



# Guide to Posted Documents Regarding Use of National Security Authorities – Updated as of January, 2020



## Contents

- Introduction ..... 1
- The Intelligence Community (IC) – General Information..... 1
- IC Framework for Protecting Civil Liberties and Privacy and Enhancing Transparency..... 3
- Reports on Use of National Security Authorities. .... 5
- Section 702: - Overviews..... 6
- Section 702: Targeting and Minimization ..... 7
- Section 702: Compliance, Oversight, and Other Documents ..... 8
- FISA: Other Provisions..... 9
- FISA: FISC and FISCR Opinions..... 10
- Executive Order 12333..... 11
- Presidential Policy Directive 28, Signals Intelligence Activities (PPD-28). .... 12
- Gates Procedures ..... 13

## Introduction

This Guide provides links to certain officially released documents relating to the use by the Intelligence Community (IC) of national security authorities. The IC published these documents to meet legal requirements, as well as to carry out the [Principles of Intelligence Transparency for the IC](#). This Guide organizes and presents certain links for ease of reference; there are many more officially released documents available for public review. We have reorganized this version of the Guide to group links under broader categories.

New entries since the last version of this Guide are denoted with an asterisk. Note that some new entries consist of links to previously-posted information, and are included here for ease of reference.

## The Intelligence Community (IC) – General Information

**2019 National Intelligence Strategy of the United States of America.** The ODNI released the National Intelligence Strategy (NIS) in January, 2019. It is posted [here](#). For the first time, the NIS includes a standalone enterprise objective on Privacy, Civil Liberties, and Transparency.

**Intelligence.gov.** [Intelligence.gov \(or Intel.gov\)](#) is the digital front door for the U.S. Intelligence Community, with a focus on increasing transparency about the IC's authorities and activities. It works alongside IC on the Record (see below) and other IC resources—including the websites of IC agencies—to provide clear and accurate information about the IC.

- **Intel Vault.** Intel.gov includes the [Intel Vault](#), which enables the public to explore repositories of officially released information about the IC.
  - In April, 2019, [ODNI posted](#) 49,000 pages of documents relating to human rights abuses under Argentina's 1976-1983 dictatorship.
  - In recognition of the 50<sup>th</sup> Anniversary of the Vietnam War's Tet Offensive, the [IC released](#) several tranches of documents about the Offensive.
- **IC Elements.** Intel.gov describes each of the [17 elements of the IC](#), and includes links to their websites.

**IC on the Record.** [IC on the Record](#) (ICOTR) is an online platform maintained by the Office of the Director of National Intelligence (ODNI) to provide officially released information about the IC, focusing primarily on foreign intelligence surveillance activities. Hundreds of documents and thousands of pages have been posted on this platform.

- **ICOTR Transparency Tracker:** The ODNI's Office of Civil Liberties, Privacy and Transparency maintains the [ICOTR Transparency Tracker](#). This spreadsheet indexes the materials posted on IC on the Record, as well as relevant materials posted on other government sites.
- **Full Text Search Capability.** Intel.gov includes the capability to conduct full text searches on a [database of all documents](#) posted on ICOTR, *including the hundreds of documents relating to Section 702*. Note that the database does not include documents the IC on the Record links to, but that are hosted on other sites.

**IC Policy Library.** This list of active, unclassified policies is intended to foster public understanding about the policies that govern the IC's activities.

- [Intelligence Community Directives](#) (ICDs)
- [Intelligence Community Policy Guidance](#) (ICPG)
- [Intelligence Community Policy Memorandums](#) (ICPMs)

## IC Framework for Protecting Civil Liberties and Privacy and Enhancing Transparency

**IC Governance Framework.** This [IC Governance Framework Fact Sheet](#) generally describes the multi-layered framework of rules and oversight that governs the IC. Intel.gov also [describes this framework](#) and the values that guide intelligence activities.

**Intelligence Community Directive (ICD) 107, Civil Liberties, Privacy, and Transparency.** On February 28, 2018, Director of National Intelligence Daniel Coats issued a newly revised version of [ICD 107](#). This directive was originally issued in 2012 to establish IC policy on protecting civil liberties and privacy. DNI Coats updated this directive to include transparency. With the reissuance of ICD 107, the IC has now firmly established transparency as a foundational element of securing public trust in the IC's endeavors, alongside the protection of civil liberties and privacy. DNI Coats' issuance memorandum is posted [here](#).

