



Guide to Posted Documents Regarding Use of National Security Authorities – as of September 2017



Set forth below are links to certain officially released documents related to the use by the Intelligence Community (IC) of national security authorities. These documents have been published to meet legal requirements, as well as to carry out the [Principles of Intelligence Transparency for the IC](#). Listed below are links to selected documents; there are many more officially released documents available for public review.

IC on the Record. [IC on the Record](#) (ICOTR) is an online platform maintained by the Office of the Director of National Intelligence (ODNI) to provide officially released information about the IC, focusing primarily on foreign intelligence surveillance activities. Hundreds of documents and thousands of pages have been posted on this platform.

- **ICOTR Transparency Tracker:** The ODNI's Office of Civil Liberties, Privacy and Transparency maintains the [ICOTR Transparency Tracker](#). This spreadsheet indexes the materials posted on IC on the Record, as well as relevant materials posted on other government sites.

General Overviews of Section 702 of the Foreign Intelligence Surveillance Act (FISA). The FISA Amendments Act – which includes Section 702- will expire at the end of 2017 unless it is reauthorized by Congress. The government has provided general overviews of this critical national security authority:

- **FISA Amendments Act: Q&A.** The IC prepared a detailed [Q&A document](#) describing Section 702 and other provisions of the FISA Amendments Act. This document includes a discussion of the intelligence value of Section 702, with examples.
- **Joint Unclassified Statement on Section 702.** IC FISA experts testified about Section 702 before the House Judiciary Committee in March, 2017. The statement for the record provides a detailed overview of Section 702, and is posted [here](#).
- **IC Legal Reference Book.** The text of FISA and other legal authorities relevant to the IC can be found in the [IC Legal Reference Book](#), compiled by ODNI's Office of the General Counsel.

Reports on Use of National Security Authorities. The government prepares a variety of reports detailing its use of national security authorities. These reports contain a wealth of information about how the government implements FISA and other key authorities.

- **Annual Statistical Transparency Report Regarding Us of National Security Authorities.** For the past four years, the ODNI has published on ICOTR annual reports that provide important statistics on how national security authorities are used. The fourth such report, for calendar

year 2016, is posted [here](#). This report includes statistics required by the USA FREEDOM Act, as well as other statistics published pursuant to the *Principles of Intelligence Transparency*.

- **Reports posted on the Privacy and Civil Liberties Oversight Board’s website** (www.pclob.gov). The Privacy and Civil Liberties Oversight Board (PCLOB) is an independent, bipartisan agency within the executive branch. The PCLOB provides advice and oversight regarding efforts to protect the Nation from terrorism. The PCLOB has published major reports on the executive branch’s use of national security authorities.
 - [PCLOB Report](#) on the Surveillance Program Operated Pursuant to Section 702 of FISA (July 2, 2014).
 - [PCLOB Report](#) on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court (January 23, 2014).
 - [PCLOB Update](#) on the government’s implementation of the PCLOB Recommendations on Section 215 and Section 702 (February 5, 2016).
- **Reports posted on NSA’s Civil Liberties and Privacy Office (NSA CLPO) website** (www.nsa.gov/about/civil-liberties). NSA CLPO has, in the interest of transparency, prepared and published three reports describing how NSA implements key authorities, and assessing the corresponding civil liberties and privacy implications.
 - [NSA CLPO Report](#) on NSA’s implementation of Section 702.
 - [NSA CLPO Transparency Report](#) on NSA’s implementation of the new business records provisions of the USA FREEDOM Act.
 - [NSA CLPO Report](#) on civil liberties and privacy protections for targeted signals intelligence (SIGINT) activities under Executive Order 12333.

Targeting and Minimization under Section 702 of FISA. The government has released court-approved targeting and minimization procedures under Section 702.

