



Written by [David Kelly](#) on November 17, 2023

## House Committee Seeking Reforms to Foreign Intelligence Surveillance Act

The House Permanent Select Committee on Intelligence (HPSCI) released a report on Thursday seeking to continue to “save American lives and liberty” by offering 45 reform proposals to the controversial Foreign Intelligence Surveillance Act (FISA), which is considered a critical tool for protecting our national security.

The Committee on Intelligence focused on the suggested reforms, specifically Section 702, in their [73-page report](#) titled *FISA Reauthorization: How America’s Most Critical National Security Tool Must Be Reformed to Continue to Save American Lives and Liberty*. The report was issued by the Majority FISA Working Group, which includes Republican representatives Darin LaHood (Ill.), Chairman Mike Turner (Ohio), and Brian Fitzpatrick (Pa.).



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“The extensive HPSCI report outlines the important reforms needed in order to responsibly reauthorize FISA before the end of the year,” said Rep. LaHood in a [press release](#). “In the wake of the Hamas terrorist attacks, our nation faces the greatest threat of terror in nearly [a] decade. Allowing this critical national security tool to expire would put our country at greater risk. However, there have been too many abuses of the program, and it must be reformed to protect the rights and privacy of American citizens. I look forward to working with my colleagues to implement the necessary reforms outlined in our report to get this important national security tool reauthorized.”

Section 702 of the Foreign Intelligence Surveillance Act is considered a critical tool for protecting our national security. It enables the U.S. Intelligence Community to collect, analyze, and share foreign intelligence information on individual terrorists, weapons proliferators, hackers, and other foreign intelligence targets.

The offered reforms come after the Federal Bureau of Investigation (FBI) was accused of improperly using Section 702 of FISA to collect information on American citizens, including on members of Congress, such as LaHood.

In March, LaHood claimed that he was the subject of improper queries by the FBI. He [stated](#) then:

The FBI’s inappropriate querying of a duly elected Member of Congress, as stated in the ODNI [Office of the Director of National Intelligence] report footnote, is an egregious violation that not only degrades trust in FISA and the Intelligence Community (IC) but is a threat to the foundational values of our democracy. I have had the opportunity to review the classified summary of this violation, and it is my opinion that the member of Congress that



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was wrongfully queried multiple times solely by his name was in fact me. The FBI's actions raise further questions about the serious reforms needed to FISA.

According to an HPSCI [press release](#), the FISA report acknowledged several key takeaways, including that Section 702 is constitutional:

The U.S. Courts of Appeals for the Second, Ninth, and Tenth Circuits have all held that when "the target of Section 702 surveillance is a foreign national located abroad having no substantial connections with the United States, that target is not entitled to Fourth Amendment protections," even if the collection occurs inside the United States. In addition, the Foreign Intelligence Surveillance Court has repeatedly found Section 702 collection to be constitutional under the Fourth Amendment in its annual certification decisions.

The 45 FISA reform proposals offered in the HPSCI [press release](#) "go beyond Section 702 to make meaningful reforms to all of FISA." They include the following (partial lists only, as described in the press release):

### **Nineteen Provisions Stopping FBI Querying Abuses**

1. Restricts the number of FBI personnel who can authorize a U.S. person query by more than 90 percent.
2. Requires the FBI to obtain a warrant to conduct a query on an American for evidence of a crime.
3. Creates specific criminal liability for 702 leaks of a U.S. person's communications.
4. Makes FBI compensation contingent on query compliance.
5. Mandates independent audits of all FBI queries of U.S. persons.
6. Prohibits queries to suppress Americans' political opinions or religious beliefs.

### **Fourteen Provisions to Prevent Another Carter Page Abuse**

1. Creates five enhanced criminal penalties for those who violate FISA, leak FISA applications, or lie to the FISA Court.
2. Gives the FISA Court the authority to prosecute for contempt.
3. Prohibits using political opposition research and press reports to get a FISA order.

### **Seven Provisions to Fix and Open Up the FISA Court**

1. Allows Members of Congress to attend.
2. Requires court hearings to be transcribed and made available to Congress.
3. Assigns a court-appointed counsel to scrutinize U.S. person surveillance applications.
4. Stops the government from shopping for FISA Court judges.

### **Other Provisions Reflecting Congress's Opportunity to Address Political and National Security Concerns**

1. Enhances the ability of the National Security Agency to target international fentanyl trafficking operations.
2. Gives the Intelligence Community the ability to track Mexican drug cartels' burner phones.
3. Allows all foreigners applying for a visa, immigration, or asylum to be vetted using 702 queries.

These reform proposals expose how Orwellian our federal government has become. Big Brother is



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watching us. Will Congress accept the proposed reforms and seek balance in governing the intelligence community, as the report declares that “the American people deserve a law that protects them from both governmental overreach and security threats?” Or will the constitutional rights of unsuspecting Americans continue to be violated in the name of security?

Would it be best to allow FISA to sunset, giving Congress and the intelligence community the opportunity to clean house and get back to the basics of adhering to our nation’s founding principles and the Constitution?

A maxim attributed to Benjamin Franklin says it best: *“Those who would give up essential Liberty, to purchase a little temporary Safety, deserve neither Liberty nor Safety!”*



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