

House Speaker Nancy Pelosi
United States House of Representatives
Washington, D.C. 20515-0508

Senate Majority Leader Harry Reid
United States Senate
Washington, D.C. 20510-2803

September 4, 2007

Dear Speaker Pelosi and Leader Reid,

We are organizations that believe that our nation's surveillance laws can effectively target terrorists without jeopardizing the rights of innocent United States persons. We are very concerned that the recently enacted Protect America Act of 2007 may be used to justify the warrantless interception of any international communications by U.S. persons without any restriction on the subsequent review and data mining of the metadata concerning those calls or the content of the communications themselves.

We are encouraged by your requests to the Judiciary and Intelligence Committees to once again delve into the Foreign Intelligence Surveillance Act (FISA) and reinsert much needed privacy protections that were lacking in the last iteration. It stands to reason that just as the level of intrusion into U.S. persons' communications is dramatically increased, so too must be the protections for those communications. To that end, we would like to share basic principles that must be respected to ensure that U.S. persons' electronic communications are protected from unwarranted government intrusion:

1. **No amendments to FISA should be made permanent until Congress and the public receive answers about what surveillance activities have been conducted over the last six years and the legal basis for those programs.** Further, information regarding how the authorities provided for in the Protect America Act are being interpreted and implemented by the National Security Agency should be shared with Congress. To facilitate Congress' legislative efforts, the NSA should be required to articulate with specificity the problems it identified in the prior law and whether and how the Protect America Act responds to those problems.
2. **Any further legislation must reiterate that FISA is the exclusive means of intelligence gathering on U.S. soil, and the legislation must include automatic consequences for violating this exclusivity.** As initially enacted

by Congress, the exclusivity of FISA was unambiguous. This new exercise in defining the lawful extent of surveillance authorities will be useless if the resulting legislation can be ignored. We further recommend that any new legislation state explicitly that the Authorizations for the Use of Military Force in Afghanistan and Iraq do not authorize any surveillance outside FISA. Additionally, we recommend that the NSA be required to report to Congress repeatedly on its implementation of any new surveillance activities conducted pursuant to FISA.

3. **Interceptions of U.S. persons' communications within the United States should continue to be included within, and, therefore, be protected by the definition of "electronic surveillance."** The Protect America Act's apparent elimination of this protection should be repealed.
4. **Collection and isolation of the particular communications sought by the government should be conducted by the telecommunications industry itself – the government should not be given direct and unfettered access to telecommunications infrastructure.** We are concerned that the Protect America Act appears to allow the government to "sit on the line" and scoop up all communications and sort through them later. Instead, the government should receive only the information it is authorized to intercept by law.
5. **The Foreign Intelligence Surveillance Court (FISC) must play a meaningful role in ensuring compliance with the law.** First and foremost, interception of communications to and from the US should be authorized by the FISC. The Court must also have regular access to information about how many U.S. communications are being collected.
6. **Under any new amendment to FISA established in your legislation, when the government intercepts a communication to which a person in the U.S. is a party, there should be a presumption requiring the NSA to immediately destroy that communication except in narrowly defined circumstances providing for judicial oversight.**
7. **Once the government has reason to believe that there is a substantial likelihood that a specific account, person or facility will have contact with someone in the United States, the government should be required to return to the FISC to obtain a court order for continued surveillance of that account, person or facility.** Reliance on the FISC will help ensure the privacy of U.S. persons' communications.

We are happy to discuss more precise language to effectuate these changes. We understand that the Administration's original intent was to allow easier collection of communications of people abroad that are incidentally routed through the United States. We look forward to working with you and the Committees to rein in this limitless

program and devise one that actually gives the government access to these communications without jeopardizing the rights of people in the United States.

