

United States Senate

WASHINGTON, DC 20510

July 30, 2019

The Honorable Dan Coats
Director of National Intelligence
Office of the Director of National Intelligence
Washington, DC 20511

The Honorable William Barr
Attorney General
United States Department of Justice
Washington, DC 20530

Dear Director Coats and Attorney General Barr:

We write to follow up on our December 20, 2018 letter to your offices. Our earlier letter requested a prompt response to a series of questions regarding the NSA's implementation and use of authorities granted under the USA FREEDOM Act. In March, the Justice Department confirmed receipt of our letter and told us that they were working on a response, but we have yet to receive one.

In addition, there are new reports in *The Wall Street Journal* and *The Washington Post* regarding a second, previously undisclosed incident in the fall of 2018 in which the NSA collected an undisclosed number of unauthorized U.S. calls and text messages.¹

Given the importance of the issues raised in our 2018 letter, the newly-reported second "overcollection" of metadata, the upcoming discussion about FISA reauthorization, and the over six months that have passed since our initial request, we are writing again to reiterate our prior request and seek an immediate response. In addition to the questions raised in the December 20, 2018 letter, please also respond to the following in the appropriate setting:

- Did the NSA experience a second incident of metadata "overcollection"? If so, why did it occur, how many U.S. phone calls and text messages were collected in error, and what specific steps did the government take to remedy it?
- In a series of congressional oversight hearings during the consideration of the USA FREEDOM Act, various government officials acknowledged that of the 54 terrorism cases provided as examples of where Section 215 phone records collection had been used, only 13 of those plots had a homeland nexus, and only one had a "but for" nexus to Section 215. Please provide updated information about the number of terrorism cases that have been brought as a result of Section 215 phone records collection.

¹ Dustin Volz, *NSA Improperly Collected U.S. Phone Records a Second Time*, THE WALL STREET JOURNAL (June 26, 2019), <https://www.wsj.com/articles/nsa-improperly-collected-u-s-phone-records-a-second-time-11561541520>; Ellen Nakashima, *Repeated mistakes in phone record collection led NSA to shutter controversial program*, THE WASHINGTON POST (June 26, 2019), https://www.washingtonpost.com/world/national-security/repeated-mistakes-in-phone-record-collection-led-nsa-to-shutter-controversial-program/2019/06/25/f256ba6c-93ca-11e9-b570-6416efdc0803_story.html?utm_term=.8d6a769f2241

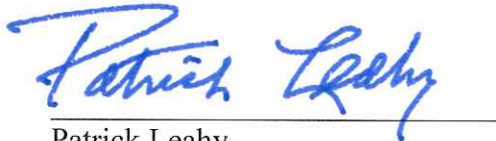
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Thank you for your attention to this letter. If you have any questions, please contact David Pendle of Senator Leahy's staff at (202) 224-4242 or Blake Lanning of Senator Lee's staff at (202) 224-5444.

Thank you for your attention to this matter.

Sincerely,



Patrick Leahy
United States Senator



Mike Lee
United States Senator

Cc: Gen. Paul M. Nakasone, Director, National Security Agency