Biden seeks renewal of warrantless spying powers

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The Biden administration has mounted a campaign urging Congress to renew provisions of a US law that legalizes secret, warrantless surveillance of individuals and organizations all over the world on the grounds of "national security" interests.

On Tuesday, senior White House officials called on Democrats and Republicans in Congress to reauthorize Title VII of the Foreign Intelligence Surveillance Act (FISA), especially its Section 702, before it expires on December 31, 2023.

Although the American political and media establishment will not say so, it is well known that FISA Section 702 was passed in 2008 to provide a legal fig leaf for secret US intelligence and FBI surveillance of the electronic communications of people both inside and outside the country.

This secret spying activity, which compels the cooperation of communications service providers and internet and social media platforms in a conspiracy against fundamental Constitutional rights, was exposed in detail for the first time by Edward Snowden in 2013.

As explained by the Electronic Frontier Foundation (EFF), Section 702 authorizes the US government to routinely collect and search the online communications of innocent Americans "without a warrant through what are commonly called 'upstream' and 'PRISM' (now called 'downstream') surveillance." These activities violate Fourth Amendment rights against unreasonable searches and seizures.

The details of PRISM were disclosed by Snowden in a series of documents that indicated it is "the number one source of raw intelligence used for NSA analytic reports." The program enables the National Security Agency (NSA) and Central Intelligence Agency (CIA) to gather targeted electronic communications from the major internet service providers on demand without a warrant, store them in massive databases and search through them as they see fit.

In a letter dated February 28 to the four leaders of the Senate and House, Attorney General (AG) Merrick Garland and Director of National Intelligence (DNI) Avril Haines say the prompt renewal of the surveillance law is urgent because it has "proven invaluable again and again in protecting American lives and U.S. national security."

However, the examples given by AG Garland and DNI Haines of the effectiveness of Section 702 are taken straight from the propaganda list of enemies of US imperialism such as "conventional and cyber threats posed by the People's Republic of China, Russia, Iran and the Democratic People's Republic of Korea."

While the examples provided contain no details of the lives that were supposedly saved through illegal spying, the joint letter does say that Section 702 was used to carry out the "successful operation against Ayman al-Zawahiri in 2022." That is, the extrajudicial targeted drone assassination of al-Zawahiri in a suburb of Kabul, Afghanistan by the CIA in the early morning of July 31, 2022.

The letter reads like a public relations statement and includes the obligatory justification of the FISA law due to its "comprehensive system" designed by Congress to "ensure this irreplaceable intelligence tool protects the privacy and civil liberties of U.S. persons has worked."

It says that US citizens need not worry about the illegal surveillance because, "Section 702 can only be used to target individual *non-US persons located outside the United States*, it may not be directed against Americans at home or abroad, or any person, regardless of nationality, known to be located in the United

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States.”

However, given the nature of electronic communications as a global phenomenon, such assurances are completely irrelevant, and specifically targeting individuals from other countries, even if it were technically possible, is also a violation of their basic rights in any case.

The Biden administration officials give a sketchy description of the procedures of the FISA law, including the functioning of the secret Foreign Intelligence Surveillance Court (FISC) and its annual “comprehensive review of the program.” FISC almost never denies a request for warrantless surveillance—after nearly 40 years of its existence, the court approved 99.998 percent of the applications—effectively making it a rubber stamp for the intelligence agencies.

The letter goes on to say that FISC has consulted with outside advisors on multiple occasions “as it exercises its rigorous and ongoing oversight of the U.S. Government’s implementation of and compliance with these procedures.” AG Garland and DNI Haines also claim that their respective offices “scrutinize all Section 702 collection decisions, review U.S. person queries, and evaluate and take remedial action to address identified incidents of non-compliance.”

However, as numerous oversight and compliance reports have shown, those performing the surveillance have routinely violated the procedures of the FISA law and continued to carry out queries and electronic spying on US citizens, claiming that such crimes were an inadvertent mistake. No one has ever been charged or prosecuted for these violations of the US Constitution.

There is no doubt that the urgency behind the White House campaign for Congress to act on the renewal of Section 702 is motivated by the geostrategic aims of the Biden administration and connected with the war against Russia in Ukraine, and the intensification of the military provocations against China.

The first version of the FISA law was passed in 1978 following the revelations of the domestic spying operation carried out by the White House of Richard Nixon in the years prior to and during the Watergate crisis that began in 1972. Forty-five years later, the FISA law has been converted into its opposite and has become an indispensable element of the US imperialist military-intelligence apparatus both at home and overseas.

One need only review the biography of White House intelligence director Haines to see that those who are requesting reauthorization of illegal spying under the cover of Section 702 are themselves criminals who belong behind bars.

Before President Biden nominated Haines for Director of National Intelligence, the first woman to hold the position, she had built up a resume of lawlessness as a legal hack for the US State Department during the Bush administration (2003-2006) and then with the Obama Administration (2008-2010).

In 2013, Haines was selected by Obama as Deputy Director of the CIA where in 2015 she protected the intelligence personnel involved in the hacking of the computers of Senate staffers who were writing the Intelligence Committee’s report on CIA torture. Haines played a major role in redacting the Senate report, allowing only 525 of the 6,700 pages in the document to be released to the public.

During her years in the CIA, Haines worked directly with then-Director John Brennan in selecting individuals for targeted drone killings. She wrote the legal policies, guidelines and procedures for carrying out the drone attacks that resulted in the murder of innocent civilians.

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