months? Do I want to keep being vaccinated? Tell me what the statistics show, and I will make a rational decision based on that.

The CDC won't release this because the CDC, essentially, have become salesmen for Big Pharma. They want you to get vaccinated.

Big Pharma is complaining they are not making enough money on the vaccine because you are not rushing out to get another vaccine.

Wouldn't you want to know: Am I going to get sick and die if I already had COVID twice and I have already had two vaccines?

They have the statistics. So all I ask for is there ought to be a little more consideration for freedom. And I bring this up for the Senate pages because I do care about their medical freedom. And I care about their right to be left alone. And this is not the end of this debate.

The PRESIDING OFFICER. The Senator from West Virginia.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MANCHIN. Madam President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 108, Nickolas Guertin, to be an Assistant Secretary of the Navy; that the Senate vote on the nomination without intervening action or debate; the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the nomination.

The legislative clerk read the nomination of Nickolas Guertin, of Virginia, to be an Assistant Secretary of the Navy.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Guertin nomination?

The nomination was confirmed.

LEGISLATIVE SESSION

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2024—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. The Senate will now resume legislative session.

Mr. MANCHIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MERKLEY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. BUTLER). Without objection, it is so ordered.

The Senator from Oregon.

TSA FACIAL RECOGNITION

Mr. MERKLEY. Madam President, a question: Do we want a government surveillance state in the United States of America?

Movies like ''Gattaca,'' where citizens are tracked through their DNA, or ''Minority Report,'' where citizens are tracked through their retina scan, warn us what can happen under a fictional government surveillance state. But we don't need to depend upon movies and fiction to understand what a surveillance state means because we have, right now, a real-life government surveillance state in China. China's government surveillance state already tracks more than 1 million Uighur citizens through facial recognition.

As cochair of the Congressional-Executive Commission on China, I have had a front-row seat on how China uses facial recognition technology to track and to enslave a million people. And I have watched with some alarm as the U.S. Government has begun to expand its own use of facial recognition technology tied to databases, especially because there has never been a debate, let alone a vote, here in the U.S. Senate about whether or not we want to have a national facial recognition system controlled by the government. We have never had a debate related to the risks that that involves in terms of its potential threat to our freedom and to our privacy.

So I want to force there to be such a debate. I want to force there to be a vote. A government with power to track us everywhere we go is a real threat to privacy, a real threat to freedom. That is why Senator JOHN KENNEDY and I have introduced the bipartisan Traveler Privacy Protection Act to curtail the use of facial recognition technology by TSA.

Step-by-step, slowly, steadily, TSA is expanding its system of facial recognition technology. And let's just take a look at what that looks like. In 2018, TSA began with a 3-week test of facial recognition where passenger photos and data were deleted immediately. Then, in 2019, they did a second test, but they allowed the photos and data to be stored for up to 6 months. By 2020, we are talking about the ability by the TSA to hold photos and data for up to 2 years. In 2021, we are now talking about TSA beginning to match facial recognition photos against the Customs and Border Protection database—all of these steps taking place really with no recognition by Americans that this program is expanding in this fashion, certainly no discussion here in the Senate committees and Senate floor about this steady expansion. Ultimately, what the TSA is aiming at is a world in which your face is your driver's license; your face is your passport. Well, that means a massive database and massive tracking of Americans wherever they go.

This summer, the TSA announced plans to expand from the current 25 airports where facial recognition technology is used to 430 airports across the country. So no matter where you live, this system of tracking citizens is coming to your community.

In fact, as you see the geographic expansion, we are also seeing that technological expansion. TSA Administrator David Pekoske said in April of this year, a few months ago, at the South by Southwest Conference:

> Eventually we will get to the point [where] we will require biometrics across the board.

What he is really saying here is, right now, we are allowing some opt-out from the use of facial photos at the airport—and I will have more to say about that in a moment. It is very difficult to exercise that opt-out, but in the near future, the opt-out is going to go away. Everyone will have to be scanned everywhere you go in the TSA system.

Requiring facial recognition should set off alarm bells for everyone.

Once you have built the infrastructure of the database and the cameras, then it is easy and tempting for the government to use that infrastructure to track you in the name of security. I am reminded of Benjamin Franklin's warning that ''those who would give up essential Liberty to purchase temporary Safety, deserve neither Liberty nor Safety.''

I know there will always be a story about some bad guy hiding out in some town somewhere who gets caught on a camera and might not have gotten caught otherwise, but allowing the government to know where you are at all times is an enormous price to pay. It is a price paid in the loss of privacy and the loss of freedom. And that is why it needs to be debated, and that is why we need to put a brake on this system until we consciously lay out what we consider acceptable for the use of such technologies. We really don't know how a future government will use or misuse this technology, but we do know how it is misused in nations like China.

You know, passengers, as you go to the airport, are confronting a long line in which they see a lot of signs that I will show you in a moment. But what they don't understand is when they get to the front of the line, the TSA is going to go like this, directing you to stand in front of the camera. Many of us in this Chamber have experienced that because when you travel through Reagan National, that is exactly what happens every day, every week.

I was pretty surprised to see that show up with no signage saying that this was an opt-in program, which is the way the TSA had originally described it. But they changed it to an opt-out program, again, without clear debate or laws here in our Chamber being discussed or being passed.

As you stand in the line—these are pictures I have taken in previous trips through Reagan National. The things they want you to know have these big signs like this: ''You are entering an

area where all persons and property are subject to additional screening.'' OK. Good to know. You might trigger an alarm or have additional screening or, hey, you got any questions or comments? Here is how you reach us for live customer service assistance—or firearms, including shotgun chokes, are not allowed through security checkpoints. All firearms must be declared.

That is fine. These are things that they want you to know. There are actually seven different signs at Reagan National as you stand in line, but there is no sign saying that when you get to the TSA checkout point, you have an option to check out—to opt out of the program—no clear signs like this.

So I brought the head of TSA in and had a conversation about the fact that they are not informing citizens, and as a result of that, there is now some information—some information but not adequate information.

Now, here is a chart or a picture that I took. As you are directed here to the checkout, and you can see the driver's license—the sign is set sideways so nobody can read it until the moment that you are stepping up to the carousel. By then, you are all focused on doing what the guard is telling you to do, what the TSA agent is telling you to do.

I found this a little humorous that they put out these signs—after I gave them a hard time—but they placed them deliberately so people couldn't see them.

Let's take a look at what that old sign says: ''Self-service biometric identity verification technology paving the path for a safe and secure travel experience.''

Well, these type of signs are very different than the signs I just showed you. They are very detailed, and this is only when you actually reach the kiosk. Nobody has the chance to read this entire thing and realize what it is about. It doesn't say ''facial recognition'' at the top. It doesn't say: ''Remember, you have two options here'' in nice big print.

You have embedded in this—there are some details. Right down here it says ''Photo capture is optional,'' but you have to read through this and understand what it is talking about. Meanwhile, TSA is saying: Get in front of the camera. So that is really not a sufficient way of educating citizens and having a true opt-out or an opt-in program.

Now they have got a new sign. Now, this one also doesn't say ''facial recognition.'' And if you look down here to see what is highlighted: ''Use your physical ID. Use your eligible digital ID.''

These are not about opting out. No, they are about how to actually use facial ID. But there is a little tag down here at the bottom: ''If you decide to opt out of facial matching, notify the officer.'' Well, nobody, in the 2 seconds or 3 seconds you have as they motion you to step forward, where you can actually see this sign, is going to read this whole document and go: Oh, what is this all about—hidden at the bottom?

I mean, it is completely clear the TSA has no intention of actually having an opt-in program, and they have no intention of truly having an opt-out program because they are hiding all the information about the fact that you have that right.

Now, because of my complaints to the TSA—because of my advocacy—I said: You know, you need to have signs on the way in that alert people, and then you need to have a sign by the camera. Well, they didn't do any signs on the way in, but they did do a little sign right by the camera at the last second. It says: ''You may opt out of facial ID validation,'' and in smaller print, ''Please inform the TSA officer if you do not want the camera used. See additional information on the blue signs nearby.'' So they refer you over to read a more complex document.

Again, none of this makes sense if you want to give people real information because this is the last second as the officer is pointing to you to step in front of the camera.

