



# A Review of the Federal Bureau of Investigation's Querying Practices Under Section 702 of the Foreign Intelligence Surveillance Act



OVERSIGHT & REVIEW DIVISION

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## EXECUTIVE SUMMARY

### A Review of the Federal Bureau of Investigation's Querying Practices Under Section 702 of the Foreign Intelligence Surveillance Act

#### Introduction and Background

This review is conducted pursuant to the Reforming Intelligence and Securing America Act (RISAA), which reauthorized Section 702 of the Foreign Intelligence Surveillance Act (FISA) and directed the Department of Justice (DOJ or Department) Office of the Inspector General (OIG) to review the Federal Bureau of Investigation's (FBI) querying practices under Section 702. This review follows previously documented issues with the FBI's querying practices over a period of years, including a large number of noncompliant queries conducted by FBI personnel, as well as multiple remedial measures the FBI implemented to limit noncompliant queries.

This is the OIG's second statutorily-mandated review related to the FBI's use of its Section 702 authority. Our prior report was issued in September 2012 and assessed the FBI's targeting and "post-targeting" activities under Section 702 over an approximately 2-year period, and resulted in seven recommendations designed to improve the FBI's activities under Section 702. The OIG has also conducted oversight of the FBI's use of other FISA authorities, including our December 2019 report related to the FBI's Crossfire Hurricane investigation.

#### Background on Section 702

Section 702, enacted in 2008, permits the Attorney General and the Director of National Intelligence to target via electronic surveillance non-U.S. persons outside the United States for the purpose of collecting foreign intelligence information. The FBI is one of four agencies—along with the National Security Agency, the

Central Intelligence Agency, and the National Counterterrorism Center—that receive "unminimized" information acquired pursuant to Section 702, that is, Section 702-acquired information that has not been subject to further procedures intended to protect the information of unconsenting U.S. persons.

As with other agencies that receive Section 702-acquired information, the FBI is authorized to conduct "queries"—that is, searches for specific terms such as names, telephone numbers, email addresses, or other keywords—against Section 702-acquired information in the FBI's possession. These queries can include terms that identify or relate to U.S. persons, such as a U.S. person's name (U.S. person query). Most, if not all, FBI field offices and several FBI Headquarters components have personnel who conduct queries of Section 702-acquired information.

There are multiple restrictions on the FBI's authority to conduct queries of Section 702-acquired information, particularly with respect to queries that include terms that identify or relate to U.S. persons. These restrictions are specified in the FBI's "querying procedures," which are reviewed and approved annually by the Foreign Intelligence Surveillance Court (FISC). In particular, each query must meet a "query standard" to be legally compliant. Specifically, the query must be: conducted for the purpose of retrieving foreign intelligence information; reasonably tailored to retrieve that information; and based on specific facts indicating that the query is reasonably likely to retrieve such foreign intelligence information.

## History of the FBI's Querying Compliance Issues and Reforms

For the first several years after Congress established Section 702, oversight of the FBI's querying practices did not identify significant compliance issues. However, starting in approximately 2016, the DOJ National Security Division (NSD) Office of Intelligence, which conducts regular reviews of FBI queries, identified a significant upward trend in the number of noncompliant queries, many of which NSD assessed resulted from "fundamental misunderstandings" of the query standard by some FBI personnel. Many of these queries were run as part of large "batch jobs," which allow users to run multiple query terms as part of a single query action. A batch job that includes a single improper search parameter could result in a large number of noncompliant queries. In 2018, the FISC issued an order finding that the FBI's querying procedures, as implemented, were inconsistent with both Section 702's requirements and the Fourth Amendment to the U.S. Constitution due to the FBI's "repeated noncompliant queries of Section 702 information" and inadequate recordkeeping of U.S. person queries.

In response to the FISC's order and to NSD reviews that continued to show widespread querying noncompliance, the FBI in 2019 modified the systems that FBI personnel use to conduct queries. Among other things, the modifications required users to document the justification for U.S. person queries. The FBI and DOJ also developed new guidance and training for FBI personnel. Additionally, in 2020, then Attorney General William Barr directed the FBI to establish an Office of Internal Auditing (OIA), which was to be led by an Assistant Director and charged with conducting routine audits of the FBI's compliance with Section 702, in addition to other responsibilities.

Despite these steps, NSD continued to identify and report to the FISC and Congress significant FBI querying violations in 2020 and 2021, and the

FISC continued to express serious concerns about the FBI's ongoing query compliance issues. In 2021 and 2022, in response to FISC orders as well as direction from Department leadership, the FBI implemented a series of remedial measures designed to improve its querying compliance. Those measures included requiring pre-approval by specified FBI personnel for certain categories of "sensitive" queries, modifications to the FBI's querying systems to reduce inadvertent noncompliant queries, and improved guidance and training for FBI personnel with access to Section 702-acquired information.

Following these reforms, both NSD and the FISC found that the FBI's querying compliance had improved, though issues remained. The FBI implemented additional remedial measures. Most notably, in 2023, the FBI established the FISA Query Accountability Procedures, which provided for escalating consequences for FBI employees who repeatedly conduct noncompliant queries as the result of negligence, as well as referral to the FBI Inspection Division for employees who engage in reckless or intentional misconduct involving queries.

## RISAA's Querying Reforms

RISAA was enacted on April 20, 2024, and amended various provisions of Section 702, including those governing queries conducted by FBI personnel. Several of RISAA's provisions codified already existing FBI policies and procedures, including some of the remedial measures noted above.

RISAA also introduced several new reforms to the FBI's querying practices. RISAA requires that FBI personnel obtain approval from an FBI supervisor or attorney prior to conducting a U.S. person query of Section 702-acquired information. RISAA prohibits the involvement of any political appointees in the approval process for certain sensitive queries, or for a permissible batch query. RISAA also mandates that the Department audit every query conducted by FBI personnel that the FBI identifies as a U.S. person query

within 180 days of the query. In addition, RISAA restricts the FBI's authority to query Section 702 data for information relating to members of Congress and requires the FBI to promptly notify congressional leadership and affected members of any such queries. Finally, with limited exceptions, RISAA prohibits the FBI from conducting Section 702 queries for the sole purpose of finding evidence of criminal activity.

### **Methodology and Scope of the OIG's Review**

As required by RISAA, this report includes the following elements: (i) an evaluation of Section 702 querying compliance by FBI personnel, with a particular focus on U.S. person queries; (ii) an analysis of each specific reform that, in the OIG's view, is responsible for any identified improvement in the FBI's querying compliance; (iii) an assessment of the status of the FBI's implementation of RISAA's querying reforms; (iv) an evaluation of the effectiveness of OIA in monitoring and improving query compliance by FBI personnel; and (v) recommendations to further improve the FBI's querying compliance. We also discuss briefly two other issues we identified during the course of our review: the decrease in the number of Section 702 queries the FBI is conducting; and technological issues with the primary system that FBI personnel use to conduct queries.

To conduct this review, the OIG obtained voluminous documents from the FBI and NSD, and we interviewed 26 people from the FBI and the Department; we also met with personnel from the Office of the Director of National Intelligence (ODNI), which works with NSD in conducting oversight of the FBI's querying practices. While this report addresses the above statutory requirements, we note that due to the time period provided under RISAA for issuance of this report, we were only able to review the FBI's post-RISAA querying practices for a period of 1 year from the enactment of RISAA, from April 20, 2024, through April 20, 2025. Therefore, we are not able to conclude based on that limited time period that the reforms required and implemented under

RISAA will have a lasting effect, particularly in view of the FBI's past Section 702 compliance issues.

### **Results of the OIG's Review**

We found that the FBI has implemented all of RISAA's querying reforms. Many of the reforms require certain provisions to be included in the FBI's querying procedures. The Department submitted to the FISC on July 19, 2024, FBI querying procedures that include all of RISAA's mandated requirements. The FISC approved those procedures on September 17, 2024. The FBI has also taken concrete steps to implement the reforms imposed by RISAA, including modifying the FBI's querying systems, issuing updated guidance and query pre-approval forms, and deploying updated training that reflects RISAA's requirements. We identified several reforms that have been particularly effective at improving the FBI's querying compliance, including RISAA-mandated reforms as well as reforms that pre-date RISAA.

We found that the number of noncompliant queries identified in NSD oversight reports has been reduced substantially post-RISAA. Based on these reports, it appears that the FBI is no longer engaging in the widespread noncompliant querying of U.S. persons that was pervasive just a few years ago. According to NSD oversight reports, most of the noncompliant queries conducted post-RISAA were noncompliant due to administrative mistakes, such as typographical errors, rather than due to fundamental misunderstandings of the query standard. Witnesses we interviewed attributed the reduction of noncompliant queries at least in part to the reforms imposed by RISAA.

With respect to OIA, we found that, despite the breadth of its mandate and its limited staff, since its inception in 2020, it has contributed to the FBI's internal compliance functions. OIA has proposed policy changes aimed at enhancing the FBI's querying compliance and has developed useful tools to provide field office and Headquarters leadership valuable near real-time

data and information about queries conducted by FBI personnel. However, OIA perpetually has been understaffed and has consistently had more than a dozen vacant positions. Moreover, in March 2025 OIA employees were notified that OIA would become an office within the Inspection Division and that OIA's Assistant Director position would be eliminated. OIA's Assistant Director resigned in April 2025, and OIA has since been led by an Acting Section Chief in the Inspection Division. The FBI has told us that this reorganization is pending approval by the Department.

We also identified that both OIA and NSD have been reviewing all of the FBI's U.S. person queries, a circumstance we believe could result in unnecessary duplication of effort. NSD witnesses noted that OIA currently does not have sufficient subject matter expertise to be solely responsible for the Department's obligation to identify and report noncompliant FBI queries to the FISC and Congress. Accordingly, we believe NSD should continue to review all U.S. person queries and otherwise play a significant role in monitoring the FBI's compliance in conducting Section 702 queries. While we believe that continued oversight by OIA of the FBI's Section 702 queries, including U.S. person queries, remains vital, OIA's contribution to such oversight could be more effective and the overall scope of the oversight could potentially be broader if OIA's Section 702 oversight were more complementary to, and less duplicative of, NSD's work. Maintaining NSD's role in reviewing all U.S. person queries is further warranted in view of OIA long being short-staffed.

Finally, we briefly discuss two observations that were beyond the scope of what RISAA required the OIG to review, but which may be relevant to the FBI's Section 702 querying compliance. Based on testimony from multiple witnesses, these topics warrant attention by the FBI.

First, the number of queries run by FBI personnel has declined over the past several years, including a continued decline following RISAA's enactment. Several FBI and NSD witnesses expressed a high

degree of concern about this decline and whether users are failing to run queries that they should run, which those witnesses believed could lead the FBI to miss potentially critical threat information. Although analysis of the reason(s) for the decline in queries was beyond the scope of this review, we present in this report witnesses' anecdotal views regarding possible causes for the decline.

Second, many witnesses identified technological limitations with the primary system that FBI personnel use to conduct queries of 702-acquired information. The witnesses told us that these limitations negatively impact the FBI's ability to minimize noncompliant queries.

## **Conclusion and Recommendations**

While we found that the FBI has made progress in reducing the number of noncompliant queries identified in NSD and FBI oversight reports, our review covers FBI Section 702 queries made during a 1-year period post-RISAA and, in view of the history of the FBI's Section 702 compliance issues, we are not able to conclude based on that limited time period that the FBI's querying compliance issues are entirely in the past.

To ensure that the FBI's progress is not short-lived, we believe the FBI must maintain rigorous internal controls over Section 702 queries, including regular trainings and guidance for FBI personnel engaged in querying or querying oversight. Moreover, it is critical that there continue to be internal and external oversight of the FBI's querying practices by FBI OIA, NSD, the DOJ OIG, the FISC, Congress, ODNI, and other entities with relevant oversight responsibilities. Oversight was the reason that past issues with the FBI's querying practices came to light and has led to remedial measures and reforms being implemented.

For that reason, we believe continued oversight by multiple entities is essential to ensure sustained effectiveness of reforms and that any future compliance issues are quickly identified

and remediated. We make four recommendations to the Department and the FBI to improve the controls over and oversight of the FBI's practices for conducting queries of Section 702-acquired information.



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# Chapter One: Introduction and Background

## I. Basis for the Review

Section 702 of the Foreign Intelligence Surveillance Act (FISA) was enacted in 2008 as part of the FISA Amendments Act.<sup>1</sup> Section 702 permits the Attorney General and the Director of National Intelligence (DNI) jointly to target via electronic surveillance non-U.S. persons reasonably believed to be located outside the United States for purposes of collecting foreign intelligence information.<sup>2</sup> This authority is limited in several ways, including a prohibition on the intentional targeting of a U.S. person.<sup>3</sup> The Federal Bureau of Investigation (FBI) is one of four agencies that receive unminimized Section 702-acquired information. Section 702 was reauthorized by Congress in 2012 without any substantive change, and was reauthorized again in 2018 with numerous changes.<sup>4</sup> Under the 2018 reauthorization, Section 702 was scheduled to expire on December 31, 2023. This deadline was later extended to April 19, 2024.<sup>5</sup>

The government has long taken the position that while Section 702 is indispensable to national security, it also requires safeguards to protect the privacy and civil liberties of U.S. persons whose information may be collected pursuant to this authority.<sup>6</sup> Indeed, in enacting the FISA Amendments Act in 2008, Congress built in several layers of oversight, including by the Foreign Intelligence Surveillance Court (FISC),<sup>7</sup> the Office of the Director of National Intelligence (ODNI), the Department of Justice (DOJ or Department), and the FBI. The law also mandated a review by the DOJ Office of the Inspector General (OIG) that resulted in a report in

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<sup>1</sup> Foreign Intelligence Surveillance Act of 1978 Amendments Act of 2008, Pub. L. No. 110-261, § 702, 122 Stat. 2438 (codified at 50 U.S.C. § 1881a).

<sup>2</sup> 50 U.S.C. § 1881a(a). Foreign intelligence information refers to information “that relates to, and if concerning a United States person is necessary to,” the ability of the United States to protect against a variety of national security harms, as well as information with respect to a foreign power or foreign territory that relates to the national security of the United States or the “conduct of the foreign affairs of the United States.” See 50 U.S.C. § 1801(e).

<sup>3</sup> 50 U.S.C. § 1881a(b).

<sup>4</sup> See FISA Amendments Act Reauthorization Act of 2012, Pub. L. No. 112-238, 126 Stat. 1631; FISA Amendments Reauthorization Act of 2017, Pub. L. No. 115-118, 132 Stat. 3 (2018). For example, the 2018 reauthorization required the Attorney General, in consultation with the DNI, to adopt querying procedures consistent with the Fourth Amendment that were subject to review by the Foreign Intelligence Surveillance Court (FISC); required the government to keep a record of each U.S. person query term that was used for a query; and required the FBI to obtain a court order prior to accessing the results of certain queries conducted for the sole purpose of obtaining evidence of criminal activity. See FISA Amendments Reauthorization Act of 2017 § 101(a).

<sup>5</sup> National Defense Authorization Act for Fiscal Year 2024, Pub. L. No. 118-31, § 7902, 137 Stat. 1108 (2023).

<sup>6</sup> See, e.g., [Oversight of Section 702 of the Foreign Intelligence Surveillance Act and Related Surveillance Authorities](https://www.congress.gov/118/chrgr/CHRG-118shrg58969/CHRG-118shrg58969.pdf), [Hearing Before the S. Comm. on the Judiciary](https://www.congress.gov/118/chrgr/CHRG-118shrg58969/CHRG-118shrg58969.pdf), 118th Cong. (2023), 59 (joint statement of Paul Abbate, Deputy Director, Federal Bureau of Investigation, et al.), <https://www.congress.gov/118/chrgr/CHRG-118shrg58969/CHRG-118shrg58969.pdf> (accessed July 25, 2025) (“Section 702 is an indispensable foreign intelligence tool that allows our Intelligence Community to target non-U.S. persons located outside the United States to acquire information critical to our national security.... The government recognizes the enormous responsibility it has to use this tool responsibly, protect the privacy and civil liberties of U.S. persons, and uphold the trust and confidence placed in the law enforcement and intelligence community.”)

<sup>7</sup> The FISC was established by FISA to review the government’s applications to exercise FISA authority and grant orders approving such applications. See FISA, Pub. L. No. 95-511, § 103, 92 Stat. 1788 (codified at 50 U.S.C. § 1803).

2012 on the FBI's role in the interagency 702 program.<sup>8</sup> Additional and enhanced oversight mechanisms were included when Section 702 was reauthorized in 2018, including a statutory requirement that the FBI and the National Security Agency (NSA) establish Privacy and Civil Liberties Oversight Officers and additional reporting and transparency requirements relating to the government's Section 702 activities.<sup>9</sup>

Relevant to this review, and as described in greater detail below, in 2018 the FISC found, based on compliance incident reporting, that the FBI had conducted a large number of "queries"—that is, searches of specific terms against FBI database(s) containing unminimized Section 702-acquired information—that violated statutory requirements, and further found that aspects of the FBI's querying procedures and their implementation violated the Fourth Amendment. Many of the improper queries involved search terms that identified or were associated with U.S. persons. As a result of the FISC's orders, as well as directives from Department leadership, from 2019 through 2023, the FBI implemented a series of remedial measures designed to reduce the number of noncompliant queries. Department and judicial oversight found that these measures reduced, but did not eliminate, the FBI's compliance issues in connection with conducting queries of Section 702-acquired information. Concerns about U.S. person queries therefore persisted, including concerns about queries that sought information constituting "evidence-of-a-crime-only" and queries relating to categories of sensitive subjects, such as members of Congress and religious entities.

On April 20, 2024, the Reforming Intelligence and Securing America Act (RISAA) reauthorized Section 702 for 2 years while also amending various provisions.<sup>10</sup> Among other changes, RISAA imposed restrictions on queries performed by FBI personnel of information collected under Section 702.<sup>11</sup> This included changes to the approval process for specific Section 702 queries, limitations on who may be involved in the query approval process, new requirements for how queries are conducted in FBI systems, and new oversight requirements.<sup>12</sup> RISAA also directed the DOJ OIG to submit to the House and Senate Intelligence and Judiciary Committees a report on the FBI's querying practices under Section 702, with a particular focus on compliance with the procedures governing U.S. person queries, within 545 days of enactment.<sup>13</sup>

This is the OIG's second statutorily-mandated review related to the FBI's use of its Section 702 authority. Our prior report, issued in September 2012, assessed the FBI's targeting and "post-targeting" activities under Section 702 over an approximately 2-year period and resulted in seven recommendations designed to improve the FBI's conduct of its activities under Section 702.<sup>14</sup> The OIG has also conducted oversight of the FBI's use of other FISA authorities, such as our December 2019 report related to the FBI's Crossfire Hurricane investigation, which prompted a number of reforms to the FBI's use of its national security-related authorities, including FISA.<sup>15</sup> Concerns regarding the completeness and accuracy of FISA applications

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<sup>8</sup> DOJ OIG, [\*A Review of the Federal Bureau of Investigation's Activities Under Section 702 of the Foreign Intelligence Surveillance Act Amendments Act of 2008\*](#), Oversight and Review Division Report (September 2012, re-released January 8, 2016).

<sup>9</sup> FISA Amendments Reauthorization Act of 2017 §§ 107–109.

<sup>10</sup> RISAA, Pub. L. No. 118-49, 138 Stat. 873 (2024).

<sup>11</sup> *See id.* § 2 (codified at 50 U.S.C. § 1881a(f)(3)).

<sup>12</sup> *See id.* §§ 2-9, 15-17.

<sup>13</sup> *Id.* § 9.

<sup>14</sup> *See* DOJ OIG, *A Review of FBI Activities Under Section 702*.

<sup>15</sup> DOJ OIG, [\*Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation\*](#), Oversight and Review Division Report 20-012 (December 2019).

that the OIG identified in the Crossfire Hurricane review led to the OIG issuing a March 2020 Management Advisory Memorandum and a September 2021 final report containing recommendations to reduce the risk of erroneous information being included in FISA applications.<sup>16</sup> Most recently, in September 2022, the OIG completed and issued a report that, among other things, recommended that the DOJ National Security Division (NSD) and the FBI Office of General Counsel National Security and Cyber Law Branch (NSCLB) improve coordination and more clearly define their respective roles and responsibilities in ensuring compliance with FISA.<sup>17</sup> In addition to satisfying the congressional mandate to produce this report, as with our prior FISA-related products, the purpose of this report is to identify for policy makers and stakeholders issues relevant to the FBI's use of a highly sensitive authority. Specifically, as directed by RISAA, this report focuses on the FBI's querying of Section 702-acquired information.

## II. Methodology and Scope of the OIG's Review

Congress tasked the DOJ OIG with reviewing the FBI's querying practices under Section 702 and submitting a report to the House and Senate Intelligence and Judiciary Committees. Congress directed the DOJ OIG to issue its report within 545 days of RISAA's enactment, that is, by October 17, 2025. As required by RISAA, this report includes:

- An evaluation of compliance by FBI personnel with the querying procedures adopted under Section 702(f), with a particular focus on compliance by such personnel with the procedures governing queries using U.S. person query terms.
- An analysis of each specific reform that, in the OIG's view, is responsible for any identified improvement in the FBI's record of compliance with the querying procedures, including an identification of whether such reform was required by RISAA or another Act of Congress, imposed by the FISC, or voluntarily adopted by the FBI.
- An assessment of the status of the FBI's implementation of all reforms related to querying required by RISAA.
- An evaluation of the effectiveness of the FBI's Office of Internal Auditing (OIA) in monitoring and improving query compliance by FBI personnel.
- Recommendations to further improve compliance with querying procedures by FBI personnel, particularly with respect to U.S. person queries.

