PRIVACY INTERNATIONAL | epic.org ELECTRONIC PRIVACY INFORMATION CENTER | OPEN TECHNOLOGY INSTITUTE

CENTER FOR DEMOCRACY & TECHNOLOGY | ELECTRONIC FRONTIER FOUNDATION

13 September 2017

The Honorable Devin Nunes
Chairman
Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Adam Schiff
Ranking Member
Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Re: Oversight of intelligence sharing between your government and foreign governments

Dear Chairman Nunes, Ranking Member Schiff, and Members of the Committee,

The undersigned organizations are writing to seek increased transparency for intelligence sharing arrangements between your government and foreign governments, as well as information from you about your oversight of these intelligence sharing arrangements.

The effective oversight of secret surveillance is among the fundamental guarantees against a government's unlawful interference with the right to privacy. But in many countries around the world, there is an alarming lack of effective oversight of arrangements to exchange intelligence with other countries. Yet, the interference with privacy remains the same regardless of whether a government conducts direct surveillance or obtains information from another government. Just as government surveillance must be transparent and subject to adequate safeguards and oversight, so too must intelligence sharing arrangements.

In the attached briefing, Privacy International elaborates on the international human rights implications of intelligence sharing between governments and offers recommendations to national intelligence oversight bodies. Privacy International is sharing this briefing with oversight bodies in over 40 countries as part of a project to increase transparency around intelligence sharing and to encourage oversight bodies to scrutinize the law and practice of intelligence sharing in their respective countries.

As a national body mandated to oversee the activities of the intelligence agencies, we believe your Committee is in the best position to respond to our questions below:

- Is the government and/or are the intelligence agencies required to inform you about intelligence sharing arrangements they have made with other governments?

- Does your mandate include independent oversight of the intelligence sharing activities of your government?

- Do you have the power to access in full all relevant information about the intelligence sharing activities of your government?

- Do you have the power to review decisions to share intelligence and/or undertake independent investigations concerning the intelligence sharing activities of your government?

- Do you cooperate with any other oversight bodies, domestic or foreign, to oversee the intelligence sharing activities of your government?

We would appreciate a response by 31 October 2017 and would be grateful if you could share with us non-confidential work products reflecting your answers to the above.

Please do not hesitate to contact Scarlet Kim, Legal Officer at Privacy International (scarlet@privacyinternational.org), if you have any questions.

Thank you for your attention to this matter.

Sincerely,

Dr. Gus Hosein
Executive Director
Privacy International

Greg Nojeim
Director, Freedom, Security & Technology Project
Center for Democracy & Technology

Lee Tien
Senior Staff Attorney &
Adams Chair for Internet Rights
Electronic Frontier Foundation

Marc Rotenberg
President and Executive Director
Electronic Privacy Information Center

Robyn Greene
Policy Counsel and Government Affairs Lead
Open Technology Institute

Privacy International is a United Kingdom-based non-governmental organisation. Founded in 1990, it is the first organization to campaign on privacy issues at an international level. It undertakes research and investigations into government and corporate surveillance with a focus on the technologies that enable these practices. It litigates or intervenes in cases implicating the right to privacy in courts around the world. To ensure universal respect for the right to privacy, it advocates for strong national, regional and international laws that protect this right.

The Center for Democracy & Technology is a non-profit public interest organization focused on privacy and other human rights and civil liberties issues affecting the Internet, other communications networks, and associated and emerging technologies. CDT represents the public's interest in an open Internet and promotes the constitutional and democratic values of free expression, privacy, and individual liberty in the digital world. CDT was founded in 1994 and it has offices in Washington, DC and in Brussels.

EFF is a member-supported, non-profit civil liberties organization that works to protect free speech and privacy in the digital world. Founded in 1990, EFF has over 38,000 active donors and dues-paying members. EFF represents the interests of technology users in both court cases and broader policy debates surrounding the application of law in the digital age.

EPIC is a public interest research center in Washington, DC. EPIC was established in 1994 to focus public attention on emerging privacy and civil liberties issues and to protect privacy, freedom of expression, and democratic values in the information age. EPIC pursues a wide range of program activities including policy research, public education, conferences, litigation, publications, and advocacy. EPIC routinely files amicus briefs in federal courts, pursues open government cases, defends consumer privacy, organizes conferences for NGOs, and speaks before Congress and judicial organizations about emerging privacy and civil liberties issues. EPIC works closely with a distinguished advisory board, with expertise in law, technology and public policy. EPIC maintains one of the most popular privacy web sites in the world – epic.org.

OTI works at the intersection of technology and policy to ensure that every community has equitable access to digital technology and its benefits. We promote universal access to communications technologies that are both open and secure, using a multidisciplinary approach that brings together advocates, researchers, organizers, and innovators. Our current focus areas include surveillance, privacy and security, net neutrality, broadband access, and consumer privacy. OTI conducts data-driven research, develops policy and regulatory reforms, and builds real-world pilot projects to impact both public policy and physical communications infrastructure that people interact with every day.