The sign looks pretty large in this chart, but it is actually a little kind of 5 by 8 sign, again, to my point.

This sign also says: ''Your photo and limited biographic information will be deleted after your transaction.'' Well, if you hear that—''Your photo and limited biographic information will be deleted after your transaction''—it sounds like it will be deleted, like, immediately.

But what is TSA's real policy? That they can retain your data for 2 years. That is a big difference between a sign that implies that it is deleted immediately and the fact that they are going to keep your data in a database for up to 2 years.

It is outrageous that TSA continues to shuttle people through its facial recognition system and not tell people, clearly, it is optional and not tell people they are holding onto their biometric data. Worse, the agents are not at all clear about the rules of opting out, because I have repeatedly opted out and have tried to opt out.

And so I have the experiences to share with you. Here is what happens:

You get 4 or 5 feet out, waiting for the next person to leave, because there is a line that says: Don't go there. Then they mushroom you forward. The TSA immediately points to the camera, and on the far side of the camera is where you have to put your driver's license in, forcing you to step in front of the camera.

So you say: I am choosing to opt out, Officer.

And they say: Get in front of the camera—because they are not really familiar with what that means because nobody is informed; so nobody is doing it.

Then you say: No. There is an option to opt out, and I am choosing to opt out.

Then you have to explain it to the TSA agent: So I am giving you my driver's license, and I will even put it into that machine, but I am not stepping in front of the camera, which means you have to reach under the machine like this and, like, slide it in there. Then you have got to take it out, bring it back, hand it to the officer. They look at the photo on the screen that has been taken of your driver's license. They compare it to your face—all very good. Or they say: You stand over there.

So twice, of the several times I have attempted to opt out, I have been directed to stand over there, in a rather hostile fashion, while they have gone and found somebody to address the fact that this passenger is refusing to do what they say and step in front of the camera. Eventually, it gets resolved, but the first time, it included: And you, sir, are going to hold everyone up at this airport.

Well, thank you very much. It is supposed to be possible just to opt out and hand you my driver's license.

Stand over there, sir. No, don't move—all of which I would be happy to share with you on a recording because it is legal to take photos when you are in line at the TSA.

This is not OK. The massive expansion of state surveillance, which will create a national surveillance system here in America, with the potential for great abuse by the government, has to be debated here, has to be addressed here in the Senate Chamber. We need to put a halt on this expansion of this technology, and we need to do it soon.

Let me be clear: The legislation that Senator JOHN KENNEDY and I are proposing would not affect Customs and Border Protection. So don't tell me that some terrorists who will come into the country would have been caught because of facial recognition technology but for our not having it. What I am really talking about is creating a surveillance state—or stopping a surveillance state—inside the United States of America, not at the borders. What the legislation would do is guarantee that you could move about freely without being tracked everywhere by the government.

Let me also note that the TSA has been refusing to share their error rate from their initial studies. In many facial recognition systems, there is a lot higher error rate for people with brown or black skin, but they won't share that data.

They just say: Oh, it is accurate.

They say: It only has a 3-percent error rate.

Well, I would sure like to see the breakdown on that. A 3-percent error rate means they have 68,000 people a day who are erroneously addressed through this computer system.

Then they try to say: Well, this will be a more efficient system. It will be faster.

They still have to have the agent right there. I have watched it go faster

for individuals—TSA agents—who are both grabbing the driver's license and then comparing it to the face than it does in the photo system.

So they will make arguments, but I think we need to thoroughly examine those arguments. They will make arguments about a slight increase in security, and they will make arguments about a slight increase in efficiency—but at what cost to our privacy? At what cost to our freedom? Are those arguments actually even valid? They won't release the data.

I don't want America to be a surveillance state. I don't want it to be like the surveillance state with DNA portrayed in ''Gattaca.'' I don't want it to be like the surveillance state displayed with irises in the ''Minority Report'' movie. I don't want it to become an American surveillance state like China, using facial recognition. In China, that facial recognition is used to track and control their citizens, including the enslavement of more than a million ethnic Uighurs. I don't want America to become a surveillance state because we ignore the issue and let it just gradually expand, never debating it and never voting on it.

So I urge my colleagues—and Senator KENNEDY and I will be encouraging folks—to join us on this bill, the Traveler Privacy Protection Act. Let's say no to this steady expansion without a debate and without a vote—the steady expansion of the American Government surveillance state.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—EXECUTIVE CALENDAR

Mr. DURBIN. Madam President, I come to the floor again to discuss two U.S. attorney nominations that have been on the calendar for weeks: Rebecca Lutzko, nominated to be U.S. attorney for the Northern District of Ohio, and April Perry, nominated to serve as U.S. attorney for the Northern District of Illinois.

On several previous occasions, I have had to come to the floor to request unanimous consent for the Senate to take up these noncontroversial, bipartisan nominations and confirm these law enforcement nominees. Each time I have come to the floor, asking for this, the junior Senator from Ohio has objected. He says that he ran for office to ''[f]ight the criminals—not the cops.'' It turns out to be a hollow promise when he is holding up criminal prosecutors, at a professional level, in two major parts of the United States—one of them in his own State.

Our communities desperately need top Federal prosecutors in place. Interested in stopping fentanyl? I am. Thousands of people are dying. Well, who is going to prosecute those cases? The U.S. attorneys will—93 of them across the United States—but you can't prosecute the case if you don't have the U.S. attorney there to lead the effort and to coordinate the effort with other branches of government. You can have an interim in there, and I am sure that person will do as good a job as he can, but it isn't like having the permanent person that you need as a U.S. attorney. Here we have two who have been chosen by the junior Senator from Ohio to stop—one from his own State.

U.S. attorneys lead the Nation's efforts to prosecute violent criminals and protect our communities from violence, terrorism, and more. The U.S. attorney for the Northern District of Ohio is no exception. While the entire Nation has been impacted by the opioid epidemic, Ohio has been hit harder than almost any other State. Over the course of 1 year—from April 2022 to April 2023—more than 5,000 Ohioans lost their lives to drug overdoses. That number is shocking—5,000 in 1 year. On average, every day, 14 Ohio families lose a loved one to drugs.

The U.S. attorney for the Northern District of Ohio could, as we speak, be tackling this drug crisis with community stakeholders, like the Toledo Metro Drug Task Force. Instead, her nomination has been languishing on the calendar here in the Senate for months because one Senator, the junior Senator from Ohio, has promised, I guess, former President Donald Trump that he would do his best to get even with the Department of Justice for even considering holding Donald Trump responsible for his conduct. It would be laughable if it weren't so damned dangerous.

Because Senator VANCE is not just harming my State and is not just harming his own State, the precedent he is setting will undermine public safety across the entire Nation for years to come.

As I have stated before, the Senate has a long history of confirming U.S. attorneys by unanimous consent. We don't even have rollcall votes. When it came time for the Trump U.S. attorneys, no votes were required. Democrats—in control for most of that period of time—said to the President and his administration: You pick the U.S. attorneys. That is your right as President. The junior Senator from Ohio does not agree with that.

Before President Biden took office, the last time the Senate required a rollcall vote on a U.S. attorney was in 1975. At the beginning of a new Presidential administration, it is customary for all the U.S. attorneys to resign en masse and for the new President to select their replacements. That is the ordinary course of business. As we have learned in the Senate, you can change that if you want to and run the risk of not bringing someone new to the position if it is that important. That is why, during the Trump administration, 85 of President Trump's U.S. attorney nominees moved through the Judiciary Committee.

Senate Democrats—Democrats—allowed Trump's nominees—every single one of them—to be confirmed by unanimous consent, many of whom we would not have chosen personally, but that was the tradition that we held to. It would not have been realistic to force a floor time debate on every single one of those nominees and still expect 85 U.S. attorneys to be confirmed and be on the job in a timely manner.

That tradition and the logic behind it obviously escapes the junior Senator from Ohio. So we respected our colleagues, and we respected the need for Senate-confirmed leadership in U.S. Attorney's Offices. The Democrats put public safety and the needs of law enforcement ahead of the obvious politics of the day. But now the Senator from Ohio is setting an unfortunate standard as he is putting us on a path of requiring cloture and confirmation votes for every U.S. attorney nominee—something everyone here knows is not feasible.

