

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) is necessarily absent.

The yeas and nays resulted—yeas 52, nays 46, as follows:

[Rollcall Vote No. 133 Ex.]

YEAS—52

Armstrong	Fischer	Moran
Banks	Graham	Moreno
Barrasso	Grassley	Murkowski
Blackburn	Hagerty	Paul
Boozman	Hawley	Ricketts
Britt	Hoeven	Risch
Budd	Husted	Schmitt
Capito	Hyde-Smith	Scott (FL)
Cassidy	Johnson	Scott (SC)
Collins	Justice	Sheehy
Cornyn	Kennedy	Sullivan
Cotton	Lankford	Thune
Cramer	Lee	Tillis
Crapo	Lummis	Tuberville
Cruz	Marshall	Wicker
Curtis	McConnell	Young
Daines	McCormick	
Ernst	Moody	

NAYS—46

Alsobrooks	Hirono	Sanders
Baldwin	Kaine	Schatz
Blumenthal	Kelly	Schiff
Blunt Rochester	Kim	Schumer
Booker	King	Shaheen
Cantwell	Klobuchar	Slotkin
Coons	Lujan	Smith
Cortez Masto	Markey	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warnock
Fetterman	Murray	Warren
Galleo	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden
Heinrich	Reed	
Hickenlooper	Rosen	

NOT VOTING—2

Bennet Rounds

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 46. The motion is agreed to.

The motion was agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Jeffrey M. Kuhlman, of Kansas, to be United States District Judge for the District of Kansas.

NOMINATION OF JEFFREY M. KUHLMAN

Mr. DURBIN. Mr. President, today, the Senate will vote to confirm Jeffrey M. Kuhlman to the U.S. District Court for the District of Kansas.

Mr. Kuhlman has only practiced law for 9 years, focusing primarily on the defense of government entities and employees.

In one case, Mr. Kuhlman represented five juvenile detention officers who held 17-year-old Cedric Lofton in a prone position for nearly 40 minutes. Cedric, a child in foster care who was experiencing a mental health crisis, went into cardiac arrest and died.

Mr. Kuhlman claimed that the wrongful death suit should be dismissed because Cedric's death was his fault, arguing: "He only died because he was fighting and because he was in an air deficit."

Mr. Kuhlman blamed a minor in the midst of a mental health crisis for his own death. I asked Mr. Kuhlman whether he regretted any arguments he made during this litigation. He responded with an unequivocal, "No."

Of Mr. Kuhlman's top 10 most significant cases, 4 involved representing law enforcement officers accused of using excessive force. In responses to written questions, he confirmed that he has never represented individuals harmed by law enforcement using excessive force.

During his hearing, I asked Mr. Kuhlman about his work representing the Marion County Commission, County Sheriff and a sheriff's deputy in a lawsuit after local law enforcement raided the offices of the Marion County Record and related properties in August 2023.

The incident received national news coverage and raised freedom of press concerns. The county paid the Record's publisher a \$3 million settlement and provided a formal apology.

During his hearing, Mr. Kuhlman said that he worked on several cases he believed received unfair media coverage. In light of these statements and his prior work on the Marion County Record case, I asked Mr. Kuhlman in written questions to identify those cases and explain why he believed the coverage was unfair.

He declined to respond because he felt "it would be improper to comment on news coverage from media outlets because . . . [there] may be instances where media outlets are involved in litigation in the District of Kansas."

Apparently, it is appropriate for Mr. Kuhlman to claim that some of the cases he worked on received unfair media coverage during his hearing, but it is inappropriate for him to identify those cases and explain why he believed the coverage was unfair in written questions. I find this to be conveniently evasive.

For these reasons, I will oppose Mr. Kuhlman's nomination.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 1:03 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mrs. MOODY).

EXECUTIVE CALENDAR—Continued

VOTE ON KUHLMAN NOMINATION

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

Mrs. BRITT. 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 executive clerk called the roll.

Mr. BARRASSO. The following Senator is necessarily absent: the Senator from South Dakota (Mr. ROUNDS).

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET) is necessarily absent.

The result was announced—yeas 52, nays 46, as follows:

[Rollcall Vote No. 134 Ex.]

