

DIRECTOR OF NATIONAL INTELLIGENCE

WASHINGTON, DC 20511

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**Facts on the Collection of Intelligence Pursuant to Section 702
of the Foreign Intelligence Surveillance Act**

- PRISM is not an undisclosed collection or data mining program. It is an internal government computer system used to facilitate the government's statutorily authorized collection of foreign intelligence information from electronic communication service providers under court supervision, as authorized by Section 702 of the Foreign Intelligence Surveillance Act (FISA) (50 U.S.C. § 1881a). This authority was created by the Congress and has been widely known and publicly discussed since its inception in 2008.
- Under Section 702 of FISA, the United States Government does not unilaterally obtain information from the servers of U.S. electronic communication service providers. All such information is obtained with FISA Court approval and with the knowledge of the provider based upon a written directive from the Attorney General and the Director of National Intelligence. In short, Section 702 facilitates the targeted acquisition of foreign intelligence information concerning foreign targets located outside the United States under court oversight. Service providers supply information to the Government when they are lawfully required to do so.
- The Government cannot target anyone under the court-approved procedures for Section 702 collection unless there is an appropriate, and documented, foreign intelligence purpose for the acquisition (such as for the prevention of terrorism, hostile cyber activities, or nuclear proliferation) and the foreign target is reasonably believed to be outside the United States. We cannot target even foreign persons overseas without a valid foreign intelligence purpose.
- In addition, Section 702 cannot be used to intentionally target any U.S. citizen, or any other U.S. person, or to intentionally target any person known to be in the United States. Likewise, Section 702 cannot be used to target a person outside the United States if the purpose is to acquire information from a person inside the United States.
- Finally, the notion that Section 702 activities are not subject to internal and external oversight is similarly incorrect. Collection of intelligence information under Section 702 is subject to an extensive oversight regime, incorporating reviews by the Executive, Legislative and Judicial branches.

- *The Courts.* All FISA collection, including collection under Section 702, is overseen and monitored by the FISA Court, a specially established Federal court comprised of 11 Federal judges appointed by the Chief Justice of the United States.
 - The FISC must approve targeting and minimization procedures under Section 702 prior to the acquisition of any surveillance information.
 - Targeting procedures are designed to ensure that an acquisition targets non-U.S. persons reasonably believed to be outside the United States for specific purposes, and also that it does not intentionally acquire a communication when all the parties are known to be inside the US.
 - Minimization procedures govern how the Intelligence Community (IC) treats the information concerning any U.S. persons whose communications might be incidentally intercepted and regulate the handling of any nonpublic information concerning U.S. persons that is acquired, including whether information concerning a U.S. person can be disseminated. Significantly, the dissemination of information about U.S. persons is expressly prohibited unless it is necessary to understand foreign intelligence or assess its importance, is evidence of a crime, or indicates a threat of death or serious bodily harm.

- *The Congress.* After extensive public debate, the Congress reauthorized Section 702 in December 2012.
 - The law specifically requires a variety of reports about Section 702 to the Congress.
 - The DNI and AG provide exhaustive semiannual reports assessing compliance with the targeting and minimization procedures.
 - These reports, along with FISA Court opinions, and a semi-annual report by the Attorney General are provided to Congress. In short, the information provided to Congress by the Executive Branch with respect to these activities provides an unprecedented degree of accountability and transparency.
 - In addition, the Congressional Intelligence and Judiciary Committees are regularly briefed on the operation of Section 702.

- *The Executive.* The Executive Branch, including through its independent Inspectors General, carries out extensive oversight of the use of Section 702 authorities, which includes regular on-site reviews of how Section 702 authorities are being implemented. These regular reviews are documented in reports produced to Congress. Targeting decisions are reviewed by ODNI and DOJ.
 - Communications collected under Section 702 have provided the Intelligence Community insight into terrorist networks and plans. For example, the Intelligence

Community acquired information on a terrorist organization's strategic planning efforts.

- Communications collected under Section 702 have yielded intelligence regarding proliferation networks and have directly and significantly contributed to successful operations to impede the proliferation of weapons of mass destruction and related technologies.
- Communications collected under Section 702 have provided significant and unique intelligence regarding potential cyber threats to the United States including specific potential computer network attacks. This insight has led to successful efforts to mitigate these threats.