Does this sound reminiscent of another Republican strategy from another Republican Senator in the State of Alabama? He held up, I believe, 400 military promotions for months at a time. He was angry about a new policy in the Department of Defense after the Dobbs decision. To protest that, he literally put a brick on 400 nominees for promotion in the U.S. military. Finally—finally—2 weeks ago, he relented. We still have 11 to take care of.

To think of the hardship caused to those individuals and the fact that we didn't have leadership when we should have had for our national security is an indication to me of how this strategy of ''just stop the train; I want the world to get off'' is not a sensible one.

So what will happen in the future when, inevitably, dozens of U.S. attorneys are left to function without Senate-confirmed leadership? Public safety will suffer, and we are setting a terrible precedent. To get angry with the administration and to try to require a rollcall vote—at least one, maybe two—on each nominee is just unnecessary; it is not logical, and it doesn't follow the precedent of the Senate—all because one Senator has decided that, because Donald Trump is facing indictments and prosecution in various parts of the United States, he wants to protest by hurting the selection of U.S. attorneys in his own home State of Ohio and the State of Illinois.

We have before us two highly qualified nominees to lead their respective U.S. Attorney's Offices. Until we confirm them, law enforcement agencies in both Illinois and Ohio will be held back from doing their best to fight crime and to end our drug crisis in this country.

When the Senator from Ohio was asked why he was doing this and what his goal was, he was very explicit:

I will hold all DOJ nominations. . . . We will grind [the Justice Department] to a halt.

June 13, this year.

I can tell you, we just had a hearing—as you know, as a member of the committee—with the Director of the FBI. He talked to us about the battles he is fighting, the terrorism threats across America since the October 7 attack in Israel. He sees blinking lights, he says, in every direction of danger to the United States.

Are we going to have the Department of Justice on the job, with professionals doing the best they can, or are we going to let it grind to a halt? ''Grind to a halt''—those were his words. I hope we have some common sense in this situation, and I hope we do it right now.

Madam President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the Republican leader, the Senate proceed to executive session to consider the following nominations: Calendar Nos. 314 and 315; that there be 2 minutes for debate equally divided in the usual form on each nomination; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on the nominations in the order listed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; and that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

The Senator from Ohio.

Mr. VANCE. Madam President, reserving the right to object and with respect to my colleague from Illinois, my argument here is very simple, and it is this: The Department of Justice, under Joe Biden and under Merrick Garland's leadership, has become a weapon for political intimidation as opposed to an instrument to prosecute justice in this country.

My colleague from Illinois says that Donald Trump has asked me to do this. He, of course, has no evidence for this fact, and I have never had a conversation with President Trump to this effect.

What I have said publicly and privately and to anyone who will listen is that the Department of Justice should be about justice and not about politics.

This hold policy, which covers two nominees right now and maybe a third coming up to the Department of Justice, is simply to say that this cannot go on. We are a republic, not a banana republic. So long as Merrick Garland prosecutes not just Donald Trump but any number of political opponents—from Catholic fathers of seven to parents protesting peacefully at their school board meetings—so long as the Department of Justice focuses on citizens exercising their rights rather than criminals who are violating the rights of others, I will continue to object, and I do object.

The PRESIDING OFFICER. The objection is heard.

The Senator from Illinois.

Mr. DURBIN. Madam President, I keep hearing this argument over and over again—weaponizing the Department of Justice. His complaint is that the Department of Justice has decided that Donald Trump, an American citizen, should be held responsible for his own conduct. Why would you argue that any citizen in this country is above the law?

I didn't choose to make that strategy or even support it publicly, but I can't argue with the decision by the attorney general, nor the State of New York, nor the State of Atlanta, who believe that Donald Trump did things that he should be held accountable for. He will have his day in court, like every American citizen. He should not be put in some saintly status that he can't be touched.

To think that in order to show my protest to any policy, I want to see the Department of Justice of the United States grind to a halt—does the Senator have any idea what he just said? To think that we would stop the court proceedings, we would stop the prosecutions, we would stop the war against drugs, we would stop the war against terrorism, have them grind to a halt because I am mad that the former President is being, in my mind, harassed by this administration—this is irresponsible conduct, it is dangerous conduct, and it is a terrible precedent to set in the Senate that we would say to any individual: You have the power to stop a nominee who has been found to be acceptable on a bipartisan basis through the Senate Judiciary Committee.

You know as well as I do that these nominees come before the committee, and both staffs, Democrat and Republican, tear through them to look for any flaws or any reason to stop the nominations.

These two nominees in Ohio—his home State—and in Illinois both passed the test, the bipartisan test, and they were on their way to do a job for America and make it a safer place to live, and he stops them because he doesn't like the way Donald Trump is being treated. Is that a fact? He admits it on the floor of the Senate.

It is hard to explain to the Senator—he is new to the Senate, relatively new to the Senate—that some of the traditions in the Senate are worth keeping.

The fact that we gave 85 U.S. attorney nominees to Donald Trump as Democrats and did it without a single record vote is an indication we were trying to help his administration do their job. Why won't the Senator from Ohio let the Biden administration do their job and keep his own State safe?

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

UNANIMOUS CONSENT REQUEST—S. 1819

Mr. MARKEY. Madam President, 2 weeks ago, our Nation surpassed 38 mass murders—the highest level since 2006. Since then, at least three additional mass murders have occurred. This harrowing record serves as another forceful call to action for Congress. We must act today to end gun violence. That is why I rise today in support of my 3D Printed Gun Safety Act.

I rise for those festival-goers in Las Vegas. I rise for patrons of Pulse nightclub and Club Q. I rise for the children in Sandy Hook, Uvalde, and Nashville. I rise for Mainers in Lewiston. I rise for all those victims whose names are not well known and whose stories do not dominate the airwaves. I rise, I rise, and I rise again.

There is no conceivable reason to further delay another gun violence prevention vote in the U.S. Senate. Senate Republicans are blocking the will of the American people and exposing Americans to unnecessary bloodshed.

This month, the Gun Violence Archive reported just under 40,000 gun-related deaths in the United States this year, including over 22,000 suicides. Additionally, over 1,500 minors under the age of 18 have been fatally shot.

I rise today for the 40,000 families whose lives are forever changed because Republicans refuse to take action on gun violence—40,000 families.

This Congress unfortunately has no shortage of brutally tragic stories to remind us that the most vulnerable among us will continue to suffer from firearm violence if we fail to act. We need to act now—and we should have acted a long time ago—to pass commonsense legislation that keeps guns out of dangerous hands.

There is a long list of commonsense bills that Democrats have introduced this Congress to prevent gun violence, but Republicans have not allowed a vote on a single bill. None of the bills have ever seen debate on the floor of the U.S. Senate. Just last week, Republicans blocked votes on a bill requiring safe storage of firearms and on a background checks bill, which is supported by 9 out of 10 Americans.

Experts continue to point to the availability of guns as the primary cause of the rise in gun violence in our country. It is unconscionable for my colleagues on the other side to continue to ignore this reality.

We are now faced with a terrifying new source of gun violence: 3D-printed firearms. 3D printing is an easy, quick, and inexpensive method for people to obtain a firearm who otherwise would be prohibited from doing so. Middle schoolers with access to their school's computer labs could print them. Convicted domestic abusers could print them.

It is not only 3D-printed guns but also gun components, 3D-printed components, including silencers, scopes, and braces, which increase lethality for those who are harmed by them, and 3D-

printed components can turn a semi-automatic firearm into an automatic firearm.

These guns present modern and unique challenges. Some 3D-printed guns are entirely plastic and evade metal detectors. This increases safety risks in public venues secured with metal detectors, such as airports, courts, concert halls, and government buildings. And 3D-printed guns are not typically serialized and therefore are not readily traceable. That increases the burden on local law enforcement as they work to solve cases across our country.

It is imperative that we put an end to the proliferation of these deadly weapons. So how can we do it? Well, we need to stop this problem at the source: readily available online blueprints.

Currently, the online sharing of blueprints is legal in all but two States in our country. My bill, the 3D Printed Gun Safety Act, would change that. My bill would make it unlawful to intentionally distribute 3D printer files that can produce firearms or any related parts. This change is common sense and constitutional, and it will save lives. A world where 3D printing instructions for firearms are freely accessible is a world where anyone can have a machine gun printed out in minutes.

