

THE “SECTION 702” SURVEILLANCE PROGRAM

WHAT YOU NEED TO KNOW

ADAM KLEIN, MADELINE CHRISTIAN AND MATT OLSEN



Center for a
New American
Security

The background features a repeating pattern of light gray line-art icons. These include various symbols of law (scales, gavels, courthouses, legal documents) and technology (laptops, tablets, mail icons, a 'HELLO' sign, a person on a screen).

OUTLINE

01 • 702 BASICS

02 • 702'S VALUE

03 • SAFEGUARDS AND CONCERNS



01

702 BASICS

3 SURVEILLANCE AUTHORITIES

FISA

TITLE I, OR “TRADITIONAL FISA”



- **Targets:** Agents of a foreign power in the U.S.
- **Collection:** In the U.S.
- Requires an individualized judicial order

OVERSEAS

EXECUTIVE ORDER 12333



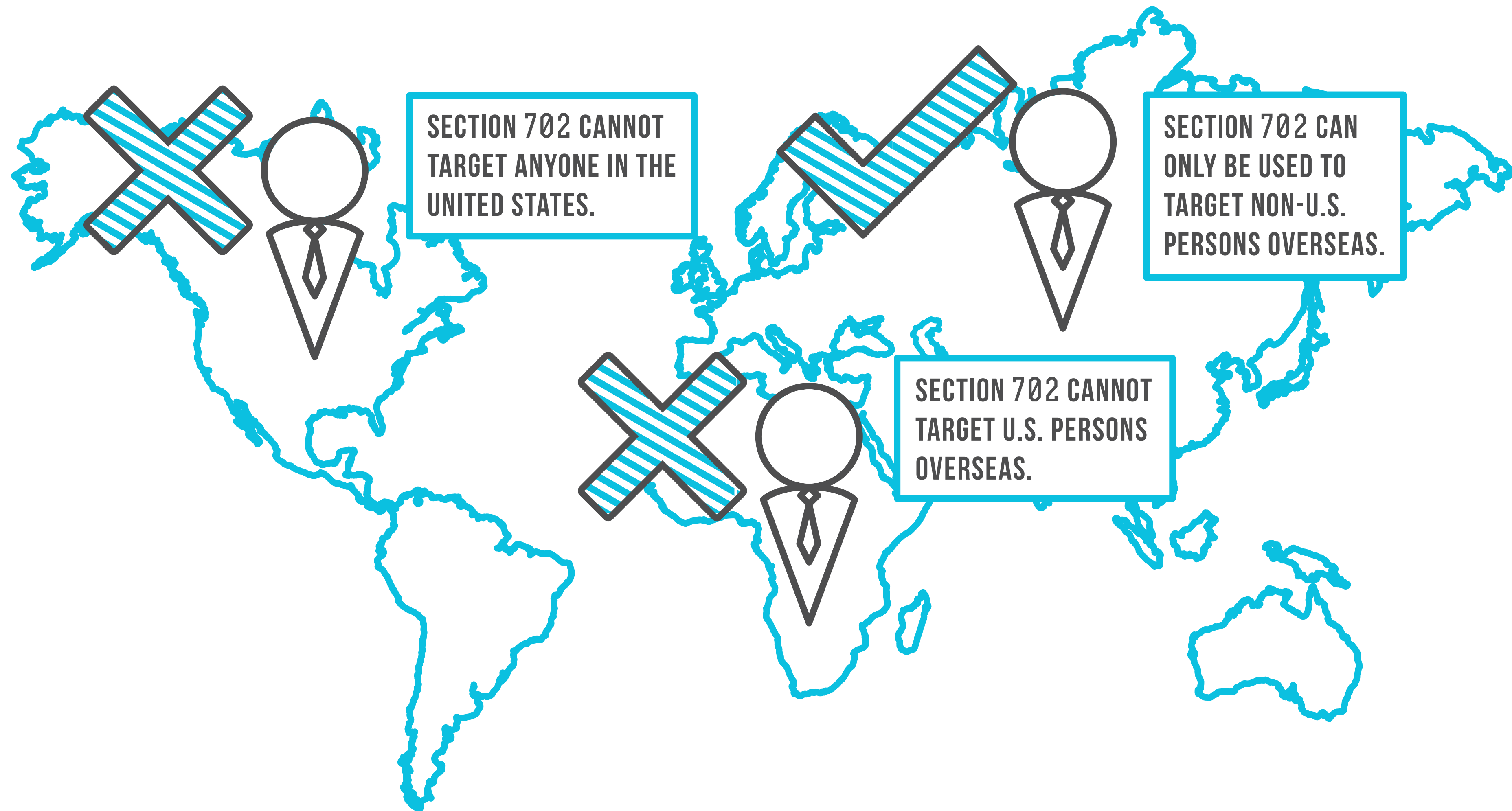
- **Targets:** Overseas
- **Collection:** Overseas
- No judicial oversight