**Principles of Intelligence Transparency for the IC.** The [Principles of Intelligence Transparency for the Intelligence Community](#) are intended to facilitate IC decisions on making information publicly available in a manner that enhances public understanding of intelligence activities, while continuing to protect information when disclosure would harm national security. A fact sheet on transparency is posted [here](#).

**Principles of Professional Ethics for the IC.** The [Principles of Professional Ethics for the Intelligence Community](#) reflect the core values common to all elements of the Intelligence Community and distinguish the officers and employees of the IC as "intelligence professionals."

**IC Legal Reference Book.** The text of many legal authorities relevant to the IC can be found in the [IC Legal Reference Book](#), compiled by ODNI's Office of the General Counsel.

**Civil Liberties, Privacy, and Transparency Offices.** Departments, agencies, and IC elements also provide information on how they protect civil liberties and privacy and enhance transparency. For example:

- [ODNI Office of Civil Liberties, Privacy, and Transparency](#)
- [CIA Privacy and Civil Liberties Office](#)
- [NSA Civil Liberties and Privacy Office](#)
- [Department of Justice Office of Privacy and Civil Liberties](#)
- [Department of Defense Privacy and Civil Liberties Office](#)
- [Department of Homeland Security Privacy Office](#)
- [Department of Homeland Security Office of Civil Rights and Civil Liberties](#)

- **Inspectors General.** Under the Inspector General Act of 1978, as amended, the role of federal inspectors general (IGs) is to prevent and detect waste, fraud, and abuse relating to their agency’s programs and operations, and to promote economy, efficiency, and effectiveness in the agency’s operations and programs. Offices of Inspector General (OIGs) are located within their agencies but must conduct their audits, investigations, evaluations, and special reviews independently from their agencies.
  - The Intelligence Community Inspector General (IC IG) has a [public website](#), which includes its [public semiannual reports](#). The IC IG also maintains a [website](#) that provides information on IC whistleblowing and that explains whistleblower protections.
    - The semiannual report for October 2018-March 2019 is posted [here](#).
    - In November, 2018, the IC IG released its [Annual Work Plan for Fiscal Year 2019](#).
  - Other OIGs also maintain websites. For example, the NSA IG has a [public website](#) that provides transparency regarding the office’s mission and work, and provides information regarding whistleblowing at NSA.
    - \*On July 8, 2019, NSA IG published its [Semi-Annual Report to Congress](#) for 1 Oct. 2018 – 31 Mar. 2019; [a link to this report was also published on ICOTR](#).
  - The Council of the Inspectors General on Integrity and Efficiency (CIGIE) established an oversight website ([www.oversight.gov](http://www.oversight.gov)) that provides the public access to IG reports and other information.
  - \*Most recently in December 2019, the DOJ’s Office of Inspector General released its report titled [Review of Four FISA Applications and Other Aspects of the FBI’s Crossfire Hurricane Investigation](#) with a [press release](#).

**Privacy and Civil Liberties Oversight Board (PCLOB).** The [PCLOB](#) is an independent agency within the Executive Branch established by the Implementing Recommendations of the 9/11 Commission Act of 2007. The bipartisan, five-member Board is appointed by the President and confirmed by the Senate. The Chairman serves full time, while the four other Board Members serve in their positions part-time. The Board’s mission is to ensure that the federal government’s efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.

**Federal Privacy Council.** The [Federal Privacy Council](#) is the principal government-wide interagency forum to improve the privacy practices of agencies and entities acting on their behalf.

## Reports on Use of National Security Authorities.

The government prepares a variety of reports detailing its use of national security authorities. These reports contain a wealth of information about how the government implements the Foreign Intelligence Surveillance Act (FISA) and other key authorities.

