October 26, 2026

The Honorable Mike Johnson
Speaker of the House
U.S. House of Representatives

The Honorable Steve Scalise
Majority Leader
U.S. House of Representatives

The Honorable Hakeem Jeffries
Democratic Leader
U.S. House of Representatives

The Honorable Rick Crawford
Chairman
House Permanent Select Committee on Intelligence

The Honorable Jim Himes
Vice Chairman
House Permanent Select Committee on Intelligence

The Honorable John Thune
Majority Leader
U.S. Senate

The Honorable Charles E. Schumer
Democratic Leader
U.S. Senate

The Honorable Tom Cotton
Chairman
Senate Select Committee on Intelligence

The Honorable Mark Warner
Vice Chairman
Senate Select Committee on Intelligence

Re: Declassification of March 2026 Foreign Intelligence Surveillance Court Decision

Dear Congressional Leadership and Members of the Intelligence Committees:

In March, the Foreign Intelligence Surveillance Court reportedly issued a decision related to Section 702 of the Foreign Intelligence Surveillance Act (FISA) that finds further compliance problems affecting Americans' rights. On September 13, 2026, the statutory deadline for declassifying that opinion came and went without a declassification, a waiver, or an explanation. The administration is now not only withholding important information from the public about how Section 702 impacts Americans' rights: it is also doing so in violation of the law.

Under 50 U.S.C. § 1872, the Director of National Intelligence and the Attorney General must complete a declassification review of any significant FISA Court opinion within 180 days and release it to the public, with only the redactions needed to protect legitimate sources and methods. If no part of the opinion can be released, the law requires the administration to say so

and publish an unclassified statement of the opinion's significant legal conclusions. The statute gives no option for indefinite silence.

The administration's failure to declassify the opinion follows months of stonewalling Congress and the public. According to a Senate Intelligence Committee Member who has read the opinion, the FISA Court found "major compliance problems" that "are directly related to Americans' constitutional rights." On April 30, 2026, Senate Intelligence Committee Chairman Tom Cotton and Vice Chairman Mark Warner wrote to the Director of National Intelligence and the Attorney General expressing their expectation that the opinion would be released within 15 days, so that its findings could be part of the public debate before Members voted on Section 702. That 15-day deadline passed without any response from the administration. When asked about this deadline during his confirmation process, Acting Attorney General Todd Blanche committed in writing to meet the 180-day statutory deadline, telling Congress the administration expected to release the opinion " in advance" of that deadline. On September 13, 2026, the statutory deadline passed with silence from the administration.

Throughout this period, the administration has urged Congress to renew Section 702 without requiring a warrant to access Americans' communications "incidentally" collected under Section 702, or any other meaningful reforms. Instead, it has asked lawmakers to trust that internal executive branch recordkeeping and self-reporting are enough to stop abuse. Failing to declassify the March 2026 FISA Court opinion, in violation of a basic statutory transparency requirement, underscores why merely adding more layers of internal oversight will not protect Americans' rights—the executive branch simply cannot be relied on to police itself.

Congress should refuse to support any reauthorization of Section 702 while the administration actively withholds legally mandated information about how the surveillance program operates. Further, it must stop relying on executive branch self-policing to protect Americans' rights and reauthorize Section 702 only with a warrant requirement to access Americans' private communications.

Sincerely,

Advocacy for Principled Action in Government
American Civil Liberties Union
Asian Americans Advancing Justice | AAJC
Brennan Center for Justice at NYU School of Law
Center for Democracy & Technology
Common Cause
Defending Rights & Dissent
Demand Progress

Democratic Messaging Project
Due Process Institute
Electronic Frontier Foundation (EFF)
Electronic Privacy Information Center (EPIC)
Fiat Fiendum
Fight for the Future
Free Press Action
Freedom of the Press Foundation
Frontera Federation
Muslim Advocates
Project On Government Oversight
Project for Privacy and Surveillance Accountability
RootsAction
The Workers Circle
X-Lab

cc: Members of the U.S. House of Representatives and the U.S. Senate