

~~SECRET//NOFORN~~**(U) EXHIBIT I****(U) 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**U.S. FOREIGN
SURVEILLANCE COURT
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I. (U) These procedures apply to the querying of unminimized information, acquired pursuant to section 702 of the Foreign Intelligence Surveillance Act of 1978, as amended ("FISA" or "the Act"), by the Federal Bureau of Investigation ("FBI"), and apply in addition to separate minimization procedures for the FBI adopted pursuant to subsection 702(e) of the Act. These querying procedures should be read and applied in conjunction with those minimization procedures, and nothing in these procedures permits any actions that would otherwise be prohibited by those minimization procedures.

A. (U) Training

(U) FBI personnel who have successfully completed training in these procedures and the FBI's section 702 minimization procedures may query FBI systems containing unminimized information acquired pursuant to section 702 of the Act consistent with the requirements of these procedures. Such query training must be successfully completed on an annual basis in order for personnel to retain access to, and the ability to query, unminimized section 702-acquired information. Authorized users with access to unminimized section 702-acquired information should process the results of an appropriate query of unminimized section 702-acquired information in accordance with the FBI's applicable section 702 minimization procedures.

B. (U) System Configuration

(U) Any FBI system that stores unminimized section 702-acquired contents or noncontents information (including metadata) together with any information obtained through other lawful means shall be configured in a manner that:

1. (U) requires FBI personnel to affirmatively elect to include unminimized section 702-acquired information when running a query; or
2. (U) includes other controls reasonably expected to prevent inadvertent queries of such unminimized information.

II. (U) If the FBI determines that it must take action in apparent departure from these querying procedures to protect against an immediate threat to human life (e.g., force protection or hostage situations) and that it is not feasible to obtain a timely modification of these procedures, the FBI may take such action immediately. The FBI will make a record of the action taken, to include any query term(s) used, and report the action taken to the Office of the Director of National

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Intelligence ("ODNI") and to the Department of Justice's National Security Division ("NSD"), which will promptly notify the Foreign Intelligence Surveillance Court ("FISC") of such activity.

III. (U) Definitions and Presumptions

A. (U) Definitions for purposes of these procedures

(U) These procedures adopt the definitions set forth in 50 U.S.C. § 1801 for the terms "foreign intelligence information," "person," "United States," and "United States person."

~~(S//NF)~~ When used to conduct a query, "United States person query term" means a term that is reasonably likely to identify one or more specific United States persons. United States person query terms may be either a single item of information or information that, when combined with other information, is reasonably likely to identify one or more specific United States persons. Determining whether information is reasonably likely to identify one or more specific United States persons in a particular context may require a case-by-case assessment by a trained intelligence professional. "United States person query term" is not limited to any single category of information or technology. Depending on the context, examples of United States person query terms may include: names or unique titles; government-associated personal or corporate identification numbers; [REDACTED] and street address, telephone, and [REDACTED]. United States person query term does not include a reference to a product by brand or manufacturer's name (or related nomenclature, including part numbers) or the use of a name in a descriptive sense, as, for example, "Ford Crown Victoria" or "Boeing 737," so long as such term is not intended to retrieve information concerning a specific United States person (e.g., "Ford Crown Victoria with License Plate Number CBA 321").

(U) "Query" means the use of one or more terms¹ to retrieve the unminimized contents or noncontents (including metadata) of section 702-acquired information that is located in an FBI system. The term "query" does not include a user's query of a system that contains unminimized section 702-acquired information, where the user does not receive unminimized section 702-acquired information in response to the query either because the user has not been granted access to the unminimized section 702-acquired information, or because a user who has been granted such access has limited the query such that it cannot retrieve unminimized section 702-acquired information. The term "query" also does not include (1) a system user's actions subsequent to conducting a query for purposes of sorting the results of that query based upon the attributes of the information retrieved,² (2) examining or manipulating, including by technical means, communications or documents for the purpose

¹ ~~(S//NF)~~ Such terms may include the use of keywords, identifiers, formulas [REDACTED]

² (U) For example, the action of a system user to sort the results of a query (i.e., the information actually returned to a system user from a query) by date, time, etc.

