

Congress of the United States
Washington, DC 20515

March 23, 2010

The President
The White House
Washington, DC 20500

Dear Mr. President:

On March 15th, the Office of Management and Budget (OMB) transmitted a Statement of Administration Policy regarding the Intelligence Authorization Act (S. 1494/H.R. 2701) expressing strong objections to the provisions concerning the authority of the Government Accountability Office (GAO) to access information in the Intelligence Community (IC) that is necessary to complete audit requests from our Committees, as reflected in Section 335 of both bills.

Section 335 was included in both the House and Senate bills to statutorily reaffirm that GAO is able to obtain the information from the IC that it requires to conduct thorough reviews of key issues, such as the security clearance process, homeland security information sharing, and human capital on behalf of Congress. We believe that this reaffirmation is a critical response to the IC, which has prevented GAO from executing its statutory duty as the investigatory and oversight arm of the Congress. Our constituents – the American taxpayers – suffer when the Committees of jurisdiction – including those beyond the Intelligence Committees – are not able to secure a full accounting of public funds and monitor the effective functioning of government. Section 335 would enable Congress and GAO to better oversee the use of taxpayer money, improve IC element performance, and strengthen national security in a manner that protects highly sensitive, classified information.

In a March 18th letter to the Senate and House Intelligence Committees, Acting Comptroller General Gene Dodaro endorsed the inclusion of Section 335 into the Intelligence Authorization Act. Mr. Dodaro noted that GAO had been prevented by the IC from undertaking its core mission. Further, Mr. Dodaro took strong issue with OMB's position that the GAO lacks the authority to conduct reviews of intelligence activities. We share Mr. Dodaro's view that OMB, in its letter of March 15th, misstates the law. Title 31 of the United States Code empowers GAO to access agency records and investigate all matters related to the receipt, disbursement, and the use of public money. In addition, title 31 provides very narrow criteria when the IC may withhold information from the GAO. Congress never authorized an exemption to this rule. We dispute the Executive Branch's effort to infer an exemption from any other legislation or, as noted by Mr. Dodaro, to rely on the expansive use of a 1988 opinion of the Department of Justice Office of Legal Counsel to block GAO reviews "that extend well beyond traditional intelligence activities." We further take issue with OMB's efforts to determine how Congress regulates its relationship with the Executive Branch, a function that is exclusively the purview of Congress.

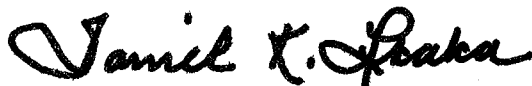
The IC would benefit from GAO's expertise. GAO has a depth of experience in financial management, acquisitions, information sharing, human capital, strategic planning, information

technology, cybersecurity, and other issues critical to the success of our Intelligence Community. GAO's role is particularly critical in light of the Intelligence Reform and Terrorism Prevention Act of 2004 (P.L. 108-458). That bill came about as a result of the 9/11 Commission's assessment that intelligence failures stemmed from stovepiping within the Intelligence Community. Among other things, the bill established the Office of the Director of National Intelligence to integrate the IC, including personnel, management, and financial systems. GAO's mandate is precisely to advise large agencies on these matters. Section 335 is so important since it helps to foster a more integrated and effective IC.

Both versions of section 335 ensure the protection of sensitive information. GAO staff members with security clearances are bound by the same rules for protecting classified materials as other government officials. Further, GAO audits of the most sensitive intelligence activities will be closely controlled at on-site facilities.

You have stated that transparency and the rule of law will be the touchstones of your presidency. We support this goal and welcome your pledge to make our government, including the IC, more open, responsive, and accountable to the American people. We stand ready to help you uphold this pledge and urge you to support the inclusion of Section 335 in the Intelligence Authorization Act. We thank you for your timely consideration of our request.

Sincerely,



DANIEL K. AKAKA
United States Senate



HOWARD L. BERMAN
Member of Congress



BERNARD SANDERS
United States Senate



IKE SKELTON
Member of Congress



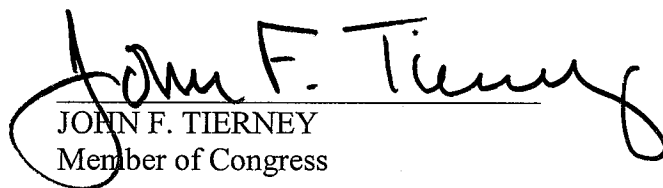
CLAIRE MC CASKILL
United States Senate



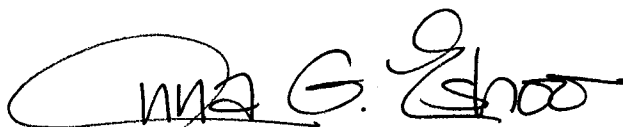
BENNIE G. THOMPSON
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JOHN F. TIERNEY
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