702



- **Targets:** Non-U.S. persons overseas
- **Collection:** In the U.S.
- Requires annual judicial approval

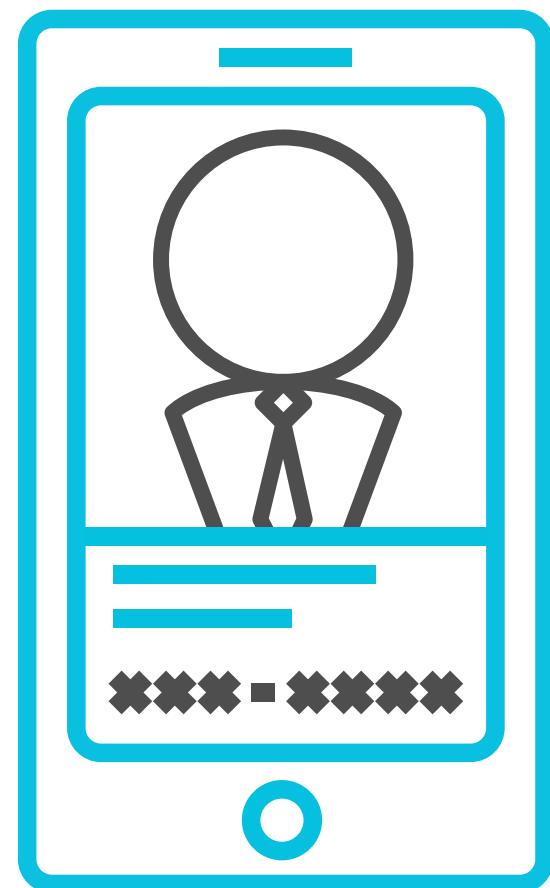
WHO AND WHERE?



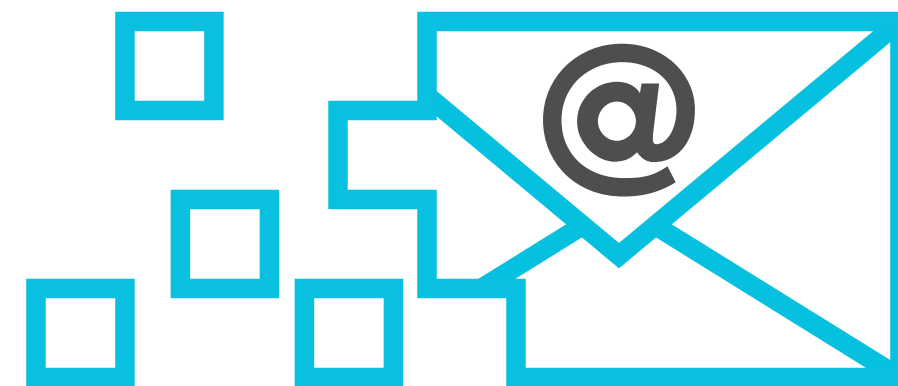
702 USES “SELECTORS,” NOT KEYWORDS



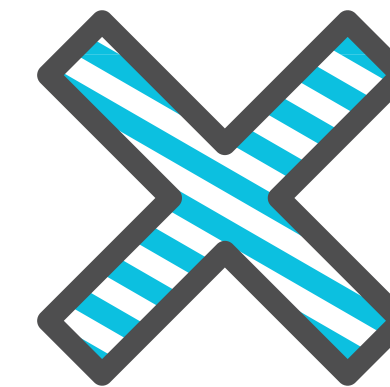
SELECTORS CAN BE...



