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**(U) 29<sup>th</sup> SEMIANNUAL ASSESSMENT OF COMPLIANCE WITH PROCEDURES AND GUIDELINES ISSUED PURSUANT TO SECTION 702 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT, SUBMITTED BY THE ATTORNEY GENERAL AND THE DIRECTOR OF NATIONAL INTELLIGENCE**

**(U) Reporting Period: 01 June 2022 – 30 November 2022**

September 2024

Classified By: [REDACTED]  
Derived From: [REDACTED]  
Declassify On: [REDACTED]

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**September 2024**

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**(U) 29<sup>th</sup> Semiannual Assessment of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of the Foreign Intelligence Surveillance Act, Submitted by the Attorney General and the Director of National Intelligence**

**September 2024**

**(U) Reporting Period: 01 June 2022 – 30 November 2022**

**(U) EXECUTIVE SUMMARY**

(U) The Foreign Intelligence Surveillance Act of 1978 (FISA), 50 U.S.C. § 1881a(m)(1) requires the Attorney General and the Director of National Intelligence (DNI) to assess compliance with certain procedures and guidelines issued pursuant to FISA Section 702 (hereinafter, “Section 702”), and to submit a “Semiannual Assessment” (referred to herein as a “Joint Assessment”) to the Foreign Intelligence Surveillance Court (FISC) and relevant congressional committees at least once every six months. As of September 2024, 29 joint assessments have been submitted.

(U) This assessment covers the period from 01 June 2022 through 30 November 2022 (hereinafter, the “reporting period”) and serves as a corollary to the Semiannual Report of the Attorney General Concerning Acquisitions under Section 702 of the Foreign Intelligence Surveillance Act as required by Section 707(b)(1) of FISA (hereinafter, the “Section 707 Report”). The Department of Justice (DOJ) submitted the Section 707 Report in March 2023; it covers the same reporting period as this joint assessment. This report is based on compliance data included in the corresponding Section 707 Report, but provides additional perspective on overarching trends and more focused information on oversight and training activities, as well as the overall health of the program at each agency. New to this joint assessment, the joint oversight team has streamlined the report by significantly reducing its length and focusing its discussion on material trends.

(U) Section 702 authorizes, subject to restrictions imposed by the statute and required targeting, minimization, and querying procedures, the targeting of non-United States persons reasonably believed to be located outside the United States in order to acquire foreign intelligence information. This joint assessment is based upon the compliance assessment activities conducted by a joint oversight team consisting of experts from DOJ’s National Security Division (NSD) and the Office of the Director of National Intelligence (ODNI) (hereinafter, the “joint oversight team”).

**(U) The information discussed in this report predates the reforms passed by Congress in the Reforming Intelligence and Securing America Act (RISAA), which became law on April 20, 2024. As a result, none of the information or trends discussed in this report reflects implementation of the provisions of RISAA. Additionally, given these statutory changes to Section 702, as well as changes made to the implementation of Section 702, in particular at FBI, the joint oversight team has made changes to the structure of these Joint Assessments in order to provide a higher-level assessment of the government’s implementation of Section 702 and highlight any discernable compliance trends.**

(U) The total number of compliance incidents related to targeting, querying, or the minimization procedures across all four agencies during this reporting period declined significantly relative to the prior reporting period. While the NSA targeting compliance incident rate went up

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slightly, it was mostly due to a single incident; the FBI querying compliance incident rate continued to drop.

(U) Considering Section 702 compliance as a whole, the joint oversight team finds that the agencies have continued to implement the procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the requirements of Section 702. The personnel involved in implementing the authorities are appropriately focused on directing their efforts at non-United States persons reasonably believed to be located outside the United States for the purpose of acquiring foreign intelligence information. Processes are in place to implement these authorities and to impose internal controls for compliance and verification purposes.

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~~TOP SECRET//SI//NOFORN~~**(U) SECTION 1: INTRODUCTION**

(U) Section 702(m)(1) of the Foreign Intelligence Surveillance Act of 1978 (FISA), 50 U.S.C. § 1881a(m)(1), requires the Attorney General and the Director of National Intelligence (DNI) to assess compliance with certain procedures and guidelines issued pursuant to Section 702 and to submit such assessments to the Foreign Intelligence Surveillance Court (FISC) and relevant congressional committees at least once every six months. To fulfill this requirement, a team of oversight personnel from the Department of Justice's (DOJ) National Security Division (NSD) and the Office of the Director of National Intelligence (ODNI) (hereinafter, the "joint oversight team") conducts compliance reviews to assess whether the authorities under Section 702 have been implemented in accordance with the applicable procedures and guidelines, discussed herein. This report sets forth NSD and ODNI's 29<sup>th</sup> joint compliance assessment, based on oversight activities covering the period 01 June 2022 through 30 November 2022 (hereinafter, the "reporting period").<sup>1</sup>

(U) Per subsection (b) of Section 702, collection authorized pursuant to Section 702:

- (1) may not intentionally target any person known at the time of acquisition to be located in the United States;
- (2) may not intentionally 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;
- (3) may not intentionally target a United States person reasonably believed to be located outside the United States;
- (4) may not intentionally 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; and
- (5) shall be conducted in a manner consistent with the Fourth Amendment to the Constitution of the United States.

(U) In addition to these statutory limitations, Section 702 requires that the Attorney General, in consultation with the DNI, adopt targeting, minimization, and querying procedures. Targeting is effectuated by tasking communications facilities (such as telephone numbers and electronic communications accounts) from or with the assistance of an electronic communication service provider. Minimization procedures 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. Querying procedures set rules for conducting queries of unminimized Section 702-acquired information, including rules that apply to the use of United

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<sup>1</sup> (U) This report serves as a corollary to the Semiannual Report of the Attorney General Concerning Acquisitions under Section 702, which was previously submitted in March 2023, as required by Section 707(b)(1) of FISA (hereinafter, the "Section 707 Report"). This 29<sup>th</sup> Joint Assessment covers the same reporting period as the 29<sup>th</sup> Section 707 Report and uses information included in the Section 707 Report to identify trends in compliance and assess the need for added training and mitigation strategies.

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States person identifiers as query terms. Additionally, the Attorney General and the DNI have established guidelines that provide supplemental constraints on Section 702 collection and use.

(U) During this reporting period, the Government acquired foreign intelligence information under Attorney General and DNI authorized Section 702(h) certifications that targeted non-United States persons reasonably believed to be located outside the United States in order to acquire different types of foreign intelligence information that have been specifically authorized pursuant to the Section 702(h) certifications. Four organizations are primarily involved in implementing Section 702: the National Security Agency (NSA), the Federal Bureau of Investigation (FBI), the Central Intelligence Agency (CIA), and the National Counterterrorism Center (NCTC).

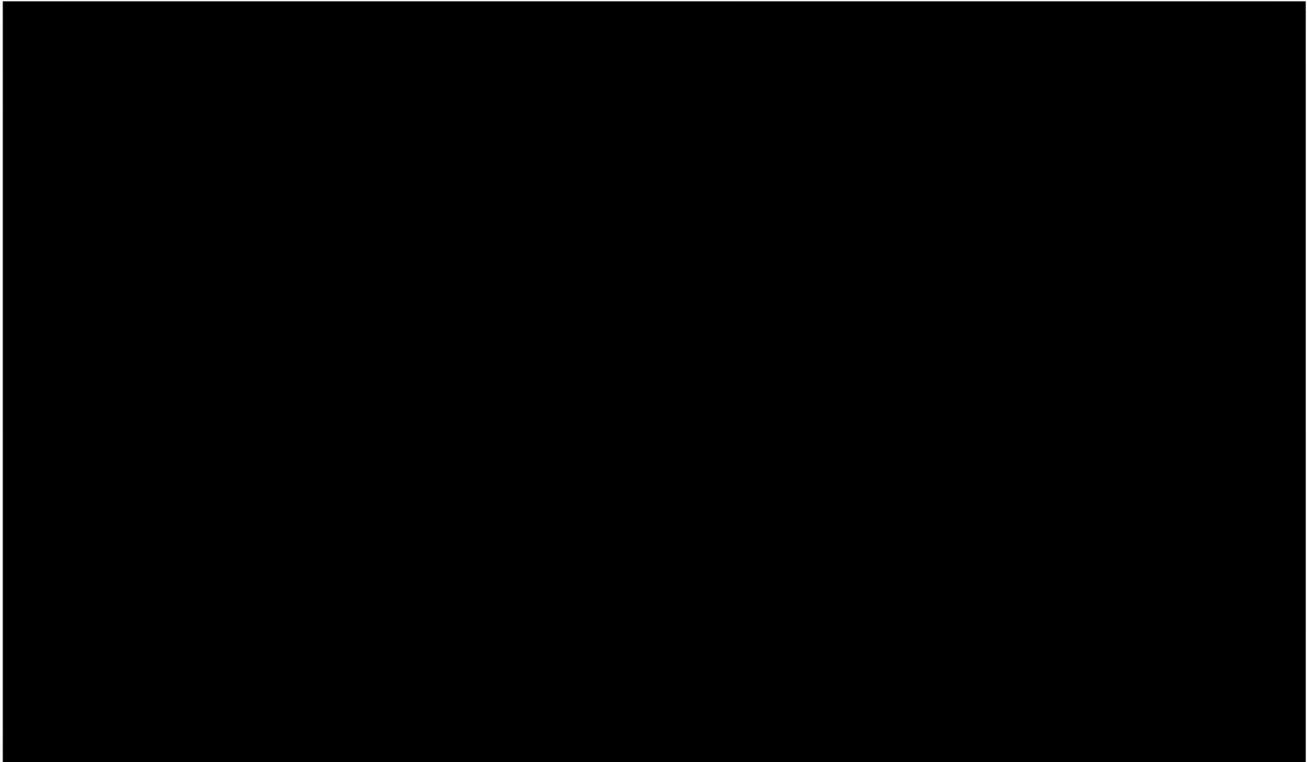
(U) The joint oversight team—consisting of members from NSD, the ODNI Office of Civil Liberties, Privacy, and Transparency (CLPT), the ODNI Office of General Counsel (OGC), and the ODNI Mission Integration Directorate's Mission Performance, Analysis, and Collection (MPAC)—conducts independent Section 702 oversight activities. The team members play complementary roles in the review process. NSD reports all compliance incidents to the FISC and works with agencies to investigate incidents.

(U) New this reporting period, the joint oversight team has decided to significantly reduce the length of the joint assessment to make it more accessible to readers and focus on material trends in the use of, and compliance with the requirements of, Section 702. The joint oversight team has accordingly removed information that is already reported in other reports or, in the view of the joint oversight team, added length to this report without adding corresponding value to a discussion of use and compliance trends. Certain of the information that has been removed, such as the discussion of the joint oversight program and the Appendix included in prior joint assessments, and is available on [intel.gov/FISA](https://intel.gov/FISA).

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~~TOP SECRET//SI//NOFORN~~**(U) SECTION 2: TARGETING TRENDS**

(U) Targeting is a multiagency process that relies on substantial and ongoing coordination among participating agencies. This section provides certain statistics regarding Section 702 targeting activities. To the extent that the joint oversight team was able to identify compliance trends in the reporting period, those will be discussed in the following sections.

**(U) Acquisition of In-transit Communications****(U) Figure 1: Average Number of Facilities under Collection**

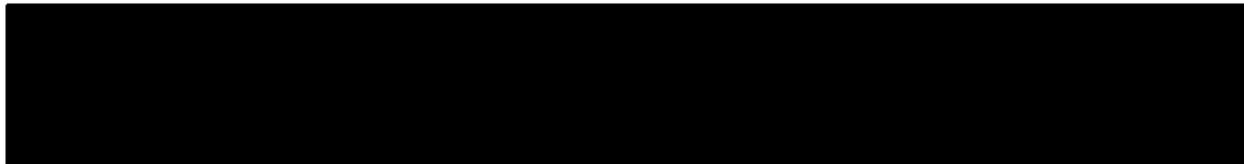
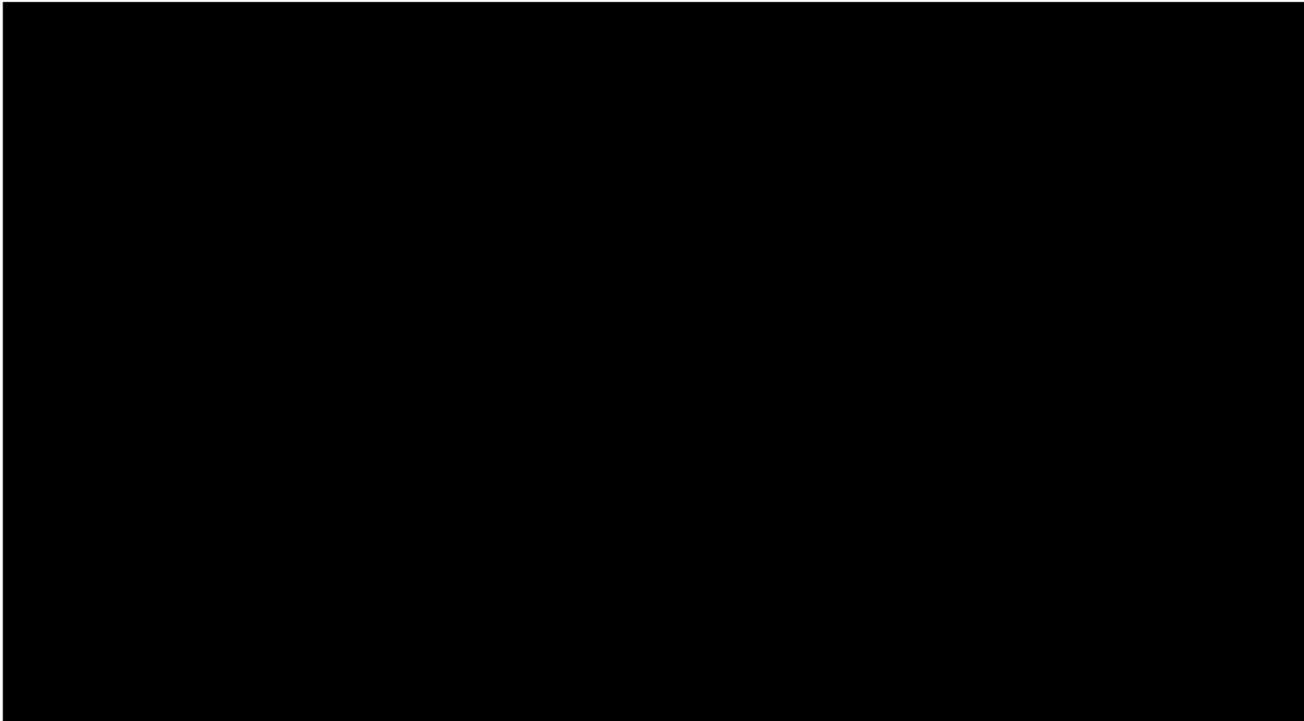
(U) Figure 1 presents the classified average number of facilities that were under collection on any given day during the reporting period. Since the inception of the program, the total number of facilities under collection has steadily increased during each reporting period, with the exception of two reporting periods that experienced minor decreases. The average number of facilities subject to acquisition during the reporting period remains classified and is different from the unclassified estimated number of Section 702 targets released by ODNI in its Annual Statistical Transparency Report Regarding the Intelligence Community's Use of National Security Surveillance Authorities ("ASTR"). These classified numbers estimate the number of facilities subject to Section 702 acquisition, whereas the unclassified numbers provided in the ASTR estimate the number of Section 702 targets. As noted in the ASTR, the number of Section 702 targets reflects an estimate of the number of known users of particular facilities, however, each target may use multiple facilities. The classified number of facilities accounts for the average number of those facilities subject to

