Congress of the United States
Washington, DC 20515

March 6, 2007

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

Dear Mr. Attorney General:

Last December, Congress passed historic postal reform legislation to modernize the U.S. Postal Service, stabilize mail volume, and regulate stamp prices. When President Bush signed the bill on December 20, he issued a "signing statement" that appears to expand executive authority with regard to mail beyond its traditional limits. We are writing to request that you clarify the Administration's position on its authority in this area and provide a detailed description of all Executive Branch activities to review Americans' mail without a court-issued warrant.

H.R. 6407, the Postal Accountability and Enhancement Act, was passed by Congress on December 9, 2006. The primary purposes of the bill were to increase pricing flexibility, relieve the Postal Service of certain funding responsibilities, and modernize the system to support the continued provision of nationwide postal services. Although the bill made no changes to existing law regarding the privacy of the mail, the President used its passage as an opportunity to issue a signing statement that included the following:

> The executive branch shall construe subsection 404(c) of title 39, as enacted by subsection 1010(e) of the Act, which provides for opening of an item of a class of mail otherwise sealed against inspection, in a manner consistent, to the maximum extent permissible, with the need to conduct searches in exigent circumstances, such as to protect human life and safety against hazardous materials, and the need for physical searches specifically authorized by law for foreign intelligence collection.

The section specifically referenced in the signing statement, subsection 404(c) of title 39, is simply a renumbering of existing statutes. Because that provision puts forward no substantive change to existing law, it is unclear why the President believed it was necessary to articulate his interpretation of this provision in the signing statement.

To the extent the President's signing statement is intended to expand Executive Branch powers to search mail without a warrant, we ask that you provide us with a full explanation of the Administration's interpretation of the phrase "exigent circumstances" and specifically clarify how that definition may be different from the criteria established for warrantless searches of mail embodied in 39 C.F.R. § 233.11.

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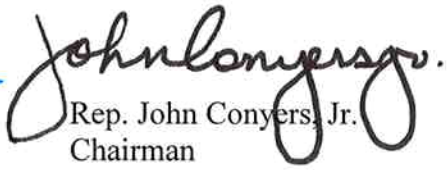
The signing statement also makes reference to searches "specifically authorized by law for foreign intelligence collection." The statement does not reference any statute and does not make clear whether such searches can only take place pursuant to a court-issued warrant. This Administration has previously issued signing statements that sought to expand its national security authority beyond what statutes specifically allow. Accordingly, we request a listing of all law, whether statutory, constitutional, or otherwise, that the Administration believes specifically authorizes searches of mail, including law relating to foreign intelligence collection. In addition, we request any communications or documentation relating to searches of mail issued by this Administration before or after the December 20th signing statement, including but not limited to any guidance concerning when the Administration believes it is appropriate to open mail without a warrant.

We also request a briefing on all past, current, or planned activities undertaken by this Administration that involve the warrantless opening of mail. To the extent such information is classified, this briefing may be closed. We ask that you provide the requested information by Monday, March 19, 2007. Inquiries related to this request may be directed to Naomi Seiler of Chairman Waxman's Oversight and Government Reform Committee staff at (202) 225-5051, Eric Greenwald of Chairman Reyes' Intelligence Committee staff at (202) 225-7690, or Elliot Mincberg of Chairman Conyers' Judiciary Committee staff at (202) 225-3951 . Thank you for your prompt attention to this matter.

Sincerely,

Rep. Henry A. Waxman
Chairman
House Committee on Oversight
and Government Reform

Rep. Silvestre Reyes
Chairman
House Permanent Select
Committee on Intelligence



Rep. John Conyers, Jr.
Chairman
House Committee on
the Judiciary

cc: Rep. Tom Davis
Ranking Minority Member
House Committee on Oversight
and Government Reform

Rep. Lamar Smith
Ranking Minority Member
House Committee on
the Judiciary

Rep. Peter Hoekstra
Ranking Minority Member
House Permanent Select
Committee on Intelligence