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of minimizing such communications or documents,³ (3) searches done for UAM purposes in systems or other repositories that contain UAM data, as defined in Section III.F.7 of the FBI's section 702 minimization procedures, so long as the only unminimized section 702-acquired information that the searches run against are in records captured through user activity monitoring, or (4) searches conducted in the special purpose systems defined in Sections III.F.5 and 6 of the FBI's section 702 minimization procedures in furtherance of an authorized use specified in those provisions.

(U) "Contents" means any information concerning the substance, purport, or meaning of a communication.

(U) "Metadata" means the dialing, routing, addressing, or signaling information associated with a communication, but does not include information concerning the substance, purport, or meaning of the communication.

(U) The terms "Federal Bureau of Investigation" and "FBI personnel" refer to any employees of the FBI, as well as all contractors and others authorized to work under the direction and control of the FBI.

B. (U) Presumptions for purposes of these procedures

(U) The following guidelines apply in determining whether a person whose status is unknown is a United States person:

1. (U) A person known to be located in the United States will be presumed to be a United States person unless identified as an alien who has not been admitted for permanent residence or the circumstances otherwise give rise to a reasonable belief that such person is not a United States person.
2. (U) A person known to be located outside the United States or whose location is not known will be presumed to be a non-United States person unless such person is identified as a United States person, or the circumstances otherwise give rise to a reasonable belief that such person is a United States person.
3. (U) A person known to have been at any time an alien admitted for lawful permanent residence will be presumed to be a United States person, unless a determination that such person is no longer a United States person is made (a) in consultation with the FBI Office of General Counsel after obtaining a copy of either an order revoking that person's United States person status issued by a U.S. federal court or a properly executed and filed United States Citizenship and Immigration Services Form I-407 (Record of Abandonment of Lawful Permanent Resident Status), or (b) in

³ (U) For example, an analyst might run a script against a spreadsheet that would find and replace all instances of a known United States person's name with a generic term, such as "U.S. Person 1."

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consultation with the FBI Office of General Counsel and NSD. A person known to have been at any time a citizen of the United States will be presumed to be a United States person, unless a determination that such person is no longer a United States person is made in consultation with the FBI Office of General Counsel and NSD.

4. (U) An unincorporated association whose headquarters or primary office is located outside the United States is presumed not to be a United States person unless the circumstances otherwise give rise to a reasonable belief that a substantial number of its members are citizens of the United States or aliens lawfully admitted for permanent residence.

IV. (U) Querying Procedures

A. (U) Query Standard

(U) Each query of FBI systems containing unminimized contents or noncontents (including metadata) acquired pursuant to section 702 of the Act must be reasonably likely to retrieve foreign intelligence information, as defined by FISA, unless otherwise specifically excepted in these procedures. In order to meet this standard:

1. (U) the person conducting the query must have the purpose of retrieving foreign intelligence information;
2. (U) the person conducting the query must have a specific factual basis to believe that it is reasonably likely to retrieve foreign intelligence information; and
3. (U) the query must be reasonably tailored to retrieve foreign intelligence information without unnecessarily retrieving other information.

B. (U) Written Justification

(U) Prior to querying section 702-acquired information using a United States person query term, FBI personnel will provide a written statement of the specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information or otherwise falls within an exception described herein. Such written statement will comply with the documentation requirements set forth in Section IV.E.4 below.

C. (U) Evidence of a Crime Queries Prohibited

(U) FBI personnel are prohibited from conducting any query of unminimized section 702-acquired contents or noncontents information (including metadata) that is solely designed to find and extract evidence of criminal activity; provided, however, that such a query may be run if one of the following narrow exceptions applies:

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1. (U) 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
2. (U) such a query is necessary to identify information that must be produced or preserved in connection with a litigation matter or to fulfill discovery obligations in a criminal matter under the laws of the United States or any State thereof.

