

## Vote “NO” on Amendments to Expand Domestic Surveillance and Enact Patriot Act 2.0

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 it has been widely abused to spy on Americans. The FBI has conducted warrantless “backdoor searches” for the communications of [141 Black Lives Matter protesters](#), [members of Congress](#), [19,000 donors to a congressional campaign](#), [a local political party](#), and [tens of thousands of people](#) involved in “civil unrest.” Lawmakers 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, it is carefully crafted to preserve the status quo and would do nothing to prevent continuing abuses of Section 702. Yet rather than amending the bill to include needed reforms, **members of the House Intelligence Committee plan to offer amendments to dangerously—and unnecessarily—expand domestic surveillance.**

- **Forcing U.S. businesses to serve as surrogate spies.** This amendment would enable **the largest expansion of surveillance on U.S. soil since the Patriot Act.** Through a seemingly innocuous change to the definition of “electronic communications service provider,” it would allow the government to [force ordinary U.S. businesses](#) to assist the government in conducting Section 702 surveillance. Although the amendment exempts hotels, libraries, restaurants, and a handful of other types of establishments, an enormous range of businesses could still be conscripted into service, including grocery stores, department stores, hardware stores, laundromats, barber shops, fitness centers, and countless other locations Americans frequent—even the offices in which they work. Moreover, although the targets would still have to be non-U.S. persons overseas, many of these businesses would lack the technical ability to turn over specific communications, so they would be forced to give the NSA access to entire communications streams—trusting the government to retain only the communications of approved targets.
- **Expanded surveillance of immigrants.** This amendment would permit entirely suspicionless searches of Section 702 data for the communications of any non-U.S. person seeking permission to travel to the United States. In addition to people outside the country seeking to work, study, or travel in the United States, it could potentially apply to large numbers of visa holders who are longtime U.S. residents but are continually required to obtain travel authorization, such as when they leave the country on business or personal travel and are returning to the United States. This invasive measure is wholly unnecessary given the multiple vetting mechanisms already in place to ensure that visitors to this country do not threaten our national security. People should be able to vacation, work, or study in the U.S. without automatically exposing their private communications to U.S. government scrutiny.
- **Expanded definition of “foreign intelligence.”** This amendment would expand FISA’s already broad definition of “foreign intelligence” to include any information relating to the international trafficking of drugs driving overdose deaths. HPSCI members claim that under current law, the government can only obtain such information if it relates to (1) foreign governments, (2) international terrorism, or (3) weapons of mass destruction, because those are the three “certifications” approved by the FISA Court. But nothing in 702 prevents the government from seeking an additional certification, which the court would be required to approve as long as it meets the definition of “foreign intelligence.” FISA defines “foreign intelligence” to include any information that “relates to” the “security” or “foreign affairs” of the United States—a definition the FISA Court would almost certainly interpret to include international trafficking in dangerous drugs. Given recent surveillance abuses, Congress should not be expanding the scope of FISA unless it is clearly necessary, and that’s not the case here.

For questions about Section 702, contact Liza Goitein at [goiteine@brennan.law.nyu.edu](mailto:goiteine@brennan.law.nyu.edu) or Noah Chauvin at [chauvinn@brennan.law.nyu.edu](mailto:chauvinn@brennan.law.nyu.edu).