

*Re: National Coalition of 92 Civil Rights and Racial Justice Organizations Opposes Reauthorizing FISA Section 702 in the National Defense Authorization Act of 2024*

*To: U.S. House of Representatives and U.S. Senate*

*Date: November 28, 2023*

Dear Representatives and Senators:

The undersigned civil rights organizations strongly oppose any efforts to include in the National Defense Authorization Act of 2024 (NDAA) or other must-pass legislation any reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA). As you're aware, this extremely controversial warrantless surveillance authority is set to expire at the end of the year, but will continue to operate as it does currently until April, as government officials have recognized for many years.<sup>1</sup>

Reporting indicates certain Congressional leaders are pushing not only to briefly extend this spying power to provide more time for Congress to debate how it should be reformed, but are further considering reauthorizing legislation, likely for a longer period, from the House Permanent Select Committee on Intelligence (HPSCI). Not only was this legislation not included in either NDAA passed by the House or Senate, it has yet to even be introduced or its legislative text published.

Public outlines of the HPSCI legislation reveal, however, that it would in fact serve to expand surveillance of people in the United States in several alarming ways, from targeting immigrants to reviving provisions of the PATRIOT Act that expired years ago.<sup>2</sup> It would also fail to address alarming threats to civil rights, like the government's purchase of massive amounts of data about American communities without court orders, while depriving members of Congress the opportunity to meaningfully address these threats.

Worse, the HPSCI bill would reauthorize Section 702 without in any way addressing the vast majority of the government's abuses of the authority — abuses that are actively undermining civil rights. This is particularly evident from the legislation's failure to meaningfully close the backdoor search loophole, which is when agents search, or "query," billions of international communications obtained warrantlessly pursuant to Section 702 in pursuit of conversations involving and information about people in the United States. These searches happen hundreds of thousands of times each year and, despite any number of claimed internal reforms, continuously violate applicable rules. Indeed, the FBI's most optimistic predictions anticipate thousands of annual abuses.

---

<sup>1</sup> <https://www.nytimes.com/2023/11/16/us/politics/fisa-surveillance-law-expiration-congress.html>,  
<https://www.nytimes.com/2017/12/06/us/politics/warrantless-surveillance-legislation-section-702.html>

<sup>2</sup>

<https://www.justsecurity.org/90230/the-year-of-section-702-reform-part-v-the-hpsci-majority-fisa-working-group-report/>

The government itself admits that Section 702 surveillance has been abused to unlawfully conduct backdoor searches on tens of thousands of Americans, including<sup>3</sup>:

- 141 people protesting the murder of George Floyd
- Political activist groups, including tens of thousands of queries relating to civil unrest
- Two men based in part on a witness identifying them as being “of Middle Eastern descent”
- A state court judge who reported civil rights violations by a local police chief to the FBI
- A sitting member of Congress, a sitting Senator, a local political party, and 19,000 political donors

The relevant outlined provisions of the HPSCI bill apply only to the narrowest slice of backdoor searches — where the government is not searching for foreign intelligence purposes whatsoever — which means it would entirely fail to address these known, and most frequent, abuses. (Last year, of the more than 200,000 backdoor searches intelligence agencies performed, there were only 16 cases in which the FBI accessed evidence using searches that did not seek foreign intelligence.<sup>4</sup>) Indeed, while the legislation expands surveillance of millions of immigrants, it deliberately excludes reforms that would prevent the most serious known abuses.

One FBI agent even asserted that “he always recorded queries as not involving U.S.-person query terms even if the facts indicated otherwise, *e.g.*, identifiers for local businesses and mosques” — evidence of systematic and intentional misuse that would have been nearly impossible to detect absent such a brazen admission.<sup>5</sup>

Simply put, Section 702 must not be reauthorized without a meaningful opportunity for members of Congress to reform the authority and other related warrantless surveillance practices. Including in must-pass legislation any extension would sell out the communities that have been most often wrongfully targeted by these agencies and warrantless spying powers generally. Adding legislation to reauthorize Section 702 during conference that has not been debated by either House or Senate Judiciary Committee or either chamber would amount to a profound procedural and substantive failure.

For the above reasons, we oppose including reauthorization of Section 702 in the NDAA or any other must-pass legislation, and instead urge Congress to provide for robust consideration of the major reforms and privacy protections that people in the United States deserve.