- **Targeting Procedures.** Section 702 allows for the targeting of (i) non-United States persons (ii) reasonably believed to be located abroad (iii) to acquire foreign intelligence information. Targeting is effectuated by tasking communications facilities (such as telephone numbers and electronic communications accounts) to U.S. electronic communications service providers. For the first time, the government released redacted versions of targeting procedures.
 - [2016 NSA’s Section 702 Targeting Procedures dated March 30, 2017](#)
 - [2016 FBI’s Section 702 Targeting Procedures dated September 26, 2016](#)
- **Minimization Procedures.** Section 702 also requires minimization procedures to minimize and protect any non-public information of United States persons that may be incidentally collected when appropriately targeting non-United States persons abroad for foreign intelligence information. The government has released several sets of minimization procedures for the past few years. The most recently released minimization procedures are set forth below.

- [2016 NSA's Section 702 Minimization Procedures dated March 30, 2017](#)
- [2016 FBI's Section 702 Minimization Procedures dated September 26, 2016](#)
- [2016 CIA's Section 702 Minimization Procedures dated September 26, 2016](#)
- [2016 NCTC's Section 702 Minimization Procedures dated September 26, 2016](#)

Compliance, Oversight, and Other Documents under Section 702. The government has released other relevant documents, including those relating to the extensive compliance and oversight measures undertaken under Section 702.

- **Summary of Oversight Activities Conducted by DOJ and ODNI.** The National Security Division of the Department of Justice and the ODNI jointly conduct oversight of how the IC implements Section 702. These activities were officially described a filing with the FISC, which is posted [here](#).
- **2015 Summary of Notable Section 702 Requirements.** This summary serves as a reference guide to certain notable requirements relating to the IC's implementation of Section 702. This summary is posted [here](#).
- **Semiannual Assessments of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of FISA. Semiannual Compliance Assessments under Section 702 of FISA.** These compliance assessments are jointly submitted by the Attorney General and the DNI. As of January 2017, fifteen joint assessments have been submitted. The 13th-15th Joint Assessments are posted [here](#), together with a corresponding [Fact Sheet](#) explaining joint assessments.
- **NSA Guidance and Training Documents.** NSA has released certain documents that provide guidance and/or training for NSA personnel in implementing Section 702.
 - [NSA's 702 Targeting Review Guidance](#)
 - [NSA's 702 Practical Applications Training](#)
 - [NSA's 702 Training for NSA Adjudicators](#)
 - [NSA's 702 Adjudication Checklist](#)
 - [NSA's Training on FISA Amendments Act Section 702](#)
- **DOJ Memorandum on Restriction Regarding the Use of FISA Section 702 Information in Criminal Proceedings Against United States Persons.** This memorandum from the National Security Division of the Department of Justice is posted [here](#).

Recently Posted Opinions of the Foreign Intelligence Surveillance Court (FISC) and the Foreign Intelligence Surveillance Court of Review (FISCR). The FISC and FISCR carry out their judicial duties under FISA in a classified setting, so that they can receive and act on classified information relating to the government's implementation of FISA authorities. Recently, a substantial number of filings, rulings, and other documents related to the FISC and FISCR have been made public, in redacted form.

- **FISC Website.** FISC rulings, filings and other documents can also be found on the FISC's website: <http://www.fisc.uscourts.gov/>.
- **Recent Releases on ICOTR.**
 - [The FISC's April 26, 2017 Memorandum Opinion and Order](#), addressing, among other things, the upstream compliance incident that is described by NSA [here](#).
 - [Over a dozen FISC opinions and related documents](#), recently released as part of FOIA litigation.
 - [Release of FISC Question of Law and FISCR Opinion](#), regarding collection of post-cut through digits using a pen register and trap and trace device.
 - [Release of three FISC opinions](#): June 18, 2015 Memorandum Opinion regarding appointment of amicus for a particular case; November 6, 2015 Memorandum Opinion and Order regarding the 2015 Section 702 Certifications; and December 31, 2015 Memorandum Opinion, approving the Government's first application for orders requiring the production of call detail records under the USA FREEDOM Act.
 - [FISC documentation relating to 2011 certifications](#) originally posted in 2013, with additional documents released in 2017.
 - Links to the [FISC documentation relating to 2016 certifications](#), and other FISA documents, are included in this comprehensive posting.

