

CHARLES E. GRASSLEY, IOWA, CHAIRMAN

ORRIN G. HATCH, UTAH
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
MICHAEL S. LEE, UTAH
TED CRUZ, TEXAS
JEFF FLAKE, ARIZONA
DAVID VITTER, LOUISIANA
DAVID A. PERDUE, GEORGIA
THOM TILLIS, NORTH CAROLINA

PATRICK J. LEAHY, VERMONT
DIANNE FEINSTEIN, CALIFORNIA
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
SHELDON WHITEHOUSE, RHODE ISLAND
AMY KLOBUCHAR, MINNESOTA
AL FRANKEN, MINNESOTA
CHRISTOPHER A. COONS, DELAWARE
RICHARD BLUMENTHAL, CONNECTICUT

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
KRISTINE J. LUCIUS, *Democratic Chief Counsel and Staff Director*

March 26, 2015

The Honorable Charles E. Grassley
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Grassley:

As members of the Judiciary Committee, we urge you to seek a sequential referral of the Cybersecurity Information Sharing Act (CISA) of 2015, S. 754. This bill was marked up in the Senate Intelligence Committee on March 12, and reported to the full Senate on March 17. As reported, the bill contains a number of provisions that affect matters squarely within the jurisdiction of the Judiciary Committee. We therefore believe that CISA should receive the Judiciary Committee's careful consideration.

The Senate Intelligence Committee's bill is intended to facilitate the sharing of cyber threat information between the private sector and the government. This is a laudable goal. To achieve it, however, this legislation authorizes and provides liability protection to private companies, notwithstanding any other law, to share information with the government – information that could include Americans' private communications. This change in the law would override the privacy protections in laws like the Electronic Communications Privacy Act (ECPA) and the Foreign Intelligence Surveillance Act (FISA), over which the Judiciary Committee has long exercised jurisdiction.

The bill also contains provisions that affect our criminal justice system. For example, CISA would authorize the government to retain and use the information it receives from private entities not just for cybersecurity purposes, but also to investigate unrelated crimes, such as arson, robbery, and use of a firearm. The broad scope of these permissible uses raises complex Fourth Amendment questions.

Finally, CISA amends the Freedom of Information Act (FOIA) to create a new exemption from disclosure. Legislation amending FOIA falls squarely within the Judiciary Committee's jurisdiction, and should not be considered only in closed session by the Senate Intelligence Committee.

Regardless of what one may think of the substance of this legislation, it is clear that the Judiciary Committee has significant equities in CISA. We therefore urge you to seek a sequential referral of this legislation pursuant to Section 3(b) of S.Res. 400 and Rule XVII of the Standing Rules of the Senate. We believe that, as Chairman, it is important for you to preserve the historic jurisdiction of this committee, particularly in matters that significantly impact legal liability, privacy and civil liberties, the Fourth Amendment, and government transparency.

Sincerely,



PATRICK LEAHY
United States Senator



CHARLES SCHUMER
United States Senator



RICHARD DURBIN
United States Senator



SHELDON WHITEHOUSE
United States Senator



AMY KLOBUCHAR
United States Senator



AL FRANKEN
United States Senator



CHRIS COONS
United States Senator



RICHARD BLUMENTHAL
United States Senator