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PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

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Reasons to Support FISA Section 702 Reauthorization

BIPARTISAN HISTORY

The most successful bipartisan national security legislation in the past decade.

Initial Passage (2008)

President: **George W. Bush (Republican)**

Senate: **Democratic Majority**

House: **Democratic Majority**

First Reauthorization (2012)

CLEAN REAUTHORIZATION – NO CHANGES

President: **Barack Obama (Democrat)**

Senate: **Democratic Majority**

House: **Republican Majority**

JUDICIAL OVERVIEW

Section 702 is constitutional as written and as applied.

Reviewed and upheld by the Foreign Intelligence Surveillance Court (FISC) since the inception of the program in 2008, the U.S. District Court of Colorado (*U.S. v. Muhtorov*), the U.S. District Court for the Eastern District of New York (*U.S. v. Hasbajrami*), and most recently, the 9th Circuit Court of Appeals in the case of *U.S. v. Mohamud*, which upheld the conviction of Mohamed Mohamud for his attempt to detonate an explosive at a Christmas Tree Lighting Ceremony in Portland Oregon.

OPERATIONAL OVERVIEW

Section 702 is vital to U.S. counterterrorism efforts.

Defeat of top ISIL terrorist Hajji Iman

Before rising through the ranks to become, at one point, the second-in-command of the self-proclaimed Islamic State of Iraq and the Levant (ISIL), Hajji Iman was a high school teacher and imam. His transformation from citizen to terrorist caused the U.S. Government to offer a 7 million dollar reward for information leading to him.

The National Security Agency (NSA), along with its Intelligence Community (IC) partners, spent over two years, from 2014 to 2016, looking for Hajji Iman. This search was ultimately successful based almost exclusively on intelligence activities under Section 702.

Beginning with non-Section 702 collection, the NSA learned of an individual closely associated with Hajji Iman. The NSA used collection, permitted and authorized under Section 702, to gain intelligence on close associates of Hajji Iman. This allowed the NSA to develop a robust body of knowledge concerning the personal network of Hajji Iman and his close associates.

Over a two-year period, using the FISA Section 702 collection, the IC produced more intelligence on Hajji Iman's associates, including their location. The NSA and its tactical partners then combined this information; the Section 702 collection, which was continuing; and other intelligence assets to identify the reclusive Hajji Iman and track his movements.

Ultimately, this collaboration enabled U.S. forces to attempt an apprehension of Hajji Iman and two of his associates. On March 24, 2016, during the attempted apprehension operation, shots were fired at the U.S. forces' aircraft from Hajji Iman's location. U.S. forces returned fire, killing Hajji Iman and the other associates at the location. Subsequent Section 702 collection confirmed Hajji Iman's death.

Disruption of threat to New York City Subway (Najibullah Zazi)

In September of 2009, the NSA used Section 702 to monitor the email address of an Al Qaeda courier based in Pakistan. Through that collection, the agency intercepted emails sent to that address from an unknown individual located in the United States. Despite using language designed to mask their true intent, the message indicated that the sender was urgently seeking advice on the correct mixture of ingredients to use for making explosives. The NSA passed this information to the FBI, which used a national security letter to identify the unknown individual as Najibullah Zazi, located near Denver, Colorado. The FBI then began intense monitoring of Zazi, which ultimately led to his arrest. Zazi and one of his confederates later pled guilty and cooperated with the government, while another confederate was convicted and sentenced to life imprisonment. Without the initial tip-off about Zazi and his plans, which came about by monitoring an overseas foreign under Section 702, the subway-bombing plot might have succeeded.