

PCLOB Endorses Reforms to FISA Section 702

The Privacy and Civil Liberties Oversight Board, an independent agency charged with ensuring that the federal government’s counterterrorism efforts respect Americans’ rights, recently released a [report](#) on Section 702 of the Foreign Intelligence Surveillance Act. The controversial law, which expires at the end of this year, allows the FBI, CIA, NSA, and National Counterterrorism Center to perform warrantless “backdoor” searches for Americans’ private communications. The PCLOB report noted that **Section 702 captures Americans’ “discussions of political and religious views, personal financial information, mental and physical health information, and other sensitive data.”**

Because Section 702 surveillance “poses serious privacy and civil liberties risks” and because the government provided “little justification” for the intelligence value of backdoor searches, the PCLOB recommended several reforms, including:

- Individualized court approval before intelligence officials can review Americans’ private communications returned by backdoor searches;
- Strengthening judicial oversight of Section 702 by bolstering the role of *amicus curiae* before the FISA Court and placing a 180-day deadline on the government’s existing legal obligation to declassify significant FISA Court opinions;
- Narrowing the scope of foreign intelligence surveillance under Section 702; and
- Prohibiting intelligence agencies from restarting “abouts” collection without congressional approval.

Each of these reforms would significantly advance Americans’ privacy rights and would help prevent what the FISA Court has [referred to](#) as the “persistent and widespread” abuses of backdoor searches, including baseless searches for the communications of [members of Congress](#), [political protestors](#), and 19,000 [donors to a congressional campaign](#), among many others.

While the report focused on Section 702, the PCLOB also signaled the need for broader changes, noting that the government can use other authorities—including ones that have even weaker privacy safeguards than those Section 702 currently affords—“to obtain information similar to that collected under Section 702.” A cross-partisan coalition of more than 30 privacy, civil liberties, and civil rights groups has proposed a set of [comprehensive surveillance reforms](#) that would help prevent abuses of Section 702 and other foreign intelligence surveillance authorities.

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