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acquisition under Section 702 during the current six-month reporting period, whereas the ASTR estimates the number of Section 702 targets during the calendar year.

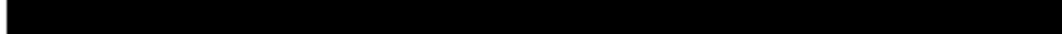
**(U) Figure 2: Number of Facilities under Collection by Certification<sup>2</sup>**



(U) Under Section 702, NSA may request that FBI acquire communications from certain designated facilities (hereinafter, “Designated Accounts”) that have been previously approved for Section 702 acquisition under the NSA targeting procedures.<sup>3</sup> FBI applies its own targeting

<sup>2</sup> (S//NF) The total number of facilities tasked by certification for the June 2018 to November 2018 period are unavailable due to a system issue during that reporting period.

<sup>3</sup> (S//NF) The number of facilities designated for acquisition referenced here specifically deals with the acquisition of



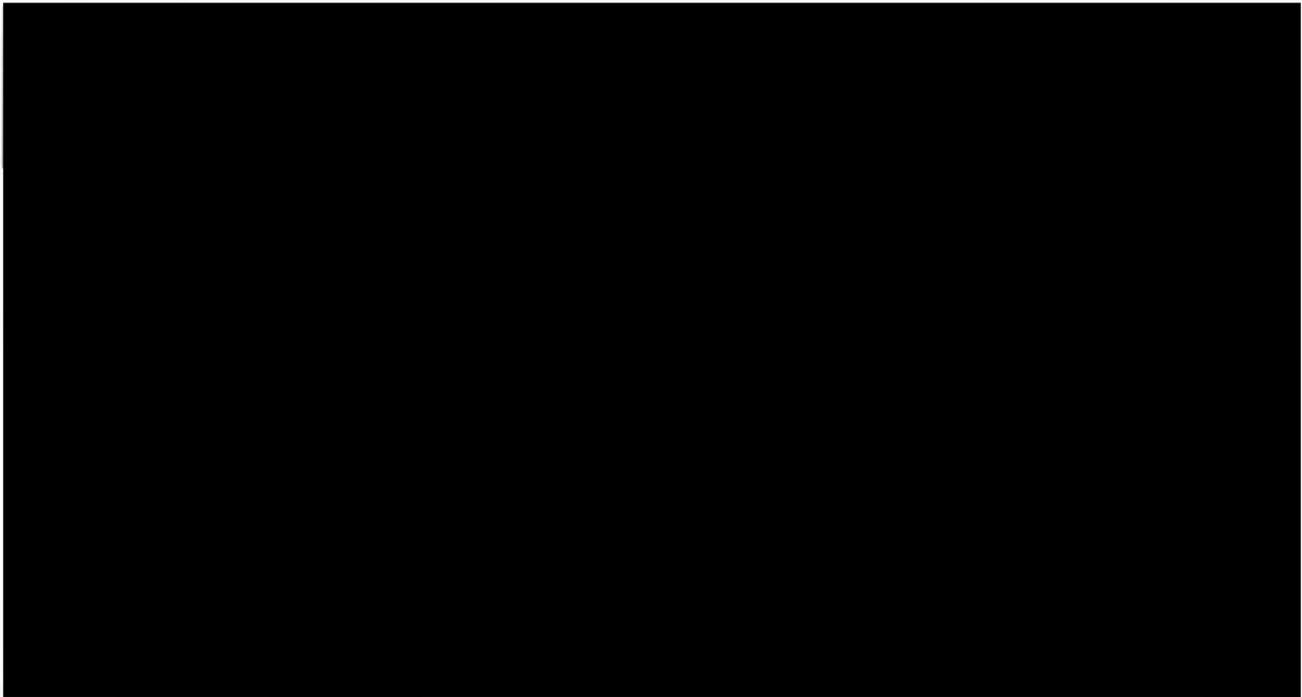
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procedures with regard to these Designated Accounts. FBI reports to the joint oversight team the number of facilities designated by NSA and the number of Designated Accounts.<sup>4</sup>

(U) Figure 3 compares the number of facilities newly *tasked* by NSA during a given period with the number of accounts *designated* by NSA to FBI for acquisition of communications and the number of accounts *approved* by FBI for acquisition. The yearly average of Designated Accounts approved by FBI increased each year from 2015 through 2019. The average decreased in 2020, likely due, at least in part, to the coronavirus pandemic. In 2021 and 2022, the average exceeded the previous maximum reported in 2019.

(S//NF) **Figure 3: In-Transit Taskings**  
**Approvals**



(S//NF) As Figure 3 illustrates, FBI approves the vast majority of NSA's Designated Accounts, and the percentage of approved Designated Accounts has been consistently high across reporting periods. The high rate of approval can be attributed to the fact that the Designated Accounts have already satisfied the NSA targeting procedures. FBI might not approve NSA's request for acquisition of a Designated Account for several reasons, including withdrawal of the request because the potential data to be acquired is no longer of foreign intelligence interest, or because FBI has uncovered information causing NSA and/or FBI to question whether the user or users of the Designated Account are non-United States persons located outside the United States. Over the existence of the Section 702 authority, only a small portion of Designated Accounts –

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approximately [REDACTED] – was rejected on the basis that they were ineligible for Section 702 collection.

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### (U) SECTION 3: ASSESSMENT OF SECTION 702 ACTIVITIES – NSA

(U) All Section 702 targeting is initiated pursuant to NSA’s targeting procedures. Accordingly, NSA is responsible for conducting post-tasking checks of all Section 702-tasked facilities once collection begins. NSA must also minimize its collection in accordance with its minimization procedures and conduct queries in accordance with its querying procedures. Given its central role in the Section 702 process, NSA has devoted substantial oversight and compliance resources to monitoring its implementation of the Section 702 authorities.

(U) The joint oversight team conducts periodic compliance reviews, which NSA’s targeting procedures require every sixty days.

#### (U) I. Section 702 Data and Compliance Trends

(U) As has been true historically, most of the compliance incidents occurring during this reporting period—excluding FBI querying incidents—involved noncompliance with NSA’s targeting, minimization, or querying procedures.<sup>5</sup> This largely reflects the centrality of NSA’s role in the Government’s implementation of the Section 702 authority.

(U) The compliance incidents involving NSA’s targeting, minimization, or querying procedures have generally fallen into the categories below.<sup>6</sup> However, in some instances, an incident may involve more than one category of noncompliance. Such instances are typically reported as multiple errors.

(U) Types of incidents of noncompliance with NSA’s Targeting Procedures:

- (U) *Tasking Incidents*. Incidents where noncompliance resulted in an error in the initial tasking of the facility. Tasking errors cover a variety of incidents, ranging from the tasking of an account that the Government reasonably should have known was used by a United States person or a person located in the United States, to typographical errors in the initial tasking of the account that do not affect United States persons or persons located in the United States.
- (U) *Detasking Incidents*. Incidents in which the facility was properly tasked, but errors in the detasking of the facility caused noncompliance. Detasking errors more often involve facilities used by United States persons or persons located in the United States, including users who may not have been the intended target. A single detasking delay may involve multiple facilities that were not timely detasked.

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<sup>5</sup> (U) As is discussed in the Section 707 Report and below, some compliance incidents involve more than one agency. Incidents have therefore been grouped not by the agency “at fault,” but instead by the set of procedures that such actions violated.

<sup>6</sup> (U) While these categories specifically pertain to NSA incidents, the FBI’s targeting incident categories and all agencies’ minimization and querying incident categories generally align with these NSA categories.

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- (U) *Overcollection*. Incidents in which NSA’s collection systems, in the process of attempting to acquire the communications of properly tasked facilities, also acquired data regarding untasked facilities, resulting in “overcollection.”
- (U) *Notification Delays*. Incidents in which a notification requirement was not satisfied.<sup>7</sup>
- (U) *Documentation Incidents*. Incidents where the basis for targeting a facility was not properly documented.

(U) Types of incidents of noncompliance with NSA’s Minimization Procedures and NSA’s Querying Procedures:

- (U) *Minimization Incidents*. Incidents relating to improper acquisition, retention, use, or dissemination.
- (U) *Querying Incidents*. Incidents relating to improper queries of unminimized Section 702-acquired information—generally, queries that were either (i) not reasonably likely to retrieve foreign intelligence information, or (ii) United States person queries of content that were not pre-approved by NSA OGC, as required by NSA’s querying procedures.

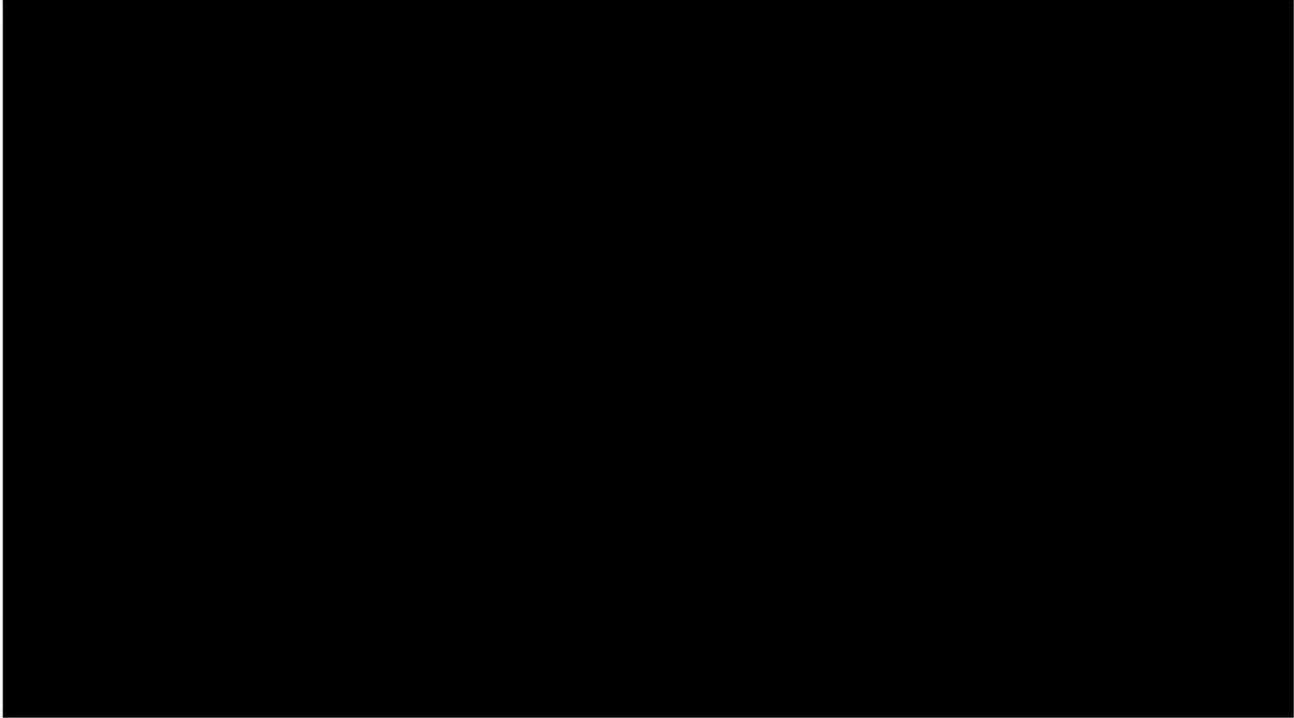
(U) *Other Incidents*. This category involves incidents that do not fall into one of the above categories. In these instances, the joint oversight team assesses each incident to determine if it resulted from noncompliance with NSA’s targeting, minimization, or querying procedures and accounts for those incidents accordingly.