I understand and appreciate that we do not all share the same views on gun violence prevention, but thousands of Americans have already died this year due to Republican obstructionism on sensible gun violence prevention reform.

We must end the stranglehold the National Rifle Association—the NRA—has on congressional Republicans. It is time to make NRA stand for ''not relevant anymore'' in American politics. That is what has to happen. That is the revolution we need in this country.

I thank Senator MENENDEZ and Representative MOSKOWITZ for their partnership. I thank Brady, Everytown, Giffords, and March for Our Lives for their advocacy. I thank the many organizations and organizers on the ground who are in every State helping families and communities to heal from the devastating impacts of gun violence. I thank my Democratic colleagues, who have staunchly supported every action that has come to this floor in an attempt to put an end to the scourge of gun violence.

Gun violence is tearing apart Republican and Democratic communities alike in this country. Stand with us on the right side of history. Today, we can start the long process that we are going to need of national healing right here in this Chamber.

I ask my colleagues for their support for my bill today.

Madam President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of S. 1819, the 3D Printed Gun Safety Act of 2023, and that the Senate proceed to its immediate consideration. I further ask consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

The Senator from North Carolina.

Mr. BUDD. Madam President, reserving the right to object, I oppose S. 1819 because it is a solution in search of a problem.

First and foremost, people have made their own firearms since before America's founding. This is not a new issue in need of emergency legislation.

Second, firearms manufacturing is already very highly regulated. For example, the 1988 Undetectable Firearms Act made it unlawful to manufacture, import, sell, ship, deliver, possess, transport, or receive a firearm that cannot be detected by a conventional metal detector.

And even if someone violates this law using 3D technology, metal ammunition cartridges and the bullets themselves would still be detectible.

Third, 3D printing of firearms is an extremely technical process that requires high-level technology and an extensive time commitment, not to mention an extreme financial cost. Simply put, 3D manufacturing of firearms would be an entirely ineffective way for a criminal to obtain a firearm.

Fourth, this bill would be an unconstitutional infringement on the First Amendment speech rights of law-abiding hobbyists and firearms enthusiasts who simply want to share specifications about unique or antique firearms.

At the end of the day, we don't have a device problem; we have got a people problem. And this bill represents another attempt by some to use fear and misunderstanding to layer more Federal regulations on an already highly regulated industry.

If we share the goal of keeping our fellow citizens safe, a better approach would be to enforce the laws that are already on the books and to fully fund and support the police and reverse the soft-on-crime policies of Democrat-run cities. And that is how we ensure public safety.

Madam President, I object.

The PRESIDING OFFICER (Ms. CORTEZ MASTO). Objection is heard.

The Senator from Kentucky.

POINT OF ORDER

Mr. PAUL. Madam President, I raise a point of order that section 7902 of the conference report to accompany H.R. 2670, the National Defense Authorization Act, violates rule XXVIII.

The PRESIDING OFFICER. The Senator from Rhode Island.

MOTION TO WAIVE

Mr. REED. Madam President, pursuant to rule XXVIII, paragraph 6, I move to waive all applicable points of order, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Utah.

Mr. LEE. Madam President, I would like to begin my remarks by focusing on what we are debating and what we are not debating. We really need clarity on this point of order and what it is about.

To be perfectly clear, what this point of order would do would simply be to remove from the National Defense Authorization Act a nongermane reauthorization of a surveillance authority—section 702 of the Foreign Intelligence Surveillance Act—that has a well-documented history of abuse.

Including the reauthorization in the NDAA, of course, violates rule XXVIII of the Senate rules governing conference reports. This particular provision was airdropped into the National Defense Authorization Act, notwithstanding the absence of any predicate for that provision either in the House version or the Senate version of the bill, which, of course, the conference committee was created to iron out. It was created to iron out the differences between those two bills.

Because it was in neither version, the Senate Parliamentarian correctly concluded that this is a nongermane addition to the measure, and as such, it is subject to a rule XXVIII point of order.

What this means as a practical matter today is this comes out; it comes out unless 60 Senators make a deliberate, conscious choice and make that choice by voting to waive rule XXVIII. They would be saying: Yeah, it is not germane. Yeah, it wasn't in the House version or the Senate version. Notwithstanding that, we want it in there anyway.

For the reasons that I will articulate now, that would be a grave mistake—a grave mistake on multiple levels. As I make that explanation, I do want to clarify at the very outset what I am not asking for, what is not my objective here. My objective is not to cede our ability to collect the substance of communications from our foreign adversaries under section 702 of FISA. That is not it. I am not trying to make the whole program go dark.

What I am talking about is the fact that we need much needed reform in this area because section 702 of the Foreign Intelligence Surveillance Act has been widely, infamously, severely abused over a long period of time, to the point that, literally, hundreds of thousands of American citizens have become victims of what I refer to as warrantless backdoor searches.

What does this mean? OK. So the way it works under FISA 702: FISA 702 allows our intelligence-gathering Agencies to go out and scoop up information—bits of information, recordings, phone calls, records of things like texts and email exchanges, and other types of electronic communications—and store them in a database. Insofar as those are directed, as section 702 orders are supposed to be under the Foreign

Intelligence Surveillance Act, at foreign nationals operating on foreign soil, we are not concerned about them.

The Fourth Amendment is not there to protect them. It is not there to protect our foreign adversaries operating on foreign soil. No. It is there to protect the American people, the American people against their own government.

The Fourth Amendment has been around for a long time. It has been on the books in the United States since 1791 when it was made part of the Constitution. And it provides, in essence, that you are entitled to a reasonable expectation of privacy in your person, in your papers, in your home; that the government can't just come in and search and seize your papers, your personal effects and communications—not without a warrant, a warrant that has to be based on probable cause, evidence of probable cause of a crime and that describes, with particularity, the things to be searched, the items to be seized, and so forth.

While new to this country as a matter of U.S. constitutional law as of 1791, it actually goes back a lot farther than that. These were things that evolved over many centuries under British law—and with good reason. So it was with good reason, it was on that foundation—centuries of British common law experience—that we adopted the Fourth Amendment into our Constitution. And it matters that we follow it. It matters that we follow it in every circumstance.

And every American ought to be concerned about deviations from that, especially whereas here, there is a pattern and practice of abuse, of going after Americans' communications.

So how does that happen?

In a database that is full of communications collected on and from and pertaining to our foreign adversaries on foreign soil, how do the rights of American citizens end up being threatened by that?

Well, here is how it happens: When they collect all of this stuff—on some occasions, foreign nationals communicate with friends, relatives, business associates—I don't know—perhaps intelligence targets, whatever they may be, who are in the United States, who are United States citizens. So some of those conversations—by phone, by text, by email, or whatever electronic means—end up being, as we say, incidentally collected and placed into the 702 database.

One of the biggest things we are concerned about here is that on literally hundreds of thousands of occasions, innocent, law-abiding Americans have been subjected to what we call a backdoor, warrantless search whereby someone at the FBI or another Agency enters in information.

They know that Bob Smith has a certain phone number or a certain email address or some other identifier; they know that Bob Smith is a U.S. citizen; and they go in and they search for communications in the 702 database pertaining not to a foreign terrorist, not to an agent of a foreign power outside the United States, not to a foreign adversary in any way outside the United States, but to Bob Smith, the law-abiding American citizen. In that circumstance, it is a problem. It is a problem to go into that without a warrant.

That stuff is there not just for the government's curiosity. It is there not for some voyeuristic, pleasure-seeking impulse on the part of Federal agents. No. It is there to protect the United States of America from foreign adversaries and to allow us to track our foreign adversaries and what they are doing. And so in order to go into that database, they should have to get a warrant.

Now, deep down, folks at the FBI appear not to disagree with that, at least in the sense that they try mightily to convince us that they are already preventing warrantless backdoor searches of American citizens' private communications on that database. In fact, they have been doing this. I have been in the Senate—along with my friend and colleague, the junior Senator from Kentucky, we have both been here for 13 years. The entirety of that time, I have served on the Senate Judiciary Committee. The entirety of that time, I have questioned FBI Directors and other people within the government, asking them about what happens with this 702 database, particularly as it relates to private communications that are stored in the 702 database of American citizens and searches involving American citizens.

