligence analysis. A query does not cause the government to obtain any new communications that have not already been lawfully collected. Instead, querying permits an analyst to focus her review of available information. NSA, FBI, CIA, and NCTC define a “query” as “the use of one or more terms to retrieve the unminimized contents or noncontents (including metadata) of [S]ection 702-acquired information” from the respective agency’s system that stores Section 702 information.<sup>107</sup> Generally, a “term” includes keywords or identifiers.<sup>108</sup>

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<sup>101</sup> AG Garland Letter, *supra*; AAG Uriarte Letter, *supra*, at 3.

<sup>102</sup> Press Release, Nat’l Sec. Agency, *NSA Stops Certain Section 702 “Upstream” Activities* (Apr. 28, 2017).

<sup>103</sup> FISA Amendments Reauthorization Act of 2017, Pub. L. No. 115-118, § 103, 132 Stat. 3 (2018).

<sup>104</sup> RISAA § 22(a).

<sup>105</sup> PCLOB Meeting with the Intelligence Community (July 23, 2025).

<sup>106</sup> *The Attorney General’s Guidelines for the Acquisition of Foreign Intelligence Information Pursuant to the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 3 (July 18, 2024).

<sup>107</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 2; Jan. 2025 FBI Querying Procedures, *supra*, at 2; Jan. 2025 CIA Querying Procedures, *supra*, at 2; Jan. 2025 NCTC Querying Procedures, *supra*, at 2.

<sup>108</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 2; Jan. 2025 FBI Querying Procedures, *supra*, at 2; Jan. 2025 CIA Querying Procedures, *supra*, at 2; Jan. 2025 NCTC Querying Procedures, *supra*, at 2.



A “U.S. person query” is a query that uses one or more terms, such as a phone number or email address, that are “reasonably likely to identify one or more specific [U.S.] persons.”<sup>109</sup> In many cases, the “U.S. person” associated with the query term is not actually a human but instead is a company or association. Similarly, a “U.S. person query term” could be an inanimate object such as critical infrastructure physically located inside the United States.

Designated personnel from four agencies—NSA, FBI, CIA, and NCTC—can query unminimized Section 702-acquired information. Each agency operates according to querying procedures that must be reviewed annually by the Attorney General and the DNI and then submitted to the FISC for its review and approval.<sup>110</sup> The querying procedures must be “consistent with the requirements of the Fourth Amendment to the Constitution,” and the Attorney General and the DNI also must ensure that the procedures adopted include a technical procedure to maintain a record of each U.S. person query term used for a query.<sup>111</sup> Following RISAA, FBI and NSA submitted revised querying procedures to the FISC implementing additional requirements. The FISC approved the querying procedures on March 18, 2025 and on April 9, 2025.<sup>112</sup>

Although certain personnel from all four agencies are permitted to query unminimized Section 702-acquired data, the breadth of information available to different agencies varies greatly. FBI, CIA, and NCTC may only query a portion of the collection.<sup>113</sup> For example, NCTC can only access unminimized data collected pursuant to the counterterrorism certification.<sup>114</sup> As mentioned above, FBI can only access unminimized information from targets who are relevant to predicated national security investigations.

RISAA codified this policy into law in 2024.<sup>115</sup> Thus, when FBI personnel run queries against unminimized Section 702 information, they do so in a small portion of the overall collection that

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<sup>109</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 1; Jan. 2025 FBI Querying Procedures, *supra*, at 2; Jan. 2025 CIA Querying Procedures, *supra*, at 1; Jan. 2025 NCTC Querying Procedures, *supra*, at 1; *see also* 50 U.S.C. § 1881a(f)(2)(D)(5).

<sup>110</sup> 50 U.S.C. § 1881a(f)(1).

<sup>111</sup> *Id.* § 1881a(f).

<sup>112</sup> *See* Apr. 9, 2025 FISC Opinion, *supra*; 2025 Section 702 Certification Memorandum Opinion and Order (Mar. 18, 2025).

<sup>113</sup> PCLOB Correspondence with ODNI (Feb. 11, 2026).

<sup>114</sup> *Id.*

<sup>115</sup> Under RISAA, FBI “may not ingest unminimized information acquired under this section into its analytic repositories unless the targeted person is relevant to an existing, open, predicated full national security investigation by the Federal Bureau of Investigation.” RISAA § 3(b). However, Congress identified two exceptions: first, if the FBI Director “decides it is necessary due to exigent circumstances and provides notification within three business days to the congressional intelligence committees, the Speaker and minority leader of the House of Representatives, and the majority and minority leaders of the Senate,” and second, where FBI “has agreed to provide technical, analytical, or linguistic assistance at the request of another Federal agency.” 50 U.S.C. § 1881a(n)(2)-(3).



relates to their existing national security investigations. In 2025, FBI had access only to information collected from approximately 3.02% of Section 702 targets.<sup>116</sup>

Querying compliance incidents occur when the query does not satisfy the query requirements laid out in the respective agency’s querying procedures or the statute.<sup>117</sup> Since 2023, NSA, CIA, and NCTC have maintained consistently high query compliance.<sup>118</sup> Since the enactment of RISAA, FBI’s query compliance has been high. Most notably, based on DOJ National Security Division (NSD) audits of all U.S. person queries identified by FBI, as required by RISAA, 98.66% of FBI U.S. person queries were fully compliant in the first year after the statute’s enactment, from April 2024 to April 2025.<sup>119</sup>

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**The most recent available data demonstrates that NSA’s, CIA’s, NCTC’s, and FBI’s query compliance is high.**

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### **1. U.S. Person Queries Conducted by NSA, CIA, and NCTC Have Remained Relatively Low**

As PCLOB previously reported, NSA, CIA, and NCTC conducted a combined 4,684 U.S. person queries in 2022.<sup>120</sup> NSA’s, CIA’s, and NCTC’s U.S. person queries have remained relatively low: 3,775 in 2023, 7,845 in 2024, and 7,724 in 2025.<sup>121</sup> ODNI reported that the majority of this increase was in queries conducted by NSA due to operational needs to “address international terrorist threats to the Homeland and cybersecurity threats to U.S. infrastructure.”<sup>122</sup> CIA reported to PCLOB that there has been no significant change in its querying trends, including after counternarcotics was added as a certification under Section 702.<sup>123</sup> NCTC has also reported no significant changes.<sup>124</sup>

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<sup>116</sup> PCLOB Phone Call with FBI (Sept. 2025).

<sup>117</sup> Off. of the Dir. of Nat’l Intel. & U.S. Dep’t of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 December 2020-31 May 2021*, at 33 (Aug. 2022) [hereinafter 26<sup>th</sup> Joint Assessment].

<sup>118</sup> See generally 32<sup>nd</sup> Joint Assessment, *supra*; 31<sup>st</sup> Joint Assessment, *supra*; 30<sup>th</sup> Joint Assessment, *supra*.

<sup>119</sup> U.S. Dep’t of Just., *A Review of the Federal Bureau of Investigation’s Querying Practices Under Section 702 of the Foreign Intelligence Surveillance Act, 26-002*, at 21-22 (Oct. 2025) [hereinafter DOJ OIG Report].

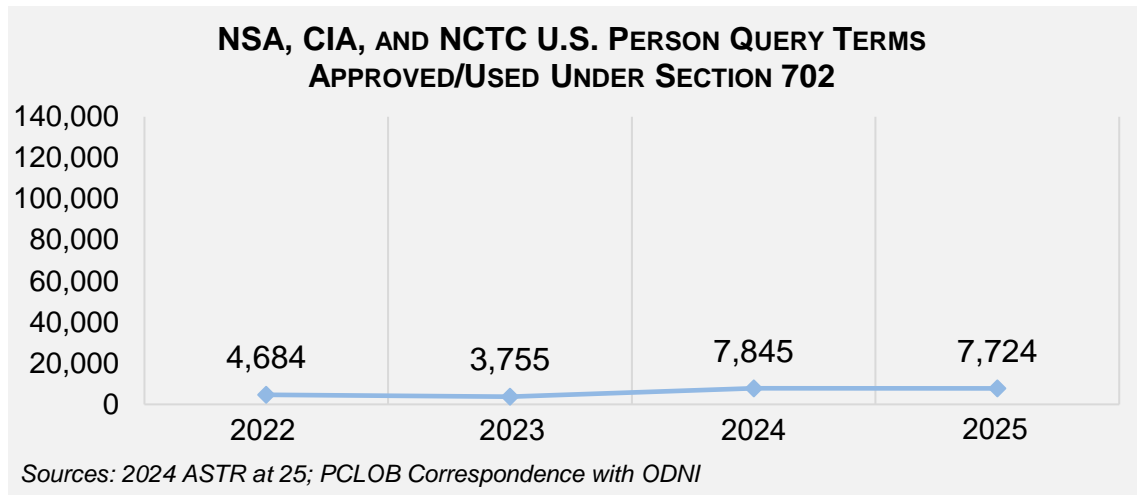
<sup>120</sup> 2023 PCLOB 702 Report, *supra*, at 97.