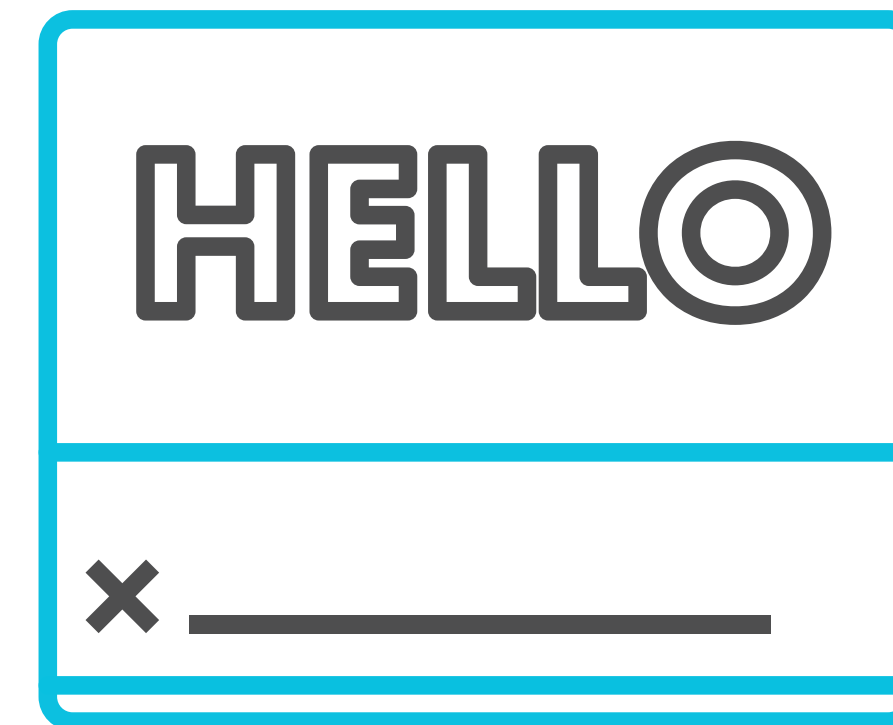
PHONE NUMBERS



EMAIL ADDRESSES



SELECTORS CANNOT BE...



