

PCLOB BRIEFING

• **FBI Guidance:**

- FBI implemented PPD-28:
  - Policies and Procedures (public document)
  - PPD-28 Policy Guide (internal guidance)
- Will apply safeguards and privacy protections afforded by PPD-28 to the FBI's collection, minimization, retention and dissemination of FISA section 702 information, as well as any information received by the FBI from another government agency that the FBI defines as "signals intelligence".

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- **Why apply to 702?**

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- **Collection:**
  - **No changes from current FISA 702 practices**
    - FBI personnel are expressly prohibited from using FISA 702 authority to collect information for:
      - Targeting non-U.S. persons under Section 702 for reasons that include, but are not limited to the following:
        - To suppress or burden criticism or dissent;
        - To disadvantage persons based on their ethnicity, race, gender, sexual orientation, or religion; or
        - To afford a competitive advantage to U.S. companies and U.S. business sectors commercially using foreign private commercial information or trade secrets.
- **Minimization Requirements for Dissemination:**
  - The FBI's existing policies on minimizing 702 information comply with the minimization requirements of PPD-28.
    - Personal information shall be disseminated "only if the dissemination of comparable information concerning U.S. persons would be permitted under section 2.3 of Executive Order 12333."
    - Section 2.3 of 12333 allows for the collection, retention, and dissemination of, most relevantly, information obtained in the **course of a lawful foreign intelligence, counterintelligence, or international terrorism investigation. Other types of information may be collected, retained, and disseminated, such as information constituting foreign intelligence or counterintelligence.**
  - FBI already meets the dissemination requirements of PPD-28 by restricting its collection.
- **Retention:**
  - FBI personnel must not retain unreviewed personal information concerning non-U.S. persons collected pursuant to section 702 of FISA for longer than five (5)

years, unless retention of comparable information concerning U.S. persons would be permitted under section 2.3 of Executive Order 12333.

- FBI meets the retention requirements of PPD-28 for non-U.S. person personal information by limiting what it can collect.
  - **As stated previously:** Retention of comparable information concerning U.S. persons is permitted if the information is obtained in the course of a lawful foreign intelligence, counterintelligence, international narcotics or international terrorism investigation and/or if the information constitutes foreign intelligence or counterintelligence (as well as the other allowances listed above).
- **Queries:**
  - FBI personnel will structure queries or other search terms and techniques in order to identify information relevant to a valid intelligence requirement or an authorized law enforcement activity.
  - PPD-28 prohibits the querying of 702 collected information with non-U.S. person identifiers for any purpose other than furthering the FBI's mission.
  - This is in line with current FBI practices.
- **Data Security and Access Requirements:**
  - Access to all personal information collected pursuant to section 702 of FISA, irrespective of the nationality of the person whose information is collected, is restricted to those personnel who require access in order to perform their authorized duties in support of the FBI's mission or to assist in a lawful and authorized governmental function.
  - Such information will be maintained in either electronic or physical form in secure facilities protected by physical and technological safeguards, and with access limited by appropriate security measures.
  - Information will be safeguarded in accordance with applicable laws, rules, and policies, including those of the FBI, the Department of Justice, and the Office of the Director of National Intelligence.

