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ONE HUNDRED NINTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

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February 8, 2006

The Honorable Alberto Gonzales
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Attorney General Gonzales:

As you are aware, on December 16, 2005, the *New York Times* reported that the President ordered the National Security Agency (NSA) to conduct warrantless wiretaps on international communications between suspected terrorists and individuals within the United States.[1] On December 17, 2005, the President addressed the Nation in his weekly radio address and responded to the New York times article.[2] President Bush explained that "To fight the war on terror, I am using authority vested in me by Congress, including the Joint Authorization for Use of Military Force, which passed overwhelmingly in the first week after September the 11th. I'm also using constitutional authority vested in me as Commander-in-Chief."[3] He highlighted the fact that this program is continuously reviewed. "The activities authorized are reviewed approximately every 45 days. Each review is based on a fresh intelligence assessment of terrorist threats to the continuity of our government and the threat of catastrophic damage to our homeland. During each assessment, previous activities under the authorization are reviewed. The review includes approval by our nation's top legal officials, including the Attorney General and the Counsel to the President."[4]

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[1] *See* James Risen and Eric Lichtblau, *Bush Lets U.S. Spy on Callers Without Courts*, N.Y. TIMES, Dec. 16, 2005, at A1.

[2] *See* Radio Address of the President to the Nation, Dec. 17, 2005, http://www.whitehouse.gov/news/releases/2005/12/20051217.html (last visited February 2, 2006).

[3] *Id.*

[4] *Id.*

The Committee on the Judiciary has received two referrals of resolutions of inquiry regarding the Department of Justice's involvement in the NSA program.[5] As the House of Representatives' Committee of jurisdiction over "subversive activities affecting the internal security of the United States" under Rule X(l)(19) of the Rules of the House of Representatives, the House Committee on the Judiciary is responsible for conducting oversight on issues or claims of domestic surveillance. Additionally, the Committee has jurisdiction of issues related to civil liberties under Rule X(l)(5). As part of the Committee's oversight of the use of this program, please respond to the following questions by March 2, 2006.

Legal Authority

1. The Foreign Intelligence Surveillance Court of Review, as the Congressional Research Service (CRS) concedes in its 2006 examination of the NSA program, "is a court of appeals and is the highest court with express authority over [the Foreign Intelligence Surveillance Act,] FISA to address the issue, its reference to inherent constitutional authority for the President to conduct warrantless foreign intelligence surveillance might be interpreted to carry considerable weight."[6] The FISA Court of Review issued an opinion in 2002 that stated "all the other courts to have decided the issue, held that the President did have inherent authority to conduct warrantless searches to obtain foreign intelligence information . . . . We take for granted that the President does have that authority . . . ."[7] The CRS memorandum dated January 5, 2006, does not dispute the fact that all other courts support the proposition that the President has inherent authority to conduct warrantless searches. Instead, the CRS memorandum appears to attempt to downplay these precedents with a statement that the FISA Court of Review's "allusion to the holdings of 'all the other courts to have considered the issue,' appears to have been the cases which pre-date FISA's passage or which address pre-FISA surveillances."[8]

   a. Have any courts addressed this issue since the enactment of FISA?
   b. Have any courts since the enactment of FISA concluded that the President did not have inherent authority?
   c. Does reliance on pre-FISA cases by the FISA Court of Review "[undercut] the

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[5] H.Res. 643 (109th Cong.); H. Res. 644 (109th Cong.)

[6] Elizabeth B. Bazan and Jennifer K. Elsea, 30 Congressional Research Service Memorandum: Presidential Authority to Conduct Warrantless Electronic Surveillance to Gather Foreign Intelligence Information, Jan. 5, 2006 [hereinafter CRS Memo].

[7] *In re Sealed Case*, 310 F.3d 717, 742 (FISA Ct. of Review 2002).

[8] 31 CRS Memo.

persuasive force"[9] of the conclusion that the president has inherent constitutional authority to conduct warrantless surveillance?

