



The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, D.C. 20510

February 19, 2010

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

Dear Majority Leader Reid and Speaker Pelosi:

Over the past several months, Congress has been considering the reauthorization of three important provisions of the Foreign Intelligence Surveillance Act (FISA), which are scheduled to expire on February 28, 2010: section 206 of the USA PATRIOT Act, which provides authority for roving surveillance of targets who take steps to thwart FISA surveillance; section 215 of the USA PATRIOT Act, which provides authority to compel production of business records and other tangible things with the approval of the FISA court; and section 6001 of the Intelligence Reform and Terrorism Prevention Act, which provides authority to target with FISA surveillance non-United States persons who engage in international terrorist activities but are not necessarily associated with an identified terrorist group. National security requires that these provisions be reauthorized before they expire.

As discussed in the Attorney General's November 9, 2009 letter, we believe that S. 1692, the USA PATRIOT Act Sunset Extension Act, as reported by the Senate Judiciary Committee, strikes the right balance by both reauthorizing these essential national security tools and enhancing statutory protections for civil liberties and privacy in the exercise of these and related authorities. We were very pleased that the bill received bipartisan support in the Committee.

Since the bill was reported, we have negotiated a number of specific changes with the sponsors of the bill which we support including in the final version of this legislation. Among these are several provisions derived from the bills reported by the House Judiciary Committee and introduced by House Permanent Select Committee on Intelligence Chairman Silvestre Reyes in November.

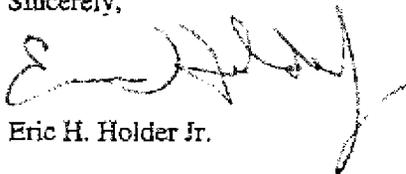
We strongly support the prompt consideration of USA PATRIOT Act reauthorization legislation based on S. 1692, together with the changes to which our staffs have informally agreed. However, if Congress is unable to complete work on this measure before these authorities expire, it is imperative that Congress pass a temporary extension of sufficient length to ensure that there is no disruption to the availability of these vital tools in the fight against terrorists.

As was previously noted in a September 14 letter from the Department of Justice to Senator Patrick Leahy, the business records authority has been used to support important and highly sensitive intelligence collection operations, of which both Senate and House leadership, as well as Members of the Intelligence and Judiciary Committees and their staffs are aware. We can provide additional information to Members concerning these and related operations in a classified setting.

Finally, we remain committed to working with Congress to examine additional ways to enhance protection for civil liberties and privacy consistent with effective use of these important authorities.

The Office of Management and Budget has advised us that there is no objection to this letter from the perspective of the Administration's program.

Sincerely,



Eric H. Holder Jr.



Dennis C. Blair