

May 21, 2009

Dear Member of Congress,

On behalf of a number of diverse organizations, we urge you to conduct a comprehensive investigation into the use of the authorities granted under the USA Patriot Act and additional surveillance legislation and guidelines. The impending expiration of three of sections of the Patriot Act on December 31, 2009, as well as the start of a new administration, provides the perfect opportunity to begin this necessary investigation.

In recent years, Congress has approached our surveillance legislative structure in piecemeal fashion. Passed in 2001, the Patriot Act and its reauthorizing legislation in 2006 lowered the standard for domestic surveillance. The 2008 FISA Amendments Act removed the warrant requirement for wiretapping communications going into and out of the country. And, the new Attorney General Guidelines authorize the use of powerful investigative tools in cases where no factual predicate for an investigation exists. Taken together, these three pieces of the surveillance puzzle vastly expand the government's ability to collect information on Americans. Yet to date, there has been little systematic review of how these authorities are being used.

Congress should now take the time to learn how the many different authorities operate in practice, including how they interact – and overlap –to collect information about Americans on a far greater scale than may be suggested by any single authority alone. Only by understanding the larger picture can Congress make an informed, consistent, and principled decision about whether and how to amend these very powerful tools to ensure that they operate effectively and in a manner consistent with the civil liberties of innocent Americans.

The three Patriot provisions that expire this year should serve as only the beginning of Congress' inquiry, not the end. For example, while not expiring this year, National Security Letters are the only surveillance authority that has been thoroughly audited since 9/11 and substantial abuses have been uncovered, demonstrating a clear need for reform. And several other Patriot Act provisions have been found unconstitutional. Congress's review should thus encompass all of the intersecting statutory authorities that allow domestic surveillance by our nation's law enforcement and intelligence agencies.

Our nation's system of surveillance is too important to continue to be cobbled together on a piecemeal basis, without full information about the ways in which it has worked well and the ways in which it has worked badly. We recommend a comprehensive review to provide Congress with the information it needs to act wisely on this critical issue in the coming months and years.

Sincerely,

American Civil Liberties Union

Asian American Legal Defense and Education Fund

Association of Research Libraries

Bill of Rights Defense Committee

Campaign for Reader Privacy (American Booksellers Assn., American Library Assn. Association of American Publishers and PEN American Center)

Center for Democracy & Technology

Center for Justice & Accountability

The Constitution Project

Consumer Action
Council on American-Islamic Relations
Defending Dissent Foundation
Discrimination and National Security Initiative
Electronic Frontier Foundation
Federation of American Scientists
Friends Committee on National Legislation
Japanese American Citizens League
League of United Latin American Citizens
Liberty Coalition
National Association of Criminal Defense Lawyers
National Police Accountability Project
OMB Watch
OpenTheGovernment.org
People For the American Way
Special Libraries Association
Union for Reform Judaism
United Methodist Church, General Board of Church and Society
UNITED SIKHS
U.S. Bill of Rights Foundation
Washington Defender Association's Immigration Project