2. In holding that the President has inherent authority to conduct warrantless surveillance, did any of the cases conclude this inherent authority did not arise from the Constitution?

3. Is there legal authority to support the proposition drawn from the FISA Court of Review's decision in *In re Sealed Case,*[10] that the President continues to have the power to authorize warrantless electronic surveillance to gather foreign intelligence outside the FISA framework?

4. In *In re Sealed Case* the Court of Review states, in part, "Even without taking into account the President's inherent constitutional authority to conduct warrantless foreign intelligence surveillance. . . ."[11] The January 5, 2006 CRS memorandum asserts that one approach to interpreting this and other Court of Review statements would be to interpret them "as referring to the President's inherent authority to conduct such surveillances outside the scope of 'electronic surveillance' under FISA. In essence, the court's statements would then be seen as a reference to presidential authority over those areas of NSA activities which were intentionally excluded from FISA when it was enacted. Alternatively, it might be argued that the court's statements may refer to continuing exercise of inherent presidential authority within the FISA structure, which the Court of Review found to be constitutional."[12] Does the President adhere to either of these approaches to support the program?

5. Some have questioned whether President Carter's signature on FISA in 1978, together with his signing statement, was an explicit renunciation of any claim to inherent Executive authority under Article II of the Constitution to conduct warrantless surveillance.

   a. Does Congress have the authority to renounce any inherent presidential authority?
   b. Is there any case law that supports or proscribes Congress' ability to renounce inherent presidential authority?

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[9] 32 CRS Memo.

[10] *See* 310 F.3d at 746.

[11] *Id.*

[12] 32 CRS Memo.

6. Has any other President held that the President has this inherent authority? If so, has any other President used such an authority prior to and after the enactment of FISA?

7. The Department of Justice has stated that Congress has confirmed and supplemented the President's inherent authority by statute through the Authorization for the Use of Military Force (AUMF).[13] Please explain specifically how the AUMF has "confirmed and supplemented"[14] the President's inherent authority with respect to warrantless surveillance.

8. On December 19, 2005, *USA Today* reported that the President's executive order that authorized the surveillance program represented a "dramatic shift from restrictions on domestic spying imposed after exposure in the mid-1970s of NSA operations against U.S. citizens."[15]
   a. Is this claim substantiated?
   b. Have previous Administrations, at the very least, *recognized* the President's Constitutional duty to authorize similar programs related to national security?
   c. The same article asserted that the Communications Act of 1934 as well as the U.S. Criminal Code have provisions that limit or ban the interception of electronic communications. How do these laws effect the President's prerogative to authorize the NSA program?

9. In a January 6, 2006 letter from Professor Laurence Tribe to Congressman Conyers, the Professor states that the National Security Agency program "in question, far from being *authorized* by Congress, flies in the face of an *explicit congressional prohibition* and is therefore unconstitutional without regard to the Fourth Amendment. . . . The inevitable conclusion is that the AUMF did not implicitly authorize what the FISA expressly prohibited. It follows that the presidential program of surveillance at issue here is a separation of powers as grave an abuse of executive authority as I can recall ever having studied."[16] Do you agree that FISA "expressly prohibits" the specific activities authorized

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[13] *See* Pub. L. No. 107-40, § 2(a), 115 Stat. 224, 224 (Sept. 18, 2001) (reported as a note to 50 U.S.C.A. § 1541).

[14] Department of Justice, 2 LEGAL AUTHORITIES SUPPORTING THE ACTIVITIES OF THE NATIONAL SECURITY AGENCY DESCRIBED BY THE PRESIDENT, Jan. 19, 2006.

[15] John Diamond, *NSA's Surveillance of Citizens Echoes 1970s Controversy; Bush Denies Post-9/11 Order Clashes with 1978 Law Requiring Warrants*, USA Today, Dec 19, 2005, at A6.

[16] Letter from Laurence Tribe to Representative John Conyers (Jan. 6, 2006), at 2.

under this program?