YEAS—52

Armstrong	Fischer	Moran
Banks	Graham	Moreno
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Durbin	Murphy	Warnock
Fetterman	Murray	Warren
Galleo	Ossoff	Welch
Gillibrand	Padilla	Whitehouse
Hassan	Peters	Wyden
Heinrich	Reed	
Hickenlooper	Rosen	

NOT VOTING—2

Bennet Rounds

The nomination was confirmed.

The PRESIDING OFFICER (Mr. BANKS). Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's actions.

The PRESIDING OFFICER. The Senator from Illinois.

FOREIGN INTELLIGENCE SURVEILLANCE ACT

Mr. DURBIN. Mr. President, do you remember when the ICE agents were in the city of Chicago? I can't forget it. Things were happening in the city I am honored to represent I had never seen before. We had these people who were kind of in uniform, but not really, wearing masks, carrying guns, and they were pursuing "the worst of the worst." They were looking for rapists, murderers, terrorists, the criminally insane, child predators, on and on. And they certainly were looking for people who came into the United States and didn't have legal immigration status.

They frightened a community in a way that I had never seen before. People in parts of Chicago who had lived there peacefully, quietly, without any problem for years reached the point where they were afraid to go to the grocery store. They stopped going to church. They didn't know what was next for the ICE agents.

They patrolled the streets. They went after individuals. They arrested some. They detained others. There is one scene that is still in my memory. The scene was when they decided that there was someone living in a home who was an illegal person, they crashed down the front door and broke it down. They took this man out of the shower. They wrapped a towel, bathrobe around him, and took him off to be arrested. Turned out he was an American citizen. He had committed no crime. They were just wrong.

And people said: Wait a minute. You mean the ICE agents can crash down my front door? They didn't have a warrant from a court or anything to authorize it. They just did it. "Can you do that in America," people were asking. It is a basic question. It is not clear, the answer, if you look at the conduct of this administration when it comes to the ICE operations.

There is one thing that is clear: this little book called "The United States Constitution."

Let me read you a section of it when it comes to your right as an American. Fourth Amendment:

The right of the people to be secure in their persons, [homes], papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Bill of rights, fundamental to who we are as Americans. Something we take for granted. It is my home. You are not coming into my home unless you have got some judge that has approved it and you have gone through the right process. You can't decide, just because you are wearing a badge, to crash down my front door.

Well, we have an interesting debate going on this week in the U.S. Senate that goes right to the heart of that amendment, the Fourth Amendment. Later this week we are expected to consider legislation to reauthorize a rather obscure area of the law, section 702 of the Foreign Intelligence Surveillance Act, known as FISA.

What is this FISA all about? It is all about 9/11. I have been around the Senate for a few years, and I can remember the tragedy of 9/11, the thousands of Americans who lost their lives and the fear we had as to what was next, our determination to keep our country safe.

I am proud to be a Democrat, but I will tell you I think President George W. Bush, a Republican, handled that tragedy in a superb way. He led our Nation in a time when we needed leadership. He made it clear to us and said words that I still recall, that this war on terrorism was not going to be a war against the religion of Islam. He said it was a peaceful religion. I remember that pronouncement he made because it was considered to be courageous, politically courageous, for him to say that the group that attacked us, their

religion should not be held against them.

I am not going to dwell on that, although I do want to salute President George W. Bush again for his courage in leading us in that moment.

But we decided also that we weren't going to be attacked again. No. We are going to prepare ourselves. We are going to defend ourselves. We are going to create Agencies of our government that have the authority, the power, and the resources to keep us safe. Never again; no 9/11.

And so we created a brandnew structure of intelligence Agencies in America. I have been in Congress for a number of years, familiar with the old way we did things, served on the Senate Intelligence Committee. It was going to be a new day, a new organization, and we were going to do everything we can to make sure that 9/11 never happened again.

We created the Foreign Intelligence Surveillance Act, and that basically said: We are going to listen to and hear and pay attention to our enemies. We are going to stop them before they hit us.

Most Americans would say: Good. That is why we elected you.

For years, Congress—although despite this—has avoided confronting a fundamental flaw at the heart of our surveillance authority. Under section 702 of the Foreign Intelligence Surveillance Act, the government collects communications of foreigners—foreigners—overseas without a warrant from any court.

But, in the process, the government, unfortunately, over the years collects millions of communications of innocent Americans—people they are not authorized to surveil.

Once collected, the government can search these communications without a warrant from any court. So here we have this question about the possession of your privacy as an American citizen being assaulted by your government, despite that Fourth Amendment.

