

Honorable Nancy Pelosi  
United States House of Representatives  
Washington, D.C. 20515-0508

Honorable Harry Reid  
United States Senate  
Washington, D.C. 20510-2803

September 4, 2007

Dear Speaker Pelosi and Leader Reid,

We are organizations that believe that our nation's surveillance laws can effectively target terrorists without jeopardizing the rights of innocent United States persons. We are very concerned that the recently enacted Protect America Act of 2007 may be used to justify the warrantless interception of any international communications by U.S. persons without any restriction on the subsequent review and data mining of the metadata concerning those calls or the content of the communications themselves.

We are encouraged by your requests to the Judiciary and Intelligence Committees to once again delve into the Foreign Intelligence Surveillance Act (FISA) and reinsert much needed privacy protections that were lacking in the last iteration. It stands to reason that just as the level of intrusion into U.S. persons' communications is dramatically increased, so too must be the protections for those communications. To that end, we would like to share basic principles that must be respected to ensure that U.S. persons' electronic communications are protected from unwarranted government intrusion:

1. **No amendments to FISA should be made permanent until Congress and the public receive answers about what surveillance activities have been conducted over the last six years and the legal basis for those programs.** Further, information regarding how the authorities provided for in the Protect America Act are being interpreted and implemented by the National Security Agency should be shared with Congress. To facilitate Congress' legislative efforts, the NSA should be required to articulate with specificity the problems it identified in the prior law and whether and how the Protect America Act responds to those problems.
2. **Any further legislation must reiterate that FISA is the exclusive means of intelligence gathering on U.S. soil, and the legislation must include automatic consequences for violating this exclusivity.** As initially enacted

by Congress, the exclusivity of FISA was unambiguous. This new exercise in defining the lawful extent of surveillance authorities will be useless if the resulting legislation can be ignored. We further recommend that any new legislation state explicitly that the Authorizations for the Use of Military Force in Afghanistan and Iraq do not authorize any surveillance outside FISA. Additionally, we recommend that the NSA be required to report to Congress repeatedly on its implementation of any new surveillance activities conducted pursuant to FISA.

3. **Interceptions of U.S. persons' communications within the United States should continue to be included within, and, therefore, be protected by the definition of "electronic surveillance."** The Protect America Act's apparent elimination of this protection should be repealed.
4. **Collection and isolation of the particular communications sought by the government should be conducted by the telecommunications industry itself – the government should not be given direct and unfettered access to telecommunications infrastructure.** We are concerned that the Protect America Act appears to allow the government to "sit on the line" and scoop up all communications and sort through them later. Instead, the government should receive only the information it is authorized to intercept by law.
5. **The Foreign Intelligence Surveillance Court (FISC) must play a meaningful role in ensuring compliance with the law.** First and foremost, interception of communications to and from the US should be authorized by the FISC. The Court must also have regular access to information about how many U.S. communications are being collected.
6. **Under any new amendment to FISA established in your legislation, when the government intercepts a communication to which a person in the U.S. is a party, there should be a presumption requiring the NSA to immediately destroy that communication except in narrowly defined circumstances providing for judicial oversight.**
7. **Once the government has reason to believe that there is a substantial likelihood that a specific account, person or facility will have contact with someone in the United States, the government should be required to return to the FISC to obtain a court order for continued surveillance of that account, person or facility.** Reliance on the FISC will help ensure the privacy of U.S. persons' communications.

We are happy to discuss more precise language to effectuate these changes. We understand that the Administration's original intent was to allow easier collection of communications of people abroad that are incidentally routed through the United States. We look forward to working with you and the Committees to rein in this limitless

program and devise one that actually gives the government access to these communications without jeopardizing the rights of people in the United States.

Sincerely,

American-Arab Anti-Discrimination Committee  
American Association of Law Libraries  
American Civil Liberties Union  
American Library Association  
American's Right to Privacy  
Association of Research Libraries  
Bill of Rights Defense Committee  
Center for Democracy and Technology  
Center for Financial Privacy and Human Rights  
Consumer Action  
Doctors for Open Government  
Downsize DC  
Electronic Frontier Foundation  
EnviroJustice  
Essential Information  
Ethics in Government Group  
Fund for Constitutional Government  
Liberty Coalition  
The Multiracial Activist  
National Association of Criminal Defense Lawyers  
National Coalition Against Censorship  
National Lawyers Guild – National Office  
Natural Solutions Foundation  
New Grady Coalition  
OMB Watch  
OpenTheGovernment.org  
Pain Relief Network  
PEN American Center  
People for the American Way  
Policy Citizen Outreach Project  
Privacy International  
Privacy Journal  
Rep. Bob Barr (R-GA)  
Republican Liberty Caucus  
The Rutherford Institute  
Special Libraries Association  
Student Health Integrity Project  
U.S. Bill of Rights Foundation  
United Methodist Church, General Board of Church and Society  
World Privacy Forum