10. If FISA were read to prohibit the President from taking steps he deemed necessary to protect the United States during wartime, would the constitutionality of that Act be called into question? Please explain in detail what constitutional problems or questions may arise if it were determined that FISA, separately or in conjunction with the AUMF, prohibits the President from authorizing the terrorist surveillance program.

11. The January 5, 2006 CRS Memorandum quotes a December 22, 2005 letter from the DOJ Office of Legislative Affairs that says, "But under established principles of statutory construction, the AUMF and FISA must be construed in harmony to avoid any potential conflict between FISA and the President's Article II authority as Commander in Chief." The memorandum, however, concludes, on this point, that "It is unclear how FISA and the AUMF are seen to collide. Principles of statutory construction generally provide guidance for interpreting Congress's intent with respect to a statute where the text is ambiguous or a plain reading leads to anomalous results; and where possible, a statute that might be read in such a way as to violate the Constitution is to be construed to avoid the violation. However, such principles are only to be applied where there is a genuine ambiguity or conflict between two statutes, and where there is some possible reading that might avoid a conflict. . . ."[17] A contrary view has been presented by constitutional scholar Robert Alt, that "if for some reason a court finds that there is a conflict between the AUMF and FISA, then standard rules of statutory interpretation suggest that the AUMF must control. Specifically, the AUMF contains a savings clause, making clear that the statute does not intend to impair the operation of the War Powers Resolution. *See* AUMF, § 2(b)(2) (Nothing in this resolution supercedes any requirement of the War Powers Resolution.). The canon of *expressio unius est exclusio alterius* requires that Congress, having created an express exception for a statute intended to limit Presidential power, must have excepted FISA if they intended to exempt it from any conflict with the AUMF. They did not, and so the AUMF must control if the statutes are seen as conflicting."[18] (*See* enclosure)
    a. Which analysis is correct? Please explain why you agree or disagree with these analyses.
    b. Do FISA, the AUMF, and the NSA program conflict?

12. Please explain how the NSA terrorist surveillance program relates to FISA. In doing so, please explain how the program – which operates outside the context of FISA – is

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[17] 41 CRS Memo.

[18] Letter from Robert Alt to Chairman Sensenbrenner (Feb. 3, 2006), at 8.

consistent with FISA, given that FISA – provides it shall be the "exclusive means by which electronic surveillance, as defined in section 101 of [FISA], and the interception of domestic wire, oral, and electronic communications may be conducted."[19]

13. Some are concerned that NSA's use of this authority erodes the Department of Justice's authority to conduct wiretaps under FISA. Do you agree with this concern?

14. Does the fact that Congress amended FISA in response to the terrorists attacks on September 11, 2001, "[bolster] the notion that FISA is intended to remain fully applicable," as asserted by the January 5, 2006 CRS Memorandum?[20]

15. What is the rationale for authorizing a program to conduct surveillance in a manner that does not require prior judicial review by the FISA Court?

16. Does the legislative history of FISA "reflect an intention that the phrase 'authorized by statute' was a reference to chapter 119 of Title 18 of the U.S. Code (Title III) and to FISA itself, rather than having a broader meaning, in which case a clear indication of Congress's intent to amend or repeal it might be necessary before a court would interpret a later statute as superceding it"?[21] Do you agree with this assertion? Please explain.

17. Have past United States Presidents employed signals intelligence of the kind authorized by President Bush after 9/11 to protect the nation during wartime? Please explain.

18. Does the Administration's position rely, as asserted by the January 5, 2006 CRS Memorandum, on the assumptions that (1) "the power to conduct electronic surveillance for intelligence purposes is an essential aspect of the use of military force in the same way that the capture of enemy combatants on the battlefield is a necessary incident to the conduct of military operations," and (2) the Administration considers "the 'battlefield' in the war on terrorism to extend beyond the area of traditional military operations to include U.S. territory"? The CRS Memorandum continues that "[b]oth assumptions have been the subject of debate."[22] Do you agree that it is debatable as to whether the United States homeland is still a target of al Qaeda?

