



July 23, 2013

**Re: Vote YES on Amash-Conyers Amendment #101 to H.R. 2397 to Stop NSA Spying on American Phone Records**

Dear Representative:

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The American Civil Liberties Union<sup>1</sup> strongly urges you to vote YES on the Amash-Conyers amendment (#101) to H.R. 2397, the Department of Defense Appropriations Act for 2014. This important amendment would rein in the Patriot's Act's confirmed authority to collect the phone records of everyone in the United States, regardless of whether they are a suspected terrorist or criminal. While other amendments have been introduced referring to domestic surveillance, **the Amash-Conyers amendment is the only one that would increase privacy and limit the collection of innocent Americans' personal information.**

On June 6, 2013, *The Guardian* disclosed a secret Foreign Intelligence Surveillance Act (FISA) court order issued to Verizon. It directed the company to turn over "records" or "telephony metadata" created by Verizon for communications (i) between the United States and abroad; or (ii) wholly within the United States, including local telephone calls" directly to the National Security Agency (NSA) on an ongoing daily basis for 90 days. Senate Select Committee on Intelligence Chairman Diane Feinstein (D-Cal.) stated that this program includes other phone companies and has been in effect for seven years. While the administration asserts that the resulting database of American phone records was "queried" only 300 times last year, officials confirmed that those queries can obtain the information of people three times removed from the actual target of an investigation, which inevitably sweeps in the private records of millions of Americans.

While we now have confirmation that this section is broadly used to collect American phone records, the administration has refused to answer whether it is also being used to collect other types of business records, such

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<sup>1</sup> For a full discussion about records and Americans' 4<sup>th</sup> amendment rights to privacy, please see the ACLU's testimony before the House Judiciary Committee. Statement of Jameel Jaffer, Deputy Legal Director of the American Civil Liberties Union Foundation before the House Committee on the Judiciary, July 17, 2013, available at <http://judiciary.house.gov/hearings/113th/07172013/Jaffer%2007172913.pdf>.

as internet, email, credit or financial data, or firearms records. These phone and other records – also called “metadata” – are incredibly sensitive and reveal who we know, what we do, the faith we profess, our medical conditions, what we read, and where we go. Such personal and private records should not be indiscriminately collected, analyzed, retained and disseminated by the government.

The Amash-Conyers amendment would amend section 215 of the Patriot Act to require such records requests to be targeted at people who are the subject of an investigation. In other words, the NSA would no longer be able to collect, store and use the records of all Americans, but would instead have to focus its extraordinary authorities on those who are actually under investigation. This amendment would not hamper the government’s ability to gather information regarding terrorists and spies, only its ability to spy on the rest of us in the process. In addition to the continued ability to use Patriot 215 to collect the records of those under investigation, the government has many other legal authorities, such as national security letters, subpoenas, pen registers and criminal and intelligence warrants to obtain the same information when appropriate.

Representative Nugent has introduced an amendment that would reiterate current law, but it in no way restricts the NSA’s current practices of spying on Americans without cause. We will therefore only be scoring the vote on the Amash-Conyers amendment.

We look forward to your support for this common sense amendment that begins to limit those domestic surveillance programs that sweep up the records of innocent Americans. For more information, please contact Legislative Counsel Michelle Richardson.

Sincerely,



Laura W. Murphy  
Director, Washington Legislative Office



Michelle Richardson  
Legislative Counsel

Attachment: Myths and Facts About Patriot 215 Domestic Call Tracking