Congress of the United States
Washington, DC 20515

January 27, 2014

President Barack Obama
The White House
1600 Pennsylvania Avenue N.W.
Washington, D.C. 20500

Dear Mr. President:

We urge your Administration to take immediate and effective safeguards to rein in federal surveillance programs and articulate workable, consistent standards to limit access to, and collection of, American citizens' personal information.

As revealed in 2013, the controversial practices of the intelligence community, and specifically the National Security Agency (NSA), have rightly inspired constitutional review by the courts as well as debate by Congress and concerned American citizens over the balance between our Fourth Amendment right to privacy and national security realities.

In December of last year, U.S. District Court Judge Richard Leon called the bulk collection of American's phone records "almost Orwellian…[and] an indiscriminate and arbitrary invasion,"[1] demonstrating the need for greater scrutiny of the government's current intelligence collecting practices and procedures.

As a result of these practices, on December 12, 2013, the Final Report of the Review Group on Intelligence and Communications Technologies (Review Group) recommended dozens of substantial changes to the federal government's collection of bulk data on American citizens.[2] These recommendations included over forty legislative and executive options for the future of surveillance programs that must ultimately balance individual privacy rights and national security measures. Additionally, Congress is considering reforms that include limitations on the data that may be collected, greater procedural protections, and more safeguards on protecting personal data.

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[1] Order on Plaintiff's Motion, Klayman et al v. Obama et al, Civil Action No. 13-0851 (D.D.C. Dec. 16, 2013)
[2] Liberty and Security in a Changing World: Report and Recommendations of The President's Review Group on Intelligence and Communications Technologies, http://www.whitehouse.gov/sites/default/files/docs/2013-12-12_rg_final_report.pdf (December 12, 2013)

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We eagerly listened for your assessment in the January 17, 2014 speech. While revisions are indeed needed, your instructions fall short of the Administration's promises of substantial transparency and reform. We cannot effectively guard our constitutional liberties and operate our national security programs with unresolved administrative questions. Additional layers of bureaucracy and reporting directives cannot act as a substitute for concrete reforms and overdue transparency. Therefore, in order to effectuate our shared goal of enhanced oversight and substitutive change, we call on you to consider the following:

1. While the collection of bulk telephone records (meta-data) under Section 215 of the PATRIOT Act has understandably garnered the most significant public debate over government overreach, considerable concern has been raised about the government's exploitation of the Internet through circumvention of encryption. The Review Group recognized the potential hazard created by exposing vulnerabilities in encryption data and recommended that your Administration support, rather than undermine, efforts to protect the integrity of these systems.[3] However, your January 17th speech failed to address the future of encryption related programs. Internet freedom is indispensible, and reports regarding the government's treatment of encryption protocols underscore the need to provide leadership and clarity beyond the collection of telephone records.

2. We must ensure that loopholes to unwarranted and wholly unjustified collection of data are closed, and that our intelligence community has consistent standards to adhere to under the rule of law. On January 17th, you called for future standards that would allow private parties to disclose certain information about national security letters (NSLs), a tool used to collect data from private companies without review by a judge that are subject to nondisclosure requirements. While legislative efforts, including H.R. 3361 the *USA Freedom Act*, would also allow for reasonable disclosure by companies, it is equally as critical that elevated standards and oversight for Section 215 orders be met with elevated levels of protection against using NSLs as a backdoor for continued abuse.

3. The continued role of James Clapper as Director of National Intelligence is incompatible with the goal of restoring trust in our security programs and ensuring the highest level of transparency. Director Clapper continues to hold his position despite lying to Congress, under oath, about the existence of bulk data collection programs in March 2013.[4] Asking Director Clapper, and other federal intelligence officials who misrepresented programs to Congress and the courts,[5] to report to you on needed reforms and the future role of government surveillance is not a credible solution.

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[3] Liberty and Security in a Changing World: Report and Recommendations of The President's Review Group on Intelligence and Communications Technologies at 216.

[4] Testimony of Director of National Intelligence James Clapper, *Current and Projected National Security Threats to the United States*, United States Senate Select Committee on Intelligence (March 12, 2013)

[5] Savage, Charlie and Scott Shane, "Secret Court Rebuked N.S.A. on Surveillance," http://www.nytimes.com/2013/08/22/us/2011-ruling-found-an-nsa-program-unconstitutional.html?_r=0 (August 21, 2013)

You stated last June, "If we can make sure that there's confidence on the part of the American people, that there's oversight, then I think we can make sure that we're properly balanced in our liberty and our security." We echo those sentiments and urge you to support the above reforms to restore the trust of the American people in our intelligence programs and ensure the highest level of protection for our constitutional rights through transparent and substantive solutions.

Sincerely,

Darrell Issa
Member of Congress

Ted Poe
Member of Congress

Paul Broun
Member of Congress

Doug Collins
Member of Congress

Walter Jones
Member of Congress

Alan Grayson
Member of Congress