- **Annual Statistical Transparency Report Regarding Us of National Security Authorities.** For the past four years, the ODNI has published on ICOTR annual reports that provide important information and statistics on how national security authorities are used.
  - The *sixth* such report, for calendar year 2018, is posted [here](#). This report includes statistics required by the USA FREEDOM Act, as well as other statistics published pursuant to the *Principles of Intelligence Transparency*.
- **Reports posted on the Privacy and Civil Liberties Oversight Board's website** ([www.pclob.gov](http://www.pclob.gov)). The PCLOB has published major reports on the executive branch's use of national security authorities.
  - [PCLOB Report](#) to the President on the Implementation of Presidential Policy Directive 28: Signals Intelligence Activities. The IC's response to this report is posted [here](#).
  - [PCLOB Report](#) on the Surveillance Program Operated Pursuant to Section 702 of FISA (July 2, 2014).
  - [PCLOB Report](#) on the Telephone Records Program Conducted under Section 215 of the USA PATRIOT Act and on the Operations of the Foreign Intelligence Surveillance Court (January 23, 2014).
  - [PCLOB Update](#) on the government's implementation of the PCLOB Recommendations on Section 215 and Section 702 (February 5, 2016).
- **Reports posted on NSA's Civil Liberties and Privacy Office (NSA CLPO) website** ([www.nsa.gov/about/civil-liberties](http://www.nsa.gov/about/civil-liberties)). NSA CLPO has, in the interest of transparency, prepared and published three reports describing how NSA implements key authorities, and assessing the corresponding civil liberties and privacy implications.
  - [NSA CLPO Report](#) on NSA's implementation of Section 702.
  - [NSA CLPO Transparency Report](#) on NSA's implementation of the new business records provisions of the USA FREEDOM Act.
  - [NSA CLPO Report](#) on civil liberties and privacy protections for targeted signals intelligence (SIGINT) activities under Executive Order 12333.

- **Reports on Protecting U.S. Person Identities in FISA Disseminations.** ODNI posted reports on ICOTR that review how intelligence agencies protect the identities of U.S. persons when disseminating information collected under FISA. These reports were prepared, at the direction of the DNI, by the civil liberties and privacy officers for the ODNI, NSA, FBI, and CIA.
  - [ODNI Report on Protecting U.S. Person Identities in Disseminations under FISA](#)
  - [Annex 1 - The National Security Agency's \(NSA\) Report](#)
  - [Annex 2 - The Federal Bureau of Investigation's \(FBI\) Report](#)
  - [Annex 3 - The Central Intelligence Agency's \(CIA\) Report](#)
  - [Annex 4 - The National Counterterrorism Center's \(NCTC\) Report](#)

Note that in January 2018, Director of National Intelligence Daniel Coats issued [Intelligence Community Policy Guidance \(ICPG\) 107.1](#) establishing for the first time community-wide guidance for responding to requests for the identities of U.S. persons in disseminated intelligence reports, commonly referred to as “unmasking.”
- **Report of the Director of the Administrative Office of the U.S. Courts on Activities of the Foreign Intelligence Surveillance Courts for 2018.** Under 50 U.S.C. § 1873(a)(2), enacted as part of the USA FREEDOM Act of 2015 (Pub. L. No. 114-23), the Director of the Administrative Office of the United States Courts (AO) is required to publish statistical information on certain activities of the Foreign Intelligence Surveillance Court (FISC) and Foreign Intelligence Surveillance Court of Review (FISCR) (collectively referred to as the FISA courts) as detailed in 50 U.S.C. § 1873(a)(1). This includes the number of applications or certifications submitted to the FISC and whether those requests were granted, modified, or denied. It also includes information on amicus curiae appointments by the FISA courts. [This is the Director's report for calendar year 2018.](#)

## Section 702: Overviews

The government has provided general overviews of Section 702 of the Foreign Intelligence Surveillance Act (FISA):

- **Summary of FISA Amendments Reauthorization Act of 2017.** On January 19, 2018, Congress reauthorized Section 702 for six years, through the FISA Amendments Reauthorization Act of 2017 (the Reauthorization Act). This [summary](#) describes the changes made by the Reauthorization Act, including additional privacy safeguards.
- **Section 702 Overview.** In late December 2017, the IC prepared an infographic summarizing key elements of Section 702. This overview is posted [here](#).