<sup>121</sup> PCLOB Correspondence with ODNI (Mar. 17, 2026). These numbers reflect the amount of U.S. person query terms that were approved/used, rather than the number of times that a query was run. It is possible that some query terms were approved and not used, and that some query terms were approved and run multiple times. Additionally, these numbers include CIA’s and NCTC’s queries of contents and non-contents, but only NSA’s queries of contents. 2024 ASTR, *supra*, at 24-25.

<sup>122</sup> 2024 ASTR, *supra*, at 25; PCLOB Correspondence with ODNI (Feb. 11, 2026).

<sup>123</sup> PCLOB Correspondence with CIA (Sept. 18, 2025).

<sup>124</sup> PCLOB Correspondence with NCTC (Feb. 18, 2026).



## 2. FBI’s U.S. Person Queries Have Steeply Declined

As PCLOB previously reported, FBI conducted 119,383 U.S. person queries in 2022.<sup>125</sup> Since then, the total number of U.S. person queries conducted by FBI has dropped significantly, by approximately 87%, from 57,094 in 2023 to 7,413 in 2025.<sup>126</sup> FBI experienced a decline in U.S. person queries between 2019 and 2022, which could likely be attributed to system and policy changes such as the change from default opt-in to default opt-out on running queries against Section 702 collection.<sup>127</sup> However, the continued decline in FBI’s U.S. person queries since then, including post-RISAA, suggests that other factors are now the primary drivers of the decrease.<sup>128</sup> Although neither DOJ (including DOJ OIG) nor FBI has conducted a systematic analysis of the reasons for the decline in queries since 2023, DOJ suggested several potential causes:

<sup>125</sup> 2023 PCLOB 702 Report, *supra*, at 98. More precisely, these queries were conducted from December 1, 2021 to November 30, 2022.

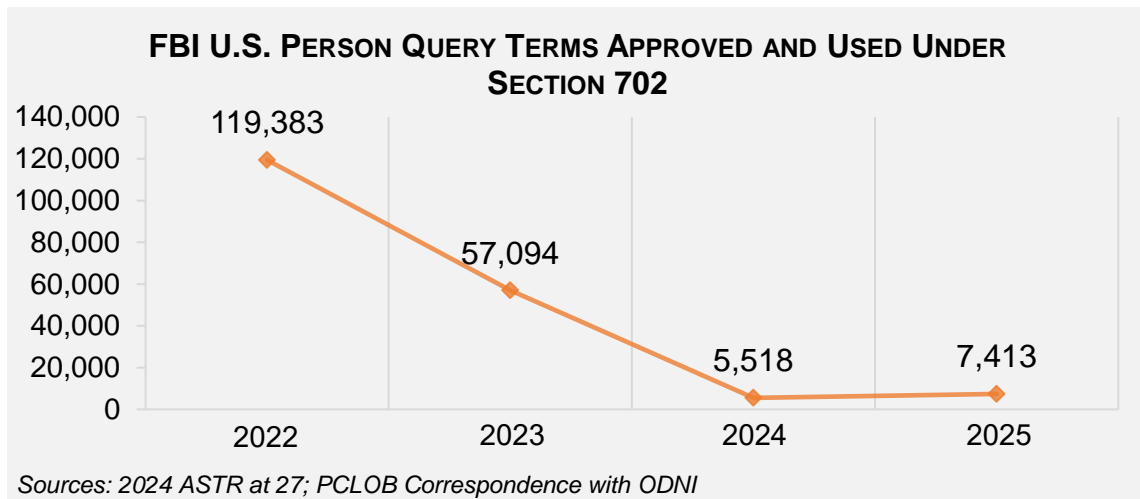
<sup>126</sup> PCLOB Correspondence with ODNI (Feb. 11, 2026). More precisely, these queries were conducted from December 1, 2024 to November 30, 2025. These numbers reflect the amount of unique U.S. person query terms used to query both contents and non-contents. All of these query terms were run at least one time. *See* 2024 ASTR, *supra*, at 27-28.

<sup>127</sup> PCLOB Correspondence with FBI and DOJ (Dec. 10, 2025).

<sup>128</sup> *Id.*



First, the administrative burden of conducting U.S. person queries—including drafting a written justification, filling out a lengthy form, and obtaining attorney pre-approval—may discourage users from running otherwise justified queries. Second, “audit fatigue,” resulting from frequent oversight and auditing of queries, can discourage some users from running queries. And third, the FBI FISA Query Accountability Procedures may cause users to conduct fewer queries because they are concerned that they may be subject to disciplinary action for simple mistakes (or that their actions may reflect poorly on FBI) if their queries are subsequently determined to be noncompliant.<sup>129</sup>



DOJ, which audits FBI’s use of Section 702 information, also reports anecdotal evidence that FBI personnel may be manually reviewing Section 702 data rather than running queries, which could be highly inefficient.<sup>130</sup>

These potential factors echo concerns expressed in DOJ OIG’s recent report on FBI’s querying practices under Section 702.<sup>131</sup> Although witnesses interviewed by DOJ OIG based their opinions primarily upon anecdotal observations and conversations with users, witnesses expressed a high degree of concern that users may be failing to run queries that they should run, which could lead FBI to miss potentially critical threat information.<sup>132</sup>

<sup>129</sup> *Id.*

<sup>130</sup> PCLOB Correspondence with DOJ (Feb. 13, 2026).

<sup>131</sup> DOJ OIG Report, *supra*, at 47, 51.

<sup>132</sup> *Id.*



PCLOB finds it is encouraging that FBI’s policy and RISAA’s statutory changes are preventing unintentional or unnecessary U.S. person queries. Indeed, commenting on the “striking . . . decline” in the number of FBI U.S. person queries, the FISC in April 2024 noted “[t]hat fact alone indicates that overall FBI querying practices are less intrusive of U.S.-persons’ privacy” than they were two or three years earlier.<sup>133</sup> However, PCLOB takes seriously the concern that FBI personnel are refraining from running lawful and appropriate queries that could be crucial to the protection of national security. To the extent that appropriate queries are not run because of the factors discussed above, the Intelligence Community may be missing an opportunity to make key connections between foreign actors abroad and individuals already inside the United States.

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**PCLOB takes seriously the concern that FBI personnel are refraining from running lawful and appropriate queries that could be crucial to the protection of national security.**

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### 3. FBI’s Post-RISAA Query Compliance Is High

FBI’s U.S. person query compliance rate post-RISAA has been high. In the year after RISAA was enacted, from April 2024 to April 2025, 98.66% of FBI’s U.S. person queries were compliant.<sup>134</sup> More precisely, 99.3% of U.S. person queries met the substantive query standard.<sup>135</sup> Those figures are based on NSD’s auditing of every U.S. person query identified by FBI, as required by RISAA.<sup>136</sup>

In its 2025 report on FBI query compliance post-RISAA, DOJ OIG concluded that, based on NSD and FBI oversight reports “FBI is no longer engaging in the widespread noncompliant querying of U.S. persons that was pervasive just a few years ago.”<sup>137</sup> Similarly, in March 2025, the FISC found, based on a sample of 17 FBI field divisions, that FBI “seems to be improving its implementation of the general querying standard.”<sup>138</sup> According to this information provided to the FISC, 99.1% of the queries reviewed by DOJ met the query standard.<sup>139</sup>

Precise comparisons to FBI’s previous years’ compliance rates are complicated by various factors. For overall query compliance, FBI’s rate is measured by NSD reviews of select field offices,

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<sup>133</sup> 2024 Section 702 Certification Memorandum Opinion and Order, at 46 (FISC Apr. 4, 2024) [hereinafter Apr. 4, 2024 FISC Opinion].

<sup>134</sup> DOJ OIG Report, *supra*, at 21-22.

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.* at 51.

<sup>138</sup> March 18, 2025 FISC Opinion, *supra*, at 33. The query standard applies to both U.S. and non-U.S. person queries.

<sup>139</sup> *Id.* at 33-35.



usually around twenty to thirty field offices.<sup>140</sup> Because they are a sample of offices conducted over short periods of time, resulting overall compliance rates are not necessarily representative of compliance across FBI. Furthermore, the small sample sizes can result in skewed figures. For example, NSD’s ability to conduct field office reviews throughout the coronavirus pandemic was limited—thus the lower rates reported during that period of time may not necessarily be indicative of compliance across FBI. Higher historical incident rates were often attributable to large noncompliant batch job queries.<sup>141</sup> From December 2023 through May 2024, FBI’s overall query compliance incident rate was 5.29% and was “largely attributable to one analyst’s misunderstanding of the FBI querying procedures.”<sup>142</sup> If that analyst’s errors were excluded, FBI’s query compliance incident rate during this period would have been 1.61%.<sup>143</sup> For these reasons, it is difficult to do a one-to-one comparison or valid trend analysis of FBI overall query compliance over time. All FBI-identified U.S. person queries, however, are now audited, meaning that the current FBI U.S. person query compliance rate is the most accurate measure and will provide a basis for improved comparison going forward.

The specific reforms and their impact on compliance are described more fully below. However, the multi-person review of every FBI U.S. person query likely drove improved compliance performance in this area. Since RISAA, every U.S. person query conducted and identified by FBI is now reviewed by at least three individuals: an FBI supervisor or attorney approving the query before it is conducted, and after, by both an FBI auditor and a DOJ compliance attorney reviewing the query record to ensure that it was lawful and that it met all applicable requirements.<sup>144</sup>

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**Since RISAA, every U.S. person query conducted and identified by FBI is now reviewed at least three times.**

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<sup>140</sup> PCLOB Correspondence with DOJ (Feb. 10, 2026).