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<sup>16</sup> DOJ OIG, [\*Management Advisory Memorandum for the Director of the Federal Bureau of Investigation Regarding the Execution of Woods Procedures for Applications Filed with the Foreign Intelligence Surveillance Court Relating to U.S. Persons\*](#), Audit Report 20-047 (March 2020); DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Execution of Its Woods Procedures for Applications Filed with the Foreign Intelligence Surveillance Court Relating to U.S. Persons\*](#), Audit Report 21-129 (September 2021).

<sup>17</sup> DOJ OIG, [\*Audit of the Roles and Responsibilities of the Federal Bureau of Investigation's Office of General Counsel in National Security Matters\*](#), Audit Report 22-116 (September 2022).

- Any other relevant matter the OIG determines appropriate.<sup>18</sup>

While this report addresses the above statutory requirements, we note several caveats. First, within the time period allotted for completion and because RISAA required several significant changes to the FBI's querying practices, we determined that accurately assessing the FBI's current level of compliance required us to limit our review to the FBI's post-RISAA querying practices. Therefore, we were only able to review for this report the FBI's querying practices for a period of 1 year from the enactment of RISAA, April 20, 2024, to April 20, 2025. Second, we did not independently review, assess, and evaluate individual queries to determine whether they complied with statutory or other requirements. Instead, the OIG accessed data from NSD's Office of Intelligence, which conducts regular audits of the FBI's queries, including auditing every U.S. person query the FBI has conducted post-RISAA. The OIG relied upon the legal determinations made by NSD Office of Intelligence staff—who are the Department's subject-matter experts in this area and are responsible for reporting any instances of noncompliance to the FISC and to Congress—regarding the compliance or noncompliance of FBI queries. Moreover, NSD Office of Intelligence staff were responsible for identifying and reporting to the FISC many of the FBI's querying compliance issues referenced above and described in more detail in Section IV, as well as issues NSD discovered and reported to the FISC during the course of our review. Accordingly, NSD's findings and reporting to the FISC and to Congress informed our identification of compliance incidents that occurred during the relevant time period. Lastly, the numbers of queries referenced in this report are, by necessity, approximations for a variety of reasons, including that: NSD audits of FBI's U.S. person queries may properly be conducted within 180 days of the query;<sup>19</sup> NSD does not review all FBI queries of Section 702-acquired information and therefore may not identify all U.S. person queries not labeled as such; and later FISC determinations may retroactively impact whether certain FBI actions constitute noncompliance.

To conduct this review, the OIG examined voluminous documents obtained from the FBI and NSD. These documents included FISC opinions, DOJ filings with the FISC, NSD and FBI audits and reviews, NSD analyses of querying trends, internal FBI communications relating to query reform implementation and oversight, documentation of FBI query approvals, documents relating to noncompliant queries, FBI training materials, and other relevant documents. Over the course of our review, we interviewed 26 people from the FBI and the Department, including personnel from NSD's Office of Intelligence and the FBI's NSCLB, Information Technology Applications and Data Division, and OIA. We also interviewed FBI Headquarters and field office personnel with firsthand experience executing and approving Section 702 queries. In particular, we interviewed former FBI Deputy Director Paul Abbate while he still was still an FBI employee.<sup>20</sup> We also attended FBI presentations demonstrating the various FBI systems and tools that FBI personnel use to query Section 702-acquired information.<sup>21</sup> In addition, we met with personnel from the ODNI, which plays a

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<sup>18</sup> RISAA § 9(a)(2).

<sup>19</sup> See RISAA § 2(c)(1).

<sup>20</sup> Current Deputy Director Dan Bongino assumed the position of Deputy Director in March 2025, which was near the end of the 12-month post-RISAA period covered by the OIG's review (i.e., April 20, 2024, through April 20, 2025). We nevertheless requested to interview Bongino about his role during that limited period in approving certain categories of "sensitive queries," as well as any general views he had on the FBI's querying practices. He declined our request for a voluntary interview. We determined that it was not necessary for purposes of this review to seek to compel his testimony, mainly because of the short overlap of his tenure as Deputy Director with the period of our review.

<sup>21</sup> Pursuant to the OIG's standard process in our reviews, we provided a draft of this report to the Department and the FBI for their factual accuracy review, as well as for the purpose of their conducting a classification review and providing final classification markings.

role in overseeing the FBI's use of its national security authorities, including queries of Section 702-acquired information.

We next provide background on Section 702 and the FBI's querying practices, followed by a history of the FBI's querying compliance issues and the remedial measures they implemented prior to the enactment of RISAA. Thereafter, we provide our findings with respect to each of the elements RISAA instructed the OIG to consider, including: (1) the status of the FBI's implementation of each of the FBI querying reforms introduced by RISAA; (2) our evaluation of the current state of the FBI's compliance with the FBI's querying procedures; (3) an analysis of each of the FBI's querying reforms (both pre- and post-RISAA) and which have been particularly effective at improving the FBI's querying compliance; and (4) our analysis of the effectiveness of OIA. We also briefly discuss two observations we made during the course of our review: the decrease in the number of Section 702 queries the FBI is conducting, and technological issues with the primary system that FBI personnel use to conduct queries. Finally, we provide our conclusion and recommendations.

The FBI provided the OIG with its formal response after reviewing a draft of this report. That response is attached as Appendix 1.

### III. Background on FISA Section 702 and the FBI's Querying Practices

Section 702 authorizes the targeting of non-U.S. persons reasonably believed to be located outside the United States for electronic surveillance to collect foreign intelligence information.<sup>22</sup> The government may only target individuals who are expected to communicate, receive, or possess foreign intelligence information within certain categories of intelligence previously authorized by the Attorney General and the DNI and approved by the FISC.<sup>23</sup>

The government collects this information by compelling the assistance of U.S. electronic communication service providers.<sup>24</sup> The acquisition of this information does not require an individual court order; instead, these acquisitions are governed by "targeting procedures" that are intended to ensure compliance with the applicable provisions of FISA and the Constitution.<sup>25</sup> Pursuant to the statute, the Attorney General and the DNI submit annual certifications to the FISC that, among other requirements, must contain targeting procedures approved by the Attorney General that are "reasonably designed" to ensure that any Section 702 acquisition is "limited to targeting [non-U.S.] persons reasonably believed to be located outside the United States" and to prevent the intentional acquisition of wholly domestic communications.<sup>26</sup>

Four agencies currently receive "unminimized" information—that is, information that has not yet been subject to further procedures intended to protect the information of unconsenting U.S. persons—that is

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<sup>22</sup> 50 U.S.C. § 1881a(a).

<sup>23</sup> See Privacy and Civil Liberties Oversight Board (PCLOB), [Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act](https://www.pclob.gov/prod/Documents/OversightReport/d21d1c6b-6de3-4bc4-b018-6c9151a0497d/2023%20PCLOB%20702%20Report,%20508%20Completed,%20Dec%203,%202024.pdf) (September 2023), [documents.pclob.gov/prod/Documents/OversightReport/d21d1c6b-6de3-4bc4-b018-6c9151a0497d/2023%20PCLOB%20702%20Report,%20508%20Completed,%20Dec%203,%202024.pdf](https://www.pclob.gov/prod/Documents/OversightReport/d21d1c6b-6de3-4bc4-b018-6c9151a0497d/2023%20PCLOB%20702%20Report,%20508%20Completed,%20Dec%203,%202024.pdf) (accessed July 21, 2025), 2.

<sup>24</sup> 50 U.S.C. § 1881a(i)(1).

<sup>25</sup> See PCLOB, *2023 Report on Surveillance Program*, 57, 65.

<sup>26</sup> 50 U.S.C. §§ 1881a(d)(1), (h); see also PCLOB, *2023 Report on Surveillance Program*, 2.

acquired pursuant to Section 702: the FBI, the NSA, the Central Intelligence Agency (CIA), and the National Counterterrorism Center (NCTC). The statute permits the FBI to receive Section 702-acquired information only for Section 702 targets that are relevant to an existing, open, predicated full national security investigation.<sup>27</sup> As a result, the FBI receives only a subset of the overall Section 702 collection; in 2024, the FBI received collection for approximately 3.67 percent of the government's total targets.<sup>28</sup> Any Section 702-acquired information that the FBI receives is ingested into and stored in one of several FBI electronic data and storage systems.

Section 702 also requires the Attorney General, in consultation with the DNI, to adopt and submit to the FISC for approval "minimization procedures," which must include specific procedures that are "reasonably designed...to minimize the acquisition and retention, and prohibit the dissemination, of non-publicly available information concerning unconsenting U.S. persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information."<sup>29</sup> The information obtained from electronic communication service providers and ingested into the FBI's or other agency's systems is considered "unminimized" until it has been subject to the processes detailed in the minimization procedures.

Authorized and trained personnel from the agencies that receive unminimized Section 702-acquired information, including the FBI, may conduct "queries" to search unminimized Section 702-acquired information within each agency's Section 702 collection.<sup>30</sup> A query will return records and data, including metadata, that match the query terms used (e.g., names, email addresses, phone numbers, or other terms relevant to an investigation). In 2018, Section 702 was amended to require the Attorney General, in consultation with the DNI, to adopt "querying procedures," which the Department submits to the FISC for approval as part of the annual certification process.<sup>31</sup> The FISC reviews these procedures to ensure they are consistent with the requirements of Section 702 as well as the Fourth Amendment. Under the FBI's current FISC-approved querying procedures, each query must be "reasonably likely to retrieve foreign intelligence information, as defined by FISA" in order to be legally compliant, with certain exceptions. To meet that "query standard," the procedures further state that a query must satisfy the following criteria:

- Have an authorized purpose: the person conducting the query must have the purpose of retrieving foreign intelligence information;

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<sup>27</sup> 50 U.S.C. § 1881a(n)(1).

<sup>28</sup> ODNI, [Annual Statistical Transparency Report Regarding the Intelligence Communities' Use of National Security Surveillance Authorities, Calendar Year 2024](https://www.odni.gov/files/CLPT/documents/2025_ASTR_for_CY2024.pdf) (May 2025), [www.odni.gov/files/CLPT/documents/2025\\_ASTR\\_for\\_CY2024.pdf](https://www.odni.gov/files/CLPT/documents/2025_ASTR_for_CY2024.pdf) (accessed July 21, 2025), 26. The CIA and the NCTC also receive only a subset of the overall Section 702 collection.

<sup>29</sup> See 50 U.S.C. §§ 1881a(e), 1801(h)(1).

<sup>30</sup> FISA defines a "query" as "the use of one or more terms to retrieve unminimized contents or noncontents located in electronic and data storage systems of communications of or concerning United States persons obtained through acquisitions authorized under [§ 1881a(a)]." 50 U.S.C. § 1881a(f)(5)(B). The FBI's querying procedures define a "query" as "the use of one or more terms to retrieve the unminimized contents or noncontents (including metadata) of section 702-acquired information that is located in an FBI system."

<sup>31</sup> See FISA Amendments Reauthorization Act of 2017 § 101(a) (codified at 50 U.S.C. §§ 1881a(f)(1)(A), (j)(1)(A)). Previously, the standard for the FBI's Section 702 queries appeared in the FBI's minimization procedures.

- Be justified: the person conducting the query must have a specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information; and
- Be reasonably designed: the query term must be reasonably tailored to retrieve foreign intelligence information without unnecessarily retrieving other information.

Prior to RISAA's enactment, Section 702 authorized FBI personnel to conduct queries both for the purpose of retrieving foreign intelligence information and for the purpose of retrieving evidence of a crime; the FBI was the only agency that was authorized to conduct queries for the purpose of retrieving evidence of a crime. In 2018, Congress imposed a requirement that the FBI must obtain an order from the FISC prior to accessing the results of certain queries that had the sole purpose of retrieving evidence of a crime (and not foreign intelligence information).<sup>32</sup> However, RISAA amended Section 702 to prohibit evidence-of-a-crime-only queries, with exceptions for queries that FBI personnel reasonably believe could assist in mitigating or eliminating threats to life or serious bodily harm, as well as for queries necessary to fulfill discovery obligations.<sup>33</sup>

While Section 702 authorizes the targeting of non-U.S. persons only, communications with or information about U.S. persons may be incidentally collected when non-U.S. persons are targeted, and FBI personnel, like personnel from the other agencies that receive Section 702-acquired information, may conduct queries of Section 702-acquired information using query terms reasonably likely to identify a U.S. person (e.g., a U.S. person's name, email address, or phone number). These queries are referred to as "U.S. person queries." Section 702 and the FBI's querying procedures impose additional restrictions and requirements on U.S. person queries, including a requirement that the FBI keep a record of every U.S. person query conducted by FBI personnel.<sup>34</sup> Most, if not all, FBI field offices have personnel who have access to the FBI's querying databases and who conduct queries of Section 702-acquired information. Several FBI Headquarters components also run queries of Section 702-acquired information. These queries are typically conducted by special agents, intelligence analysts, staff operations specialists, and information technology personnel.<sup>35</sup>

The vast majority of the FBI's queries of Section 702-acquired information are conducted in an FBI electronic and data storage system (System 1) that contains various electronic data collected under certain authorities, including information acquired pursuant to Titles I and III of FISA, often referred to as "Traditional FISA," as well as Section 702.<sup>36</sup> Prior to September 2023, FBI personnel could also conduct queries of Section 702-acquired information in the FBI's Data Integration and Visualization System (DIVS), an FBI database that contained many different datasets and that allowed users to run queries against various datasets simultaneously. The FBI removed the ability for users to access FISA information, including information

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<sup>32</sup> *Id.* § 101(a) (previously codified at 50 U.S.C. § 1881a(f)(2) (2018)).

<sup>33</sup> RISAA § 3(a) (codified at 50 U.S.C. § 1881a(f)(2) (2024)).

<sup>34</sup> 50 U.S.C. § 1881a(f)(3)(D)(iii) (2024).

<sup>35</sup> According to data provided to the OIG by the FBI, between 1,500 and 2,500 unique FBI users conducted queries of Section 702-acquired information between April 20, 2024, and April 20, 2025.

<sup>36</sup> Titles I and III of FISA authorize the government to engage in electronic surveillance or conduct physical searches, respectively, for the purpose of acquiring foreign intelligence information. In order to exercise these authorities, the government must demonstrate probable cause that the target of the electronic surveillance or physical search is a foreign power or an agent of a foreign power and obtain an order from the FISC. *See* 50 U.S.C. §§ 1804, 1805, 1823, 1824.



collected under Section 702, through DIVS as of September 2023. FBI personnel also run a small number of Section 702 queries in another FBI electronic and data storage system (System 2).

Multiple entities regularly engage in oversight of the FBI's querying practices, three of which are particularly relevant for our review. First, as previously noted, the FISC reviews the FBI's querying procedures, including the implementation of those procedures, for compliance with applicable law and the Fourth Amendment. Second, NSD's Office of Intelligence conducts regular reviews and audits of FBI queries. Under Rule 13(b) of the FISC's Rules of Procedure, NSD is required to disclose to the FISC any instance of noncompliance with the FISC's authorizations or approvals, or with applicable law, that the government discovers. Third, FBI OIA, which was created in response to an Attorney General directive in 2020, conducts various audits of the FBI's use of its FISA-related authorities, including queries of Section 702-acquired information. We discuss the oversight of the FBI's querying practices, and analyze the role and effectiveness of OIA in particular, in more detail below in Chapter Two.

## IV. History of the FBI's Querying Compliance Issues and Reforms

### A. FBI Query Compliance Issues 2016-2019

For the first several years after Congress established Section 702 in 2008, NSD's query audits did not identify significant compliance issues. However, starting in approximately 2016, NSD identified an upward trend in the number of noncompliant queries, many of which NSD assessed resulted from "fundamental misunderstandings by some FBI personnel" about what the query standard entailed. NSD found that a number of these query incidents resulted from queries based upon a common justification, such as vetting individuals for derogatory information in the FBI's Section 702 collection, rather than an individualized assessment of whether each query term met the query standard. Many of those queries were run as part of large "batch jobs," a functionality in DIVS that allowed users to run multiple query terms as part of a single query action, pursuant to the same justification. NSD found that these batch jobs could enable a single improper decision by FBI personnel to result in large numbers of noncompliant queries.

In 2018, the Department submitted separate querying procedures to the FISC pursuant to the new statutory requirement in the 2018 reauthorization. When the FISC reviewed the FBI's querying procedures as part of the annual certification process in 2018, the FISC found that the FBI's "repeated noncompliant queries of Section 702 information" precluded a determination that the FBI's querying procedures, as implemented, were consistent with statutory minimization requirements and the Fourth Amendment.<sup>37</sup> The FISC cited a "lack of a common understanding within FBI and NSD of what it means for a query to be reasonably likely to return foreign-intelligence information or evidence of a crime" as a "contributing factor" for the

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<sup>37</sup> In re DNI/AG 702(h) Certifications 2018-A, 2018-B, and 2018-C, and Predecessor Certifications, Docket Nos. 702(j)-18-01, 702(j)-18-02, 702(j)-18-03, and predecessor dockets, Memorandum Opinion and Order, at 62 (FISC Oct. 18, 2018) (October 2018 FISC Order). The FISC stated that "[b]ecause the FBI procedures, as implemented, have involved a large number of unjustified queries conducted to retrieve information about U.S. persons, they are not reasonably designed, in light of the purpose and technique of Section 702 acquisitions, to minimize the retention and prohibit the dissemination of private U.S. person information" as required by Section 702. *Id.* at 81. The FISC also stated that the FBI's querying practices "present a serious risk of unwarranted intrusion into the private communications of a large number of U.S. persons" and that the "demonstrated risks of serious error and abuse" rendered the FBI's querying procedures inconsistent with the requirements of the Fourth Amendment. *Id.* at 89-92.

noncompliant queries.<sup>38</sup> The FISC's opinion also found that the FBI's querying procedures did "not require adequate documentation of the justifications for queries that use United States-person query terms."<sup>39</sup> The FISC noted that while the CIA, the NSA, and the NCTC required users to provide written statements explaining why U.S. person queries were reasonably likely to return foreign intelligence information, the FBI did not, which limited the ability of NSD to conduct oversight.<sup>40</sup> The FISC discussed approvingly a proposal by *amici* that would require FBI personnel to document in writing the justification for a U.S. person query before accessing the results of that query, stating that the court assessed that the proposal would both facilitate oversight and would also help ensure that FBI personnel considered the query standard and applied the training and guidance they had received when they conducted queries.<sup>41</sup>

## B. FBI Querying Reforms 2019-2020

In response to the FISC's 2018 order, the Attorney General and DNI adopted revised FBI querying procedures that required FBI personnel to provide a written statement justifying each U.S. person query. The FISC approved those modified querying procedures in 2019.<sup>42</sup> The FBI implemented this requirement by modifying its systems so that users who executed queries of Section 702-acquired information were prompted to indicate whether each query term was a U.S. person query term, "presumed" U.S. person query term, or "other" (i.e., not a U.S. person query term).<sup>43</sup> If the user selected one of the first two categories, any Section 702-acquired content would be hidden on the results page, and the user would be required to enter a justification before being allowed to view the results. The user could select a justification from a pre-populated "drop-down" list of options for justifications reflecting common scenarios, such as a subject of a predicated investigation or an individual in contact with the target of lawful collection, as well as an option to enter a free-text, narrative justification. The FBI and DOJ also developed new querying guidance and training for FBI personnel in 2019.

Additionally, in part due to these ongoing compliance incidents, on August 31, 2020, then Attorney General William Barr issued a memorandum authorizing the Director of the FBI to establish OIA, which, in combination with the Office of Integrity and Compliance and the Inspection Division, was to be responsible for internal compliance functions of the FBI.<sup>44</sup> The memorandum expressly provided that OIA was to be led by an Assistant Director and, among other responsibilities, would conduct routine audits of the FBI's

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<sup>38</sup> *Id.* at 77; In re DNI/AG 702(h) Certifications 2021-A, 2021-B, and 2021-C, and Predecessor Certifications, Docket Nos. 702(j)-21-01, 702(j)-21-02, 702(j)-21-03, and predecessor dockets, Memorandum Opinion and Order, at 24 (FISC April 21, 2022) ("April 2022 FISC Order").

<sup>39</sup> October 2018 FISC Order at 133.

<sup>40</sup> *Id.* at 73–74.

<sup>41</sup> *Id.* at 92–97; *see also* 50 U.S.C. § 1803(i)(2)(A) (permitting the FISC to appoint *amicus curiae* to advise on technological or legal issues).

<sup>42</sup> In re DNI/AG 702(h) Certifications 2018-A, 2018-B, and 2018-C, and Predecessor Certifications, Docket Nos. 702(j)-18-01, 702(j)-18-02, 702(j)-18-03, and predecessor dockets, Memorandum Opinion and Order, at 8–10, 16–17 (FISC Sept. 4, 2019).

<sup>43</sup> When a query term relates to a person whose U.S. person status is unknown, the FBI's querying procedures set forth presumptions that apply in determining whether the term should be considered a U.S. person query term.

<sup>44</sup> *See* William P. Barr, Attorney General, U.S. Department of Justice, memorandum for the Deputy Attorney General, the Director of the Federal Bureau of Investigation, the Inspector General of the Department of Justice, the Assistant Attorney General for National Security, and the Assistant Attorney General for Administration, Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation, August 31, 2020, 1.

compliance with FISA, FISC orders, and the FBI's targeting, minimization, and querying procedures.<sup>45</sup> Then FBI Director Christopher Wray announced the creation of OIA on October 16, 2020.