Over and over and over again, for 13 years, like deja vu all over again, I get the same variation of the same set of answers: Don't worry. You have got nothing to worry about. We have really good procedures in the U.S. Government. We follow those procedures. We take them seriously. We are professionals, and we will not mess with your information.

Yet again and again and again and again, every single time they make that promise, it is like it is a curse because it gets worse every single time they say it. And every single time, I ask them more questions designed to delve into what they are actually doing, and every single time, including my most recent interaction with the FBI Director, Christopher Wray, just last week, it becomes clear, on closer examination, that they are not really stopping these things from happening.

In fact, just last week, Director Wray had the audacity to tell me that, no, this has all stopped now because he adopted some new procedures—like I hadn't heard that one before—when, in fact, some of the examples he pointed to were things that supposedly happened only after he had adopted these procedures and all the bad stuff had stopped after those procedures—it turns out, some of those things had happened after he had adopted those procedures.

No surprise to me; no surprise to anyone who has followed this; no surprise to anyone who understands human nature. And those within government exercise power that doesn't belong to them.

So we shouldn't be reauthorizing this, not in the NDAA. Not only is it not germane, not only was it not in the House version or in the Senate version, Madam President, it is not even necessary.

Why? OK. When you look at the statutory text, the statutory text adopted by the U.S. Congress in the Foreign Intelligence Surveillance Act amendments of 2017, which I think took effect in early 2018, they make abundantly clear that they were written in such a way as to provide for this very circumstance, meaning the circumstance in which we are approaching now, the scheduled expiration of section 702 of FISA at midnight on December 31, on New Year's Eve.

So at the stroke of midnight—now New Year's Day—FISA expires. Those who are in favor of waiving this point of order, disregarding the Senate rule XXVIII that should require us to strike this unnecessary, overbroad, and manipulative extension of FISA 702, they would have us believe that Armageddon will immediately be upon us—dogs and cats living together in the streets, the wrath of God, Apocalyptic stuff like we never experienced. Why? Because FISA 702 will have gone dark.

The problem with that argument: It is not true. It flies in the face of statutory text adopted by this Congress the last time we reauthorized FISA 702. And that language makes clear that even if FISA 702 expires during that time period, because there was a certification granted by the Foreign Intelligence Surveillance Court, known as the FISC—and that was issued on or about April 12 of 2023 and those certifications are designed to carry forward 365 days—we have at least until the end of the day on April 11, 2024, before communications could no longer be collected under section 702 because, again, we have the certification that is in place.

That certification, together with the language that was passed the last time we extended FISA 702, inadvisably—inadvisably—without any major statutory reforms—but we did include that one—we made that the case. So it is not going to go dark.

If Senator PAUL's point of order under rule XXVIII succeeds, and if we are able to thwart the effort to waive that—and it would take only 41 of us to do it, only 41 of us would have to stand behind that to prevent them from getting it to 60 to waive it—if that happens, it is still not going to go dark. It wouldn't go dark unless or until we hadn't extended FISA 702 before April 11, 2024.

It begs the question: Why in the Sam Hill did we have to put this thing in here if it wasn't necessary?

Well, I have a sneaking suspicion I know why some might hope that it

happens that way, for the same reason that it is not going to make 702 collection go dark as of 12:01 a.m. on New Year's Day. This measure, the 702 extension buried within the 3,000 or so pages of the National Defense Authorization Act, will give them a bright and golden opportunity to make this not a 4-month extension of FISA 702 but a 16-month extension of section 702.

In other words, if you read through the statutory text that we adopted the last time we reauthorized 702 and you wanted this to extend and you wanted to make sure that we delayed and delayed and delayed the period of time in which Congress would be forced to make a decision—a decision could result in serious reforms to FISA 702—what would you do?

Well, you would pass this very thing. You would waive Senator PAUL's point of order under rule XXVIII. And then you would probably wait until April, I don't know, 10 or 11 of 2024. You would go back to the FISC—the Foreign Intelligence Surveillance Court—and you would ask for a new certification. A certification that would do what? Move it forward another 365 days.

We would now be punting until April 2025, well after the 2024 election cycle had run to its end before having to address this. That is what we are dealing with.

Now, let's back up a minute. Let's say that there are some within the sound of my voice who might disagree with my interpretation of the statutory text we adopted the last time we renewed section 702 of the Foreign Intelligence Surveillance Act. They would be wrong because the text is really clear, but let's just assume that for a minute. Let's accept that premise for purposes of argument here. Even if that is the case, we can still strip out this poorly written measure and replace it with another freestanding measure, not adopt it as part of the NDAA—one that I prepared, one that I am introducing, along with my lead Democratic cosponsor, Oregon Democratic Senator RON WYDEN—that would reauthorize section 702 until mid-March. It would reauthorize it with instructions that say: If during that time period the FISC issues a new certification, that certification may not be read to authorize further collection under 702 if during that time period FISA 702 were to expire.

This makes a huge difference because if we do it this way, rather than through the National Defense Authorization Act, as Senator WYDEN and I have proposed doing, then we will actually have a force-moving event. We will actually have a real opportunity for the House and for the Senate to have an open, honest, robust, roiling debate about the nature and extent of the abuse that we have seen under FISA 702.

And we will be in a great position at that point to adopt real reforms—real reforms that would require you to get a warrant. If you want to collect information specifically on Americans in this FISA 702 database, you need to get a warrant. You just do.

The government may not like it because governments never like anything that makes it more difficult to do what they want to do, but our law enforcement Agencies do it all the time. They do it because they have to because it is the law, and it is the Constitution. We don't deviate from that. It is bad.

Somehow these intelligence gathering agencies and the FBI think that they are exempt when it comes to FISA 702. They are not. They should not be. No American should be comfortable with that. Recent experience and long-term experience have both taught us that there is a grave risk in doing that, in simply ignoring it, in simply presuming that the human beings that operate in this environment will always have their best interest at heart.

And yet, they want to push ahead with this measure, saying that the sky will fall. It will not. I am absolutely convinced, if we succeed tonight—if Senator PAUL's point of order succeeds and it is not waived—I am confident that within 24 hours, we can and we will adopt this freestanding measure to make sure that 702 doesn't go dark. Even though it wouldn't go dark otherwise, even though we won't need it, we are willing to do that. We are just wanting to clarify one thing, which is that we still have to have this debate. We still have to have a force-moving event in the next few months that works out the case, that reforms the system, that requires the government to get a warrant if they are going after an American. It is not too much to ask, not at all.

We have proposals that are ready to do that. I have a bill that I introduced with Senator WYDEN, the Government Surveillance Reform Act. There is a counterpart to that in the House of Representatives. It passed out of the markup in the House Judiciary Committee just last week. It contains these and other reforms, reforms about having to get a warrant, reforms that would impose some consequence to those government agents who abuse the system. And lest you think, even for a moment, that these abuses are contrived, fictitious, or a figment of our imagination—some sort of paranoid fantasy hallucination—they are not.

We need to support this point of order. We need to not waive it. Waiving it is lawless. Waiving this particular point of order would contribute to more circumvention of the Fourth Amendment.

In the spirit of English parliamentarian John Wilkes, whose rights under English law and the English Constitution were violated just before Easter in 1763, he stood up to the government. He stood up to the government. He stood up to the government of King George III, and he said: No, you are not doing this. He sued the officers who had carried out what was, in effect, a warrantless search of his home under the use of a general warrant. In some ways, it looks a little like a 702 collection of a citizen. In other ways, it is different because they didn't have the technology that we have got now, but the same principle applied.

He sued the King and his Ministers, and he won a large money judgment. He got all this as a result—and he was searched as a result and he was jailed in the Tower of London for a time as a result of his publication of a document known as North Britain No. 45.

North Britain No. 45 criticized King George III and his Ministers for, among other things, using general warrants, warrants that basically said go out and find people who did bad stuff, search them, seize their papers, their possessions, them, if necessary, and make it happen—no particularity requirement, no probable cause. Just go do it.

No. 45—a reflection of North Britain No. 45—quickly became synonymous on both sides of the Atlantic with the cause of liberty and with John Wilkes himself and with the cause against warrantless searches and seizures and the use of general warrants, which might as well be warrantless searches and seizures.

