



May 29, 2015

**RE: Patriot Act Reauthorization Deadline**

Dear Senator,

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On Sunday, the Senate is expected to take a series of votes in advance of the scheduled expiration of provisions of the Patriot Act. The ACLU believes that Congress should use the opportunity presented by the scheduled sunset to enact far-reaching reforms to the surveillance laws.

Accordingly, below are our vote recommendations for bills that may be presented in advance of June 1<sup>st</sup>:

1. **The ACLU recommends a NO vote on Sen. McConnell's S.1357**, which would reauthorize the provisions of the Patriot Act set to expire until June 30, 2015. Additionally, we urge a NO vote on any other bill that seeks to extend the expiring provisions, for any length of time, in the absence of far reaching reforms.
2. **The ACLU urges Senators to support a sunset of the expiring provisions over H.R.2048, the USA Freedom Act**, which proposes modest reforms to Section 215, pen trap and trace, and national security letter authorities. Votes in both chambers last week demonstrate that now is the best chance for substantial reform, a result supported by nearly 2/3 of Americans across party and ideological lines according to recent bipartisan polls. The best path to such reform lies in sunset of the expiring authorities followed by a full and open national debate on individual privacy and the true national security needs of the federal government.

At this stage, prior to the sunset, the ACLU does not support or oppose the USA Freedom Act. However, unless it is strengthened, the ACLU urges Senators to vote in favor of a sunset over the USA Freedom Act, if such an option is presented.

3. **The ACLU urges Senators to support improvements to the USA Freedom Act**, as outlined in our letter sent to the Senate last week (attached). We support improvements to the USA Freedom Act, which would further limit large scale collection, limit bulk collection under administrative subpoena authorities, increase transparency, reform the

Foreign Intelligence Surveillance Act (FISA) Courts, ensure the purging of irrelevant information, and require the government to obtain a warrant prior to searching through the database collected under Section 702 of FISA with U.S. person identifiers.

4. **The ACLU urges a NO vote on Senator Feinstein's S.1469, Senator Burr's FISA Improvements Act of 2015, or similar proposals.** Such bills simply masquerade as reform while failing to reform surveillance authorities in a meaningful way. S.1469 reportedly contains insufficient limits on large scale collection, fails to require appropriate disclosure of FISA court opinions, and would permit the government to put in place concerning data retention requirements. Similarly, the FISA Improvements Act of 2015 expands surveillance authorities, allows the government to put in place similar data retention mandates, contains insufficient transparency provisions, and fails to meaningfully limit large scale collection.

Please call Legislative Counsel Neema Guliani with any questions at (202) 675 2322.

Regards,



Michael W. Macleod-Ball  
Acting Director



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## **ACLU Recommends a No vote on S. 1357**

S. 1357, A bill to extend authority relating to roving surveillance, access to business records, and individual terrorists as agents of foreign powers under the Foreign Intelligence Surveillance Act of 1978 until July 31, 2015, and for other purposes.

### **The American Civil Liberties Union recommends a NO vote on S. 1357 or any other bill that seeks to extend the expiring provisions without far reaching reform.**

**S. 1357 would reauthorize Section 215 of the Patriot Act, which has been used illegally to collect phone records of all Americans, and large quantities of other records.**

- Section 215 has been used by the government to collect records of every call made by an American. Recently, a federal court of appeals ruled that this program was illegal. In addition, two oversight boards have concluded that the program had not made a substantial impact on any terrorism investigation.
- Section 215 has also been used by the FBI and CIA to collection large numbers of financial and electronic records of individuals with no nexus to terrorism.
- Given the recent court case and limited national security benefit of Section 215, Congress should not reauthorize Section 215 in its current form.

**S.1357 would also reauthorize Section 6001 of the Intelligence Reform and Terrorism Prevention Act of 2004, authorizing the government to obtain secret FISA orders against individuals who are not connected to an international terrorist group or foreign nation.**

- Existing laws provide ample authority for the government to obtain information about individuals who are planning attacks of terrorism.
- The government has failed to produce information or evidence demonstrating that this provision has been used or has intelligence value.

**S.1357 reauthorizes Section 206 of the Patriot Act, which provides the government inappropriate levels of discretion to wiretap communication devices.**

- Under Section 206, the surveillance order obtained by the secret intelligence courts does not need to identify the communications devices to be tapped or the individual against whom surveillance is directed.
- This provision is inconsistent with the requirements of criminal wiretap authorities.

If S. 1357 is brought up for a vote, or should any other bill be brought to a vote proposing an extension in the absence of the opportunity for substantial reform, we urge you to vote NO.

For more information, please contact Neema Guliani Legislative Counsel, at (202) 675-2322 or [nguliani@aclu.org](mailto:nguliani@aclu.org).