

November 19, 2019

Dear Representatives and Senators,

The undersigned organizations write to express our strong opposition to the reauthorization of three expiring Foreign Intelligence Surveillance Act (FISA) authorities currently contained in Section 1703 of the just-released Continuing Resolution, “Further Continuing Appropriations Act, 2020, and Further Health Extenders Act of 2019.”

Congress has had over four years to consider the authorities scheduled to expire on December 15, 2019. One of those authorities, Section 215, permits the mass surveillance of innocent people in the United States under the “Call Detail Records” (CDR) program. Last year alone, the program only designated 11 targets but vacuumed up the call records from over 19 million phone numbers, collecting over 430 million call detail records in total. These records providing insight into our most intimate activities, and the vast majority of people affected by it are in no way suspected of wrongdoing. Serious critics of policies targeted at communities of color and immigrants should be particularly concerned about how the government could wield such dangerous tools.

Further, the National Security Agency revealed 17 months ago that this program was unlawfully acquiring massive amounts of sensitive information about our phone conversations. Despite this large-scale collection of information beyond what the law authorized, another major instance of overcollection occurred just a few months later. The CDR program has been inactive since then due to its inability to operate within the already loose bounds of the law.

The intelligence community has repeatedly failed to publicly respond to lawmakers’ requests to provide even a single instance when the CDR program provided significant national security value, or any reason the authority for a fundamentally broken program needs to remain in place. Last month’s disclosure of long-withheld FISA Court opinions documenting serious misuse of surveillance authorities, including “fundamental misunderstandings” about how national security surveillance may lawfully be used, highlights the importance of a range of reforms. Extending these authorities for any period of time absent major reform, as the Continuing Resolution does, reflects an abandonment of Congress’s most basic responsibilities.

Inability to end the CDR authority and enact other significant reforms to PATRIOT Act authorities—such as ensuring these authorities cannot be used for warrantless location tracking or collection of sensitive information, that First Amendment-protected activities are not targeted, that defendants receive notice of surveillance used against them, and that the FISA Court does not operate in secrecy—represents a serious failure of Congress to protect individual rights and liberties. The many challenging issues of the day do not diminish the importance of this issue, which impacts the privacy of millions and risks misuse of national security powers. We call on Congress to act on clear and common-sense reforms now. Failure to do so is a dereliction of duty.

Sincerely,

Access Now  
American Bookseller for Free Expression (ABFE)  
Arab American Institute  
Campaign for Liberty  
Constitutional Alliance  
Council on Islamic American Relations  
Cyber Privacy Project

Defending Rights & Dissent  
Demand Progress  
Electronic Frontier Foundation (EFF)  
Electronic Privacy Information Center  
Free Press Action  
FreedomWorks  
Fight for the Future  
Government Accountability Project  
Government Information Watch  
Internet Infrastructure Coalition (i2Coalition)  
Liberty Coalition  
National Coalition Against Censorship  
Oakland Privacy  
Open the Government  
PEN America  
Project On Government Oversight  
Restore the Fourth  
S.T.O.P. – The Surveillance Technology Oversight Project  
TechFreedom  
Woodhull Freedom Foundation  
X-Lab