

MINIMIZING UNITED STATES PERSON INFORMATION

Under FISA Section 702

Section 702 of the Foreign Intelligence Surveillance Act (FISA) only permits the targeting of non-U.S. persons located outside the United States to acquire foreign intelligence information. This does not mean that information concerning U.S. persons is never collected under Section 702. There are generally at least two people involved in a communication, and a Section 702 target may receive an email from a non-targeted U.S. person or call a non-targeted U.S. person on the telephone. Two non-U.S. person targets may also discuss information concerning a U.S. person.

Recognizing that some U.S. person communications will be collected, Congress made Section 702 collection subject to “minimization procedures”—a set of specific procedures designed to “minimize” the acquisition, retention, and sharing (or “dissemination”) of U.S. person information at all stages of the intelligence process, in a manner consistent with the national security purpose of the collection and the Fourth Amendment.

The targeted nature of Section 702 already limits the scope of collection, but the IC employs a variety of technical measures to minimize collection at the acquisition stage to further ensure that only communications that are to or from the Section 702 targets are acquired.

The resulting collection is then routed to access-controlled repositories in which only individuals with specific training on the minimization procedures and a mission-driven need-to-know may review the collected information.

IC professionals use queries and other techniques to focus their review of the collection to the foreign intelligence matter they are working. With limited exceptions, the IC may only retain unreviewed Section 702 collection for five years.

IC elements may only disseminate information concerning a U.S. person for limited reasons, most often because the information is foreign intelligence information or necessary to understand it. For example, if an international terrorist was planning to kill two specific U.S. persons, it would be important to disseminate the identities of those two individuals to law enforcement entities to disrupt the plot and protect these potential victims.

The minimization procedures are adopted by the Attorney General, in consultation with the Director of National Intelligence, and approved by the Foreign Intelligence Surveillance Court. The IC released its Section 702 minimization procedures to the public with minimal redactions. These procedures may be found at [intel.gov](https://www.intel.gov).

What is a “U.S. person”?

Under FISA, a “United States person” is a U.S. citizen, a U.S. lawful permanent resident (LPR), an unincorporated group substantially composed of U.S. citizens or LPRs, or an organization incorporated in the United States (unless incorporated by certain foreign powers).

