

CONNECTING THE DOTS: PUTTING BOTH SIDES OF CONVERSATIONS IN ONE DATABASE

In addition to its comments about Section 215 which I discussed earlier, the FBI's statement for my article on surveillance at VICE included one other passage of interest. As part of its explanation for why it couldn't keep track of its back door searches into incidentally collected Section 702 data, the FBI offered up this explanation, unsolicited.

(702 collection is co-located with other FISA collection to allow the FBI to "connect the dots" between the different types of collection.).

Now, we've known since the PCL0B Section 702 report this co-mingling was part of their explanation for not being able to count their back door searches.

The FBI is required under its minimization procedures to maintain records of all terms used to query content. These records identify the agent or analyst who conducted the query, but do not identify whether the query terms are U.S. person identifiers. Although the FBI's minimization procedures do not require the FBI to keep records of metadata-only queries, such queries are conducted in the same databases that contain the content collection; therefore, such metadata queries are also recorded. The NSD and ODNI conduct oversight reviews of both the content and metadata queries, as described below.

Because they are not identified as such in FBI systems, the FBI does not track

the number of queries using U.S. person identifiers. The number of such queries, however, is substantial for two reasons.

First, the FBI stores electronic data obtained from traditional FISA electronic surveillance and physical searches, which often target U.S. persons, in the same repositories as the FBI stores Section 702-acquired data, which cannot be acquired through the intentional targeting of U.S. persons. As such, FBI agents and analysts who query data using the identifiers of their U.S. person traditional FISA targets will also simultaneously query Section 702-acquired data.

Two details on this.

First, note that FBI's refusal to identify whether emails are used by people in the US extends to this querying process. If you don't know that they're Americans, you don't have to count how many Americans whose email you're reading without a warrant. Of course, if you're querying the database, you should have information about who this person is, but FBI refuses to!

Just as interestingly, consider what "connecting the dots" means in this context.

It's not, just, about identifying all the possible evidence that might indicate a potential terrorist.

Rather, it's also about having both sides of conversations in the same place. This suggests the FBI not only wants to see what conversations particular identifiers have had. But they want to see how those conversations fit into a network of conversations.