

July 20, 2017

The Honorable Dana J. Boente
Acting Assistant Attorney General for National Security
U.S. Department of Justice
Washington, DC 20530

Dear Acting Assistant Attorney General Boente:

I have long been concerned about warrantless “backdoor” searches for information about Americans, particularly when the searches are conducted through communications that have been collected without individual warrants and when the amount of those communications is potentially very large. I am therefore writing to request information about “backdoor” searches for Americans through communications collected by the Intelligence Community pursuant to Executive Order 12333.

On January 12, 2017, the ODNI released Procedures for the Availability or Dissemination of Raw Signals Intelligence Information by the National Security Agency Under Section 2.3 of Executive Order 12333 (Raw SIGINT Availability Procedures), which were approved by the Attorney General. According to the declassified and redacted Raw SIGINT Availability Procedures, Section IV(C)(2), elements of the Intelligence Community may intentionally search for communications “reasonably likely to be to, from, or about a U.S. person or a person located in the United States... for the purpose of targeting a U.S. person or a person in the United States” only if the Attorney General approves, and if: “(i) [REDACTED]; (ii) the person is an agent of a foreign power or an officer or employee of a foreign power; and (iii) the purpose of the selection is to acquire significant foreign intelligence or counterintelligence information.”

Please provide the following information:

1. How many times, in each of the calendar years 2011-2016, has the Attorney General provided this approval?
2. Can the Intelligence Community conduct these searches “for the purpose of targeting a U.S. person or a person in the United States” without an individual warrant?
3. What limitations and approval requirements would apply to searches for communications that are reasonably likely to be to, from, or about a U.S. person or a person located in the United States if the purpose of the search is not to “target” that person?

Concerns about warrantless “backdoor” searches for information about Americans are among the reasons I have repeatedly asked the Intelligence Community to publish an estimate of the number

of Americans whose communications have been collected under Section 702 of the Foreign Intelligence Surveillance Act (FISA). Concerns about these searches under Section 702 are also why the Intelligence Community now publishes data on the number of these searches, with the notable exception of searches conducted by the FBI.

Executive Order 12333 poses similar, if not greater concerns, given the lack of public awareness of the breadth of that collection, extremely limited oversight, and the vagueness of the procedures governing collection and use. For these reasons, I believe the public has the right both to clarity with regard to those procedures and data related to the frequency with which Americans and individuals in the United States are the subject of these searches.

Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
United States Senator

CC: The Honorable Daniel R. Coats, Director of National Intelligence