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[19] 18 U.S.C. § 2511(2)(f).

[20] 37 CRS Memo.

[21] 40 CRS Memo.

[22] 34 CRS Memo.

19. Does the Administration interpret the AUMF's authorization to be contingent on the realization of "actual attacks"[23] on U.S. soil, or to be an authorization for the President to act in advance of actual attacks to prevent their occurrence?

20. The January 5, 2006 CRS memorandum states, "To the extent that the President's executive order authorizes surveillance of persons who are suspected of merely supporting Al Qaeda or affiliated terrorist organizations, it may be seen as being overly broad."[24] Does the President's executive order provide that persons "merely supporting al Qaeda" are covered? The CRS memorandum appears to attempt to diminish the concern of those supporting al Qaeda in the U.S. What could be the consequences of the actions of a person "merely supporting al Qaeda?"

21. The January 5, 2006 CRS Memorandum states, "While the collection of intelligence is also an important facet of fighting a battle, it is not clear that the collection of intelligence constitutes a use of force."[25] Do you agree?

22. The January 5, 2006 CRS Memorandum explains that the "*Hamdi* plurality cited the Geneva Conventions and multiple authorities on the law of war to reach its conclusion that the capture of combatants is an essential part of warfare." The Memorandum then continues, "The Administration has not pointed to any authority similar to those cited by the *Hamdi* plurality [at 518-19] to support its proposition that signals intelligence is a fundamental aspect of combat."[26] Do you agree with the assumption made by CRS that signals intelligence is a less than conventional aspect of the conflict that would lead to its categorization as non-essential?

23. The January 5, 2006 CRS Memorandum states that "a presumption that the authorization [in the AUMF] extends to less conventional aspects of the conflict could unravel the fabric of *Hamdi*, especially where measures are taken within the United States."[27] Do you agree with CRS' presumption and conclusion?

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[23] 37 CRS Memo.

[24] *Id.*

[25] 35 CRS Memo.

[26] *Id.*

[27] *Id.*

24. Professor Tribe argues, in his January 6, 2006 letter, contrary to the Department of Justice's assertion, that *Hamdi* supports the conclusion that the AUMF cannot provide the requisite authorization by pointing to the fact that "the *Hamdi* plurality agreed 'that *indefinite* detention *for the purpose of interrogation*' even of conceded enemy combatants 'is not authorized' by the AUMF. 124 S.Ct. at 2641 (emphasis added)."[28] Do you agree with Professor Tribe's argument.

25. What legal precedents, if any, support the Administration's position that the September 14, 2001 AUMF directive to the President to use "all necessary and appropriate force"[29] against al Qaeda included the ability to authorize NSA intercepts of al Qaeda-related communications into and out of the United States?

26. Putting aside the AUMF, can the Administration cite any legal precedents that support the President's authority to conduct searches for foreign intelligence purposes in the absence of express statutory or judicial authorization?

27. On January 21, 2006, the *National Journal* purported that President Bush is "unilaterally interpret[ing] the law," constitutional or otherwise, in the "global war on terror."[30] Is this a proper characterization of the President's actions in authorizing the NSA program? What is the President's role in interpreting law?

28. On January 20, 2006, Senator Patrick Leahy introduced a resolution[31] and stated that he is "setting the record straight that Congress did not authorize President Bush's illegal spying program when it passed a 2001 resolution governing the use of military force in the war on terror."[32] Please explain the Administration's position of what the resolution governing the use of military force permits the President to do? Does it impose specific restrictions on the President?

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[28] Tribe, *supra* note 12, at 5.

[29] Section 2(a).

[30] Alexis Simendinger, *The Speech - King for a War* (Jan. 21, 2006), http://nationaljournal.com/pubs/nj/ (last visited February 2, 2006).

[31] S. Res. 350, 109th Cong. (2006).

[32] Statement made by United States Senator Patrick Leahy, *Leahy on Friday Introduces Resolution Underscoring That Congress Did Not Authorize Illegal Spying on America* (Jan. 20, 2006), *available at* http://leahy.senate.gov/press/200601/012006.html.