### C. Continuing FBI Query Compliance Issues 2020-2021

Despite these changes, the Department continued to identify and report significant FBI querying violations in 2020 and 2021. Examples of queries that violated the query standard—because the users who conducted the queries lacked a specific factual basis to believe the queries were reasonably likely to retrieve foreign intelligence information or evidence of a crime from Section 702-acquired information—included:

- a batch job query of individuals arrested in connection with civil unrest and protests during the summer of 2020;
- queries of individuals suspected of involvement in the January 6, 2021 U.S. Capitol breach;
- batch job queries of over 19,000 donors to a congressional campaign; and
- queries of members of Congress.

NSD identified a significant number of noncompliant queries that were the result of FBI personnel conducting queries in FBI systems—particularly DIVS—that included multiple databases and inadvertently including among the databases queried some containing Section 702-acquired data. At the time, the systems were configured to automatically include Section 702-acquired information in response to any queries, unless FBI personnel intentionally opted out of including such data.<sup>46</sup> NSD assessed that this configuration resulted in a number of noncompliant queries in which FBI personnel had no intention of querying Section 702-acquired information and were unaware that they were doing so.

NSD also found a large number of queries that did not comply with the U.S. person labeling requirements in the FBI's querying procedures, including more than 60,000 such queries in 2021. The FBI's querying procedures require that FBI personnel specifically identify and record—i.e., label—whether or not each query contains a U.S. person query term. When assessing mislabeled queries, NSD distinguishes between U.S. person queries that are mislabeled as non-U.S. person queries (also called “undermarks”), which can result in U.S. person queries failing to receive additional protections required by the querying procedures, and non-U.S. person queries that are mislabeled as U.S. person queries (also called “overmarks”), which result in extra protections for those queries and do not implicate the privacy interests of U.S. persons beyond impacting the FBI's ability to keep an accurate record of U.S. person queries. NSD found that in 2021, over 90 percent of the mislabeled queries involved undermarks (i.e., U.S. person identifiers that were not properly labeled as such). Many of these mislabeling errors were the result of large batch jobs.

Based on NSD's reporting, the FISC also continued to express concern about the FBI's ongoing query compliance issues. In November 2020, the FISC stated that NSD's findings suggested that “the FBI's failure to properly apply its querying standard when searching Section 702-acquired information was more pervasive

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<sup>45</sup> See *id.* at 1–2.

<sup>46</sup> Witnesses told us that the FBI had designed the systems to include Section 702-acquired information by default to decrease the possibility that FBI personnel would miss threat information that could prevent an attack or other national security threat.

than was previously believed.”<sup>47</sup> In September 2021, the FISC stated that the “problems relating to FBI querying practices are substantial and persistent” and that the FBI’s reforms to that point, while “constructive,” were not “sufficient.”<sup>48</sup> The FISC was particularly concerned that the FBI and NSD continued to lack a shared understanding of the query standard—opining that that the FBI’s interpretation was “unreasonably lenient”—and ordered the Department to describe the steps it was taking to ensure the FBI applied the query standard properly.<sup>49</sup> In that opinion, the FISC also stated that it was “questionable how effectively” the FBI’s process of having users select from a drop-down menu of pre-populated justifications resulted “in a ‘written statement of facts showing’ why each query comports with the query standard,” as required by the FBI’s modified querying procedures. The FISC also noted that despite a statutory requirement that the FBI seek approval from the FISC before accessing the contents of certain queries designed solely to retrieve evidence of a crime, the FBI had never sought such an order, though the Department had reported multiple violations of that requirement. The court further stated that the Department’s reporting that the FBI had conducted zero U.S. person evidence-of-a-crime-only queries over a 3-month period “strains credulity.”

#### D. FBI Querying Reforms 2021-2022

On April 22, 2021, then Attorney General Merrick Garland issued a memorandum with the subject: *Further Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*.<sup>50</sup> The memorandum, which referenced the November 2020 FISC opinion, both acknowledged that the FBI had implemented reforms to its Section 702 querying practices and directed the FBI to ensure the efficacy of those changes and to resolve “any systemic compliance errors through proactive measures.”<sup>51</sup> To that end, Attorney General Garland instructed the FBI to issue a detailed work plan to the Deputy Attorney General regarding implementation of former Attorney General Barr’s August 2020 memorandum, which the FBI did in May 2021.<sup>52</sup> Subsequently, the Deputy Attorney General directed that the FBI make certain system changes and develop additional guidance and training. Over the next several months, the FBI implemented several measures designed to improve its query compliance.

In June and August of 2021, at the direction of Department leadership, the FBI modified DIVS and System 1, respectively, so that queries were no longer run against Section 702-acquired information unless the user intentionally and affirmatively opted to include Section 702-acquired data. Additionally, the FBI developed the ability to have the system remind users who did not “opt in” that they were excluding Section 702-acquired information, which mitigated the risk that a user who intended to query Section 702-acquired information might forget to do so.

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<sup>47</sup> In re DNI/AG 702(h) Certifications 2020-A, 2020-B, and 2020-C, and Predecessor Certifications, Docket Nos. 702(j)-20-01, 702(j)-20-02, 702(j)-20-03, and predecessor dockets, Memorandum Opinion and Order, at 39 (FISC Nov. 18, 2020).

<sup>48</sup> In re DNI/AG 702(h) Certifications 2020-A, 2020-B, and 2020-C, and Predecessor Certifications et al., Docket Nos. 702(j)-20-01, 702(j)-20-02, 702(j)-20-03, and predecessor dockets, Order in Response to Querying Violations, at 13 (FISC Sept. 2, 2021).

<sup>49</sup> *Id.* at 9, 14.

<sup>50</sup> Merrick Garland, Attorney General, U.S. Department of Justice, memorandum for the Deputy Attorney General, the Director of the Federal Bureau of Investigation, and the Assistant Attorney General for National Security, *Further Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*, April 22, 2021.

<sup>51</sup> *See id.* at 1.

<sup>52</sup> *See id.* at 2.

Also in June 2021, the FBI imposed a requirement that batch jobs using the batch query tool that would result in 100 or more queries needed pre-approval from an FBI attorney. This requirement was designed to reduce the number of instances in which one mistake could lead to a large number of noncompliant queries.

In the fall of 2021, in response to the FISC's September 2021 opinion questioning the effectiveness of the pre-populated options that users could select when providing a written justification for a U.S. person query, the FBI modified its systems to require users to enter a free-text explanation documenting the specific factual basis for each U.S. person query (i.e., why it is reasonably likely to retrieve foreign intelligence information or, at that time, evidence of a crime) before accessing the results of that query.

In November 2021, NSD worked with ODN and the FBI to issue a document that provided detailed guidance on applying the query standard, identifying U.S. person queries, and conducting batch queries and evidence-of-a-crime-only queries, as well as examples of proper and improper queries. In 2022, the FBI deployed a three-part, interactive online training that all users who have access to Section 702-acquired information had to complete on an annual basis to maintain their access. The Attorney General and DNI also revised the FBI's querying procedures to more clearly spell out the query standard for FBI employees.

Finally, in March 2022, at the direction of Department leadership, the FBI began requiring pre-approvals for all FISA queries using query terms involving certain categories of "sensitive entities." Specifically, the FBI began requiring users to obtain the pre-approval of the FBI Deputy Director and an NSCLB Deputy General Counsel or Section Chief prior to querying Section 702-acquired information using terms relating to domestic public officials, domestic political candidates, domestic political organizations or individuals prominent within such organizations, or members of the news media or a news organization. Additionally, the FBI began requiring users to obtain the pre-approval of an FBI attorney prior to running queries using terms relating to religious organizations, individuals prominent in religious organizations, or those with an academic nexus, as well as for queries relating to any other matter "of a sensitive nature" that should be brought to the attention of FBI or Department leadership.

## **E. Pre-RISAA Querying Trends and Additional Reforms**

Following the implementation of these reforms, both NSD and the FISC found that the FBI's querying compliance had improved. During its 2022 and 2023 FISA query reviews, which NSD designed in part to test the efficacy of the FBI's remedial measures, NSD found that the FBI had generally improved its compliance with the query requirements, including with the query standard. According to NSD, FBI users appeared to better understand the query standard. With respect to batch queries, which had been a source of a large number of noncompliant queries in earlier years, NSD assessed that the pre-approval requirements had enhanced compliance, as its 2023 reviews did not reveal any large batch jobs that were noncompliant with the query standard. NSD found that the FBI's compliance had improved in both 2022 and 2023 but assessed that continued reviews and oversight were needed to confirm that this positive trend continued.

Although NSD found that the FBI's querying compliance had improved, NSD identified several thousand noncompliant queries in 2022 and 2023. NSD found that properly labeling queries continued to be an area needing improvement but that unlike in prior years, the majority of mislabeled queries involved overmarks—non-U.S. person queries improperly labeled as U.S. person queries—which do not raise the same privacy and due process concerns as the undermarks that had constituted the vast majority of labeling errors in previous years. NSD also found that, while compliance with the pre-approval requirement for sensitive queries improved from 2022 to 2023, FBI personnel conducted a number of sensitive queries

without obtaining the requisite pre-approval, most commonly because FBI users misunderstood the scope of the pre-approval policy.

The FISC also found that the FBI's querying compliance was improving. In 2023, the FISC stated that there were indications that the FBI's remedial measures "are having the desired effect" and that "there is reason to believe that the FBI has been doing a better job in applying the querying standard."<sup>53</sup> The FISC noted that, in contrast to the "large-scale, suspicionless queries of Section 702 information" that had been a cause for concern in the FISC's earlier opinions, the government had "not reported violations of comparable magnitude."<sup>54</sup> The FISC stated that these reports were "encouraging," though it noted that NSD was only able to examine a fraction of total FBI queries and so it was still possible that serious violations had gone undetected.<sup>55</sup>

Throughout 2023, the FBI also continued to implement additional remedial measures. In June 2023, the FBI established the FISA Query Accountability Procedures, which provided for escalating consequences for performance incidents involving negligence related to FISA queries, with repeated incidents potentially leading to an employee's loss of FISA access, reassignment to a different role, or referral to the FBI's Inspection Division. In September 2023, the FBI further reconfigured its systems to require users to enter free-text written justifications prior to running U.S. person queries, rather than after running the query but prior to accessing the results. The FBI also broadened the pre-approval requirement for batch jobs to apply to all batch jobs, not only those that would result in 100 or more queries. In addition, in October 2023 the FBI implemented a new "Field Office Health Measure" that required the leadership of FBI field offices to convene meetings at least semiannually to assess FISA compliance and to consider potential proactive compliance measures. Finally, in March 2024, shortly before RISAA was enacted, the Attorney General and DNI added the pre-approval requirements for sensitive and batch queries to the FBI's querying procedures, which the FISC approved on April 4, 2024.

NSD's 2023 query reviews found that the number of queries that FBI personnel conducted during 2023 declined significantly from previous years. This trend was reflected in the number of U.S. person queries that were reported in an ODNI report issued in April 2024 that showed the number of U.S. person queries the FBI had conducted in 2023 had declined by over 50 percent compared to the previous year.<sup>56</sup> In response to that trend, NSD and the FBI worked with users to encourage them to conduct compliant queries when appropriate to their investigations or intelligence analyses.

## **F. RISAA Codifies Existing FBI Policies and Introduces New Querying Reforms**

RISAA was enacted on April 20, 2024, and amended various provisions of Section 702, including those governing queries conducted by FBI personnel. Several of RISAA's provisions codified already existing FBI policies and procedures, including some of the reforms discussed above. Specifically, RISAA codified the pre-approval requirement for sensitive queries (with modifications to the definitions of the sensitive query

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<sup>53</sup> In re DNI/AG 702(h) Certifications 2023-A, 2023-B, and 2023-C, and Predecessor Certifications, Docket Nos. 702(j)-23-01, 702(j)-23-02, 702(j)-23-03, and predecessor dockets, Memorandum Opinion and Order, at 83, 87 (FISC April 11, 2023).

<sup>54</sup> *Id.* at 87.

<sup>55</sup> *Id.* at 88.

<sup>56</sup> ODNI, [Annual Statistical Transparency Report Regarding the Intelligence Communities' Use of National Security Surveillance Authorities, Calendar Year 2023](https://www.odni.gov/files/CLPT/documents/2024_ASTR_for_CY2023.pdf) (April 2024), [www.odni.gov/files/CLPT/documents/2024\\_ASTR\\_for\\_CY2023.pdf](https://www.odni.gov/files/CLPT/documents/2024_ASTR_for_CY2023.pdf) (accessed July 21, 2025), 25.

categories); the pre-approval requirement for batch queries; the requirement for FBI personnel to provide a written justification prior to conducting a U.S. person query; the requirement that any FBI system that stores Section 702-acquired information be configured to exclude Section 702-acquired information by default and require FBI personnel to affirmatively elect to query Section 702-acquired information; the requirement that all FBI personnel who are authorized to query Section 702-acquired information complete annual training on the querying procedures; and the requirement that the FBI adopt accountability procedures with escalating consequences for repeated noncompliant queries.<sup>57</sup>

RISAA also introduced several new reforms to the FBI's querying practices. RISAA requires that FBI personnel obtain prior approval from an FBI supervisor or attorney prior to conducting a U.S. person query of Section 702-acquired information, with exceptions for mitigating or eliminating threats to life or serious bodily harm.<sup>58</sup> With respect to query pre-approvals, RISAA prohibits the involvement of any political appointees in the sensitive or batch query approval process.<sup>59</sup> RISAA also mandates that the Department audit all queries conducted by FBI personnel that the FBI identifies as a U.S. person query within 180 days of the query.<sup>60</sup> In addition, RISAA restricts the FBI's authority to query the names or identifying information of members of Congress, including by requiring the FBI to promptly notify congressional leadership and any affected member of any such query.<sup>61</sup> Finally, RISAA prohibits the FBI from conducting queries for the sole purpose of finding evidence of criminal activity, with limited exceptions.<sup>62</sup>

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<sup>57</sup> RISAA §§ 2(d), 16(a) (codified at 50 U.S.C. §§ 1881a(f)(3)(D), (4)).

<sup>58</sup> *Id.* § 2(a) (codified at 50 U.S.C. § 1881a(f)(3)(A)).

<sup>59</sup> *Id.* § 2(b) (codified at 50 U.S.C. § 1881a(f)(3)(D)(vi)).

<sup>60</sup> *Id.* § 2(c).

<sup>61</sup> *Id.* §§ 2(e)–(f) (codified at 50 U.S.C. §§ 1881a(f)(3)(B)–(C)).

<sup>62</sup> *Id.* § 3(a) (codified at 50 U.S.C. § 1881a(f)(2)).



## Chapter Two: Findings and Analysis

### I. Status of the FBI's Implementation of the Querying Reforms Mandated in RISAA

We found that the FBI has implemented all of RISAA's querying reforms. Many of these reforms require certain provisions to be included in the FBI's querying procedures. The Department submitted FBI querying procedures that include all of RISAA's mandated provisions to the FISC on July 19, 2024, and the FISC approved those procedures on September 17, 2024 (September 2024 querying procedures).<sup>63</sup> We discuss each of RISAA's querying reforms in detail below, along with how the FBI (or NSD) implemented each reform. We have grouped the reforms into three categories: (A) reforms to the FBI query approval process; (B) reforms to FBI query oversight and accountability; and (C) other query reforms. Although the RISAA reforms and other important controls initiated by the FBI prior to and separate from RISAA are now included in FBI policy, if Congress decides in 2026 to reauthorize Section 702, sustained oversight by the FISC, the DOJ OIG, NSD, ODNI, and internal FBI entities will be necessary to assess the effectiveness of the reforms over time and ensure that the unacceptable level of noncompliance identified by the Department and the FISC in prior years does not return.

#### A. Reforms to the FBI Query Approval Process

##### 1. Prior Approval for U.S. Person Queries

RISAA provides that FBI personnel must obtain approval from an FBI supervisor or attorney prior to conducting a U.S. person query of Section 702-acquired information, except in cases where there is a reasonable belief that conducting the query could assist in mitigating or eliminating a threat to life or serious bodily harm.<sup>64</sup> On April 20, 2024, the same day that RISAA was enacted, then Deputy Director Abbate emailed all FBI personnel stating that, effective immediately, FBI personnel were required to obtain approval from an FBI attorney prior to querying Section 702-acquired information using U.S. person query terms. The same day, NSCLB circulated a query approval form that all queriers were required to fill out to obtain approval. The query approval form specifies that field office personnel must receive approval from their Chief Division Counsel (CDC) or Associate Division Counsel (ADC), and Headquarters personnel must seek approval from an NSCLB attorney. Additionally, over the next several months, the FBI modified its querying systems so that when a user indicates they are conducting a U.S. person query, the system requires the user to enter the name of the approving official and the date of approval prior to proceeding with the query. This pre-approval requirement is included in the September 2024 querying procedures.

The FBI currently permits only attorneys to approve U.S. person queries. When we initially interviewed FBI witnesses, those witnesses indicated that the FBI was considering allowing selected non-attorney supervisors to approve certain U.S. person queries, as permitted by RISAA. This potential policy change would not have extended to sensitive queries or batch queries including U.S. person terms, as RISAA requires such queries to be approved by an FBI attorney or, for certain categories of sensitive queries, the Deputy Director.<sup>65</sup> After reviewing a draft of this report, the FBI informed the OIG that FBI Deputy Director

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<sup>63</sup> See *In re DNI/AG 702(h) Certifications 2024-A, 2024-B, and 2024-C, and Predecessor Certifications*, Docket Nos. 702(j)-24-01, 702(j)-24-02, 702(j)-24-03, and predecessor dockets, Memorandum Opinion and Order, at 107–08 (FISC Sept. 17, 2024) (September 2024 FISC Order).

<sup>64</sup> RISAA § 2(a) (codified at 50 U.S.C. § 1881a(f)(3)(A)).

<sup>65</sup> RISAA § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(ii)).

Bongino had recently decided that the FBI would not permit non-attorney supervisors to approve these queries for the time being. The FBI indicated that it may revisit this policy determination in the future.

## **2. Prior Deputy Director Approval for Certain Sensitive Queries**

RISAA provides that the FBI's querying procedures shall include a requirement that FBI personnel must obtain approval from the Deputy Director prior to conducting a query of Section 702-acquired information using a term reasonably believed to identify a U.S. elected official, an appointee of the President or a state governor, a U.S. political candidate, a U.S. political organization or a U.S. person prominent in such organization, or a U.S. media organization or a U.S. person who is a member of such organization.<sup>66</sup> The FBI had already implemented a requirement in 2022 that the FBI Deputy Director and an NSCLB Deputy General Counsel or Section Chief approve all FISA queries using terms involving certain categories of "sensitive entities." These sensitive query categories included domestic public officials, domestic political candidates, domestic political organizations or individuals prominent within such organizations, or members of the news media or a news organization. In March 2024, shortly before RISAA's enactment, the Attorney General and DNI added this pre-approval requirement for sensitive queries to the FBI's querying procedures and modified several of the definitions; the FISC approved these querying procedures on April 4, 2024.<sup>67</sup> After RISAA was enacted, the definitions of sensitive query categories were further modified in the September 2024 querying procedures—as well as in FBI policy, guidance, and approval forms—to mirror the statutory language in RISAA.

Prior to running a query of Section 702-acquired information, FBI users must indicate whether any of the query terms fall within the statutorily-defined sensitive categories, which are reflected in a drop-down menu for users. If a query falls within one of the sensitive query categories described above, the user must indicate whether they have obtained pre-approval from both a senior executive service-level attorney in NSCLB and the Deputy Director. The user is then required to enter the date of Deputy Director approval prior to proceeding with the query. FBI policy also requires users to document the requisite approvals in Sentinel, the FBI's digital case management system.

## **3. Prior FBI Attorney Approval for Sensitive Queries Related to U.S. Religious Organizations**

RISAA provides that the FBI's querying procedures shall include a requirement that FBI personnel must obtain approval from an FBI attorney prior to conducting a query that uses a term reasonably believed to identify a U.S. religious organization or a U.S. person who is prominent in such an organization.<sup>68</sup> As with the sensitive queries requiring Deputy Director approval, the FBI had already implemented a requirement in 2022 that users obtain the pre-approval of an FBI attorney prior to running queries using terms relating to religious organizations or individuals prominent in religious organizations.<sup>69</sup> As with the other sensitive

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<sup>66</sup> RISAA § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(ii)(I)).

<sup>67</sup> See *In re DNI/AG 702(h) Certifications 2024-A, 2024-B, and 2024-C, and Predecessor Certifications*, Docket Nos. 702(j)-24-01, 702(j)-24-02, 702(j)-24-03, and predecessor dockets, Memorandum Opinion and Order, at 22-23, 74 (April 4, 2024) (April 2024 FISC Order). This pre-approval policy required Deputy Director approval for queries "using a term that is reasonably believed to identify a U.S. elected official, appointee of either the President or a state or territorial Governor, U.S. political candidate, U.S. political organization or individual prominent in such organization, or U.S. news media organization or member of the U.S. news media."

<sup>68</sup> RISAA § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(ii)(II)).