Executive Order 12333. The IC has also released important documents related to Executive Order 12333, which establishes the Executive Branch framework for the country's national intelligence efforts, and includes safeguards for protecting privacy and civil liberties in the conduct of intelligence activities. It was originally issued by President Ronald Reagan in 1981, was most recently revised and re-issued by President George W. Bush in 2008.

- **General Documents.** Executive Order 12333, as amended, is posted [here](#). An information paper describing the 2008 revision is posted [here](#).
- **Attorney-General Approved Procedures.** Section 2.3 of Executive Order 12333 provides that IC elements may collect, retain, and disseminate information concerning United States persons pursuant to procedures established by the head of the IC element and approved by the Attorney General, in consultation with the DNI.
 - **DoD.** The Department of Defense updated its Attorney General-approved procedures last year: [Department of Defense Manual 5240.01](#), Procedures Governing the Conduct of DoD Intelligence Activities, with corresponding [Fact Sheet](#). These procedures cover the IC elements that are part of DoD: DIA, NGA, NRO, NSA, and the intelligence elements of the Army, Navy, Air Force, and Marines.
 - **NSA.** In addition, NSA also follows United States Signals Directive (USSID) SP0018, Legal Compliance and U.S. Persons Minimization Procedures (January 25, 2011), commonly referred to as [USSID 18](#).

- **CIA.** The CIA updated its Attorney General approved procedures earlier this year: [CIA's Executive Order 12333, Attorney General Procedures](#), with corresponding [Detailed Description](#).
 - **FBI.** The FBI operates under the [Attorney General's Guidelines for Domestic FBI Operations](#). A detailed [Domestic Investigations and Operations Guide](#) provides specific guidance for implementing the guidelines.
 - **Table.** A table with links to IC elements' procedures is posted [here](#).
- **Raw Signals Intelligence Availability Procedures.** Section 2.3 of Executive Order 12333 also provides that raw or unminimized signals intelligence (SIGINT) information may only be disseminated or made available to IC elements in accordance with procedures established by the DNI in coordination with the Secretary of Defense and approved by the Attorney General. The Raw SIGINT Availability Procedures were finalized and released in January of this year, and are posted [here](#), with corresponding [Fact Sheet](#). The procedures require strict safeguards comparable to those of NSA for handling such information.

Presidential Policy Directive 28, Signals Intelligence Activities (PPD-28). PPD-28 was issued in January 2014 and remains in effect. It sets forth general privacy protection principles for SIGINT activities, limits the use of SIGINT collected in bulk, provides for the involvement of senior policy makers in key SIGINT decisions, and imposes specific safeguards to protect the privacy of all individuals, regardless of nationality.

- **PPD-28.** PPD-28 is posted [here](#).
- **IC Element Policies Implementing PPD-28.** Section 4 of PPD-28 calls on each IC element to update existing or issue new policies and procedures to implement principles for safeguarding all personal information collected through SIGINT, consistent with technical capabilities and operational needs. A table with links to each IC element's policies under PPD-28 is posted [here](#). In addition, links to two IC Standards relating to PPD-28 are posted [here](#).
- **Annual Signals Intelligence Reform Progress Report.** For the past three years, the ODNI has published an annual report outlining progress under PPD-28 and related SIGINT reform efforts. The report for calendar year 2016 is posted [here](#).

Gates Procedures. The Gates Procedures provide that, unless a specific exception applies, prior approval must be obtained from the Office of the Director of National Intelligence if information identifying Members or their staff by name or by individually identifying titles or characteristics (congressional identity information) is included in intelligence reports being disseminated to Executive Branch entities outside of the requesting IC element. A statement providing the background for these procedures is posted [here](#). The procedures are contained in an annex to [IC Directive 112](#), Congressional Notification, and are posted [here](#).