29. Does the lack of specific language in the AUMF referencing electronic surveillance undermine the Administration's contention that the AUMF provides the statutory authority for the program to be authorized by the President?

Review Process

30. On December 17, 2005, the President stated that "[t]he authorization [he] gave the National Security Agency after September the 11th helped address that problem in a way that is fully consistent with [his] constitutional responsibilities and authorities." He stated that "the activities [he] authorized are reviewed approximately every 45 days. Each review is based on a fresh intelligence assessment of terrorist threats to the continuity of our government and the threat of catastrophic damage to our homeland. During each assessment, previous activities under the authorization are reviewed. The review includes approval by our nation's top legal officials, including the Attorney General and the Counsel to the President."[33] This appears to explain the ongoing review of the program for compliance.
    a. Please explain how the proposal for the program was reviewed before it was authorized and initiated.
    b. Who was included in this review prior to the program going into effect?
    c. What was the time line of the discussions that took place?
    d. When was the program authorized?
    e. Was the program implemented in any capacity before receiving legal approval?

31. With regard to the ongoing review process of the NSA's activities that includes thorough review by the Justice Department and NSA's top legal officials, including NSA's general counsel and inspector general, please explain this review process, what each review constitutes, and how reviews were conducted when new individuals assumed positions previously held by others who already had been consulted. What is the process for reauthorizing the program?

32. To what extent were FISA judges informed of the program? Did FISA judges who were informed about the program object to it? In what manner were objections raised? How did the Administration respond to the objections, if they were raised? If a Member had problems with the program, what were they legally permitted to do?

33. Did any of the individuals involved in the pre-program review express concern or refuse to sign-off on the program?
    a. On January 9, 2006, *Newsweek* published a story on the development of the

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[33] *Supra* note 2.

program. The article claims that "On one day in the spring of 2004, White House chief of staff Andy Card and the then White House Counsel Alberto Gonzales made a bedside visit to John Ashcroft, attorney general at the time, who was stricken with a rare and painful pancreatic disease, to try—without success—to get him to reverse his deputy, Acting Attorney General James Comey, who was balking at the warrantless eavesdropping."[34] Is this accurate?

b. On January 17, 2006, the *New York Times* reported that FBI officials repeatedly complained about the NSA "eavesdropping program" and believed that it was intruding upon the rights of everyday law-abiding U.S. citizens.[35] Are there documented complaints by FBI officials challenging the legality of this program at the time of its inception or throughout its activity?

c. The *Times* article claimed that Director Mueller also raised concerns about the legal rationale of the NSA program. Is this claim accurate and, if so, were Director Mueller's concerns addressed to his satisfaction?

34. The President in his December 17, 2005 radio address, also pointed out that the leadership and the Intelligence Committee chairs and ranking members "have been briefed more than a dozen times on this authorization and the activities conducted under it."[36] Please explain which Members of Congress were consulted, whether any expressed concern, and how those concerns were addressed. In addition, please explain how any consultations were conducted when new individuals assumed positions previously held by others who already had been consulted.

35. Please explain what efforts the Administration has made to keep Congress informed about the terrorist surveillance program and what, if any, efforts the President plans to undertake to ensure the Congress is fully informed about the program.

36. Please explain why the Administration is only informing the Congress as a whole of the scope and nature of this program at the present time.

37. On December 20, 2005, the *St. Petersburg Times* claimed that former Senator Bob

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[34] Evan Thomas and Daniel Klaidman, Full Speed Ahead, After 9/11, *Bush and Cheney Pressed for More Power and Got It. Now, Predictably, the Questions Begin. Behind the NSA Spying Furor*, http://www.msnbc.msn.com/id/10663996/site/newsweek (last visited February 2, 2006).

[35] *See* Lowell Bergman, Eric Lichtblau, Scott Shane, Don Van Natta Jr.; William K. Rashbaum, contributor, Domestic Surveillance: The Program; Spy Agency Data after Sept. 11 led F.B.I. to Dead Ends, N.Y. TIMES, Jan. 17, 2006, at A1.