<sup>69</sup> At this time, the FBI also required users to obtain the pre-approval of an FBI attorney prior to running queries using query terms with an "academic nexus." This requirement was eliminated after RISAA's enactment given that RISAA did not categorize academic nexus queries as sensitive queries requiring pre-approval.

queries mentioned above, the Attorney General and DNI added this approval requirement to the FBI's querying procedures shortly before RISAA was enacted. The FBI also continued to require, as a matter of policy, that users obtain pre-approval from an FBI attorney for queries relating to any matter "of a sensitive nature which should be brought to the attention of FBI [Headquarters] or DOJ officials," though this requirement is not included in RISAA or the FBI's querying procedures.

As mentioned above, the FBI's systems prompt users to indicate whether any of their query terms fall within certain sensitive categories, which are reflected in a drop-down menu for users. If the user selects that the query term involves a "U.S. religious organization or individual prominent in such organization," the user is then asked if they have obtained pre-approval from an attorney (in either the CDC's office or NSCLB). The user is then required to enter the name of the approver and the date of approval prior to proceeding with the query. FBI policy also requires users to document the requisite approvals in Sentinel.

#### **4. Prior FBI Attorney Approval for Batch Queries**

RISAA states that the FBI's querying procedures shall include a requirement that FBI personnel must obtain approval from an FBI attorney prior to conducting a query using "batch job technology (or successor tool)."<sup>70</sup> The FBI had already implemented this reform prior to the enactment of RISAA. In September 2023, the FBI established a policy that all batch job queries required pre-approval from an FBI attorney, and this requirement was added to the FBI's querying procedures shortly before RISAA was enacted.

#### **5. Prohibition on the Involvement of Political Appointees in the Approval Process**

RISAA states that the FBI's querying procedures shall prohibit political appointees from being included in the FBI approval process for sensitive or batch queries.<sup>71</sup> This prohibition was included in the September 2024 querying procedures. We did not identify any violations of this prohibition during the course of our review.

### **B. Reforms to FBI Query Oversight and Accountability**

#### **1. DOJ Audit Requirement for All U.S. Person Queries**

RISAA mandates that DOJ audit all U.S. person queries of Section 702-acquired information conducted by the FBI post-RISAA within 180 days of the query.<sup>72</sup> Following RISAA's enactment, NSD began immediately reviewing all FBI U.S. person queries. NSD established a standard operating procedure whereby each week, NSD begins reviewing the previous week's U.S. person queries. As required, the Department reports any

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<sup>70</sup> RISAA § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(ii)(III)).

<sup>71</sup> *Id.* § 2(b) (codified at 50 U.S.C. § 1881a(f)(3)(D)(vi)). Political appointees are defined as "political personnel, such as those classified by the Office of Personnel Management as Presidential Appointment with Senate Confirmation, Presidential Appointment (without Senate Confirmation), Noncareer Senior Executive Service Appointment, or Schedule C Excepted Appointment." *Id.* The FBI Human Resources Division told us that the FBI Director is the only political appointee within the FBI. According to the FBI Human Resources Division, although Deputy Director Bongino was not a career FBI employee at the time of his appointment, he was appointed as a career SES following the same process the FBI has historically used to select and appoint Deputy Directors. *See also* 28 C.F.R. § 0.157 (establishing the FBI-Drug Enforcement Agency Senior Executive Service); 5 U.S.C. § 3151(b)(2) (stating that the Attorney General may appoint, promote, and assign individuals to positions within the FBI-Drug Enforcement Agency Senior Executive Service without regard to other statutory provisions governing appointments and other personnel actions within the competitive service).

<sup>72</sup> RISAA § 2(c).

noncompliant queries that NSD identifies to the FISC and Congress.<sup>73</sup> We analyze the results of NSD's post-RISAA U.S. person query reviews, including any queries that NSD assessed to be noncompliant, in Section II.A, below.

RISAA further provides that the DOJ audit requirement "shall terminate" on the earlier of either April 20, 2026, or "the date on which the Attorney General submits to the appropriate congressional committees a certification" that the FBI has implemented an internal auditing process for such queries.<sup>74</sup> Accordingly, since the passage of RISAA, OIA also has been auditing all U.S. person queries by FBI personnel of Section 702-acquired information. OIA auditors document any identified noncompliance and share their assessments with NSCLB, which consults with NSD about reporting noncompliant queries to the FISC and Congress.<sup>75</sup>

## **2. Congressional Notification Requirements**

RISAA requires the FBI Director to "promptly notify" both appropriate congressional leadership and the affected member of Congress of any query conducted by the FBI using a term that is reasonably believed to be the name or other personally identifying information of a member of Congress.<sup>76</sup> Additionally, RISAA states that the FBI may not query the name or restricted personal information of a member of Congress for the sole purpose of supplementing the contents of a defensive briefing against a counterintelligence threat to that member, unless the member of Congress consents to the use of the query term or the Deputy Director "determines that exigent circumstances exist sufficient to justify" conducting the query.<sup>77</sup> These requirements were added to Section 6.18 of the FBI FISA and Standard Minimization Policy Guide effective August 2024. These requirements were also included in the September 2024 querying procedures. The FBI represented to the OIG that they did not notify Congress of any such queries during our review period.

## **3. Accountability Standards for Incidents Relating to FBI Queries**

RISAA requires the FBI Director to issue "minimum accountability standards that set forth escalating consequences for noncompliant querying" of U.S. person terms within Section 702-acquired information.<sup>78</sup>

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<sup>73</sup> 50 U.S.C. § 1881f(b)(1)(G)(ii); FISC Rules of Procedure 13(b).

<sup>74</sup> RISAA § 2(c)(3).

<sup>75</sup> We discuss the processes that both NSD and OIA use in conducting these U.S. person query audits below in Sections III.F.2.a and IV.B, respectively. For this review, we determined that a direct comparison of the results of NSD's and OIA's audits was not practical, for several reasons. Although NSD and OIA both assess whether queries are compliant with the querying procedures, their reviews have different objectives: NSD focuses on assessing compliance with the querying procedures, which include the query standard, to satisfy the government's obligation to report noncompliant queries to the FISC and Congress, while OIA focuses on assessing the FBI's compliance with both legal requirements and FBI policies, including FBI recordkeeping requirements that are not mandated by statute or the querying procedures. Additionally, while OIA and NSD conduct their reviews in parallel and generally work independently, OIA's assessments can impact NSD's findings and vice versa such that in many instances it could be challenging to determine which entity identified a particular noncompliant query. The difficulty in doing such a comparison is exacerbated by the fact that OIA has not produced any final reports regarding its ongoing review of all U.S. person queries as it does for its other audits, but rather maintains its results in a dynamically updated internal tracking spreadsheet.

<sup>76</sup> RISAA § 2(e) (codified at 50 U.S.C. § 1881a(f)(3)(B)). RISAA contains a limited exception to waive this notification in cases where the FBI Director "determines such notification would impede an ongoing national security or law enforcement investigation." *Id.*

<sup>77</sup> *Id.* § 2(f) (codified at 50 U.S.C. § 1881a(f)(3)(C)).

<sup>78</sup> *Id.* § 16 (codified at 50 U.S.C. § 1881a(f)(4)).

RISAA states that these standards shall include, at minimum, zero tolerance for willful misconduct; escalating consequences for unintentional noncompliance, including revocation of query access; and consequences for supervisors who oversee users that engage in noncompliant queries.<sup>79</sup> The FBI had already implemented the FISA Query Accountability Procedures in 2023, which met these requirements with the exception of consequences for supervisors. The FBI updated the accountability procedures in July 2024 to add potential consequences for FBI employees who approve noncompliant queries. We provide more details on the FISA Query Accountability Procedures in Section III.E.1, below.

## **C. Other Query Reforms**

### **1. Written Justification Required for All U.S. Person Queries**

RISAA provides that the FBI's querying procedures shall include a requirement that FBI personnel, prior to conducting a U.S. person query, provide a written statement containing the specific factual basis supporting that the query meets the required standard under the querying procedures (i.e., that it is reasonably likely to retrieve foreign intelligence information).<sup>80</sup> RISAA also provides that the querying procedures should require the FBI to keep a record of the query term, the date of the query, the identifier of the personnel conducting the query, and the written statement.<sup>81</sup> This codified an already existing requirement in the FBI's querying procedures, as noted in Chapter One. We provide more details about the implementation of the written justification requirement in Section III.B.1, below.

### **2. FBI System Configuration Requirement**

RISAA provides that the FBI's querying procedures shall include a requirement that any FBI system that stores Section 702-acquired information be configured in a manner that requires FBI personnel to affirmatively elect to query Section 702-acquired information.<sup>82</sup> The FBI had modified its systems in 2021 to exclude Section 702-acquired information by default and require users to affirmatively select an option to "include all FISA data" in order to query Section 702-acquired information. Those technical changes remain in effect post-RISAA, and the configuration requirement was included in the September 2024 querying procedures.

### **3. FBI Training Requirement**

RISAA provides that the FBI's querying procedures shall include a requirement that all FBI personnel conducting Section 702 queries successfully complete an annual training on the querying procedures.<sup>83</sup> As required by the statute, the FBI requires all users who have access to Section 702-acquired information to successfully complete an annual training to maintain that access. This training requirement predates RISAA and was included in the September 2024 querying procedures. This training includes guidance on the query standard, U.S. person query labeling requirements, sensitive queries, and batch queries. In addition to the

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.* § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(iii)).

<sup>81</sup> *Id.*

<sup>82</sup> *Id.* (codified at 50 U.S.C. § 1881a(f)(3)(D)(iv)). Alternatively, RISAA states that this requirement can also be satisfied if the system includes other controls reasonably expected to prevent inadvertent queries of Section 702-acquired information. *Id.*

<sup>83</sup> *Id.* § 2(d) (codified at 50 U.S.C. § 1881a(f)(3)(D)(i)).

mandatory trainings, NSD regularly provides on-site, query-related training to FBI field offices, and NSCLB attorneys regularly host informal virtual trainings in which they answer questions.

#### **4. Prohibition on Evidence-of-a-Crime-Only Queries**

RISAA provides that the FBI's querying procedures shall prohibit the FBI from querying Section 702-acquired information for the sole purpose of finding and extracting evidence of criminal activity (as opposed to finding and extracting foreign intelligence information), with limited exceptions for queries that could assist in mitigating or eliminating threats to life or serious bodily harm, or for queries that are necessary to identify information that must be produced or preserved in connection with a litigation matter or to fulfill discovery obligations in criminal matters.<sup>84</sup>

On the day that RISAA was enacted, then Deputy Director Abbate sent a message to all FBI personnel prohibiting, effective immediately, all evidence-of-a-crime-only queries except in connection with a litigation matter or to fulfill discovery obligations, and stating that mandatory consultation with an attorney was required before conducting a query under that exception. The FBI subsequently updated the FBI FISA and Standard Minimization Policy Guide to prohibit evidence-of-a-crime-only queries against Section 702-acquired information, with the RISAA-defined exceptions for queries that could assist in mitigating or eliminating threats to life or serious bodily harm, that are necessary in connection with a litigation matter, or that are necessary to fulfill discovery obligations. The Policy Guide also provides, "Before conducting an [evidence-of-a-crime-only] query of Section 702 data under one of the statutory exceptions to this prohibition, prior CDC, ADC, or NSCLB attorney approval is required." The September 2024 querying procedures similarly prohibit evidence-of-a-crime-only Section 702 queries, with the RISAA-defined exceptions.

After the passage of RISAA, NSD issued guidance directing federal prosecutors to coordinate with NSD before requesting that the FBI conduct evidence-of-a-crime-only queries necessary to fulfill discovery obligations in criminal matters. NSD evaluates any such proposed queries and provides the prosecution teams with assessments regarding whether the proposed queries comply with applicable statutory and procedural requirements.

The FBI also modified its systems so that users who opt to query Section 702-acquired information receive a prompt that states, in part: "If you believe you need to query Section 702 collection for the sole purpose of retrieving 'evidence of a crime-only' information, you should consult with an FBI attorney." If a user selects that the purpose of the query is to retrieve "'Evidence of a Crime-Only' Information (Not Foreign Intelligence Information)," the system prevents the user from executing the query. Instead, the following message appears:

You are not permitted in this system to query FISA Section 702 collection for the sole purpose of retrieving "evidence of a crime-only" information, except for very limited exceptions such as litigation purposes. You must obtain attorney approval before relying on an exception to run such a query. The attorney will also assist you in arranging for a permissible query in this system.

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<sup>84</sup> *Id.* § 3(a) (codified at 50 U.S.C. § 1881a(f)(2)).

You may run an “evidence of a crime-only” query, provided that it meets the query standard, against non-Section 702 FISA collection without attorney approval. You should select “Cancel” below and select “Exclude 702 Data” and run your query.

You should consult with an FBI attorney if you are not sure whether your query has an evidence of a crime-only purpose.<sup>85</sup>

Even in situations in which an attorney approves an evidence-of-a-crime-only query under one of the narrow exceptions, under current FBI policy the user is still not permitted to run the query in FBI systems. Instead, that query is run by FBI technical support personnel, who then provide the results to the user.

## **II. Evaluation of Compliance by FBI Personnel with the FBI’s Querying Procedures**

From 2016 through 2021, NSD’s reviews of the FBI’s Section 702 queries identified large numbers of noncompliant queries, and the FISC found significant and pervasive deficiencies with the FBI’s querying compliance during that time period. Following a series of remedial measures implemented by the FBI in 2021 and 2022 in response to FISC orders and directives from Department leadership, both NSD and the FISC noted that the FBI’s querying compliance appeared to be improving, though issues remained and continued monitoring was needed. Against that backdrop, RISAA implemented additional querying reforms, as discussed in the previous section.

In this section we analyze the FBI’s querying compliance in the year following RISAA’s enactment. We based our analysis primarily on NSD’s reviews of post-RISAA queries, including all noncompliant queries that NSD has identified and reported to the FISC. As noted in the Methodology section above, the OIG did not review, assess, and evaluate individual queries, but instead relied upon NSD’s legal determinations and data regarding whether individual queries were legally compliant to inform our analysis. Our analysis also included consideration of OIG interviews and discussions with FBI, NSD, and ODNI personnel.

The data produced by NSD indicate that the FBI’s compliance with its querying procedures has continued to improve following the implementation of RISAA’s reforms. Both the overall number of noncompliant queries and the rate of noncompliant queries have decreased from previous years. Moreover, most of the identified noncompliant U.S. person queries conducted post-RISAA have been noncompliant due to administrative mistakes—such as typographical errors—rather than due to more substantive errors such as misapplying the query standard. However, as previously noted, continued oversight of compliance with those policy reforms for longer periods, beyond the limited timeframe of this review, will be critical to assess the effectiveness of the reforms.

Below we discuss in detail NSD’s findings with respect to both U.S. person queries—including “sensitive” queries—and non-U.S. person queries. We also discuss NSD’s findings regarding the FBI’s adherence with the statutory requirement to keep accurate records of all U.S. person queries.

### **A. U.S. Person Queries**

Following RISAA’s enactment, NSD’s Office of Intelligence began immediately reviewing all FBI queries of Section 702-acquired information conducted post-RISAA that the FBI labeled as U.S. person queries.

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<sup>85</sup> This is the language that appears in System 1. System 2 provides similar prompts to users.



According to NSD reports and filings with the FISC summarizing NSD's review of approximately 9,089<sup>86</sup> such queries conducted between April 20, 2024, and April 20, 2025, NSD determined that 127 of those 9,089 queries were noncompliant with the FBI's querying procedures, for an overall compliance rate of 98.6 percent.<sup>87</sup> Additionally, approximately half of these noncompliant queries were compliant with the query standard—the legal standard set forth in the querying procedures—but were deemed noncompliant because they failed to adhere to other procedural requirements in the querying procedures, such as obtaining pre-approval or including a sufficient written justification for U.S. person queries. Overall, 68 U.S. person queries did not meet the query standard, reflecting a 99.3 percent compliance rate with the query standard. With respect to the categories of queries that were noncompliant with the query standard, NSD found that most involved either typographical errors or the inadvertent failure to apply query limiters proposed in the pre-approval form.<sup>88</sup> Below is a more detailed description of NSD's findings.

Of the 68 U.S. person queries that NSD determined did not meet the query standard, NSD found that 37 failed to meet the justification requirement of the query standard solely due to typographical errors the users made when inputting query terms.<sup>89</sup> Another 13 queries did not meet the design requirement of the query standard because the users did not apply query limiters, such as limiting the query to a certain type of FBI case.<sup>90</sup> Finally, NSD determined that 18 queries failed to meet the justification requirement of the query standard because the users did not have a sufficient factual basis to believe that the queries were reasonably likely to retrieve foreign intelligence information.<sup>91</sup>

Additionally, NSD identified queries that met the query standard but failed to adhere to procedural requirements for U.S. person queries. NSD found that 49 queries were noncompliant because the users did not obtain pre-approval from an attorney as required by RISAA for all U.S. person queries, 23 of which occurred in the first 2 months after RISAA established the pre-approval requirement. An additional three noncompliant queries met the query standard, but the users failed to provide a sufficient written statement of the factual basis to believe that the queries were reasonably likely to retrieve foreign intelligence information, as required by the FBI's querying procedures. In all three of those instances, the users

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<sup>86</sup> This number has not been de-duplicated and thus may contain duplicate queries. By contrast, when the FBI reports its query data to ODNI in connection with ODNI's publicly-released annual statistical transparency reports, the FBI reports de-duplicated query figures, removing instances in which the same query term was run multiple times.

<sup>87</sup> Additionally, three FBI field offices self-reported a total of four noncompliant U.S. person queries to NSD, which NSD reported to the FISC. Three queries were noncompliant because of typographical errors, and one query was noncompliant because the FBI user inadvertently ran a query without having first obtained attorney approval.

<sup>88</sup> A limiter is an "advanced search" tool that allows users to narrow a query to records from or relating to specified case file(s), date range(s), or other limiting parameters.

<sup>89</sup> When a query term is misspelled due to a typographical error, the FBI no longer has a specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information, and so the query no longer meets the justification prong of the query standard.

<sup>90</sup> For 12 of these queries, the users had received pre-approval to run the query using limiters, but then failed to use the pre-approved limiters when executing the query. For the other query, the user had received pre-approval to query a term, but the user conducted an additional query using a variation of the term that NSD assessed to be overbroad.

<sup>91</sup> More specifically, NSD assessed that for the majority of these 18 queries, the FBI did not have sufficient facts to connect the queried term to use by a subject or, if connected to a subject, to connect the subject to a foreign power. For one query, the user failed to use the appropriate query syntax, meaning the query was not reasonably likely to retrieve the appropriate product.

documented that the queries could assist with mitigating or eliminating a threat to life or serious bodily injury and so did not seek written pre-approval pursuant to a statutory exception for such situations.

Finally, NSD identified several noncompliant sensitive queries. Of the 9,089 U.S. person queries that NSD reviewed, FBI users labeled 1,075 as sensitive queries.<sup>92</sup> While NSD did not identify any sensitive queries that did not meet the query standard, NSD identified nine queries that were noncompliant because the user did not obtain the necessary pre-approval. NSD determined that for two of these queries, an FBI user had previously obtained attorney pre-approval for the queries but the pre-approval had expired under FBI policy.<sup>93</sup> NSD also identified seven U.S. person queries that that should have been identified as sensitive. An FBI user identified these seven queries as both U.S. person queries and sensitive media queries requiring Deputy Director approval on the pre-approval form, which the user sent to an FBI attorney for approval. However, when the FBI attorney did the initial review of the pre-approval form for the queries, the attorney did not remind the user to obtain Deputy Director approval. After obtaining the attorney's pre-approval, the user failed to seek or obtain the Deputy Director's pre-approval and, while conducting the queries, did not mark them as sensitive in System 1.

## **B. Non-U.S. Person Queries**

Although NSD does not review all non-U.S. person queries, after passage of RISAA, NSD conducted one FBI-wide review of Section 702 queries conducted between May 1, 2024, and June 30, 2024, that the FBI labeled as non-U.S. person queries. In conducting this review, NSD examined a random sample of 498 queries from 45 field offices and 7 FBI Headquarters components. NSD determined that 4 of the 498 queries were noncompliant with the FBI's querying procedures: 2 queries were U.S. person queries that had been mislabeled as non-U.S. person queries, and the user therefore did not obtain the requisite pre-approval; 1 query did not meet the query standard due to a typographical error; and 1 query did not meet the purpose requirement of the query standard because the user ran the query to retrieve "spam" products.<sup>94</sup>

In addition to the above FBI-Wide Query Review, NSD conducted reviews of 18 FBI field offices and 1 division of FBI Headquarters that covered 60- to 90-day periods from post-RISAA enactment through January 2025.<sup>95</sup> During the course of its review of the 18 field offices and 1 Headquarters division, NSD examined 10,667 queries of Section 702-acquired information the FBI had identified as non-U.S. person queries. NSD determined that 149 of the 10,667 queries were noncompliant with the FBI's querying procedures, for an overall compliance rate of 98.6 percent. NSD found that 64 of these 149 queries were U.S. person queries

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<sup>92</sup> A non-negligible number of these queries were identified as sensitive queries because they related to "any other matter of a sensitive nature which should be brought to the attention of FBI [Headquarters] or DOJ officials" as required by FBI policy, even though they did not fall into any of the sensitive query categories defined in RISAA.

<sup>93</sup> Under FBI policy, query pre-approvals are effective for a maximum of 180 days.

