

**FEDERAL BUREAU OF INVESTIGATION
EXECUTIVE ORDER 14086
IMPLEMENTING POLICIES AND PROCEDURES**

I. Introduction

On October 7, 2022, President Biden issued Executive Order (“EO”) 14086, which set forth safeguards for the conduct of signals intelligence activities to ensure that privacy and civil liberties are integral considerations in the planning and implementation of such activities. Simultaneously, President Biden issued National Security Memorandum 14 revoking all provisions of Presidential Policy Directive (“PPD”) 28, with the exception of Section 3, Section 6, and the PPD’s Classified Annex.

In accordance with Section 2(c)(iv) of EO 14086, these Federal Bureau of Investigation (“FBI”) EO 14086 Implementing Policies and Procedures update and replace the FBI’s PPD-28 Policies and Procedures, issued on February 2, 2015.

Although the FBI does not collect signals intelligence, the FBI may receive signals intelligence information collected by other Intelligence Community (“IC”) elements. These Policies and Procedures therefore address the safeguards that the FBI will apply to any such signals intelligence information that it receives from other IC elements. In addition, and consistent with the scope of application of PPD-28, the FBI will apply the relevant provisions of EO 14086 to its activities conducted under Section 702 of the Foreign Intelligence Surveillance Act (“FISA”) in order to further the principles of EO 14086.

II. Privacy and Civil Liberties Safeguards

A. Safeguards for Personal Information Collected Under Section 702 of FISA

The FBI will apply the following safeguards to its activities under Section 702 of FISA, which fulfill the principles contained in subsections 2(a)(ii) and 2(a)(iii) of EO 14086.¹ The safeguards are in addition to the protections that non-U.S. persons receive pursuant to FISA, the Attorney General’s Guidelines for Domestic FBI Operations, the FBI’s Section 702 Minimization Procedures, the FBI’s Section 702 Targeting Procedures, the FBI’s Section 702 Querying Procedures, or any other applicable law or policy.

(1) Collection

The FBI will collect information under Section 702 of FISA only following a determination by the U.S. government that the specific collection activity, based on a reasonable assessment of all relevant factors, is necessary to advance a validated intelligence priority, although collection under Section 702 of FISA does not have to be the sole means available or used

¹ These procedures do not alter the rules applicable to U.S. persons found in FISA, Executive Order 12333, the Attorney General’s Guidelines for Domestic FBI Operations, or other applicable law or policy.

for advancing aspects of the validated intelligence priority. In determining whether to collect information under Section 702 of FISA consistent with this principle, the availability, feasibility, and appropriateness of other less intrusive sources and methods for collecting the information necessary to advance a validated intelligence priority, including from diplomatic and public sources, shall be considered and prioritized, in accordance with the Attorney General's Guidelines for Domestic FBI Operations.

In addition, the FBI shall ensure that its collection activities under Section 702 are as tailored as feasible to advance a validated intelligence priority and, taking due account of relevant factors, do not disproportionately impact privacy and civil liberties. Such factors may include, depending on the circumstances, the nature of the pursued objective; the feasible steps taken to limit the scope of the collection to the authorized purpose; the intrusiveness of the collection activity, including its duration; the probable contribution of the collection to the objective pursued; the reasonably foreseeable consequences to individuals, including unintended third parties; the nature and sensitivity of the data to be collected; and the safeguards afforded to the information collected.

Based on the adoption by the National Security Agency ("NSA") of procedures implementing EO 14086, unless the FBI possesses specific information to the contrary, the FBI will presume that electronic communications accounts, addresses, or identifiers designated by the NSA as set forth in the FBI's Section 702 Targeting Procedures ("Designated Accounts") meet these standards.

(2) Bulk Collection

Bulk collection is not permitted under Section 702 of FISA.

(3) Handling of Personal Information

(a) Minimization

Consistent with its need to retain intelligence for a sufficient period of time to understand its relevance and to disseminate intelligence as necessary to protect national security, the FBI will apply the following protections to minimize the dissemination and retention of personal information concerning non-U.S. persons collected under Section 702 of FISA.

(i) Dissemination

The FBI shall disseminate personal information of non-U.S. persons collected under Section 702 of FISA only if it involves one or more of the comparable types of information that Section 2.3 of Executive Order 12333 states may be disseminated in the case of information concerning U.S. persons.

The FBI shall not disseminate personal information collected under Section 702 of FISA solely because of a person's foreign nationality or country of residence. Likewise, the FBI shall not disseminate personal information collected under

Section 702 of FISA for the purpose of circumventing the provisions of EO 14086.²

The FBI shall disseminate within the United States Government personal information collected under Section 702 of FISA only if an authorized and appropriately trained individual has a reasonable belief that the personal information will be appropriately protected and that the recipient has a need to know the information.