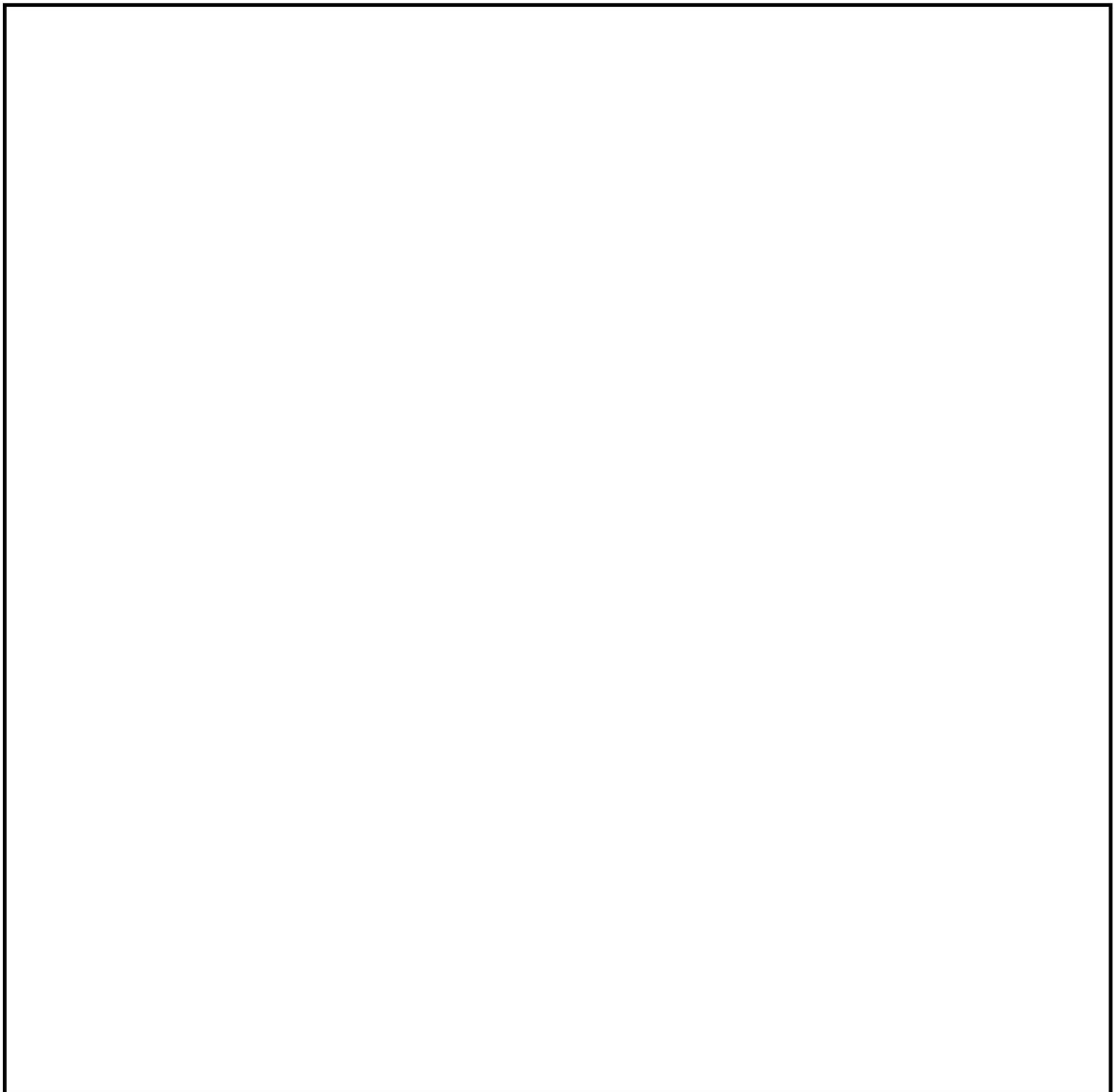
- FBI currently has data security and access requirements that meet PPD-28's requirements based on the FISA 702 Standard Minimization Procedures (FISA 702 SMP).



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- **Oversight:**

- The FBI will ensure appropriate measures are taken to facilitate oversight over the implementation of safeguards protecting personal information.



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- Significant instances of non-compliance will be reported promptly to the DD, who in turn will report them to the DNI.
- **Training:**
  - Incorporated into the mandatory 702 training.
    - This training is already required in order to gain access to unevaluated information concerning non-U.S. persons collected pursuant to section 702 of FISA.
    - Employees who have previously completed their mandatory training are provided with the updates to the training to ensure their awareness of any changes.