

118TH CONGRESS  
1ST SESSION

# S. 3372

To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the use of authorities under such Act to surveil United States persons and to prohibit the use of information acquired under such Act in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 30, 2023

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Foreign Intelligence Surveillance Act of 1978 to prohibit the use of authorities under such Act to surveil United States persons and to prohibit the use of information acquired under such Act in any criminal, civil, or administrative proceeding or as part of any criminal, civil, or administrative investigation.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fourth Amendment  
5 Restoration and Protection Act”.

1 **SEC. 2. LIMITATION ON AUTHORITIES IN FOREIGN INTEL-**  
 2 **LIGENCE SURVEILLANCE ACT OF 1978.**

3 (a) FOREIGN INTELLIGENCE SURVEILLANCE ACT OF  
 4 1978.—

5 (1) IN GENERAL.—The Foreign Intelligence  
 6 Surveillance Act of 1978 (50 U.S.C. 1801 et seq.)  
 7 is amended by adding at the end the following:

8 **“TITLE IX—LIMITATIONS**

9 **“SEC. 901. LIMITATIONS ON AUTHORITIES TO SURVEIL**  
 10 **UNITED STATES PERSONS AND ON USE OF IN-**  
 11 **FORMATION CONCERNING UNITED STATES**  
 12 **PERSONS.**

13 “(a) DEFINITIONS.—In this section:

14 “(1) PEN REGISTER AND TRAP AND TRACE DE-  
 15 VICE.—The terms ‘pen register’ and ‘trap and trace  
 16 device’ have the meanings given such terms in sec-  
 17 tion 3127 of title 18, United States Code.

18 “(2) UNITED STATES PERSON.—The term  
 19 ‘United States person’ has the meaning given such  
 20 term in section 101.

21 “(3) DERIVED.—Information or evidence is ‘de-  
 22 rived’ from an acquisition when the Government  
 23 would not have originally possessed the information  
 24 or evidence but for that acquisition, and regardless  
 25 of any claim that the information or evidence is at-  
 26 tenuated from the surveillance or search, would in-

1       evitably have been discovered, or was subsequently  
2       reobtained through other means

3       “(b) LIMITATION ON AUTHORITIES.—Notwith-  
4       standing any other provision of this Act, an officer of the  
5       United States may not under this Act request an order  
6       for, and the Foreign Intelligence Surveillance Court may  
7       not under this Act order—

8               “(1) electronic surveillance of a United States  
9       person;

10              “(2) a physical search of a premises, informa-  
11       tion, material, or property used exclusively by, or  
12       under the open and exclusive control of, a United  
13       States person;

14              “(3) approval of the installation and use of a  
15       pen register or trap and trace device to obtain infor-  
16       mation concerning a United States person;

17              “(4) the production of tangible things (includ-  
18       ing books, records, papers, documents, and other  
19       items) concerning a United States person; or

20              “(5) the targeting of a United States person for  
21       the acquisition of information.

22       “(c) LIMITATION ON QUERIES OF INFORMATION  
23       COLLECTED UNDER SECTION 702.—Notwithstanding any  
24       other provision of this Act, an officer of the United States  
25       may not conduct a query of information collected pursuant

1 to an authorization under section 702(a) using search  
2 terms associated with a United States person.

3 “(d) LIMITATION ON USE OF INFORMATION CONCERNING UNITED STATES PERSONS.—

5 “(1) DEFINITION OF AGGRIEVED PERSON.—In  
6 this subsection, the term ‘aggrieved person’ means a  
7 person who is the target of any surveillance activity  
8 under this Act or any other person whose commu-  
9 nications or activities were subject to any surveil-  
10 lance activity under this Act.

11 “(2) IN GENERAL.—Except as provided in para-  
12 graph (3), any information concerning a United  
13 States person acquired or derived from an acquisi-  
14 tion under this Act shall not be used in evidence  
15 against that United States person in any criminal,  
16 civil, or administrative proceeding or as part of any  
17 criminal, civil, or administrative investigation.

18 “(3) USE BY AGGRIEVED PERSONS.—An ag-  
19 grieved person who is a United States person may  
20 use information concerning such person acquired  
21 under this Act in a criminal, civil, or administrative  
22 proceeding or as part of a criminal, civil, or adminis-  
23 trative investigation.”.

1           (2) CLERICAL AMENDMENT.—The table of con-  
 2           tents preceding section 101 is amended by adding at  
 3           the end the following:

“TITLE IX—LIMITATIONS

“Sec. 901. Limitations on authorities to surveil United States persons and on  
 use of information concerning United States persons.”.

4           (b) LIMITATION ON SURVEILLANCE UNDER EXECU-  
 5           TIVE ORDER 12333.—

6           (1) DEFINITIONS.—In this subsection:

7                   (A) AGGRIEVED PERSON.—The term “ag-  
 8                   grieved person” means—

9                           (i) a person who is the target of any  
 10                           surveillance activity under Executive Order  
 11                           12333 (50 U.S.C. 3001 note; relating to  
 12                           United States intelligence activities), or  
 13                           successor order; or

14                           (ii) any other person whose commu-  
 15                           nications or activities were subject to any  
 16                           surveillance activity under such Executive  
 17                           order, or successor order.

18                   (B) PEN REGISTER; TRAP AND TRACE DE-  
 19                   VICE; UNITED STATES PERSON.—The terms  
 20                   “pen register”, “trap and trace device”, and  
 21                   “United States person” have the meanings  
 22                   given such terms in section 901 of the Foreign

1 Intelligence Surveillance Act of 1978, as added  
2 by subsection (a).

3 (2) LIMITATION ON ACQUISITION.—Where au-  
4 thority is provided by statute or by the Federal  
5 Rules of Criminal Procedure to perform physical  
6 searches or to acquire, directly or through third par-  
7 ties, communications content, non-contents informa-  
8 tion, or business records, those authorizations shall  
9 provide the exclusive means by which such searches  
10 or acquisition shall take place if the target of acqui-  
11 sition is a United States person.

12 (3) LIMITATION ON USE IN LEGAL PRO-  
13 CEEDINGS.—Except as provided in paragraph (5),  
14 any information concerning a United States person  
15 acquired or derived from an acquisition under Exec-  
16 utive Order 12333 (50 U.S.C. 3001 note; relating to  
17 United States intelligence activities), or successor  
18 order, shall not be used in evidence against that  
19 United States person in any criminal, civil, or ad-  
20 ministrative proceeding or as part of any criminal,  
21 civil, or administrative investigation.

22 (4) LIMITATION ON UNITED STATES PERSON  
23 QUERIES.—Notwithstanding any other provision of  
24 law, no governmental entity or officer of the United  
25 States shall query communications content, non-con-

1        tents information, or business records of a United  
2        States person under Executive Order 12333 (50  
3        U.S.C. 3001 note; relating to United States intel-  
4        ligence activities), or successor order.

5            (5) USE BY AGGRIEVED PERSONS.—An ag-  
6        grievd person who is a United States person may  
7        use information concerning such person acquired  
8        under Executive Order 12333, or successor order, in  
9        a criminal, civil, or administrative proceeding or as  
10       part of a criminal, civil, or administrative investiga-  
11       tion.

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