Every American needs to understand that this law, which I referred to, allows the government to listen to your phone calls, read your private messages that have been collected under section 702. The government does all that without any court approval. They are not breaking down your front door; they are listening on your phone.

This is a fundamental flaw that I have worked to change for a long time. And over and over again, every administration—both political parties—said: Senator, don't lose any sleep. It is just a little problem. We will take care of it.

But the Fourth Amendment's prohibition on warrantless searches is not an optional decision by the government. That Fourth Amendment is a core safeguard of liberty guaranteed by our Constitution.

Every single Member of the Senate—Democrats, Republicans—raised their hand and took an oath. What was that

oath all about? To uphold and defend this little book.

As detailed in a recent report by the nonpartisan Brennan Center, the Federal Bureau of Investigations and the National Security Agency have abused section 702 for years—years. These abuses, according to the FISA Court, have been "persistent and widespread." The government itself has reported hundreds of thousands of unlawful searches using this authority.

In other words, 702 is directed toward foreigners, remember? They are using it against Americans. They are collecting information about people who are not even covered by the Foreign Intelligence Surveillance Act.

As further detailed in the Brennan Center report, the government has used section 702 to spy unlawfully on many people. Whom have they spied on? Members of Congress, congressional staff, judges, journalists, protestors, political donors, even women on dating apps. Go figure. That is going to make us safer in America?

Past attempts at reform have not solved the problem, and I have been at this for many years.

As the Brennan Center explained, "The current system of section 702 oversight relies almost entirely on the executive branch self-policing to prevent, detect, and report abuses." In other words, the fox is watching the chicken coop. That is a flawed system under any administration. Under this administration, it is especially alarming.

The FISA Court has already raised concerns about how this Trump administration is using the powers that I have described to you this afternoon. But the Trump administration is keeping the latest opinion of the court secret from the American people. I have seen it. I invite every Member of the Senate to go and see it. I am not going to betray anything that is secret or confidential, but I guarantee you that if you will take time out of your busy schedule to go down to what we call the SCIF to order up a copy of a document—I won't be any more specific—and take the time—it will take you a little time to read it, your opinion of the role of FISA and the rights of Americans will be impacted for sure.

We can't wait to fix 702. Now is the time to do it. Now is the time to say we can have both liberty and security. I credit my colleague from Oregon RON WYDEN, who came up with that phrase, and it says it all. Can we be safe in America and still be free? Is it possible? I think it is.

This issue is even more urgent because of the Trump administration's disregard for the rule of law. The question before Congress is whether we will grant warrantless surveillance authority to President Trump and MAGA loyalists like FBI Director Kash Patel and the new—announced today—Director of National Intelligence Bill Pulte for the rest of this administration.

I am not going to go into the suggestion of Mr. Pulte to head our intelligence Agencies. I will simply just say: totally unqualified.

The current administration has repeatedly targeted political opponents. We have seen it all across the board, including former Fed Chair Jerome Powell, former FBI Director James Comey, and New York attorney general Letitia James. It has attacked independent institutions like the Privacy and Civil Liberties Board. I know that because I had a hand in creating it. We said if there is going to be all of this surveillance going after enemies of the United States, let us make sure there is a Board of five people who will be watching these activities and reporting the excesses to Congress if changes need to be made.

What did the Trump administration do to the five-member Privacy and Civil Liberties Board I just described? They removed the three Democrats on the Board so it couldn't function.

The courts have a responsibility here as well. They fired career law enforcement officials and public servants at the FBI and the Department of Justice. They have cleaned shop. These people would have been responsible that a program like 702 be lawful and non-partisan. They are gone, removed by this administration—so the watchdogs that we built into the system to make sure that no President, no administration, goes too far in the exercise of their responsibilities and duties.

Yes, we want a safe America, but, yes, we want it to be a lawful country too. We want it to abide by the Constitution, and those of us who swore an oath to uphold and defend it have the first responsibility.

In the hands of a government that has treated the Constitution as an afterthought, Congress should not place blind trust in the hands of an administration which clearly can use this surveillance power for political purposes.

It is not hard to imagine what this President and his handpicked FBI Director Kash Patel could do with unchecked surveillance powers.

Are my fears of Mr. Patel warranted? Read his words, his own book that he wrote about his view of government. And just for convenience, he provides not an index but a list of his political enemies—his political enemies. Now, this man is the head of the Federal Bureau of Investigation and has the power of the surveillance, which I have described to you. Trust him? It is not hard to imagine why this President chose him for political reasons.

