



July 31, 2007

The Honorable Harry Reid  
Majority Leader  
United States Senate

The Honorable Mitch McConnell  
Minority Leader  
United States Senate

The Honorable Nancy Pelosi  
Speaker  
House of Representatives

The Honorable John A. Boehner  
Minority Leader  
House of Representatives

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TREASURER

Dear Majority Leader Reid, Speaker Pelosi, Minority Leader McConnell,  
and Minority Leader Boehner,

We understand that you have received a new proposal from the Administration to expand its ability to collect phone calls and emails on American soil, and that the Administration is calling for immediate passage, lest the United States be subject to immediate attack.

Fundamentally, the Administration's proposal allows the government to scoop up all international communications of Americans without a warrant, retain those communications forever, and data mine them without review or limitation. The government could then use any information gleaned from this warrantless wiretapping to support future court orders. This is backwards. It turns the Fourth Amendment on its head. And, it does great damage to the Foreign Intelligence Surveillance Act, enacted and repeatedly modified to protect Americans' privacy from an overreaching intelligence community. Any proposals for programs of warrantless wiretapping that will undoubtedly pick up American conversations should be rejected. We ask that if you choose to legislate on this subject this week, without the benefit of thorough vetting, you narrowly limit any new authorities provided to address only those specific areas that the Administration has demonstrated an urgent need to resolve. The two areas meeting this criteria are discussed below:

- Foreign Calls. The Administration has publicly stated that it must apply for court orders before tapping foreigners overseas. This is demonstrably false and contradicted by the National Security Agency's ("NSA") recent testimony. Just last year Lt. Gen. Keith B. Alexander, Director, NSA, testified before the Senate Judiciary Committee: "Indeed, by far the bulk of NSA's surveillance activities take place overseas, and these activities are directed entirely at foreign countries and foreign persons within those countries. All concerned agree, and to my knowledge have always agreed, that the

FISA does not and should not apply to such activities.” (July 26, 2006)

That the Administration is now claiming otherwise is misleading. To clarify this point, however, pending bipartisan legislation exists in both houses that resolves this issue.

- Burdensome Court Requirements. The Administration has also claimed that going before the Foreign Intelligence Surveillance Court is too burdensome and has proposed going around the court all together. As a letter from the House Intelligence Committee minority put it, court orders are just “exercises taking valuable time.” This is not the solution. There is no paperwork exception to the Fourth Amendment. If the process is too burdensome it can be streamlined and more resources can be provided. Again, there is bipartisan legislation in both Houses to this effect.

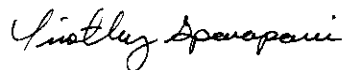
We urge you to reject legislating in a fear mode. Recent history should be proof enough that civil liberties suffer when terror related legislation is jammed through without careful consideration of the consequences. The Administration has repeatedly refused to give this Congress the information it needs to effectively oversee the NSA’s intelligence activities in the United States, and Congress cannot legislate in the dark.

Should you, nevertheless, agree to consider legislative changes to FISA this week, we urge you to work to ensure the only changes made are narrowly targeted to resolve particular, demonstrated and pressing intelligence gaps. We will be watching the vote closely, and scoring any vote that has an impact on civil liberties.

Sincerely,



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