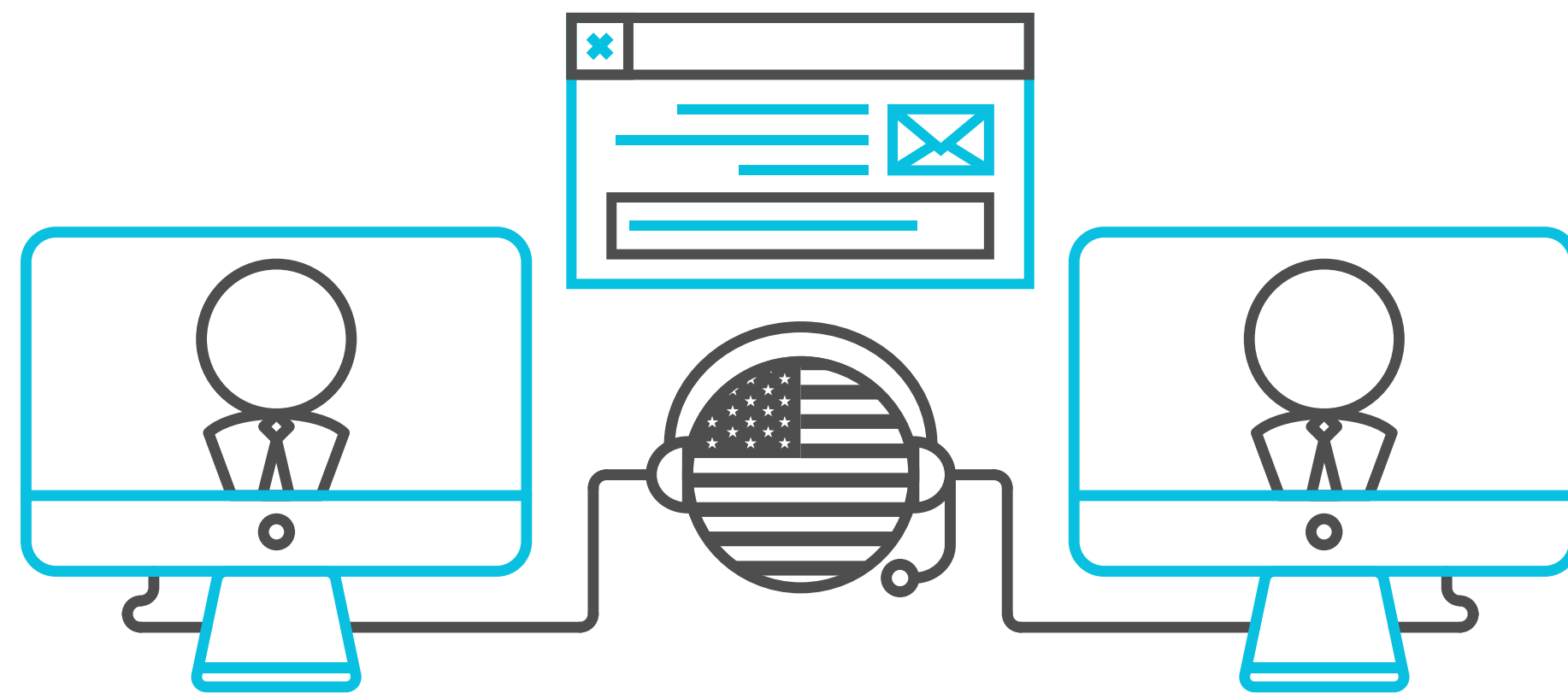
NAMES



KEYWORDS

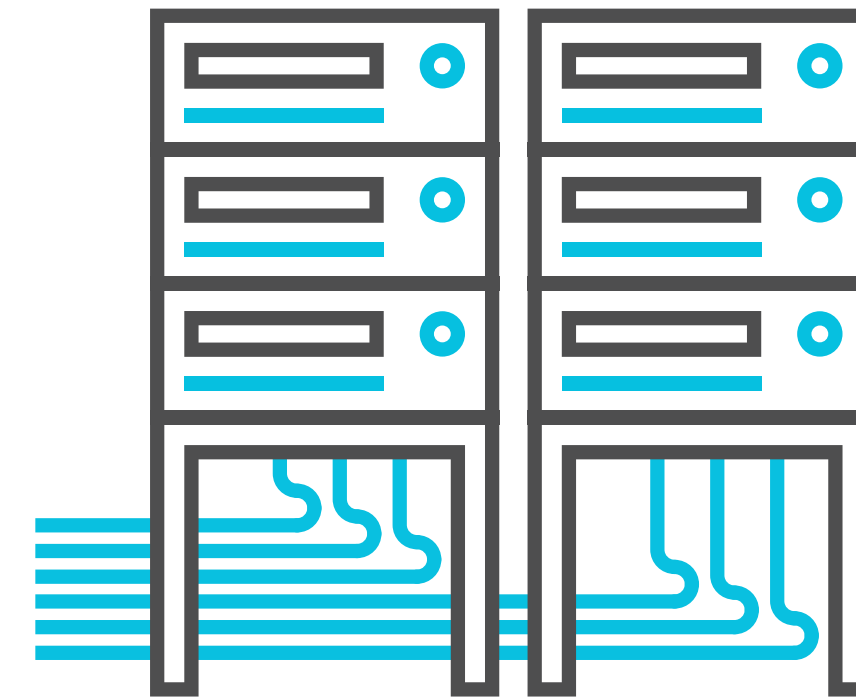
HOW 702 COLLECTION WORKS

UPSTREAM



- Messages to or from a target are filtered out as they speed across fiber-optic cables that form the “internet backbone.”
- Upstream collects data in **motion**.

DOWNSTREAM



- Private-sector companies must turn over stored data associated with accounts validly targeted under Section 702.
- Downstream collects data at **rest**.



02

702'S VALUE

WHY 702 IS IMPORTANT



- **Najibullah Zazi**, a Colorado resident, was secretly plotting to bomb the New York subway. Zazi sent an email to an al Qaeda courier in Pakistan asking for bombmaking advice. Fortunately, NSA was monitoring the courier's email under 702.
- The FBI arrested Zazi and his accomplices before they could carry out the attack.