What happens when the administration uses section 702 to spy on Americans, perhaps those who protested the murder of two innocent people in Minneapolis during the ICE raids? They used to spy on Black Lives Matters protestors. Is it hard to imagine that they would extend that to those who question the masked ICE agents' activity?

What happens if journalists have their texts and phone calls snooped on because they dare to report controversial news about this administration's misconduct?

Any Member of Congress who wants to ensure there are checks on this out-of-control administration should not vote to reauthorize the authority of 702 without meaningful guardrails. I want 702 to continue to be strong, to be legal, to be constitutional. We can make it such.

SAFE ACT

Mr. President, fortunately, Congress does not need to choose between protecting national security and preserving Americans' constitutional rights. We can do both. As Senator WYDEN said, we can have liberty and security.

That is why I went along with my Republican colleague from Utah Senator MIKE LEE. We have introduced a bill called the SAFE Act, which would reauthorize section 702 with basic, practical safeguards to protect privacy and civil liberties.

Specifically, our bill would require the government to obtain a judicial warrant before accessing the contents of Americans' texts, emails, phone calls, and other private communications, with notable exceptions for emergencies and special circumstances.

That is exactly what we believe the Constitution requires of us because the Founders, rightly, understood that no administration should be given a blank check to invade a citizen's privacy without the oversight of an independent judge, without the protection of the Fourth Amendment.

Some argue there is simply not enough time to enact significant reforms before section 702 expires. They are wrong. This is a perennial claim every time this debate rolls around. I have heard it over and over: Gosh, it is a shame we can't correct the mess of 702, but we have got to move on for other important business.

Even if the authority temporarily lapses, which I don't believe it will, the surveilling program can continue under existing law, as it has in the past.

The time to finally protect Americans from warrantless surveilling under section 702 is now, not later—not next time, now with this Congress and this Constitution.

We have heard false promises too many times before. And with power in the hands of this President, we just can't afford to wait any longer. If Congress cannot protect Americans' constitutional rights under these circumstances, when will it do it?

I oppose the reauthorization of warrantless surveillance powers under FISA section 702 without guardrails to better protect the privacy of Americans. I urge all of my colleagues to do the same.

I yield the floor.

The PRESIDING OFFICER. The Senator from Indiana.

BORDER SECURITY

Mr. YOUNG. Mr. President, I cannot be the only Member of this body to notice that several words and phrases are used a lot less on the Senate floor these days. Among those words and phrases are "open borders," "illegal crossings," "catch-and-release," and "migration surges."

You see, these terms have been dropped from our debates and are no longer in the news because President Trump and Republicans in Congress helped largely close the border—close the border to illegal immigrants.

With support from this President and this Republican Congress, our law enforcement personnel ceased catch-and-release and stopped the record migration surges.

This—this—is what the American people elected us to do: to end the chaos at the southern border and block the flow of illegal immigrants into our communities. And we did these things so effectively, it has almost gone unnoticed.

Of course, there were some Members who denied there was a crisis in the first place. There were all sorts of commentators who decided to look the other way. The numbers from one administration to the next tell a different story, though. Let's revisit those numbers.

From 2021 to 2024, over 10 million illegal immigrants crossed the southern border, and this was by design. You see, President Joe Biden paused deportations. He laxed requirements for asylum seekers. He ended construction of a border wall. If you go down there today, you see remnants of it. He suspended "Remain in Mexico."

The previous administration created an influx of illegal immigrants and, in the process, endangered public safety and taxed resources in communities along and far from the border.

These policies also undermined Americans' faith in legal immigration. They undermined faith in legal immigration. Yes, my constituents understand we are a nation of immigrants, but our faith was shaken because the previous administration prioritized lawbreakers over those who wished to come to America legally and embrace our values.

As soon as he was inaugurated, President Trump increased the number of troops along the southern border. He began deporting illegal immigrants, and he reinstated "Remain in Mexico."

And Republicans in Congress, we did our part too. In the Big Beautiful Bill passed by this Congress and signed into law by President Trump a year ago, we increased resources to secure the border and to combat drug smuggling and human trafficking across the Nation.

The bill contained funding for additional Border Patrol agents. As a result, the screening and vetting of illegal immigrants increased markedly. And we increased funding for the Department of Justice, and that enabled the hiring of additional immigration