

Congress Extends Law Allowing Warrantless Spying on American Citizens

December 15, 2023 – The National Defense Authorization Act (NDAA) is a must-pass bill that congress debates every year. Its purpose is to provide funding for the armed forces. But this year, the NDAA contains another little tidbit which makes American citizens unwitting targets of the federal government. It extended Section 702 of the Foreign Intelligence Surveillance Act until April. That section of the law has allowed the federal government to spy on American citizens without a search warrant; something that is clearly unconstitutional.

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Section 702 was due to expire at the end of December. It is a bad piece of legislation that has somehow survived court scrutiny and which has been abused by the government. The law allows the government to collect data on non-citizens located outside of the United States. But the process that the government uses to collect that data also sweeps up information on any American citizens that communicate with the people the government is monitoring. And that data is then used by law enforcement for other purposes even though a search warrant was never obtained.

Numerous groups have been lobbying to change the law and require the government to obtain a search warrant before any data collected under Section 702 can be used for investigations of American citizens. There is even a bill in congress right now that enjoys bipartisan support that would make this a requirement. That bill is likely to make its way to the floor of the house early next year. But the NDAA vote this week means that at least for the next few months, the government is still free to spy on Americans without having to worry about pesky details like search warrants. In our view, that's a problem and it needs to get fixed.

by Jim Malmberg

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