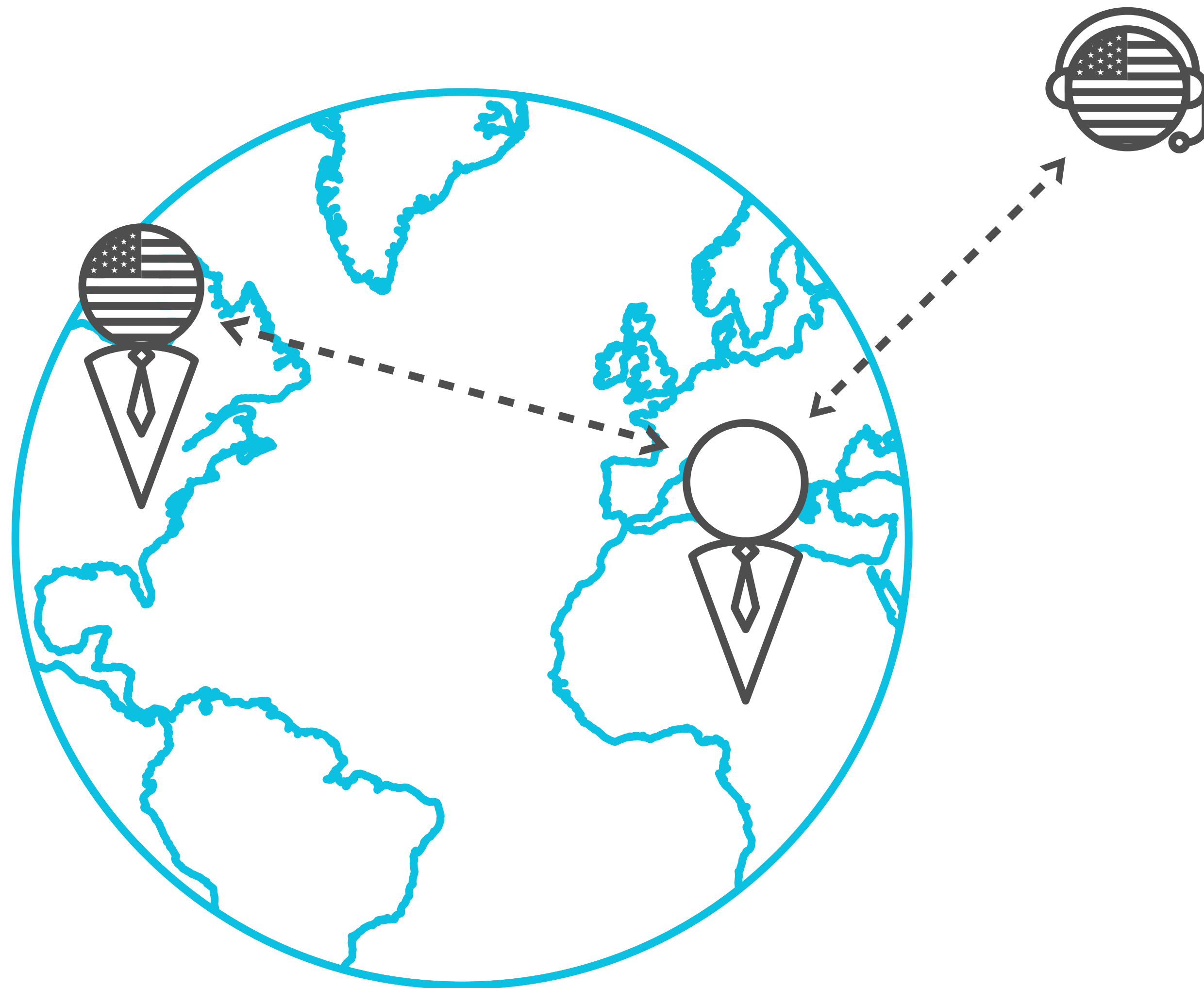


- **Mohamed Mohamud**, an Oregon resident, exchanged emails with a foreigner abroad who was targeted under 702. Alerted by that contact, the FBI began investigating Mohamud.
- He was eventually convicted of trying to bomb Portland's annual Christmas Tree Lighting ceremony.



- **Abd al-Rahman Mustafa al-Qaduli** (aka "Hajji Imam") was a top-level member of ISIS's leadership in Syria.
- Intelligence from 702 allowed the United States to locate and kill him in a Special Forces raid last year.

