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SECTION 702 OF THE FOREIGN INTELLIGENCE SURVEILLANCE ACT (PAPERBACK)



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In February of 2016, the Judiciary Committee held a classified hearing that began consideration of the reauthorization of the FISA Amendments Act, which was first signed into law in 2008 and reauthorized in 2012. Much has happened since the law was last reauthorized, however, including the unauthorized disclosures of classified information by Edward Snowden in 2013 that spawned significant public debate on U.S. Government surveillance. There has been jurisprudence upholding the statute s constitutionality. Like congressional oversight, judicial oversight of this program is an integral safeguard. Congress enacted FISA in 1978 to establish statutory guidelines authorizing the use of electronic surveillance in the United States for foreign intelligence purposes. Following enactment, global communications infrastructure shifted from satellite to fiberoptic wire, altering the manner in which domestic and foreign communications are transmitted. This technological shift had the adverse and unintended effect of requiring the government to obtain an individualized FISA court order to monitor foreign communications by non-U.S. persons. In 2008, the FISA Amendments Act established procedures for the collection of foreign intelligence on targets located outside U.S. borders. At its core, Section 702 of the act permits the attorney general and the director of national intelligence to jointly authorize the targeting of non-U.S. persons reasonably believed to be located outside the United States. The intelligence community has deemed Section 702 its most important tool in battling terrorism. However, it has also been criticized by some as an overly broad program that collects communications of U.S. citizens without sufficient legal process.



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