[36] *Supra* note 2.

Graham, who chaired the Senate Intelligence Committee at the time the Committee was briefed about the program by Vice President Cheney, said, "We were not told that there was not going to be a warrant secured and were not told that this was going to change the standard for wiretapping of U.S. citizen."[37]

a. How much detail was disclosed to the Intelligence Committees regarding the NSA program?
b. Was the level of detail disclosed consistent with what was required by law and consistent with disclosures regarding classified other programs?
c. Did any Members of Congress ask for additional details?
d. What are the legal requirements or precedents that stipulate the type of information to be disclosed or withheld?

38. The January 17, 2006 *New York Times* article also quoted an anonymous FBI agent who allegedly said that the program uncovered no active al Qaeda networks planning attacks inside the U.S.. Does the President conduct ongoing evaluations of the effectiveness of this program?[38]

The Surveillance Program

39. Please explain the exact scope of the terrorist surveillance program described by the President. Specifically, please explain whether the program is designed to intercept only international communications or whether it is also designed to intercept domestic communications.
    a. What is the distinction?
    b. Also, please specifically describe the type of individual targeted by the program. In doing so, please explain whether the program is targeted specifically at the surveillance of individuals affiliated with al Qaeda and related terrorist organizations or whether it is broader in scope.

40. On December 16, 2005, the *New York Times* claimed that President Bush "secretly authorized the National Security Agency to eavesdrop on Americans and others inside the United States to search for evidence of terrorist activity without court-approved warrants ordinarily required for domestic spying, according to government officials."[39]

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[37] *Above the Law?*, ST. PETERSBURG TIMES, Dec 20, 2005, at A14.

[38] *See supra* note 29.

[39] James Risen and Eric Lichtblau, Barclay Walsh, contributor, *Bush Lets U.S. Spy on Callers Without Courts*, N.Y. TIMES, Dec. 16, 2005, at A1.

a. Did President Bush authorize this program to search for evidence of terrorist activity or was there a more narrow purpose for this surveillance?

b. If the purpose was more narrow, please describe that purpose.

41. Has surveillance conducted under this program been of communications between parties, all of which were known to be located within the United States?

42. If al Qaeda members purchase cell phones with U.S. domestic phone numbers, but these members are located and are placing phone calls outside the United States, would these calls be characterized as "domestic"? Does the characterization change if the call is routed domestically?

43. The President explained that these intercepts were related to the war on terrorism and that, "Before we intercept these communications, the government must have information that establishes a clear link to these terrorist networks."[40] Is this still true? What is the standard?

44. Please explain in detail whether the terrorist surveillance program complies with the requirements of the Fourth Amendment.

45. Throughout the Federal criminal code,[41] the statutes authorize arrests without warrants if there is "reasonable grounds to believe" that a crime has been or is about to be committed. Does this a probable cause standard translate to the NSA program? Is there case law to support this standard?

46. Please explain what efforts are currently underway with respect to the terrorist surveillance program to ensure that the civil liberties and privacy of ordinary Americans are adequately protected and what additional efforts, if any, the President is considering to effectively address these issues.

47. Press reports have stated that the Justice Department has opened an investigation of the leak of information regarding the highly classified NSA program.[42] Does the Department

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[40] *Supra* note 2.

[41] *See, e.g.*, 18 U.S.C. § 3051.

[42] *See, e.g.*, *Inquiry into leak of NSA spying program launched*, CNN.COM, Dec.30, 2005, http://www.cnn.com/2005/POLITICS/12/30/nsa.leak/index.html (last visited February 3, 2006); Dan Eggan, *Justice Dept. Investigating Leak of NSA Wiretapping – Probe Seeks Source of Classified Data*, WASHINGTON POST, Dec. 31, 2005, at A1.

consider the unauthorized disclosure of information about this program to be a leak of classified information? Has the Department, as reported by the press, opened an investigation of the leak of this information?