Prior to disseminating personal information collected under Section 702 of FISA to recipients outside the United States Government, including to a foreign government or international organization, the FBI shall ensure that due account has been taken of the purpose of the dissemination, the nature and extent of the personal information being disseminated, and the potential for harmful impact on the person or persons concerned.

Unless it possesses specific information to the contrary, the FBI will presume that any minimized section 702 information it receives from other IC elements meets these standards. The FBI will further disseminate such information only in accordance with applicable law and FBI and IC policies and procedures.

(ii) Retention

The FBI shall retain non-U.S. persons' personal information collected under Section 702 of FISA only if the retention of comparable information concerning United States persons would be permitted under applicable law.

The FBI shall subject non-U.S. persons' personal information collected under Section 702 of FISA to the same retention periods that would apply to comparable information concerning United States persons.

The FBI shall subject non-United States persons' personal information collected under Section 702 of FISA for which no final retention determination has been made to the same temporary retention periods that would apply to comparable information concerning U.S. persons.

The FBI shall delete non-United States persons' personal information collected under Section 702 of FISA that may no longer be retained in the same manner that comparable information concerning United States persons would be deleted.

² Consistent with Section 5(d) of Executive Order 14086, these Policies and Procedures do not prohibit the FBI from disseminating information relating to a crime for law enforcement purposes; disseminating warnings of threats of killing, serious bodily injury, or kidnapping; disseminating cyber threat, incident, or intrusion response information; notifying victims or warning potential victims of crime; or complying with dissemination obligations required by statute, treaty, or court order, including orders of and procedures approved by the FISC or other court orders.

(b) Data Security and Access

Access to all personal information collected under Section 702 of FISA—irrespective of the nationality of the person whose information is collected—is restricted to those authorized, appropriately trained 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.

Thus, the FBI will process and store personal information collected under Section 702 of FISA under conditions that provide appropriate protection and prevent access by unauthorized persons, consistent with the applicable safeguards for sensitive information contained in relevant Executive Orders, proclamations, other Presidential directives, Intelligence Community directives, and associated policies.

Likewise, the FBI will limit access to such personal information to authorized personnel who have a need to know the information to perform their mission and have received appropriate training on the requirements of applicable United States law.

Consistent with the above, the FBI will ensure that personal information concerning non-U.S. persons collected under Section 702 of FISA, for which no final retention determination has been made, may only be accessed in order to support such a retention determination or to conduct authorized administrative, testing and development, security, or oversight functions.

(c) Data Quality

The FBI shall include personal information concerning non-U.S. persons collected under Section 702 of FISA in intelligence products only as consistent with applicable Intelligence Community standards, including Intelligence Community Directive 203 (ICD 203), for accuracy and objectivity, with a focus on applying standards relating to the quality and reliability of the information, consideration of alternative sources of information and interpretations of data, and objectivity in performing analysis.

(d) Queries of Bulk Collection

Bulk collection is not permitted under Section 702 of FISA, and thus, there is no bulk collection to query.

(e) Documentation

In order to facilitate the oversight processes set forth in EO 14086 and these Policies and Procedures, the FBI shall maintain appropriate documentation with respect to its activities under Section 702 of FISA, including the documentation required by the FBI’s Section 702 Standard Minimization Procedures, the FBI’s Section 702 Targeting Procedures, and the FBI’s Section 702 Querying Procedures.

B. Safeguards for Personal Information Collected Through Signals Intelligence

As noted above, the FBI does not collect signals intelligence; however, the FBI may receive signals intelligence collected by other elements of the IC. The FBI will apply the following safeguards to any personal information of non-U.S. persons collected through signals intelligence that the FBI receives from other IC elements, which safeguards fulfill the principles contained in subsections 2(a)(ii) and 2(a)(iii) of EO 14086.³ These safeguards are in addition to the protections that non-U.S. persons receive pursuant to FISA, the Attorney General's Guidelines for Domestic FBI Operations, the FBI's Section 702 Minimization Procedures, the FBI's Section 702 Targeting Procedures, the FBI's Section 702 Querying Procedures, or any other applicable law or policy.

(1) Collection

Consistent with Executive Order 12333, Section 1.7, the FBI does not collect signals intelligence.

(2) Bulk Collection

As the FBI does not collect signals intelligence, the FBI also does not collect signals intelligence in bulk.

