VIA EMAIL

Avril Haines
Director of National Intelligence
C/O Rebecca Richards
Civil Liberties Protection Officer, Office of the Director of National Intelligence
Chief, Civil Liberties, Privacy, and Transparency Office, ODNI

Dear Director Haines:

Thank you for extending to us an offer to meet with you and with other senior intelligence community leaders to discuss Section 702 of the Foreign Intelligence Surveillance Act, which expires on December 31, 2023, unless Congress reauthorizes it. We are writing in advance of the meeting to apprise you of some of the matters we would like to discuss so the meeting can be as productive as possible.

There is overwhelming evidence from the past decade that Section 702 has been frequently and egregiously misused by elements of the Intelligence Community. The FBI's widespread violations of querying rules are examples of this misuse, but we believe that warrantless queries of Americans' communications are unacceptable even when performed in compliance with internal rules. Accordingly, Section 702 should not be reauthorized in any form without substantial reforms that prevent further misuse and address other threats to Americans' privacy, such as intelligence agencies' purchases of location and other sensitive data.

We remain deeply disappointed by the failure of government officials thus far to propose meaningful reforms to surveillance activities. We are quite familiar with the new procedures that the FBI and other elements of the Intelligence Community have put in place and have described to Congress and to the public. We have carefully studied these procedures. We do not believe them adequate to prevent further misuse of this intelligence authority or ensure that the civil and human rights of all people are protected.

While we would be happy to further explain the basis for this conclusion at the September 7 meeting, we are hopeful that the bulk of the discussion will be devoted to key reform proposals that are on the table, now, for Congress to consider. These reforms, which are described in this statement to Congress, include:

- A warrant requirement for searching the content of Americans' communications collected under intelligence authorities;
- Establishing legislative safeguards for surveillance affecting Americans that is conducted under Executive Order 12333 authorities;
- Closing the data broker loophole, through which intelligence and law enforcement agencies purchase Americans' sensitive data;

- Bolstering judicial review in FISA-related proceedings, including the obligation to give notice when information derived from FISA is used against a person accused of a crime; and
- Codifying reasonable limits on the scope of intelligence surveillance.

We are particularly interested in hearing your response and the response of other senior intelligence community leaders to these key reform proposals. They are not new: many have been presented to elements of the Intelligence Community in prior meetings, they have been public for months, and some of them have even been voted on by Congress. We are attending the meeting to have this discussion.

Sincerely,

Kia Hamadanchy, American Civil Liberties Union
James Czerniawski, Americans for Prosperity
Elizabeth Goitein, Brennan Center for Justice at NYU School of Law
Jake Laperruque, Center for Democracy & Technology
Sean Vitka, Demand Progress
Jason Pye, Due Process Institute and FreedomWorks
Chris Baumohl, Electronic Information Privacy Center
Jumana Musa, National Association of Criminal Defense Lawyers
Prem Trivedi, New America's Open Technology Institute (OTI)
Bob Goodlatte, Project for Privacy and Surveillance Accountability
Freddy Martinez, Project on Government Oversight (POGO)
Alex Marthews, Restore the Fourth