



## FACT SHEET: FISA Section 702

### OVERVIEW OF FISA SECTION 702

After 9/11, the Bush Administration established a warrantless surveillance program intended to target foreign terrorists and other national security threats. Following vigorous public debate about the program’s legality, beginning in 2007 Congress passed authorizing legislation to codify and purposefully govern the program.

- Section 702 of the Foreign Intelligence Surveillance Act (FISA) enables the government to seize from U.S. electronic communications service providers data of non-U.S. persons, “reasonably believed to be located outside the United States,” for the purpose of acquiring foreign intelligence information.
- This collection is subject to a certification process overseen by the secretive FISA Court but does not require a warrant.

Reflecting its controversial origins, Title VII of FISA—which includes Section 702—has always contained a “sunset” provision. Title VII was reauthorized in 2018 and is now set to expire on April 19, 2024, after a short-term extension from December 31, 2023, was included in the fiscal 2024 National Defense Authorization Act.

The House is expected to consider a compromise reauthorization bill, called the Reforming Intelligence and Securing America Act, before the April 19 expiration. The bill boasts 56 reforms to the intelligence gathering program but leaves out the most significant and imperative reforms: warrant requirements, transparency requirements, and Fourth Amendment protections like those in the Lee-Leahy bill. House Speaker Mike Johnson has indicated he will bring the bill to the floor for consideration under a rule, and some amendments will be allowed a vote.

### THE COSTS OF SECTION 702 OUTWEIGH ANY BENEFITS

Officials claim Section 702 is a vital intelligence-gathering tool, but the details are generally hidden from public view. Even declassified “success stories” show mission creep: recent [congressional testimony](#) claimed that shedding light on human rights violations is a key reason Section 702 should be reauthorized.

- According to an April 2022 [FISA Court opinion](#), the government reported more than 278,000 “non-compliant” FBI queries of FISA information, including Section 702 information.
- Notable violations include numerous searches relating to criminal investigations of individuals present at the U.S. Capitol on January 6, 2021, and a “batch query” for over 19,000 donors to a congressional campaign. (By law, such donors must be U.S. citizens or permanent residents.)

- The FISA court opinion, which was released in May 2023 with significant redactions, paints a vivid picture of ignorance and obstinance—including the FBI’s stubborn defense of clearly unlawful queries.

### **FIXING FISA ABUSE**

Congress should allow Title VII of FISA, including Section 702, to expire or insist on increased transparency, including warrant requirements for all collection and queries that implicate U.S. persons and serious accountability—including criminal penalties—for privacy violations. Many of these changes should apply to all of FISA, not just Section 702. That such measures may take time and resources to implement is no basis for further trammeling Americans’ constitutional rights.

For additional analysis, see CRA’s [702 primer](#).