Outside the Scope

**Changes to Electronic Surveillance using FISA**
- Protect America Act
- FISA Amendments Act

**Key Points**
- (U) Electronic Search and Surveillance of email communications using:
  - Traditional FISA
    - 1978
  - Protect America Act (PAA)
    - August 2007
  - Section 702 of FISA Amendments Act
    - July 2008

**Outside the Scope**
FISA Amendments Act (FAA)

- (U) FAA made multiple changes to many different parts of the FISA Law
  - Added to FISA a new Title VII, "Additional Procedures Regarding Certain Persons Outside the United States," § 701-708
  - Repealed most provisions of the Protect America Act of 2007 (PA), but essentially incorporated the provisions allowed under PA into this new Title VII Section — Specifically, FISA, Section 702

FISA Section 702

- (U) FAA must verify that the government's methods for determining a target's location are reasonable.
- (U) FISC will also review and APPROVE minimization procedures used by the agencies
- (U) Except in "edging circumstances," the government cannot begin surveillance until the court has approved a certification
- (U) Law directs the Inspector General of various agencies to review how the government is handling USPER info

FISA Section 702

- (U) FAA directs the court to "promptly" dismiss a lawsuit filed against electronic service providers that helped the government if the AG certifies the assistance was "authorized by the President" and "designed to detect or prevent a terrorist attack, or activities in preparation for a terrorist attack, against the US."
DOJ may not process a traditional FISA request for accounts eligible for 702 coverage. However, the FBI does NOT have a formal nomination process in place yet. Selectors NOT under coverage by the IC but eligible for FISA 702 coverage can be suggested for coverage to NSA. A formal nomination process for the FBI is being developed.
Reporting Requirements
- Reporting requirements
- Compliance Documents
  - 5 business days to report to DOJ/CI and ODNI
- Other reports:
  - 90 day report to the FISC
  - Quarterly COI report
  - Semi-Annual Report to Congress
- (ODNI) Director General required to report semi-annually with descriptions of
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- Semi-Annual Assessment to Congress (Joint CI and CI product)
- Director's Annual Report
- Letters to the Court: 10(b) and 10(c)

Oversight by:
- DOJ/CI/FBI Office of Intelligence (formerly OSSK)
- CI/DOJ and CI/DOJ Oversight
  - DOJ/CI and ODNI Oversight consists of:
    - Monthly targeting audits
    - Risk assessments
    - Performance audits
    - Quarterly FISA INSAD audits
    - DOJ Office of Inspector General Program Review

Questions