

November 15, 2017

The Honorable John Ratcliffe, Chairman  
The Honorable Cedric L. Richmond, Ranking Member  
U.S. House Committee on Homeland Security  
Subcommittee on Cybersecurity and Infrastructure Protection  
H2-176 Ford House Office Building  
Washington, DC 20515

Dear Chairman Ratcliffe and Ranking Member Richmond:

We write to you regarding the hearing on “Maximizing the Value of Cyber Threat Information Sharing.”<sup>1</sup> EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.<sup>2</sup> We are particularly interested in the privacy issues raised by the government’s cybersecurity policies that implicate the collection and use of personal data.

At the end of 2015, the Cybersecurity Act of 2015 was signed into law.<sup>3</sup> Title of I of that act, known as the Cybersecurity Information Sharing Act of 2015 (CISA), created a mechanism for the federal government to disseminate cyber threat information to the private sector and for the private sector to provide cyber threat information to the federal government.<sup>4</sup> Much of that information concerns the activities of individual Internet users.

CISA and earlier bills, such as the Cyber Intelligence Sharing and Protection Act (CISPA), were criticized for the potential to compromise American’s privacy.<sup>5</sup> With passage of

---

<sup>1</sup> *Maximizing the Value of Cyber Threat Information Sharing*, 115th Cong. (2017), H. Comm. on Homeland Security, Subcomm. on Cybersecurity and Infrastructure Protection (Nov. 15, 2017), <https://homeland.house.gov/hearing/maximizing-value-cyber-threat-information-sharing/>.

<sup>2</sup> See *About EPIC*, EPIC.org, <https://epic.org/epic/about.html>.

<sup>3</sup> Consolidated Appropriations Act, 2016, Public Law 114-113, December 18, 2015, 129 Stat 2242, 6 U.S.C. 1501-1510.

<sup>4</sup> *Id.*

<sup>5</sup> See Jeramie D. Scott, *Cybersecurity: the view from Washington*, Daily Journal (Jan. 28, 2015), available at <https://epic.org/epic/jeramie-scott-cybersecurity-oped.pdf>; Wired staff, *CISA Security Bill Passes Senate With Privacy Flaws Unfixed*, Wired (Oct. 27, 2015), <https://www.wired.com/2015/10/cisa-cybersecurity-information-sharing-act-passes-senate-vote-with-privacy-flaws/>; Danny Weitzner, *The New US Cybersecurity Bill Will Invade Your Privacy, But It Won’t Keep You Safe*, Quartz (Nov. 8, 2015), <https://qz.com/543692/americans-should-probably-be-more-freaked-out-about-that-new-cybersecurity-bill/>.

the Cybersecurity Act of 2015, the risk to privacy still remains.<sup>6</sup> The bill relies on a complex procedure to “scrub” identifying information from the computer logs that are turned over by private firms to the federal government. This information is explicitly acquired without the privacy safeguards that would otherwise apply under the federal wiretap.

Effective oversight of the government’s collection and use of personal data is particularly important in the realm of cybersecurity where it is easy to obtain vast troves of personal information with little accountability. The history of the U.S. government’s surveillance of domestic communications in collaboration with private companies<sup>7</sup> makes it imperative that Congress ensure that CISA safeguards Americans’ privacy.

We urge you to ask detailed questions about the dissemination of information from companies to the government, including:

1. What personal information is disseminated to the government in the context of providing cyber threat information?
2. What processes do you use to mitigate the privacy risks before providing cyber threat information to the government?
3. What are the privacy risks with the current mechanism to provide cyber threat information to the government?
4. What more could be done to safeguard the personal data of Americans?

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Subcommittee on these issues of vital importance to the American public.

Sincerely,

/s/ Marc Rotenberg  
Marc Rotenberg  
EPIC President

/s/ Caitriona Fitzgerald  
Caitriona Fitzgerald  
EPIC Policy Director

/s/ Jeramie Scott  
Jeramie Scott  
EPIC National Security Counsel

---

<sup>6</sup> See Taylor Armerding, *Information Sharing Bill Passes, But Privacy Debate Goes On*, CSO (Jan. 14, 2016), <https://www.csoonline.com/article/3021907/security/information-sharing-bill-passes-but-privacy-debate-goes-on.html>.

<sup>7</sup> EPIC, *EPIC v. Hemisphere*, <https://epic.org/foia/dea/hemisphere/>.