(U) Figure 4 presents the classified number of NSA incidents in each category over the last five reporting periods.

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<sup>7</sup> (U) A compliance incident may involve both a failure to meet the notification requirement and a substantive error (for example, a tasking or detasking error). In those instances, the substantive error was counted separately from the notification delay. For the majority of notification delays, the only incident of noncompliance was the failure to comply with the notification requirement.

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~~TOP SECRET//SI//NOFORN~~**(U) Figure 4: Numerical Breakdown of Compliance Incidents Involving NSA’s Targeting, Minimization, and Querying Procedures<sup>8</sup>**

(U) ~~(S//NF)~~ As shown in Figure 4, there was a large increase in the number of tasking errors during this reporting period. Most of these tasking errors resulted from a single set of related incidents in which a particular targeting office misunderstood one aspect of NSA’s targeting procedures. Apart from this single set of incidents, the joint oversight team has not identified any overarching trends in compliance by incident type. The joint oversight team continues to track this breakdown in case it reveals a need for additional oversight or training.

**(U) A. Incidents Involving NSA’s Targeting Procedures**

(U) The number of NSA’s “targeting incidents” includes the following categories of incidents that implicate NSA’s targeting procedures: tasking errors, detasking delays, documentation errors, notification delays, overcollection incidents (if any), and any other incidents that involve the targeting procedures. Figure 5 provides the NSA targeting compliance incident rate

<sup>8</sup> ~~(S//NF)~~ During this reporting period, the overall number of NSA incidents increased [REDACTED] the previous reporting period [REDACTED] this reporting period. The number of tasking incidents increased [REDACTED] detasking incidents [REDACTED] minimization incidents increased [REDACTED] querying incidents increased [REDACTED] documentation incidents increased [REDACTED] and other incidents decreased [REDACTED]. The number of notification delays decreased [REDACTED]. There were no overcollection incidents in this period or the three prior periods.

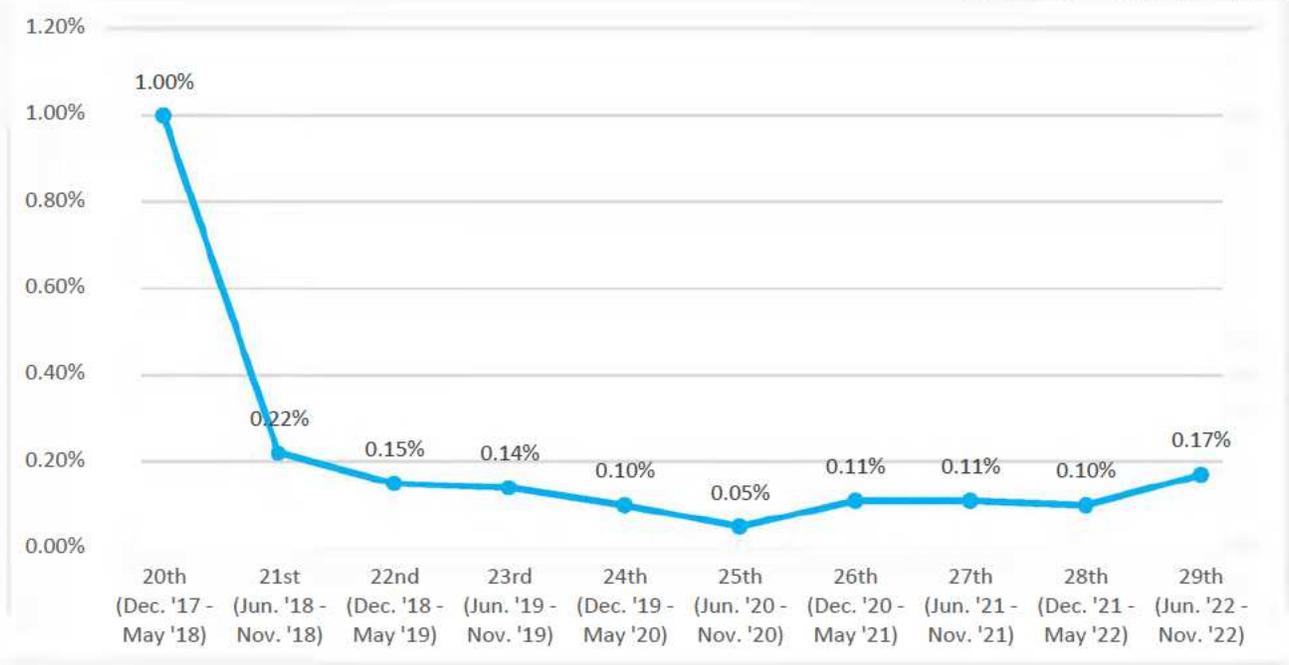
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for the last ten reporting periods. This metric is calculated as NSA’s number of targeting incidents, expressed as a percentage of the average number of tasked facilities.<sup>9</sup>

**(U) Figure 5: NSA Targeting Compliance Incident Rate<sup>10</sup>**

(U) Figure 5 is UNCLASSIFIED.



(U) While the targeting incident rate increased during this reporting period, that increase was due to a single set of related tasking errors (described in the previous section), most of which occurred prior to the reporting period. The joint team continues to assess that the consistently low NSA targeting compliance incident rate is a result of a focus on compliance, as well as training, internal due diligence processes designed to prevent improper taskings, automated systems designed to provide timely alerts to NSA personnel when facilities need to be detasked, and internal processes for remediating compliance incidents through additional training and counseling.

<sup>9</sup> (TS//SI//NF) As noted above, on average, approximately [redacted] facilities were under collection pursuant to Section 702 on any given day during this reporting period.

<sup>10</sup> (U) The increase in the NSA targeting compliance incident rate reported in the 20<sup>th</sup> Joint Assessment (December 2017 to May 2018) was primarily due to a single NSA targeting office misunderstanding how to use a targeting tool.

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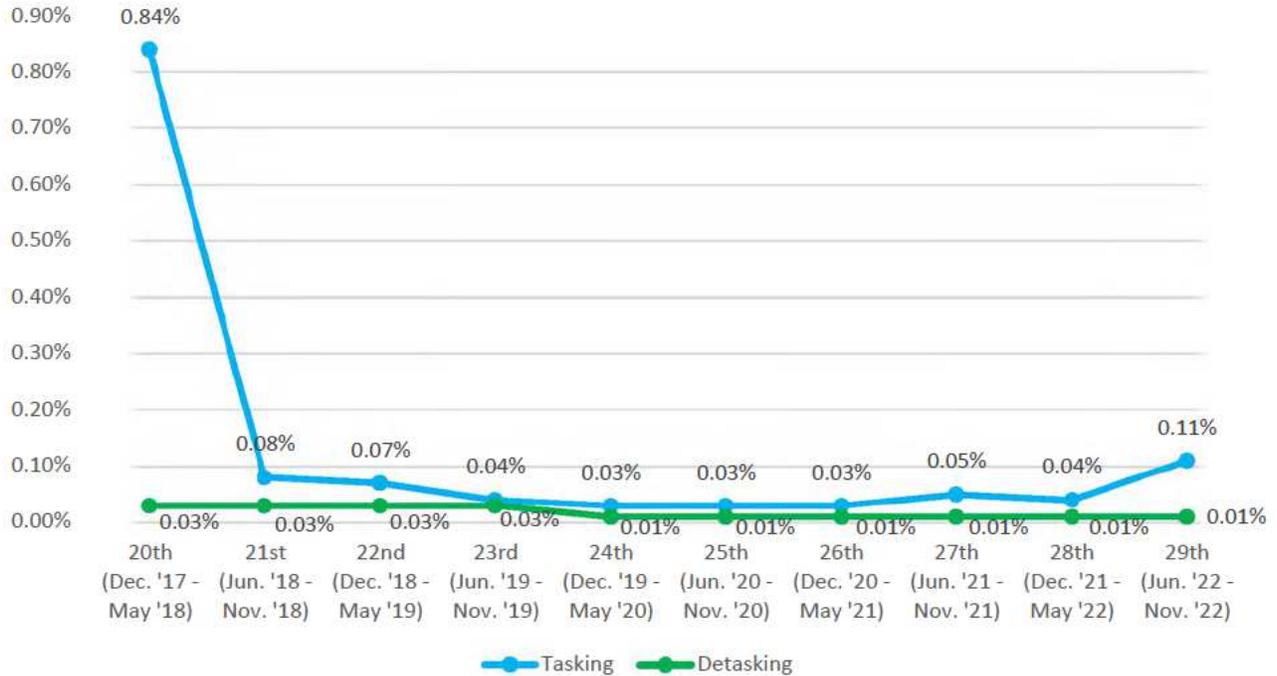
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**(U) Tasking and Detasking Incident Trends**

(U) Figure 6 separates out tasking and detasking incidents and presents the compliance incident rate for each (as a percentage of the average number of tasked facilities), allowing for analysis of their respective trends.

**(U) Figure 6: Tasking and Detasking Incident Compliance Rates**

(U) Figure 6 is UNCLASSIFIED.



(U) Most of the compliance incidents involving NSA’s targeting procedures during this reporting period did not involve United States persons. With respect to those that did, United States persons were primarily impacted by (1) tasking errors that led to the tasking of facilities used by United States persons, and (2) delays in detasking facilities after NSA determined that the user of the facility was a United States person. Consistent with previous reporting periods, the number of such errors remained low—the tasking incident rate involving United States persons was 0.0008 percent and the detasking compliance incident rate involving United States persons was 0.0013 percent. Nonetheless, the impact of compliance incidents on United States persons is a primary concern of the joint oversight team. Accordingly, the following sections disaggregate tasking and detasking incidents impacting United States persons.

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(U) *Tasking Incidents*

(U) (1) *Tasking Incidents Impacting United States Persons*

(U) During this reporting period, the total number of tasking errors involved in the direct or indirect targeting of United States persons or presumed United States persons<sup>11</sup> decreased by 77.3 percent compared to the previous period.<sup>12</sup>

(U) The errors impacting United States persons involved the tasking of facilities where the Government knew or should have known at the time of tasking that at least one user of the tasked facility was a United States person. These incidents represent isolated instances of insufficient due diligence or other oversights, and did not involve an intentional effort to target a United States person. The majority of these tasking errors involved situations where an analyst made an erroneous assessment, overlooked information, and/or conducted insufficient research prior to tasking a facility and, as a result, tasked a facility used by a United States person.

(U) (2) *Common Tasking Incidents Not Impacting United States Persons*

(U) As discussed above, most of the compliance incidents during this reporting period did not involve United States persons. During this reporting period, errors in establishing a sufficient basis to assess that a target would possess, receive, or communicate foreign intelligence accounted for the largest portion of tasking errors, followed by errors in establishing a sufficient basis to assess that a target was located outside the United States. These and other common types and causes of tasking errors not impacting United States persons are discussed below.

- (U) “Foreign intelligence information purpose” errors: Certain tasking errors result from NSA’s failure to establish a valid “foreign intelligence information purpose” for the tasking—*i.e.*, that the targeted user is reasonably expected to possess, receive, and/or is likely to communicate foreign intelligence information as defined in 50 U.S.C. § 1801(e), in relation to the categories of foreign intelligence information specified in the Section 702 certifications. In some cases, this was because the tasking did not relate to one of the specific categories of foreign intelligence information authorized pursuant to the Section 702(h) certifications; in other cases, this was because there was not a sufficient connection between the targeted individual and the Section 702(h) certification, such that the user was not reasonably expected to possess, receive, and/or was not likely to communicate foreign intelligence information. The total number of such tasking errors increased significantly during this period due to one set of incidents

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<sup>11</sup> (U) NSA’s targeting procedures require that “[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 the person is no longer a United States person is made . . . 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)[.]”

<sup>12</sup> (S//NF) There were [REDACTED] tasking errors during this reporting period that involved the direct or indirect targeting of United States persons or presumed United States persons, [REDACTED] fewer incidents than the [REDACTED] in the prior reporting period.

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involving a large number of facilities.<sup>13</sup> Excluding that single set of incidents, the total number of such tasking errors decreased by 57.4 percent as compared to the prior reporting period. In all of the instances, at the time of tasking, NSA had sufficiently established that the users were non-United States persons located outside the United States.

- (U) “Foreignness determination” errors: Certain tasking errors result when NSA does not establish a sufficient basis to assess that a target was located outside the United States (otherwise referred to as the “foreignness determination”). Certain of these incidents involved the failure to conduct a necessary foreignness check prior to tasking, or involved too long of a delay between the necessary foreignness checks and the tasking of the facility. The total number of foreignness determination tasking errors decreased by approximately 26.9 percent, as compared to the prior reporting period.
- (U) Typographical errors: Certain tasking errors result from typographical or similar errors. During this reporting period, the total number of such tasking errors decreased by 4 percent. In most of these incidents, NSA advised that there was no indication that the relevant facilities were used by a United States person or by someone in the United States.
- (U) Administrative updates: Certain tasking errors stem from the incorrect processing of administrative updates to tasking records in NSA systems, which results in NSA retasking the facility pursuant to Section 702 without fully applying its targeting procedures. During this reporting period, the total number of such tasking errors increased by 26.3 percent, however, the number of facilities impacted by these incidents decreased by 88.5 percent.

<sup>13</sup> ~~(TS//SI//NF)~~ This set of over [REDACTED] incidents involved the decision by a single NSA targeting office to task selectors [REDACTED] NSA could not sufficiently [REDACTED] targets were likely to possess, receive, or communicate foreign intelligence information.

