Introduction to FISA Section 702

Course Information

This course provides a basic overview of FISA, Section 702 [50 U.S.C. 1881a] - hereafter referred to as "Section 702" - and information pertaining to Section 702 data.

This course is comprised of four modules, which include review questions at the end of each module.

The four modules are as follows:

- Introduction to FISA Section 702
- How Section 702 Data Will Look
- Authorized User Responsibilities
- Coordination & Dissemination

NOTE: You will have the option to print each page of this module. Once you select the Print Screen button at the bottom of the screen, change your paper orientation on the print menu to landscape before you print.
Introduction to FISA Section 702

Course Objectives

Upon completion of this course, you, ____________________ will be able to:

- Understand the significance of Section 702
- Recognize identifiers of Section 702 data if ____________________
- Properly apply the Section 702 Standard Minimization Procedures (SMP)
- Execute the required steps for coordinating and disseminating Section 702 data
Introduction to FISA Section 702

FISA Section 702 Background

The FISA Amendments Act (FAA) of 2008, amended the FISA (50 U.S.C. Sections 1801 et seq.) by, among other things, adding a new Title VII entitled "Additional Procedures Regarding Certain Persons Outside the United States." Section 702 of this new Title VII of FISA permits the Director of National Intelligence (DNI) and the Attorney General (AG) to authorize jointly the acquisition of foreign intelligence information by targeting Non-U.S. Persons (NON-USPERs) reasonably believed to be located outside the United States.

Since the enactment of the FAA, the FBI has been collecting Section 702 data. Section 702 data will be available to FBI personnel through [redacted].
Introduction to FISA Section 702

New Statutory Authority

Section 702 provides authority to acquire foreign intelligence information, with assistance from U.S.-based communications service providers, targeting NON-USPERs reasonably believed to be located outside the United States. A significant purpose of the acquisition must be to obtain foreign intelligence.

- This authority significantly streamlines the approval process to acquire stored electronic communications (physical search) and conduct electronic surveillance of in-transit communications (surveillance). "Targeting procedures" established by the Attorney General, in consultation with the Director of National Intelligence and filed with the Foreign Intelligence Surveillance Court (FISC), guard against unauthorized collection.

NOTE: The phrase - "reasonably believed to be located outside the United States" - is commonly referred to as "foreignness."
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FAA 541
Introduction to FISA Section 702

Limitations on Section 702 Authorizations

The statute states an acquisition authorized under Section 702:

- May not intentionally target any person known at the time of acquisition to be located in the United States.

- 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.

- May not intentionally target an USPER reasonably believed to be located outside the United States.

- 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.

- Shall be conducted in a manner consistent with the Fourth Amendment to the Constitution of the United States.
USPER:

- US Citizen
- Permanent Resident Alien
- Corporation incorporated in the United States but does not include: a foreign government or any component thereof; a faction of a foreign nation or nations, not substantially composed of U.S. Persons; or an entity openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments.
- An unincorporated group substantially composed of U.S. Citizens and/or Permanent Resident Aliens.
Fourth Amendment: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."
Introduction to FISA Section 702

Data Acquisition

Acquisition under Section 702 is governed by targeting procedures and minimization procedures for Section 702 filed with the FISC stipulating, among other things, that:

- The target is "reasonably believed" to be a NON-USPER outside the U.S.
- A significant purpose of the acquisition is to acquire foreign intelligence.
- Minimization procedures are in place for USPER information.
- Targeting and minimization procedures are consistent with the Fourth Amendment to the U.S. Constitution.
Collection of Data by Topic

Activities under Section 702 are governed by procedures executed jointly by the Attorney General and the Director of National Intelligence that detail targeting and minimization procedures under which the government will obtain foreign intelligence data.
3

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Introduction to FISA Section 702

Parsing the Data Categorically
Introduction to FISA Section 702

Standard Minimization Procedures

A modified version of the FISA SMP applies to Section 702 data (hereafter, "702 SMP"). The FISA SMP will continue to apply to data resulting from FBI FISA electronic surveillance and physical searches ("traditional FISAs"). The 702 SMP apply only to Section 702 data.

Additionally, the FBI's SMP Policy Implementation Guidelines, dated October 31, 2003, and which the FBI's Deputy Director approved, will be updated to include corresponding modifications to the SMP as they pertain to Section 702 data.
Introduction to FISA Section 702

SMP Reminders

are reminded of the following:

- The FISA SMP continue to apply to data resulting from traditional FISAs.
- The 702 SMP apply to Section 702 data.
Introduction to FISA Section 702

Key Points to Remember

- Targets of Section 702 acquisitions must be "reasonably believed" to be NON-USPERS located outside the United States.

- Unminimized communications acquired pursuant to these will be available in

- Specific Section 702 minimization procedures apply to protect USPER information.
How Section 702 Data Will Look in

Purpose

The purpose of this module is to display how the data will look in

Upon completion of this module, you, will be able to

FISA Section 702 data

NOTE: You will have the option to print each page of this module. Once you select the Print Screen button at the bottom of the screen, change your paper orientation on the print menu to landscape before you print.
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How Section 702 Data Will Look in

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User Access to Section 702 Data in

Authorized users of who have completed both the Section 702-specific SMP training (this course) and the 2008 FISA SMP training in will be able to access Section 702 data in accordance with existing access policies.

