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# FBI Releases FISA Query Guidance

Today, the FBI is releasing two documents regarding queries of information collected under the Foreign Intelligence Surveillance Act (FISA): the “FBI FISA Query Guidance,” and the “FBI FISA Query Guidance Nutshell.” These documents were made available to the public in the interest of transparency and to further inform the public about FISA and how the FBI uses it. Appropriate redactions have been made to protect classified information or other material exempt from disclosure under FOIA guidelines.

In November 2021, the FBI issued this comprehensive guidance on FISA queries to our national security workforce to improve compliance following a series of incidents identified in oversight reviews conducted by the Department of Justice. The documents outline the rules, standards, and procedures for FBI employees to conduct queries of FISA information.

- FBI FISA Query Guidance ([vault.fbi.gov](#))
- FBI FISA Query Guidance Nutshell ([vault.fbi.gov](#))
- Further information on the FBI FISA Query Guidance document (below)

For more general information on FISA:

- <https://www.justice.gov/nsd/fisa>
- <https://www.intel.gov/foreign-intelligence-surveillance-act>

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## Background Information: November 2021 FBI FISA Query Guidance Documents

The Foreign Intelligence Surveillance Act (FISA) is a critical national security tool that the FBI and its Intelligence Community (IC) partners rely on every day in their efforts to counter threats from China, Russia, and Iran, as well as non-state terrorist groups, malicious cyber actors, and international weapons proliferators.

In order to protect the privacy and civil liberties of Americans, FISA requires the FBI and other IC agencies to implement procedures to minimize the acquisition, retention, and dissemination of U.S. person information and to ensure that any such information that is collected is subject to appropriate safeguards. These safeguards include rules governing how agencies such as the FBI may query previously collected information in the FBI’s FISA databases. Specifically, under the FBI’s FISA Standard Minimization Procedures, as well as its FISA Section 702 Querying Procedures, all queries must meet a strict legal standard—they must be “reasonably likely to retrieve foreign intelligence information or evidence of a crime.”

Following a series of query compliance incidents identified by the Department of Justice’s National Security Division (NSD) in its oversight reviews of FBI field offices, the FBI worked with NSD and the Office of the Director of National Intelligence (ODNI) to issue new, comprehensive guidance to the FBI’s national security workforce on FISA queries. The results of those interagency efforts were two documents: the “FBI FISA Query Guidance” and a two-page desk reference companion document entitled “FBI FISA Query Guidance Nutshell.” Both documents were issued to all FBI national security personnel in November 2021. The FBI is releasing them to the public for the first time today in the interest of transparency and to inform public discussion about FISA queries.

In December 2021, the FBI instituted new mandatory training based on these November 2021 guidance documents, which relevant FBI personnel were required to complete by the end of January 2022 in order to maintain their access to FBI FISA systems. The FBI then expanded and updated this training at the end of 2022, and FBI national security personnel are now required to re-take the expanded FISA query training on an annual basis in order to maintain their access to FBI FISA systems.

These efforts to improve guidance and training were part of a series of measures the FBI undertook beginning in the summer of 2021 to improve FISA and FISA Section 702 query compliance. Other measures included:

- Opt-in: FBI systems for storing unminimized FISA Section 702 information now require personnel to affirmatively “opt-in” to query that information, reducing the risk of inadvertent queries.
- Batch query approval: FBI personnel must now obtain attorney pre-approval to conduct a “batch job”—a combined query of many terms—when it would result in 100 or more queries.
- Sensitive query approval: FBI personnel must now obtain attorney pre-approval to conduct queries that present certain investigative sensitivities. In addition, the FBI’s Deputy Director must also personally approve certain types of sensitive queries—such as those involving domestic public officials—before they may be conducted.
- Case-specific justifications: FBI systems now require agents and analysts to enter a case-specific justification for every Section 702 query using a U.S. person query term before accessing any content retrieved by such a query.

Among other things, the FBI FISA query guidance documents make clear the three prongs of the FISA query standard: (1) queries must have an authorized purpose; (2) they must be reasonably designed; and (3) they must be justified, meaning that the agent or analyst conducting the query must have a specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information or evidence of a crime from raw FISA collection.

The guidance documents also clarify the rules governing so-called “evidence-of-a-crime-only” queries, which are queries of FBI FISA systems that are not designed to retrieve foreign intelligence information, but rather are only seeking to retrieve evidence of a crime. For example, the “FBI FISA Query Guidance” advises FBI personnel considering whether they meet the querying standard as follows: “[Y]ou should ask yourself whether a query you intend to conduct to retrieve only evidence of a crime is likely to retrieve such information specifically from raw FISA collection being queried” (p. 4). The “FBI FISA Query Guidance” goes on to state that FBI personnel “must consider whether the nature of a crime and the information known about the identifiers being queried are reasonably likely to find evidence of the crime under investigation in raw FISA collection” (p. 4). Finally, the guidance documents advise FBI personnel on the requirements of FISA Section 702(f)(2), a section of the statute that requires the FBI to obtain a court order in certain defined circumstances before accessing any content information retrieved by an “evidence-of-a-crime-only” query.

The FBI’s mission is to protect the American people and uphold the Constitution of the United States, and the FBI is committed to maintaining the trust of Congress and the American public when it uses the powerful authorities granted to it under FISA. Likewise, the FBI will continue to seek to be as transparent as possible—while still protecting intelligence sources and methods—about how it uses its FISA authorities so that the public understands just how critical these tools are to the FBI’s efforts to protect the nation.

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