WASHINGTON
LEGISLATIVE OFFICE

March 7, 2018

The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary
2141 Rayburn House Office Building
Washington, DC 20515

Re: ACLU Opposes H.R. 2152, the "Citizens' Right to Know Act of 2017"

Dear Chairman Goodlatte and Ranking Member Nadler:

On behalf of the American Civil Liberties Union (ACLU), we write to express our opposition to H.R. 2152, the "Citizens' Right to Know Act of 2017," as the House Judiciary Committee considers this bill. This legislation raises privacy concerns for the ACLU given the personally identifiable data that is to be collected and publicly reported by the federal government. The bill also undermines efforts to eliminate or reduce jurisdictions' reliance on money bail systems. We urge the Committee to instead consider H.R. 1437, the "No Money Bail Act of 2017," and H.R. 4019, the bipartisan "Pretrial Integrity and Safety Act of 2017," two bills endorsed by the ACLU.

For nearly 100 years, the ACLU has been our nation's guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the laws of the United States guarantee everyone in this country. The ACLU takes up the toughest civil liberties cases and issues to defend all people from government abuse and overreach. With more than two million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, DC, for the principle that every individual's rights must be protected equally under the law, regardless of race, religion, gender, sexual orientation, disability, or national origin. The Citizens' Right to Know Act is inconsistent with the ACLU's mission.

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The Citizens' Right to Know Act Raises Privacy Concerns

The Citizens' Right to Know Act requires jurisdictions receiving funds from the Department of Justice (DOJ) to report to the Attorney General the names, arrest records, and appearance failures for those participating in DOJ funded pretrial services programs. The legislation allows the Attorney General to make public the names, arrest records, and failure appearances that jurisdictions report. Except for a clause that subjects the data "to any applicable confidentiality requirements," the bill does not provide any explicit privacy protections for those whose personally identifiable information has been collected by the federal government and is subject to public release. The bill requires that the Attorney General penalize noncompliant jurisdictions by denying them 100% of the DOJ grant program funds that are used to support pretrial services programs.

While the ACLU appreciates the need for the federal government to collect and report data, personal privacy interests must be balanced with public interests. When personally identifiable information is being collected and publicly reported, the ACLU largely believes that such information should be obtained and disseminated only with individuals' informed consent. We also believe that the potential to harm individual reputations should be considered when arrest records are publicly shared. We are troubled that the Citizens' Right to Know Act would collect and publicly report personally identifiable information of individuals participating in pretrial services programs—individuals who have not been convicted of a crime given their pretrial status.

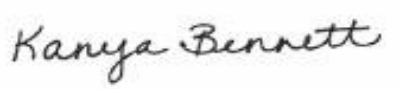
The Citizens' Right to Know Act Undermines Bail Reform Efforts

The Citizens' Right to Know Act is inconsistent with bipartisan efforts to reform money bail systems, like the Pretrial Integrity and Safety Act, which the ACLU endorses. By collecting and reporting only certain data about pretrial services programs and those participating in them, the Citizens' Right to Know Act will depict a one-sided picture of pretrial services programs and participants. For example, the legislation's focus on when an individual has failed to appear promises a negative narrative around the pretrial stage. If this bill were serious about measuring the true impact of pretrial services programs, it would collect a more robust data set and not that which is of interest only to the bail bonds industry.

The ACLU supports bail reform that corrects the injustice of basing a defendant's release on how much money the person has. Instead of considering the Citizens' Right to Know Act, the Committee should take up the Pretrial Integrity and Safety Act. This legislation would incentive jurisdictions to reform their money bail systems through federal resources rather than penalize them like the Citizens' Right to Know Act, which denies DOJ grants to noncompliant jurisdictions. The Pretrial Integrity and Safety Act would build safer communities, stronger families, and a fairer criminal justice system by ensuring that people who are innocent in the eyes of the law are not deprived of their freedom because they cannot afford money bail.

For the above described reasons, the ACLU urges Members of the House Judiciary Committee against favorably reporting out the Citizens' Right to Know Act. Instead, we encourage the Committee to give serious consideration to bail reform bills through legislative and oversight hearings on the issue. If you have any questions, please contact Kanya Bennett, Legislative Counsel with the ACLU, at kbennett@aclu.org or (202) 715-0808.

Sincerely,



Faiz Shakir
National Political Director

Kanya Bennett
Legislative Counsel

cc: Members of the House Judiciary Committee