## **State and Regional Organizations:**

### *California*

Fresno Stonewall Democrats  
Glendale Education and Social Justice Advocates  
Interfaith Communities United for Peace and Justice, Pasadena  
Pax Christi Southern California, Los Angeles  
Physicians for Social Responsibility, Sacramento  
Privacy Activism, San Francisco  
St. Camillus Center for Pastoral Care, Los Angeles  
Teach Peace Foundation, Davis  
Women For: Orange County, Irvine  
Yolo County ACLU, Davis

### *Colorado*

Bill of Rights Supporters of Fort Collins  
Fort Collins Iraq Withdrawal  
The Freethinkers of Colorado Springs  
Longmont Citizens for Justice and Democracy  
Pikes Peak Justice and Peace Coalition, Colorado Springs  
Rocky Mountain Peace & Justice Center, Boulder  
Strength Through Peace, Fort Collins

### *Florida*

Tampa - Safe and Free  
Military Families Speak Out, Florida Chapter  
Peace Now Citrus County  
Progressive Democrats of America Sugarcrats, Citrus County  
Veterans For Peace, Central Florida Chapter 136  
Veterans for Peace, Gainesville chapter

### *Georgia*

Greater Atlanta Bill of Rights Campaign  
Georgians for Open Government

### *Illinois*

Chicago Committee to Defend the Bill of Rights  
Chicagoland Coalition for Civil Liberties and Rights

### *Iowa*

ACLU of Iowa  
Iowa City Bill of Rights Defense Committee

### *Louisiana*

C3, New Orleans

Bienville House Center for Peace and Justice, Baton Rouge  
Coalition Against War and Injustice, Baton Rouge

*Massachusetts*

Cape Cod Bill of Rights Defense Committee  
The Chatham Peace Initiative  
Citizens for an Informed Community, Bridgewater  
Pioneer Valley Committee Against Secrecy and Torture, Northampton  
SAGE, Amherst

*Minnesota*

Minnesota Bill of Rights Defense Committee, Minneapolis/St. Paul  
Minnesota Coalition on Government Information

*Missouri*

The Sanctuary for Freedom/Civil Liberties Campaign, Kansas City

*New Jersey*

Central Jersey Coalition Against Endless War  
Mercer County Coalition for Civil Liberties  
Trenton Citizens for Civil Liberties

*New York*

Bill of Rights Defense Campaign in Westchester, NY  
Center for Law and Justice, Albany  
Dr. Dhafir Support Committee, Syracuse  
Greater Rochester Libertarian Party  
Muslim Solidarity Committee, Albany  
The Muslim Solidarity Committee of Bethlehem Neighbors for Peace, Delmar  
New York Civil Liberties Union Capital Region Chapter, Albany  
Save the Pine Bush, Albany  
The Community Empowerment Center, Albany  
Tompkins County Bill of Rights Defense Committee  
Westchester Progressive Forum  
Women Against War, Delmar

*North Carolina*

Durham Bill of Rights Defense Committee

*Oregon*

Applegate Citizens for Political Change  
Bandon Bill of Rights Defense Committee  
Benton County Bill of Rights Defense Committee  
Citizens for Peace and Justice, Medford  
Grants Pass Veterans for Peace  
Lane County Bill of Rights Defense Committee

Oregon Womens' Action for New Directions, Eugene  
Pacific Green Party of Coos County  
Rights 101, Portland  
Social Justice Alliance of Josephine County

*Pennsylvania*  
Kutztown Area Democratic Club

*South Carolina*  
Carolina Peace Resource Center

*Texas*  
Bill of Rights Defense Committee of Greater Dallas

*Vermont*  
Patriotic Response to Renegade Government  
Connecticut River Valley Council on Public Policy

*Virginia*  
Fairfax County Privacy Council

*Washington*  
Coupeville Peace & Reconciliation/Coupeville Bill of Rights Defense Committee  
Jefferson County Bill of Rights Defense Committee, Port Townsend

Cc: Chairman Reyes, Ranking Member Hoekstra, Chairman Conyers, Ranking  
Member Smith