

U.S. House of Representatives
Permanent Select Committee on Intelligence

November 30, 2017

Re: Oppose the FISA Amendments Reauthorization Act of 2017

Dear Representative,

The undersigned 36 groups write to express their strong opposition to the “FISA Amendments Reauthorization Act of 2017,” which is scheduled to be marked up in the House Permanent Select Committee on Intelligence on December 1, 2017.

The proposed bill is *not* a reform measure. It does not make “key changes to Section 702 and other intelligence authorities to protect Americans’ privacy rights,” as bill sponsors have suggested.¹ On the contrary, it would expand surveillance under Section 702 of the Foreign Intelligence Surveillance Act (FISA), grant the government more authority under other provisions of FISA, and could be read to codify current unlawful surveillance practices.

Indeed, the bill is measurably worse than a short-term straight reauthorization of Section 702 with a sunset. Given this— and the enormous privacy interests at stake— it is astounding that the bill is being rushed through committee and was released less than 48 hours before the scheduled markup. Among other things, we expect that the government will argue that the bill:

Expands existing surveillance authorities under FISA, which permit targeting of Americans and foreigners, both domestically and internationally. The bill expands the definition of “foreign power” and “agent of a foreign power” to include individuals or entities engaging in an array of cyber related activities. This could be used by the government to justify surveillance of Americans and foreigners for foreign intelligence purposes, even in cases where they are not acting on behalf of a foreign power, are not a member of a terrorist organization, and are not a member of a foreign political organization. Indeed, the broad language of the bill could be interpreted by the government to sweep in individuals only tangentially related to malicious cyber activities.²

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is illegal. The government routinely conducts warrantless searches of Section 702 databases looking for

We urge you to oppose the “FISA Amendments Reauthorization Act of 2017” and instead take up a bill to meaningfully reform our broad surveillance authorities. If you have questions, please contact Neema Singh Guliani, Legislative Counsel of the ACLU at 202-675-2322 or nguliani@aclu.org, Robyn Greene Policy Counsel and Government Affairs of New America's Open Technology Institute at 240-476-2172 or greeneg@opentechinstitute.org, or Elizabeth Goitein, Co- Director, Liberty & National Security Program, Brennan Center for Justice at 202-249-7192 or elizabeth.goitein@nyu.edu.

Sincerely,

Access Now

Advocacy for Principled Action in Government

American Civil Liberties Union

American Library Association

Arab American Institute

Brennan Center for Justice

Center for Democracy & Technology

Center for Media Justice

Color Of Change

The Constitution Project

Constitutional Alliance

Defending Rights & Dissent

Demand Progress Action

Electronic Frontier Foundation

Engine

First Amendment Coalition

Free Press Action Fund

Freedom of the Press Foundation

FreedomWorks

Friends Committee on National Legislation

Government Accountability Project

Government Information Watch

Human Rights Watch

Indivisible

NAACP

National Association of Criminal Defense Lawyers

National Council of Churches

National Immigration Project of the NLG

New America's Open Technology Institute

OpenTheGovernment

PEN America

Project On Government Oversight

Restore The Fourth

Sunlight Foundation

TechFreedom

Yemen Peace Project