<sup>94</sup> The query that did not meet the purpose requirement was executed by a user who conducted a query to retrieve "spam" products that were unlikely to contain foreign intelligence information and then mark the products as reviewed and not of interest. "Spam" in this context refers to a variety of communications that are not of analytical interest to the FBI, including marketing emails, advertisements, mailing lists, and similar such communications. Because that query was not conducted for the purpose of retrieving foreign intelligence information, it did not meet the purpose requirement of the query standard. NSD assessed that although this query violated the querying procedures that were in effect at the time the query was run, it would have been permissible under the amended querying procedures approved by the FISC on September 17, 2024, which includes an exception to the query standard for queries intended solely to locate and mark products as spam.

<sup>95</sup> NSD conducted some FBI field office reviews that reviewed queries conducted during a date range starting before and ending after April 20, 2024. We did not include the results of those field office reviews in our reporting period.

that had been mislabeled as non-U.S. person queries, including 2 such mislabeled U.S. person queries that were also sensitive queries that should have received pre-approval, but did not.<sup>96</sup> NSD found that another 43 of the 149 noncompliant queries, run by 1 user, did not meet the “purpose” requirement of the query standard because the user ran the queries to retrieve “spam” products. The remaining 42 queries were noncompliant for various reasons including typographical errors, failure to include query limiters, and substantive misapplications of the query standard.

### **C. Records of Use of U.S. Person Query Terms**

During the course of its field office and FBI-wide reviews during our review period, NSD identified 66 undermarks—that is, U.S. person queries that are mislabeled by the FBI as non-U.S. person queries.<sup>97</sup> These undermarks represented 0.6 percent of the total queries labeled as non-U.S. person queries that NSD reviewed. As discussed above, because undermarks can result in U.S. person queries failing to receive additional protections required by the querying procedures, they are potentially more concerning than overmarks, which result in extra protections for those queries and do not implicate the privacy interests and legal protections of U.S. persons.<sup>98</sup> NSD found that 1 FBI user who relied on outdated guidance was responsible for 37 of the undermarks.

NSD’s findings indicate that the FBI still has room to improve the accuracy of its recordkeeping regarding the use of U.S. person query terms to meet the requirements of FISA and the querying procedures. Accurately identifying and recording which queries include U.S. person query terms is essential in order to ensure that U.S. person queries receive the statutorily-mandated approval, review, and oversight.

## **III. Analysis of the Effectiveness of Specific Reforms in Improving the Compliance of FBI Personnel with the FBI’s Querying Procedures**

As discussed in Chapter One, the FBI has made a number of reforms to its querying practices between 2019 and 2024. We assessed those reforms, including both pre- and post-RISAA reforms, and analyzed which specific reforms have been instrumental in improving the compliance of FBI personnel with the FBI’s querying procedures. We based our assessment on a combination of our own analysis, the FISC’s opinions,

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<sup>96</sup> NSD found that for 57 of these mislabeled queries, the users failed to receive pre-approval as is required for U.S. person queries. For the other seven queries, the users did obtain pre-approval, but when running the queries the users inadvertently mislabeled them as non-U.S. person queries.

<sup>97</sup> NSD identified an additional 30 undermarks in the course of NSD’s reviews of evidence-of-a-crime-only queries. Two FBI users conducted 30 discovery-related queries and mistakenly failed to label the queries as U.S. person queries. However, all 30 of the queries met the query standard and had been pre-approved by an FBI attorney.

<sup>98</sup> NSD reports overmarks, non-U.S. person queries inaccurately identified by the FBI as U.S. person queries, to the FISC on a quarterly basis. Because overmarks do not implicate the same privacy and legal concerns as undermarks, NSD provides only an overall number of overmarks to the FISC, but does not provide detailed reporting on each overmark and does not report overmarks as compliance incidents. According to quarterly reports identifying compliance incidents reported to NSD between June 2024 and May 2025, which covers NSD’s FBI-wide and division reviews, NSD identified approximately 301 overmarks during that reporting period. While that quarterly report identified other overmarks, they were identified during NSD’s pre-RISAA field office reviews and so are outside our review period. We did not include overmarks identified in the quarterly report NSD submitted covering the period of March 2024 through May 2024, as that report included only pre-RISAA queries. Given NSD’s reporting timeline, some of the 301 overmarks likely reflect queries that occurred pre-RISAA and were identified through NSD’s field office reviews. While we do not have precise data on the reasons for these overmarks, NSD indicated that 113 were intentional overmarks that were part of FBI system updates and testing.

and NSD's analyses regarding the impact of certain reforms. In formulating our own analysis, we considered the testimony provided to the OIG by FBI and DOJ witnesses. Because the FBI adopted a large number of reforms in the span of a few years, many of which may have been at least partially responsible for improving the FBI's querying compliance, we did not attempt to quantify the precise impact of any specific reform.

As required by RISAA, we have identified which of the FBI's reforms the FBI adopted voluntarily and which were required by statute or the FISC, including those instances in which the FBI voluntarily adopted changes in response to FISC orders that found significant issues with certain aspects the FBI's querying practices but did not expressly order the FBI to adopt specific reforms. We also identified several reforms that the FBI adopted in response to direction by Department leadership.

## **A. Pre-Approval Requirements**

The FBI has implemented pre-approval requirements for certain categories of queries. Currently, the FBI requires pre-approval for batch queries, several categories of "sensitive" queries, and all queries containing a U.S. person or presumed-U.S. person query term.

### **1. Pre-Approval for Batch Queries**

Prior to conducting a batch job, which entails conducting multiple queries at once using a "batch query tool," a user must obtain pre-approval from an FBI attorney. The FBI adopted the pre-approval requirement voluntarily in 2021 in an effort to address a series of batch job query compliance incidents in which a single improper decision by FBI personnel resulted in large numbers of noncompliant queries. The FBI initially required approval for batch jobs that would result in 100 or more queries, and expanded this policy in September 2023 to require attorney pre-approval for all batch jobs, regardless of the number of queries.

The number of batch jobs that FBI personnel are running has declined from March 2022 to May 2025, as shown in Table 2.1, below. FBI witnesses attributed at least some of this decline to the pre-approval requirement.

**Table 2.1**  
**Number of Batch Jobs March 2022–May 2025**

Quarterly Reporting Period	Total Approved Batch Jobs	Emergency Batch Jobs Without Prior Approval
March 2022 to May 2022	51	0
June 2022 to August 2022	49	0
September 2022 to November 2022	53	2
December 2022 to February 2023	17	0
March 2023 to May 2023	33	0
June 2023 to August 2023	11	0
September 2023 to November 2023	1	0
December 2023 to February 2024	0	0
March 2024 to May 2024	1	0
June 2024 to August 2024	7	1
September 2024 to November 2024	5	0
December 2024 to February 2025	10	0
March 2025 to May 2025	5	0

Source: NSD

NSD has assessed that the pre-approval requirement has enhanced the FBI’s compliance with the query standard and that the decrease in FBI query compliance incidents between December 2021 and November 2023 was likely attributable, at least in part, to the pre-approval requirement for large batch jobs. NSD’s reviews identified tens of thousands of noncompliant queries as the result of batch jobs from 2019 through 2021. By contrast, NSD reviews all FBI batch jobs but has identified only two queries that did not meet the query standard that were run as part of batch jobs since the FBI started requiring attorney pre-approval for all batch jobs in September 2023.

## **2. Pre-Approval for Sensitive Queries**

In March 2022, the FBI began requiring pre-approvals for all FISA queries using query terms involving certain categories of “sensitive entities.” The FBI initially adopted the pre-approval requirement at the direction of Department leadership after NSD’s reviews identified multiple noncompliant queries involving sensitive

matters, including one query of a member of Congress and several others involving U.S. government employees. RISAA codified this requirement and modified the definitions of sensitive query categories, as discussed in Section I.A.

Former Deputy Director Abbate, who was in the position of Deputy Director for the majority of our review period until his separation from the FBI by resignation on January 20, 2025, told us that he reviewed each sensitive query approval request he received in detail. He said that he reviewed the requests not only to determine whether they were legally justified, but also whether it was necessary to conduct the queries in order to obtain the information the FBI needed or whether other, less intrusive options were available. Witnesses noted that Abbate regularly requested additional information or briefings on sensitive queries, including seeking input from NSD, and that he sometimes sent requests back to be narrowed or otherwise revised. Abbate told us that he declined to approve several sensitive queries, either due to “optics” or because he believed the FBI could obtain the requested information through alternative, less intrusive means. Another witness who was familiar with Abbate’s sensitive query reviews told us that Abbate declined to approve “two or three” sensitive queries, though that witness did not have a precise recollection of the number. Neither Abbate nor the other witness provided us with specific information about the nature of the sensitive query requests that were not approved. Additionally, while the FBI tracks approved requests in Sentinel, the FBI does not track requests that are not ultimately approved. Therefore, the FBI was unable to provide us with data on or examples of requests that were submitted to but ultimately not approved by the Deputy Director.

Deputy Director Bongino, who started in his position on March 17, 2025, had only been in his role as Deputy Director for just over 1 month during the period relevant to our review. One FBI witness familiar with Bongino’s review of sensitive queries said that early in his tenure, Bongino appeared to be taking a similar approach to former Deputy Director Abbate’s. As previously noted, Bongino declined our request for a voluntary interview and we determined that it was not necessary to seek to compel his testimony.

The sensitive query approval process appears to have reduced the number of noncompliant sensitive queries. NSD has not identified any sensitive queries conducted post-RISAA that did not meet the query standard, though NSD has identified several instances, noted in Section II.A above, in which responsible FBI personnel failed to obtain the Deputy Director’s pre-approval, as required, prior to running sensitive queries.

While the sensitive query approval process likely helped reduce the number of noncompliant sensitive queries, several witnesses told us, anecdotally, that the approval process can be very slow, with some requests for pre-approval remaining pending for weeks or months. Some of these witnesses opined that, given the sensitive nature of these queries, it was appropriate for the Deputy Director and others in the approval process to engage in careful consideration and deliberation, which may be time consuming and require back and forth with the requestors.

### **3. Pre-Approval for U.S. Person Queries**

In response to RISAA’s requirement that FBI personnel obtain prior approval from an FBI supervisor or attorney prior to querying Section 702-acquired information using U.S. person terms, the FBI immediately began requiring FBI attorney pre-approval for all such queries. The FBI’s query approval form states that field office personnel must receive approval from their CDC, and Headquarters personnel should seek approval from an NSCLB attorney.

As discussed above in Section II.A, NSD's reviews of U.S. person queries post-RISAA found that over 99 percent of the 9,089 U.S. person queries during the year following RISAA's enactment were compliant with the query standard, an improvement from previous years. We were told that from NSD's perspective, this improvement is likely due at least in part to the pre-approval requirement. Of the U.S. person queries that NSD identified as failing to meet the query standard since the pre-approval requirement was put in place in response to RISAA, most were deemed noncompliant because the user failed to correctly run the query as was pre-approved (such as by misspelling one of the query terms or not including limiters) as described above in Section II.A.

The witnesses we spoke to at the FBI told us that the U.S. person query approval process generally works well and that queries are reviewed and approved in a timely fashion. Several witnesses noted that the query approval form is helpful, as it provides detailed instructions on what documentation is needed and provides links to various guidance documents. Some witnesses opined that NSCLB attorneys, rather than CDCs, should be responsible for approving field office queries given their expertise and enterprise-wide perspective and the high volume of queries that CDCs in some field offices are asked to review; however, NSCLB indicated that they lack the personnel to be able to handle approving all U.S. person queries.

Immediately after enactment of RISAA, the FBI opted to require approval of U.S. person queries only by attorneys. As permitted by RISAA, which provides for approval of U.S. person queries by FBI attorneys or supervisors, the FBI considered allowing selected non-attorney supervisors to approve certain U.S. person queries. As discussed above, this potential policy change would not have extended to sensitive queries or batch queries including U.S. person terms. Multiple witnesses told us that allowing trained supervisors who have experience with Section 702 queries to be able to approve U.S. person queries would improve the efficiency of the approval process and alleviate the burden on CDCs, particularly in field offices that conduct a high volume of queries. As noted above, other witnesses told us that the current approval process functioned efficiently, without undue delays. After reviewing a draft of this report, the FBI informed the OIG that Deputy Director Bongino had recently decided not to move forward with a policy change at this time enabling non-attorney supervisors to approve certain U.S. person queries. The FBI further indicated that it may revisit this policy determination in the future.

If the FBI in the future were to reconsider whether to allow selected non-attorney supervisors to approve certain U.S. person queries, the FBI should be mindful of its query compliance history as described in Chapter One, the FBI's initial decision immediately after enactment of RISAA to limit such approvals to attorneys, and the high rate of compliance post-RISAA under the attorney approval regime. The FBI should therefore exercise caution in expanding approvers to include non-attorney supervisors for U.S. person queries, which are one of the most sensitive uses of the FBI's Section 702 authority, and ensure that doing so does not reduce the efficacy of the FBI's current approval regime. Additionally, if the FBI decides in the future to allow non-attorney supervisors to approve some such queries, the FBI should consider a pilot program, subject to monitoring and oversight, to ensure that any potential efficiency benefits do not come at the cost of a decline in the efficacy of the pre-approval requirement.

## **B. Changes to the Systems that FBI Personnel Use to Conduct Queries**

The FBI has made a number of modifications to the electronic and data storage systems that FBI personnel use to query Section 702-acquired information designed to prevent FBI personnel from querying Section 702-acquired information by mistake and to ensure that queries meet the query standard.



## **1. Requiring FBI Personnel to Include a Written Statement of Facts Documenting the Justification for U.S. Person Queries**

As mandated by RISAA, the FBI's querying procedures require that prior to querying Section 702-acquired information using a U.S. person query term, FBI personnel must provide a written statement of the specific factual basis to believe that the query is reasonably likely to retrieve foreign intelligence information. The FBI has thus modified its systems to require users to identify whether each query contains a U.S. person query term and, if so, to enter a written justification into a text field. As detailed above, the FBI originally adopted a similar requirement in 2019 at the strong suggestion of the FISC, though as originally implemented the FBI allowed users to select from one of several pre-populated justifications. After the FISC questioned the effectiveness of this implementation, the FBI further modified its systems in the fall of 2021 to require users to enter a free-text explanation documenting the specific factual basis for each U.S. person query before accessing the results of that query. Finally, in September 2023, the FBI further reconfigured its systems to require users to enter free-text written justifications prior to running U.S. person queries, rather than after running the query but prior to accessing the results. The FBI made this change following NSD reviews that identified several instances in which FBI personnel conducted U.S. person queries and then used work-arounds to access the contents returned by those queries without ever entering a written justification. Requiring users to enter written justifications prior to conducting the query eliminated these work-arounds.

Since the modified written justification requirement was implemented in 2021, the percentage of queries NSD reviewed that NSD determined did not meet the query standard declined from approximately 9.4 percent in 2021, to 3.1 percent in 2022, to less than 1 percent during our review period. While it is not possible to determine precisely what impact the requirement for a written justification has had on this decline, based on NSD's perspective, with which we concur, the written justification requirement has likely contributed to the reduction in noncompliant queries by prompting FBI personnel to think through the query standard prior to running each U.S. person query. This requirement has also facilitated NSD's and OIA's oversight efforts by enabling them to better determine whether queries were justified and to assess how well FBI personnel understand the query standard.

Some witnesses suggested that the requirement to document the justification for queries should be extended to non-U.S. person queries in order to facilitate oversight. When OIA or NSD conduct their audits or reviews, they often ask FBI personnel for information about queries that they may have conducted weeks or months earlier. If the users did not document the justification for the queries—which they are not required to do for non-U.S. person queries—they may not recall the justification and may need to review historical records to recall the original purpose of their queries. Some witnesses indicated that extending the written justification requirement to non-U.S. person queries could create a significant administrative burden, particularly for users who regularly conduct dozens or hundreds of queries, and could be difficult to manage if the number of queries the FBI runs were to increase in the future. However, at least one mid-sized FBI field office has required written justifications and attorney approvals for all Section 702 queries, including non-U.S. person queries, since June 2023 when the FBI introduced the FISA Query Accountability Procedures. The witnesses from that field office with whom the OIG spoke reported that the attorneys have not been unreasonably burdened by the responsibility and the agents and analysts appreciate the “top cover” and the benefits of having contemporaneous documentation of the justifications for all Section 702 queries.

## 2. Requiring FBI Personnel to Affirmatively Opt In to Include Unminimized Section 702-Acquired Information in Queries

At the direction of DOJ leadership, the FBI modified System 1 and DIVS in 2021 so that Section 702-acquired information was no longer included in the results of queries unless the user intentionally and affirmatively opted in to including Section 702-acquired information among the data queried. The modification to exclude by default, rather than include, Section 702-acquired information has had a major impact on reducing the number of noncompliant queries, as it eliminated most of the noncompliant queries caused by FBI personnel inadvertently querying Section 702-acquired information, which had been the source of a significant number of compliance incidents. Additionally, witnesses we spoke to believed that this change resulted in a significant decline in the number of queries that FBI personnel were conducting, as FBI queries declined directly after this change was made. The FISC drew a similar conclusion, noting in April 2022 that the number of U.S. person queries the FBI had conducted in the 3 months following these changes “represent[ed] a precipitous decline” from a 3-month period earlier that year.<sup>99</sup> The FISC stated: “[t]he only apparent explanation for that decline is the modifications...that require users to affirmatively elect to run searches against unminimized Section 702 information.”<sup>100</sup>

### C. Elimination of Evidence-of-a-Crime-Only Queries

RISAA prohibits FBI personnel from querying Section 702-acquired information for the sole purpose of identifying evidence of criminal activity, with certain exceptions for queries necessary to prevent threats to life or serious bodily harm or to fulfill the government’s discovery obligations. According to NSD’s witnesses, this prohibition has effectively eliminated noncompliant evidence-of-a-crime-only queries, which had been a common source of noncompliant queries that the FISC had raised concerns about on multiple occasions.

### D. Training and Guidance

FBI personnel who conduct or approve queries receive a considerable amount of training and guidance on the query standard and the querying procedures. In 2021, NSD issued detailed guidance on querying and the query standard, and in 2022, the FBI deployed a new mandatory annual training for all users with access to Section 702-acquired information.<sup>101</sup> The FBI launched a revised training in 2025 that includes the reforms mandated by RISAA to the query process.

In addition to the mandatory trainings, NSD also regularly provides on-site query-related training to FBI field offices, and NSCLB attorneys regularly host informal virtual trainings in which they answer questions. The FBI has also developed and issued various other training-related materials, including guidance on drafting query justifications and conducting sensitive queries, and a reference sheet to aid in identifying and labeling U.S. person queries, which OIA prepared in consultation with NSCLB and NSD. These documents have been updated as needed to reflect the changes in RISAA and are available on an FBI intranet site. Users are also presented with various “compliance tips” when they use System 1 that provide guidance and reminders on the querying procedures. When FISC decisions, statutes, or FBI policies have made changes to the FBI’s querying requirements, FBI leadership has sent emails to all FBI personnel informing them of those changes.

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<sup>99</sup> April 2022 FISC Order at 40.

<sup>100</sup> *Id.*

<sup>101</sup> NSD also issued a shorter query guidance “nutshell” document for personnel to use as a quick reference.

Persistent training and guidance on Section 702 issues, including the query standard and querying procedures, cannot help but enhance awareness by FBI personnel involved in these processes of statutory and FBI policy requirements, as well as potential issues. Accordingly, we believe that the trainings and guidance documents that NSD and the FBI have developed have improved FBI personnel's understanding of the query standard. These issues have likely contributed to reducing the number of noncompliant queries, particularly those that were the direct result of FBI personnel lacking awareness of or misunderstanding the query standard.

## **E. Accountability**

In June 2023, the FBI announced two reforms intended to ensure that FBI personnel and leadership would be held accountable for failing to comply with the FBI's querying policies and procedures: (1) the FISA Query Accountability Procedures; and (2) a new field office health measure focused on FISA compliance. The FBI adopted these reforms following congressional inquiries and concerns about what consequences, if any, the FBI had imposed on FBI employees who had failed to comply with the FBI's querying procedures.

### **1. FBI FISA Query Accountability Procedures**

The FBI adopted the FISA Query Accountability Procedures in June 2023 and updated the procedures in July 2024 to comply with RISAA, including the addition of potential consequences for FBI employees who approve noncompliant queries. The accountability procedures address the process of identifying, evaluating, and remediating query-related compliance incidents.

Under the accountability procedures, incidents involving suspected intentional misconduct or reckless behavior by an FBI employee relating to queries shall be referred to the Inspection Division for investigation of potential violation of the FBI's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process. For query-related compliance incidents that do not involve intentional or reckless behavior, the accountability procedures set out a process for determining whether the FBI employee who conducted the noncompliant query (and, if applicable, the FBI supervisor or attorney who approved the query) acted negligently. This process includes an initial investigation by NSCLB with an opportunity for the FBI employee to explain why they believed the query was compliant and to provide any additional relevant information, and a final decision made by an FBI Assistant Director in consultation with the NSCLB Deputy General Counsel and the FBI Senior Advisor for National Security Oversight and Compliance (SANSOC).<sup>102</sup> The FBI also has the option to suspend the FBI employee's FISA access pending adjudication for certain types of violations. Suspensions are not automatically triggered by a query compliance event and are sometimes waived if the SANSOC and Deputy General Counsel determine the employee's noncompliant query is unlikely to result in a finding of negligence, such as a typographical error.