<sup>141</sup> PCLOB 2023 Report, *supra*, at 142.

<sup>142</sup> 32<sup>nd</sup> Joint Assessment, *supra*, at 27.

<sup>143</sup> *Id.*

<sup>144</sup> FBI’s auditors were formerly housed in the Office of Internal Auditing, which is now within the Inspection Division and is overseen by the Assistant Director of the Inspection Division. PCLOB Phone Call with DOJ (Dec. 17, 2025).



An improper query can result from reasonable mistakes in applying the querying standard, rather than intentional or reckless application, or complete misunderstanding of query requirements. Clerical errors—mistakes as simple as typographical errors or failing to properly limit queries (e.g., using geographic terms, surnames, or other common words or phrases as the only query term in a given case)—may also render a query improper.

### RISAA’S CHANGES TO FBI U.S. PERSON QUERYING

- Required FBI systems be configured to require users to “opt in” to running a query in unminimized Section 702-acquired information\*
- Required supervisor, attorney, or leadership level pre-approval for *all* U.S. person queries, batch job queries, and sensitive queries\*
- Established enhanced accountability measures for FBI personnel who repeatedly conduct negligent noncompliant queries, or referral to the Inspection Division (INSD) for reckless or intentional misconduct\*
- Required FBI personnel, prior to conducting a query, to provide written justification demonstrating that a U.S. person query is reasonably likely to retrieve foreign intelligence information or evidence of a crime\*
- Prohibited FBI from conducting evidence of a crime-only queries (with limited exceptions)
- Required FBI personnel with access to Section 702-acquired information to complete annual training\*
- Required that DOJ audit all FBI U.S. person queries within 180 days
- Required FBI notice to congressional leadership of U.S. person queries using a member of Congress query term, unless the Director exercises a waiver
- Prohibited FBI from performing queries related to a member of Congress for purposes of informing a counterintelligence briefing without the member’s consent

*\*Codification of a similar policy change that FBI adopted prior to April 2024*

#### i. Opt-in Querying Feature Added

When initiating a query, FBI personnel often use a single system to query multiple datasets, including information obtained through unminimized Section 702, other provisions of FISA, and other sources. Historically, as mentioned above, FBI personnel were required to opt out of Section 702 datasets if their query did not meet the heightened FISA query standard. The system was configured this way so as to maximize the chances of personnel receiving relevant information. However, this opt-out default caused many personnel inadvertently to query unminimized Section 702 data where there may not have been a justified need to do so.

In summer 2021, FBI modified its systems to require users affirmatively to “opt-in” to include unminimized Section 702 data in the query results. As a result, FBI personnel now must



intentionally choose to query this information. RISAA codified this “opt-in” feature.<sup>145</sup> After the opt-in feature was implemented, FBI’s U.S. person queries dropped by 93%, from 3,171,012 in the first half of 2021 to 223,041 in the latter half of 2021.<sup>146</sup>

ii. Pre-Query Justification Requirement for all U.S. Person Queries

As described above, the Section 702 query standard requires that all queries have an authorized purpose, a permissible design, and an appropriate justification. The justification for performing the query must be supported by a specific factual basis that leads the analyst to believe a query of the agency’s Section 702 collection is reasonably likely to retrieve foreign intelligence information.<sup>147</sup> Starting in 2021, FBI began requiring that its personnel provide a written justification *after* conducting a Section 702 query using a U.S. person query term, *but prior to* reviewing any responsive unminimized content.<sup>148</sup> Additionally, FBI personnel could review non-content information (such as metadata) retrieved using a U.S. person query without submitting any justification.<sup>149</sup> In September 2023, FBI amended its internal policy to require written justification *before* conducting a U.S. person query.<sup>150</sup> RISAA codified this policy.<sup>151</sup> The statement must detail the “specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information or otherwise falls within an exception described [in FBI’s querying

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<sup>145</sup> RISAA § 2.

<sup>146</sup> Two other factors contributed to the stark difference between the number of U.S. person queries in the first half of 2021 compared to the second half of the year: operational need in the first half, and the June 2021 institution of the requirement that attorneys approve batch queries of 100 or more in the second half. The 3.2 million U.S. person queries conducted in the first half of the year was almost entirely attributable to several large batch queries conducted by one user. The batch queries involved potential U.S. victims of “one particular cyber threat from Russia related to attempts to compromise United States critical infrastructure.” 27<sup>th</sup> Joint Assessment, *supra*, at 43. FBI was unable to provide data regarding how the opt-in feature impacted the total number of non-U.S. person queries because it “draws on historical data that has not been able to be reconstructed due to the shutdown of a critical system and loss of personnel.” PCLOB Correspondence with FBI (Feb. 12, 2026).

<sup>147</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 4.

<sup>148</sup> Fed. Bureau of Investigation, *Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4 (2023) [hereinafter 2023 FBI Querying Procedures]; Fed. Bureau of Investigation, *Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4 (2021) [hereinafter 2021 FBI Querying Procedures].

<sup>149</sup> 2023 FBI Querying Procedures, *supra*, at 4; 2021 FBI Querying Procedures, *supra*, at 4.

<sup>150</sup> Fed. Bureau of Investigation, *Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4 (March 1, 2024) [hereinafter March 2024 FBI Querying Procedures].

<sup>151</sup> RISAA § 2(d).



procedures].”<sup>152</sup> FBI requires a written justification for a U.S. person query of either content or non-content information.<sup>153</sup>

It is likely that requiring a written justification before conducting the U.S. person query has encouraged personnel to evaluate their adherence to the query standard at the earliest stage of their work. Hence, queries lacking proper justification are being performed less frequently.

#### 4. Pre-Approval Requirements for Certain FBI Queries Have Helped Decrease Compliance Incidents

RISAA requires that before running certain types of queries—such as U.S. person queries, sensitive queries, and batch jobs—FBI personnel must receive higher level approval.<sup>154</sup> Depending on the type of query, this approval may be from a supervisor, an attorney, or in some cases even the Deputy Director of the Bureau, but may not be from a political appointee.<sup>155</sup>

##### i. All U.S.-Person Queries

Prior to RISAA, FBI U.S. person queries did not require pre-approval; those queries were only audited after the fact.<sup>156</sup> RISAA requires that FBI personnel obtain approval for *every* FBI-identified U.S. person query from a supervisor or an FBI attorney who is authorized to access Section 702 collection.<sup>157</sup> Following RISAA’s passage, FBI updated its querying procedures to incorporate this pre-approval requirement.<sup>158</sup>

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**RISAA requires that FBI personnel obtain approval for every FBI-identified U.S. person query.**

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<sup>152</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 4, 6; Fed. Bureau of Investigation, *Querying Procedures Used by the Federal Bureau of Investigation in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 4, 6 (July 19, 2024) [July 2024 FBI Querying Procedures]; RISAA § 2(d).

<sup>153</sup> PCLOB Phone Call with FBI (Sept. 25, 2025); July 2024 FBI Querying Procedures, *supra*, at 4. When this requirement was first instituted in 2021, it did not apply to non-content information.

<sup>154</sup> RISAA § 2(a); *see* Jan. 2025 FBI Querying Procedures, *supra*, at 5.

<sup>155</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 5; *see* RISAA § 2(a).

<sup>156</sup> 2023 PCLOB 702 Report, *supra*, at 109. This was in contrast to NSA, which required pre-approval for all U.S. person queries and all sensitive queries. *Id.* at 106.

<sup>157</sup> 50 U.S.C. § 1881a(f)(3)(A)(i). An exception exists for exigent circumstances in which the person conducting the query has a “reasonable belief” that doing so could “assist in mitigating or eliminating a threat to life or serious bodily harm.” *Id.* § 1881a(f)(3)(A)(ii); *see also* Jan. 2025 FBI Querying Procedures, *supra*, at 5; July 2024 FBI Querying Procedures, *supra*, at 5.

<sup>158</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 5.



ii. Sensitive Queries

In 2022, FBI instituted a policy requiring employees to obtain pre-approval before conducting queries of unminimized Section 702 data using query terms relating to certain sensitive individuals, organizations or groups, specifically: political, media, and religious organizations or individuals prominent in such organizations.<sup>159</sup> DOJ leadership directed this policy change after DOJ discovered several high-profile compliance incidents.<sup>160</sup> Congress then codified this policy in RISAA in 2024.<sup>161</sup> As a result, queries of religious figures require approval from an FBI attorney<sup>162</sup> and queries of political figures and members of the media require approval from FBI's Deputy Director.<sup>163</sup>

In total, FBI conducted 227 sensitive queries in 2024 and 839 in 2025.<sup>164</sup> FBI reported to PCLOB that it had not formally surveyed the reason for this increase.<sup>165</sup> However, it stated that the increase was likely based on “significant operational need” and that users likely conducted more sensitive queries as they became better familiarized with the sensitive query requirements through guidance and training.<sup>166</sup>

Though only one year of data is available since the passage of RISAA in April 2024, the number of compliance incidents with regard to sensitive queries is small.<sup>167</sup>

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<sup>159</sup> Fed. Bureau of Investigation, *Sensitive Query Guidance* (Sept. 17, 2024); U.S. Dep't of Just., *Semiannual Report of the Attorney General Concerning Acquisitions Under Section 702 of the Foreign Intelligence Surveillance Act*, at 121-22 (Sept. 2022) [hereinafter 28<sup>th</sup> AG SAR]. As is the case with U.S. person queries, an exception exists for exigent circumstances in which the person conducting the query has a “reasonable belief” that doing so could “assist in responding to or preventing a threat to life or serious bodily harm or [a] cyber or infrastructure attack....” Jan. 2025 FBI Querying Procedures, *supra*, at 5; July 2024 FBI Querying Procedures, *supra*, at 5.

