National defense budget extends illegal electronic spying on US citizens

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In a politically dishonest and devious manner, another four months of illegal warrantless electronic surveillance of the American public was slipped into the bipartisan National Defense Authorization Act (NDAA) approved by both houses of Congress on December 14. The $890 billion bill is expected to be signed into law by President Joe Biden soon.

As part of the massive spending on the US proxy-war in Ukraine against Russia, funding for Israeli genocide of Palestinians in Gaza, preparations for military conflict with China and expansion of nuclear third world war readiness, the Democrats and Republicans kept a critical element of their strategy in place: ongoing spying on the American public in violation of basic democratic rights.

Section 702 of the Foreign Intelligence Surveillance Act of 2008 states that the US intelligence community—including the National Security Agency (NSA), the Central Intelligence Agency (CIA) and the Federal Bureau of Investigation (FBI)—cannot target American citizens when performing electronic surveillance of foreigners, because they are protected against such targeting by the Fourth Amendment.

In fact, the justifications given for using warrantless surveillance of non-US citizens are also a violation of fundamental rights because they are connected with lies spread by the entire political establishment and military intelligence apparatus about threats to US national security posed by the enemies of American imperialism. These purported threats are then used by the intelligence agencies to spy on everyone, regardless of their country of origin, whenever they want.

The provisions of Section 702 that are now being extended to April 2024 have been used repeatedly by US government agencies to collect and search the online communications of tens of thousands of Americans without a warrant. While the public is universally opposed to Section 702, politicians from both parties voted 310 to 118 in the House and 87 to 13 in the Senate to extend the provisions and allow this illegal spying to continue.

According to a report on December 8 by the Electronic Frontier Foundation (EFF), "FBI agents have been using the Section 702 databases to conduct millions of invasive searches for Americans' communications, including those of protesters, racial justice activists, 19,000 donors to a congressional campaign, journalists, and even members of Congress."

This statement by the EFF is based on the findings of a 297-page report on Section 702 surveillance published on September 28 by the Privacy and Civil Liberties Oversight Board (PCLOB), a body tasked by the White House to monitor and investigate the functioning of warrantless surveillance by the intelligence agencies.

In a section called "Improper Queries," for example, the PCLOB reports on page 258 that an FBI field office analyst "routinely queried the names of victims and witnesses of crimes, even though there was not a basis to believe there would be any relevant information in the Section 702 database."

In another section called, "Queries related to First Amendment Activities," the report says on page 197 that an FBI agent, "conducted 141 queries of identifiers associated with activists who were arrested in connection with protesting the murder of George Floyd in Washington, DC between June 3 and June 5, 2020, despite the lack of any reason to believe there would be information on these individuals in Section 702 databases."

These two brief examples prove that references to the protected status of US citizens in the Section 702 rules

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are completely bogus. The database of electronic communications being gathered by the US government contains everyone, whether they are US citizens or not. The police agencies, especially the FBI, are scanning this data on a regular basis and abrogating basic democratic rights that are guaranteed by the US Constitution, including the prohibition of unreasonable searches and seizure.

As Edward Snowden, who courageously leaked evidence of the worldwide program of US government illegal spying in 2013, tweeted on December 14:

> Congress has voted to pass the NDAA—in which they deceitfully concealed an extension of the warrantless spying program ("Section 702") universally opposed by the public.
>
> Last year the FBI exploited 702 to spy on Americans (protestors, donors—even Congress) more than 200k times.

Congress needed to move swiftly to extend Section 702 because it was set to expire on January 1, 2024. By getting the extension, it is clear that the Democrats and Republicans are planning to review competing proposals to reauthorize the existing rules for up to eight years or adopt a so-called "reform" bill that will significantly strengthen the warrantless surveillance of the public.

As EFF put it, plans are in the works to authorize "the use of this unaccountable and out-of-control mass surveillance program as a new way of vetting asylum seekers by sifting through their digital communications. … This new authority proposes to give immigration services the ability to audit entire communication histories before deciding whether an immigrant can enter the country."

The draft of a bill by the House Permanent Select Committee on Intelligence (HPSCI), according to EFF, would expand the definition of electronic communication service to include "a much broader range of providers, including those who merely provide hardware through which people communicate on the Internet. Even without knowing the details of the secret court fight, this represents an ominous expansion of 702's scope."

The drive by the US ruling establishment to continue and expand electronic spying on the public was spelled out in no uncertain terms by the *Wall Street Journal* in its lead editorial on December 11. The leading voice of the American billionaire elite said that the continuation of mass surveillance, "has never been more important" given that the "risk of terrorism has gone up since Hamas's massacre in Israel, and the US needs all the intel it can get to detect and prevent further attacks on the American homeland."

The *Journal* editors call for Congress to use the four-month extension to implement "thoughtful changes that won't hamper national security." As has come to light during the ethnic cleansing operation by Israel in Gaza—and was also the case during the events of 9/11 in the US in 2001—it turns out the state intelligence agencies were aware of the planned attacks beforehand, did nothing to stop them and then used them to pursue long-prepared aggressive military operations to carry out their strategic goals.

The arguments that the threat of "terrorism" requires the destruction of fundamental democratic rights are being revived once again. Illegal surveillance of the public is being stepped up just as a mass movement of millions opposed to the imperialist-backed Zionist genocide in Gaza is taking place in countries around the globe, including within the US and Israel.

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