

“Reforming Intelligence and Securing America Act” Could Permanently Codify a Disastrous Status Quo

Section 702 of the Foreign Intelligence Surveillance Act, which is scheduled to expire on April 19 unless renewed, is a warrantless surveillance authority that is supposed to be targeted at non-Americans located abroad. But this collection “[inevitably](#)” captures Americans’ communications, too. Intelligence agencies have turned Section 702 into a domestic spying tool, using it to perform [hundreds of thousands](#) of warrantless “backdoor” searches for Americans’ private communications every year. These searches have included shocking abuses, including baseless searches for the communications of [141 Black Lives Matter protesters](#), [members of Congress](#), [19,000 donors to a congressional campaign](#), and [a local political party](#). Lawmakers from both parties have thus vowed not to reauthorize the law without “[significant reforms](#).”

The “Reforming Intelligence and Securing America Act,” however, is a “reform” bill in name only. Modeled closely on the House Intelligence Committee’s bill—and bypassing the critical reforms included in the House Judiciary Committee’s [Protect Liberty and End Warrantless Surveillance Act](#)—it is carefully crafted to preserve the status quo. **Unless significantly amended to add meaningful protections for Americans’ privacy, it will do nothing to prevent continuing abuses of Section 702—and it could be read to *permanently* reauthorize this deeply flawed authority without *any* reforms.**

A Permanent Reauthorization—With No Reforms

- Although the bill has a five-year sunset for Title VII of FISA (which includes Section 702), it also has a provision stating that Section 702 will revert back to its pre-RISAA form on the sunset date. The FISA Court is likely to read this sloppy drafting as fully sunseting all the other provisions of Title VII (including provisions that contain vital protections for Americans), but sunseting *only the RISAA “reforms”* for Section 702. That means Section 702 would become permanent—without any reforms.

Backdoor Searches: A Green Light for Further Abuse

- The bill’s leading “reform” is a prohibition on backdoor searches performed for the sole purpose of finding evidence of a crime—i.e., with no foreign intelligence purpose. As the bill’s drafters know, however, the FBI almost never labels its searches “evidence-of-a-crime only.” In 2022, a year in which the FBI conducted 204,090 backdoor searches, this prohibition would have stopped the FBI from accessing Section 702 data in only [two cases](#). This prohibition would not have prevented *any* of the egregious abuses cited above, all of which were purportedly intended to find foreign intelligence.
- The bill’s other “reforms” relating to backdoor searches are equally toothless. For instance, several provisions just codify changes that the FBI has already made to its training, supervisory approval, and systems access requirements. But those changes have proven to be insufficient. *After* the FBI implemented them, the government continued to report FBI violations at a rate of [4,000 violations per year](#), including [searches](#) for the communications of a U.S. Senator, a state senator, and a state court judge who contacted the FBI to report civil rights violations by a local police chief.
- The bill gives special treatment to members of Congress, requiring notification and consent for certain queries of lawmakers that are not required for queries of ordinary Americans.

Weakened Oversight

- The problems with the FISA Court are well-documented, and there is widespread consensus that the role of *amici curiae* should be strengthened as provided in the [Lee-Leahy amendment](#), which the Senate passed by a [77–19](#) vote in 2020. Yet, astonishingly, this bill would *weaken* the role of amici in various ways, including by limiting the issues amici could address to those chosen by the court.

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