

June 4, 2014

Majority Leader Harry Reid
United States Senate
Washington, DC 20510

Republican Leader Mitch McConnell
United States Senate
Washington, DC 20510

Chairman Patrick J. Leahy
U.S. Senate Committee on the Judiciary
Washington, DC 20510

Ranking Member Chuck Grassley
U.S. Senate Committee on the Judiciary
Washington, DC 20510

Chairman Dianne Feinstein
U.S. Senate Select Committee on Intelligence
Washington, DC 20510

Ranking Member Saxby Chambliss
U.S. Senate Select Committee on Intelligence
Washington, DC 20510

Dear Majority Leader Reid, Republican Leader McConnell, Chairmen Leahy and Feinstein, and Ranking Members Grassley and Chambliss:

The undersigned civil liberties, human rights, and other public interest organizations write about the USA FREEDOM Act (H.R. 3361 and S. 1599), a version of which passed in the House on May 22. All of the undersigned organizations supported the original version of the USA Freedom Act introduced in both the House and the Senate as an important step towards comprehensive reform. However, we are very concerned about the changes made to the bill in the House and the breadth of the surveillance that the bill could abusively be read to authorize.

We are pleased that both the House sponsors and the Administration intend that this bill will prohibit bulk collection through the use of Section 215, FISA pen registers, and National Security Letters. For the reasons detailed below, however, we respectfully submit that careful, public and deliberate consideration of this legislation by the Senate, beginning with full process in the Senate Judiciary and Intelligence Committees, is now necessary to ensure that the legislation truly achieves its unambiguously defined objectives.

Before passage by the House, both the Judiciary and Intelligence Committees marked up the bill and reported out identical language. However, the final bill passed by the House markedly differs from both the original bill and the bill reported out of the committees. The provisions in the final bill were first disclosed when a Managers' amendment was filed with the House Rules Committee on May 20, less than 48 hours before final passage with one hour of debate and no amendments. The changes made in the Manager's amendment, apparently at the request of the Intelligence Community were many, substantive and complex. Nevertheless, there was no opportunity in the House for careful consideration or explanation of what the provisions are intended to do.

In these circumstances we respectfully request that the Judiciary and Intelligence Committees engage in complete and open consideration of the constitutional and other issues raised by HR 3361 that is needed to adequately examine and understand the full import of the language being voted on and to enable informed public debate on these critical issues. The result we seek is legislation that will protect constitutional and human rights, and assure necessary oversight of the intelligence community's collection of individuals' personal information.

In the past, Section 215 of the Patriot Act was secretly interpreted to authorize a collection program far broader than the language of the section appeared to permit. The current administration is now arguing that Congress ratified its secret interpretation of that law based on secret explanations, which the executive branch provided to Congress. It is crucial that this time Congress and the public develop a complete understanding of what is and is not being authorized before Congress votes on the bill. We are confident that this can be achieved without compromising matters which must be kept secret to protect national security. We respectfully request that you take all necessary steps to do so.

We stand ready to work closely with your offices, and with the Judiciary and Intelligence Committees, to produce legislation that meaningfully restores privacy and that we can unreservedly support.

Thank you for your consideration.

Advocacy for Principled Action in Government
American Association of Law Libraries
American Booksellers Foundation for Free Expression
American Civil Liberties Union
American Library Association
Amnesty International USA
Association of Research Libraries
Center for Democracy and Technology
Center for National Security Studies
The Constitution Project
Council on American-Islamic Relations (CAIR)
Cyber Privacy Project
Defending Dissent Foundation
Electronic Frontier Foundation
Demand Progress
Free Press Action Fund
Human Rights Watch
Liberty Coalition
National Association of Criminal Defense Lawyers
New America Foundation's Open Technology Institute
OpenTheGovernment.org
PEN American Center
Principled Action in Government
Project On Government Oversight (POGO)