

U.S. House of Representatives

Committee on the Judiciary

Washington, DC 20515-6216

One Hundred Fifteenth Congress

June 27, 2017

The Honorable Daniel Coats
Director of National Intelligence
Office of the Director of National Intelligence
Washington, DC, 20511

Dear Director Coats:

On April 7, 2017, we wrote to you to renew the request of several members of the House Committee on the Judiciary. Specifically, our colleagues had requested “a public estimate of the number of communications or transactions involving United States persons subject to Section 702 surveillance on an annual basis.”¹

Over the course of more than a year, both your office and the National Security Agency worked with our staff to develop a methodology that would produce this information in a timely fashion. In our last letter, we were explicit about our expectations. You would provide us with this estimate “in time to inform the debate” on the reauthorization of Section 702. Unless you communicated otherwise, we would assume that this “understanding of the project—which is based on multiple briefings to our staff by ODNI and NSA—is still accurate.” We asked for an update on your progress no later than April 24, 2017.

We are now in receipt of your June 13 response to our letter. You write, in pertinent part, that “after more than a year of studying the matter, it has become clear that NSA is unable to develop an accurate and meaningful methodology” to complete this project. Unfortunately, your response arrived several days after you announced this conclusion before the Senate Select Committee on Intelligence—and also several weeks after the deadline we had specified in our last letter to you.

As you know, our Committee has primary jurisdiction over the Foreign Intelligence Surveillance Act. In the ordinary course of business, we would be troubled by your decision to ignore our request for so long, without so much as an explanation for the delay. In this particular instance, our Members are actively debating the reauthorization of Section 702. Failing to tell us that you will not deliver on this project—or even provide us with any meaningful advance notice of your testimony—is simply unacceptable.

¹ Letter from Rep. John Conyers, Jr., et al., to Director of Nat'l. Intelligence James R. Clapper, Apr. 22, 2016.

We appreciate that this project presents several technical challenges, and that it may be “infeasible” to provide us with exact figures.² Nevertheless, we request that you provide us with the following information, in classified form if necessary, **no later than Friday, July 7, 2017**:

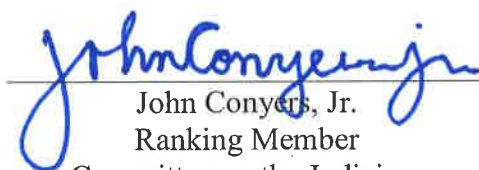
- ODNI and NSA proposed several different methodologies for completing this project. Please provide us with copies of any statistical analysis undertaken with respect to any of these methodologies.
- You testified that completing this project would require a “diversion of critical resources.”³ How did you determine what resources would need to be diverted? Please provide us with copies of any analysis of the cost of completing this project.
- To the extent that you have already attempted to implement one or more of these methodologies— even if you believe the results to be an inexact proxy for the exact number of U.S. persons swept into Section 702 collections—please provide us with copies of those results.

We remind you that Section 702 will expire on December 31, 2017. Our ability to answer questions about its impact on U.S. persons is a critical facet of reauthorization discussions. We hope that you will help us answer those questions on a timely basis.

Sincerely,



Bob Goodlatte
Chairman
Committee on the Judiciary



John Conyers, Jr.
Ranking Member
Committee on the Judiciary

² *FISA Legislation*, hearing before the S. Select Comm. on Intelligence, June 7, 2017 (statement of the Hon. Daniel Coats, Director of National Intelligence).

³ *Id.*