

Joint Statement on S.2192, the *SECURE Act of 2017*

December 15, 2017

We, the undersigned organizations, oppose S.2192, the *SECURE Act of 2017*, in its current form. If passed, this bill will expand the authority of the Department of Homeland Security beyond any meaningful oversight or accountability protections. Specifically, Section 1111 would allow the DHS Secretary to waive any legal requirement deemed “necessary to ensure the expeditious construction, installation, operation, and maintenance of the tactical infrastructure and technology under this section.” This would be a significant expansion of a previous – already over-broad – authority that allowed DHS to waive any legal requirement necessary to facilitate construction of barriers and roads. In the past, DHS has used even this much narrower authority to waive important open government and accountability laws. With this authority expanded, DHS could exempt itself from statutes that would safeguard against civil liberties violations, misuse of taxpayer dollars, and avenues for accountability and Congressional oversight. Any such waiver would be final upon publication in the *Federal Register*, with limited avenues for Congress, the courts, or the public to seek recourse.

The *SECURE Act* also already includes exemptions from important public disclosure requirements, which would keep the public in the dark about the implementation of massive federal border security, immigration enforcement, and surveillance programs. Sections 6002 and 6003 would exempt implementing agencies from the Administrative Procedure Act and the Paperwork Reduction Act, removing crucial accountability mechanisms and preventing the public from offering comments and receiving feedback on significant policy changes. Federal agencies could remove crucial Privacy Act protections, issue new regulations, or authorize the collection of personal data without public knowledge.

Congress should not legislate away the public’s right to know how tax dollars are being spent – or its own ability to conduct oversight of federal border security operations. We oppose these provisions in S.2192 and any other border security bill.

American-Arab Anti-Discrimination Committee
American Library Association
Citizens for Responsibility and Ethics in
Washington
Cause of Action Institute
Center for Democracy & Technology
Constitutional Alliance
Cyber Privacy Project
Defending Rights and Dissent
Demand Progress
Electronic Frontier Foundation
Government Accountability Project
Government Information Watch

Identity Project
Muslim Justice League
Muslim Public Affairs Council
NAFSA: Association of International Educators
National Coalition Against Censorship
National Immigration Law Center
Open the Government
Project On Government Oversight
Restore the Fourth
Sunlight Foundation