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July 25, 2017

The Hon. Rosemary M. Collyer  
Presiding Judge  
Foreign Intelligence Surveillance Court  
333 Constitution Avenue, N.W.  
Washington D.C., 20001

Dear Judge Collyer:

As you know, the issues that the Foreign Intelligence Surveillance Court (FISC) grapples with are among some of the most technologically complex faced by any court. However, due the sensitive nature of matters before the FISC, the court often only hears from the government. This means that the court is often reliant on the government to explain complex technical concepts, even though the government may have an incentive to present technical issues in a manner that supports its legal positions. As a result, the court may be approving surveillance programs and activities without adequately understanding the methods those orders authorize, or the collateral impact those surveillance activities may have on innocent third parties or the broader technological infrastructure.

The USA FREEDOM Act included reforms to ensure that the court had access to independent technical expertise. The Act requires the FISC to designate at least five persons to serve as amici curiae, or friends of the court. FISC amici must be persons who possess expertise in privacy and civil liberties, intelligence collection, communications technology, or any other area that may lend legal or technical expertise to the FISC.

To date, the FISC has designated six amici. All of the current amici are lawyers with expertise in national security, surveillance, privacy and civil liberties, or data security law. Although several of them are experts in technology law, none hold degrees in science, technology, engineering, mathematics, or other technical disciplines. Consequently, their expertise and ability to advise the court on factual matters of technology may be limited.

Although permitted to do so by Congress, the FISC has yet to designate amici capable of providing technical expertise. This leaves the court without an independent source of advice on matters of technology. We urge you to consider appointment of technical experts as amici, and to make those cleared technical experts available both to the court and to the lawyers who have already been appointed as FISC amici.

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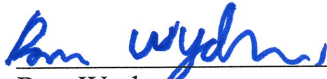
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We also urge you to consider hiring a full-time technical advisor, who would report to the court, would work with the legal advisors who are part of the FISC's permanent staff, and would be available to provide independent advice to the court as it grapples with complex technological issues.

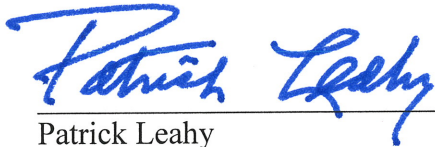
Sincerely,



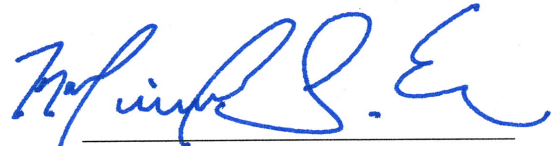
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