John Wilkes would be appalled by what he sees today. And the American people, just as they heralded him, an ocean away, in the 1760s and 1770s, after this happened, just as he was celebrated all over England by remembering him by the No. 45, they were celebrating him then too.

So, too, today the American people will be pleased because they will have reason to celebrate that they are no longer subject to these warrantless searches because they are wrong.

Once again, lest you be convinced, even for a moment, that this is hyped up, it is not. Now, look, if you are comfortable with the government, under the pretext of looking for foreign surveillance and without any kind of warrant, let alone evidence establishing probable cause, let alone something that would satisfy the particularity requirement of the Fourth Amendment—if you are comfortable with the government violating civil liberties of the American people this way, if you are comfortable with them violating the liberties of at least one sitting Member of the U.S. Senate—could be any of us—violating the civil liberties of at least one sitting Member of the House of Representatives—could be any of them, not sure who it was—with them violating the civil liberties of protesters, both conservatives and liberals, Republicans and Democrats, with them violating the civil liberties of 19,000 law-abiding innocent Americans whose only common thread was the fact that they all happened to have donated to a particular political campaign, if you are OK with these and hundreds of thousands of other egregious violations of the letter and spirit of the Fourth Amendment, then, by all

means, you should feel free to go ahead—go ahead—and support the motion to waive.

But if you are not OK with any of those things and don't think anyone is immune from them—if you are not OK with any of these things—it is illogical, it is irrational, it is insane to do anything other than to oppose the motion to waive the point of order.

So I will close by asking the question: Why would they want to do this? Those who are so dug in and making this even harder for the NDAA to pass in the House—you know, because of the fact that they airdropped this thing into the NDAA at the last minute sparked such a controversy over there that they are having to bring it up under a procedure known as suspension of the rules.

Suspension of the rules requires them to pass it with 290 votes instead of 218. It would make it infinitely easier for this thing to get passed and passed quickly over there if we just listen to Senator PAUL, if we just sustain rather than waiving, foolishly, the point of order that he is making under rule XXVIII.

They are wanting to avoid not only changing 702 and making the Federal Government answer to the people according to the U.S. Constitution, they are unwilling even to face the music of this debate—a debate that is long overdue, a debate that we should have had and that should have culminated in reforms through legislation in 2018 but did not. And shame on all of us for not making that happen. Some of us tried. We were overcome. But the American people are not going to take this anymore, nor should they.

So if you are not comfortable with those kind of abuses—and I think we should all be uncomfortable—with this sacrifice of liberty on the altar of fear, uncertainty, doubt, and dogged secrecy, then support Senator PAUL—support him in his meritorious point of order and oppose the motion to waive that point of order. The American people expect more, and the Constitution demands it.

Mr. VAN HOLLEN. Madam President, with regards to the motion to waive the point of order against the FISA section 702 provision in the conference report, I share the sponsor's concerns on the potential expiration of section 702 authorities, which are critical to foreign intelligence collection efforts and protecting the homeland. However, I am also deeply concerned that Section 7902 of the NDAA extends section 702 authorities without much-needed reforms to better protect the civil liberties of Americans.

Despite the fact that surveillance under this section is supposed to be limited to certain foreign nationals abroad, a FISA Court opinion released in July 2023 stated that the FBI conducted approximately 40,000–50,000 warrantless ''back door'' search queries of section 702 communications data targeting U.S. persons per quarter in 2022. I support the FBI's initiative to voluntarily adopt stricter internal compliance rules to address this problem, but the administration and Congress must work together to do more to balance the need for intelligence collection and the protection of civil rights.

Due to the FISA Court's certification process, the administration has acknowledged that, even in the absence of a formal 4-month extension, the government is able to conduct surveillance authorized under section 702 until April 11, 2024. I also understand that a formal extension of FISA authorities through April 2024, would effectively reset the clock and allow the administration to obtain a fresh certification from the FISA Court, thereby effectively extending the authority for an additional 12 months beyond the 4-month extension. That would only further delay our opportunity to review the program and propose necessary reforms. For the record, I would have supported an alternative that extended the formal authorization through April 2024, so long as it would have prevented the administration from obtaining a fresh certification to extend the program for another year after that. That alternative is not, however, before the Senate. The bottom line is that I agree that the section 702 program is necessary for our national security, but I also think it needs to be reviewed and reformed.

We should not short-circuit the robust, bipartisan discussions in Congress on how to reform this authority with a lengthy extension. I am voting against this motion to waive the point of order so we can pair the extension of section 702 surveillance programs with a serious and targeted reform effort that maintains critical national security capabilities in a manner consistent with constitutionally protected rights.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. PAUL. During the 1960s, the FBI spied on Martin Luther King and other civil rights protestors. The FBI spied on Vietnam war protesters. The Church Committee was formed in the 1970s and detailed these abuses, and the response by Congress was to pass something called the Foreign Intelligence Surveillance Act, or FISA. FISA was ostensibly passed to limit spying on Americans. It was supposed to be a reform, but as far as the Foreign Intelligence Surveillance Act allows government to spy on U.S. citizens without a warrant, it is unconstitutional.

As Dr. John Tyler from Houston Christian University points out, ''the FISA text, the Constitution's text, and the relevant opinions by the U.S. Supreme Court conclusively demonstrated that FISA, and its secret, ex parte''—meaning you only hear from one side of the court—these ''courts are unconstitutional for three reasons.''

''First, the secret, ex parte courts violate the case or controversy requirement of Article III.''

Courts are about deciding disputes between two parties. They aren't originated just to say: This is a pronouncement. There has to be a dispute, and in the FISA Court, it is more about having a generalized comment.

''Second, FISA violates Fourth Amendment liberties from unreasonable searches and seizures.''

''Third, FISA and its secret ex parte courts violate the due process guarantees of the 5th and 14th Amendments.''

Dr. Tyler goes on to say that ''lastly, the Supreme Court has ruled that national security does not require secret courts or justify ignoring the Fourth Amendment liberties.''

This unconstitutional government spying has been further authorized by adding section 702 to FISA. That law entrusts America's intelligence Agencies with broad authorities, supposedly to surveil foreigners abroad. But time has proven, again and again, that America's intelligence Agencies cannot be trusted with this immense power and responsibility.

Section 702 expires at the end of this year. We have known this for 5 years, and yet somehow the Senate has no time to debate this and wishes to simply extend it.

Members of Congress anticipated using this deadline as an opportunity not just to make meaningful changes but to reform FISA generally to better protect Americans' civil liberties, but it doesn't appear to be allowed to happen at this point. Everything is rush, rush, rush; let's pass it without debate. But they have known for 5 years that it was going to expire at the end of this year, and yet they just want to punt it with the hope that they will never have to debate it.

Extending this section 702 robs Congress of the ability to make reforms now and likely robs Congress of the opportunity to make reforms any time in the next year. That means that, once again, the intelligence Agencies that ignore the constraints on their power will go unaddressed and unpunished, and the warrantless surveillance of Americans in violation of the Bill of Rights will continue.

Using 702, Americans' communications, content, and metadata is inevitably swept up and kept in government databases without a warrant. Law enforcement Agencies then access Americans' communications, once again without a warrant. In other words, your texts, your emails, and your phone calls are collected into this massive government database, without a warrant, and then searched willy-nilly by thousands of different employees without a warrant.

As Judge Andrew Napolitano points out, ''the Constitution requires probable cause of a crime to be demonstrated to a judge before a judge [grants] a warrant. That was the law of the land until FISA.''

But now FISA has set up a special court that meets in secret, the Foreign Intelligence Surveillance Court, and it

authorizes ''judges on that court to issue search warrants based on a lower standard of probable cause.''

The Fourth Amendment says you have to prove to a judge probable cause of a crime. This says you only have to prove probable cause of an association with a foreign entity. This is contrary to the Constitution. This is not the Fourth Amendment.

The Constitution requires that warrants be issued on probable cause that a crime has been committed, but as Judge Napolitano makes clear, ''FISA established probable cause of foreign agency.'' So it lowered the standard. It is not probable cause of a crime. It is probable cause of association with a foreign agency.

But even that standard ''morphed [down] into probable cause of speaking to a foreign person,'' which then again morphed even further down to ''probable cause of speaking to any person who has ever spoken to a foreign person.'' All of that happened in secret and without Congressional approval.