<sup>160</sup> DOJ OIG Report, *supra*, at 26-27; *see* Apr. 11, 2023 FISC Opinion, *supra*, at 86.

<sup>161</sup> 50 U.S.C. § 1881a(f)(3)(D)(ii). Prior to RISAA, FBI sensitive querying procedures required pre-approval for running queries on “individuals, organizations, or groups reasonably believed to have a U.S. academic nexus,” subject to certain exceptions. March 2024 FBI Querying Procedures, *supra*, at 5. Because this was not included in RISAA, however, FBI removed that pre-approval requirement.

<sup>162</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 5; July 2024 FBI Querying Procedures, *supra*, at 5; RISAA § 2(d).

<sup>163</sup> Jan. 2025 FBI Querying Procedures, *supra*, at 5; July 2024 FBI Querying Procedures, *supra*, at 5; RISAA § 2(d). In April 2024, approval could have been sought from the Deputy Director or a higher ranking official. March 2024 FBI Querying Procedures, *supra*, at 4.

<sup>164</sup> PCLOB Correspondence with ODNI (Feb. 12, 2026). Seven of the 227 sensitive queries conducted in 2024 were run pursuant to FBI's academic nexus category, which is no longer an operative category. FBI was unable to provide PCLOB with the statistics for previous years.

<sup>165</sup> PCLOB Correspondence with FBI (March 5, 2026).

<sup>166</sup> *Id.*

<sup>167</sup> 33<sup>rd</sup> AG SAR, *supra*, at 121.



iii. Batch Queries

The FBI’s “batch job” tool allows users to run multiple queries, all of which can have different parameters, as part of a single query action (a “batch job”), pursuant to the same justification.<sup>168</sup> FBI’s FISA Query Guidance states that each query run as part of a batch job must independently satisfy the query standard.<sup>169</sup> A common example involves a contact list for a target (e.g., phone numbers found in a terrorist’s phone on a foreign battlefield), where an analyst is attempting to determine if any of the target’s phone contacts are referenced in Section 702-acquired information. In that situation, it could be substantially less time-intensive to run a batch job, rather than run fifty separate queries consecutively.

However, if, upon later review, even one of the query terms did not meet the query standard, the entire batch would be assessed to be noncompliant. For this reason, batch queries can have an outsized impact on compliance; “a single improper decision or assessment by FBI personnel may result in noncompliant queries corresponding to a large number of individuals.”<sup>170</sup> For example, if a user ran one batch job composed of fifty queries (e.g., fifty different phone numbers from the example above), and two of the phone numbers failed to meet the query standard, all fifty queries in that one batch job would be noncompliant. This type of problem had frequently occurred at FBI: from 2019 to 2021, NSD identified tens of thousands of noncompliant queries that resulted from batch jobs.<sup>171</sup>

In June 2021, FBI began requiring attorney pre-approval for batch jobs of 100 terms or more. In September 2023, FBI extended attorney pre-approval to all batch jobs, no matter the number of terms.<sup>172</sup> Congress codified this requirement in RISAA.<sup>173</sup> The attorney approval requirement for *all* batch jobs appears to be a successful measure to remedy the outsized batch job compliance issue: only a few queries that were run as part of batch jobs were assessed to be noncompliant since September 2023.<sup>174</sup> Further, NSD reported that, generally, those noncompliant queries only occurred because of misunderstandings between the attorney and user about what design was proposed or approved.<sup>175</sup>

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<sup>168</sup> 2023 PCLOB 702 Report, *supra*, at 6.

<sup>169</sup> Fed. Bureau of Investigation, *FBI FISA Query Guidance*, at 6.

<sup>170</sup> Fed. Bureau of Investigation, *Annual Report Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act*, at 4 (Nov. 26, 2024) [hereinafter *FBI Implementation of Accountability Procedures*].

<sup>171</sup> DOJ OIG Report, *supra*, at 26.

<sup>172</sup> March 2024 FBI Querying Procedures, *supra*, at 5.

<sup>173</sup> RISAA § 2(d).

<sup>174</sup> PCLOB Correspondence with DOJ (Feb. 10, 2026); DOJ OIG Report, *supra*, at 26.

<sup>175</sup> PCLOB Correspondence with DOJ (Feb. 10, 2026).



The total number of noncompliant queries from batch jobs at FBI has significantly diminished, even as users are conducting more queries in batch jobs.<sup>176</sup> FBI conducted 673 queries as part of batch jobs in 2024.<sup>177</sup> It conducted approximately five times more queries as part of batch jobs in 2025—a total of 3,486.<sup>178</sup> FBI reported to PCLOB that it had not formally surveyed the reason for this increase, but hypothesized that users may be running more batch queries because they are now more familiar with batch job requirements, which were modified in September 2023. Additionally, FBI explained that it conducts most of its evidence of a crime-only queries as batch queries and that it had greater discovery obligations in 2025—thus contributing to the overall increase in batch queries. Lastly, FBI cited greater “operational activity” in 2025 as a likely cause for the increase in batch queries from 2024.<sup>179</sup>

In sum, FBI appears to be querying efficiently through more frequent utilization of the batch job tool, and attorney review of batch jobs is helping to ensure that query standards are met.

#### **5. FBI Has Not Reported Any Improper Evidence of a Crime-Only Queries Post-RISAA**

As described above, U.S. person queries of Section 702 information performed at all agencies must be for the purpose of retrieving foreign intelligence information.<sup>180</sup> However, prior to RISAA, FBI personnel were also permitted to query for the purpose of retrieving evidence of a crime.<sup>181</sup> In 2018, Congress required that, for certain U.S. person evidence of a crime-only queries, FBI personnel would need to obtain an order from the FISC prior to accessing the contents of the communications retrieved by the query, except in the event of an emergency.<sup>182</sup> Specifically, a Section 702(f)(2) order was required before FBI could access the contents of communications retrieved pursuant to a U.S. person evidence of a crime-only query if the query was conducted in connection with a predicated criminal investigation that was unrelated to the national security.<sup>183</sup> However, as of September 2023, FBI had never sought a Section 702(f)(2) order from the FISC, though the government had reported a handful of incidents in which a Section 702(f)(2) order was required but neither sought nor obtained.<sup>184</sup>

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<sup>176</sup> *Id.*

<sup>177</sup> *Id.* More precisely, these queries were conducted from December 1, 2023 to November 30, 2024.

<sup>178</sup> *Id.* More precisely, these queries were conducted from December 1, 2024 to November 30, 2025. FBI was unable to provide PCLOB with previous years’ statistics.

<sup>179</sup> PCLOB Correspondence with FBI (March 5, 2026); *id.*

<sup>180</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 4; Jan. 2025 FBI Querying Procedures, *supra*, at 4; Jan. 2025 CIA Querying Procedures, *supra*, at 3; Jan. 2025 NCTC Querying Procedures, *supra*, at 3.

<sup>181</sup> March 2024 FBI Querying Procedures, *supra*, at 3-4.

<sup>182</sup> FISA Amendments Reauthorization Act § 102; *see also* 2023 PCLOB 702 Report, *supra*, at 102.

<sup>183</sup> *See* 2023 PCLOB 702 Report, *supra*, at 101-02.

<sup>184</sup> Apr. 4, 2024 FISC Opinion, *supra*, at 44; *id.* at 103.



RISAA now prohibits FBI from conducting evidence of a crime-only queries unless certain exceptions apply. FBI’s revised querying procedures prohibit FBI from conducting evidence of a crime-only queries unless “there is a reasonable belief that such a query may retrieve information that could assist in mitigating or eliminating a threat to life or serious bodily harm” or if the query “is necessary to identify information that must be produced or preserved in connection with a litigation matter or to fulfill discovery obligations in [U.S. or state] criminal matter[s] . . . .”<sup>185</sup> DOJ and FBI have reported that they interpret the statute to bar all Section 702 evidence of a crime-only queries, including those pertaining to U.S. persons and non-U.S. persons.<sup>186</sup>

DOJ has reported that FBI has not conducted any improper evidence of a crime-only queries since RISAA’s passage.<sup>187</sup>

FBI conducted 114 evidence of a crime-only queries in 2024.<sup>188</sup> DOJ determined that all but one of the 2024 queries were compliant.<sup>189</sup> The one non-compliant query was conducted prior to RISAA’s enactment.<sup>190</sup> The identifiers used in the 2024 evidence of a crime-only queries belonged to individuals who were subjects of FBI counterterrorism investigations and counterintelligence investigations, and identifiers belonging to “defendants in a criminal conspiracy investigation, one of whom had been the target of Court-authorized traditional FISA surveillance as a member of a foreign terrorist organization and had communications with other FBI counterterrorism investigation subjects during the relevant period of the criminal

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<sup>185</sup> RISAA § 3; Jan. 2025 FBI Querying Procedures, *supra*, at 4-5; July 2024 FBI Querying Procedures, *supra*, at 4-5. FBI implemented this limitation prior to RISAA in April 2024. There is some ambiguity regarding whether RISAA prohibits FBI from conducting *all* evidence of a crime-only queries or only evidence of a crime-only queries using U.S. person terms. As the Congressional Research Service explains:

The subsection heading for the restriction states, “Limits on authorizations of United States person queries,” though the language of the subsection does not set out specific query terms that must be used in order for this restriction to apply. The RISAA also describes this subsection as “revoking [FBI] authority to conduct queries unrelated to national security.”

