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DIRECTOR OF NATIONAL INTELLIGENCE  
WASHINGTON, DC 20511

July 24, 2007

The Honorable John D. Rockefeller, IV  
Select Committee on Intelligence  
United States Senate  
Washington, DC 20510

The Honorable Patrick Leahy  
Judiciary Committee  
United States Senate  
Washington, DC 20510

The Honorable Carl Levin  
Select Committee on Intelligence (Ex-Officio)  
United States Senate  
Washington, DC 20510

Dear Senators:

Thank you for meeting with the Chief of Staff to the President, the Counsel to the President, and me on Monday, July 23, 2007 to discuss a way forward on legislation to modernize the Foreign Intelligence Surveillance Act (FISA) so as to restore our capability to help defend the country effectively. I appreciate the opportunities provided by the Senate over the past months to discuss the urgency of my proposal given the threat faced by the country.

Given the constructive dialogue of the past months, I was disappointed in the indication at the meeting that the Senate may not be able to act on legislation before the August recess. The recently released National Intelligence Estimate concluded that the United States currently "is in a heightened threat environment." I have briefed a majority of Senators on specific details that cause me to have deep concern about the current threat facing the country.

I have also discussed at hearings and other meetings how outdated parts of the FISA statute significantly degrade the capability of the Intelligence Community to collect critical intelligence to protect America, while doing little to enhance privacy protections for Americans. As you are aware, in a significant number of cases, we are in the unfortunate position of having to obtain court orders to collect foreign intelligence about foreign targets located overseas.

My duty as head of the Intelligence Community is to provide warning of terrorist activity and other threats to our security. But under the current statute, we are missing a significant amount of foreign intelligence that we should be collecting to protect our country. I will soon

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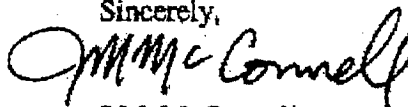
forward separately a classified attachment to this letter describing the degraded capability we currently face as a result of various developments and the reason for my deep concern.

In my view, it is essential to our Nation's security that Congress act immediately to modernize FISA. The Administration's strong preference is the immediate adoption of our proposed bill, including retrospective protection against lawsuits for those who are alleged to have assisted the government. In our conversations, you have indicated that the most significant impediments to prompt action on legislation are the Administration's insistence on retrospective immunity for those who are alleged to have assisted the government after September 11, 2001 and the Administration's unwillingness to provide certain documents related to highly classified intelligence programs, particularly historical information on such programs. While I would strongly prefer the liability issue be taken up and resolved now, my highest priority must be to ensure that I am able to close intelligence gaps and provide critical warning time for our country. If you continue to believe that it is not possible to resolve all issues prior to the August break, then I strongly urge you as a first step to act immediately on a FISA modernization bill that would be prospective only. Our work during the summer recess could then turn to identifying a way to provide meaningful liability protection and to attempt to reach an accommodation on the document requests. While far from ideal, the Administration would support such a bifurcated process that would allow us to modernize FISA immediately and give our Intelligence Community the tools it needs now to protect the Nation, while leaving aside the important but less urgent liability and document issues until later in the summer.

In the context of the current threat, the most critical piece needed right now by the Intelligence Community is FISA modernization. I urge you to act prior to the August recess to ensure we do not have critical gaps in our ability to provide warning of threats to the country. As I stated before the Senate Select Committee on Intelligence on May 1, 2007, "[w]e must make the requested changes to protect our citizens and the nation."

I look forward to continuing our discussions. If you have any questions on this matter, please contact me or the Chief of Staff to the President.

Sincerely,



J.M. McConnell

cc: The Honorable Christopher S. Bond  
The Honorable Arlen Specter  
The Honorable John McCain

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