If an FBI employee is found to have acted negligently, the accountability procedures provide for escalating remedial measures based on the number of such performance deficiencies the employee has had within the previous 24 months. For the first incident, the employee's FISA access is suspended pending remedial training, including retaking all mandatory training and additional one-on-one retraining and counseling with an FBI attorney. For the second such incident, in addition to the previous remedial measures, the employee must also attend an NSD query review to observe the proper application of policies and procedures, and all of the employee's queries must be pre-approved by an attorney for a minimum of 2 weeks and up to 1 year. Finally, for the third such incident, the employee's FISA access is suspended pending a full review of the individual's overall FISA query performance by the relevant Assistant Director, who will determine the

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<sup>102</sup> The SANSOC reports to the FBI Associate Deputy Director.

suitability of the employee to continue having access to FISA and whether the employee should be referred to the Inspection Division for potential reckless conduct. If the determination is made that the employee should continue to have access to FISA, they must be placed on a performance improvement plan to ensure proper use of FISA information.

Section 12(a) of RISAA provides that the FBI Director shall annually submit to the appropriate House and Senate Intelligence and Judiciary Committees a report describing the accountability actions taken by the FBI in the preceding 12-month period for noncompliant querying of Section 702-acquired information, to include the number of ongoing personnel investigations, the outcome of any completed investigations, and any related adverse personnel actions taken.<sup>103</sup> Additionally, Section 16(a)(3)(B) of RISAA requires that not later than December 1, 2024, and annually thereafter for 3 years, the FBI Director shall submit to the appropriate House and Senate Intelligence and Judiciary Committees a report detailing each adverse personnel action taken pursuant to the accountability standards and a description of the conduct that led to each such action.<sup>104</sup> The FBI submitted its first report containing the data required by those two provisions in November 2024, containing a summary of accountability actions taken between June 12, 2023—the effective date of the FISA Query Accountability Procedures—and November 18, 2024. We discuss the information that the FBI disclosed in this report below.

According to the FBI's report, as well as our interviews with witnesses who are involved in the adjudication process, of the personnel who have had noncompliant queries adjudicated under the accountability procedures, the vast majority have been determined to be non-negligent. For many of these queries, the noncompliance resulted from users making administrative mistakes, such as typographical errors, while running otherwise compliant queries. Other mistakes that were determined to be non-negligent included inadvertently querying FBI-generated labels (e.g., national security letter identification numbers); omitting query limiters, such as limiting a query to a specific case classification, for queries that otherwise were properly authorized and had a sufficient justification; querying terms where there was an authorized purpose and design but not a sufficient nexus to a foreign power to meet the query standard; and failing to obtain pre-approval for sensitive queries that were otherwise compliant because the user did not understand the nuances of which queries needed pre-approval.

According to FBI witnesses and as noted in the FBI's report, since the accountability procedures were implemented, only one FBI employee has been referred to the Inspection Division for investigation of suspected intentional or reckless query-related misconduct. That employee was referred to the Inspection Division to determine whether the employee had intentionally failed to seek approval prior to conducting a number of sensitive queries relating to members of media organizations that the employee had incorrectly identified as not sensitive.

Additionally, according to the FBI's report, of the more than 800 matters the FBI adjudicated under the accountability procedures between June 12, 2023, and November 18, 2024, the FBI found 6 involved negligent behavior by FBI employees. Five of these employees were found negligent for failing to apply the query standard in a thoughtful manner, such as by running queries that were expressly identified in the FBI's query training as unlikely to meet the query standard. The sixth employee conducted a U.S. person query that met the query standard, but incorrectly labeled the query as a non-U.S. person query in order to

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<sup>103</sup> RISAA § 12(a) (codified at 50 U.S.C. § 1873(e)).

<sup>104</sup> *Id.* § 16(a)(3)(B).

be able to view the results of the query without entering a written justification.<sup>105</sup> All six employees had their access to Section 702-acquired information suspended and were required to complete additional training as set forth in the accountability procedures. FBI witnesses told us that no FBI employee has had a second incident of negligent noncompliance that would require escalating consequences under the accountability procedures.

Several witnesses expressed concern that the adjudication process was too slow, sometimes leaving FBI employees in limbo for several months. This stemmed in part from a decision to apply the accountability procedures to any query that was found to be noncompliant after the procedures were implemented, even if the query was conducted prior to the procedures being put in place, leading to an initial backlog of noncompliant queries awaiting adjudication. Witnesses involved in the adjudication process have indicated that as they have worked through this backlog and improved their processes, the adjudication process may start to move quicker going forward.<sup>106</sup>

Several witnesses that we spoke to, including NSCLB attorneys and CDCs, indicated that many FBI employees are concerned that they may be subject to disciplinary action for running noncompliant queries. While no employee that we interviewed indicated that he or she was personally reluctant to run queries or feared consequences from the accountability procedures, multiple witnesses said that they were aware that other employees were concerned about the accountability procedures; several said that they had heard people use the term “FISA jail” to describe the consequences for employees who ran noncompliant queries. NSCLB attorneys and other senior FBI employees told us that, in an effort to encourage employees to run queries without fearing discipline for making a simple mistake, they were making efforts to communicate to FBI employees that the accountability procedures are not intended to be punitive unless an employee is repeatedly acting negligently or engaging in misconduct.

We assess that the accountability procedures have likely improved the compliance of FBI personnel with the querying procedures, though we cannot precisely quantify their impact. Additionally, as discussed in more detail below in Section V.A, several witnesses indicated that the accountability procedures and the fear that some FBI personnel have of facing discipline for running noncompliant queries may be one of the reasons for the decrease in the number of queries FBI personnel are running.

## **2. FBI Field Office Health Measure Relating to FISA Compliance**

Each year, FBI field office executive leadership—Assistant Directors in Charge (ADIC) or Special Agents in Charge (SAC)—are assessed on a variety of field office health measures, which can affect their eligibility for promotions and annual bonuses. In October 2023, the FBI introduced a new field office health measure intended to ensure that field office ADICs and SACs “monitor FISA compliance within their Field Office, identify and mitigate compliance risks, promote good compliance behaviors within all Field Office work units, and hold Field Office personnel accountable for adherence to good compliance practices.” The health measure requires the ADIC or SAC of each FBI field office to hold meetings at least semiannually to assess

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<sup>105</sup> This query occurred before the system change that required users to enter a written justification before a query is run.

<sup>106</sup> For example, as noted above, NSCLB has implemented a “fast track” process for users who conducted three or fewer queries that were found to be noncompliant because of typographical errors, with NSCLB recommending a determination of non-negligence for such users without requiring an extended investigation.

FISA compliance by discussing recent compliance incidents, considering potential proactive compliance measures, and planning to provide FISA training to field office personnel.

We were not able to determine whether the field office health measure directly impacted the compliance of FBI personnel with the querying procedures. Witnesses told us that the primary benefit of the measure was that the semiannual meetings kept field office leadership apprised of recent FISA-related developments. Witnesses indicated that this was helpful for field offices that do not typically conduct a large number of queries and where field office leadership may lack familiarity with Section 702.

## F. Oversight

The FBI's history of query compliance issues detailed in Chapter One triggered heightened internal and external oversight of the FBI's querying of Section 702-acquired information. This oversight is provided by FBI personnel, including the Deputy Director, the SANSOC, FBI attorneys and auditors, as well as numerous executive branch entities outside the FBI, including NSD, the DOJ OIG, ODNI, the Privacy and Civil Liberties Oversight Board (PCLOB), and the President's Intelligence Advisory Board (PIAB).<sup>107</sup> And, as discussed throughout this report, the FISC and Congress play significant roles in overseeing the FBI's use of its Section 702 authority. We detail each of these layers of oversight below, as well as our assessment of the impact of this oversight on compliance by FBI personnel with the querying procedures. We also note the concern expressed by some witnesses that the extensive oversight has caused "audit fatigue" that has reduced the willingness of some FBI personnel to query Section 702-acquired information altogether.

### 1. FBI Internal Oversight

The FBI's internal oversight of Section 702 queries is conducted chiefly by FBI attorneys—including CDCs, ADCs, and NSCLB attorneys—and OIA personnel. As noted in Section I.A.1, FBI personnel must obtain pre-approval from FBI attorneys—CDCs or ADCs for field offices, and NSCLB attorneys for Headquarters components—before executing batch queries and U.S. person queries, including sensitive queries of terms reasonably believed to identify U.S. religious organizations or U.S. persons prominent in such organizations. FBI personnel must obtain approval from the Deputy Director to execute sensitive queries of terms reasonably believed to identify U.S. elected officials, political appointees, political organizations or U.S. persons who are prominent in such political organizations, or U.S. media organizations or U.S. persons who are members of such media organizations. CDCs, ADCs, and NSCLB attorneys also are available for consultation and to provide guidance regarding other potential queries that do not require pre-approval.

In addition, NSCLB attorneys confer and consult with NSD regarding submissions to the FISC, including disclosures of noncompliant queries pursuant to Rule 13(b) of the FISC Rules of Procedure. We discuss in Section III.F.2 below NSD's role in overseeing the FBI's querying of Section 702-acquired information.

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<sup>107</sup> The OIG previously has recognized the need for both routine internal and periodic independent oversight of the FBI's use of its national security authorities. See DOJ OIG, *Roles and Responsibilities of the FBI's Office of General Counsel in National Security Matters*; see also Michael E. Horowitz, Inspector General, U.S. Department of Justice, before the Committee on Appropriations, Subcommittee on Crime and Federal Government Surveillance, U.S. House of Representatives, concerning "[Fixing FISA: How a Law Designed to Protect Americans Has Become Weaponized Against Them](https://docs.house.gov/meetings/JU/JU08/20230427/115812/HHRG-118-JU08-Wstate-HorowitzM-20230427.pdf)" (April 27, 2023), docs.house.gov/meetings/JU/JU08/20230427/115812/HHRG-118-JU08-Wstate-HorowitzM-20230427.pdf (accessed October 1, 2025).

OIA is responsible for supporting the FBI's internal compliance functions by routinely auditing the FBI's use of its national security-related authorities, including queries of Section 702-acquired information.<sup>108</sup> In connection with its audits, OIA personnel offer query-specific feedback to users and also identify compliance-related issues and trends for NSCLB leadership to address, as appropriate. Although OIA initially was an independent office led by an Assistant Director, according to OIA personnel, in March 2025 OIA employees were notified that OIA was going to become a section within the Inspection Division and would be led by a Section Chief, not an Assistant Director. OIA's Assistant Director resigned in April 2025, and at that time an Acting Section Chief was named who reports to the Assistant Director for the Inspection Division. According to the FBI, the reorganization is pending approval from the Department. We discuss OIA in more detail in Section IV below.

As outlined in Section III.E.1, an FBI Assistant Director, in consultation with NSCLB's Deputy General Counsel and the SANSOC, is responsible for adjudicating whether query-related noncompliance was the result of negligence and, if so, imposing appropriate consequences (e.g., re-training or suspension of FISA access). Any intentional or reckless behavior by FBI personnel, including in connection with querying Section 702-acquired information, prompts referral to the Inspection Division for its consideration and investigation pursuant to the FBI's Offense Codes and Penalty Guidelines Governing FBI's Internal Disciplinary Process. As noted in Section III.E.1, there have been no referrals to the Inspection Division since the passage of RISAA, and there has been only one such referral since the FBI introduced the FISA Query Accountability Procedures in June 2023.

## **2. DOJ Oversight**

### **a. NSD**

NSD represents the government before the FISC and is responsible for administering the Department's responsibilities under FISA (and other national security-related authorities) and attendant judicial disclosure obligations, including the obligation to advise the FISC of any FBI noncompliance with the query standard or FISC-approved querying procedures.<sup>109</sup> In addition, as noted in Section I.B.1 above, RISAA requires NSD to review all queries of U.S. person terms by FBI personnel of Section 702-acquired information.<sup>110</sup> In 2024, following the passage of RISAA and the requirement to conduct a 100 percent review of all FBI U.S. person queries, NSD re-allocated its auditing resources to meet this requirement. As part of this re-allocation, NSD established an audit schedule under which it would review all batch queries, all sensitive queries, and all queries conducted for the sole purpose of identifying evidence of a crime on a quarterly basis. In 2025, NSD also reviewed samples of non-U.S. person queries of Section 702-acquired information conducted by personnel at 18 field offices and Headquarters components, as well as two enterprise-wide "snapshot" reviews (i.e., for a 3-month period) of non-U.S. person queries.<sup>111</sup>

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<sup>108</sup> See Barr, Memorandum Augmenting the Internal Compliance Functions of the FBI.

<sup>109</sup> See 50 U.S.C. §§ 1881a(j), 1881a(m)(1); FISC Rules of Procedures 13(b).

<sup>110</sup> RISAA § (2)(c)(1). Before the passage of RISAA, NSD included assessments of queries of U.S. person terms of Section 702-acquired information in its cyclical reviews of FISA querying by field office and Headquarters components.

<sup>111</sup> According to NSD witnesses, to adequately capture the querying of non-U.S. person terms in Section 702-acquired information by FBI personnel, NSD's methodology includes reviewing queries by the following large field offices every other year: Washington Field Office, New York Field Office, Chicago Field Office, and Los Angeles Field Office. NSD witnesses also told us that NSD plans to review all other field offices every 3 or 4 years. Since the initial interviews, during which NSD provided that methodology, NSD has indicated that they may re-evaluate their review plans based on competing mission demands and available staffing resources.



To effectuate its review of all batch queries and U.S. person queries, NSD obtains from the FBI on a weekly basis logs reflecting queries performed in System 1 and System 2. NSD does not have independent access to these FBI systems. NSD often requests and obtains supplemental information about the queries from OIA, which, as described in more detail below, also reviews all U.S. person queries and gathers from FBI personnel or from internal databases records or information about the queries that may not be reflected in the logs.<sup>112</sup> If NSD requires additional information to complete its review and assessment of these queries, it communicates with the user's CDC or directly with the user, typically by email (copying the user's CDC, if the user is from a field office, and an NSCLB attorney).

Like its reviews of U.S. person queries, NSD's sampling and snapshot reviews of non-U.S. person queries begin with FBI-generated logs and supplemental fact gathering with the assistance of OIA. NSD also sends to users questionnaires soliciting additional information about the queries and, in some instances, the underlying investigations. As part of these reviews, NSD personnel interview users and their supervisors about specific queries, deliver training, and brief field office or component leadership, including SACs and CDCs. After completing a review, NSD prepares for field office or component leadership a written report documenting the review and any determinations of noncompliance with the query standard or querying procedures.

As described above, NSD is responsible for disclosing to the FISC pursuant to Rule 13(b) incidents of noncompliance by FBI personnel in querying Section 702-acquired information.<sup>113</sup> NSD identifies queries warranting such disclosure from the above-described reviews and from self-reports by users, their supervisors, or counsel. NSD consults with NSCLB before formally notifying the FISC in writing of noncompliance and, as recommended by the OIG in the 2022 report of its *Audit of the Roles and Responsibilities of the Federal Bureau of Investigation's Office of the General Counsel in National Security Matters*, shares with NSCLB copies of all such notices.<sup>114</sup> The Department includes this information in statutorily required semiannual reports to Congress on the implementation of FISA, including Section 702.<sup>115</sup>

Through the above-described reviews and other oversight functions, NSD also occasionally identifies usage and compliance-related trends for the FBI to consider and legal issues for resolution—either internally or in consultation with the FISC. In addition, as explained in Section V.B below, NSD recently identified and briefed for the FISC concerns that NSD had identified regarding whether use of a particular “filtering” function in System 1 constituted a query.

Finally, although not required by statute or by DOJ or FBI policy, NSD attorneys pre-clear evidence-of-a-crime-only queries conducted for discovery or litigation purposes. NSD attorneys also are available for

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<sup>112</sup> In interviews with the OIG, NSD personnel confirmed that their query review was independent from OIA's.

<sup>113</sup> FISC Rules of Procedure 13(b).

<sup>114</sup> DOJ OIG, *Roles and Responsibilities of the FBI's Office of General Counsel in National Security Matters*, 34. The OIG explained: “Without a repository of Rule 13 notices to review or search previously reported compliance incidents, it can be difficult for NSCLB attorneys to determine whether the circumstances of a potential incident meet the threshold for reporting because they may not be aware of whether a similar incident has been reported previously or a precedent has been set. The absence of a repository of Rule 13 notices also makes it difficult to identify trends....” *Id.* at 15.

<sup>115</sup> See 18 U.S.C. § 1881f(a).

consultation about prospective queries, including contemplated batch queries, sensitive queries, or U.S. person queries.

#### b. DOJ OIG

Consistent with its mission to detect and deter fraud, waste, abuse, and misconduct, and to promote efficiency in the Department's operations, the OIG has been mandated by Congress or requested by the Attorney General to review the Department's FISA-related activities, including the FBI's querying of Section 702-acquired information. In September 2012, the OIG completed its first *Review of the Federal Bureau of Investigation's Activities Under Section 702 of the Foreign Intelligence Surveillance Act Amendments Act of 2008*, which assessed the FBI's targeting and "post-targeting" activities under Section 702 over an approximately 2-year period. In December 2019, the OIG issued a report of its *Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation*, which prompted a number of reforms to the FBI's use of its national security-related authorities, including FISA. Because of concerns regarding the completeness and accuracy of FISA applications that the OIG identified in the Crossfire Hurricane review, the OIG initiated an *Audit of the Federal Bureau of Investigation's Execution of Its Woods Procedures for Applications Filed with the Foreign Intelligence Surveillance Court Relating to U.S. Persons*, which resulted in a March 2020 Management Advisory Memorandum and a September 2021 final report containing recommendations to reduce the risk of erroneous information being included in FISA applications. Most recently, in September 2022, the OIG completed and issued a report of its follow-on *Audit of the Roles and Responsibilities of the Federal Bureau of Investigation's Office of General Counsel in National Security Matters*, which, among other things, recommended that NSD and NSCLB improve coordination and more clearly define their respective roles and responsibilities in ensuring compliance with FISA.

Former DOJ Inspector General Michael Horowitz summarized this work in his April 2023 testimony concerning "Fixing FISA" before the U.S. House of Representatives Committee on Appropriations Subcommittee on Crime and Federal Government Surveillance.<sup>116</sup> In that testimony, Horowitz highlighted the importance of periodic external oversight by the OIG of the FBI's FISA implementation, including any reforms related to Section 702.<sup>117</sup> In connection with its April 2024 reauthorization of FISA, Congress mandated the instant OIG review.<sup>118</sup>

### 3. Other Executive Branch Oversight

The ODNI, the PCLOB, and the PIAB also have responsibilities for overseeing the FBI's use of its authority under Section 702.

The ODNI's oversight of the FBI's querying practices under Section 702 stems from its statutory obligations to consult with the DOJ regarding the requisite certifications and related targeting, minimization, and querying procedures and to report certain information to the FISC, Congress, and the public.<sup>119</sup> Pursuant to

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<sup>116</sup> Horowitz, "Fixing FISA."

<sup>117</sup> *Id.*

<sup>118</sup> See RISAA § 9.

<sup>119</sup> See 50 U.S.C. § 1873(b)(2) (requiring ODNI to make publicly available on an annual basis a statistical report that identifies, among other facts and figures, a good-faith estimate of the number of queries concerning a known U.S. person and the number of search terms concerning a known U.S. person used to retrieve unminimized contents in

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these requirements, ODNI and NSD prepare and submit to the FISC and the House and Senate Intelligence and Judiciary Committees a semiannual joint assessment of the intelligence community's compliance with Section 702, and ODNI issues a public annual statistical transparency report that includes statistics relating to the FBI's querying practices.

The PCLOB is an independent executive branch agency tasked with ensuring that “the federal government’s efforts to prevent terrorism are balanced with the need to protect privacy and civil liberties.”<sup>120</sup> Since its inception in 2007, the PCLOB has conducted two “comprehensive studies” of Section 702 and, in July 2014 and September 2023, issued public reports detailing its findings and recommendations.<sup>121</sup>

Composed of private citizens not employed by the federal government, the PIAB advises the President on the effectiveness of the intelligence community.<sup>122</sup> The Intelligence Oversight Board (IOB) is a component of the PIAB that is charged with “oversee[ing] the Intelligence Community’s compliance with the Constitution and all applicable laws, Executive Orders, and Presidential Directives.”<sup>123</sup> In July 2023, the PIAB and IOB published a joint report assessing the effectiveness of collection and oversight under Section 702 and the value of U.S. person queries.<sup>124</sup>

#### 4. Judicial and Legislative Oversight

As evident throughout this report, the FISC plays a prominent role in overseeing the FBI's use of its FISA authorities, including the querying of Section 702-acquired information. It reviews and approves the intelligence community's annual certifications and related targeting, minimization, and querying procedures

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Section 702-acquired information); 50 U.S.C. § 1881a(m)(1) (requiring the Attorney General and the DNI to submit to the FISC and to the House and Senate Intelligence and Judiciary Committees on a semiannual basis an assessment of compliance with certain procedures and guidance governing Section 702, including the FBI's querying of Section 702-acquired information); RISAA § 18(b) (directing ODNI to prepare—in coordination with the NSA and in consultation with the FBI—a report on “technological enhancements that would enable the Federal Bureau of Investigation to conduct near real-time monitoring of compliance in any system of the Federal Bureau of Investigation that stores information acquired under section 702”).

<sup>120</sup> PCLOB, “[History and Mission](https://www.pclob.gov/About/HistoryMission),” [www.pclob.gov/About/HistoryMission](https://www.pclob.gov/About/HistoryMission) (accessed July 21, 2025).