~~(TS//SI//NF)~~ Subsequent investigation revealed that these errors were the result of one target office’s misunderstanding of guidance it received [REDACTED]

was sufficient to task the facilities under the Section 702 Counterterrorism certification. [REDACTED]

[REDACTED] NSA further advised that training has been offered enterprise-wide to refresh analysts on drafting targeting rationale statements. In all of these incidents, NSA advised that there is no indication that any of the facilities were used by a United States person or by someone in the United States.

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(U) In all of the above tasking incidents, personnel were reminded of the Section 702 tasking requirements, and any applicable collection was purged, or is in the process of being purged, as required by NSA's targeting and minimization procedures.

**(U) A. Detasking Incidents**

*(U) (1) Detasking Incidents Impacting United States Persons*

(U) During the reporting period, the total number of detasking incidents increased by 25.4 percent, but the number of incidents involving facilities used by a United States person decreased by 33.3 percent, as compared to the prior reporting period.<sup>14</sup> The detasking incidents impacting United States persons in this reporting period were caused by unintentional human errors, including oversights and misunderstandings of the detasking requirements. In all of the incidents, personnel were reminded of the Section 702 tasking requirements, any applicable collection was purged, and any reporting based on the collection was recalled.

(U) Twenty-five percent of the detasking incidents impacting United States persons involved NSA analysts researching a target's status as a United States person rather than detasking promptly in circumstances where prompt detasking was required, because of a misunderstanding of the detasking requirements. The total number of such incidents decreased by 33.3 percent when compared to the prior reporting period.

*(U) (2) Common Detasking Incidents not Impacting United States Persons*

(U) The majority of the detasking incidents during this reporting period involved (i) non-United States persons who either traveled to the United States or appeared to have traveled to the United States, or (ii) unexplained indications that a Section 702-tasked facility appeared to have been accessed from within the United States. Some of the common types and causes of detasking errors from this reporting period are discussed below.

- ~~(TS//SI//NF)~~ Incomplete detaskings: Certain detasking delays result from NSA detasking (or another agency requesting that NSA detask) some, but not all, of a target's facilities. The total number of such incidents also increased by [REDACTED] percent during this reporting period.
- ~~(TS//SI//NF)~~ Staffing Issues: Certain detasking errors result from competing mission demands [REDACTED] however, during this reporting period, the restrictions were generally lifted, and no detasking errors occurred as a result [REDACTED]
- (U) System errors: Certain detasking errors result from system errors. There was only one such error reported this reporting period, the same as in the prior period.

<sup>14</sup> ~~(S//NF)~~ There were [REDACTED] detasking errors during this reporting period that involved facilities used by United States persons or presumed United States persons, [REDACTED] fewer incidents than the [REDACTED] in the prior reporting period.

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~~TOP SECRET//SI//NOFORN~~**(U) B. Minimization Incidents**

(U) NSA's minimization procedures detail requirements concerning the circumstances under which Section 702-acquired information may be *disseminated* and rules regarding how long unminimized Section 702-acquired information may be *retained*. During this reporting period, NSA minimization incidents increased by 43.8 percent compared to the previous reporting period; however, as with prior periods, minimization incidents nevertheless accounted for only a small proportion of total NSA incidents of noncompliance.<sup>15</sup> Particular issues of noncompliance with NSA's minimization procedures are detailed below.

(U) To provide context to the joint oversight team's review of dissemination incidents, Figure 9 presents two sets of information for the last ten reporting periods: (1) the classified total number of serialized reports identified by NSA as containing Section 702-acquired information and (2) the number of those serialized reports identified as containing United States person information. These disseminations are not compliance incidents but are provided to enhance transparency and understanding of the scope of incidents reported. During this reporting period, the overall number of serialized reports identified by NSA as containing Section 702-acquired information decreased when compared to the prior two reporting periods, and remained lower than the number of reports identified in reporting periods prior to the pandemic. In addition, the number of serialized reports NSA has identified as containing United States person information decreased slightly when compared with the previous four reporting periods.<sup>16</sup>

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<sup>15</sup> ~~(S//NF)~~ There were [REDACTED] minimization incidents during this reporting period, [REDACTED] more incidents than the [REDACTED] in the prior reporting period.

<sup>16</sup> (U) NSA does not maintain records that allow it to readily determine, in the case of a report that includes information from several sources, from which source a reference to a United States person was derived. Accordingly, the references to United States person identities may have resulted from collection pursuant to Section 702 or from other authorized signals intelligence activity conducted by NSA that was reported in conjunction with information acquired under Section 702. Thus, the number provided in Figure 7 is likely over-inclusive.

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**(U) Figure 7: Total Disseminated NSA Serialized Reports Based on Section 702-acquired Information and Number of Such Reports NSA Identified as Containing USP Information**



(U) Incidents involving NSA's dissemination of United States person information that was not necessary to understand or assess the importance of foreign intelligence information or evidence of a crime increased by 30 percent compared to the prior reporting period, but remained a small proportion of all total NSA incidents.<sup>17</sup>

**(U) As with previous reporting periods, there were no identified NSA incidents of an analyst intentionally violating the dissemination rules.**

**(U) C. Querying Incidents**

(U) NSA's querying procedures detail requirements for queries of unminimized Section 702-acquired information, including two principal restrictions.

- 1) (U) NSA's Section 702 querying procedures in effect during this reporting period permitted queries of unminimized Section 702-acquired content using United States person identifiers, provided that such terms must *be approved by NSA OGC* prior to the query being executed. If an NSA analyst uses a United States person identifier that has not been approved by NSA OGC to query Section 702-acquired content, it constitutes a compliance incident.

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<sup>17</sup> ~~(TS//SI//NF)~~ There were [REDACTED] incidents involving NSA's dissemination of Section 702-acquired information that was not necessary to understand or assess the importance of foreign intelligence information or evidence of a crime, compared to [REDACTED] in the previous reporting period.

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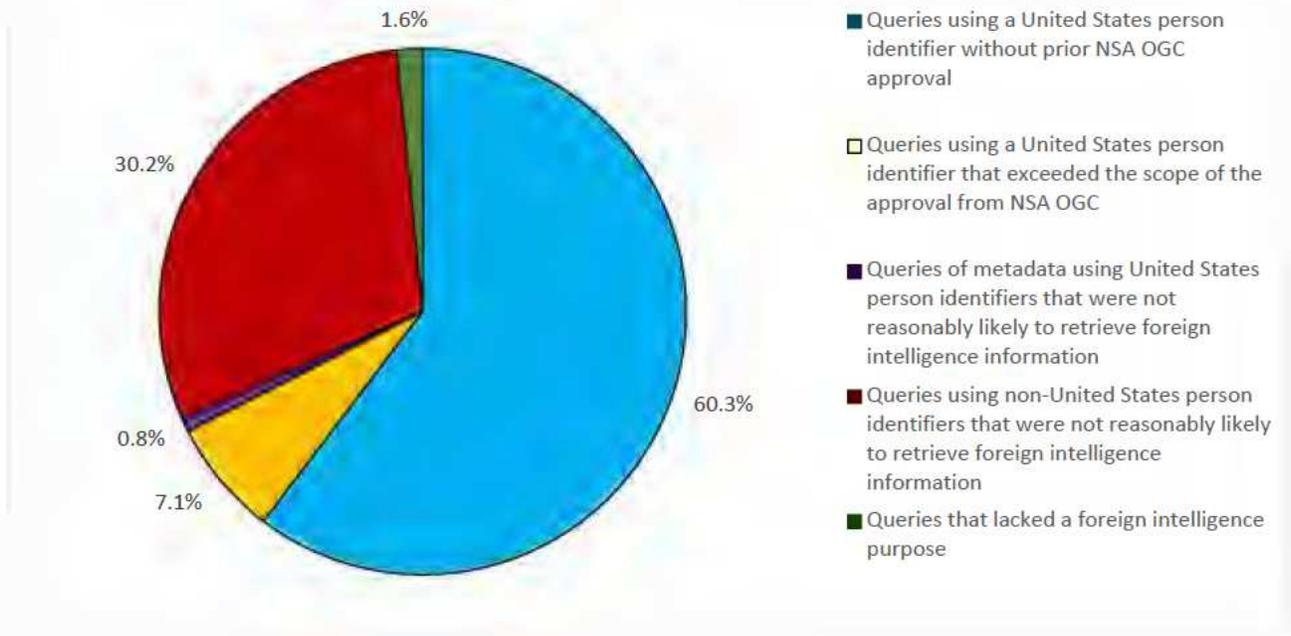
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2) (U) NSA’s Section 702 querying procedures in effect during this reporting period required that queries of unminimized Section 702-acquired collection must be “reasonably likely to retrieve foreign intelligence information.” If a query does not meet this standard due to a typographical or comparable error in the construction of the query term,<sup>18</sup> such an error constitutes a compliance incident, regardless of whether the query term used a non-United States person identifier or a United States person identifier.

(U) During this reporting period, the number of improper queries increased by 7.7 percent, as compared to the prior period.<sup>19</sup> Figure 8 provides a breakdown of NSA’s querying incidents by type.

**(U) Figure 8: Percentage Breakdown of Compliance Incidents Involving NSA’s Querying Procedures, by Type**

(U) Figure 8 is UNCLASSIFIED.



(U) The joint oversight team assesses that NSA’s training and guidance have contributed positively to its overall compliance with its querying procedures. Although individuals continue to make mistakes, the joint oversight team has reviewed the human errors that caused the querying errors during this reporting period and has not identified any discernible patterns in the types or causes of these errors.

<sup>18</sup> (U) For example, this type of query incident occurs when an analyst mistakenly inserts an “or” instead of an “and” in constructing a Boolean query, resulting in an improperly tailored query that would potentially receive overly broad results and would be unlikely to retrieve foreign intelligence information.

<sup>19</sup> (S//NF) There were [redacted] querying incidents during this reporting period, [redacted] more incidents than the [redacted] in the prior reporting period.

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~~TOP SECRET//SI//NOFORN~~**(U) II. Compliance Assessment**

(U) During this reporting period, the joint oversight team found that NSA continued to implement the procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the requirements of Section 702. Additionally, NSA continues to proactively identify, report, and address compliance incidents as they arise. In response to compliance incidents, NSA routinely reminds its personnel about the requirements in the Section 702 procedures and to exercise care when completing processes. The joint oversight team assesses that the low NSA targeting compliance incident rate is a result of training, internal processes designed to identify and remediate potential compliance issues, and a continued focus by internal and external oversight personnel to ensure compliance with the applicable procedures. The joint oversight team will continue to be attentive to trends that may indicate that additional training or guidance would be helpful.

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~~TOP SECRET//SI//NOFORN~~**(U) SECTION 4: ASSESSMENT OF SECTION 702 ACTIVITIES – FBI**

~~(S//NF)~~ FBI fulfills various roles in the implementation of Section 702. First, FBI is authorized under the certifications to acquire foreign intelligence information. Pursuant to its own authority, FBI is authorized to [REDACTED] from electronic communication service providers by targeting facilities that NSA designates. Those acquisitions must be conducted pursuant to FBI's Section 702 targeting procedures. FBI also conveys [REDACTED] from the electronic communication service providers to NSA—and to itself and CIA and NCTC—for processing in accordance with the agencies' FISC-approved minimization procedures.

~~(S//NF)~~ Second, FBI [REDACTED]

(U) Third, as described below, FBI is authorized to receive and use Section 702-acquired information. FBI has a process for nominating to NSA new facilities to be targeted pursuant to Section 702. FBI may also receive dual-routed,<sup>20</sup> unminimized Section 702-acquired information. FBI is authorized to retain, analyze, and disseminate the information obtained from these taskings in compliance with its minimization procedures, as well as query unminimized Section 702-acquired information, in compliance with its querying procedures.

**(U) I. Section 702 Data and Compliance Trends**

(U) The number of incidents relating to FBI's targeting and minimization procedures increased relative to the previous period. The vast majority of FBI compliance incidents reported during this period related to FBI's querying procedures, though the number of such incidents, and the number of FBI compliance incidents overall, both declined significantly relative to the previous reporting period.

