

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 4, 2026

The Honorable Charles E. Grassley
Chairman
Senate Judiciary Committee
135 Hart Senate Office Building
Washington, DC 20510

Dear Chairman Grassley:

As Congress considers whether to reauthorize Section 702 of the Foreign Intelligence Surveillance Act (FISA) ahead of its upcoming sunset on April 20, I was glad that you convened a Senate Judiciary Committee hearing on January 28th to examine this important surveillance authority. However, to fulfill its oversight and legislative responsibilities as the committee with jurisdiction over FISA, the Senate Judiciary Committee must have the opportunity to hear testimony and question witnesses from the Executive Branch about its use of this surveillance authority before considering whether to reauthorize it, with or without additional reforms to protect the privacy and civil liberties of Americans. This is why the Committee has held a hearing with senior Executive Branch officials prior to recent Section 702 reauthorizations. For example, when I served as Chair of this Committee, I convened a hearing to conduct oversight of Section 702 during the Biden Administration, including testimony from senior officials from the Department of Justice, the Federal Bureau of Investigation (FBI), Central Intelligence Agency (CIA), National Security Agency (NSA), and the Office of the Director of National Intelligence,¹ as you also did previously as Chair.²

Therefore, I respectfully request that you hold a hearing on Section 702 with senior Executive Branch officials who can answer questions regarding the efficacy of current safeguards and the extent to which government is continuing to use this authority to collect and search Americans' private communications without a warrant.

As you know, Section 702 was intended to permit surveillance of foreigners abroad for foreign intelligence purposes—and it is undoubtedly a valuable tool for that purpose.³ But Section 702 has also been used far beyond this original intent for warrantless domestic spying on Americans.⁴ It has been abused to spy on business and religious leaders, political parties, members of Congress,

¹ *Oversight of Section 702 of the Foreign Intelligence Surveillance Act and Related Surveillance Authorities: Hearing Before the S. Comm. on the Judiciary*, 118th Cong. (2023), <https://www.judiciary.senate.gov/oversight-of-section-702-of-the-foreign-intelligence-surveillance-act-and-related-surveillance-authorities>.

² *The FISA Amendments Act: Reauthorizing America's Vital National Security Authority and Protecting Privacy and Civil Liberties*, 115th Cong. (2017), <https://www.judiciary.senate.gov/committee-activity/hearings/the-fisa-amendments-act-reauthorizing-americas-vital-national-security-authority-and-protecting-privacy-and-civil-liberties>.

³ See SECTION 702 OVERVIEW, OFF. OF THE DIR. OF NAT'L INTEL. (2017), <https://www.dni.gov/files/icotr/Section702-Basics-Infographic.pdf>; FISA SECTION 702 VALUE, OFF. OF THE DIR. OF NAT'L INTEL. (2024); https://www.intelligence.gov/assets/documents/702-documents/FISA_Section_702_Vignettes-20240214_Final.pdf.

⁴ Elizabeth Goitein, *The Year of Section 702 Reform, Part I: Backdoor Searches*, JUST SEC. (Feb. 13, 2023), <https://www.justsecurity.org/85068/the-year-of-section-702-reform-part-i-backdoor-searches/>.

campaign donors, journalists, and protesters of all stripes.⁵ During the last reauthorization of Section 702, in April 2024, Congress codified several changes already in effect to prevent such rampant abuses from continuing unchecked, but it also undercut several existing guardrails.⁶

Even with the changes enacted in 2024, thousands of these warrantless searches continue.⁷ Moreover, Congress and the American people *still* do not have clear and accurate answers from the government regarding how many millions of Americans' communications it is collecting under this authority each year⁸ and how many of these warrantless searches on Americans the government is actually conducting every day.⁹

Prior to reauthorizing Section 702, it is critical that government officials come before the Committee so that Congress can obtain the answers that Americans deserve about how their government is monitoring their communications under this authority. I urge you to ensure that Congress fulfills its oversight and legislative responsibilities by calling senior officials from the relevant government agencies as witnesses before the Senate Judiciary Committee.

Thank you for your time and consideration.

Sincerely,



Richard J. Durbin
Ranking Member

⁵ *Id.*

⁶ See Reforming Intelligence and Securing America Act, Pub. L. No. 118-49, 138 Stat. 862 (2024), <https://www.congress.gov/118/plaws/publ49/PLAW-118publ49.pdf>; Noah Chauvin & Elizabeth Goitein, *The Year(s) of Section 702 Reform, Part VI: (Another) Looming Deadline*, JUST SEC. (Apr. 5, 2024), <https://www.justsecurity.org/94322/section-702-reform-compromise/>.

⁷ OFF. OF THE DIR. OF NAT'L INTEL., ANNUAL STATISTICAL TRANSPARENCY REPORT REGARDING THE INTELLIGENCE COMMUNITY'S USE OF NATIONAL SECURITY SURVEILLANCE AUTHORITIES 22 (2024), https://www.intel.gov/assets/documents/702-documents/statistical-transparency-report/ASTR_CY24.pdf.

⁸ PRIV. AND CIV. LIB. OVERSIGHT BD., *supra* note 6; *Oversight of the Foreign Intelligence Surveillance Act: Hearing Before the H. Comm. on the Judiciary*, 119th Cong. (2025) (statement of Elizabeth Goitein, Senior Director, Liberty and National Security Program Brennan Center for Justice, at 5-6), <https://docs.house.gov/meetings/JU/JU00/20251211/118740/HHRG-119-JU00-Wstate-GoiteinE-20251211.pdf>.

⁹ Memorandum Opinion and Order, *In re DNI/AG 702(h) Certifications 2025-A, 2025-B, 2025-C, and Predecessor Certifications, Nos. 702(j)-25-01, 702(j)-25-02, 702(j)-25-03*, and predecessor dockets, 40 (FISA Ct. March 18, 2025) ("NSD ultimately reported that selecting participants in order to review their communications resulted in queries of raw information that included the participants' accounts as query terms."); *Intelligence Surveillance Act: Hearing Before the H. Comm. on the Judiciary*, 119th Cong. (2025) (statement of Elizabeth Goitein, Senior Director, Liberty and National Security Program Brennan Center for Justice, at 10) ("The number of backdoor searches conducted by the FBI in 2024 is unknown.").