<sup>121</sup> See PCLOB, [Report on the Surveillance Program Operated Pursuant to Section 702 of the Foreign Intelligence Surveillance Act](https://documents.pclob.gov/prod/Documents/OversightReport/ba65702c-3541-4125-a67d-92a7f974fc4c/702-Report-2%20-%20Complete%20-%20Nov%2014%202022%201548.pdf) (July 2014), [documents.pclob.gov/prod/Documents/OversightReport/ba65702c-3541-4125-a67d-92a7f974fc4c/702-Report-2%20-%20Complete%20-%20Nov%2014%202022%201548.pdf](https://documents.pclob.gov/prod/Documents/OversightReport/ba65702c-3541-4125-a67d-92a7f974fc4c/702-Report-2%20-%20Complete%20-%20Nov%2014%202022%201548.pdf) (accessed July 21, 2025); PCLOB, *2023 Report on Surveillance Program*. The PCLOB's September 2023 report made a number of recommendations to reduce risks to privacy and civil liberties violations “while preserving the program’s value in protecting American’s security,” including several that Congress subsequently mandated in RISAA and that the FBI has since implemented. PCLOB, *2023 Report on Surveillance Program*, 12–15, 100, 108–14, 156–57, 202–25.

<sup>122</sup> See White House, “[President’s Intelligence Advisory Board](https://trumpwhitehouse.archives.gov/piab/),” [trumpwhitehouse.archives.gov/piab/](https://trumpwhitehouse.archives.gov/piab/) (accessed July 21, 2025).

<sup>123</sup> See *id.*

<sup>124</sup> See PIAB and IOB, [Review of FISA Section 702 and Recommendations for Reauthorization](https://www.bidenwhitehouse.archives.gov/wp-content/uploads/2023/7/Presidents-Intelligence-Advisory-Board-and-Intelligence-Oversight-Board-Report-of-FISA-Section-702-and-Recommendations-for-Reauthorization.pdf) (July 2023), [www.bidenwhitehouse.archives.gov/wp-content/uploads/2023/7/Presidents-Intelligence-Advisory-Board-and-Intelligence-Oversight-Board-Report-of-FISA-Section-702-and-Recommendations-for-Reauthorization.pdf](https://www.bidenwhitehouse.archives.gov/wp-content/uploads/2023/7/Presidents-Intelligence-Advisory-Board-and-Intelligence-Oversight-Board-Report-of-FISA-Section-702-and-Recommendations-for-Reauthorization.pdf) (accessed July 21, 2025). The PIAB and IOB concluded that “Section 702 authorities are crucial to national security and do not threaten civil liberties, so long as the requisite culture, processes, and oversight are in place,” and offered a number of recommendations to improve compliance, oversight, and public confidence. *Id.* at 2, 12.

to ensure compliance with both the statute and the Constitution.<sup>125</sup> The FISC also may direct the implementation of related reforms or remedial measures and require the Department to provide updates regarding such efforts. To inform these processes and pursuant to the FISC Rules of Procedure, the FISC also receives and assesses reports submitted by DOJ reflecting incidents of noncompliance and other identified issues requiring judicial resolution.<sup>126</sup>

Finally, FISA provides for general congressional oversight of the Section 702 program by requiring the intelligence community, including DOJ, to comply with periodic reporting requirements and by incorporating sunset provisions and the attendant reauthorization review.<sup>127</sup> In addition, regarding queries of terms identifying members of Congress, RISAA also added specific provisions requiring the FBI to notify congressional leadership and the affected members of any such queries.<sup>128</sup>

## 5. Assessment

The above-described internal and external oversight has been instrumental in identifying significant issues with the FBI's querying practices and has helped promote enhanced compliance by FBI personnel with the query standard and related policies and procedures. Most users whom the OIG interviewed understood and appreciated the necessity and benefits of such oversight regarding queries of U.S. person terms in Section 702-acquired information. In addition, some users told the OIG that they did not find post-query auditing, including answering questions from OIA, NSCLB, NSD, or the OIG, to be a significant burden.

However, several FBI employees whom the OIG interviewed believe that some users consider the burdens they associate with the inevitable post-query review and oversight—both by internal and external actors, including the OIG—in deciding whether to conduct a query. These and other witnesses told us that some FBI employees had the perception that users will be penalized for conducting good-faith-but-noncompliant queries, which perception FBI attorneys are attempting to mitigate through training and other messaging. Witnesses opined that in some instances, users may elect not to pursue a contemplated query, determining that the “juice is not worth the squeeze.”

FBI witnesses told us they believe that some of this “audit fatigue” is attributable to the redundancy of both NSD and OIA reviewing all queries by FBI personnel of U.S. person terms in Section 702-acquired information. As discussed in more detail below, we agree that having both NSD and OIA review all such queries could result in unnecessary duplication of efforts. But it also appears, based on NSD reporting and OIA records, that the review processes have helped to reduce the number of noncompliant queries of U.S. persons, which was a clear congressional objective in enacting RISAA. For this reason, we believe that sustained oversight of the FBI's Section 702 querying practices remains necessary. While streamlining NSD's and OIA's contact with users is warranted, it should not come at the expense of ensuring that their oversight remains effective.

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<sup>125</sup> See 50 U.S.C. §§ 1881a(d)(2), (e)(2), and (f)(1).

<sup>126</sup> In doing so, the FISC may seek input from court-appointed *amicus curiae* with relevant technological or legal expertise. See 50 U.S.C. § 1803(i)(2)(A).

<sup>127</sup> See 50 U.S.C. § 1881f.

<sup>128</sup> RISAA §§ 2(e)–(f) (codified at 50 U.S.C. §§ 1881a(f)(3)(B)–(C)).

## IV. Analysis of the Effectiveness of FBI OIA

In directing the OIG to review the FBI's querying practices under Section 702, Congress specifically instructed the OIG to evaluate "the effectiveness of the Office of Internal Auditing of the Federal Bureau of Investigation with respect to monitoring and improving query compliance."<sup>129</sup> To conduct that evaluation, we gathered and reviewed OIA-specific records; scheduled multiple demonstrations of OIA-developed tools; interviewed OIA personnel, including the then Assistant Director and the Chief of OIA's National Security Audit Unit; and inquired about OIA in interviews of and discussions with FBI leadership, NSCLB personnel, CDCs, Special Agents, Intelligence Analysts, NSD personnel, and ODNI personnel.

### A. Origins and Mandate

As noted in Chapter One, on August 31, 2020, following a series of compliance incidents that the Department disclosed in the Attorney General's semiannual reports to Congress between 2017 and 2019, and after the DOJ OIG issued the above-noted report of its *Review of Four FISA Applications and Other Aspects of the FBI's Crossfire Hurricane Investigation*, then Attorney General Barr issued a memorandum regarding *Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*.<sup>130</sup> Among other things, the memorandum authorized the Director of the FBI to establish OIA, which was to be led by an Assistant Director and, in combination with the Office of Integrity and Compliance and the Inspection Division, was to be responsible for internal compliance functions of the FBI.<sup>131</sup> With respect to oversight of the FBI's FISA-related activities, the collective responsibilities were to include developing compliance and oversight mechanisms, training, and other internal controls to ensure FBI compliance with FISA and other applicable statutes, policies, procedures, and court orders governing the FBI's national security activities; conducting routine audits of the FBI's compliance with FISA, FISC orders, and the FBI's targeting, minimization, and querying procedures, as well as assessing the efficacy of those procedures on a routine basis; conducting routine audits of the measures taken by the FBI to ensure the accuracy and completeness of FISA applications; and recommending remediation measures to the Director of the FBI, as appropriate, for any identified compliance incidents.<sup>132</sup> On October 16, 2020, then FBI Director Christopher Wray announced the creation of OIA and named the office's first Assistant Director.

As noted in Chapter One, 6 months later, on April 22, 2021, then Attorney General Garland supplemented the efforts of his predecessor by issuing a memorandum with the subject: *Further Augmenting the Internal Compliance Functions of the Federal Bureau of Investigation*.<sup>133</sup> The memorandum, which followed and referenced a November 2020 FISC opinion regarding noncompliant queries of Section 702-acquired information by FBI personnel, both acknowledged that the FBI had implemented reforms to its Section 702

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<sup>129</sup> *Id.* § 9(a)(2)(D).

<sup>130</sup> See Barr, Memorandum Augmenting Internal Compliance Functions of the FBI. On that same date, Attorney General Barr issued a separate memorandum directing the Deputy Attorney General, the Director of the FBI, and the Assistant Attorney General for National Security to implement reforms to ensure that the Department makes "accurate and complete representations to judicial officers when seeking to obtain legal authority to conduct intelligence activities." William P. Barr, Attorney General, U.S. Department of Justice, memorandum for the Deputy Attorney General, the Director of the FBI, and the Assistant Attorney General for National Security, Supplemental Reforms to Enhance Compliance, Oversight, and Accountability with Respect to Certain Foreign Intelligence Activities of the Federal Bureau of Investigation, August 31, 2020.

<sup>131</sup> See Barr, Memorandum Augmenting Internal Compliance Functions of the FBI.

<sup>132</sup> See *id.*

<sup>133</sup> Garland, Memorandum Further Augmenting Internal Compliance Functions of the FBI.

querying practices and directed the FBI to ensure the efficacy of those changes and to resolve “any systemic compliance errors through proactive measures.”<sup>134</sup> To that end, Garland instructed the FBI to “set specific measurable goals for implementing each of the steps outlined in the Attorney General’s August 2020 memorandum,” to identify “performance metrics to achieve a marked reduction in FISA compliance error rates,” and to “establish an expeditious timeline for conducting the audits called for in the August 2020 Attorney General memorandum and the November 2020 FISC opinion.”<sup>135</sup>

As discussed above in Section III.F.1, in March 2025, OIA employees were notified that OIA would be moved to the Inspection Division and would no longer be led by an Assistant Director. The then Assistant Director of OIA subsequently resigned in April 2025, and—despite the direction articulated by Attorney General Barr—OIA has since been led by an Acting Section Chief who reports to the Assistant Director for the Inspection Division. According to the FBI, the reorganization to move OIA to the Inspection Division is pending approval from the Department.

Since OIA’s inception, the office has conducted a number of audits regarding the FBI’s compliance with FISA and related procedures, including audits of the accuracy and completeness of FISA applications, which OIA completed in March 2024 and February 2025, respectively, and two audits of the FBI’s querying of FISA in System 1, including information collected pursuant to Section 702, the results of which OIA documented in a November 2022 memorandum and a consolidated November 2023 report. In conducting the two query audits, OIA employed U.S. Government Accountability Office (GAO) Government Auditing Standards and identified and evaluated samples of queries of both traditional FISA and Section 702-acquired information.<sup>136</sup> According to NSD personnel, OIA’s understanding of and ability to apply the query standard improved between the first and second audits.

## **B. Audit of All U.S. Person Queries of Section 702-Acquired Information**

As noted in Sections I.B.1 and III.F.2 above, per RISAA, NSD is required to “audit” every query of Section 702-acquired information labeled by the FBI as a U.S. person query within 180 days of such query.<sup>137</sup> RISAA further provides that the NSD audit requirement “shall terminate” on the earlier of either April 20, 2026, or “the date on which the Attorney General submits to the appropriate congressional committees a certification” that the FBI has implemented an internal auditing process for such queries.<sup>138</sup> In anticipation

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<sup>134</sup> *See id.*

<sup>135</sup> *See id.*

<sup>136</sup> The first query audit encompassed a sampling of 2,159 queries (including 1,385 U.S. person or presumed U.S. person terms) of both traditional FISA and Section 702-acquired information conducted from April 1, 2020, through March 31, 2021, and concluded that 82 percent complied with the query standard. The second query audit encompassed a sampling of 558 queries (including 446 U.S. person or presumed U.S. person terms) of both traditional FISA and Section 702-acquired information conducted from July 1, 2021, through March 31, 2022, and concluded that 96 percent complied with the query standard. In conducting the second query audit, OIA’s objective was to assess whether certain “internal controls and system changes” that FBI management had implemented (i.e., requiring users to affirmatively opt in to querying Section 702-acquired information, requiring users to obtain attorney pre-approval for batch queries, and requiring users to complete new Virtual Academy training before accessing Section 702-acquired information) had a “positive impact” on compliance.

<sup>137</sup> RISAA § 2(c)(1).

<sup>138</sup> *Id.* § 2(c)(3).

of this obligation, since the passage of RISAA and at the direction of former FBI Deputy Director Abbate, OIA has also been auditing all U.S. person queries by FBI personnel of Section 702-acquired information.<sup>139</sup>

To effectuate this ongoing audit, on a weekly basis, OIA obtains data from System 1 and System 2.<sup>140</sup> OIA auditors then document in a shared internal worksheet whether, in OIA's assessment, the queries complied with the query standard, the FISC-approved querying procedures, and other applicable FBI policies.<sup>141</sup> Specifically, OIA considers the following:

- Whether the user executed any post-query action;<sup>142</sup>
- Whether the user obtained the requisite approval for the U.S. person query;
- If the query was a sensitive query, whether the user obtained the requisite approval;
- Whether the identified approver was an authorized approver;
- Whether the query terms aligned with those reflected in the approval;
- Whether the user applied any approved "limiters;"
- Whether the query complied with the purpose, design, and justification prongs of the query standard;
- Whether the user properly labeled the query as a U.S. person query; and
- Whether the user uploaded the approval form to Sentinel.

If OIA auditors identify potential noncompliance with the query standard, FISC-approved querying procedures, or FBI policies, they typically contact the affected user via email to obtain clarification or missing support for the query, including documentation of the requisite approvals. In doing so, OIA copies an NSCLB attorney and, if the user is from a field office, the user's CDC or ADC. OIA auditors then document in the aforementioned worksheet the user's (or counsel's) response, OIA's assessment regarding whether the

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<sup>139</sup> In addition, OIA is conducting four other FISA-related audits: an audit of non-U.S. person queries of Section 702-acquired information for a 6-month post-RISAA time period (i.e., April 20 through October 31, 2024); an audit of the FBI's compliance with its FISC-approved minimization procedures; an audit of the FBI's compliance with Section 702 targeting procedures; and an audit of the FBI's compliance with Woods procedures in FISA applications related to U.S. persons.

<sup>140</sup> OIA did not obtain logs reflecting queries performed in System 2 until March 2025. Thereafter, OIA initiated an audit of queries of FISA-acquired information in System 2, which OIA completed in April 2025.

<sup>141</sup> For example, although not required by FISA or the FISC, an internal FBI policy implemented at the suggestion of OIA requires users to upload to Sentinel within a prescribed number of business days the form documenting approval for a U.S. person query or a sensitive query. If a user fails to upload the approval form to Sentinel within that time frame, OIA documents the policy violation as "noncompliant behavior," but the violation does not trigger reporting to the FISC pursuant to Rule 13(b) or application of the FISA Query Accountability Procedures.

<sup>142</sup> Post-query actions include sorting, certain filtering, or searching within the results.



query complied with the standard and procedures, and any recommendation(s), including remedial measures (e.g., modifications to the approval form, policy reminders or clarifications, or training refreshers for particular users), to prevent or deter future errors or to improve internal processes. OIA endeavors to complete this review within a week of receiving the data, but it could take longer depending on the volume of queries and other factors. OIA shares its worksheet with NSCLB, which, as described above, is responsible for ensuring the FBI's compliance with FISA, including maintaining the currency and accessibility of the FBI's FISA-related policies, practices, and training materials; adjudicating whether any noncompliance triggers application of the FISA Query Accountability Procedures; and consulting with NSD regarding disclosing noncompliant queries to the FISC.<sup>143</sup> OIA does not participate in the process of disclosing noncompliant queries to the FISC. NSD witnesses stated that OIA currently does not have sufficient subject matter expertise to be solely responsible for making determinations about the Department's disclosure obligations to the FISC and Congress.<sup>144</sup>

Consistent with the findings of NSD and the FISC noted above, in its ongoing audit of all FBI Section 702 U.S. person queries, OIA has found the overwhelming majority of queries by FBI personnel to be compliant with the query standard and querying procedures. OIA has found that the most common instances of noncompliance are typographical errors and users' failure to apply limiters.<sup>145</sup> Other issues identified by OIA include users' failure to obtain the requisite approvals or to renew expired approvals,<sup>146</sup> users mislabeling queries of non-U.S. person terms as queries of U.S. person terms, or users' failure to upload the requisite approval documentation to Sentinel within a certain number of business days, the latter of which is mandated by an internal FBI policy implemented at the suggestion of OIA, not required by FISA or the FISC.

### C. Navigator Tools

With its initial funding, OIA commissioned a private contractor to develop an interactive dashboard for monitoring query compliance. The resulting products, Query Navigator and CDC Navigator—the latter of which is a field office-specific distillation of queries performed by personnel in each field office—were deployed shortly after the passage of RISAA. These tools enable users to review and tabulate data and generate reports that are useful for internal and external oversight purposes. OIA's Navigator tools are currently available to OIA, NSCLB, CDCs, ADCs, and FBI senior management.

OIA demonstrated its Navigator tools for the OIG. We also elicited testimony from NSCLB personnel and CDCs who indicated that they use the Navigator tools for a variety of purposes.<sup>147</sup> One member of the CDC

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<sup>143</sup> OIA also shares a truncated version of its worksheet with NSD, which is statutorily obligated to review all U.S. person queries of Section 702-acquired information conducted by FBI personnel. NSD witnesses testified that, to avoid duplicating OIA's efforts and to mitigate "audit fatigue" (i.e., the burden on FBI agents and analysts associated with responding to repetitive inquiries from internal and external auditors), they consult OIA's worksheet before contacting a user about a query. In addition, OIA staff members collect and share with NSD the FBI approval documentation reflected or referenced in queries subject to audit.

<sup>144</sup> At the request of OIA, since June 2025, NSD has been sharing with OIA copies of all notices filed with the FISC pursuant to Rule 13(b), as well as any related responses or rulings by the FISC. OIA uses this "13(b) repository" both to assist its staff in acquiring the precedential knowledge of past NSD and FISC determinations regarding query compliance and to interact with its Query Assistant training tool.

<sup>145</sup> OIA also identified a number of instances in which a user ran a query without approved limiters that were in the pre-approval form, but where the query nevertheless met the query standard.

<sup>146</sup> As noted above, many of these instances occurred in the immediate aftermath of the passage of RISAA.

<sup>147</sup> We also interviewed an ADC who partners with his office's CDC to oversee FISA querying compliance.

Advisory Committee stated that OIA is continuing to modify the tool in response to CDC feedback and that she believed the Navigator would become an “invaluable” tool for CDCs and ADCs.

#### D. Query Assistant Tool

To further the FBI’s internal compliance functions, including its training efforts, OIA developed—with support from its private contractor—a “Query Assistant,” which was scheduled to be launched in August 2025. Unlike the Navigator tools, which capture and display data regarding previously-conducted queries, the Query Assistant is an interactive pre-query training tool. According to OIA, developers purposefully designed the Query Assistant to be system agnostic to accommodate users of System 1 as well as of any successor system(s).

The Query Assistant prompts users to populate fields regarding query design, labeling, purpose, and justification. The tool then “scores” proposed queries based on low, medium, or high risk level and generates immediate feedback for users regarding whether and why a proposed query may or may not be compliant with the query standard, including hyperlinks to relevant statutory provisions, guidance documents, and training materials.<sup>148</sup>

Prior to its planned launch, OIA demonstrated the Query Assistant for the OIG. Given that the Query Assistant remained in development during our review, the OIG could not interview FBI personnel about their use of the tool, and the FBI—through OIA or a different office—cannot yet assess whether the Query Assistant will have an impact on user confidence or query compliance.

Although the FBI has not yet determined how its personnel will use the Query Assistant, multiple FBI witnesses to whom the OIG spoke expressed concern that *requiring* personnel to use the Query Assistant—either for training purposes or to “test” queries before executing them in an FBI database containing Section 702-acquired information—may further depress or discourage querying. One witness was also wary of the accuracy of the Query Assistant’s scoring system, which is evolving, and whether users unreasonably will rely on the tool in deciding whether to proceed with a query. For example, a user may elect not to execute an appropriate query that the system flags as high risk rather than address—either independently or with guidance from a supervisor or attorney—identified deficiencies in the design or articulated justification.

Notwithstanding the above-noted concerns about the utility of the Query Assistant, almost every witness whom the OIG interviewed suggested that FBI personnel would benefit from having access to a training environment or “sandbox” where FBI users could learn to craft queries without the risk of noncompliance that may trigger reporting to the FISC or application of the FISA Query Accountability Procedures. The witnesses explained that it would help users—particularly new agents and analysts or other personnel with new national security-related responsibilities—gain confidence in querying and may cause such users to be less hesitant to use the tool and more comfortable conducting appropriate and compliant queries. Some

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<sup>148</sup> The Query Assistant is programmed to recognize certain terms as likely U.S. person terms (e.g., U.S. phone numbers, addresses, Social Security numbers, U.S. passport numbers, U.S.-based internet protocol addresses) or non-U.S. person terms and prompts users to confirm query labeling if the tool identifies a discrepancy. In addition, the Query Assistant is able to assess whether a proposed query is similar to one that previously had been determined to be noncompliant by accessing OIA’s “13(b) Navigator,” which is a regularly updated repository for descriptions of noncompliant queries by FBI personnel disclosed to the FISC pursuant to Rule 13(b). Developers of the Query Assistant are working toward programing the tool to recognize typographical errors and also are exploring incorporating machine learning to assist users in crafting compliant free-text query justifications.

witnesses opined that a sandbox environment would be of most value if it were incorporated into the system(s) in which users conduct queries, rather than a separate stand-alone tool. Although, for the reasons discussed in Section V.B.1 below, System 1 cannot accommodate the proposed sandbox environment, this perspective should inform the FBI's consideration of capabilities for System 1's successor.