INCIDENTAL COLLECTION



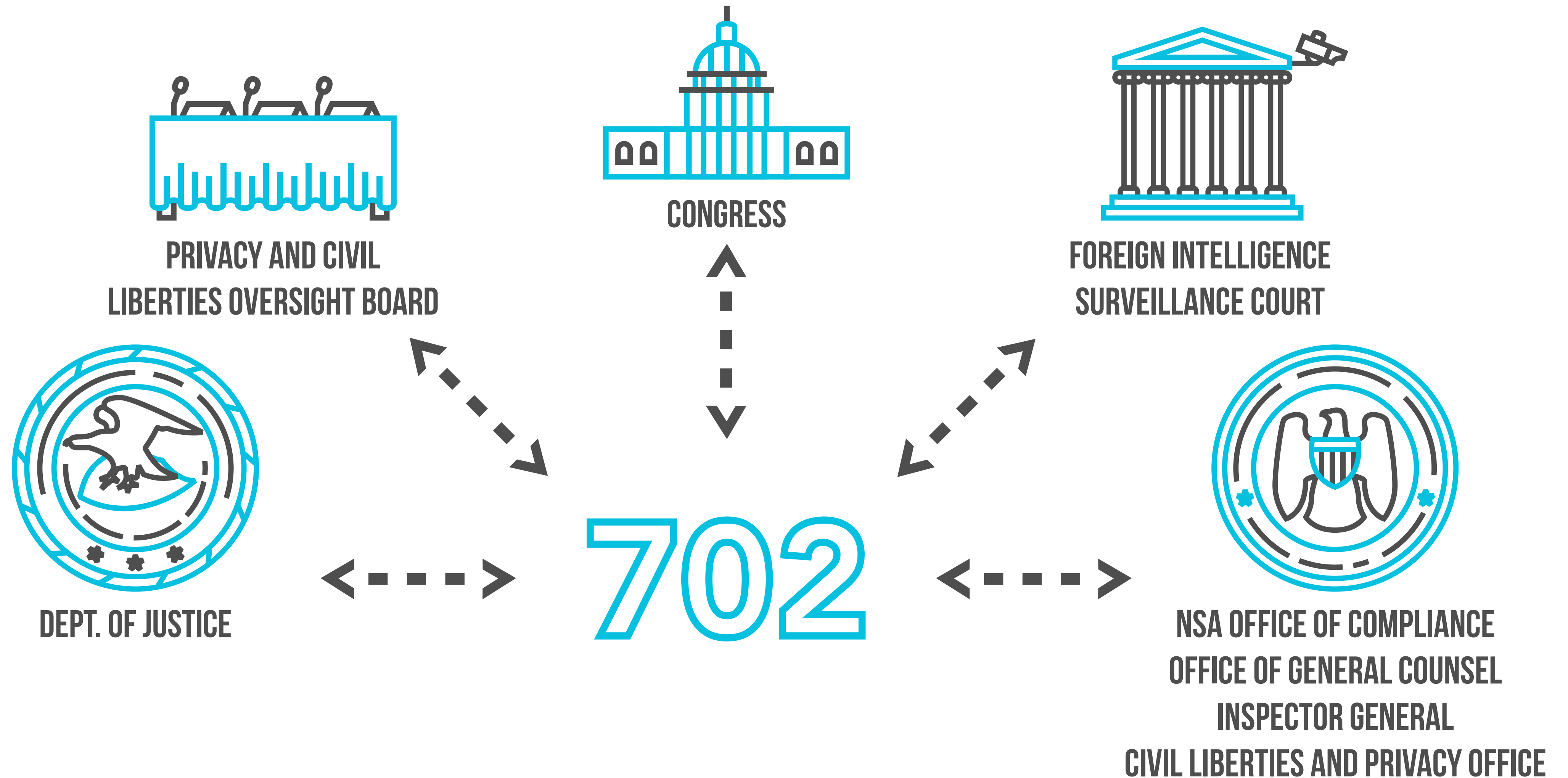
- Section 702 can only be used to target foreigners—but Americans’ communications can be “incidentally collected” if they communicate with a foreign target.
- Incidental collection can produce valuable intelligence—especially for “homegrown terrorism.” If someone in the United States is talking to a known ISIS or al Qaeda terrorist overseas, that is an urgent warning sign.
- At the same time, incidental collection raises privacy concerns for Americans whose communications are captured. To address these concerns, court-approved rules limit how agencies can store, search, and share information about Americans.

The background features a repeating pattern of light gray line-art icons. These icons include various legal symbols such as courthouses, classical columns, and scales of justice, alongside modern technology icons like smartphones, laptops, and document folders. A solid blue horizontal line runs across the middle of the slide, intersecting the central text.