(3) Handling of Personal Information

(a) Minimization

Consistent with its need to retain intelligence for a sufficient period of time to understand its relevance and to disseminate intelligence as necessary to protect national security, the FBI will apply the following protections to minimize the dissemination and retention of personal information concerning non-U.S. persons collected through signals intelligence.

(i) Dissemination

The FBI shall disseminate personal information of non-U.S. persons collected through signals intelligence only if it involves one or more of the comparable types of information that Section 2.3 of Executive Order 12333 states may be disseminated in the case of information concerning U.S. persons.

The FBI shall not disseminate personal information collected through signals intelligence solely because of a person's foreign nationality or country of

³ These procedures do not alter the rules applicable to U.S. persons found in FISA, Executive Order 12333, the Attorney General's Guidelines for Domestic FBI Operations, or other applicable law or policy.

residence.⁴ Likewise, the FBI shall not disseminate personal information collected through signals intelligence for the purpose of circumventing the provisions of EO 14086.

The FBI shall disseminate within the United States Government personal information collected through signals intelligence only if an authorized and appropriately trained individual has a reasonable belief that the personal information will be appropriately protected and that the recipient has a need to know the information.

Prior to disseminating personal information collected through signals intelligence to recipients outside the United States Government, including to a foreign government or international organization, the FBI shall ensure that due account has been taken of the purpose of the dissemination, the nature and extent of the personal information being disseminated, and the potential for harmful impact on the person or persons concerned.

Unless it possesses specific information to the contrary, the FBI will presume that any minimized signals intelligence information the FBI receives from other IC elements, which have adopted procedures to implement EO 14086, meets these standards. The FBI will further disseminate such information only in accordance with applicable FBI and IC policies and procedures.

(ii) Retention

The FBI shall retain non-U.S. persons' personal information collected through signals intelligence only if the retention of comparable information concerning United States persons would be permitted under applicable law.

The FBI shall subject non-U.S. persons' personal information collected through signals intelligence to the same retention periods that would apply to comparable information concerning United States persons.

The FBI shall subject non-United States persons' personal information collected through signals intelligence for which no final retention determination has been made to the same temporary retention periods that would apply to comparable information concerning U.S. persons.

The FBI shall delete non-United States persons' personal information collected through signals intelligence that may no longer be retained in the same manner that comparable information concerning United States persons would be deleted.

⁴ Consistent with Section 5(d) of Executive Order 14086, these Policies and Procedures do not prohibit the FBI from disseminating information relating to a crime for law enforcement purposes; disseminating warnings of threats of killing, serious bodily injury, or kidnapping; disseminating cyber threat, incident, or intrusion response information; notifying victims or warning potential victims of crime; or complying with dissemination obligations required by statute, treaty, or court order, including orders of and procedures approved by the FISC or other court orders.

(b) Data Security and Access

Access to all personal information collected through signals intelligence—irrespective of the nationality of the person whose information is collected—is restricted to those authorized, appropriately trained 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.

Thus, the FBI will process and store personal information collected through signals intelligence under conditions that provide appropriate protection and prevent access by unauthorized persons, consistent with the applicable safeguards for sensitive information contained in relevant statutes, Executive Orders, proclamations, other Presidential directives, Intelligence Community directives, and associated policies. Appropriate oversight and accreditation of systems maintaining personal information collected through signals intelligence will be in accordance with the foregoing relevant authorities and as implemented by appropriate chief information and security professionals.

Likewise, the FBI will limit access to such personal information to authorized personnel who have a need to know the information to perform their mission and have received appropriate training on the requirements of applicable United States law.

Consistent with the above, the FBI will ensure that personal information concerning non-U.S. persons collected through signals intelligence, for which no final retention determination has been made, may only be accessed in order to support such a retention determination or to conduct authorized administrative, testing and development, security, or oversight functions.

(c) Data Quality

The FBI shall include personal information concerning non-U.S. persons collected through signals intelligence in intelligence products only as consistent with applicable Intelligence Community standards for accuracy and objectivity, including ICD 203, with a focus on applying standards relating to the quality and reliability of the information, consideration of alternative sources of information and interpretations of data, and objectivity in performing analysis.

(d) Queries of Bulk Collection

The FBI does not have access to unminimized signals intelligence obtained by bulk collection. To the extent the FBI may seek and obtain such access, the FBI will only conduct queries of unminimized signals intelligence obtained by bulk collection to the extent permitted by applicable procedures prescribed pursuant to EO 12333, Section 2.3 and EO 14086, Section 2(c)(iii)(D).

(e) Documentation

In order to facilitate the oversight processes set forth in EO 14086 and these Policies and Procedures, the FBI shall maintain appropriate documentation with respect to the signals intelligence information it receives from other IC elements.

