November 12, 2026

The Honorable John Thune
Majority Leader
U.S. Senate

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

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

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

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

The Honorable Katherine Clark
Democratic Whip
U.S. House of Representatives

The Honorable Roger F. Wicker
Chairman
U.S. Senate Committee on Armed Services

The Honorable Jack Reed
Ranking Member
U.S. Senate Committee on Armed Services

The Honorable Mike Rogers
Chairman
U.S. House Committee on Armed Services

The Honorable Adam Smith
Ranking Member
U.S. House Committee on Armed Services

Re: Opposing Efforts to Include FISA Section 702 Reauthorization in the National Defense Authorization Act of 2027

Dear Speaker Johnson, Majority Leaders Thune and Scalise, Democratic Leaders Schumer and Jeffries, Democratic Whip Clark, Chairmen Wicker and Rogers, and Ranking Members Reed and Smith:

We, the undersigned civil society and surveillance reform organizations, write to urge you to keep reauthorization of Section 702 of the Foreign Intelligence Surveillance Act (FISA) out of the National Defense Authorization Act (NDAA) or any other must-pass legislation in the waning days of the 119th Congress. If any such legislation includes reauthorization of Section 702 without a warrant requirement to access Americans' information, we urge you to oppose it.

For years, lawmakers across the political spectrum have sought meaningful reforms to FISA. Chief among these are requiring a warrant or other court order before accessing the private communications of U.S. persons in Section 702 databases and closing the data broker loophole. The principle at stake is fundamental: foreign intelligence authorities and purchased data should not be used to circumvent Americans' Fourth Amendment rights. The need for reform is

particularly acute as artificial intelligence tools are making it cheaper and easier than ever for the government to compile and analyze Americans' data at scale to reveal our habits, associations, and beliefs.

These are neither partisan nor fringe demands, having attracted support from conservatives and progressives alike. In fact, there is existing bipartisan legislation to reauthorize Section 702 with tailored, meaningful reforms that would protect Americans' privacy and civil liberties while maintaining the program's national security value. And Americans are overwhelmingly on the side of reform—only 12 percent of Americans want FISA extended as-is, and 76 percent want Congress to close the backdoor search loophole. Yet these reform bills have not been brought to the floor for votes, nor did their key reforms receive votes as amendments to clean reauthorization bills earlier this year.

The NDAA is among the most important bills Congress considers each year. It should not be used as a vehicle to circumvent or to cut short this long-running bipartisan debate over Americans' civil liberties and constitutional rights, nor to force lawmakers to choose between supporting our national defense and ending warrantless spying on Americans. Adding language in the NDAA conference to reauthorize Section 702 that has not been fully debated and voted on would be a serious procedural and substantive failure, and a betrayal of the democratic process.

Nor is there any operational need to reauthorize Section 702 during the 119th Congress. Although the statute expired in June of this year, Section 702 surveillance remains authorized under the Foreign Intelligence Surveillance Court's annual certification until March 17, 2027. As long as Congress reauthorizes the law before that date, there will be no lapse in surveillance authority. Claims that Congress must immediately accept reauthorization without a warrant requirement or risk losing critical foreign intelligence capabilities present a false choice and are just another scare tactic to pressure Members into supporting reauthorization without reforms. Including even a short-term reauthorization of Section 702 in any must-pass bill is unnecessary and would stifle critical reform efforts that have broad bipartisan support in Congress and with the public.

Americans across the political spectrum have good reason to distrust unchecked executive branch surveillance power. Conservatives have seen abuses of surveillance authorities targeted at political campaigns and other Americans engaged in lawful, First Amendment-protected activity. And progressives have warned against granting expansive surveillance powers to the current administration. In recent years, Section 702 has been abused to spy on protesters on the left and the right; 19,000 donors to a congressional campaign; members of Congress and their staff; and multiple government officials, political commentators, and journalists. No member of Congress knows who will occupy the White House in the years ahead, and constitutional protections should not depend on who is president.

Congress has a duty to openly debate and consider the pressing issues facing Americans—including warrantless government surveillance—and the NDAA should not become a vehicle for avoiding that debate and jamming through controversial legislation. We urge you to support keeping Section 702 reauthorization separate from the NDAA and any other must-pass year-end legislation.

Sincerely,

Advocacy for Principled Action in Government
American Civil Liberties Union
Americans for Responsible Innovation
Asian Americans Advancing Justice | AAJC
Brennan Center for Justice at NYU School of Law
Center for Democracy & Technology
Color Of Change
Common Cause
Demand Progress
Due Process Institute
Electronic Frontier Foundation
Electronic Privacy Information Center (EPIC)
Fight for the Future
Free Press Action
Freedom of the Press Foundation
National Association of Criminal Defense Lawyers
Project on Government Oversight
QuitGPT
Restore The Fourth - Action
Stop AAPI Hate
The Leadership Conference on Civil and Human Rights
The Project for Privacy and Surveillance Accountability (PPSA)
The Sikh Coalition
UnidosUS
Whistleblower & Source Protection Program (WHISPeR) at ExposeFacts
Win Without War
X-Lab

cc: Members of the U.S. Senate and House Committees on Armed Services