

January 22, 2008

Dear Senator Reid,

We, the undersigned organizations who care deeply about both individual rights and effective intelligence-gathering, strongly urge you to bring only the Judiciary Committee's version of S. 2248, the FISA Amendments Act of 2007, to the floor if you choose to bring up wiretapping legislation. We vigorously oppose the Intelligence Committee version for both authorizing warrantless, mass collection of Americans' international communications and granting complete retroactive immunity for the telecommunications industry, among other severe flaws.

We ask that you use your position as Majority Leader – with sole responsibility for determining what legislation comes to the Senate floor – to bring only the clearly superior bill up for debate and support additional improvements that are greatly needed to protect Americans' basic rights. The Judiciary Committee bill is superior to the Intelligence Committee bill for the following reasons:

- Bulk Collection: Most importantly, the Judiciary version prevents the government from engaging in mass, untargeted collection of all communications coming into or going out of the United States. The Judiciary Committee fixed an important loophole in the Intelligence Committee approach that would allow bulk collection, which will inevitably sweep in vast numbers of purely innocent communications for government analysis and use.
- Significant Purpose Test: Surveillance tactics in the U.S. that allow the government to obtain the contents of phone and email communications of people in this country without a court order are unconstitutional and un-American. Unlike the Intelligence bill, the Judiciary version makes clear that once a significant purpose of the government's surveillance is to acquire the communications of a particular person here, it must go to the Foreign Intelligence Surveillance Court for a court order based on probable cause.
- Meaningful Exclusivity: The Judiciary iteration of S. 2248 states in no uncertain terms that FISA is the exclusive means for foreign intelligence wiretapping on American soil, and clarifies that vague assertions of Article II presidential authority do not eviscerate the entire statute. The Intelligence Committee version also creates an unacceptable loophole to FISA's protections against warrantless electronic surveillance by removing some wiretapping from the purview of the statute by changing FISA's definition of "electronic surveillance."
- Immunity: Unlike the Intelligence Committee bill, the Judiciary version does not grant blanket immunity to the telecommunication companies that facilitated the President's warrantless wiretapping program. It defers that major policy decision that affects the individual statutory and constitutional rights of Americans. There is no need to immunize past misconduct to obtain future compliance.

- Oversight: As provided in the Judiciary version of S. 2248, any new electronic surveillance permitted by the legislation should be temporary, subject to a two-year sunset, and include vigorous reporting requirements and an audit of warrantless surveillance going back to 2001.

Sincerely,

American Civil Liberties Union
People For the American Way
American Humanist Association
PEN American Center
American Library Association
Arab American Institute
Asian American Justice Center
Association of Research Libraries
Bill of Rights Defense Committee
Bob Barr
Council on American-Islamic Relations
Common Cause
Defending Dissent Foundation
Democracy for America
Electronic Frontier Foundation
No2Torture
Equal Justice Society
Federation of American Scientists
Friends Committee on National Legislation
Global Rights
Hate Free Zone
Hip Hop Caucus
Japanese American Citizens League
Grassroots America
Liberty Coalition
Moveon.org
Muslim Public Affairs Council
National Association of Criminal Defense Lawyers
OMB Watch
PrivacyActivism
Progressive Democrats of America
TeleSpan Publishing Corporation
U.S. Bill of Rights Foundation
United for Peace and Justice
World Peace Mission
Justice Through Music
Velvet Revolution

Doctors for Open Government (DFOG)
The Multiracial Activist
Backbone Campaign
September Eleventh Families for Peaceful Tomorrows
Citizens Outreach Project
National Immigrant Solidarity Network
CODEPINK: Women for Peace
National Lawyers Guild--National Office
Bruce Schneier
Pain Relief Network
OpenTheGovernment.org
American Association of Law Libraries (AALL)
Concerned Foreign Service Officers
American Conservative Defense Alliance
Republican Liberty Caucus
American Booksellers Foundation for Free Expression (ABFFE)
Sikh American Legal Defense and Education Fund (SALDEF)

Regional Organizations

Central Florida Jobs Committee (Saint Petersburg, Florida)
PeaceAction Montgomery (MD)
Progressive Democrats of America--Ohio
Rural Organizing Project
The Teaneck Peace and Justice Coalition (NJ)
The Wisconsin Network for Peace and Justice
Topanga Peace Alliance (CA)
Tri-Valley CAREs (CA)
Whatcom Peace and Justice (Bellingham, WA)
The Greenwich Village Coalition for Peaceful Priorities (NY)
CODEPINK Tallahassee (FL)
Connie Hogarth Center for Social Action
AWARE, the Anti-War-Anti-Racism Effort of Urbana, Illinois
Somerville/Medford United for Justice with Peace
Peace Coalition of Southern Illinois/Fellowship of Reconciliation
Nashoba Valley Peace & Justice
Cambridge United for Justice with Peace
Iowa Peace Network
Susan Oehler for the Western NC Peace Coalition
Fairfax County Privacy Council (VA)