Even though the FBI can access and make use of this data, coordination requirements and will be further explained in Module 4.
How Section 702 Data Will Look in

Key Points to Remember

- FISA Section 702
- Section 702-acquired data is
Authorized User Responsibilities

Purpose

The purpose of this module is to explain the duties of authorized users when reviewing Section 702 data within.

Upon completion of this module, you, the authorized user, will be familiar with your responsibilities when reviewing Section 702 data.

In addition to this training, authorized users must know the 2008 SMP, the FBI's SMP Policy.

Compliance with the above is subject to review by DOJ and ODNI.

NOTE: You will have the option to print each page of this module. Once you select the Print Screen button at the bottom of the screen, change your paper orientation on the print menu to landscape before you print.
Authorized User Responsibilities

CXS Case Coordinators

The CXS Case Coordinator's duties include making necessary minimization decisions in accordance with the SMP and Policy Implementation Guidelines, and applying the minimization markings to the Section 702 data within

- It is important to remember that all provisions of the SMP for traditional FISAs that were not revised by the 702 SMP still apply to Section 702 data.

- Addressing a potential need to
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Authorized User Responsibilities

Section 702 SMP

For traditional FISAs, you must have probable cause to believe the target is a "foreign power" or "agent of a foreign power". Under Section 702, however, there must be a reasonable belief that the target is a NON-USPER located outside the United States.
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Authorized User Responsibilities
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Authorized User Responsibilities
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Authorized User Responsibilities

Key Points to Remember

- Specific minimization procedures apply to FISA Section 702-acquired data.
  - In general, many of the same traditional FISA minimization procedures still apply, including
  - CXS Case Coordinators will serve as the primary point of contact for marking, disseminating, or purging Section 702-acquired data.
Coordination & Dissemination Responsibilities

Overview

The purpose of this module is to highlight requirements concerning coordination & dissemination of Section 702 data.

Upon completion of this module, you, the authorized user, will be able to execute the required steps for coordinating and disseminating Section 702 data.

NOTE: You will have the option to print each page of this module. Once you select the Print Screen button at the bottom of the screen, change your paper orientation on the print menu to landscape before you print.
Coordination & Dissemination Responsibilities

Coordination & Dissemination

Coordination includes contacting (PRIOR to dissemination):

- The CXS Case Coordinator to address any unresolved issues.

Dissemination includes sharing Section 702 data:

- WITHIN THE FBI when the Section 702-acquired data is

- Outside the FBI (except as noted in the Section 702 SMP).
Coordination & Dissemination Responsibilities

Coordination & Dissemination Categories

These categories and their respective coordination & dissemination requirements are further explained in the following pages.
Coordination & Dissemination Responsibilities

Dissemination Inside the FBI

When you, an authorized user, intend to disseminate Section 702 data inside the FBI, the following actions are required:

- Contact the CXS Case Coordinator and advise of your intention to disseminate Section 702 data.
- The CXS Case Coordinator will apply minimization markings and specify any stipulations.

If the product contains USPER information, then upload a copy of the product into the appropriate FISA Section 702 dissemination subfile maintained at FBIHQ.

Using screen shots from the system, the next few pages will show you the step-by-step process to disseminate Section 702 data after appropriate minimization markings have been made by the CXS Case Coordinator.
Coordination & Dissemination Responsibilities

http://FAA-586

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Coordination & Dissemination Responsibilities

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Coordination & Dissemination Responsibilities

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Coordination & Dissemination Responsibilities

Dissemination Outside the FBI

In addition to the procedures for dissemination inside the FBI, when you are an authorized user, intend to disseminate Section 702 data outside the FBI — including information previously disseminated inside the FBI — the following actions are required:

- Contact the originating agency to coordinate dissemination of the data and identify any stipulations the originating agency may set forth relative to the dissemination. Originating agency contact information will be provided by the CXS Case Coordinator.

- Document within the dissemination page comment box the name & originating agency with whom coordinated and date of final coordination.
Coordination & Dissemination Responsibilities
Coordination & Dissemination Responsibilities

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Coordination & Dissemination Responsibilities

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Coordination & Dissemination Responsibilities

Coordination & Dissemination Guidance Documents

Click on the links below to open a printable and saveable PDF reference document for each of the dissemination categories.

Dissemination Inside the FBI

Dissemination Outside the FBI

Subsequent Dissemination from Inside to Outside the FBI

Print Screen Exit Module

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http://

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Dissemination Inside the FBI

If the product contains USPER information, then upload a copy of the product into the appropriate FISA Section 702 dissemination subfile maintained at FBIHQ.
If the product contains USPER information, then upload a copy of the product into the appropriate FISA Section 702 dissemination subfile maintained at FBIHQ.
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Coordination & Dissemination Responsibilities

Key Points to Remember

- There are specific coordination and dissemination requirements for FISA Section 702-acquired data.
- To disperse Section 702-acquired data...
- Prior to disseminating Section 702-acquired data outside the FBI, ...