## **E. Staffing**

OIA is divided into two units: the Enterprise Audit Unit and the National Security Audit Unit (NSAU). Since its inception, OIA has not been fully staffed. During the pendency of the OIG's review, the NSAU was staffed by three full-time FBI employees (Funded Staffing Level (FSL))—including a Unit Chief, an Information Technology Program Manager, and a Supervisory Auditor—and three contract auditors, leaving more than a dozen FSL and contractor positions vacant.<sup>149</sup> The current Blanket Purchase Agreement between OIA and the private contractor will terminate in 2026.

The FSLs and contractors staffing OIA have academic and professional backgrounds in auditing, accounting, finance, information technology, and risk assessment and management. OIA employees and contractors receive training on FISA, including the query standard, querying procedures, and related policies, and are sensitive to DOJ's obligations to report noncompliant queries to the FISC pursuant to Rule 13(b). OIA does not currently have embedded counsel. Instead, OIA personnel consult with NSCLB attorneys, as necessary, regarding whether particular queries comply with the query standard, FISC-approved procedures, or internal FBI policies. Some witnesses testified that it would enhance OIA's efficiency and competence if its staff included attorneys or if select NSCLB attorneys were specifically assigned to support OIA. As previously noted, NSD witnesses also told us that OIA currently does not have sufficient subject matter expertise to be solely responsible for the Department's obligation to identify and report noncompliant FBI queries to the FISC and Congress.

## **F. Assessment**

The OIG found that, despite the breadth of its mandate and its limited staff, OIA has contributed to the FBI's internal compliance functions since its inception 5 years ago. We found the team—both the FSLs and the contractors—to be diligent, competent, and committed to the mission. To date, OIA's NSAU has initiated 10 audits, of which 5 are complete. OIA also has developed the various Navigator tools, which extract and provide to field office and Headquarters leadership valuable near-real-time data and information about FISA queries by FBI personnel, and the Query Assistant, which is intended to enhance users' comfort and compliance in querying unminimized FISA information, including Section 702-acquired information. In addition, OIA has proposed policy and practice changes some of which the FBI has adopted, including a requirement that users upload to Sentinel within a prescribed number of business days any requisite attorney or Deputy Director approval, as well as updates to guidance documents and training materials—all of which have been aimed at enhancing the FBI's compliance with FISA and its ability to assess and minimize risk. Witnesses both from within and outside the FBI shared similar assessments of OIA's contributions to the FBI's internal compliance functions. As part of a reorganization pending approval, in April 2025, the FBI eliminated the OIA's Assistant Director position and moved OIA to an office in the Inspection Division under leadership of an Acting Section Chief. While OIA's current personnel told us that the office's mission and

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<sup>149</sup> OIA leadership advised the OIG that they attempted to fill the FSL vacancies and, as of January 20, 2025, had forwarded a number of candidates to the FBI's Security Division for the requisite background investigations when the Administration instituted a civilian hiring freeze.

responsibilities remain unchanged after these moves, because they were made at the end of our review period, we are unable to assess whether these organizational changes will impact OIA's effectiveness.

As noted above, RISAA requires the Department to audit all U.S. person queries until the earlier of April 20, 2026, or the date on which the Attorney General certifies that the FBI has implemented a process for the internal audit of all such queries.<sup>150</sup> Currently, both NSD and OIA review all U.S. person queries. Witnesses told us that this work is largely duplicative, and we agree that it may not be an efficient use of Department resources. Moreover, multiple witnesses told us that NSD should maintain the responsibility for reviewing all U.S. person queries, for several reasons. First, NSD is independent of the FBI, and NSD has a long track record of identifying and reporting compliance issues. Also, NSD represents the Department (and other intelligence agencies) before the FISC and is responsible for reporting noncompliant queries to the FISC and Congress. To satisfy those obligations, NSD personnel told us that they need to independently review each query and cannot rely on OIA's compliance assessments. Furthermore, NSD reviews 100 percent of identified U.S. person queries conducted by CIA and NCTC personnel, as well as all U.S. person query terms that the NSA approves to be queried by NSA personnel. NSD is therefore well positioned to provide a comprehensive look at the FBI's querying practices taking other agency's practices into account. It would also be inconsistent for NSD to review all U.S. person queries conducted or approved to be conducted by NSA, CIA, and NCTC personnel, but not all such queries conducted by FBI personnel.

As noted above, OIA perpetually has been understaffed, has been unable to fill vacancies, and is poised to lose half of its limited workforce when the Blanket Purchase Agreement with its contractor expires next year. Additionally, several witnesses that we spoke to agreed that, without additional personnel and other resources, including dedicated counsel, OIA is not positioned to continue reviewing all U.S. person queries—particularly if the number of such queries were to increase in the future—while also conducting the many routine audits and oversight mandated in the 2020 Barr Memorandum, including OIA's oversight of the FBI's use of its Section 702 authority.

We believe that OIA has an important role in providing oversight of the FBI's use of its Section 702 authority, including U.S. person queries. However, for the reasons discussed above and to promote both effective oversight and the efficient use of resources, we believe that NSD should continue to conduct the RISAA-mandated review of all U.S. person queries, and that OIA should focus its oversight to complement, rather than duplicate, NSD's efforts. OIA could limit its review of all U.S. person queries to issues or areas not covered by NSD's reviews, or could use sampling or other GAO-endorsed standards and methods to review some, but not all, U.S. person queries. Such a change could allow OIA to use its limited resources more efficiently to audit the FBI's use of its various national security-related authorities, including U.S. person queries of Section 702-acquired information, with the goal of maintaining the multi-level oversight structure that was contemplated by the 2020 Barr Memorandum.

## **V. Additional Issues**

### **A. Decrease in the Number of FBI Queries**

There has been a significant decrease in the number of queries, including the number of U.S. person queries, of Section 702-acquired information executed by FBI personnel over the past few years, as demonstrated by data published by ODNI, reproduced here in Table 2.2:

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<sup>150</sup> RISAA § 2(c).

**Table 2.2**  
**U.S. Person Queries Conducted by FBI Personnel**

	Dec. 2019– Nov. 2020	Dec. 2020– Nov. 2021	Dec. 2021– Nov. 2022	Dec. 2022– Nov. 2023	Dec. 2023– Nov. 2024
Estimated number of U.S. person queries of Section 702-acquired information	852,894	2,964,643 <sup>151</sup>	119,383	57,094	5,518

Source: ODNI

A major decline in the number of queries occurred in late 2021, following the modification of FBI systems to exclude Section 702-acquired information by default rather than including it by default, as well as the pre-approval requirement for batch job queries that the FBI introduced in June 2021. The number of queries has continued to fall since then. In April 2024, the FISC commented on the “striking...decline” in the number of FBI U.S. person queries, stating “[t]hat fact alone indicates that overall FBI querying practices are less intrusive on U.S.-persons’ privacy” than they were 2 or 3 years earlier.<sup>152</sup> Following RISAA’s enactment, this decline has continued: the 5,518 U.S. person queries that the FBI conducted from December 2023 through November 2024 represents a decline of over 90 percent from the previous 12 months.

Several FBI and NSD witnesses expressed a high degree of concern about the continuing decline in the number of queries and whether users are failing to run queries that they should run, which those witnesses believed could lead the FBI to miss potentially critical threat information. In an effort to mitigate that risk, the FBI and NSD have made efforts to communicate to FBI personnel the importance of conducting appropriate, compliant queries. Shortly after the passage of RISAA, then Deputy Director Abbate messaged the FBI workforce, emphasizing that “[i]t is imperative that [the FBI] fully identify threat information within FISA data to prevent harm, while at the same time exercising due diligence to ensure full compliance with the law.” As part of NSD field office reviews, NSD attorneys discuss with field office personnel the importance of running necessary queries.

Neither the FBI, NSD, nor the OIG has conducted an analysis of the reason(s) for the decline in queries. Many FBI and NSD witnesses we spoke to shared their views on the causes and significance of the decline in queries. These witnesses based their opinions primarily on anecdotal observations and conversations with users about why those users were not conducting the types or volume of queries that they had conducted previously. Notably, none of the witnesses we spoke to who actually conduct queries told us that they were personally reluctant to run queries, though they too indicated that they had heard some of these anecdotal reservations from colleagues.

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<sup>151</sup> In the first half of 2021, a large number of batch jobs relating to one particular investigation involving attempts by foreign cyber actors to compromise U.S. infrastructure accounted for the vast majority of the increase in the number of FBI U.S. person queries in 2021 compared to the previous year. ODNI, [Annual Statistical Transparency Report Regarding the Intelligence Communities’ Use of National Security Surveillance Authorities, Calendar Year 2022](https://www.odni.gov/files/CLPT/documents/2023_ASTR_for_CY2022.pdf) (April 2023), [www.odni.gov/files/CLPT/documents/2023\\_ASTR\\_for\\_CY2022.pdf](https://www.odni.gov/files/CLPT/documents/2023_ASTR_for_CY2022.pdf) (accessed July 21, 2025), 23.

<sup>152</sup> April 2024 FISC Order at 46.

The views that witnesses expressed to us about the potential causes for the decline in queries, based on their anecdotal observations and conversations, reflected three categories of reasons that witnesses believed could at least partially explain the decline. First, witnesses stated that the administrative burden of conducting U.S. person queries—including drafting a written justification and filling out a lengthy form to obtain attorney pre-approval—may be a factor discouraging users from running queries. Second, and relatedly, as previously discussed in Section III.F.5, witnesses identified “audit fatigue” as a potential contributor to the decrease in the number of queries. Finally, witnesses stated that the FISA Query Accountability Procedures may be a consideration for users running fewer queries because they are concerned that they may be subject to disciplinary actions for running noncompliant queries. As discussed in Section III.E.1, no FBI employee that we interviewed indicated that he or she was personally reluctant to run queries or feared consequences from the accountability procedures, but multiple witnesses said that they were aware that other employees were concerned. Several said that they had heard people use the term “FISA jail” to describe the consequences for employees who ran noncompliant queries.

Witnesses also noted that an exacerbating factor may be the fact that many queries do not return any results. Users may therefore believe that the potential benefits of running some queries do not outweigh the costs in terms of administrative burden, auditing, and potential professional consequences for noncompliance.

## **B. Technological Challenges Associated with the FBI’s Primary Section 702 Database**

Many witnesses that we spoke to identified System 1, the primary system that FBI personnel use to store and query Section 702-acquired information, as a limiting factor in the FBI’s ability to further reduce query compliance issues and incidents. While an examination of System 1 and its capabilities was beyond the scope of this review, the limitations of the FBI’s system for conducting queries of Section 702-acquired information has been a long-standing concern of FBI personnel who use the system. We present the perspectives we heard during this review about the deficiencies of the system. We also discuss a feature in System 1 that, during the period of our review, NSD identified as having resulted in an unspecified number of compliance incidents.

### **1. System 1 Is Outdated and Limited**

Several witnesses told us that System 1 is outdated, with various witnesses referring to System 1 as “antiquated,” “ancient,” “clunky,” and “brittle.” We heard from witnesses that System 1 lacks a user-friendly interface and that some users have difficulty understanding, finding, and using certain features within System 1. It is also challenging to update and modify System 1 to comply with new legal requirements, and there are modifications that the FBI is unable to make due to System 1’s technological limitations. Additionally, System 1’s age and limitations have hindered the FBI from incorporating new technologies that could further improve compliance.<sup>153</sup>

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<sup>153</sup> In its September 2023 report, the PCLOB recommended that the FBI “explore methods for the use of secure automated review and machine learning to supplement its manual internal auditing of Section 702 compliance.” PCLOB, *2023 Report on Surveillance Program*, 223. Thereafter, in enacting RISAA, Congress required the DNI to conduct a study and submit to the House and Senate Intelligence and Judiciary Committees a report “on technological enhancements that would enable the Federal Bureau of Investigation to conduct near-real time monitoring of compliance in any system of the Federal Bureau of Investigation that stores information acquired under section 702” and to “consider the potential cost and assess the feasibility of implementation within a period of 1 year of each technological enhancement under consideration.” RISAA § 18(b). The DNI submitted the report to the required committees in July 2025.



Several witnesses suggested that integrating into the system the pre-approval forms for batch, sensitive, and U.S. person queries would enhance efficiency and compliance. We also heard from both FBI personnel and NSD personnel that users would benefit from a training and testing environment within System 1 that would allow them to test and explore the system's features, to practice conducting queries without actually querying Section 702-information, and to identify features within System 1 that could raise compliance concerns. Availability of such features could also serve to enhance efficiency and compliance. However, it is not feasible to incorporate these changes into System 1 given its technological limitations.

The FBI informed us that it is planning to retire System 1 and move Section 702-acquired information to a successor system, though there is not currently a precise timeframe for doing so. This plan will require substantial funding and resources to accomplish, particularly given the sensitive nature of the information stored in System 1 and the need to ensure the security of that data while transferring it to a new system.

## **2. System 1 Advanced Filtering Tool Generated Queries that Were Not Tracked by the FBI**

NSD attorneys—who do not have access to System 1, but sometimes observe FBI personnel using System 1 as part of NSD's field office reviews and on-site trainings—have periodically identified certain functions within System 1 that lead to violations of the querying procedures. NSD identified one such function during our review period. The identified system feature, the problematic aspects of it, and NSD's steps to mitigate and remedy the noncompliant aspects are described summarily below.

System 1 has an "advanced filter function" that allows users to select a specific FBI casefile number or "facility" (e.g., a phone number or email address), using a drop-down menu or search bar, to review communications with targeted facilities. This functionality enables users to select from lists of "participants" in communication with targeted facilities and review communications of those participants.

In or around August 2024, NSD became aware of the participants filter function in System 1 and was concerned that searches conducted through use of the participants filter constituted separate queries that must satisfy the query standard and comply with all query procedural requirements. NSD promptly notified the FISC of its discovery and that NSD was conducting an assessment of the filtering function. After conducting this assessment, which involved observing the specific filtering function and consulting with ODNI and FBI's technical and legal personnel, NSD concluded that the FBI's use of the participants filter constituted a query under Section 702 and the FBI's querying procedures. However, because System 1 had not been configured to record each use of the participants filter, NSD did not have historical data that would enable NSD to determine whether each use of the function complied with the query standard. NSD nevertheless assessed that if the original query was compliant, "most, but not necessarily all, queries conducted through the [participants filter] likely would have satisfied the applicable query standard" because a query with the participants filter necessarily included and was narrower than the original query.

NSD also assessed that use of the participants filter likely generated U.S. person queries. Because use of the participants filter had not previously been considered a query action, System 1 was not configured to prompt users to seek pre-approval or to enter a written justification for those queries; any such queries therefore likely did not comply with the pre-approval, written justification, and recordkeeping requirements for U.S. person queries. NSD also recognized the possibility that these queries may have included sensitive queries or queries designed solely to retrieve evidence of a crime, though NSD's investigation did not reveal any information affirmatively indicating that FBI personnel had conducted any such queries using the participants filter.



After providing an interim update to the FISC in December 2024, NSD reported its final findings and assessment to the FISC in early 2025. NSD also directed the FBI to deactivate the participants filter, which it did effective early 2025. The FBI subsequently reconfigured System 1 to ensure that any searches generated by the participants filter would be registered and recorded as queries and that such queries would provide the user with the standard query prompts. Later in 2025, NSD notified the FBI that NSD had assessed that the participants filter, as reconfigured, is consistent with the applicable statutory and procedural requirements, following which the FBI reactivated the participants filter. At around that time, NSD also advised the FISC of the FBI's reconfiguration and reactivation of the participants filter.

## Chapter Three: Conclusions and Recommendations

We found that the reforms the FBI has made to its querying practices, including the reforms imposed by RISAA, have significantly reduced the number of noncompliant queries identified in NSD and FBI oversight reports. Based on those reports, it appears that the FBI is no longer engaging in the widespread noncompliant querying of U.S. persons that was pervasive just a few years ago. We were also encouraged that, according to NSD and FBI oversight reports, most of the noncompliant queries conducted post-RISAA were noncompliant due to administrative mistakes, such as typographical errors, rather than due to fundamental misunderstandings of the query standard. However, our review covers only 1 year post-RISAA, and, in view of the history of the FBI's Section 702 compliance issues and the evolving nature of the FBI's Section 702 program, we are not able to conclude based on this review that the FBI's querying compliance issues are entirely in the past.

To ensure that the FBI's progress is not short-lived, we believe the FBI must maintain rigorous internal controls over Section 702 queries, including regular trainings and guidance for FBI personnel engaged in querying or querying oversight. Moreover, it is critical that there continue to be internal and external oversight of the FBI's querying practices by FBI OIA, NSD, the DOJ OIG, the FISC, Congress, ODN, and other entities with relevant oversight responsibilities. This oversight was the reason that past issues with the FBI's querying practices came to light and were corrected. It needs to remain in place to ensure continued compliance and that any future compliance issues are quickly identified and remediated.

Finally, we found that the number of queries run by FBI personnel has declined over the past several years, a decline that began prior to RISAA's enactment and has continued since. Several FBI and NSD witnesses expressed a high degree of concern about this decline and whether users are failing to run queries that those witnesses believed could lead the FBI to miss potentially critical threat information.

We recommend the following:

1. After reviewing a draft of this report, the FBI informed the OIG that FBI leadership had recently decided not to make a policy change at this time that would allow non-attorney supervisors to approve certain U.S. person queries. However, FBI indicated that its decision does not remove the option as a possibility in the future. In light of (1) the FBI's query compliance history described in Chapter One, (2) FBI leadership's initial decision immediately after enactment of RISAA to limit approvals of U.S. person queries to attorneys and the improved level of compliance that followed, and (3) the inherently and highly sensitive nature of conducting U.S. person queries of Section 702-acquired information, prior to allowing selected non-attorney supervisors to approve certain U.S. person queries, the FBI, in consultation with NSD, should conduct an assessment of whether any potential benefits of allowing selected non-attorney supervisors to approve certain U.S. person queries will come at the cost of a decline in the efficacy of the pre-approval requirement, and what additional internal controls can be implemented to prevent such a decline. If the FBI decides to allow non-attorney supervisors to approve certain U.S. person queries, the FBI should further consider starting with a pilot program that emphasizes regularly required training and is subject to monitoring of compliance rates of U.S. person queries approved by non-attorney supervisors and continued oversight.
2. Regardless of whether RISAA's requirement for the Department to review all FBI U.S. person queries remains in place following that provision's sunset on April 20, 2026, because of the limited resources

and capabilities of OIA, NSD should continue its current practice of reviewing 100 percent of the FBI's U.S. person queries.

3. In light of NSD's continuing independent review of all U.S. person queries and OIA's limited resources, OIA should focus its oversight to complement, rather than duplicate, NSD's work. Under such an approach, OIA's continued reviews of all U.S. person queries could be directed to areas not covered by NSD's reviews, or OIA could use sampling or other GAO-endorsed standards and methods to audit a subset of U.S. person queries with the goal of maintaining the multi-level oversight structure that was contemplated by the 2020 Barr Memorandum Regarding FBI Internal Compliance Functions and that we believe appropriate for these activities.
4. The FBI should maintain records of all requests to the Deputy Director for approval of sensitive queries and the dispositions of such requests, including requests that are not ultimately approved.<sup>154</sup>

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<sup>154</sup> In its formal response to this report, the FBI stated that while the FBI will continue to track approved requests, creating a "new nonstandard method" to track the dispositions of all requests to the Deputy Director "would require additional resources without providing additional privacy protections for U.S. persons." The OIG disagrees. Congress specified in RISAA that queries of U.S. political and media figures and organizations are so sensitive that they must be personally approved by the Deputy Director and that political appointees cannot be involved in deciding whether to approve them. In view of that determination, the OIG believes its recommendation that the FBI maintain records of all such requests benefits U.S. persons—and the FBI—by allowing for better oversight of this important internal control, and by helping ensure that the FBI is applying its standards consistently when deciding whether to conduct sensitive queries. Maintaining records of all such requests, which based on testimony during our review do not seem to be voluminous, is not only prudent, but could be accomplished as simply as by maintaining a spreadsheet within the office of the Deputy Director.

# Appendix 1: The FBI's Response to the Report



U.S. Department of Justice

Federal Bureau of Investigation

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Washington, D. C. 20535-0001

September 29, 2025

The Honorable William M. Blier  
Acting Inspector General  
Office of the Inspector General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530

Dear Mr. Blier:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's draft report entitled, *A Review of the Federal Bureau of Investigation's Querying Practices Under Section 702 of the Foreign Intelligence Surveillance Act*.

We are glad you found the FBI has implemented all of the querying reforms pursuant to the Reforming Intelligence and Securing America Act (RISAA). We also appreciate your acknowledgement that these reforms have significantly reduced the number of noncompliant queries identified in NSD and FBI oversight reports.

We agree that the FBI must maintain rigorous internal controls over Section 702 queries. In this regard, the FBI will continue to work closely with NSD to review all FBI U.S. person queries. Consistent with our standard recordkeeping policies, FBI will continue to maintain records of all sensitive query requests approved by the Deputy Director, as only such approved requests result in sensitive queries. Creating a new nonstandard method to track the dispositions of draft requests not formally approved would require additional resources without providing any further privacy protection benefits to United States persons, a key concern for Congress in passing the RISAA statute.

Should you have any questions, feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

A handwritten signature in cursive script, reading "Samuel Ramer", is written over the typed name.

Samuel Ramer  
General Counsel