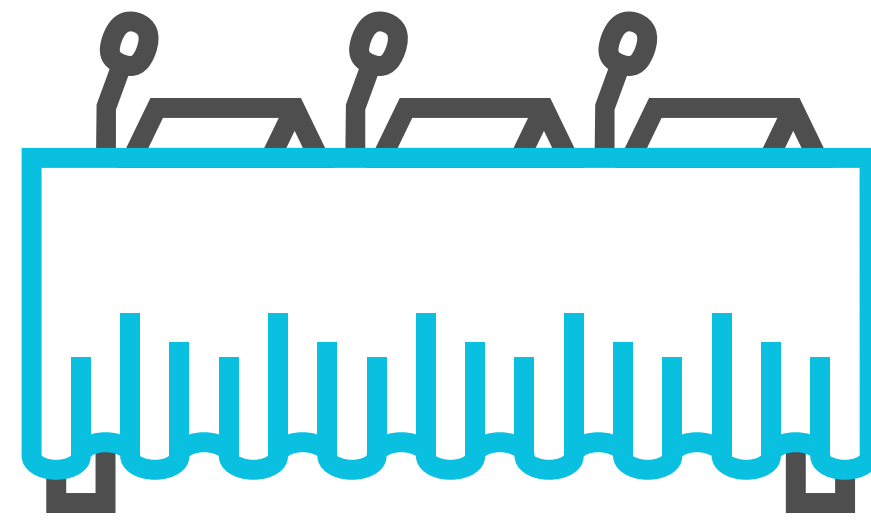
03

SAFEGUARDS AND CONCERNS

SAFEGUARDS



PAST REFORMS



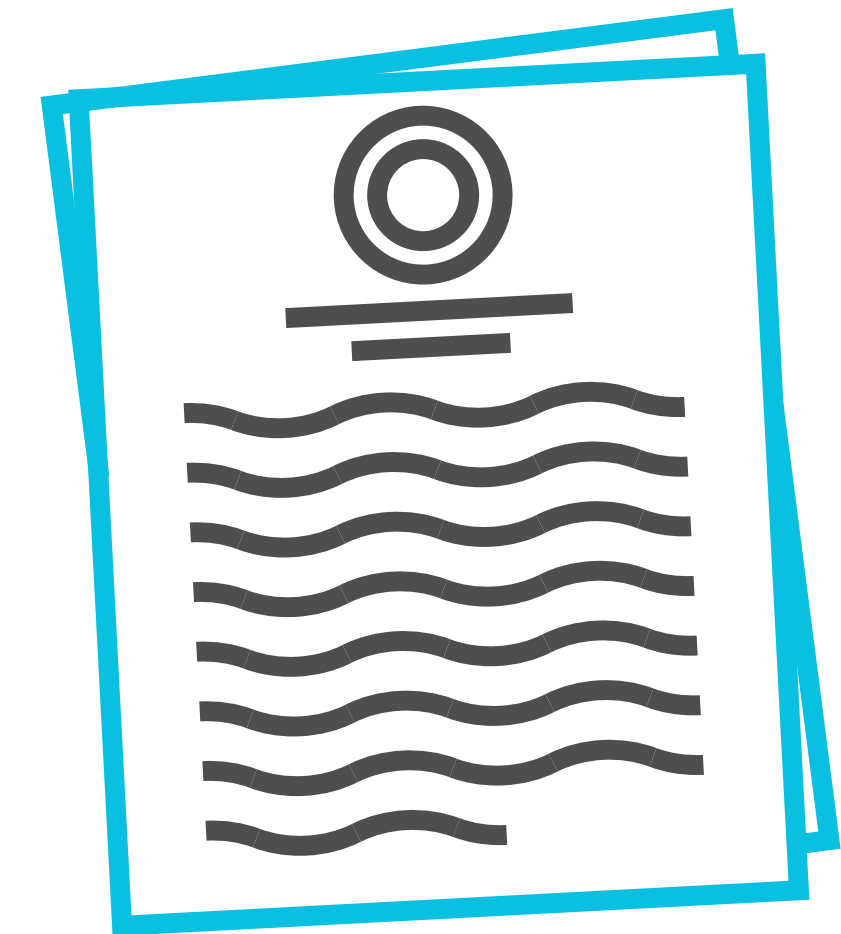
PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

- The Privacy and Civil Liberties Oversight Board's ten recommendations for Section 702 have all been implemented in whole or in part.



