

“Reforming Intelligence and Securing America Act” Would Dramatically Expand Warrantless Surveillance

Section 702 of the Foreign Intelligence Surveillance Act 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. Rather than reining in warrantless surveillance, it contains several provisions that would dramatically expand it. Moreover, the provisions regarding backdoor searches are carefully crafted to preserve the status quo and would do nothing to prevent ongoing abuses.

A “Terrifying” Expansion of Government Surveillance

- RISAA includes a provision Senator Ron Wyden [called](#) “**one of the most dramatic and terrifying expansions of government surveillance authority in history.**” As explained in [this one-pager](#), it would allow the government to compel a wide range of U.S. businesses to give the NSA access to their wifi routers, phones, and other communications equipment. This is a truly Orwellian power that has no place in a democracy.
- 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.
- RISAA would require completely suspicionless searches of Section 702 data for the communications of non-U.S. persons seeking permission to enter the country, even if the multiple vetting mechanisms already in place have revealed no cause for concern. In addition to people outside the country seeking to work, study, or travel in the U.S., this would affect large numbers of visa holders who are longtime U.S. residents but still need authorization to reenter the country after overseas trips.

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.

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