- **FISA Amendments Act: Q&A.** The IC prepared a detailed [Q&A document](#) describing Section 702 and other FISA provisions. This document includes a discussion of the intelligence value of Section 702, with examples. The Q&A document was prepared before the FISA Amendments Reauthorization Act of 2017 (the Reauthorization Act). For changes made by the Reauthorization Act, see the summary document described above.
- **Joint Unclassified Statement on Section 702.** IC FISA experts testified about Section 702 before the House Judiciary Committee in March, 2017. The statement for the record provides a detailed overview of Section 702, and is posted [here](#).
- **NSA's Q&A on Section 702.** NSA prepared a guide to Section 702 in question-and-answer format: [Understanding the Impact of Section 702 on the Typical American](#).
- **Guide to Section 702 Value Examples.** ODNI prepared a [guide](#) to officially released information on the value of information collected under Section 702.

## Section 702: Targeting, Minimization, and Querying

The government has released court-approved targeting, minimization, and querying procedures under Section 702.

- **Targeting Procedures.** Section 702 allows for the targeting of (i) non-United States persons (ii) reasonably believed to be located abroad (iii) to acquire foreign intelligence information. Targeting is effectuated by tasking communications facilities (such as telephone numbers and electronic communications accounts) to U.S. electronic communications service providers. Pursuant to the [IC's Principles of Transparency](#), the government released redacted versions of targeting procedures, including most recently in October 2019 for the 2018 Section 702 certifications.
  - \* [2018 NSA's Section 702 Targeting Procedures dated March 27, 2018](#)
  - \* [2018 FBI's Section 702 Targeting Procedures dated March 27, 2018](#)
- **Minimization Procedures.** Section 702 also requires minimization procedures to minimize and protect any non-publicly available information concerning unconsenting United States persons that may be incidentally collected when appropriately targeting non-United States persons abroad for foreign intelligence information. The government has released several sets of minimization procedures for the past few years, including for the [2016 certifications](#). The most recently released minimization procedures, for the 2018 Section 702 certifications, are set forth below.

- [\\*2018 CIA's Amended Section 702 Minimization Procedures dated September 16, 2018](#)
  - [\\*2018 FBI's Amended Section 702 Minimization Procedures dated September 16, 2018](#)
  - [\\*2018 NCTC's Amended Section 702 Minimization Procedures dated September 16, 2018](#)
  - [\\*2018 NSA's Amended Section 702 Minimization Procedures dated September 16, 2018](#)
- **\*Querying Procedures.** With passage of the FISA Amendments Reauthorization Act of 2017, Congress amended Section 702 to require that querying procedures be adopted by the Attorney General, in consultation with the DNI. Section 702(f)(1) requires that the querying procedures be consistent with the Fourth Amendment and that they include a technical procedure whereby a record is kept of each U.S. person term used for a query. Similar to the Section 702 targeting and minimization procedures, the querying procedures are required to be reviewed by the FISC as part of the certification package for consistency with the statute and the Fourth Amendment. The querying procedures were first considered as part of the 2018 certifications and released in October 2019, as set forth below:
    - [\\*2018 FBI's Amended Section 702 Querying Procedures dated August 12, 2019](#)
    - [\\*2018 CIA's Section 702 Querying Procedures dated September 16, 2018](#)
    - [\\*2018 NCTC's Section 702 Querying Procedures dated September 16, 2018](#)
    - [\\*2018 NSA's Section 702 Querying Procedures dated September 16, 2018](#)

## Section 702: Compliance, Oversight, and Other Documents

The government has released other relevant documents, including those relating to the extensive compliance and oversight measures undertaken under Section 702.

- **Summary of Oversight Activities Conducted by DOJ and ODNI.** The National Security Division of the Department of Justice and the ODNI jointly conduct oversight of how the IC implements Section 702. These activities were officially described a filing with the FISC, which is posted [here](#).
- **2015 Summary of Notable Section 702 Requirements.** This summary serves as a reference guide to certain notable requirements relating to the IC's implementation of Section 702. This summary is posted [here](#).



- **Semiannual Assessments of Compliance with Procedures and Guidelines Issued Pursuant to Section 702 of FISA. Semiannual Compliance Assessments under Section 702 of FISA.** These compliance assessments are jointly submitted by the Attorney General and the DNI.
  - The 13<sup>th</sup>-15<sup>th</sup> Joint Assessments are posted [here](#), together with a corresponding [Fact Sheet](#) explaining joint assessments.
  - In October, 2018, the 16<sup>th</sup> and 17<sup>th</sup> Joint Assessments were proactively released. They are posted [here](#).
  - In March, 2019, the 18<sup>th</sup> Joint Assessment was proactively released. It is posted [here](#).
  
