



## National Association of Assistant United States Attorneys

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### VOTE "NO" ON H.R. 2879, "THE STOP GOVERNMENT ABUSE ACT"

**The National Association of Assistant United States Attorneys opposes H.R. 2879, "The Stop Government Abuse Act," and urges House Members to VOTE NO on this legislation.**

Section 301 of H.R. 2879 will undermine federal civil enforcement activities and criminal prosecutions during the investigative, pretrial, trial and enforcement phases of litigation involving the interests of the United States.

Section 301 is the former "Citizen Empowerment Act" (H.R. 2711), as amended by the House Oversight and Government Reform Committee on July 24. The provision contains no exemption for litigation involving the United States or the activities of federal law enforcement personnel. No Congressional hearing has been held on the measure.

Section 301 requires the Government broadly to inform an individual of the right to record in-person and telephonic interactions with Government employees – including law enforcement officers, investigative agents and Assistant United States Attorneys and other federal prosecutors – whenever an Executive Agency provides "any written material ... to the individual concerning an 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."

This notice requirement would reach to a myriad of legal and law enforcement-related documents regularly issued by the federal government, including subpoenas, search warrants, arrest complaints and forfeiture notices. This mandate is far more expansive than requiring the government to post notice of the right to record on agency websites, as also included in section 301.

The notice mandate of H.R. 2879 would intrude upon and disrupt sensitive phases of many federal civil and criminal investigations and law enforcement efforts, as well as litigation involving the government. The breadth of the "written material" trigger could undermine undercover investigations, given its potential to "tip off" witnesses, suspects and targets of investigations. The bill also would permit defense counsel to insist upon recording all interactions with federal prosecutors and law enforcement personnel in all phases of litigation with the government, including sensitive settlement and plea-bargain discussions. Even federal court proceedings, whose rules prohibit recording by individuals, could be impacted by this bill.

Citizens already may record their interactions with federal government officers and employees in most states within a carefully balanced set of legal and practical concerns. There is no compelling need for a measure like H.R. 2879, especially considering its incalculable damage on law enforcement efforts. At the very least, an exception should be included in the measure that exempts law enforcement-related activity involving government agents, investigators and Assistant United States Attorneys.

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