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(U) EXHIBIT H

(U) 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

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 National Security Agency ("NSA"), and apply in addition to separate minimization procedures for NSA adopted pursuant to subsection 702(e) of the Act (hereinafter, "NSA's minimization procedures"). 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. NSA personnel who have completed training in these procedures and NSA's section 702 minimization procedures may query NSA systems containing unminimized information acquired pursuant to section 702 of the Act. 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 NSA's applicable section 702 minimization procedures.

II. (U) If NSA 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, NSA may take such action immediately. NSA 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 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 "Attorney General," "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

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United States person query terms may include: names or unique titles; government-associated personal or corporate identification numbers; ███████████████ ███████ and street address, telephone, and ███████████ 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) Process or processing means any action necessary to convert unminimized section 702-acquired information into an intelligible form or any machine-initiated action designed to identify, curate, label, or organize such information; provided, however, that the term "process" or "processing" does not include an action that: (1) presents information for human inspection; or (2) using means that do not involve human inspection, produces and makes affirmative use of information for investigative, intelligence analysis, or preventative purposes.

~~(S//NF)~~ "Query" means the use of one or more terms[1] to retrieve the unminimized contents or noncontents (including metadata) of section 702-acquired information that is located in an NSA system; provided, however, that the term "query" does not include:

(1) a system 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;

(2) activities that constitute the processing of unminimized section 702-acquired information;

(3) 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]

(4) examining or manipulating, including by technical means, communications or documents for the purpose of minimizing such communications or documents;[3] or

(5) searches conducted in user activity monitoring systems, as described in NSA'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.

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

[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.

[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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(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 "National Security Agency" and "NSA personnel" refer to any employees of the National Security Agency/Central Security Service ("NSA/CSS" or "NSA") and any other personnel engaged in Signals Intelligence (SIGINT) operations authorized pursuant to section 702 of the Act if such operations are executed under the direction, authority, or control of the Director, NSA/Chief, CSS (DIRNSA).

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 NSA 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 consultation with the NSA 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 NSA 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.

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(U) IV. Querying Procedures

A. (U) Query Standard

(U) Each query of NSA systems containing unminimized content or noncontent information 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.

(U) Any United States person query term used to identify and select unminimized section 702-acquired content must first be approved by NSA's Office of General Counsel. NSA personnel seeking such an approval must provide a statement of facts establishing that the use of any such identifier as a selection term is reasonably likely to retrieve foreign intelligence information, as defined by FISA. NSA may approve the use of a United States person query term to query unminimized section 702-acquired content for no longer than a period of one year; such approvals may be renewed for periods up to one year. Any use of a United States person query term to query unminimized section 702-acquired metadata must be accompanied by a statement of facts showing that the use of any such query term is reasonably likely to retrieve foreign intelligence information, as defined by FISA.

B. (U) Creation and Maintenance of Query Records

1. (U) NSA must generate and maintain an electronic record of each United States person query term used for a query of unminimized information acquired pursuant to section 702. Such electronic record must, at a minimum, include the following information:

    a. (U) the query term(s) used or approved;

    b. (U) the date of the query or approval of query term(s);

    c. (U) the identifier of the user who conducted the query or sought approval of the query term(s);

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  d. (U) the statement of facts showing that the use of the query term(s) is reasonably likely to retrieve foreign intelligence information, as defined by FISA; and

  e. (U) in the case of content queries, the approving official in NSA's Office of General Counsel and duration of the approval.

2. (U) In the event it is impracticable for an NSA system to generate an electronic record, or in the event an unanticipated circumstance arises that prevents the generation of such an electronic record, NSA 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, NSA 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) NSA 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), including the statements of facts, must be maintained at least five years from either the date of the query for queries of unminimized section 702-acquired metadata, or the date of the approval of the U.S. person query term for queries of unminimized section 702-acquired content. NSD and ODNI will conduct oversight of NSA's activities with respect to United States persons that are conducted pursuant to these procedures.

C. (U) **Exceptions.** Notwithstanding subsections IV.A and IV.B.1.d-e above, nothing in these procedures shall prohibit the lawful oversight functions of NSD or ODNI, or the applicable Offices of the Inspectors General, or restrict NSA from providing the assistance necessary for these entities to perform their lawful oversight functions, and nothing in these procedures shall prohibit NSA from conducting queries it determines are necessary to:

1. (U) NSA's performance of lawful training functions of its personnel regarding the proper implementation of section 702 and NSA's section 702 procedures. However, NSA shall use non-United States person identifiers to perform such queries, unless NSA determines that there is a particular need to use a United States person identifier in such a query to conduct training on the implementation of an aspect of NSA's section 702 procedures;

2. (U) create, test, or conduct technical maintenance of NSA systems that process or store 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) conduct vulnerability or network assessments using information acquired pursuant to section 702 of the Act in order to ensure that its systems are not or have not been compromised;

5. (U) identify information that must be produced or preserved in connection with a litigation matter; or

6. (U) perform the following lawful oversight functions of NSA's personnel or systems:
    a. (U) support NSA's investigation and remediation of a possible section 702 compliance incident;
    b. (U) remediate a potential spill of classified section 702-acquired information in NSA systems;
    c. (U) identify section 702-acquired information subject to destruction, including under NSA's section 702 minimization procedures;
    d. (U) ensure the effective application of marking or segregation requirements in NSA's section 702 minimization procedures;
    e. (U) support NSA's audit or review, for quality control purposes, of work done related to section 702 collection by NSA personnel; or
    f. (U) identify and remove child exploitation material, including child pornography, from NSA systems.

(U) Should NSA determine that it is necessary to deviate from an aspect of these procedures to perform lawful oversight functions of its personnel or systems apart from those specified in this subsection (IV.C.6), NSA 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 from the procedures and identify the specific oversight activity for which the deviation was necessary.

(U) Consistent with the requirements set forth in subsections IV.B.1.a-c, 2, and 3 above, NSA must keep a record of any United States person query term used for a query of unminimized section 702-acquired information in support of the activities described in this subsection IV.C.

D. (S//NF) **NSA Support for U.S. Government Vetting of Non-United States Persons for Counterterrorism and** ▆▆▆▆▆ **Purposes.** Notwithstanding subsection IV.A of these procedures, NSA may use certain unminimized section 702-acquired information for valid counterterrorism and ▆▆▆▆▆▆▆▆▆▆▆ foreign intelligence purposes as directed to support the federal government's vetting of non-United States persons who are being processed for travel to the United States (a "travel applicant"). Specifically, NSA may use section 702-acquired information to:

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1. ██
   (a) non-United States person counterterrorism and selectors[5] that have been tasked for ██████████████ or section 702 acquisition;

   ██

   ██████████████████████████████

2. Compare ████████████████████████████████ ██████████ to non-United States person travel applicants, ██████████████████████ ██

   ██████████████

3. Review the section 702-acquired information underpinning the match to assess the analytic significance of the travel applicant's connection to an international terrorism or ██████████████████ target;

4. If required for analytic purposes, NSA may run one or more queries that are reasonably likely to retrieve foreign intelligence information consistent with subsection IV.A above.

In step 2 above, NSA will not ████████████████████████████████ ██████████ non-United States person travel applicants that NSA knows, or reasonably should know, are located or reside inside the United States.

7/15/24
Date

[signature]
MATTHEW G. OLSEN
Assistant Attorney General for National Security

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