Cong. Res. Serv., *FISA Section 702 and the 2024 Reforming Intelligence and Securing America Act*, at 11 n. 109 (July 8, 2025) (internal citations omitted). FBI’s Querying Procedures take the more protective approach and prohibit evidence of a crime-only queries, whether conducted with U.S. person query terms or not. The Querying Procedures state, “FBI personnel are prohibited from conducting *any* query of unminimized Section 702 acquired contents or non-contents of information (including metadata) that is solely designed to find and extract evidence of criminal activity” but for the above narrow exceptions. July 2024 FBI Querying Procedures, *supra*, at 4-5 (emphasis added).

<sup>186</sup> PCLOB Correspondence with FBI and DOJ (Feb. 10, 2026); PCLOB Correspondence with FBI and DOJ (Feb. 2, 2026).

<sup>187</sup> 33<sup>rd</sup> AG SAR, *supra*, at 121.

<sup>188</sup> PCLOB Correspondence with ODNI (March 17, 2026). More precisely, these queries were conducted from December 1, 2023 to November 30, 2024.

<sup>189</sup> PCLOB Correspondence with FBI (Dec. 10, 2025).

<sup>190</sup> 2024 ASTR, *supra*, at 31.



conspiracy.”<sup>191</sup> Additionally, FBI conducted 16 evidence of a crime-only queries using non-U.S. person identifiers, “in anticipation of the Government filing an indictment against one of the non-United States person subjects, as well as other individuals in a criminal case arising out of that FBI counterintelligence investigation.”<sup>192</sup>

In 2025, FBI conducted 1,081 evidence of a crime-only queries using U.S. person terms.<sup>193</sup>

## 6. Current Vetting Practices May Not Be Meeting Congressional National Security Objectives

RISAA added a new provision to Section 702 requiring the Attorney General, in consultation with the DNI, to ensure that “any [querying] procedures for one or more agencies ... enable the vetting of all non-United States persons who are being processed for travel to the United States using terms that do not qualify as United States person query terms.”<sup>194</sup> By mandating that the government have procedures in place to “enable” vetting, RISAA did not actually *require* the vetting of all non-U.S. person travelers against its Section 702 collection.

NSA is one of several agencies that support the government’s effort to vet foreign travelers to the United States. As part of this support, NSA conducts queries of unminimized Section 702-acquired information to determine whether non-U.S. persons traveling to the United States have connections to terrorism or international drug trafficking.<sup>195</sup> The queries are performed at the request of the National Vetting Center (NVC), which is responsible for coordinating the management and governance of the national vetting enterprise.<sup>196</sup> Determinations of whether to admit any non-U.S. person flagged by these NSA queries are made by the Department of State (DOS or State) and Department of Homeland Security (DHS). NSA’s role in the national vetting enterprise is unique in that it is the only agency with FISC-approved querying procedures that authorize it to query unminimized Section 702-acquired information for travel vetting purposes. NSA’s FISC-approved querying procedures prohibit vetting of any person that NSA knows, or reasonably should know, is located or resides in the United States.<sup>197</sup>

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<sup>191</sup> PCLOB Correspondence with FBI (Dec. 10, 2025).

<sup>192</sup> *Id.* However, none of these 16 queries returned unminimized Section 702-acquired information.

<sup>193</sup> PCLOB Correspondence with ODNI (March 17, 2026). More precisely, these queries were conducted from December 1, 2024 to November 30, 2025. This number is not de-duplicated—therefore, the actual number of evidence of a crime-only queries using U.S. person terms conducted in 2025 may be lower.

<sup>194</sup> RISAA § 24.

<sup>195</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 6-7.

<sup>196</sup> National Security Presidential Memorandum-9, Presidential Memorandum on Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise (Feb. 6, 2018); *see also* U.S. Customs and Border Prot., *National Vetting Center*, <https://www.cbp.gov/border-security/ports-entry/national-vetting-center> (last visited Apr. 1, 2026).

<sup>197</sup> Jan. 2025 NSA Querying Procedures, *supra*, at 7.



NSA’s vetting support process was approved by the FISC as part of its order on the 2023 Section 702 certifications, after an initial proposal by the government in October 2021. Before approving, the court considered a number of questions about whether the process complied with the statute, whether it was reasonable under the Fourth Amendment, and whether the dissemination of U.S. person information was limited appropriately.<sup>198</sup>

As originally configured and approved by the FISC, NSA vetted travel applicants only for connections to international terrorism. In 2024, however, NSA sought and received approval from the FISC to expand the vetting support program to include queries for connections of travel applicants to international drug trafficking. The government explained to the FISC that this expansion was intended to “meet the congressional intent” in RISAA.<sup>199</sup>

NSA reported to PCLOB that the expansion of its vetting support program “has been monumental in enhancing NSA’s ability to identify applicants’ possible connections to drug trafficking.”<sup>200</sup> According to NSA, the expansion has provided the agency with an “unparalleled” ability to identify derogatory connections “to a myriad of transnational criminal activity” and to highlight these connections for DHS, State, and law enforcement agencies.<sup>201</sup>

In order to protect U.S. person information, NSA’s minimization procedures permit NSA to disseminate U.S. person information returned in response to vetting support queries only if it is both “reasonably believed to contain significant foreign intelligence information,” and also “necessary to protect against international terrorism or any threat described in 50 U.S.C. § 1801(e)(1)(D)”<sup>202</sup> (i.e., “international production, distribution, or financing of illicit synthetic drugs, opioids, cocaine, or other drugs driving overdose deaths, or any precursors of any aforementioned”<sup>203</sup>), or if other limited conditions apply.

As discussed above, Section 24 of RISAA directed the Attorney General, in consultation with the DNI, to ensure that “any [querying] procedures for one or more agencies ... enable the vetting of all non-United States persons who are being processed for travel to the United States using terms that do not qualify as United States person query terms.”<sup>204</sup> At the time of the enactment of RISAA, however, NSA’s querying procedures already enabled such vetting. To date, the government has not amended its process from 2023, with the exception that it now screens for connections to

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<sup>198</sup> Apr. 11, 2023 FISC Opinion, *supra*, at 6-11, 45-47.

<sup>199</sup> 2024 NSA Declaration, at 3 (FISC July 19, 2024).

<sup>200</sup> PCLOB Correspondence with NSA (Jan. 2, 2026).

<sup>201</sup> *Id.*

<sup>202</sup> Nat’l Sec. Agency, *Minimization Procedures Used by the National Security Agency in Connection with Acquisitions of Foreign Intelligence Information Pursuant to Section 702 of the Foreign Intelligence Surveillance Act of 1978, as Amended*, at 15 (Jan. 13, 2025).

<sup>203</sup> 50 U.S.C. § 1801(e)(1)(D).

<sup>204</sup> RISAA § 24.



international drug trafficking in addition to terrorism and further limits the dissemination of U.S. person information.

## C. Accountability

### 1. FBI Auditing Is More Thorough

In 2020, the Attorney General directed FBI to establish a standalone office, the Office of Internal Auditing (OIA), to supplement the work being done by DOJ and apply auditing processes to FBI's national security activities.<sup>205</sup> OIA conducted periodic audits of all FBI FISA queries—U.S. person and non-U.S. person queries of Section 702 data, and traditional FISA queries—using a sampling approach.<sup>206</sup> The last such audit conducted prior to RISAA was in early 2023.<sup>207</sup>

In 2025, OIA was relocated to FBI's Inspection Division (INSD), but the office's function and staffing (i.e., a team of seven auditors) have remained the same.<sup>208</sup> Following RISAA, OIA (now INSD) ceased its sampling approach for U.S. person queries and now reviews, on a weekly basis, *all* Section 702 U.S. person queries for compliance with FBI's querying procedures and FBI's policy requirements, including pre-approval requirements.<sup>209</sup> In addition, INSD periodically conducts audits of non-U.S. person queries using a sampling approach.<sup>210</sup> If INSD identifies a potentially noncompliant query, it records it and advises FBI's Office of General Counsel and DOJ for further action, including reporting to the FISC.<sup>211</sup>

### 2. DOJ Now Audits Every FBI U.S. Person Query

In addition to FBI's internal auditing discussed above, DOJ conducts its own independent audits of FBI Section 702 queries.