III. Oversight

A. Legal, Oversight, and Compliance Officials

The FBI's activities under Section 702 of FISA and its handling of personal information collected through signals intelligence are overseen by senior-level legal, oversight, and compliance officials who have authority to conduct oversight and ensure compliance with applicable U.S. law. At the FBI, these include the Assistant Director of the Inspection Division, the Assistant Director of the Office of Integrity and Compliance, the Assistant Director of the Office of Internal Auditing, the Privacy and Civil Liberties Officer, and the General Counsel, who will work in coordination with appropriate senior officials with data privacy and cybersecurity technical expertise. At the Department of Justice, these include the Inspector General and the Assistant Attorney General for the National Security Division. At the Office of the Director of National Intelligence, these include the General Counsel, the Inspector General for the Intelligence Community, and the Civil Liberties Protection Officer.

The FBI shall comply with any ODNI CLPO determination to undertake appropriate remediation, subject to any contrary determination of the DPRC, and, further, shall comply with any determination by a DPRC panel to undertake appropriate remediation.

These officials have access to all information pertinent to carrying out their respective oversight responsibilities, consistent with the protection of intelligence sources or methods, including their oversight responsibilities to ensure that any appropriate actions are taken to remediate an incident of non-compliance with applicable United States law

FBI personnel may not take any actions designed to impede or improperly influence these legal, oversight, and compliance officials in carrying out their oversight responsibilities under EO 14086.

FBI personnel will provide the Privacy and Civil Liberties Oversight Board (PCLOB) access to information necessary to conduct its annual review of the redress process in accordance with Section 3(e)(iii) of Executive Order 14086, including that such access shall be consistent with the protection of intelligence sources and methods.

B. Training

The FBI shall maintain appropriate training requirements to ensure that all FBI personnel with access to personal information obtained through signals intelligence or under Section 702 of FISA know and understand the requirements of this order and the policies and procedures for reporting and remediating incidents of non-compliance with applicable United States law. The FBI shall monitor completion of training requirements to ensure compliance with this provision.

C. Significant Incidents of Non-compliance

FBI personnel must report potential significant incidents of non-compliance under Executive Order 14086 or these procedures to the FBI Deputy General Counsel, National Security and Cyber Law Branch, who will consult with the FBI Privacy and Civil Liberties Officer to determine whether such incident is a significant incident of non-compliance under EO 14086 or these procedures. If these officials determine that a significant incident of non-compliance has occurred, this result shall then be reported promptly to the FBI General Counsel, who shall ensure that such incidents are promptly reported to the FBI Director, to the Attorney General, and to the Director of National Intelligence, in accordance with EO 14086.⁵

D. Assistance to CLPO

The FBI shall provide the ODNI Civil Liberties Protection Officer with access to information necessary to conduct the reviews described in either Section 3(c)(i) or Section 3(d)(i) of EO 14086, consistent with the protection of intelligence sources and methods. FBI personnel shall not take any actions designed to impede or improperly influence any such reviews. The FBI's Privacy and Civil Liberties Officer shall be responsible for supporting ODNI's Chief of Privacy, Civil Liberties, and Transparency in any review relating to the activities of the FBI.

IV. Departures from these Procedures

The Director, Deputy Director, or an Executive Assistant Director must approve in advance any departures from these procedures and provide notice to the Director of National Intelligence and the Attorney General. If there is not time for such advance approval and a departure from these procedures is necessary because of the immediacy or gravity of a threat to the safety of persons or property or to the national security, the departure must be reported in writing to the Director, the Director of National Intelligence, and the Attorney General as soon as possible thereafter and must include an explanation of why advance approval was not possible and describe the actions taken to ensure activities were conducted lawfully. Notwithstanding this paragraph, all activities in all circumstances must be carried out in a manner consistent with the Constitution and laws of the United States.

⁵ EO 14086 defines a "significant incident of non-compliance" as a systemic or intentional failure to comply with a principle, policy, or procedure of applicable United States law that could impugn the reputation or integrity of an element of the Intelligence Community or otherwise call into question the propriety of an Intelligence Community activity, including in light of any significant impact on the privacy and civil liberties interests of the person or persons concerned.

V. **Internal Guidance**

These procedures are set forth solely for internal guidance within the FBI. Questions on the applicability or interpretation of these procedures should be directed to the FBI Office of the General Counsel (FBI OGC), which shall determine such applicability or interpretation. FBI OGC may consult with Department of Justice, National Security Division, as appropriate.

Approved: 
Paul M. Abbate
Deputy Director
Federal Bureau of Investigation

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