FOREIGN INTELLIGENCE SURVEILLANCE COURT

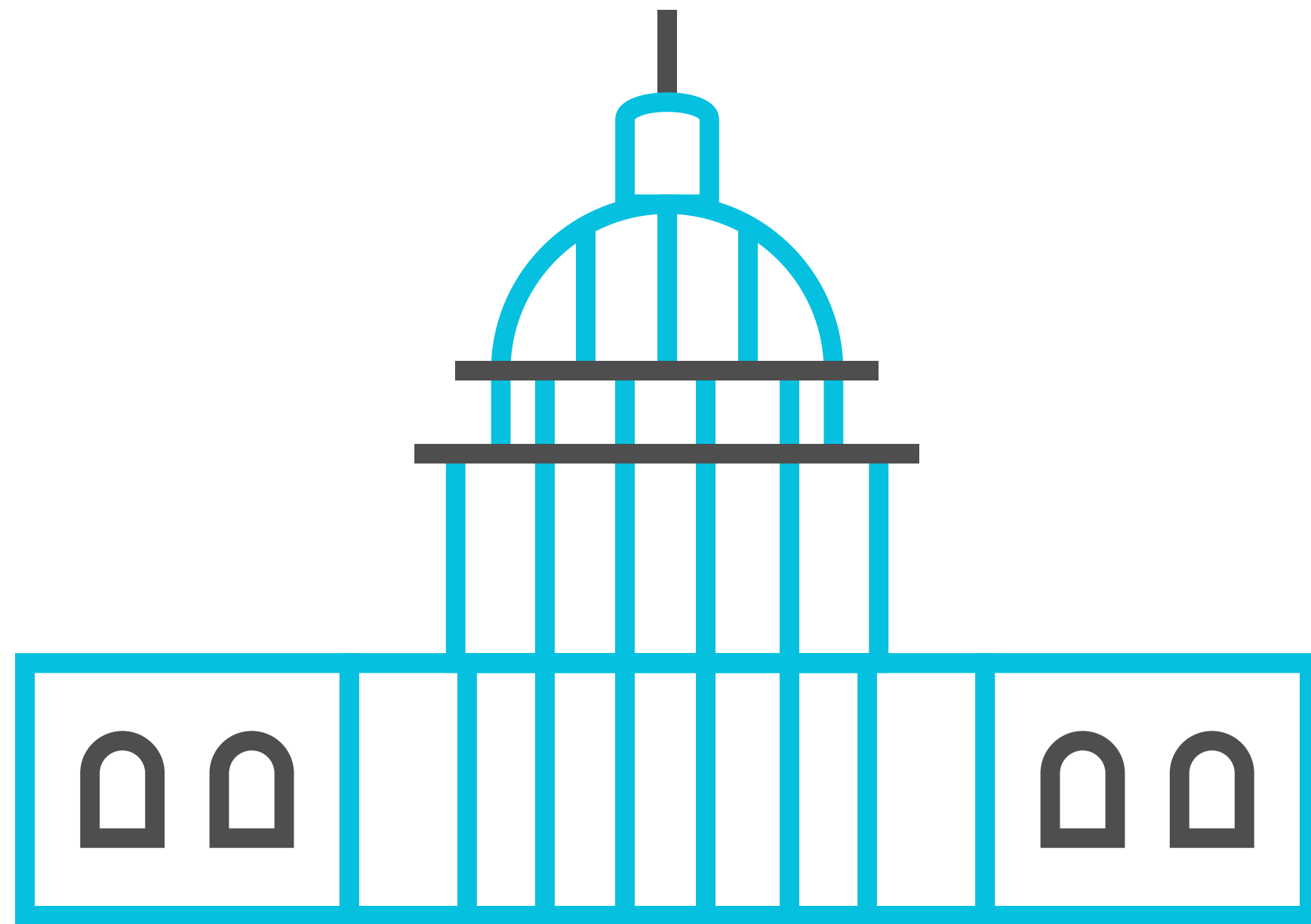
- Court oversight led the NSA to stop collecting messages that mentioned, but were not to or from, selectors targeted under Section 702.



USA FREEDOM ACT

- The USA Freedom Act of 2015 strengthened judicial oversight and greatly enhanced transparency about Section 702.

ISSUES FOR CONGRESS



- The overall volume of U.S.-person information that Section 702 incidentally collects.
- FBI, NSA, and CIA queries of 702 data to find information about Americans.
- Strengthening oversight bodies like the Foreign Intelligence Surveillance Court and Privacy and Civil Liberties Oversight Board.
- The Justice Department's use of 702-derived evidence in criminal prosecutions.
- Leaks of classified foreign intelligence information, including information about Americans.
- The practice of “unmasking” the names of Americans mentioned in foreign intelligence reports.



THANK YOU

DESIGN: TRISTAN CAMPOS