

United States Senate  
WASHINGTON, DC 20510-3703  
July 22, 2013

Mr. James B. Comey  
c/o US Department of Justice, Office of Legislative Affairs  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Mr. Comey:

Congratulations on your nomination to be Director of the Federal Bureau of Investigation. I appreciated the discussion that we had in my office last week, and I look forward to considering your nomination as it moves through the Senate.

If you are confirmed to be the Director of the FBI, you will be responsible for overseeing a large number of surveillance activities inside the United States, and for coordinating the Bureau's interactions with the National Security Agency, which is currently engaged in domestic surveillance on a very large scale. One of the FBI Director's most important responsibilities is to ensure that the Bureau's investigative and surveillance authorities are managed in a way that protects both public safety and the privacy and civil liberties of ordinary Americans. I would therefore like to clarify your views on several aspects of government surveillance authorities, so that I can properly evaluate your nomination.

Specifically, I would like written responses to the following questions at your earliest convenience:

- You have testified publicly about your decision to oppose the renewal of the legal authorization for a particular classified program when you were serving as Acting Attorney General in early 2004. It has now been widely reported that the program in question was the NSA's bulk email records collection program and that the program was reauthorized under the authority of the USA PATRIOT Act in response to the concerns raised by you and other Justice Department attorneys. The existence of this program, and the fact that it was shut down in 2011, have now been publicly confirmed. Please confirm whether this was in fact the program that you have referred to, and please describe the concerns that you had about this program. Additionally, please explain whether you believe that your concerns were adequately addressed.
- In late 2005 it was publicly revealed that the NSA was also engaged in a large-scale warrantless wiretapping effort, which many Americans, myself included, believe was carried out in violation of the law and the United States Constitution. In thinking about this program and other surveillance activities that were carried out during your tenure as Deputy Attorney General are you satisfied with the way the US government handled surveillance activities throughout this period, or do you wish that you had been able to do more to rein these programs in?

- Do you believe that the 2001 Authorization to Use Military Force against al-Qa'ida and associated forces gives the President the authority to deliberately collect the communications of Americans inside the United States without a warrant?
- During the Senate Judiciary Committee's recent hearing on your nomination, you were asked about the NSA's ongoing dragnet collection of Americans' phone records. You indicated that you are not familiar with the details of how this program is currently being carried out, and you noted that collecting records of communications is a useful investigative tool. This is certainly true, and if the FBI or an intelligence agency has evidence that a particular American is involved in a crime or other nefarious activity, then it is entirely appropriate to collect that individual's phone records and attempt to identify his or her associates and co-conspirators. However, whether it is useful for the government to collect the personal records of huge numbers of ordinary Americans is an entirely different question, and I have yet to see any evidence that the NSA's bulk phone records collection program actually provides any unique value. Do you believe that the collection of Americans' phone records has any impact on their privacy rights? Recognizing that you are not in a position to evaluate the usefulness of the bulk phone records program, as a general principle do you believe that the bulk collection of ordinary Americans' records is justified even if it does not provide any unique value?
- Senior officials have been reluctant to discuss the government's authority to track Americans' movements and whereabouts using cell-phone data or other geolocational information. Intelligence officials have told the press that the NSA currently has the authority to collect this information as part of the bulk phone records program, but FBI officials have declined to say how much evidence the FBI needs to collect this information. I recognize that you may not be familiar with the FBI's current policies regarding collection of geolocation information, but if you are confirmed will you commit to provide the public a straight answer about how much evidence the FBI needs to collect this information?

Thank you for your attention to these important questions. If you need any clarifications or other assistance, please do not hesitate to contact me. I look forward to your response.

Sincerely,

A handwritten signature in dark ink that reads "Ron Wyden". The signature is fluid and cursive, with the first name "Ron" and last name "Wyden" clearly legible.

Ron Wyden  
United States Senator