Section 702

Title VII, Section 702 of the Foreign Intelligence Surveillance Act (FISA), "Procedures for Targeting Certain Persons Outside the United States Other Than United States Persons" (50 U.S.C. sec. 1881a)

- This authority allows only the targeting, for foreign intelligence purposes, of communications of foreign persons who are located abroad.

- The government may not target any U.S. person anywhere in the world under this authority, nor may it target a person outside of the U.S. if the purpose is to acquire information from a particular, known person inside the U.S.

- Under this authority, the Foreign Intelligence Surveillance Court annually reviews "certifications" jointly submitted by the U.S. Attorney General and Director of National Intelligence.

- These certifications define the categories of foreign actors that may be appropriately targeted, and by law, must include specific targeting and minimization procedures adopted by the Attorney General in consultation with the Director of National Intelligence and approved by the Court as consistent with the law and 4th Amendment to the Constitution.

- There must be a valid, documented foreign intelligence purpose, such as counterterrorism, for each use of this authority. All targeting decisions must be documented in advance.

- The Department of Justice and the Office of the Director of National Intelligence conduct on-site reviews of targeting, minimization, and dissemination decisions at least every 60 days.

- The Foreign Intelligence Surveillance Court must approve the targeting and minimization procedures, which helps ensure the protection of privacy and civil liberties.

- These procedures require that the acquisition of information is conducted, to the greatest extent reasonably feasible, to minimize the acquisition of information not relevant to the authorized foreign intelligence purpose.

- Any inadvertently acquired communication of or concerning a U.S. person must be promptly destroyed if it is neither relevant to the authorized purpose nor evidence of a crime.

- If a target who was reasonably believed to be a non-U.S. person outside of the U.S. either enters the U.S. or was in fact a U.S. person at the time of acquisition, targeting must be immediately terminated.

- Any information collected after a foreign target enters the U.S. –or prior to a discovery that any target erroneously believed to be foreign was in fact a U.S. person– must be promptly destroyed unless that information meets specific, limited criteria approved by the Foreign Intelligence Surveillance Court.

- The dissemination of any information about U.S. persons is expressly prohibited unless it is necessary to understand foreign intelligence or assess its importance; is evidence of a crime; or indicates a threat of death or serious bodily harm.

- The FISC rules of procedure require immediate reporting of any compliance incident. In addition, the government reports quarterly to the FISC regarding any compliance issues that have arisen during the reporting period, including updates of previously reported incidents.

- The Department of Justice and Office of the Director of National Intelligence provide a semi-annual assessment to the Court and Congress assessing compliance with the targeting and minimization procedures. In addition, the Department of Justice provides semi-annual reports to the Court and Congress concerning implementation of Section 702.

- An annual Inspector General assessment is provided to Congress, reporting on compliance with procedural requirements, the number of disseminations relating to U.S. persons, and the number of targets later found to be located inside the U.S.

Section 215

Section 215 of the USA PATRIOT Act of 2001, which amended Title V, Section 501 of the Foreign Intelligence Surveillance Act (FISA), "Access to Certain Business Records for Foreign Intelligence and International Terrorism Investigations" (50 U.S.C. sec. 1861)

- This program concerns the collection only of telephone metadata. Under this program, the government does not acquire the content of any communication, the identity of any party to the communication, or any cell-site locational information.

- This metadata is stored in repositories within secure networks, must be uniquely marked, and can only be accessed by a limited number of authorized personnel who have received appropriate and adequate training.

- This metadata may be queried only when there is a reasonable suspicion, based on specific and articulated facts, that the identifier that will be used as the basis for the query is associated with specific foreign terrorist organizations.

- The basis for these queries must be documented in writing in advance.

- Fewer than two dozen NSA officials may approve such queries.

- The documented basis for these queries is regularly audited by the Department of Justice.

- Only seven senior officials may authorize the dissemination of any U.S. person information outside of NSA (e.g. to the FBI) after determining that the information is related to and is necessary to understand counterterrorism information, or assess its importance.

- Every 30 days, the government must file with the Foreign Intelligence Surveillance Court a report describing the implementation of the program, to include a discussion of the application of the Reasonable Articulable Suspicion (RAS) standard, the number of approved queries and the number of instances that query results that contain U.S. person information were shared outside of NSA in any form.

- The Foreign Intelligence Surveillance Court reviews and must reauthorize the program every 90 days.

- At least once every 90 days, DOJ must meet with the NSA Office of Inspector General to discuss their respective oversight responsibilities and assess NSA's compliance with the Court's orders.

- At least once every 90 days, representatives from DOJ, ODNI and NSA meet to assess compliance with the Court's orders.

- Metadata collected under this program that has not been reviewed and minimized must be destroyed within 5 years.

- DOJ and NSA must consult on all significant legal opinions that relate to the interpretation, scope, and/or implementation of this authority.