D. (U) **Pre-Approval and Notification Requirements**

1. (U) United States Person Queries Unless the person conducting the query has a reasonable belief that conducting the query could assist in mitigating or eliminating a threat to life or serious bodily harm, FBI personnel must obtain prior approval from an FBI supervisor (or employee of equivalent or greater rank) or attorney who is authorized to access unminimized section 702-acquired contents and noncontents information (including metadata) for any query of such unminimized information made using a United States person query term.
2. (U) Sensitive and Batch Queries Except in cases in which FBI has a reasonable belief that queries could assist in responding to or preventing a threat to life or serious bodily harm or an cyber or infrastructure attack, additional approvals are required prior to running the types of queries described in subparagraphs (i)-(iii) below:
 - i. (U) Approval from the FBI Deputy Director for use of any query term reasonably believed to identify a United States elected official, an appointee of either the President or a State or territorial Governor, a United States political candidate, a United States political organization or a United States person prominent in such organization, or a United States media organization or United States person who is a member of such organization;
 - ii. (U) FBI attorney approval for use of any query term reasonably believed to identify a United States religious organization or a United States person who is prominent in such organization; and
 - iii. (U) FBI attorney approval for all queries using batch job technology or a successor tool.

No political appointee⁴ may be involved in the prior approval processes described above.

⁴ (U) As specified in 50 U.S.C. § 1881a(f)(3)(D)(vi), examples of political appointees include "those classified by the Office of Personnel Management as Presidential Appointment with Senate Confirmation, Presidential Appointment (without Senate Confirmation), Noncareer Senior Executive Service Appointment, or Schedule C Excepted Appointment."

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3. (U) Notifications to Members of Congress Consistent with the requirements of 50 U.S.C. § 1881a(f)(3)(B), the FBI Director shall promptly notify appropriate congressional leadership of any query conducted by the FBI using a query term that is reasonably believed to be the name or other personally identifying information of a member of Congress, and shall also notify the member who is the subject of such query.⁵
4. (U) Defensive Briefings for Members of Congress Queries may not be run using the name or restricted personal information, as defined in 18 U.S.C. § 119,⁶ of a member of Congress for the exclusive purpose of supplementing the contents of a briefing on the defense against a counterintelligence threat to that member of Congress unless:
 - a. (U) the member provides consent to the use of the query term prior to such query being conducted; or
 - b. (U) the Deputy Director of the FBI determines that exigent circumstances exist sufficient to justify the conduct of such query.

(U) The FBI Director must report requests for such consent or exigent circumstances determinations to appropriate congressional leadership, as required by 50 U.S.C. § 1881a(f)(3)(C)(ii).

E. (U) Creation and Maintenance of Query Records

1. (U) The FBI must generate and maintain an electronic record of each United States person query term used for a query of unminimized content or noncontent information acquired pursuant to section 702. Such electronic record must, at a minimum, include the following information:
 - a. (U) the query term(s) used;
 - b. (U) the date of the query; and
 - c. (U) the identifier of the user who conducted the query.

⁵ (U) In accordance with 50 U.S.C. § 1881a(f)(3)(B)(iv), the Director may waive such notification if the Director determines that such notification would impede an ongoing national security or law enforcement investigation. Such waiver shall terminate on the date the Director determines that the relevant notification would not impede the relevant national security or law enforcement investigation or on the date that such investigation ends, whichever is earlier.

⁶ (U) Restricted personal information is defined in 18 U.S.C. § 119, "with respect to an individual," as "the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual."

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2. (U) In the event it is impracticable for an FBI system to generate an electronic record of each United States person query term, or in the event an unanticipated circumstance arises that prevents the generation of such an electronic record, the FBI must generate and maintain a written record of each United States person query term that contains the same information required for electronic records, as described above. Before conducting a query in a system that does not generate an electronic record of a query, FBI personnel must reasonably determine that conducting that query in a system that generates an electronic record would be insufficient for technical, analytical, operational, or security reasons.
3. (U) The FBI will maintain the query records required by this subsection in a manner that will allow NSD and ODNI to conduct oversight and compliance in an effective manner. Such records (both electronic and written) must be maintained at least five years from the date the United States person query term was used. NSD and ODNI will review the FBI's queries of unminimized section 702-acquired information using any such query terms to ensure that they were consistent with the query standard in effect at the time of the query, or were conducted pursuant to an exception from the query standard in effect at the time of the query.
4. (U) The FBI shall maintain a record of each statement of facts required by Section IV.B above in a manner that will enable oversight by NSD and ODNI.
5. (U) The FBI shall maintain a record of each approval required for United States person queries of unminimized section 702-acquired information as provided in Sections IV.D.1 and IV.D.2 above in a manner that will enable oversight by NSD and ODNI.