**(U) A. Incidents Involving FBI's Targeting Procedures**

(U) ~~(S//NF)~~ Figure 9 shows the classified number of FBI targeting incidents for the last ten reporting periods. With three exceptions, including the current period, the number of FBI targeting errors has remained in the single digits for each of the last ten reporting periods. As described below, the above average number of FBI targeting incidents this reporting period is the result of FBI

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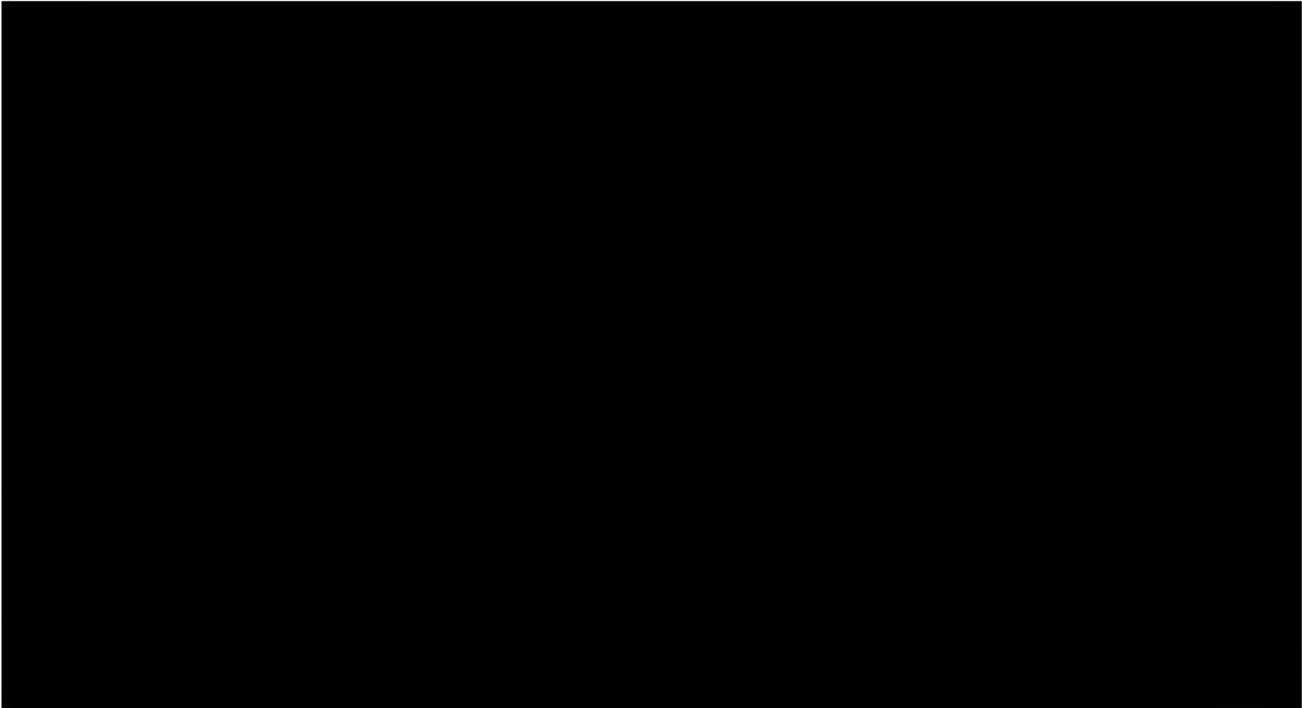
<sup>20</sup> (U) Dual-routing is the process whereby CIA, FBI, or NCTC requests that NSA route collection to them from facilities already tasked pursuant to Section 702.

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processing a backlog of questions from NSD audits spanning December 2021 through September 2022.

**(U) Figure 9: Number of Compliance Incidents Involving FBI Targeting Procedures**



~~(S//SI//NF)~~ As noted above in Section 2, NSA designated [REDACTED] for acquisition of [REDACTED] during the reporting period, a decrease from the prior reporting period when NSA designated [REDACTED] for [REDACTED] during this reporting period, which represents a decrease from the prior period, in which FBI approved [REDACTED] such requests.

~~(S//NF)~~ During this reporting period, there were [REDACTED] incidents involving noncompliance with FBI's targeting procedures, compared to [REDACTED] incidents in the previous reporting period. All [REDACTED] incidents involved either (i) FBI's failure to complete all diligence required by the FBI Section 702 targeting procedures prior to acquiring [REDACTED] from a designated account, or (ii) NSA's failure to provide to FBI certain information required by the FBI Section 702 targeting procedures when requesting that FBI acquire the [REDACTED] from a designated account. The FBI targeting compliance incident rate remained low, as it has throughout the Section 702 program (0.03 percent), which the joint oversight team attributes to FBI's strong training, systems, and processes.

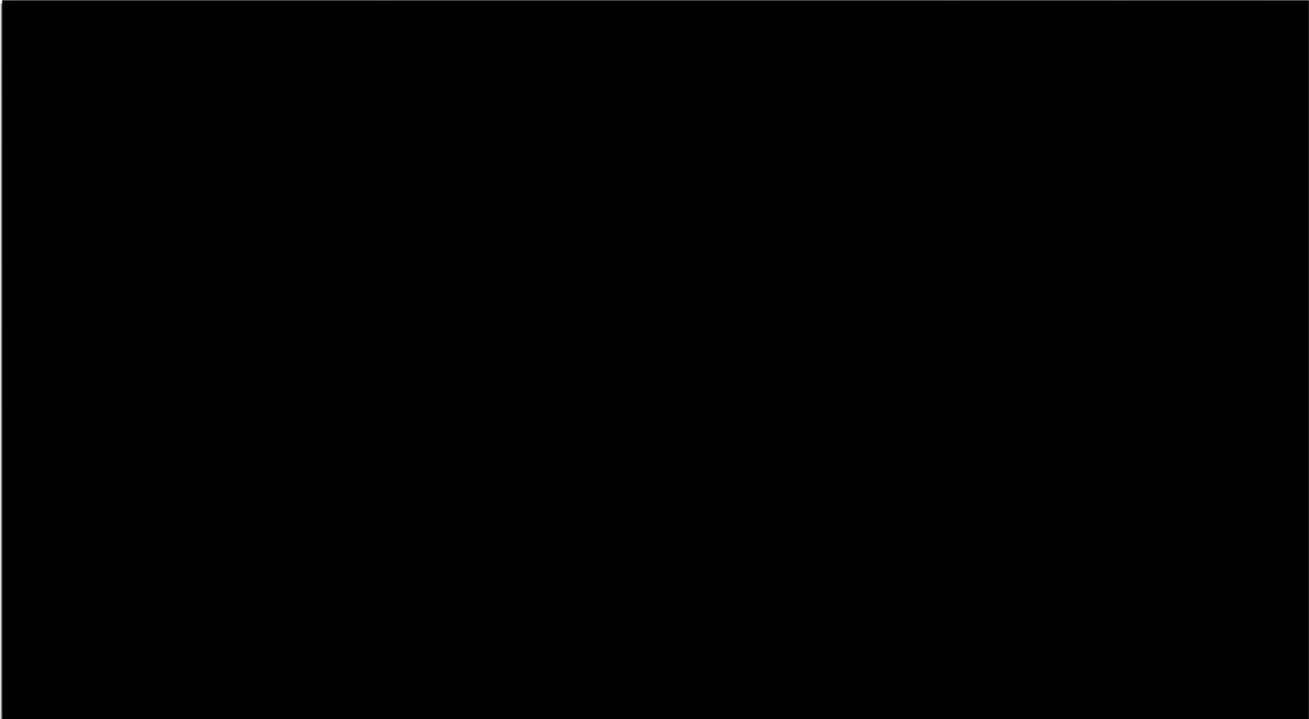
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## **(U) B. Incidents Involving FBI's Minimization Procedures**

(U) ~~(S//NF)~~ Figure 10 shows the classified number of FBI minimization incidents for the last ten reporting periods. As described below, the above average number of FBI minimization incidents this reporting period was the result of a single event.

### **(U) Figure 10: Number of Compliance Incidents Involving FBI Minimization Procedures**



~~(S//NF)~~ During this reporting period, there were [REDACTED] incidents involving noncompliance with FBI's minimization procedures, compared to [REDACTED] in the prior reporting period. The large increase is due to one matter related to an agent's failure to review the content of collection from [REDACTED] Section 702-tasked facilities for which FBI had assumed primary responsibility for reviewing and analyzing content. NSD discovered the matter during a minimization review at an FBI field office. NSD's review revealed that on two separate occasions, the responsible FBI case agent did not review collection at least every 30 business days due to [REDACTED]. There is no indication that any of the [REDACTED] facilities were used by a United States person or by someone in the United States.

## **(U) C. Incidents Involving FBI's Querying Procedures**

### **(U) Query Reviews**

(U) During this reporting period, NSD conducted query reviews of 24 FBI field offices and two FBI headquarters components. NSD reviewed a sample of the queries conducted by FBI field office personnel in FBI systems that contain unminimized FISA-acquired information, including Section 702-acquired information. NSD evaluates whether queries of Section 702-acquired information complied with the requirements in FBI's Section 702 querying procedures, as well as

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any court-mandated or statutory requirements. NSD also reviewed United States person queries in which the documented justification to access the results of the query indicated its purpose was to find only *evidence of a crime* (and not foreign intelligence) to evaluate compliance with reporting requirements established by the FISC, as well as certain additional requirements set forth in Section 702(f)(2) of FISA in effect at the time of the queries.

**(U) The query reviews covered by this report encompassed FBI queries conducted prior to the enactment of RISAA. As a result, the findings discussed in this report do not reflect in any way the implementation of the recent reforms passed by Congress in RISAA.** Pursuant to these new reforms, as of April 20, 2024, NSD is required to review all United States person queries conducted by FBI against unminimized Section 702-acquired information. RISAA also repealed the court-order requirement that was previously in Section 702(f)(2) of FISA, and the government will be required to amend FBI's query procedures to prohibit queries conducted solely to retrieve evidence of a crime, even those using non-U.S. person query terms, unless they are conducted for discovery purposes or in exigent circumstances.

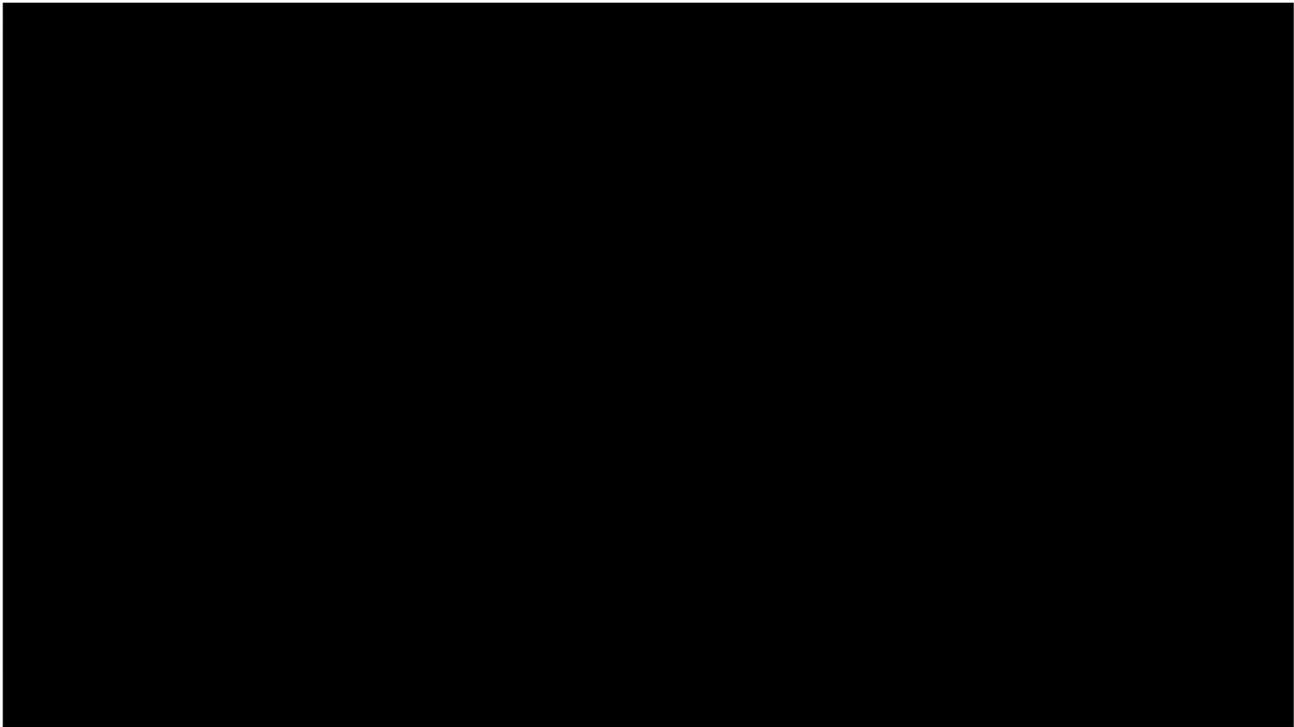
**(U) *Querying Incidents***

(U) Figure 11 shows the number of FBI querying incidents for the last ten reporting periods.<sup>21</sup> There were no identified incidents of FBI personnel intentionally running improper queries during this reporting period.

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~~(S//NF)~~ <sup>21</sup> (U) Neither the number of incidents reported in Figure 11, nor the FBI query compliance incident rates in Figure 12 below, are based on the number of compliance incidents that occurred during a given reporting period. Rather, each is based on incidents that were reported to the FISC as compliance incidents during the reporting period. [REDACTED] of the **noncompliant FBI queries reported herein were conducted during this reporting period; the remaining noncompliant FBI queries were identified and/or reported during this period but were conducted during prior periods.**

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~~TOP SECRET//SI//NOFORN~~**(U) Figure 11: Number of Compliance Incidents Involving FBI Querying Procedures**

(U) The number of FBI query incidents has fluctuated widely over the last 10 reporting periods. The joint oversight team assesses that this variance is likely due to several factors, including:

- (U) FBI's querying procedures did not require it to differentiate between United States person and non-United States person queries prior to September 2019.<sup>22</sup> Mislabeling incidents were therefore first reported after NSD resumed its FBI query reviews in February 2021 following their temporary suspension during the coronavirus pandemic.
- (U) Significant increases in the number of FBI query incidents during certain periods were driven by NSD's discovery of one or more large, non-compliant "batch jobs," which resulted in many non-compliant queries from a single user's error.
- (U) Between December 2017 and November 2019, the increase in FBI query incidents was likely attributable in part to NSD's increased focus on and experience with reviewing FBI querying practices, which resulted in NSD identifying larger numbers of non-compliant queries.
- (U) Between March 2020 and February 2021, the decrease in FBI query incidents was likely attributable in part to NSD's temporary suspension of its FBI field office query reviews during the peak of the coronavirus pandemic because, historically, a

<sup>22</sup> (S//NF) In September 2019, when the court approved the procedures, [REDACTED]

[REDACTED] The relevant system changes were made and operational by the end of November 2019.

