



February 7, 2011

U.S. House of Representatives
Washington, D.C. 20515

Dear Representative:

On behalf of the American Civil Liberties Union, a non-partisan organization with over half a million members, countless additional activists and supporters, and 53 affiliates nationwide, we urge you to vote 'NO' on H.R. 514, a bill that reauthorizes three expiring provisions of the USA Patriot Act and the Intelligence Reform and Terrorism Prevention Act (IRTPA) until December 8, 2011. This bill reauthorizes and extends these laws without making common sense amendments to protect Americans' privacy. Because of the importance of this vote to civil liberties principles, we will be scoring this vote.

The three expiring provisions of the Patriot Act and IRTPA give the government sweeping authority to spy on individuals inside the United States and, in some cases, without any suspicion of wrongdoing. All three should be allowed to expire if they are not amended to include privacy protections to protect personal information from government overreach.

- Section 215 of the Patriot Act authorizes the government to obtain "any tangible thing" relevant to a terrorism investigation, even if there is no showing that the "thing" pertains to suspected terrorists or terrorist activities. This provision is contrary to traditional notions of search and seizure, which require the government to show reasonable suspicion or probable cause before undertaking an investigation that infringes upon a person's privacy. Congress must ensure that things collected with this power have a meaningful nexus to suspected terrorist activity or the provision should be allowed to expire.
- Section 206 of the Patriot Act, also known as "roving John Doe wiretap" provision, permits the government to obtain intelligence surveillance orders that identify neither the person nor the facility to be tapped. This provision is contrary to traditional notions of search and seizure, which require government to state with particularity what it seeks to search or seize. Section 206 should be amended to mirror similar and longstanding criminal laws that permit roving wiretaps, but require the naming of a specific target. Otherwise, it should expire.

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- Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004, or the so-called “lone wolf” provision, permits secret intelligence surveillance of non-US persons who are not affiliated with a foreign organization. Such an authorization, granted only in secret courts, is subject to abuse and threatens our longtime understandings of the limits of the government’s investigatory powers within the borders of the United States. According to government testimony, this provision has never been used and should be allowed to expire outright.

The bill also fails to amend other portions of the Patriot Act in dire need of reform, most notably those relating to the issuance and use of national security letters (NSLs). NSLs permit the government to obtain the communication, financial and credit records of anyone deemed relevant to a terrorism investigation even if that person is not suspected of unlawful behavior. Numerous Department of Justice Inspector General reports have confirmed that tens of thousands of these letters are issued every year and they are used to collect information on people two and three times removed from a terrorism suspect. NSLs also come with a nondisclosure requirement that precludes a court from determining whether the gag is necessary to protect national security. The NSL provisions should be amended so that they collect information only on suspected terrorists and the gag should be modified to permit meaningful court review for those who wish to challenge nondisclosure orders.

Instead of reauthorizing these provisions, Congress should conduct robust, public oversight of all surveillance tools and craft reforms that will better protect private communications from overbroad government surveillance. Because of the negative privacy implications of extending all of these laws, we strongly urge you to vote “no” on H.R. 514. We will track this vote and add its result to our Congressional scorecard.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Michelle Richardson
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