Prior to 2023, DOJ and ODNI reviewed a sample of FBI's queries of unminimized FISA-acquired information, including Section 702-acquired information.<sup>212</sup> DOJ reviewed a subset of FBI field offices annually and generally reviewed a 90-day snapshot of queries conducted by personnel in

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<sup>205</sup> See PCLOB 2023 Report, *supra*, at 119 (citing Memorandum from Att'y Gen. William Barr to the Deputy Att'y Gen. et al., *Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*, at 1 (Aug. 31, 2020)).

<sup>206</sup> Off. of the Dir. of Nat'l Intel., *Joint Study of Technological Enhancements for Near-Real Time Monitoring of FBI Compliance*, at 3 (May 2025).

<sup>207</sup> *Id.*

<sup>208</sup> PCLOB Phone Call with FBI and DOJ (Dec. 17, 2025).

<sup>209</sup> *Id.*

<sup>210</sup> *Id.*; *Joint Study of Technological Enhancements for Near-Real Time Monitoring of FBI Compliance*, *supra*, at 3.

<sup>211</sup> *Joint Study of Technological Enhancements for Near-Real Time Monitoring of FBI Compliance*, *supra*, at 4.

<sup>212</sup> See PCLOB 2023 Report, *supra*, at 129.



the relevant office in two FBI systems that contain unminimized FISA-acquired information.<sup>213</sup> During these reviews, DOJ personnel sought to determine whether each query met the query standard and whether queries were properly labeled as to U.S. person status.<sup>214</sup> Because larger field offices with voluminous FISA investigations were prioritized, some smaller FBI field offices were only audited by DOJ every four years.<sup>215</sup>

Since 2023, DOJ and ODNI have continued to review samples of FBI’s queries of unminimized FISA-acquired information.<sup>216</sup> Also, RISAA now requires that DOJ review *every* FBI-identified U.S. person query of unminimized Section 702 information within 180 days of the query.<sup>217</sup> These audits, which are performed on a weekly basis, entail examining the electronic records that are generated and maintained in FBI’s systems when an analyst conducts a query: the written justification for the query, the query term used, the date of the query, and the analyst conducting it.<sup>218</sup> In its weekly reviews of U.S. person or presumed U.S. person queries, DOJ receives logs from FBI and uses a collaboration tracker, which it shares with FBI, to perform its analyses.<sup>219</sup> DOJ receives logs for queries from across the enterprise and regularly reviews the results of FBI query audits.<sup>220</sup>

These weekly audits function to catch any query compliance problems at an earlier point in time, allowing future errors to be avoided and likely contributing to the improvement in overall FBI query compliance.

### 3. FBI Systems Are Undergoing Updates but Can Be Further Improved

FBI is in the process of updating its systems that contain Section 702 information. Historically, these systems have been complicated from a mission-perspective and challenging to update from a compliance perspective, making it difficult to extract useful oversight information.

#### i. FBI’s Participants Filter Reconfigured

In 2024, DOJ raised the question of whether the use of a specific function, known as a participants filter, in one of FBI’s primary FISA electronic and data storage systems (referred to here as “System”), which involved filtering information within returned query results, was itself a “query.”

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<sup>213</sup> *See id.* at 130.

<sup>214</sup> *See id.*

<sup>215</sup> *See id.* at 223.

<sup>216</sup> PCLOB Correspondence with DOJ (March 12, 2026).

<sup>217</sup> RISAA § 2(c)(1). DOJ has reported that it has successfully met this obligation. PCLOB Briefing with the Intelligence Community (July 23, 2025).

<sup>218</sup> PCLOB Phone Call with FBI and DOJ (Dec. 17, 2025); RISAA § 2(d)(D)(iii).

<sup>219</sup> PCLOB Phone Call with FBI and DOJ (Dec. 17, 2025).

<sup>220</sup> *Id.*



After determining that the use of this filter function should be considered a query because of the configuration of the computer system, in 2025 FBI reconfigured its systems and DOJ found this reconfiguration to be compliant with its querying procedures. DOJ notified the FISC that its reconfiguration was now in compliance. Accordingly, each use of this filter function is now individually counted and subject to applicable querying requirements. Although it is not possible to track how many times the filter function was used in the past, PCLOB assesses that the privacy risks were likely to have been minimal because, except in rare circumstances, the results of the filter function would have been entirely co-extensive with the result of the broader initial query. Nevertheless, it is positive that this issue was raised to the FISC.

Since 2014, FBI's System has included this participants filter.<sup>221</sup> After running an initial query in System, FBI analysts could use this function when reviewing the results of that query to:

[S]elect a specific FBI casefile number or facility, using a drop-down menu or search bar, to review communications with targeted facilities. This functionality enabled users to select from lists of "participants" in communication with targeted selectors and review communications of those participants. At least when using the drop-down menu, users were also presented with the number of times each "participant" appeared in the results (citations omitted).<sup>222</sup>

Because of System's design, which predates both RISAA and the first adaptation of FBI's querying procedures, DOJ determined in February 2025 that using the participants filter on the results of a query constitutes an additional query.<sup>223</sup> DOJ reasoned that using the participants filter does not simply filter or sort the query results but rather performs a new, more specific query.<sup>224</sup> Except in rare instances, the results would be a subset of the same communications that were returned in the original query. DOJ notified the FISC of its determination and directed FBI to deactivate the participants filter, which FBI effectuated later that month.<sup>225</sup> According to DOJ OIG, "FBI subsequently reconfigured [System] to ensure that any searches generated by the participants filter would be registered and recorded as queries and that such queries would provide the user with the

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<sup>221</sup> Because the participants filter has been in use since 2014, it predates the passage of the 2018 FAA (which for the first time codified the definition of a "query" and added U.S. person query recordkeeping requirements), FBI's written justification and sensitive query policies (which were implemented in 2021 and 2022 respectively), and the reforms implemented pursuant to RISAA.

<sup>222</sup> March 18, 2025 FISC Opinion, *supra*, at 40.

<sup>223</sup> DOJ identified the participants filter as a potential query issue during one of its FBI field office reviews in August 2024 and later determined, in February 2025, that use of the participants filter constituted a query. PCLOB Correspondence with DOJ (Dec. 16, 2025); DOJ OIG Report, *supra*, at 49.

<sup>224</sup> March 18, 2025 FISC Opinion, *supra*, at 40 ("selecting participants in order to review their communications resulted in queries of [unminimized] information that included the participants' accounts as query terms, and did not merely involve the sorting of the results of previous queries or other operations").

<sup>225</sup> PCLOB Correspondence with DOJ (Dec. 16, 2025); *see* DOJ OIG Report, *supra*, at 50.



standard query prompts.”<sup>226</sup> In 2025, upon DOJ’s determination that this reconfiguration was consistent with the querying procedures, FBI reactivated the participants filter.<sup>227</sup> DOJ advised the FISC of the reconfiguration and reactivation of the participants filter.<sup>228</sup>

Because, prior to DOJ’s determination in February 2025, FBI did not consider use of the participants filter to be an additional query, separate from the original query, the participants filter did not feature prompts for users to seek pre-approval or to enter a written justification, and was not configured to record each use of the participants filter.<sup>229</sup> Even so, DOJ assessed that “if the original query was compliant, ‘most, but not necessarily all, queries conducted through the participants filter likely would have satisfied the applicable query standard’ because a query with the participants filter necessarily included and was narrower than the original query.”<sup>230</sup>

Additionally, because the participants filter did not feature prompts for users to seek pre-approval or to enter a written justification, DOJ recognized the possibility that FBI’s use of the participants filter may have generated non-compliant U.S. person, sensitive, and evidence of a crime-only queries.<sup>231</sup> For instance, if a participant was a U.S. person, use of the participants filter would constitute a U.S. person query and would be subject to additional querying requirements, which were likely not met prior to the participants filter’s reconfiguration.<sup>232</sup> According to DOJ OIG, “[DOJ’s] investigation did not reveal any information affirmatively indicating that FBI personnel had conducted any such queries using the participants filter.”<sup>233</sup>

ii. Opportunities and Challenges to Enhancing FBI Systems

RISAA required ODNI, in coordination with NSA and in consultation with FBI, to conduct a study on the feasibility of technological enhancements that would enable FBI to conduct near-real time monitoring of compliance in any FBI system that stores information acquired under Section 702.<sup>234</sup>

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<sup>226</sup> DOJ OIG Report, *supra*, at 50.

<sup>227</sup> *Id.*

<sup>228</sup> *Id.* In its March 2025 opinion, the FISC stated, “If the FBI decides to reactivate the tool, it undertakes to notify the Court and explain how it will comply with applicable query requirements.” March 18, 2025 FISC Opinion, *supra*, at 40.

<sup>229</sup> PCLOB Phone Call with DOJ and FBI (Dec. 17, 2025); DOJ OIG Report, *supra*, at 49; March 18, 2025 FISC Opinion, *supra*, at 40.

<sup>230</sup> DOJ OIG Report, *supra*, at 49 (internal brackets removed).

<sup>231</sup> *Id.*

<sup>232</sup> *See id.*

<sup>233</sup> *Id.*

<sup>234</sup> RISAA § 28(b).