- **NSA Guidance and Training Documents.** NSA has released certain documents that provide guidance and/or training for NSA personnel in implementing Section 702.
  - [NSA's 702 Targeting Review Guidance](#)
  - [NSA's 702 Practical Applications Training](#)
  - [NSA's 702 Training for NSA Adjudicators](#)
  - [NSA's 702 Adjudication Checklist](#)
  - [NSA's Training on FISA Amendments Act Section 702](#)
  
- **DOJ Memorandum on Restriction Regarding the Use of FISA Section 702 Information in Criminal Proceedings Against United States Persons.** This memorandum from the National Security Division of the Department of Justice is posted [here](#).

## FISA: Other Provisions

The IC also releases documents pertaining to FISA provisions other than Section 702.

- For example, the IC has posted three tranches of documents released in FOIA litigation, pertaining to Title IV (pen register/trap and trace) and Title V (business records) of FISA. Those documents can be found [here](#).
- The Annual Statistical Transparency Report (referenced previously in this Guide) includes information and statistics about all FISA authorities.
  - For example, the [sixth annual statistical transparency report](#) includes information and statistics about the use of FISA probable cause authorities (Titles I and III; Sections 703 and 704), FISA Title IV (use of pen register and trap and trace devices), FISA Title V (business records); and national security letters.
  - Note that pages 25-31 of the report on business records, provides information on certain provisions in the USA FREEDOM Act that will sunset in March 2020.

## FISA: FISC and FISCR Opinions

The Foreign Intelligence Surveillance Court (FISC) and Foreign Intelligence Surveillance Court of Review (FISCR) carry out their judicial duties under FISA in a classified setting, so that they can receive and act on classified information relating to the government's implementation of FISA authorities. Recently, a substantial number of filings, rulings, and other documents related to the FISC and FISCR have been made public, in redacted form.

- **FISC Website.** FISC rulings, filings and other documents can also be found on the FISC's website: <http://www.fisc.uscourts.gov/>.
- **Releases on ICOTR and/or the FISC website.**
  - \*Most recently in December 2019, the FISC published [an Order](#) and [an Order of Publication](#) *In Re Accuracy Concerns Regarding FBI Matters Submitted to the FISC*, Docket Number Misc. 19-02.
  - \*Also in December 2019, the FISC published a [redacted Order](#) *In Re All Matters Submitted to the Foreign Intelligence Surveillance Court*.
  - \*In October 2019, ICOTR published the opinions of the FISC and the Foreign Intelligence Surveillance Court of Review (FISC-R) regarding, among other issues, the requirements for the FBI to track and document the justifications for queries of Section 702 data using United States person identifiers.
    - \*[FISC's September 2019 Opinion](#)
    - \*[FISCR's July 2019 Opinion](#)
    - \*[FISC's October 2018 Opinion](#)
    - \*[FISC's April 2018 Order](#)
- Earlier releases have included:
  - The [opinion of the FISC-R](#) regarding standing, dated March 16, 2018. Relevant pleadings are also posted on the [Public Filings section](#) of the FISC website.
  - [The FISC's April 26, 2017 Memorandum Opinion and Order](#), addressing, among other things, the Section 702 upstream compliance incident that is described by NSA [here](#).
  - [Over a dozen FISC opinions and related documents](#), recently released as part of FOIA litigation.
  - [Release of FISC Question of Law and FISCR Opinion](#), regarding collection of post-cut through digits using a pen register and trap and trace device.
  - [June 18, 2015 Memorandum Opinion](#) regarding appointment of amicus for a particular case.

