



March 11, 2020

Key Vote NO on the USA Freedom Reauthorization Act, H.R. 6172

On behalf of our activist community, I urge you to contact your representative and ask him or her to vote NO on the USA FREEDOM Reauthorization Act of 2020, H.R. 6172. Sponsored by House Judiciary Committee Chairman Rep. Jerry Nadler (D-New York), this bill would reauthorize expiring provisions of the Foreign Intelligence Surveillance Act (FISA), including Section 215 of the USA PATRIOT Act and the “lone wolf” and “roving wiretap” authorities.

This bill contains a lot of window dressing to conceal that it largely leaves untouched the legal authorities that have been abused to circumvent the Constitution and acquire the data of [millions of innocent Americans](#) without a warrant.

Two of the best reforms this bill does contain -- the repeal of the call detail records (CDR) program and the ban on using Section 215 to acquire business records on cell tower and GPS location records -- are actually just codifying as law what has already been established in practice. While these provisions have value, they are more a matter of good bookkeeping than significant reform.

Other included reforms, such as the warrant requirement for Section 215 surveillance, the slight expansion of the role of the amicus, and the requirement that data on innocent Americans be deleted after five years, are poorly constructed or riddled with loopholes.

Not included are many common sense protections that would have garnered widespread bipartisan support had they been allowed their day as part of a real legislative process. These include stronger protections against surveillance orders targeted substantially at activities protected under the First Amendment, such as communications with journalists, protests, or religious observance. They include limitations on the use of business records collection and the requirement that surveillance applications directed towards a US person be subject to a probable cause warrant standard. They also include a much stronger role of an amicus curiae in assessing whether FISA applications conform with the legal rights afforded to Americans under the Fourth Amendment.

Importantly, neither Title II nor the amicus expansions in this bill are likely to have actually prevented the FISA process abuses revealed by the report of DoJ Inspector General Michael Horowitz with respect to the surveillance of Trump campaign employee Carter Page. Neither President Trump's concerns about the use of FISA against his campaign, nor larger-scale concerns about how the government has violated the privacy of millions of ordinary Americans, are well addressed in this bill.

The process by which this bill was produced was, frankly, an embarrassment of the sort that has come to typify the dysfunction of Congress, no matter which party is in charge. Chairman Nadler's initial offering was scheduled for an ordinary full committee markup but scuttled the instant that it appeared likely that any attempt to amend the bill in committee to add stronger civil liberties protections might succeed. This current bill is once again the result of closed-door negotiations where the party leaders and the intelligence committees -- and apparently even Attorney General William Barr -- got a say, while bipartisan advocates for stronger reforms within the committee of primary jurisdiction have never so much as had a chance to offer an amendment.

Now, this weak result is set to be placed in front of Congress, only days before the expiring provisions are to sunset, under the presumption that it must pass for a lack of alternative choices. Yet, on an issue as important as our base constitutional protections of our right to due process it would be far better to let these provisions expire rather than accepting a set of largely cosmetic reforms while being expected to wait another three years before Congress will try again.

FreedomWorks will **triple-weight (3x)** against votes for the USA FREEDOM Reauthorization Act when calculating our 2020 Congressional Scorecard and reserves the right to score any related votes and weight any votes. The scorecard is used to determine eligibility for the FreedomFighter Award, which recognizes members of the House and Senate who consistently vote to support economic freedom and individual liberty.

Sincerely,

A handwritten signature in black ink, appearing to read 'Adam Brandon', with a stylized, flowing script.

Adam Brandon
President, FreedomWorks