



BAMEMSA Organizational Statement in Opposition to Short-Term Reauthorization of Section 702 and Calling for Comprehensive Privacy Protections

Our organizations represent Black, Arab, Middle Eastern, Muslim, and South Asian (BAMEMSA) communities that work on a range of grassroots, advocacy, and community issues. **As a collective of organizations, we strongly oppose including a short-term reauthorization of Section 702 in a continuing resolution or any other "must-pass" legislation.**

Section 702 and its related surveillance authorities have been exploited to surveil Americans, particularly targeting immigrant, Black, African, Muslim, Middle Eastern, Arab, and South Asian (“BAMEMSA”) communities. This section of the Foreign Intelligence Surveillance Act (FISA) permits intelligence agencies to conduct warrantless surveillance on foreign individuals, leading to pervasive and persistent privacy abuses, notably within the U.S. since its enactment.¹ With Section 702 set to expire, Congress has a pivotal opportunity to establish robust privacy protections for people in the United States.

During a Senate hearing last week, the Director of the National Counterterrorism Center, Christine Abizaid invoked Hamas as a talking point to advocate for the reauthorization of Section 702, perpetuating troubling rhetoric that implicitly links terrorism threats to Muslim, Arab, and Palestinian communities domestically.² Due to the broader environment of Islamophobia and dehumanization of Muslim communities, Section 702 and other amendments to the Foreign Intelligence Surveillance Act (“FISA”) vastly expanded government spying on our communities after 9/11. It has been used to spy on hundreds and thousands of Americans and continues to erode public trust in government institutions.

BAMEMSA communities face a distressing cycle where political occurrences such as the current moment are used to justify unchecked expansion of mass surveillance policies without any oversight, government transparency, and community accountability, resulting in harm for all communities. We continue to endure the repercussions of warrantless surveillance that dramatically expanded in the wake of 9/11. This includes the NYPD’s suspicionless Muslim surveillance program, NSA and FBI spying on prominent American Muslim activists, and FBI informants sent to embed themselves in mosques and entrap Muslims across the country—the list goes on.³

¹ Apr 21 2022 FISC Opinion at 49, available at https://www.intelligence.gov/assets/documents/702%20Documents/declassified/21/2021_FISC_Certification_Opinion.pdf.

² [Daniel Boguslaw](https://theintercept.com/2023/11/06/hamas-counterterrorism-mass-surveillance-section-702/). Counterterror Director Used Hamas Attack to Justify Mass Surveillance Program Renewal. Available at <https://theintercept.com/2023/11/06/hamas-counterterrorism-mass-surveillance-section-702/>

³ Sumayyah Waheed (Muslim Advocates), “The government is surveilling American Muslims by buying their data. It’s time to close the loophole,” September 6, 2023, available at <https://thehill.com/opinion/congress-blog/4190774-the-government-is-surveilling-american-muslims-by-buying-their-data-its-time-to-close-the-loophole/>.

Declassified court opinions and government audits have revealed that agencies consistently violate these rules in searching for American communications. These include searches for the communications of community and religious leaders, victims of violence, members of Congress, and more than 130 participants in racial justice protests during the summer of 2020. Searches were also motivated by racial animus: one search was conducted based on a witness's report that two men of "Middle Eastern descent" were loading cleaning supplies into a truck.⁴ In another instance, a government audit found that an analyst deliberately mislabeled searches for information about people and places in the United States — including searches for local businesses and mosques.⁵

Amid the current environment targeting pro-Palestinian speech and broader social movements are being targeted and repressed at an alarming scale, we urge Congress to **oppose including any reauthorization of Section 702 without comprehensive privacy safeguards, including:**

- **Close the Backdoor Search Loophole:** require a warrant to search for Americans' communications and other Fourth Amendment-protected information.
- **Close the Data Broker Loophole:** ensure the government cannot continue using data brokers to buy its way around the Fourth Amendment.
- **Protect people in the United States from Executive Order 12333 surveillance,** which includes [bulk surveillance programs that impact Americans](#).
- **Restore judicial review of FISA surveillance.**
- **Place reasonable limits on the scope of surveillance**
- **Reject any rhetoric and narrative linking Muslim, Arab, and Palestinian communities to national security and fueling mass surveillance policies**

BAMEMSA communities have been negatively impacted by mass surveillance policies that have been expanded over the past 22 years since 9/11 as part of the "War on Terror", resulting in irreparable harm. Failure to act perpetuates an unjust system that continues to punitively target our communities. We urge Congress to reject a short-term reauthorization of Section 702 in a continuing resolution or any other "must-pass" legislation and demand that Congress support in advocating for privacy protections that ensure fairness, accountability, and justice for all communities.

Signed,

Muslims for Just Futures
Muslim Advocates
American-Arab Discrimination Committee (ADC)
American Muslim Bar Association
Asian Americans Advancing Justice - Asian Law Caucus

⁴ 24th Joint Assessment at 61, available at <https://www.intel.gov/assets/documents/702%20Documents/declassified/24th-Joint-Assessment-of-FISA-702-Compliance.pdf>.

⁵ Apr 21 2022 FISC Opinion at 48, available at https://www.intelligence.gov/assets/documents/702%20Documents/declassified/21/2021_FISC_Certification_Opinion.pdf.



Defending Rights and Dissent
Desis Rising Up and Moving (DRUM)
HEART Women & Girls
Lucy Parsons Labs
MPower Change Action Fund
Muslim Women For
Muslim Power Building Project
National Iranian American Council
Partnership for the Advancement of New Americans
Project South
Queer Crescent
Vigilant Love
Women Watch Afrika
Woori Juntos