With this weakened standard to order surveillance, these FISA judges, who meet in secret, grant 99.97 percent of all warrants. They are a rubberstamp for whatever they want to do. The left-leaning Brennan Center for Justice further explains why a law designed to protect the Fourth Amendment has led to their dissolution.

The Brennan Center states that ''dramatic shifts in technology and law has changed the role of the [FISA] Court since its creation in 1978.''

''The fundamental changes not only erode Americans' civil liberties, but [they] likely violate Article III of the U.S. Constitution, which limits courts to deciding concrete disputes between parties rather than issuing opinion on abstract questions.''

According to the Brennan Center, ''today's FISA Court does not operate like a court at all, but more like an arm of the intelligence establishment.''

''The FISA Court's wholesale approval process also fails to satisfy standards set forth by the Fourth Amendment, which protects against warrantless searches and seizures.''

Some people issued prescient warnings about the destruction of civil liberties and constitutional rights at the time. At the time, then-Senator Joe Biden stated that he was voting no on this section 702, this expansion of FISA powers. Senator Joe Biden said it ''would be a breathtaking and unconstitutional expansion of the President's powers and it is wholly unnecessary to address the problems the administration has identified.'' Then-Senator Biden added that he would ''not give the President unchecked authority to eavesdrop on whomever he wants in exchange for the vague and hollow assurance that he will protect the civil liberties of the American people.''

Boy, I wish that Joe Biden were still around and remembering his comments about FISA.

Patrick Eddington of the Cato Institute has dedicated his career to exposing the abuses of surveillance authorities. He argues that section 702 of FISA and its predecessors comprise the ''biggest unconstitutional mass surveillance dragnet in American history'' and that ''we have documentary evidence from the federal government's own records of repeated, systemic abuses'' of this authority.

Even the FISA Court itself, in 2018, held that the FBI's procedures for accessing Americans' communications that are incidentally collected under 702 violate both the statute and the Fourth Amendment. Even the FISA Court, which rubberstamps these warrants like there is no going away, says that they believe they are violating the Fourth Amendment.

But this warrantless surveillance on Americans goes on. In 2021 alone, the FBI conducted 3.4 million warrantless searches of Americans' communications. Like the spying on Martin Luther King and Vietnam war protesters, the FBI still targets individuals for their beliefs.

The FBI accessed the 702 database without search warrants to access the information of 19,000 political donors. They accessed the records of those involved with a protest on January 6. They accessed the records of a Member of Congress and ''Black Lives Matter'' activists.

You might think, oh, I have got nothing to hide, no big deal. You might think that if you avoid political activity, you can avoid the long arm of the government.

But think again. If you call a merchant in England or text a family member in Germany or email a friend in Israel, the feds can seize and search your communications without permission, without a warrant, and without due process.

But that is not all. The Federal spies can then capture all the communications of the persons you subsequently reached out to and all the persons they reached out to. It goes on and reaches its tentacles out, such that it gathers millions of communications.

Imagine a Senator or a Congressman who talks to a Prime Minister overseas. Their communication is in the database.

To allow this to happen—imagine all of the people who are in international business and who make international phone calls. Their phone calls are in the database.

And it would be one thing if we were just collecting this to look at terrorist activities, but, no, we let the FBI search any American's name in there. They can go in under any pretext.

We told the FBI: You have to list why you are searching the name. And they didn't do it. They actually go around some of the rules by saying: Oh, let's search 10,000 things and call it 1 query.

We cannot trust them. You cannot trust the fox to be in charge of the henhouse. We need controls, and Congress needs to do their job.

We had 5 years to think about this. It comes up, and we are just going to air-drop it in and say: Sorry. We haven't had time to think about this. We don't have time to reform it. We don't care about Americans' privacy.

That is what the majority, who will vote to just drop this in and turn the other way, will do.

It would be bad enough if the FBI limited itself to eviscerating the Fourth Amendment and indiscriminately collecting and searching the private communications of millions of Americans, but it is far worse than that.

As we all know, the FBI abused the immense power conferred to it by FISA to subvert a Republican Presidential campaign. In its zeal to investigate Carter Page, a foreign policy adviser to Candidate Trump, the FBI sought to obtain permission to conduct electronic surveillance on Page, not by going to a real judge, in public, in an article III court, but by going to a secret judge.

Imagine the chilling effect, if you can try to get beyond the politics of whether he is a Republican or a Democrat. Imagine the chilling effect of the government investigating political campaigns. How could anybody think that that is a good idea?

To eavesdrop on Page, the FBI needed to get approval from the FISA Court, not a real warrant but just a warrant that he was associated with a foreign government. The secretive court that grants 99.97 percent of warrants gave it to them.

But the FBI also relied on information they were given by the Trump opponent's campaign—Hillary Clinton's campaign. You have something called the Steele dossier that was all over the news. That dossier was given to the FBI by a political campaign. It was essentially opposition research. Clinton's Presidential campaign and the Democrat Party obtained the secret surveillance order by subterfuge.

But the FBI didn't verify or check the claims made in the dossier, as it is required to do by law. To put it in plain English, the FBI was able to spy on an American citizen because it presented the Democratic Party's opposition research as evidence to obtain a secret order on a campaign operative.

This was fraud. This was an abuse of power. This was an attempt to undermine a Republican Presidential campaign.

People talk about election interference. My goodness, what could be more of an interference in a campaign than getting a secret order from your intelligence Agencies to spy on a political campaign.

The order was ultimately found to be misleading, and you would think this would have led to scandal. You would think this would have led to punishment, but no one, really, was ever punished for this.

Even the New York Times described the effort to wiretap Carter Page as ''a

staggeringly dysfunctional and error-ridden process.''

But these are not errors. These are not honest mistakes. These are abuses of power. The audacity to dupe and manipulate the secret FISA Court demonstrates that the misconduct was not mere accident, but rather demonstrates the arrogance that inevitably results when a secretive, one-sided process all but assures these Agencies will never be challenged.

And what are we doing? The Senate will sweep this under the rug. We will have no reform. They have known for 5 years this is coming up, and they are not going to do a thing to reform it.

Since the FBI demonstrated a willingness to evade the rules to spy on an aide to a Presidential candidate, we should not be surprised that Carter Page was far from the only victim of the abuse of FISA authorities. A subsequent Department of Justice review reviewed 29 other FISA applications and found that each one contained factual discrepancies and errors, at an average of 20 mistakes per application.

More recently, Special Counsel John Durham's report on the FBI's probe into the alleged collusion between Donald Trump and Russia revealed that at least some FBI agents abused America's surveillance apparatus to open a groundless counterintelligence campaign against a Republican Presidential candidate.

And yet despite the abuses, despite the years of calls for reform, the Senate is presented with a defense bill that continues the status quo. In 5 years, they have had no time to debate this because they don't want to. They want to rubberstamp this, and they want to look the other way. Not one reform is included in this conference report that would address the neglect of the Bill of Rights. Rather, the only thing this conference report ignores is the long record of abuse of the Fourth Amendment.

The Fourth Amendment is no mere limitation of government power. The Fourth Amendment is fundamental to the concept of American liberty.

Today, the elected representatives of our country, whose Founders overthrew a King who claimed a mandate from Heaven to rule an empire, cannot muster the courage to tell its own law enforcement Agencies that we will not tolerate the evisceration of the Bill of Rights, nor the destruction of our electoral process.

Why would any Senator vote to waive this point of order? How can you look your constituents in the eyes and justify your vote to empower government at the expense of American's individual rights?

Do not fall for the hollow and cynical retorts from the other side who inevitably argue that the world is on fire. Those who make the lazy and predictable argument that government is your only shield from threats, always fail to mention that government itself is often a threat.

I think it is high time we quit letting fear overrun our constitutional duty. The Members of this body should do themselves the honor of standing by their oath to the Constitution. To protect our civil liberties and the integrity of the congressional conference committee process, we must strip this extension of domestic spying authority out of the Defense bill.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. I yield back all remaining time.

VOTE ON MOTION TO WAIVE

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to the motion to waive the point of order.

The yeas and nays were previously ordered.

The clerk will call the roll.

The assistant bill clerk called the roll.

