



Statement in Support of FISA Amendments Act Section 702 Reauthorization December 5, 2017

Section 702 of the FISA Amendments Act (FAA) is due to expire December 31, 2017. The Aspen Institute Homeland Security Group urges that Congress, after careful bipartisan debate and through regular order, reauthorize Section 702 to provide continuity for our counterterrorism mission while ensuring the protection of privacy and civil liberties.

Introduced in 2008, FAA Section 702 authorizes the US Attorney General and Director of National Intelligence to collect foreign intelligence by targeting non-US persons who are reasonably believed to be outside of US borders and connected to a foreign intelligence activity. Section 702, which has been authorized under two administrations from both parties, has become a vital tool in our counterterrorism arsenal.

It is estimated that nearly twenty-five percent of current US intelligence is based on information gathered under Section 702 authorities. Public documents indicate that this trove of intelligence has been used to disrupt major plots against the US homeland, most notably Al Qaeda's attempted New York City subway bombings by Najibullah Zazi in 2009, as well as numerous plots and other terrorist activities overseas, saving countless American lives in the process.

Section 702 also addresses key concerns raised by the 9/11 Commission, chief among which was the "stove-piping" of important intelligence among agencies. Section 702 breaks down what the 9/11 Commission termed the "foreign-domestic divide" and allows foreign collection agencies to better share and communicate with their domestic counterparts so that we may apprehend would-be terrorists before they are able to strike.

Section 702 is subject to stringent oversight mechanisms to monitor compliance. In addition direct judicial oversight and to the myriad watchdog entities monitoring Section 702 activities within participating agencies, the government regularly provides updates on procedure and incidents of noncompliance to the Foreign Intelligence Surveillance (FISA) Courts and the four relevant congressional oversight committees – the Senate Select Committee on Intelligence, the Senate Committee on the Judiciary, the House Permanent Select Committee on Intelligence, and the House Judiciary Committee.

The Privacy and Civil Liberties Oversight Board (PCLOB) – an independent, bipartisan commission within the executive branch that reviews actions taken by the federal government to ensure privacy protections – conducted a comprehensive review of Section 702 in 2014. The PCLOB found that Section 702 had proven uniquely valuable to US counterterrorism efforts and that privacy protections had been reasonably designed and implemented to prevent abuse. To enhance civil liberties protections, the PCLOB proposed twenty-two policy recommendations and, in 2016, found that thirteen recommendations had been implemented, and the remaining nine were being or had been partially implemented.

The Aspen Institute Homeland Security Group firmly believes that Section 702 has been implemented in a manner consistent with our counterterrorism mission and timeless American values and should be reauthorized.

The Aspen Institute Homeland Security Group (AIHSG) is a bipartisan group of homeland security and counterterrorism experts who convene periodically to discuss these issues and to make recommendations to policy makers. The group is co-chaired by former Homeland Security Secretary Michael Chertoff and former Congresswoman Jane Harman. The full membership list is available at:

<https://www.aspeninstitute.org/programs/homeland-security-program/homeland-security-group/>