Sincerely,

---

<sup>3</sup> <https://www.brennancenter.org/our-work/research-reports/fisa-section-702-civil-rights-abuses>

<sup>4</sup> [https://www.dni.gov/files/CLPT/documents/2023\\_ASTR\\_for\\_CY2022.pdf#page=27](https://www.dni.gov/files/CLPT/documents/2023_ASTR_for_CY2022.pdf#page=27)

<sup>5</sup>

[https://www.intelligence.gov/assets/documents/702%20Documents/declassified/21/2021\\_FISC\\_Certification\\_Opinion.pdf#page=48](https://www.intelligence.gov/assets/documents/702%20Documents/declassified/21/2021_FISC_Certification_Opinion.pdf#page=48)

AAPI Equity Alliance  
AAPI Victory Alliance  
Action Against Hate  
American-Arab Discrimination Committee (ADC)  
American Civil Liberties Union  
American Muslim Bar Association  
APA Justice  
API Equality-LA  
ASATA – Alliance of South Asians Taking Action  
Asian American Academy of Science and Engineering (AAASE)  
Asian American Federal Employees for Nondiscrimination  
Asian American for Civil Rights and Equality  
Asian American Legal Defense and Education Fund (AALDEF)  
Asian American Scholar Forum  
Asian Americans Advancing Justice – AAJC  
Asian Americans Advancing Justice – Asian Law Caucus  
Asian Americans Advancing Justice – Atlanta  
Asian Americans Advancing Justice Southern California  
Asian Americans Leadership Council  
Asian Law Alliance  
Asian Pacific American Labor Alliance (APALA), AFL-CIO  
Asian Pacific Partners for Empowerment, Advocacy and Leadership (APPEAL)  
Asian Student Alliance  
Asian Texans for Justice  
Association of Chinese Americans  
Aurora Commons  
Brennan Center for Justice at NYU School of Law  
Center for Global Muslim Life  
Center for Leadership Equity and Research (CLEAR)  
Chinese American Citizens Alliance Portland Lodge  
Chinese Culture Center of San Francisco  
Chinese for Affirmative Action  
Coalition of AAPI Churches Los Angeles  
Communities United for Status & Protection (CUSP)  
Color Of Change  
Council on American-Islamic Relations (CAIR)  
Council on American-Islamic Relations, California  
Defending Rights & Dissent  
Demand Progress  
Desis Rising Up and Moving (DRUM)  
Empowering Marginalized Asian Communities  
Ethnic Media Services  
Fight for the Future  
Grassroots Asians Rising

HEART Women & Girls  
Hmong Innovating Politics  
Houston Abolitionist Collective  
Lucy Parsons Labs  
MPower Change Action Fund  
Muslim Advocates  
Muslim Counterpublics Lab  
Muslim Justice League  
Muslim Power Building Project  
Muslims for Just Futures  
Muslim Women For  
National Asian Pacific American Families Against Substance Abuse (NAPAFASA)  
National Asian Pacific American Women's Forum  
National Council of Asian Pacific Americans (NCAPA)  
National Iranian American Council  
National Korean American Service & Education Consortium (NAKASEC)  
National Pacific Islander Education Network  
OCA – Asian Pacific American Advocates  
OCA Asian Pacific Advocates – San Diego  
OCA Asian Pacific Advocates of Greater Seattle  
OCA Asian Pacific American Advocates—Pittsburgh Chapter  
OCA Columbus  
OCA Greater Chicago  
OCA Greater Cleveland – Asian Pacific American Advocates  
OCA Silicon Valley  
OCA-Central Virginia Chapter  
OCA-Greater Houston  
Pacific Asian Counseling Services  
Partnership for the Advancement of New Americans  
Project South  
Queer Crescent  
Restore The Fourth  
Rising Voices  
Savage Daughters  
Sikh Coalition  
South Asian American Policy and Research Institute (SAAPRI)  
South Asian Public Health Association  
South Asian Network  
Stop AAPI Hate  
Thai Community Development Center (Thai CDC)  
Tulane Association of Chinese Professionals  
United We Dream  
Vietlead  
Vigilant Love

Vincent Chin Institute  
Women Watch Afrika  
Woori Juntos  
X-Lab