F. (U) Exceptions to Subsection IV.A

(U) In general, apart from the exceptions noted above, there are no exceptions to the requirements of this section (e.g., the pre-approvals specified in subsection IV.D above). However, the requirements of subsection IV.A above (setting forth the query standard) do not apply to queries in support of the lawful oversight functions of NSD or ODNI, or of the applicable Offices of the Inspectors General, nor do they apply to queries the FBI determines are necessary to:

1. (U) the FBI's performance of lawful training functions of its personnel regarding the proper implementation of FISA and the FBI's FISA procedures, including its section 702 procedures. However, the FBI shall use non-United States person query terms to perform such queries, unless the FBI determines that there is a particular need to use a United States person query term in such a query to conduct training on the implementation of an aspect of the FBI's section 702 procedures
2. (U) create, test, or conduct technical maintenance of FBI systems that process or store unminimized section 702-acquired information;

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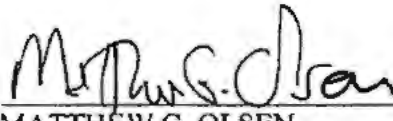
3. (U) comply with an order of a court within the United States or a specific congressional mandate, such as a subpoena or similar process consistent with congressional oversight;
4. (U) comply with the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. § 552, or the Privacy Act of 1974, 5 U.S.C. § 552a;
5. (U) conduct vulnerability or network assessments using unminimized information acquired pursuant to section 702 of the Act in order to ensure that its systems are not or have not been compromised;
6. (U) identify information that must be produced or preserved in connection with a litigation matter;
7. (U) provide demonstrations of the technical capabilities of FBI systems containing unminimized FISA information to members and cleared staff of the U.S. House of Representatives or U.S. Senate upon written request of the Speaker of the House or the Majority Leader of the Senate, respectively, or the Chairman or Ranking Member of the Judiciary or Intelligence committees of the House or Senate, provided that there is a specific factual basis to believe that such queries are reasonably likely to retrieve foreign intelligence information and are reasonably tailored to retrieve foreign intelligence information without unnecessarily retrieving other information, and NSD promptly notifies the FISC in writing after any such demonstration;
8. (U) locate products that constitute spam solely for the purpose of marking them as spam provided that the user does not otherwise review any products retrieved by such a query for any analytical purpose; or
9. (U) perform the following lawful oversight functions of FBI's personnel or systems:
 - a. (U) support the FBI's investigation and remediation of a possible FISA compliance incident;
 - b. (U) remediate a potential spill of classified FISA-acquired information in FBI systems;
 - c. (U) identify FISA-acquired information subject to destruction, including under the FBI's section 702 minimization procedures;
 - d. (U) ensure the effective application of marking or segregation requirements in the FBI's FISA minimization procedures;
 - e. (U) assess compliance with federal record-keeping requirements, where such queries are conducted in audit and oversight systems, as defined in FBI's section 702 minimization procedures, that contain FBI personnel e-mails and instant messages that may contain unminimized section 702-acquired information; or
 - f. (U) support the FBI's audit or review, for quality control purposes, of work done related to FISA collection by FBI personnel.

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(U) Should the FBI determine that it is necessary to deviate from subsection IV.A above to perform lawful oversight functions of its personnel or systems apart from those specified in this paragraph (IV.F.9), the FBI shall consult with NSD and ODNI prior to conducting such a query. NSD shall promptly report the deviation to the FISC. Each such report shall describe the nature of the deviation and identify the specific oversight activity for which the deviation was necessary.

7/18/24
Date


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