- [November 6, 2015 Memorandum Opinion and Order](#) regarding the 2015 Section 702 Certifications, including review of the legality of U.S. person queries. Other documents relating to the above include:
  - [FISC Order appointing amicus](#)
  - [Amicus brief](#)
  - [Government’s brief in response to briefing order](#)
  - [Transcript of oral argument](#)
  - Note that [Annual Statistical Transparency Report](#), at page 10, includes the results of the reporting ordered in the FISC’s November 6, 2015 opinion, at pages 44 and 78.
- [December 31, 2015 Memorandum Opinion](#), approving the Government’s first application for orders requiring the production of call detail records under the USA FREEDOM Act.
  - [FISC documentation relating to 2011 certifications](#) originally posted in 2013, with additional documents released in 2017.
  - Links to the [FISC documentation relating to 2016 certifications](#), and other FISA documents, are included in this comprehensive posting.

## Executive Order 12333

The IC has also released important documents related to Executive Order 12333, which establishes the Executive Branch framework for the country’s national intelligence efforts, and includes safeguards for protecting privacy and civil liberties in the conduct of intelligence activities. It was originally issued by President Ronald Reagan in 1981, was most recently revised and re-issued by President George W. Bush in 2008.

- **General Documents.** Executive Order 12333, as amended, is posted [here](#). An information paper describing the 2008 revision is posted [here](#).
- **Attorney-General Approved Procedures.** Section 2.3 of Executive Order 12333 provides that IC elements may collect, retain, and disseminate information concerning United States persons pursuant to procedures established by the head of the IC element and approved by the Attorney General, in consultation with the DNI.
  - **DoD.** The Department of Defense (DoD) updated its Attorney General-approved procedures in 2016: [Department of Defense Manual 5240.01](#), Procedures Governing the Conduct of DoD Intelligence Activities. These procedures cover the IC elements that are part of DoD: DIA, NGA, NRO, NSA, and the intelligence elements of the Army, Navy, Air Force, and Marines.

- **NSA.** In addition, NSA also follows United States Signals Directive (USSID) SP0018, Legal Compliance and U.S. Persons Minimization Procedures (January 25, 2011), commonly referred to as [USSID 18](#).
  - **CIA.** The CIA updated its Attorney General approved procedures earlier this year: [CIA's Executive Order 12333, Attorney General Procedures](#), with corresponding [Detailed Description](#).
  - **FBI.** The FBI operates under the [Attorney General's Guidelines for Domestic FBI Operations](#). A detailed [Domestic Investigations and Operations Guide](#) provides specific guidance for implementing the guidelines.
  - **Table.** A table with links to IC elements' procedures is posted [here](#).
- **Raw Signals Intelligence Availability Procedures.** Section 2.3 of Executive Order 12333 also provides that raw or unminimized signals intelligence (SIGINT) information may only be disseminated or made available to IC elements in accordance with procedures established by the DNI in coordination with the Secretary of Defense and approved by the Attorney General. The Raw SIGINT Availability Procedures were finalized and released in January of 2017, and are posted [here](#), with corresponding [Fact Sheet](#). The procedures require strict safeguards comparable to those of NSA for handling such information.

## Presidential Policy Directive 28, Signals Intelligence Activities (PPD-28).

PPD-28 was issued in January 2014 and remains in effect. It sets forth general privacy protection principles for SIGINT activities, limits the use of SIGINT collected in bulk, provides for the involvement of senior policy makers in key SIGINT decisions, and imposes specific safeguards to protect the privacy of all individuals, regardless of nationality.

- **PPD-28.** PPD-28 is posted [here](#).
- **IC Element Policies Implementing PPD-28.** Section 4 of PPD-28 calls on each IC element to update existing or issue new policies and procedures to implement principles for safeguarding all personal information collected through SIGINT, consistent with technical capabilities and operational needs. A table with links to each IC element's policies under PPD-28 is posted [here](#). In addition, links to two IC Standards relating to PPD-28 are posted [here](#).
- **Annual Signals Intelligence Reform Progress Report.** The ODNI published three annual reports outlining progress under PPD-28 and related SIGINT reform efforts. The report for calendar year 2016 is posted [here](#).

## Gates Procedures

The Gates Procedures provide that, unless a specific exception applies, prior approval must be obtained from the Office of the Director of National Intelligence if information identifying Members or their staff by name or by individually identifying titles or characteristics (congressional identity information) is included in intelligence reports being disseminated to Executive Branch entities outside of the requesting IC element. A statement providing the background for these procedures is posted [here](#). The procedures are contained in an annex to [IC Directive 112](#), Congressional Notification, and are posted [here](#).