The yeas and nays resulted—yeas 65, nays 35, as follows:

[Rollcall Vote No. 342 Leg.]

YEAS—65

Barrasso	Fischer	Reed
Bennet	Gillibrand	Ricketts
Blumenthal	Graham	Risch
Boozman	Hassan	Romney
Britt	Hickenlooper	Rosen
Budd	Hyde-Smith	Rounds
Butler	Kaine	Rubio
Capito	Kelly	Schatz
Cardin	Kennedy	Schumer
Carper	King	Scott (SC)
Casey	Klobuchar	Shaheen
Cassidy	Lankford	Sinema
Collins	Manchin	Smith
Coons	McConnell	Stabenow
Cornyn	Moran	Sullivan
Cortez Masto	Mullin	Thune
Cotton	Murkowski	Tillis
Crapo	Murphy	Warner
Cruz	Murray	Whitehouse
Duckworth	Ossoff	Wicker
Ernst	Padilla	Young
Fetterman	Peters	

NAYS—35

Baldwin	Heinrich	Sanders
Blackburn	Hirono	Schmitt
Booker	Hoeven	Scott (FL)
Braun	Johnson	Tester
Brown	Lee	Tuberville
Cantwell	Luján	Van Hollen
Cramer	Lummis	Vance
Daines	Markey	Warnock
Durbin	Marshall	Warren
Grassley	Menendez	Welch
Hagerty	Merkley	Wyden
Hawley	Paul	

The PRESIDING OFFICER (Mr. OSSOFF). On this vote, the yeas are 65, the nays are 35.

Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to, and the point of order falls.

The majority leader.

Mr. SCHUMER. Mr. President, for the 62nd year in a row, the Senate is passing our annual Defense Authorization Act—one of the most important bills we work on each year to protect the American people and ensure our long-term security.

At a time of huge trouble for global security, passing the Defense authorization bill is more important than ever. It will ensure America can hold the line against Russia, stand firm against the Chinese Communist Party, and ensures that America's military remains state of the art at all times all around the world.

I thank my colleagues on both sides for their great work on the NDAA. I applaud the leadership of Chairman REED—steady, steadfast, always getting it done—chairman of the committee, as well as the great cooperation he had from Ranking Member WICKER and all the members of the committee. I commend them for their good work.

Thanks to the good work on both sides, the final version of the NDAA contains many of the most important bipartisan provisions we had in the Senate's original bill.

We will give our servicemembers the pay raise they deserve. We will strengthen our resources in the Indo-Pacific to deter aggression by the Chinese Government and give resources for the military in Taiwan. We will give DOD more resources to deploy and develop AI, protect against foreign cyber threats, and increase transparency on unidentified aerial phenomena, which I was proud to work on with Senator ROUNDS.

Critically, we will approve President Biden's trilateral United States, UK, and Australia nuclear submarine agreement. The AUKUS agreement is a game changer. It will create a new fleet of nuclear-powered submarines to counter the Chinese Communist Party's threat and influence in the Pacific.

I want to commend all the staff who made this possible: Liz King, Jody Bennett, Kirk McConnell, Damian Murphy, Andrew Keller, David Weinberg, Chris Mulkins, and so on. I also want to thank the floor staff and the legislative staff that worked so long and hard to get it done. And, of course, everyone knows I love my staff: Yazeed Abdelhaq, Gunnar Haberl, Raymond O'Mara, Mike Kuiken, Meghan Taira, and so many others. The staff has put in long hours, and all 100 Senators thank them.

As I have repeatedly said, we began the month of December with three major goals here in the Senate before the end of the year. First, we had to end the blockade of the hundreds of military nominees. We have done that. Second, we needed to pass the NDAA. We are doing that now. And, finally, hardest of all, we must reach an agreement on a national security supplemental. We are trying.

Democrats are still trying to reach that agreement. We had very productive talks with our Republican colleagues today; but, of course, we have a lot of work to do left. We are going to keep working.

I yield the floor.

VOTE ON CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, all postcloture time has expired.

The question is on agreeing to the adoption of the conference report to accompany H.R. 2670.

Mr. CARDIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

The result was announced—yeas 87, nays 13, as follows:

[Rollcall Vote No. 343 Leg.]

YEAS—87

Baldwin	Fischer	Padilla
Barrasso	Gillibrand	Peters
Bennet	Graham	Reed
Blackburn	Grassley	Ricketts
Blumenthal	Hagerty	Risch
Boozman	Hassan	Romney
Britt	Heinrich	Rosen
Brown	Hickenlooper	Rounds
Budd	Hirono	Rubio
Butler	Hoeven	Schatz
Cantwell	Hyde-Smith	Schmitt
Capito	Johnson	Schumer
Cardin	Kaine	Scott (FL)
Carper	Kelly	Scott (SC)
Casey	Kennedy	Shaheen
Cassidy	King	Sinema
Collins	Klobuchar	Smith
Coons	Lankford	Stabenow
Cornyn	Luján	Sullivan
Cortez Masto	Manchin	Tester
Cotton	Marshall	Thune
Cramer	McConnell	Tillis
Crapo	Menendez	Tuberville
Cruz	Moran	Van Hollen
Daines	Mullin	Warner
Duckworth	Murkowski	Warnock
Durbin	Murphy	Whitehouse
Ernst	Murray	Wicker
Fetterman	Ossoff	Young

NAYS—13

Booker	Markey	Warren
Braun	Merkley	Welch
Hawley	Paul	Wyden
Lee	Sanders	
Lummis	Vance	

The conference report was agreed to.

The PRESIDING OFFICER (Ms. HASSAN). The majority leader.

Mr. SCHUMER. I ask unanimous consent that the cloture motions filed during Monday's session ripen at 12 noon tomorrow, Tuesday, December 14.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. SCHUMER. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 430.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Christopher Charles Fonzone, of Pennsylvania, to be an Assistant Attorney General.

CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 430, Christopher Charles Fonzone, of Pennsylvania, to be an Assistant Attorney General.

Charles E. Schumer, Richard J. Durbin, Tina Smith, Benjamin L. Cardin, Alex Padilla, Richard Blumenthal, Christopher A. Coons, Mazie K. Hirono, Chris Van Hollen, Michael F. Bennet, Mark Kelly, Robert P. Casey, Jr., Tim Kaine, Patty Murray, Angus S. King, Jr., Jack Reed, Cory A. Booker.

LEGISLATIVE SESSION

Mr. SCHUMER. Madam President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I move to proceed to executive session to consider Calendar No. 444.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Sara E. Hill, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

CLOTURE MOTION

Mr. SCHUMER. Madam President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Executive Calendar No. 444, Sara E. Hill, of Oklahoma, to be United States District Judge for the Northern District of Oklahoma.

Charles E. Schumer, Richard J. Durbin, Jack Reed, Tammy Duckworth, Martin Heinrich, Tina Smith, Mark R. Warner, Jeanne Shaheen, Margaret Wood Hassan, Tammy Baldwin, Alex Padilla, Mazie K. Hirono, Sheldon Whitehouse, Peter Welch, Chris Van Hollen, Elizabeth Warren, Christopher A. Coons.

Mr. SCHUMER. I ask unanimous consent that the mandatory quorum calls for the cloture motions filed today, December 13, be waived.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate consider the following nominations en bloc: Calendar Nos. 90, 341, 343, 434, 437, 438, excepting Col. Benjamin R. Jonsson; that the Senate vote on the nominations en bloc without intervening action or debate; that the motions to reconsider be considered made and laid upon the table; and that the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is, Will the Senate advise and consent to the en bloc nominations of Executive Calendar Nos. 90, 341, 343, 434, 437, 438—excepting Col. Benjamin R. Jonsson?

The nominations are confirmed en bloc as follows:

IN THE NAVY

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Shoshana S. Chatfield

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Michele H. Bredenkamp

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen G. Smith

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. David J. Berkland

IN THE AIR FORCE

The following named officers for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Scott A. Cain
Brig. Gen. Paul D. Moga

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be major general

Brig. Gen. Lawrence G. Ferguson

EXECUTIVE CALENDAR

Mr. SCHUMER. Madam President, I ask unanimous consent that the Senate consider the following nominations en bloc: Calendar Nos. 366, 411, 412; that the Senate vote on the nominations en