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CONTACT
Will Adams
(202) 225-3849
will.adams@mail.house.gov

BIPARTISAN COALITION URGES FISA COURT TO RELEASE OPINIONS

SIXTEEN MEMBERS OF CONGRESS FILE AMICUS BRIEF IN FAVOR OF ACLU MOTION

Washington, D.C. – Rep. Justin Amash (R-MI) and fifteen other Members of Congress filed an amicus brief with the Foreign Intelligence Surveillance Court (FISC), urging the court to release its secret opinions interpreting Section 215 of the Patriot Act. Recent leaks to the media revealed that the National Security Agency (NSA) has conducted a massive surveillance program on all domestic telephone users over the last seven years.

“Secret law is anathema to a free country. Congress cannot effectively legislate until it knows what the law is. The American public cannot engage in a meaningful debate about liberty and surveillance until it knows what its government is doing,” said Amash. “We call on the FISA court to release its significant Patriot Act rulings.”

The amicus brief supports the American Civil Liberties Union’s (ACLU’s) motion to release the FISC opinions. The Foreign Intelligence Surveillance Act requires the Attorney General to transmit “significant” opinions to the intelligence and judiciary committees of the House and Senate. Those opinions generally are not released to rank-and-file Members of Congress or the public, as the amicus brief notes.

The amicus brief is available here:

<http://www.uscourts.gov/uscourts/courts/fisc/misc-13-02-brief-of-amici-curiae.pdf>

The ACLU’s motion is available here:

<http://www.uscourts.gov/uscourts/courts/fisc/aclu-misc-13-02.pdf>

Other Members who joined the brief offered additional comments.

Rep. Paul **Broun** (R-GA): “It is absolutely critical that Congress and all Americans know how the government is interpreting the law—especially when there are so many troubling signs of abuse. This amicus brief presents the simple Constitutional principle that the law and its judicial interpretation must be open to robust debate, not shrouded in secrecy. I urge the FISA Court to reveal their opinions on the meaning, scope, and Constitutionality of Section 215 of the Patriot Act as requested. Only then can we truly work to ensure that our constituents’ Fourth Amendment rights are protected.”

Rep. Tulsi **Gabbard** (D-HI): “We need to have a vigorous debate and review of our federal government’s surveillance activities, their constitutionality, and impact on our civil liberties. However, without accurate information about these laws and how they’re being executed, a full

and robust debate is not possible. Making these FISA court opinions available to all members of Congress will enable us to fulfill our responsibilities in ensuring that government strikes the proper balance between upholding the freedoms we cherish, and securing our nation.”

Rep. Morgan **Griffith** (R-VA): “It is difficult to do my job as a Congressman and uphold my oath to defend the Constitution when getting access to the records necessary to do my job requires permission from a select small group of other Congressmen.”

Rep. Rush **Holt** (D-NJ): “Our argument to the court is simple: secret law and legal opinions are antithetical to Congressional oversight and the democratic process. It is my hope the Court will listen to this bipartisan request that these opinions be made public.”

Rep. Barbara **Lee** (D-CA): “The right to privacy in this country is non-negotiable. While I believe that national security is essential, we must protect our most basic civil liberties and move forward in a way that does not sacrifice our American values and freedoms. We must ensure that we keep a better balance between our privacy and our national security by re-establishing and strengthening Congress’ vital role of accountability and oversight of this issue.”

Rep. Zoe **Lofgren** (D-CA): “The Constitution gives Congress the responsibility to craft rules for how the government operates. But Congress is unable to carry out this responsibility to improve the law without adequate insight into how the FISA court is interpreting those rules. The text of the statutes alone are insufficient for Congress and the public to have a meaningful debate on how to balance our surveillance practices with our civil liberties.”

Rep. Beto **O’Rourke** (D-TX): “Our democracy is based on informed public debate, but most in Congress are shut-out from information regarding the work of the FISA court, making it impossible for us to conduct effective oversight or take the steps needed to protect the civil liberties and constitutional rights of our constituents. We were moved to join this case urging disclosure of FISA court opinions to Congress and the public to guarantee that we can fulfill our duty to enact sound laws and defend the Constitution.”

Rep. Mark **Sanford** (R-SC): “It is important to better understand how Section 215 of the PATRIOT Act is being implemented and where there is room for improvement. Requiring the FISA courts to make their opinions public could prove an important step toward better protecting America from terrorism without compromising the constitutional rights of its citizens.”

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