

Congress of the United States

Washington, DC 20515

October 26, 2015

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, D.C. 20530

Dear Madam Attorney General:

Over the past two years, members of the House and Senate have repeatedly requested information related to the Department of Justice's updated guidance for using geolocation and other surveillance technology.¹ These requests noted congressional interest in reviewing how the Department has adjusted its policies to comply with recent Supreme Court decisions regarding the Fourth Amendment implications of using global positioning systems and searches of electronically stored information.² Specifically, these requests asked for memoranda that were circulated to prosecutors and investigators in response to the Supreme Court decision in *United States v. Jones*.

On September 9, 2015, the Department stated in a letter to the House Committee on Oversight and Government Reform that it will not provide these memoranda. Although the letter referenced "internal deliberative materials," the prior requests did not seek deliberative materials. Instead, they sought to obtain the Department's guidance to federal investigators and prosecutors about how to apply the law.

The response goes on to suggest that disclosing this guidance to Congress would permit investigative targets to escape detection. But on an issue that fundamentally affects Americans' privacy, the government should not rely on secret interpretations of law.

We ask that you provide these memoranda by October 30, 2015. We recognize the Department's interest in protecting certain details about ongoing investigations, and we are willing to engage in discussions about how to handle any materials that implicate specific investigations. The Department of Justice should never, however, be in the position of relying on secret law to justify its investigative strategies.

Thank you for your attention to this matter. We look forward to your prompt response.

¹ Letter from Hon. Jason Chaffetz, Chairman, and Hon. Elijah E. Cummings, Ranking Member, H. Comm. on Oversight and Gov't Reform, to Hon. Loretta Lynch, Att'y Gen., U.S. Dep't of Justice (July 29, 2015); Letter from Hon. Jason Chaffetz and Sen. Ron Wyden, to Hon. Eric Holder, Att'y Gen., U.S. Dep't of Justice (Dec. 12, 2013).

² See *United States v. Jones*, 132 S. Ct. 945 (2012), and *Riley v. California*, 134 S. Ct. 2473 (2014).

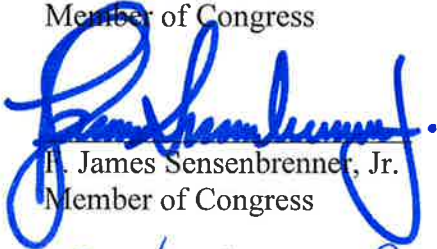
Sincerely,



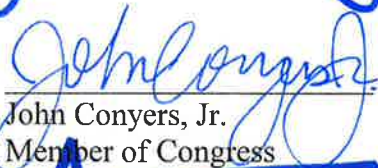
Jason Chaffetz
Member of Congress



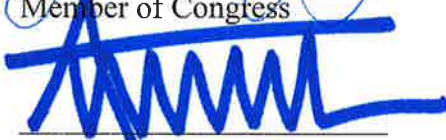
Elijah E. Cummings
Member of Congress



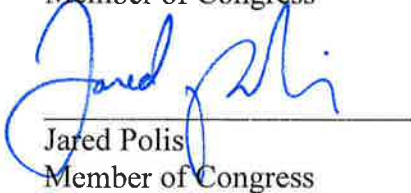
H. James Sensenbrenner, Jr.
Member of Congress



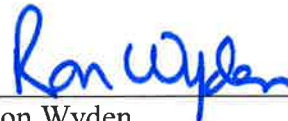
John Conyers, Jr.
Member of Congress



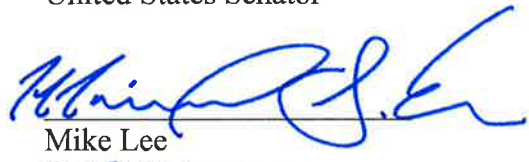
Ted Poe
Member of Congress



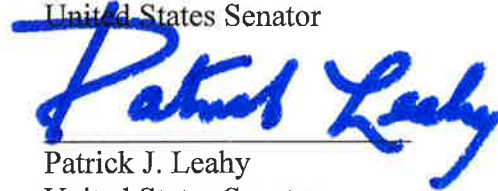
Jared Polis
Member of Congress



Ron Wyden
United States Senator



Mike Lee
United States Senator



Patrick J. Leahy
United States Senator



Tom Udall
United States Senator



Martin Heinrich
United States Senator