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significant portion of query incidents have been discovered through NSD’s FBI field office reviews.

- (U) Between December 2021 and November 2022, the decrease in FBI query incidents was likely attributable, at least in part, to remedial measures that FBI implemented starting in the summer of 2021, including requiring attorney approval for large batch jobs.

(U) Figure 12 provides FBI query compliance incident rates for this reporting period, and Figure 13 breaks down the FBI query incidents reported this reporting period into different incident categories. **As shown by the FBI query standard compliance incident rate, approximately 99 percent of the queries reviewed by NSD met the query standard.**

**(U) Figure 12: FBI Query Compliance Incident Rates**

(U) Figure 12 is UNCLASSIFIED.

(U) Number of FBI queries reviewed by NSD in connection with NSD query reviews during which NSD identified the FBI query compliance incidents reported to the FISC during this reporting period	50,018
(U) Number of FBI query incidents identified by NSD and reported to the FISC during this reporting period	2,389
(U) FBI query standard compliance incident rate <sup>23</sup>	1.04 percent
(U) FBI query mislabeling rate <sup>24</sup>	3.73 percent

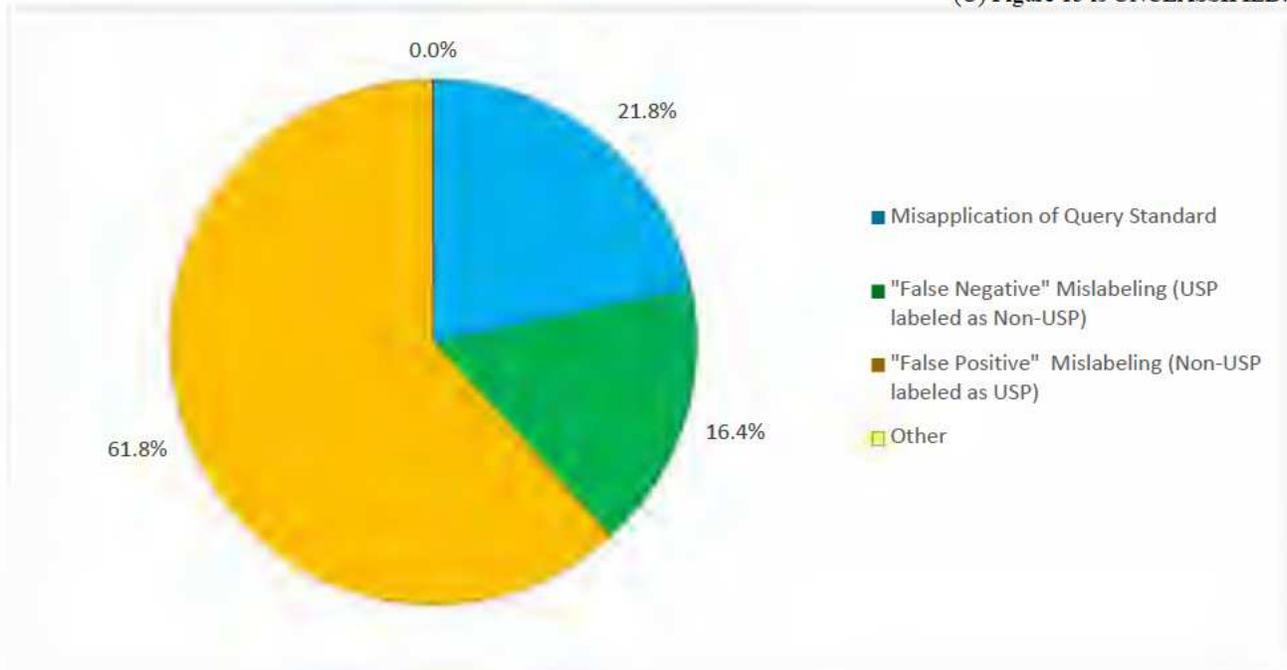
<sup>23</sup> (U) The FBI query standard compliance incident rate represents the number of FBI query compliance incidents involving a misapplication of the query standard, expressed as a percentage of the total number of FBI queries reviewed by NSD in connection with FBI query reviews during which NSD identified such FBI query compliance incidents. This metric includes all incidents that involved a misapplication of the query standard, some of which may have also involved incorrectly labeling the United States person status of a query term.

<sup>24</sup> (U) The FBI query mislabeling rate represents the number of FBI query compliance incidents involving only incorrectly labeling the United States person status of a query term, expressed as a percentage of the total number of FBI queries reviewed by NSD in connection with FBI query reviews during which NSD identified such FBI query compliance incidents. This metric does not include queries that both violated the query standard and improperly labeled the United States person status of the query term.

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~~TOP SECRET//SI//NOFORN~~**(U) Figure 13: FBI Query Incidents by Type**

(U) Figure 13 is UNCLASSIFIED.

*(U) (1) Incidents Caused by Misapplication of the Query Standard*

(U) To understand trends in FBI query compliance, it is important to explain the two most common kinds of FBI query incidents: misapplication incidents and mislabeling incidents. With respect to the first category, the FBI querying procedures require that queries of Section 702-acquired information be reasonably likely to retrieve foreign intelligence information (or, during this reporting period, evidence of a crime)—and must, accordingly, be supported by an authorized purpose, have a reasonable justification, and be appropriately designed to retrieve the information sought without unnecessarily retrieving other information. Queries that do not meet this standard are counted as query incidents involving FBI’s “misapplication” of the query standard.

(U) During this reporting period, 521 of the 50,018 queries reviewed by NSD did not meet the query standard, and only 259 of those queries were United States person queries. In most cases, the noncompliant queries were not reasonably likely to retrieve foreign intelligence information or evidence of a crime in unminimized Section 702-acquired information because there were no specific facts linking the individual or query term to the type of information generally found in FBI’s unminimized Section 702 collection. The joint oversight team and FBI continue to work to address these types of incidents through regular and remedial training.

*(U) (2) Incidents Caused by Mislabeling United States Person Query Terms*

(U) The second category of common incidents involves mislabeling the United States person status of a query term. The FBI querying procedures require that FBI apply certain presumptions regarding a person’s United States person status when that status is unknown, and that FBI generate and maintain a record of each United States person query term used to query Section 702-acquired

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information. Each instance of FBI's failure to meet these requirements concerning United States person queries is counted as a query incident involving the "mislabeling" of a United States person query term, even if the error involves identifying labeling a non-United States person query as a United States person query. Figure 13, accordingly, differentiates between (1) mislabeling incidents in which FBI incorrectly labeled a United States person query term as a non-United States person query term (referred to as "*false negative*" incidents) and (2) mislabeling incidents in which FBI incorrectly labeled a non-United States person query term as a United States person query term (referred to as "*false positive*" incidents).

(U) During this reporting period, 1,867 queries reviewed by NSD met the query standard but were not correctly labeled; this includes non-United States person queries that were mislabeled as United States person queries and were, accordingly, provided additional, unnecessary protections. **These queries all satisfied the query standard.** As shown in Figure 13 above, most of the mislabeling errors during this reporting period, and in fact most of the FBI query errors overall, were the result of non-United States person queries being provided with extra protections because they were labeled as United States person queries. The joint oversight team has found that a common issue during this reporting period involved FBI users mislabeling FBI case file numbers or identification numbers of FISA-acquired products (both of which are FBI-generated numbers that do not identify individual persons) as United States person query terms when they should have been labeled as non-United States person query terms. The joint oversight team has worked with FBI to address this issue through updated guidance and training.

*(U) (3) Incidents Related to Queries Conducted Solely for an Evidence of a Crime Purpose*

(U) During this reporting period, there were two requirements associated with queries conducted solely to retrieve evidence of a crime. The first was a statutory approval requirement that pertained to United States person queries conducted in connection with a predicated criminal investigation unrelated to national security. This requirement was repealed by RISAA. The second was a FISC-mandated quarterly reporting requirement that pertained to all United States person queries conducted solely to retrieve evidence of a crime, whether or not associated with a predicated criminal investigation. This requirement remains in effect.

(U) With respect to the first requirement, Section 702(f)(2)(A) of FISA provided that FBI may not access the results of a query conducted in connection with a predicated criminal investigation unrelated to national security, using a United States person query term, that was not designed to find and extract foreign intelligence information, unless FBI applied for an order from the FISC, based on probable cause, and the FISC entered an order approving the application. During this reporting period, and consistent with the small number of compliance incidents in the previous reporting period, there was one compliance incident that involved a violation of Section 702(f)(2)(A). However, these types of incidents were a recurring compliance issue for FBI, and since 2018, when Section 702(f)(2)(A) was added to FISA, FBI never applied for a Section 702(f)(2)(A) order from the FISC. As noted above, this provision was repealed by RISAA and replaced with a prohibition (subject to limited exceptions) on conducting queries solely for an evidence of a crime purpose. During this reporting period, there were no violations of the FISC-mandated quarterly reporting requirement.

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## (U) II. Compliance Assessment

(U) The joint oversight team finds that during this reporting period, FBI has continued to implement its targeting and minimization procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the targeting and minimization requirements of Section 702. The personnel involved in implementing the Section 702 authorities are appropriately directing their targeting efforts at non-United States persons reasonably believed to be located outside the United States for the purpose of acquiring foreign intelligence information. Processes have been put in place to implement these authorities and to impose internal controls for compliance and verification purposes.

(U) With respect to FBI queries of unminimized Section 702 collection, the joint oversight team assesses that the decline in the total number of query incidents is the result of remedial efforts to promote query compliance, discussed further below. The decline in the total number of query incidents and the decline in the overall query standard compliance incident rate (from 2.19 percent to 1.04 percent) occurred even as the total number of queries reviewed increased substantially compared to the prior reporting period. The query standard compliance incident rate reflects the results of NSD query reviews of 15 FBI field offices and one FBI headquarters component, including one review in which NSD determined that all queries reviewed were compliant. While most of the noncompliant queries reported during the current reporting period were conducted subsequent to the initial deployment of remedial measures in the summer of 2021, some of the queries reported above occurred during a period of time in which FBI was deploying mandatory revised query training, which was required to be completed by the end of January 2022.

(U) When evaluating the query compliance incident rates provided in Figure 12, the joint oversight team finds particularly noteworthy several improvements in those metrics that most implicate United States person privacy and civil liberties interests. **Only approximately one percent of all FBI queries reviewed by NSD involved queries that did not meet the query standard and, accordingly, should not have been conducted. This is less than half the query standard compliance incident rate reported in the prior period, and reflects improvements made by FBI personnel in understanding and applying the query standard appropriately.** Moreover, less than half of those query standard incidents impacted United States persons. Additionally, only 0.78 percent of all FBI queries reviewed by NSD were noncompliant because a United States person query term was mislabeled as a non-United States person query term. These queries had a proper purpose and justification, and were reasonably tailored to retrieve foreign intelligence information, but were simply errors because FBI personnel did not apply the correct label to the United States person query. This low incident rate reflects improvements by the FBI in correctly labeling United States person query terms and in applying the requisite presumptions when querying unknown identifiers.

(U) Finally, as reported in ASTR reports issued by ODNI for calendar years 2022 and 2023, the number of United States person queries conducted decreased 96 percent from approximately 3 million in 2021 to approximately 119,000 in 2022, and decreased by another 52 percent to approximately 57,000 in 2023. The joint oversight team assesses that this dramatic reduction in United States person queries, as well as the overall decline in FBI query incidents, excluding periods impacted by the pandemic, are likely the result of remedial efforts to promote query

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compliance, discussed further below. NSD's query reviews have also revealed a decrease in the number of large batch jobs being run by FBI personnel. The joint oversight team assesses that the remedial measures described herein have had a positive impact on FBI's overall query compliance. The joint oversight team will continue to assess the efficacy of these remedial measures based on ongoing query audit data. Additionally, NSD is currently working with FBI to implement new reforms Congress established in RISAA.

#### **(U) A. Query Guidance**

(U) As a result of the findings from NSD's reviews and observations of the FISC related to these query incidents, NSD, in consultation with ODNI, developed guidance on the query standard for FBI personnel. This guidance document is designed to supplement training on the querying standard and provides a fulsome explanation of the query standard. The guidance document also includes multiple examples of the application of the guidance to particular factual scenarios. On 01 November 2021, NSD provided this guidance document to FBI, and FBI has provided this guidance document to users with access to unminimized FISA-acquired information. NSD anticipates that this additional guidance document will facilitate the correct application of the querying standard. The joint oversight team works closely with FBI to provide additional guidance as query compliance trends become apparent. For example, based on its 2022 query reviews, NSD identified certain compliance trends and areas where additional guidance was warranted for users. NSD and FBI's Office of General Counsel conveyed this information to FBI field office Chief Division Counsels for distribution to their personnel.

#### **(U) B. Enhanced Training**

(U) Based on the above guidance regarding the querying standard, FBI has undertaken additional training for FBI personnel focused specifically on the querying requirements. FBI developed mandatory training on the query standard, as well as the Section 702 querying procedures and statutory requirements, and deployed the training in December 2021. At the end of 2022, FBI deployed a new, three-part, interactive training on the query standard. As with the query training FBI deployed in 2021, the new training is mandatory and must be completed on an annual basis—users who do not complete the training will lose their ability to query unminimized FISA-acquired information. In addition, NSD resumed its onsite query-related training at FBI field offices in early 2022, which covers the elements of the FBI query standard as well as the United States person query term labeling requirements. FBI continues to work closely with the joint oversight team to revise and refine its trainings, and to identify ways to flag compliance advisories for FBI personnel in the course of their day-to-day operational work.

