

NATIONAL SECURITY

FBI repeatedly misused surveillance tool, unsealed FISA order reveals

BY JARED GANS - 05/19/23 4:06 PM ET

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FILE - An FBI seal is seen on a wall on Aug. 10, 2022, in Omaha, Neb. (AP Photo/Charlie Neibergall, File)

The FBI repeatedly misused a surveillance tool in searching for foreign intelligence to use in cases pertaining to the Jan. 6, 2021, insurrection and 2020 racial justice protests, according to an April 2022 court order publicly released Friday.

The order, which was released by the [U.S. Foreign Intelligence Surveillance Court](#), is significantly redacted but reveals thousands of violations of Section 702 of the Foreign Intelligence Surveillance Act, which allows the federal government to collect communications between certain targeted foreign individuals outside the U.S.

The court has legal oversight of the U.S. government's espionage activities.

but the release could create obstacles as the FBI seeks to have its warrantless surveillance program receive reauthorization from Congress before it expires at the end of the year. It could also expose the agency to heightened scrutiny amid recent GOP attacks on its activities.

The Office of the Director of National Intelligence released the report Friday to promote transparency, but members of Congress originally received the order last year.

The FBI's program maintains a database of intelligence that U.S. agencies can search, but the FBI must have a foreign intelligence purpose or be looking for evidence of a crime to conduct a search.

The order shows the FBI turned to the database to look into someone it believed was present at the Capitol during the Jan. 6, 2021, attack, an inquiry that did not have any "analytical, investigative or evidentiary" purpose.

An analyst conducted 13 searches of people who were suspected of participating in the riot to see whether they had any foreign ties, but the Justice Department later determined that it did not meet the standard required for a search.

FBI officials also searched for information on more than 100 people arrested amid the racial justice protests in June 2020. The order states the FBI said it expected the searches to yield foreign intelligence, but the reasoning is mostly redacted.

Top FBI officials, speaking on condition of anonymity, said most of the violations were because of confusion surrounding the standards among workers. They said the agency has made significant changes — like requiring training and overhauling its computer system so officials need to type in a justification for a search instead of clicking on preset options.

One official said an internal audit showed the compliance rate increasing from 82 percent before the changes to 96 percent afterward.

A senior FBI official told The Hill in a statement that the errors described in the order are "completely unacceptable," as FBI Director Christopher Wray has said. The official said the changes that the bureau has implemented are designed to ensure the errors do not happen again.

time,” they said.

The court did note in its opinion that it is “encouraged by the amendments to the FBI’s querying procedures.”

It said it had not had an opportunity to fully review the FBI’s updated practices after the changes were implemented but plans to review their efficacy in the future.

The FBI has come under intense criticism from some conservative detractors who have alleged political motivation and improper practices have guided the agency, instead of pursuing equal justice under the law.

A report from Special Counsel John Durham issued Monday after a four-year investigation revealed the FBI did not have sufficient evidence to open an investigation into ties between former President Trump’s 2016 presidential campaign and Russia. The report slammed the agency for how it initiated and conducted the investigation.

House Republicans said following the report’s release that they expect it to back up their arguments that the FBI and other law enforcement agencies have been used as weapons against certain political enemies of the government.

“Where’s the accountability for this? Who’s going to be held accountable? These are the questions we’re going to continue to ask,” House Majority Leader Steve Scalise (R-La.) said.

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Republicans also sparred with Democrats on Thursday during a hearing of the House Judiciary Select Subcommittee on the Weaponization of the Federal Government, during which three FBI agents said they faced retaliation for acting as whistleblowers to reveal bias dominating in the agency.

Trump has also called for defunding certain agencies, like the FBI, “until they come to their senses” based on the accusations that Democrats have “weaponized” them to use

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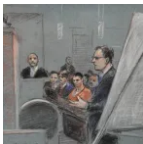
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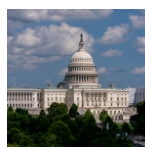
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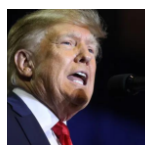
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