



National Association of Assistant United States Attorneys

12427 Hedges Run Dr. • Suite 104

Lake Ridge • VA • 22192-1715

Phone: 800-455-5661 • Fax: 800-528-3492 • Email: staff@naausa.org

www.naausa.org

July 30, 2013

Re: "Citizen Empowerment Act," H.R. 2711 – Set for Suspension Calendar Action on July 31

Dear House Member:

I write on behalf of the National Association of Assistant United States Attorneys to express our opposition to the "Citizen Empowerment Act," H.R. 2711.

This legislation will disrupt and seriously compromise civil enforcement efforts and criminal prosecutions undertaken by Assistant United States Attorneys on behalf of the United States. **WE URGE YOU TO VOTE NO ON THIS LEGISLATION.**

H.R. 2711 requires any employee of an Executive agency, before or at an in-person or telephonic interaction with an individual, to allow the individual to make an audio recording of the in-person or telephonic interaction. In addition, the legislation requires the Executive branch employee to first provide notice to the individual of their right to make such a recording.

The applicability and notice requirements of this legislation would clearly reach to all civil and criminal enforcement actions and prosecutions of the Department of Justice. (The legislation requires the legislation extend to any "audit, investigation, inspection, or enforcement action that could result in the imposition of a fine, forfeiture of property, civil monetary penalty, or criminal penalty against, or the collection of an unpaid tax, fine or penalty from, such individual or a business owned or operated by such individual.")

The notice requirement of the legislation is especially disturbing because it would require that individuals who are targets of enforcement actions conducted by Executive agency employees be notified of the right to make an audio recording of the in-person or telephonic interaction, prior to or at any initial interaction. While this requirement is well-meaning in its support for the ability of citizens to document abusive or inappropriate conduct on the part of Executive branch employees, citizens already have that right to audio record their in-person or telephonic interactions with Executive branch employees in the vast majority of states.

President	Vice President for Policy	Vice President for Operations	Treasurer	Secretary
Robert G. Guthrie ED of Oklahoma	John E. Nordin II CD of California	and Membership Lawrence J. Leiser ED of Virginia	Daniel A. Brown SD of Ohio	Leah Bynon Farrell New Jersey

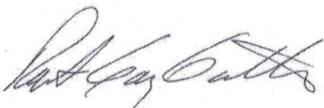
The most disturbing aspect of the legislation involves its dramatically negative impact on civil and criminal law enforcement investigative efforts. The legislation would virtually undermine all undercover criminal investigations by requiring investigative agents and other law enforcement personnel to advise a suspect of his rights to record the conversation prior to the very first interaction with the suspect, thereby announcing the existence of the investigation and blowing the cover. These same consequences would extend to a large number of other civil and other criminal investigations in their early stages, regardless of whether their existence was known by the suspect in the investigation.

The original version of this legislation contained a limited set of exceptions to the measure's requirements, including exclusion of criminal investigations conducted by Federal law enforcement personnel. We believe the exceptions, as drafted, were too narrowly drawn and insufficient to protect civil and criminal investigative and enforcement efforts. The version of the legislation approved by the House Committee on Oversight and Government Reform on July 24 did not contain any exceptions. Clearly, this measure raises a magnitude of administrative and legal concerns that should be addressed before the House of Representatives gives further consideration to approval of this legislation. At the very least, an exception should be included in the bill that exempts all Assistant United States Attorneys in the course of civil and criminal enforcement activity, along with all investigative personnel assisting in such enforcement activity.

Passage of this legislation, as approved by the House Committee on Oversight and Government Reform on July 24, will disserve the dedicated and brave public servants in United States Attorney Offices and law enforcement who work tirelessly to pursue justice on behalf of the United States. It will seriously disrupt and undermine their actions to protect the American people from crime and terrorism, as well as compromise the efforts of those seeking to enforce legitimate judgments and claims due the United States.

We urge you to oppose H.R. 2711. Thank you for your consideration of our views.

Sincerely,

A handwritten signature in dark ink, appearing to read "Robert Gay Guthrie", written in a cursive style.

Robert Gay Guthrie
President