After conducting the study, ODNI concluded that, as of May 2025, FBI lacks the appropriate resources to implement such technology within a year.<sup>235</sup>

#### 4. FBI Instituted Additional Training Requirements for Its Personnel

Historically, FBI required personnel to complete Section 702 training in order to access unminimized Section 702 information in FBI systems.<sup>236</sup> DOJ conducted training during its field office visits, but each field office was only reached about once every three years.<sup>237</sup> DOJ auditors reported that compliance incidents were frequently caused by FBI personnel misunderstanding the correct application of the query standard.<sup>238</sup> However, rather than requiring refresher training as a preventative measure, FBI required it only when the procedures were updated (in 2019 and 2021) or as a remedy to compliance issues.<sup>239</sup>

In 2022, FBI changed its procedures to require personnel to complete training on an annual basis.<sup>240</sup> The training included three modules on the then-current FBI standards for queries and how to conduct queries of unminimized Section 702 data that complied with the requirements outlined in FBI's Query Guidance.<sup>241</sup> Personnel were required to complete all three modules—which included interactive knowledge checks throughout—in order to maintain access to unminimized Section 702-acquired information.<sup>242</sup>

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**FBI personnel must annually complete querying procedure training.**

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In April 2024, RISAA codified FBI's requirement that users complete querying procedure training every year.<sup>243</sup> Subsequently, FBI revised its three-part modules to train users on the most updated standards for queries and implemented a test at the end of each module.<sup>244</sup>

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<sup>235</sup> *Joint Study of Technological Enhancements for Near-Real Time Monitoring of FBI Compliance*, *supra*, at 7-8.

<sup>236</sup> Off. of the Dir. of Nat'l Intel. & U.S. Dep't of Just., *Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Reporting Period: 01 June 2020-30 November 2020*, at A-14 (Apr. 2022).

<sup>237</sup> 2023 PCLOB 702 Report, *supra*, at 224.

<sup>238</sup> 27<sup>th</sup> Joint Assessment, *supra*, at 47.

<sup>239</sup> *Id.* at 37; 26<sup>th</sup> Joint Assessment, *supra*, at 61.

<sup>240</sup> FBI Implementation of Accountability Procedures, *supra*, at 3-4; DOJ OIG Report, *supra*, at 12.

<sup>241</sup> FBI Implementation of Accountability Procedures, *supra*, at 4; DOJ OIG Report, *supra*, at 12.

<sup>242</sup> FBI Implementation of Accountability Procedures, *supra*, at 4; DOJ OIG Report, *supra*, at 12.

<sup>243</sup> RISAA § 2(d).

<sup>244</sup> See Fed. Bureau of Investigation, FISA Query Training 101: The Query Standard and High Risk Queries; Fed. Bureau of Investigation, FISA Query Training 102: USPER Status and EOC-Only 702 Queries; Fed. Bureau of Investigation, FISA Query Training 103: Batch Jobs and Sensitive Queries. Additionally, when visiting each FBI



Access to Section 702-derived information is now restricted to those FBI personnel, including detailees and contractors, who have completed their mandatory training.<sup>245</sup> FBI personnel who need access to ad hoc or special purpose systems are also required to take these trainings prior to running any queries of unminimized FISA in those systems.<sup>246</sup> In cases where an individual fails to complete the mandatory training, the individual may be subject to administrative action, such as loss of access to the system and/or to signals intelligence data, and their supervisor may be notified of this noncompliance.

### 5. FBI Implemented New Accountability Measures for Query Violations

In June 2023, FBI adopted “Query Accountability Procedures,” a policy that established escalating consequences for intentional, reckless, or negligent query non-compliance.<sup>247</sup> It updated those procedures in July 2024 to comply with RISAA, including by adding potential consequences for “query approver” negligence or misconduct.<sup>248</sup> The updated procedures are intended to “address the process of identifying, evaluating, and remediating different types of query-related compliance incidents, including instances of misconduct and performance deficiencies (i.e., negligent failure to apply legal or policy requirements and negligent application of legal or policy requirements), and query approver deficiencies.”<sup>249</sup>

The accountability procedures provide that an employee’s suspected intentional misconduct or reckless behavior (e.g., running a query of a romantic interest for personal reasons or repeated failure to apply FBI policy even after counseling) is referred to FBI’s INSD for investigation of potential violation of *FBI’s Offense Codes and Penalty Guidelines Governing FBI’s Internal Disciplinary Process*.<sup>250</sup> Upon referral to INSD, an employee’s access to FISA-acquired information is immediately suspended and the employee must not have access to unminimized FISA data until the incident has been resolved.<sup>251</sup> When FBI identifies an actual or potential query-related incident that does not involve intentional or reckless conduct, the accountability procedures set forth a process for determining whether the employee who conducted the query or the

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field office for compliance reviews, DOJ provides a one-hour training covering general querying requirements and addressing specific items that need review. PCLOB Phone Call with FBI (Sept. 25, 2025).

<sup>245</sup> *Foreign Intelligence Surveillance Act and Standard Minimization Procedures Policy Guide*, at 16-17 (2024).

<sup>246</sup> *Id.* at 17.

<sup>247</sup> Fed. Bureau of Investigation, *Policy Notice, Foreign Intelligence Surveillance Act Accountability Procedures* (June 12, 2023).

<sup>248</sup> Fed. Bureau of Investigation, *Foreign Intelligence Act Query Accountability Procedures Policy Directive*, at 6-9 (July 19, 2024). “Query approvers” are FBI personnel or attorneys authorized to approve U.S. person queries, sensitive queries, or batch queries, and face consequences for “query approver deficiencies.” *Id.* at 15.

<sup>249</sup> *Id.* at 1.

<sup>250</sup> Intentional or reckless misconduct was also referred to INSD under the 2023 policies. *Id.* at 2.

<sup>251</sup> *Id.*



supervisor who approved it acted negligently.<sup>252</sup> An employee found to have negligently conducted a non-compliant query is subject to escalating measures based upon the number of negligent compliance incidents the employee has had within the previous 24 months.<sup>253</sup> Depending on the number of incidents, the consequences include removing the employee from access to FISA-acquired information until he or she re-takes all mandatory FISA training and receives one-on-one training with an FBI attorney, requiring that an employee running a negligently non-compliant query attend a review with DOJ and FBI attorneys to observe proper application of querying policies and procedures, as well as how oversight is conducted, and reassigning an employee to a different role.<sup>254</sup>

In 2023, FBI also instituted a new “Field Office Health Measure” that requires leadership in field offices to convene semiannual meetings to assess FISA compliance and the potential for proactively applying compliance-enhancing measures within field offices. FBI field office leaders are held accountable for monitoring FISA compliance in annual reviews that impact bonuses and the potential for promotion.<sup>255</sup>

RISAA requires that FBI report to Congress annually on the accountability actions taken in the preceding twelve-month period for non-compliant querying of Section 702-acquired information and that not later than December 1, 2024, and annually thereafter for three years, the FBI Director submit to the appropriate congressional committees a report detailing each adverse personnel action taken pursuant to the accountability standards and a description of the conduct that led to each such action.<sup>256</sup> These mandatory reports to Congress are meant to ensure that FBI is fully tracking—and addressing—compliance incidents at every level. FBI reported to PCLOB that it has complied with these requirements.<sup>257</sup>

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<sup>252</sup> See *id.* at 2-9. FBI personnel involved are afforded the opportunity to explain why they believe a query is compliant, to provide information material to the assessment, to receive notice of DOJ’s ultimate decision regarding the query, and to receive an additional opportunity to provide material information.

<sup>253</sup> *Id.* at 4-6.

<sup>254</sup> *Id.*

<sup>255</sup> DOJ OIG Report, *supra*, at 33-34. In October 2025, DOJ OIG reported that it was not able to determine whether the field office health measure directly impacted the compliance of FBI personnel with the compliance measures and that witnesses advised that the main benefit of the measure was that semi-annual meetings kept field office leadership apprised of FISA developments.

<sup>256</sup> RISAA § 16(a)(3)(B). The information in this section is based on FBI’s 2024 report to Congress. The 2025 report was not provided in time for inclusion in this report.

<sup>257</sup> PCLOB Briefing with the Intelligence Community (July 23, 2025).



In November 2024, FBI issued its first such required report to Congress, for the period between June 12, 2023 (the effective date of FBI’s initial FISA Accountability Procedures) and November 18, 2024.<sup>258</sup> During the reported period, there were no instances of FBI personnel running queries unrelated to FBI investigations or running queries not conducted pursuant to FBI’s investigative authorities.<sup>259</sup> All non-compliant queries reviewed were connected to investigations.<sup>260</sup>

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**There were no instances of FBI personnel running queries unrelated to FBI investigations or running queries not conducted pursuant to FBI’s investigative authorities.**

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In the handful of incidents found, PCLOB has been provided information showing that the incidents are being investigated and addressed on a case-by-case basis.

In its October 2025 report, DOJ OIG assessed that “the accountability procedures have likely improved the compliance of FBI personnel with the querying procedures,” but could not “precisely quantify” their impact.<sup>261</sup> It noted that several FBI witnesses reported the accountability procedures and “the fear that some FBI personnel have of facing discipline for running non-compliant queries” may be one reason contributing to the decrease in queries.<sup>262</sup> PCLOB concurs with DOJ OIG’s assessment.

