Congress of the United States
Washington, DC 20515

June 6, 2013

Dear Director Mueller and General Alexander:

We learned last evening of a purported Foreign Intelligence Surveillance Court (FISC) order that grants the National Security Agency (NSA) continuous access to the telephone records of Verizon's customers. The FISC order specifically requires Verizon to turn over data on "local telephone calls" in which the caller and the recipient of the call are "wholly within the United States."

The USA PATRIOT Act's Section 215, codified at 50 U.S.C. § 1861, allows the Federal Bureau of Investigation (FBI) to seek the production of "tangible things" to obtain foreign intelligence information or to protect against international terrorism or clandestine intelligence activities. The FBI must show that the information sought is relevant to an investigation, and if the information pertains to a foreign power, the information is presumed to be relevant. Although the primary purpose of Section 215 appears to be the targeting of foreign agents, the statute does not require that either the caller or recipient of the call be a foreign agent or be located abroad.

We are concerned that the FBI and the NSA are using a statute written primarily to target foreign intelligence to sweep up volumes of data about Americans' everyday telephone calls. The purported FISC order is not written narrowly, based on suspicion that particular crimes have been committed or that particular individuals are plotting against our safety. Analysts have suggested that the FBI and NSA's strategy is to collect broad swaths of data concerning Americans' telephone calls to detect patterns of activity. Such an intentionally general and suspicionless collection of citizens' private data is troubling, to say the least.

The type of information sought also raises significant concerns. The FISC order authorizes the collection of "telephony metadata," which includes "comprehensive communications routing information," telephone numbers, the time and duration of calls, and geolocation data. A recent MIT study showed that this type of data easily can be used to identify particular individuals, and some are worried that law enforcement uses patterns learned from metadata to justify further searches and seizures.

As Representatives of Americans possibly targeted by your agencies' surveillance, we require more details from you concerning the FBI and NSA's data collection activities. We request that your answers and supporting documents be sent to us in unclassified form, to the extent possible.

1. Do the FBI and NSA regularly seek "all" telephony metadata, including local telephone calls, from a telecommunications provider?

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2. In the last year, how many FISC orders for "all" telephony metadata from a telecommunications provider have been requested and how many have been granted?

3. In the last year, how many U.S.-based telecommunications providers have been subjected to a FISC order for "all" telephony metadata? An estimate is acceptable, if necessary.

4. For how long do your agencies store the information collected pursuant to a FISC order for "all" telephony metadata from a telecommunications provider?

5. What are your agencies' legal positions on Section 215's relevancy requirement? Specifically, how is "all" telephony metadata from a telecommunications provider relevant to an authorized investigation? We would find legal briefs, memoranda, and illustrative examples particularly helpful.

6. In the last year, how many U.S.-based telephone users have had some of their telephony metadata transferred to the NSA pursuant to a FISC order? An estimate is acceptable, if necessary.

7. In the last year, what proportion of data transferred to the NSA pursuant to a FISC order is associated with calls wholly within the U.S.? An estimate is acceptable, if necessary.

8. What are your agencies' legal positions on the scope of "telephony metadata" in Section 215? Specifically, does "telephony metadata" include data on Internet usage such as IP addresses, e-mail addresses, or browsing history?

We look forward to your prompt reply.

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NC-11 NY-19

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ID-01

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SC-3 KY-4

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