

The following are EPIC's major priorities for surveillance reform as part of the FISA Section 702 reauthorization process:

Reform Section 702

End warrantless backdoor searches. All agencies should be required to obtain a warrant based on probable cause before conducting a U.S. person query.

Codify stronger purpose limitations. Stronger purpose limitations should be codified for the use of Section 702 surveillance, for example:

- Limiting targeting to foreign powers or agents of foreign powers; or
- Codifying Executive Order 14086's list of legitimate purposes and prohibited purposes.

Prohibit "abouts" collection. Any reform bill should also codify an end to "abouts" collection, as well as clarify that such a prohibition applies to all programs conducted under Section 702.

Require robust data minimization. Stricter data minimization rules must be imposed across all agencies, including but not limited to: shorter default retention periods and narrower exceptions to these default periods; stronger oversight of purging compliance; and a prohibition on the use of attorney-client privileged communications for any purpose, except to ensure compliance with purging requirements.

Enhance oversight, accountability, and transparency.

1. *FISA Court reforms.* EPIC recommends any reform bill include FISA Court reforms consistent with the text of the Leahy-Lee Amendment.
2. *Notice reforms.* Any reform bill should prohibit "parallel construction" and require that the government notify criminal defendants any time they intend to introduce evidence that would not have been discoverable but for the use of Section 702. Any bill should also expressly prohibit include more robust requirements for notifying defendants of the government's use of Section 702-derived evidence.
3. *Challenges to FISA surveillance.* Any reform bill should ensure that surveillance programs are accountable in U.S. courts, including by reforming the doctrines of standing and the state secrets privilege.

Prevent Surveillance Whack-a-Mole

EO 12333 surveillance reform. Surveillance reforms should extend to the activities conducted under EO 12333, including a prohibition on bulk collection, a warrant requirement for all agency queries of U.S. person information, and alignment of Section 702 and EO 12333 oversight frameworks.

Close the government data purchases loophole. Congress must also prevent the government from circumventing Americans' Fourth Amendment protections by purchasing data.

For questions or to discuss any of these reform suggestions in detail, please contact EPIC Senior Counsel Jeramie Scott (jscott@epic.org) and EPIC Law Fellow Chris Baumohl (baumohl@epic.org).