Sincerely,

American-Arab Anti-Discrimination Committee
American Association of Law Libraries
American Civil Liberties Union
American Library Association
Association of Research Libraries
Bill of Rights Defense Committee
Center for Democracy and Technology
Downsize DC
Electronic Frontier Foundation
EnviroJustice
Essential Information
Fund for Constitutional Government
Liberty Coalition
National Association of Criminal Defense Lawyers
National Coalition Against Censorship
National Lawyers Guild – National Office
OMB Watch
OpenTheGovernment.org
PEN American Center
People for the American Way
Privacy International
Rep. Bob Barr (R-GA)
Special Libraries Association
U.S. Bill of Rights Foundation
United Methodist Church, General Board of Church and Society

State and Regional Organizations:

California

Fresno Stonewall Democrats
Glendale Education and Social Justice Advocates
Interfaith Communities United for Peace and Justice, Pasadena
Pax Christi Southern California, Los Angeles
Physicians for Social Responsibility, Sacramento
Privacy Activism, San Francisco
St. Camillus Center for Pastoral Care, Los Angeles
Teach Peace Foundation, Davis
Women For: Orange County, Irvine
Yolo County ACLU, Davis

Colorado

Bill of Rights Supporters of Fort Collins
Fort Collins Iraq Withdrawal
The Freethinkers of Colorado Springs
Longmont Citizens for Justice and Democracy
Pikes Peak Justice and Peace Coalition, Colorado Springs
Rocky Mountain Peace & Justice Center, Boulder
Strength Through Peace, Fort Collins

Florida

Tampa - Safe and Free
Military Families Speak Out, Florida Chapter
Peace Now Citrus County
Progressive Democrats of America Sugarcrats, Citrus County
Veterans For Peace, Central Florida Chapter 136
Veterans for Peace, Gainesville chapter

Georgia

Greater Atlanta Bill of Rights Campaign

Illinois

Chicago Committee to Defend the Bill of Rights
Chicagoland Coalition for Civil Liberties and Rights

Iowa

ACLU of Iowa
Iowa City Bill of Rights Defense Committee

Louisiana

C3, New Orleans
Bienville House Center for Peace and Justice, Baton Rouge
Coalition Against War and Injustice, Baton Rouge

Massachusetts

Cape Cod Bill of Rights Defense Committee
The Chatham Peace Initiative
Citizens for an Informed Community, Bridgewater
Pioneer Valley Committee Against Secrecy and Torture, Northampton
SAGE, Amherst

Minnesota

Minnesota Bill of Rights Defense Committee, Minneapolis/St. Paul
Minnesota Coalition on Government Information

Missouri

The Sanctuary for Freedom/Civil Liberties Campaign, Kansas City

New Jersey

Central Jersey Coalition Against Endless War
Mercer County Coalition for Civil Liberties
Trenton Citizens for Civil Liberties

New York

Bill of Rights Defense Campaign in Westchester, NY
Center for Law and Justice, Albany
Dr. Dhafir Support Committee, Syracuse
Greater Rochester Libertarian Party
Muslim Solidarity Committee, Albany
The Muslim Solidarity Committee of Bethlehem Neighbors for Peace, Delmar
New York Civil Liberties Union Capital Region Chapter, Albany
Save the Pine Bush, Albany
The Community Empowerment Center, Albany
Tompkins County Bill of Rights Defense Committee
Westchester Progressive Forum
Women Against War, Delmar

North Carolina

Durham Bill of Rights Defense Committee

Oregon

Applegate Citizens for Political Change
Bandon Bill of Rights Defense Committee
Benton County Bill of Rights Defense Committee
Citizens for Peace and Justice, Medford
Grants Pass Veterans for Peace
Lane County Bill of Rights Defense Committee
Oregon Womens' Action for New Directions, Eugene
Pacific Green Party of Coos County
Rights 101, Portland
Social Justice Alliance of Josephine County

Pennsylvania

Kutztown Area Democratic Club

South Carolina

Carolina Peace Resource Center

Texas

Bill of Rights Defense Committee of Greater Dallas

Vermont

Patriotic Response to Renegade Government

Connecticut River Valley Council on Public Policy

Washington

Coupeville Peace & Reconciliation/Coupeville Bill of Rights Defense Committee
Jefferson County Bill of Rights Defense Committee, Port Townsend

Cc: Chairman Reyes, Ranking Member Hoekstra, Chairman Conyers, Ranking
Member Smith, Chairman Leahy, Ranking Member Specter, Chairman
Rockefeller, Ranking Member Bond