48. The *Washington Post* reported that "Fewer than 10 U.S. citizens or residents a year, according to an authoritative account, have aroused enough suspicion during warrantless eavesdropping to justify interception of their domestic calls, as well."[43] Are targets of the NSA surveillance program "U.S. citizens and residents," or do targets also include non-U.S. persons? Are targets of this surveillance program those who have "aroused enough suspicion" or are there other justifications for the interception? Do you agree with the premise made by the *Washington Post* that this program monitored domestic calls?

49. This article also stated that "Computer-controlled systems collect and sift basic information about hundreds of thousands of faxes, e-mails and telephone calls into and out of the United States before selecting the ones for scrutiny by human eyes and ears." And that "Successive stages of filtering grow more intrusive as artificial intelligence systems rank voice and data traffic in order of likeliest interest to human analysts. But intelligence officers, who test the computer judgments by listening initially to brief fragments of conversation, "wash out" most of the leads within days or weeks."[44] General Hayden, in an interview with Chris Wallace on February 5, 2006, indicated that this is not an accurate depiction of the NSA surveillance program. Is this a data-mining program, as the *Washington Post* article conveys, or is this a limited program "where NSA has already established its reasons for being interested in that specific communication"?

50. On behalf of a group of organizations[45] that requested, in a January 30, 2006 letter to

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[43] Barton Gellman, Dafna Linzer, and Carol D. Leonnig, *Surveillance Net Yields Few Suspects; NSA's Hunt for Terrorists Scrutinizes Thousands of Americans, but Most Are Later Cleared*, WASHINGTON POST, Feb 5, 2006, at A1.

[44] *Id.*

[45] American-Arab Anti-Discrimination Committee, American Civil Liberties Union, American Friends Service Committee, American Progress Action Fund, Amnesty International USA, Arab Community Center for Economic and Social Services, Bill of Rights Defense Committee, Center for Democracy and Technology, Center for Financial Privacy and Human Rights, Center for National Security Studies, Common Cause, Constitution Project, Darfur Alert Coalition, Democrats.com, Electronic Frontier Foundation, Electronic Privacy Information Center, Fairfax County Privacy Council, First Amendment Fund, Federation of American Scientists, Friends Committee on National Legislation, Hate Free Zone Washington, League of United Latin American Citizens, Liberty Coalition, MoveOn.org Political Action, Muslim Advocates, Muslin Public Affairs Council, National Association of Criminal Defense Lawyers, National Committee Against Repressive Legislation, National Lawyers Guild - National Office, National Network for Arab American Communities, National Security Whistleblowers Coalition, Open Society

Chairman Sensenbrenner and Ranking Member Conyers, oversight of the NSA surveillance program, please respond to the following:

a. Is the NSA surveillance program a single program, which operates under a single authorization? What is the scope and/or nature of the program(s)?
b. What are the criteria and triggers for collection and/or analysis of information? How do these criteria and triggers differ from those in effect prior to September 11, 2001?
c. Were laws violated and, if so, who bears responsibility?
d. What information is obtained through this program? Is it shared with other agencies? Once obtained, how is it used and/or stored, whether by NSA or other agencies?

51. Finally, please explain whether you believe Congress should amend FISA to provide the President with the necessary authority to conduct the terrorist surveillance program. If the answer to this question is yes, please explain what amendments to the FISA legislation may be needed. If the answer to this question is no, please explain how Congress may effectively evaluate or conduct oversight of the program.

Please provide your responses to Beth Sokul, Special Counsel on Intelligence and Homeland Security, in 2138 Rayburn House Office Building, by March 2, 2006.

Sincerely,

F. JAMES SENSENBRENNER, JR.
Chairman

Policy Center, Patriots to Restore Checks and Balances, People for the American Way, Privacy Activism, Republican Liberty Caucus, Rutherford Institute, United for Peace and Justice, U.S. Bill of Rights Foundation, The Multiracial Activist, World Privacy Forum.