#### **6. *Amici Curiae* Are Now Required to Participate in All Annual Section 702 Certification FISC Proceedings**

The FISC annually reviews the government’s Section 702 certifications and corresponding targeting, minimization, and querying procedures to ensure they meet the requirements of the statute and the Fourth Amendment.<sup>263</sup> The FISC has held that this review of the Section 702 certifications and related documents must be made in light of the actual manner in which the government has implemented (or plans to implement) the Section 702 authorities.<sup>264</sup> Prior to RISAA, the FISC was statutorily required to appoint one or more *amici curiae* to assist it in cases involving “any novel or significant interpretation of law,” unless the FISC issued a finding that

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<sup>258</sup> FBI Implementation of Accountability Procedures, *supra*, at 8.

<sup>259</sup> *Id.* at 7-8.

<sup>260</sup> *Id.*

<sup>261</sup> DOJ OIG Report, *supra*, at 32.

<sup>262</sup> *Id.* at 33.

<sup>263</sup> 50 U.S.C. § 1881a(j)(2)-(3).

<sup>264</sup> *See* 2021 Section 702 Certification Memorandum Opinion and Order, at 67 (FISC Apr. 21, 2022).



such an appointment would be inappropriate.<sup>265</sup> In other cases, an *amicus* may be appointed if the court deems it appropriate.<sup>266</sup>

RISAA amended FISA affirmatively to require the FISC and FISC-R to appoint at least one *amicus* to assist the court in consideration of any certifications or procedures submitted for review pursuant to Section 702, including each annual certification, unless the FISC makes an affirmative finding that such consultation is not appropriate or will result in undue delay.<sup>267</sup> If the FISC or FISC-R appoint one or more *amici*, the court must issue an order ruling on any certifications, proceedings, or amendments within sixty days of the date on which the submission was made or within sixty days of the court appointing one or more *amici curiae*, whichever is earlier.<sup>268</sup> The court can take longer if it issues an order finding “extraordinary circumstances” necessitate more time and an extension is consistent with national security.<sup>269</sup>

The FISC has appointed *amici* to assist it in considering all of the Section 702-related certification submissions that the government has made to the FISC since the passage of RISAA through the 2025 certification process.<sup>270</sup>

It is evident that the FISC and the government have continued to consider carefully the positions of *amici*, frequently crediting their arguments and incorporating their concerns. A recent example of this was *amici*'s influence on both the FISC's consideration of, and the government's approach to, the use of Section 702-acquired information to support travel vetting. As previously discussed, *amici* expressed concern in 2025 that the government's proposed acquisition under Certification D would make it more likely that a significant amount of U.S. person information would be accessible for review and dissemination through NSA's Section 702 vetting support process.<sup>271</sup> The FISC explicitly addressed this concern in its analysis of NSA's vetting support queries, and the government responded to it by further limiting the dissemination of U.S. person information retrieved by these queries.<sup>272</sup>

### 7. Congressional Attendance at FISC Proceedings Is Permitted, but Limited

In accordance with calls for more transparency over FISC proceedings, RISAA granted some members of Congress the right to attend “any proceeding” of the FISC or FISC-R and permitted

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<sup>265</sup> See 2023 PCLOB 702 Report, *supra*, at 46.

<sup>266</sup> 50 U.S.C. § 1803(i)(2)(B).

<sup>267</sup> RISAA § 5(b).

<sup>268</sup> *Id.*

<sup>269</sup> *Id.*

<sup>270</sup> Order Appointing Amici Curiae (FISC Jan. 21, 2025); Order Appointing Amici Curiae (FISC Dec. 19, 2024); Order Appointing Amici Curiae (FISC July 23, 2024).

<sup>271</sup> Feb. 20, 2025 FISC Opinion, *supra*, at 43.

<sup>272</sup> *Id.*



these members to designate up to two staff members to attend a FISC or FISC-R proceeding on their behalf, pursuant to procedures established by the Attorney General.<sup>273</sup>

DOJ issued those procedures in November 2024.<sup>274</sup> The procedures, however, impose restrictions on congressional observers, such as preventing the taking of notes, limiting the ability to request information of the parties, limiting discussion of the contents or nature of the proceedings with other members or staff, and excluding them from portions of proceedings that involve the disclosure of “protected information.”<sup>275</sup> In November 2025, the Chairman and Ranking Member of the Senate Committee on the Judiciary sent a letter to the Attorney General expressing their concern with these and other restrictive aspects of DOJ’s procedures.<sup>276</sup>

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<sup>273</sup> Those members of Congress are: the Chair and Ranking Minority Member of each of the Congressional Intelligence committees, the Chairs and ranking members of the Committees on the Judiciary of the House of Representatives and of the Senate, the Majority and Minority Leaders of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives. RISAA § 5(d).

<sup>274</sup> See generally U.S. Dep’t of Just., *Attorney General Procedures for Congressional Attendance at Proceedings of the Foreign Intelligence Surveillance Court and the Foreign Intelligence Surveillance Court of Review* (2024).

<sup>275</sup> *Id.* at 3-5. Though designated congressional staff must accept the procedures to attend the FISC proceedings, members of Congress are not required to. PCLOB Correspondence with DOJ (Feb. 19, 2026); see *id.* at 2.

<sup>276</sup> See generally Letter from Sens. Durbin and Grassley to U.S. Dep’t of Just. (2025).



## IV. CONCLUSION

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The program operated pursuant to Section 702 remains one of the country’s most valuable tools for foreign intelligence collection. In many instances, it is the only means for such collection. Information derived from Section 702 has been leveraged operationally to capture foreign terrorists, to defend against cyber and other attacks on American infrastructure, to interdict illegal international narcotics trafficking, and to prevent loss of American life, both at home and abroad. It provides crucial information to America’s leaders: in calendar year 2025, more than 60% of the articles in the President’s Daily Brief contained Section 702 information reported by NSA. Since the Board’s last report in September 2023, there is no question that it has been crucial to the national security of the country.

Equally important, to our knowledge, Section 702 has more privacy and civil liberties protections and close oversight than any other comparable program in U.S. history. It is a targeted, not bulk, intelligence collection program. It is repeatedly—and appropriately—scrutinized and authorized by Congress, reviewed and approved annually by the judiciary, audited by Inspectors General, and subject to careful review by civil liberties and privacy officers within the executive branch. It is subject to numerous transparency reports, including those by our agency, that are available to the public. Few, if any, countries provide this level of transparency about their most important intelligence programs.

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**Section 702 is scrutinized by all three branches of government and, to our knowledge, has more privacy and civil liberties protections than any other comparable program in U.S. history.**

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Over the past year, PCLOB has conducted an in-depth review of the Section 702 program, focusing on recent programmatic changes and compliance since 2023. Although there has not yet been sufficient time and data following RISAA’s passage in April 2024 to evaluate the impact of the latest reforms fully, PCLOB assesses that the reforms are having positive privacy and civil liberties effects. Specifically,

- In the first year after RISAA’s enactment, FBI’s queries have been overwhelmingly compliant with statutory and policy protections for privacy and civil liberties. This appears to be due to the following FBI policies and RISAA requirements, including:
  - Each U.S. person query is subject to three reviews—one prior to the query, and two subsequent audits;
  - Users must now input a justification *prior* to conducting a U.S. person query;
  - Pre-approval is required for all U.S. person queries, sensitive queries, and batch jobs;



- Evidence of a crime-only queries are now prohibited, except for legal discovery purposes or to mitigate or eliminate a threat to life or serious bodily harm; and
- FBI has implemented heightened accountability measures to address intentional or negligent non-compliant queries of Section 702 information.
- Generally, only NSA and CIA may receive, query, and disseminate unminimized Section 702 information acquired pursuant to the new certification to counter the international production, distribution, or financing of illicit drugs, also known as Certification D.
- NSA’s and CIA’s Section 702 procedures accompanying Certification D highlight FISA’s “necessity” standard for U.S. persons, as required by the FISC.
- The Intelligence Community has applied the revised ECSP definition in line with the commitments made to Congress.
- As required, *amici* are participating in each annual FISC program certification, as well as other proceedings.

Of note, the total number of U.S. person queries performed by FBI has dropped precipitously. This may be an encouraging sign that RISAA’s mandates and FBI’s reforms are working to deter FBI personnel from conducting unnecessary queries. However, other factors that the government identified—the administrative burden associated with running a query, audit fatigue, and fear of professional reprisals for making a mistake—raise concerns. FBI employees recently reported to DOJ OIG that the failure of users to run queries could lead FBI to miss critical threat information. Lawful and appropriate U.S. person queries should be run to identify threats, make crucial connections, and protect national security.

PCLOB’s review also revealed that the process by which the Intelligence Community conducts travel vetting of non-U.S. persons to the United States has not fundamentally changed post-RISAA. Although RISAA required that at least one agency’s querying procedures enable the vetting of all non-U.S. persons being processed for travel to the United States, it did not require that vetting.

Finally, FBI’s Section 702-related systems require modernization. Updated systems should incorporate compliance-enhancing features, reduce administrative burden, and facilitate more transparency and oversight about the program’s use. As part of its upcoming 2026 system update, sufficient funding for an overhaul of FBI’s FISA systems should be prioritized.