

September 9, 2019

The Honorable Jerrold Nadler
Chairman
Committee on the Judiciary
House of Representatives
2138 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Nadler and Democratic members of the House Committee on the Judiciary:

We urge you to oppose any legislation that would reauthorize Section 215 of the USA PATRIOT Act unless it repeals the government's statutory authority to operate the Call Detail Records ("CDR") program and contains bold reforms to protect individuals against mass surveillance. Our millions of activists include members of the communities that the United States government has unlawfully surveilled in recent history and that the Trump administration is expressly threatening now. We oppose any legislation that does not end the CDR program and substantially constrain the remainder of surveillance conducted under the PATRIOT Act and related authorities.

Mass surveillance is wrong and dangerous to our democracy. It is antithetical to our core civil liberties and it disproportionately harms the communities historically targeted by racial and religious animus. Governments routinely use mass surveillance to undermine democracy and to target, harass, and weaken political opponents. Any law that provides for government surveillance of millions of innocent people in the search for a small handful of individuals is a bad bargain — and the racist practices of this administration dramatically illustrate the dangers of allowing mass surveillance to continue. No Democrat should vote to grant Donald Trump the power to spy on millions of innocent people in America.

In addition to threatening our democratic values, mass surveillance is also ineffective at improving national security and dangerously prone to abuse. The CDR program is inherently problematic because it is designed to ensnare innocent people. The program surveils people two degrees away from its targets, ensuring the vast majority of people spied on under it are neither suspected of wrongdoing nor in contact with anyone who is. For example, in 2018 the government used the program to spy on 11 targets, but it collected over 434 million telephone records relating to over 19 million phone identifiers. The National Security Agency's announcement that it had unlawfully acquired an unknown number of those records is equally alarming, as is the lack of transparency around another incident later that year. The government simply should not have this information.

The Trump administration's abuses demonstrate the urgent need for additional major reforms of the deeply problematic PATRIOT Act. Congress should prohibit the government from using Section 215 to track cell phone and other sensitive location data, a practice that would both be cause for grave public concern and may contravene the Supreme Court's decision in *Carpenter v. United States*. Congress should also increase the frighteningly weak protection against spying on people based on First Amendment-protected activity. Further, history demonstrates that the impact of this surveillance disproportionately lies with the communities Donald Trump is actively targeting — Democrats in particular should ensure that Section 215 is not reauthorized without an audit of those impacts.

To protect Congress and the public's ability to make informed decisions, Congress should also fix the loopholes in current law that allow the government to avoid public disclosure of how this law is being used. The government must be required to report on the total number of records collected under Section

215 and the surveillance of non-communications information, such as medical and purchase records. And to guard against wrongful, domestic use of this sensitive information, Congress should mandate that the government provide notice to defendants every time Section 215 information is used in a criminal context.

While this administration's racist policies prove the need for aggressive reform, the intelligence agencies themselves build the case against the lie that this surveillance has significant national security value. The NSA shuttered the CDR program in late 2018, and has yet to offer evidence that it provides significant intelligence value. The law should be changed to repeal the authorization for the CDR program, with further reforms to reduce the dangers that arise under Section 215, including but not limited to those addressed in this letter. We are counting on you to get this right.

Sincerely,

American-Arab Anti-Discrimination Committee (ADC)

Beyond the Bomb

Color of Change

Constitutional Alliance

Council on American-Islamic Relations

Courage Campaign

CREDO Action

Daily Kos

Defending Rights & Dissent

Demand Progress

Democracy for America

Fight for the Future

Free Press Action

Freedom of the Press Foundation

Government Accountability Project

Indivisible

Media Freedom Foundation

New York City Privacy Board Advocates

Our Revolution

People Demanding Action

People For the American Way

Progress America

Progressive Change Campaign Committee

Project Censored

Restore The Fourth

RootsAction.org

The Nation

The Yemen Peace Project

Win Without War

X-Lab

cc: Democratic Members of the House Committee on the Judiciary