#### **(U) C. Attorney Review of Batch Jobs**

(U) To address query compliance incidents resulting from batch jobs, where a single improper decision or assessment by FBI personnel can result in a large number of compliance incidents, in June 2021, FBI implemented a new policy requiring that individual queries conducted using the batch job tool in an FBI system resulting in 100 or more queries receive FBI attorney approval prior to the queries being conducted. This added layer of review is designed to mitigate the risk that queries with a significant potential to impact privacy and civil liberties equities will not

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comply with FBI's Section 702 querying procedures. In September 2023, FBI expanded this pre-approval requirement to apply to all batch jobs.

#### **(U) D. System Changes**

(U) ~~(S//NF)~~ Prior to June 2021, the main FBI systems containing unminimized Section 702-acquired information were configured to automatically include FISA datasets, including data acquired pursuant to Section 702 of FISA, and any other datasets the user was authorized to access unless personnel intentionally excluded, or opted-out of, such data. In June and August of 2021, FBI implemented system changes altering the default setting in these systems to exclude Section 702-acquired information from queries. Pursuant to this change, a user must now affirmatively opt-in to unminimized Section 702-acquired information, thus decreasing the likelihood that the user will unintentionally query Section 702-acquired data.

(U) In fall 2021, FBI also implemented a system change that requires users to write their own free-text justification for a query of unminimized Section 702-acquired information if the user seeks to access Section 702 content returned from such a query and the query includes United States person identifiers. Prior to this change, users selected a justification from a pre-populated dropdown menu of options. In September 2023, FBI modified its systems to require that users provide a written justification for queries using United States person identifiers prior to running the query in the first instance, instead of prior to accessing the results of such queries. The joint oversight team assesses that reviewing these case-specific justifications will enable both internal FBI overseers and external overseers at NSD and ODNI to better determine whether FBI personnel understand the querying standard and will require FBI personnel to more actively engage with and think about the query standard.

#### **(U) E. Pre-approval for Sensitive Queries**

(U) In March 2022, FBI put in place requirements for users to obtain pre-approval from senior FBI officials prior to conducting certain sensitive queries, such as queries of domestic public officials and members of the news media. These pre-approvals are documented and subject to audit by the joint oversight team.

#### **(U) F. 2023 Reforms and RISAA**

(U) On 12 June 2023, FBI notified Congress of additional remedial measures, including measures aimed at ensuring accountability for FBI's compliance with query requirements. As of September 2023, FBI systems require that FBI personnel document the justification for United States person queries of unminimized Section 702-acquired information prior to executing the query, instead of prior to accessing the contents of any Section 702 collection that was retrieved by the query. Additionally, as stated above, as of September 2023, FBI expanded the attorney pre-approval requirement for batch jobs of unminimized Section 702-acquired information resulting in 100 or more queries to apply to all batch jobs, regardless of the number of resulting queries.

(U) FBI has also established a new policy with escalating consequences for performance incidents involving negligence related to FISA queries. Under this policy, following an instance of employee negligence with respect to running a query, the employee's access to FISA will be

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suspended until the employee retakes all mandatory FISA training, executes a signed performance remediation certification, and receives one-on-one training with an FBI attorney. Subsequent incidents trigger more intensive training (*e.g.*, attending a DOJ-led query review), and may result in the employee's indefinite loss of FISA access, reassignment to a different role, or referral to FBI's Inspection Division. The policy makes clear that, subsequent to a determination by FBI of intentional or reckless misconduct when conducting queries of unminimized FISA collection, the suspension of FISA access and a referral to the FBI's Inspection Division for investigation of a potential violation of FBI's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process is required.

(U) In addition, in October 2023, FBI implemented a new "Field Office Health Measure" that requires the leadership of FBI field offices to convene meetings to assess FISA compliance and the potential for proactively implementing compliance-enhancing measures within their respective field offices.

**(U) Congress included multiple query-related reforms in RISAA beyond codifying the above remedial measures in statute. For example, all U.S. person queries must now be approved by an attorney or supervisor at FBI prior to being conducted. DOJ is auditing 100% of these U.S. person queries post-RISAA. In addition, the government is required to seek amended query procedures that will prohibit the FBI from conducting evidence-of-a-crime-only queries except for discovery obligations or in exigent circumstances. RISAA also requires FBI to obtain consent from the applicable member of Congress prior to conducting a query for defensive briefing purposes. Further, RISAA includes various reporting obligations to Congress regarding FBI's queries and accountability procedures and requires the Inspector General to audit the efficacy of FBI's query-related reforms and remedial measures. As noted above, the data in this report pre-dates RISAA and thus is not reflective of FBI's implementation of the new statutory reforms.**

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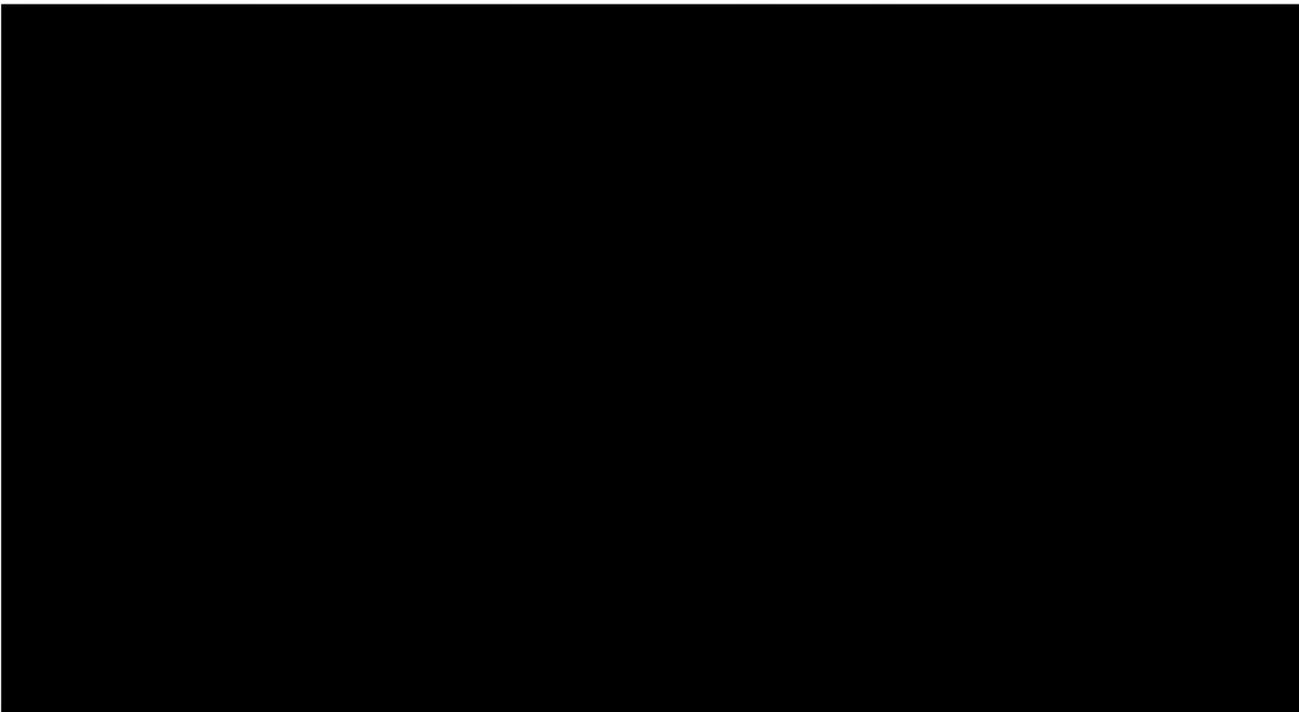
~~TOP SECRET//SI//NOFORN~~**(U) SECTION 5: ASSESSMENT OF SECTION 702 ACTIVITIES – CIA**

(U) CIA is authorized to collect Section 702 information under all certifications. While it does not engage directly in targeting or acquisition, it nominates potential targets to NSA for review and processing. If approved for targeting, NSA will either task CIA facilities associated with the target to an electronic communication service provider or pass the request on to FBI for processing.

(U) CIA may also request dual-routed collection for targets originally nominated by another agency. CIA provides NCTC with access to certain unminimized collection and disseminates minimized collection through intelligence reporting. Finally, CIA may query its collection using United States person and non-United States person identifiers for the purpose of retrieving foreign intelligence information.

**(U) I. Section 702 Data and Compliance Trends**

(U) ~~(S//NF)~~ Figure 14 provides the classified number of minimization and querying incidents that involved CIA for the last ten reporting periods. As Figure 14 indicates, there was one compliance incident reported to the FISC during this reporting period that involved CIA's minimization and querying procedures, consistent with the generally low number of such incidents.

**(U) Figure 14: Number of Compliance Incidents Involving CIA's Minimization and Querying Procedures****(U) A. Minimization Data and Incidents**

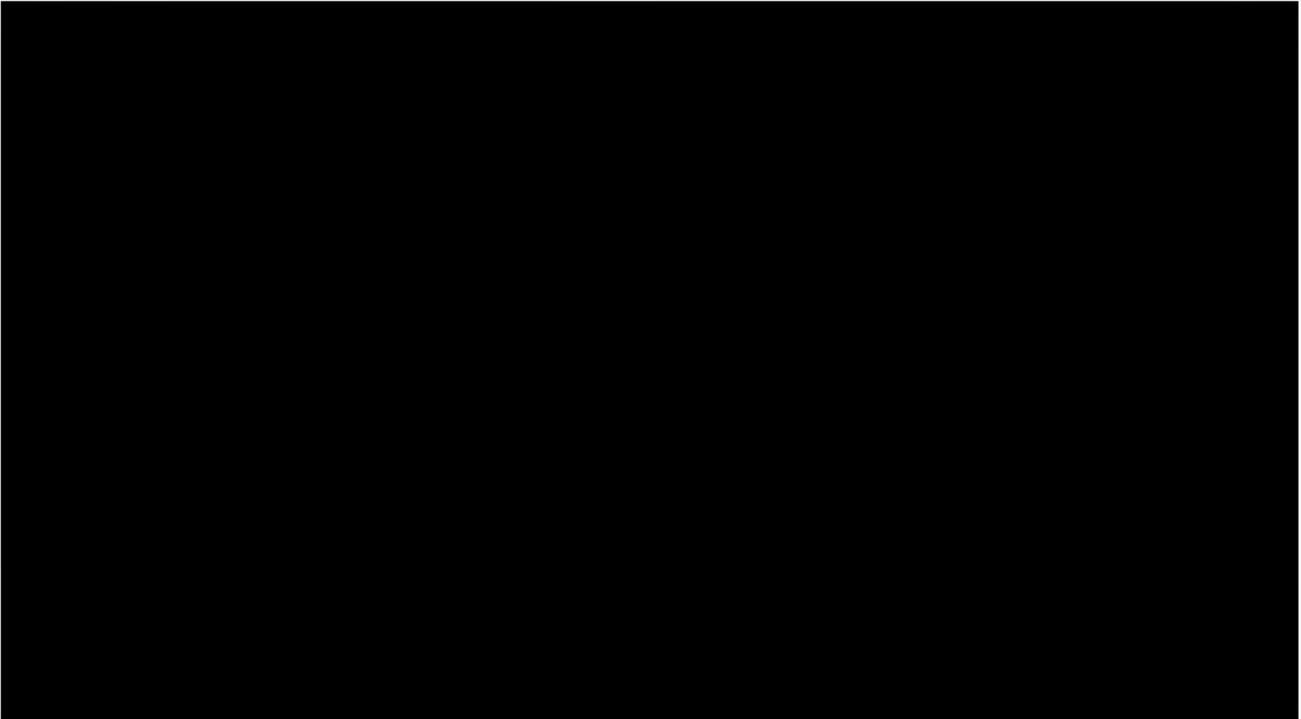
(U) Figure 15 provides the classified number of disseminations containing United States person information identified by CIA in the last ten reporting periods, excluding certain

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disseminations to NCTC. The number of CIA-identified disseminations containing United States person information has fluctuated over the years, but those fluctuations, whether upward or downward, generally have been incremental.

**(U) Figure 15: Disseminations Identified by CIA as Containing Minimized Section 702-Acquired United States Person Information (excluding Certain Disseminations to NCTC)**



(U) Notwithstanding the increase in the number of disseminations by CIA of United States person information during the last reporting period, the number of CIA minimization incidents has remained relatively low. During this reporting period, there was one incident involving noncompliance with CIA's minimization procedures.

(U) CIA also tracks the number of files its personnel determine are appropriate for broader access and longer-term retention. The CIA minimization procedures must be applied to those files before they are retained or transferred to systems with broader access.<sup>25</sup> Figure 16 presents the total number of files that were either retained or transferred, as well as the number of those retained or transferred files that contain identified United States person information.

