



October 5, 2015

The Honorable Richard Burr
United States Senate
217 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Devin Nunes
United States House of Representatives
1013 Longworth House Office Building
Washington, D.C. 20515

The Honorable Dianne Feinstein
United States Senate
331 Hart Senate Office Building
Washington, D.C. 20510

The Honorable Adam Schiff
United States House of Representatives
2411 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Burr, Chairman Nunes, Ranking Member Feinstein & Ranking Member Schiff,

As you well know, Congress plays a vital role in overseeing our nation's intelligence programs. Beginning in the 1970s, Congress assumed a more prominent position in the realm of electronic surveillance, first by enacting the Foreign Intelligence Surveillance Act (FISA) in 1978, then with the USA PATRIOT Act in 2001, the Protect America Act (PAA) in 2007, and the FISA Amendments Act (FAA) in 2008. Recognizing shifts in technology and popular opinion, Congress revisited the FAA, and in 2012 established a new sunset of December 31, 2017.

We write to urge you to lay the groundwork for review of the FAA in 2017. In the last two years, our Intelligence Community has declassified numerous documents describing its legal interpretation of the FAA and how that interpretation guides intelligence operations, particularly those authorized under Section 702. These lawful disclosures by the Executive Branch will help ensure a more robust debate about protecting constitutional rights and limiting government overreach.

In light of these Executive Branch declassifications, we urge Congress to contribute greater transparency regarding its own internal deliberations during the drafting of the PAA and the FAA. Expiration of Section 702 is on the horizon--declassifying the transcripts of your respective committees' discussions would promise a more informed public debate as to the benefits and pitfalls of the law. The members of the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence were privy to far more information than was the broader membership of either chamber. Behind closed doors, the members of your committees, serving as proxies for their colleagues, have already raised and debated many of the issues that will undoubtedly resurface in the coming months.

Given broad public concern over section 702 surveillance, all members could benefit from knowing what their colleagues thought during negotiations and drafting. Further, as courts consider challenges to Section 702, legislative intent will bear on judicial interpretation of the scope of intelligence programs.

We urge your committees to act expeditiously to make these important records available to your colleagues, their staffs, the Judicial Branch and the public at large, consistent with the current state of unclassified information relating to FAA and the protection of sources and methods.

Sincerely,

Mieke Eoyang
Vice President for National Security
Third Way

Mike Godwin
General Counsel and Innovation Policy Director
R Street