

March 2, 2017

The Honorable John McCain, Chairman
The Honorable Jack Reed, Ranking Member
U.S. Senate Committee on Armed Services
Russell Senate Building, Room 228
Washington, DC 20510

RE: Hearing on Cyber Strategy and Policy

Dear Chairman McCain and Ranking Member Reed:

We write to you regarding the hearing on “Cyber Strategy and Policy” held on March 2, 2017. EPIC has an active interest in this effort. Weaknesses in cyber security threaten both consumers and democratic institutions.¹ We welcome your leadership on this critical issue and look forward to opportunities to work with you and your staff.

EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.² EPIC wrote this Committee in January regarding our Freedom of Information Act request filed with the Federal Bureau of Investigation for documents related to the agency’s response to Russian interference in the 2016 Presidential election.³ Since that time, EPIC has filed suit against the FBI for its failure to timely respond to our request, and has also filed suit against the Office of the Director of National Intelligence for its failure to respond to our request for the complete ODNI report on Russian interference with the election.⁴ EPIC filed these FOIA suits in order to understand, to the fullest extent possible, current cyber security risks to democratic institutions.

Data protection and privacy should remain a central focus of the cyber security policy of the United States. It is precisely the extensive collection of personal information without adequate safeguards that places the United States at risk from cyber criminals and foreign adversaries. In 2015, more than 22 million records of federal employees, including 5 million digitized fingerprints and the sensitive form SF-86, were compromised. So-called “credit

¹ See Democracy and Cybersecurity: Preserving Democratic Institutions, EPIC, <https://epic.org/democracy/>.

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

³ Statement of EPIC, *Foreign Cyber Threats to the United States*, Hearing before the Senate Committee on Armed Services, U.S. Senate, January 4, 2017, <https://epic.org/privacy/cybersecurity/EPICletter-SenateArmedServices-010417.pdf>.

⁴ *EPIC v. FBI*, No. 17-121 (D.D.C. Jan. 18, 2017); *EPIC v. ODNI*, No. 17-163 (D.D.C. Jan. 25, 2017).

monitoring services” are an insufficient response to the ongoing risk to the financial records, medical records, and private communications of Americans.

Strong encryption policy and robust technical measures must be enacted in order to safeguard personal data. Weaknesses in security standards create vulnerabilities for American businesses and consumers that will be exploited by foreign adversaries. Where it is possible to minimize or eliminate the collection of personally identifiable information, the risk to the American public will be reduced.

The Cyber Security Information “Sharing” Act is now in force. That law facilitates the transfer of customer and client data from the private sector to the government, raising widespread concerns among technical experts and privacy organizations about the protection of personal information. While we favor a cooperative relationship between companies and the federal government concerning cyber security, the federal government must respect the privacy obligations of private companies and ensure the transparency of its own conduct. In the cyber security domain, as with other programs supported by taxpayer dollars, the government must uphold the law and remain open and accountable.

Finally, Congress should strengthen the federal Privacy Act. Personal data stored in federal agencies remains one of the key targets of criminal hackers and foreign adversaries. Significant steps were taken by the last administration to establish a Federal Privacy Council and to coordinate privacy protection across the federal agencies. Still, more should be done, including updates to the federal privacy law and the establishment of a data protection agency in the United States.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee 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