

November 30, 2023

The Honorable Charles Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Hakeem Jeffries
Democratic Leader
United States House of Representatives
Washington, DC 20515

Dear Majority Leader Schumer and Democratic Leader Jeffries:

The undersigned organizations urge you not to include a reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA) in the National Defense Reauthorization Act of 2024 (NDAA).

As you know, Section 702 is a highly controversial law. It has been frequently abused by the FBI in ways that are reminiscent of the J. Edgar Hoover era. FBI agents have used the program—which is supposed target *only at non-Americans located outside the United States*—to conduct warrantless searches for the communications of 141 racial justice activists and tens of thousands of other protesters in the United States, members of the U.S. Congress, a state judge who sought to report civil rights violation by a local police chief, more than 19,000 donors to a congressional campaign, journalists, and others.

This powerful and frequently abused surveillance authority should not be reauthorized without sweeping reforms. Quietly slipping a reauthorization of the law into must-pass legislation would be shirking Congress's responsibility to protect and uphold the rights of the American people.

We understand that one option under consideration is to attach legislation currently being drafted by the House intelligence committee, which would reauthorize Section 702 with a number of changes. That would be no better than a straight reauthorization of Section 702—in fact, in some ways, it would be worse.

Procedurally, using the NDAA conference process to enact legislation that has never been seen by the public, let alone voted on by any committee, is a fundamentally undemocratic way to make law. In terms of substance, House intelligence committee members previewed their legislation in a report issued on November 16; the proposal was widely criticized by reform advocates on both sides of the aisle, who noted that the proposed legislation mostly just codifies the status quo and would do nothing to prevent the types of abuses that have happened. In fact, the proposal would actually make it *easier* for FBI agents to search for the communications of immigrants seeking asylum or a green card.

Section 702 needs to be debated and reformed—not surreptitiously reauthorized, with or without window dressing. We urge you not to include any extension of this law into the 2024 NDAA.

Sincerely,

Surveillance Technology Oversight Project – S.T.O.P.
Brennan Center for Justice at NYU School of Law
Coalition for a District Alternative
Demand Progress
Fight for the Future
Freedom To Thrive
National Immigrant Justice Center
Neighborhood Defender Service of Harlem
Our Revolution
Secure Justice
Stop AAPI Hate
Village Independent Democrats