



Senators Feinstein Calls on President Bush to Provide
Detailed Intelligence Briefing on NSA Domestic Surveillance Program
January 25, 2006

Washington, DC –U.S. Senator Dianne Feinstein (D-Calif.) today called on President Bush and the Administration to provide a full briefing on the nature and scope of the National Security Agency (NSA) domestic electronic surveillance program to the members of the Senate Select Committee on Intelligence. Under Title V of the National Security Act, the President is required to keep Congressional intelligence committees informed of the nation's intelligence activities.

“I hope that you can help ensure that I am able to receive this briefing prior to a hearing, now scheduled for the first week of February before the Judiciary Committee, on the program and its legal justification,” Senator Feinstein wrote in a letter to the President. **“I understand that Attorney General Gonzales will be a witness at this hearing, and will testify that the program as planned and implemented is consistent with law. It will be difficult for me to effectively assess his testimony, or the legal arguments he may offer, without sharing his knowledge of the program itself.”**

Following is the text of the letter from Senator Feinstein to President Bush:

January 26, 2006

The Honorable George W. Bush
President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Mr. President,

I write to request that you instruct the Director of National Intelligence to provide to the members of the Senate Select Committee on Intelligence a briefing on the nature and scope of the program of domestic electronic surveillance conducted by the National Security Agency.

Title V of the National Security Act, entitled "Accountability for Intelligence Oversight," requires that:

[t]he President shall ensure that the congressional intelligence committees are kept fully and currently informed of the intelligence activities of the United States, including any significant anticipated intelligence activity as required by this title.

This general requirement is made specific in the following section, which requires that:

[t]o the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the Director of Central Intelligence and the heads of all departments, agencies, and other entities of the United States Government involved in intelligence activities shall –

(1) keep the congressional intelligence committees fully and currently informed of all intelligence activities, other than a covert action (as defined in section 413b(e) of this title), which are the responsibility of, are engaged in by, or are carried out for or on behalf of, any department, agency, or entity of the United States Government, including any significant anticipated intelligence activity and any significant intelligence failure; and

(2) furnish the congressional intelligence committees any information or material concerning intelligence activities, other than covert actions, which is within their custody or control, and which is requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.

That general requirement was amended, in 2002, because of concerns that reporting under this law had become lax, and the Committees were not adequately and effectively informed of intelligence activities. The amendment, which I supported, was in reaction to concern that in the post-9/11 environment basic legal concepts of oversight and separation of powers could be ignored. It required that notifications be made in writing, and contain a "concise statement of any facts pertinent to such report," as well as an "explanation of the significance of the intelligence activity or intelligence failure covered by such report."

I understand that a group of eight Senators and Members of the House of Representatives have been briefed about the program. This appears to follow the procedures provided in a different section of the National Security Act, which governs only covert actions. However, based on your administration's public discussion of this program, it is clearly not a covert action, and thus is governed by the unambiguous law requiring notification to the entire Committee.

I hope that you can help ensure that I am able to receive this briefing prior to a hearing, now scheduled for the first week of February before the Judiciary Committee, on the program and its legal justification. I understand that Attorney General Gonzales will be a witness at this hearing, and will testify that the program as planned and implemented is consistent with law. It will be difficult for me to effectively assess his testimony, or the legal arguments he may offer, without sharing his knowledge of the program itself.

Thank you in advance for your urgent attention to this matter.

Sincerely,

Dianne Feinstein
United States Senator

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