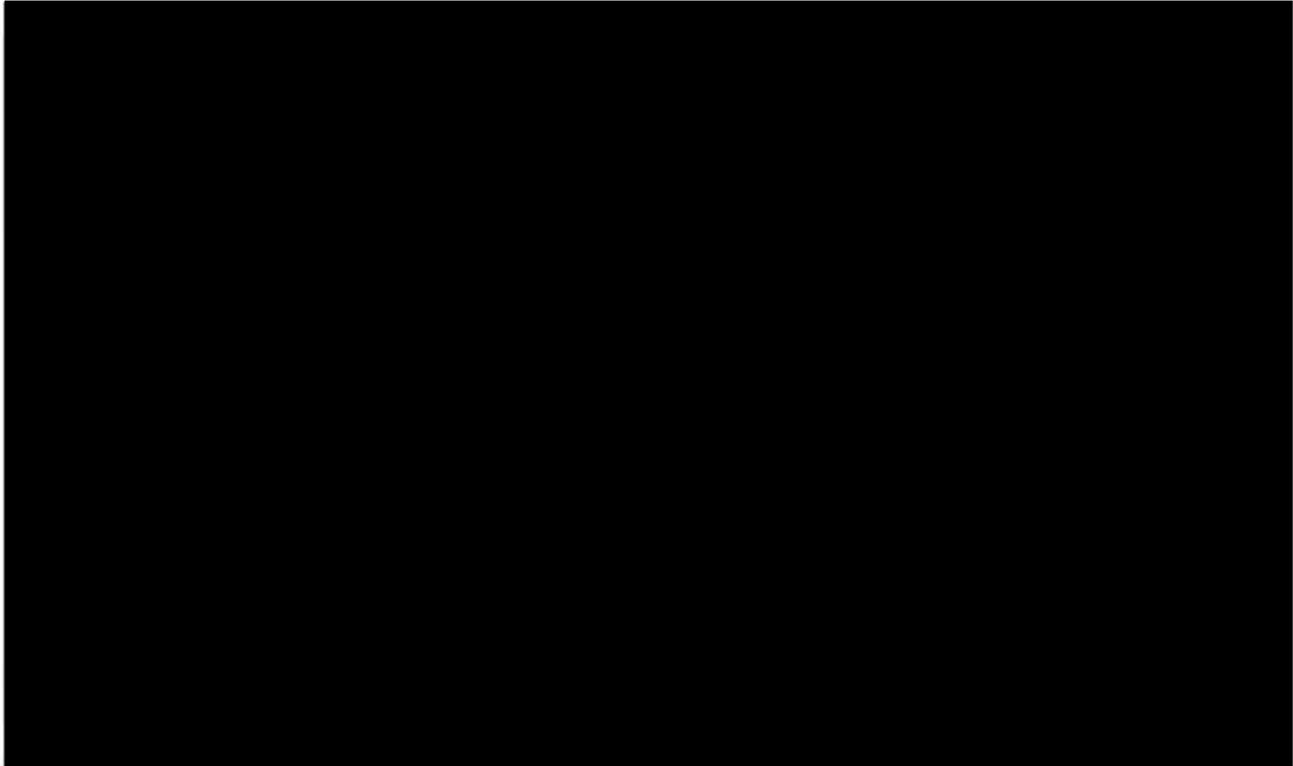
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<sup>25</sup> ~~(S//NF)~~ The files retained may contain [REDACTED] [REDACTED] In making those retention decisions, CIA personnel are required to identify any files potentially containing United States person information.

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**(U) Figure 16: Total CIA Retained or Transferred Files, and Total CIA Retained or Transferred Files that Contained Potential United States Person Information<sup>26</sup>**



**(U) B. Querying Incidents**

(U) During this reporting period, there were zero incidents involving noncompliance with CIA's querying procedures.

**(U) II. Compliance Assessment**

(U) During this reporting period, the joint oversight team found that CIA continued to implement the procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the requirements of Section 702. The joint oversight team assesses that the relatively low number of compliance incidents involving CIA's Section 702 procedures is a result of training, internal processes designed to identify and remediate potential compliance issues, and a continued focus by internal and external oversight personnel to ensure compliance with the applicable minimization and querying procedures.

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<sup>26</sup> ~~(S//NF)~~ Increases noted in Figure 16 during the 27<sup>th</sup> reporting period (June 2021 – November 2021), as compared to the 26<sup>th</sup> reporting period (December 2020 – May 2021) were likely due, at least in part, to [REDACTED]

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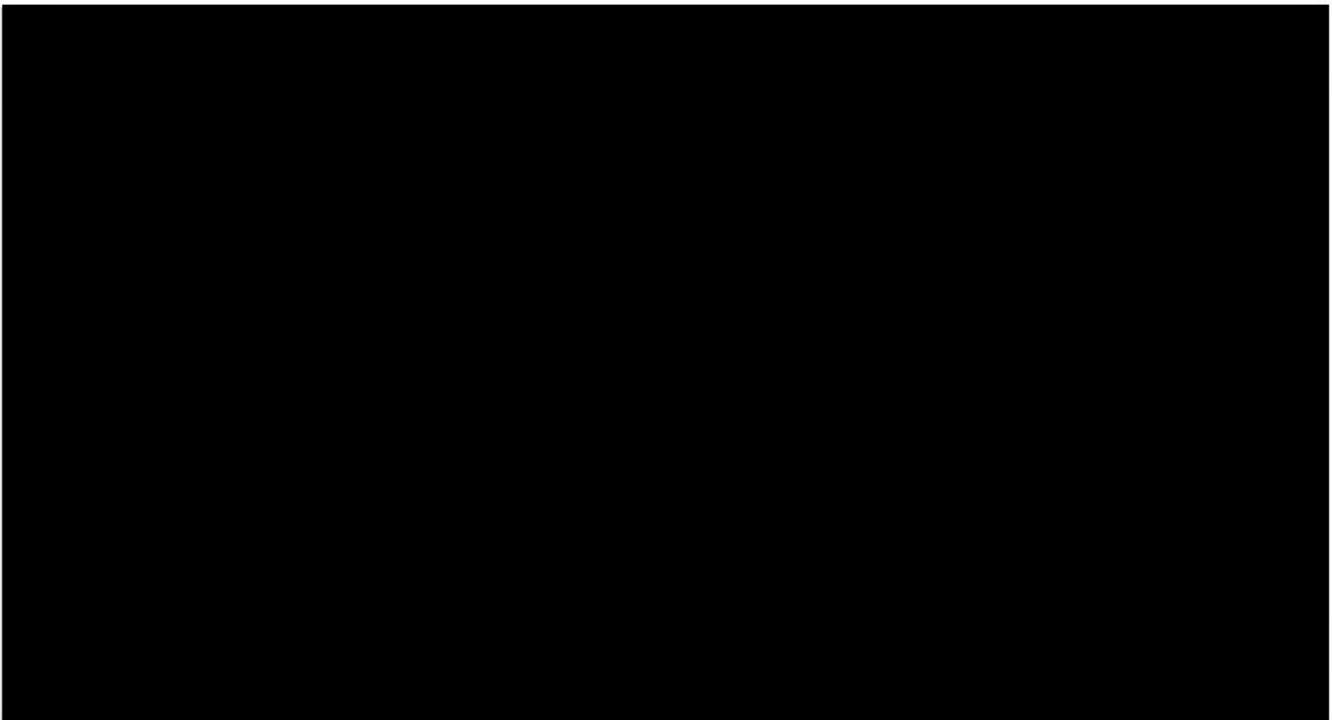
~~TOP SECRET//SI//NOFORN~~**(U) SECTION 6: ASSESSMENT OF SECTION 702 ACTIVITIES – NCTC**

(U) NCTC is authorized to receive unminimized Section 702-acquired information and has access to certain systems administered by other agencies that contain minimized Section 702 information pertaining to counterterrorism. NCTC may also receive dual-routed unminimized Section 702-acquired communications. NCTC's processing, retention, dissemination, and querying of such information is subject to its Section 702 minimization and querying procedures.

(U) Unlike NSA, FBI, and CIA, NCTC does not directly engage in targeting or acquisition, nor does it nominate potential Section 702 targets to NSA. NCTC has established internal compliance mechanisms and procedures to oversee proper implementation of its Section 702 authorities.

**(U) I. Section 702 Data and Compliance Trends**

(U) Figure 17 provides the classified number of minimization and querying incidents that involved NCTC for the last ten reporting periods.

**(U) Figure 17: Number of Compliance Incidents Involving NCTC's Minimization and Querying Procedures****(U) A. Minimization Data and Incidents**

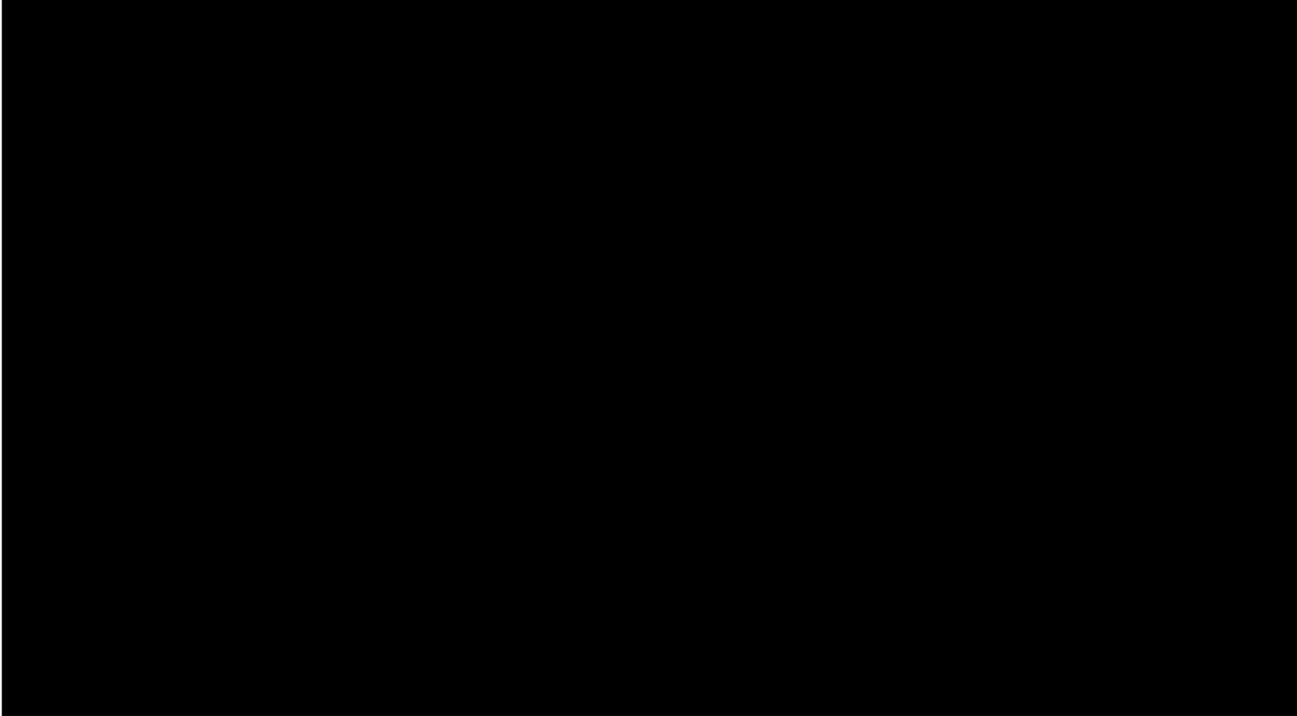
(U) ~~(S//NF)~~ During this reporting period, there were zero incidents involving a violation of NCTC's minimization procedures, consistent with the relatively low number of such incidents over the last reporting periods, notwithstanding fluctuations in the number of disseminations identified by NCTC as containing minimized Section 702-acquired information. Figure 18 provides statistics

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regarding the number of disseminations identified by NCTC as containing Section 702-acquired United States person information.<sup>27</sup>

**(U) Figure 18: Disseminations Identified by NCTC as Containing Minimized Section 702-Acquired United States Person Information**



**(U) B. Querying Errors**

~~(S//NF)~~ During the reporting period, there were [REDACTED] incidents involving violations of NCTC's querying procedures. All of the incidents involved NCTC analysts conducting queries in an NCTC system that did not meet the querying standard because they were not reasonably likely to retrieve foreign intelligence information.

**(U) II. Compliance Assessment**

(U) During this reporting period, the joint oversight team found that NCTC continued to implement the procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the requirements of Section 702. The joint oversight team assesses that the relatively low number of compliance incidents involving NCTC's Section 702 procedures is a result of training, internal processes designed to identify and remediate potential compliance issues, and a continued focus by internal and external oversight personnel to ensure compliance with the applicable minimization and querying procedures.

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<sup>27</sup> ~~(S//NF)~~ (U) For reporting periods prior to November 2018, the statistics in Figure 18 include all disseminations identified as containing Section 702-acquired information. Starting in November 2018, NCTC identified and provided to NSD and ODNI only disseminations containing minimized United States person information.

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(U) **SECTION 7: ASSESSMENT OF SECTION 702 ACTIVITIES –  
ELECTRONIC COMMUNICATION SERVICE PROVIDERS**

(U) During this reporting period, as with the previous period, there were no incidents of noncompliance caused by errors made by electronic communication service providers. The joint oversight team assesses that this is the result of continuous efforts by the Government and providers to ensure that lawful intercept systems effectively comply with the law while protecting the privacy of the providers' customers.

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(U) During this reporting period, the joint oversight team found that the agencies continued to implement the procedures and follow the guidelines in a manner that reflects a focused and concerted effort by agency personnel to comply with the requirements of Section 702. Nevertheless, a continued focus is needed to address the underlying causes of the incidents that did occur, especially those incidents relating to improper queries. In its ongoing efforts to reduce the number of future compliance incidents, the joint oversight team will continue to emphasize measures to improve (a) inter- and intra-agency communication, (b) training, and (c) systems used in the handling of Section 702-acquired information, including those systems needed to ensure that appropriate query practices and purge practices are followed and that disseminated reports are recalled when required. Additionally, as part of its ongoing oversight responsibilities, the joint oversight team and the agencies' internal oversight regimes will continue to monitor the efficacy of measures implemented to address the causes of compliance incidents during the next reporting period.

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