

Demers, John

From: Demers, John (NSD)
Sent: Thursday, November 29, 2007 2:09 PM
To: (b) (6) @ssci.senate.gov; (b) (3) (NSD)
Cc: (b) (6) @ssci.senate.gov; Eisenberg, John
Subject: Re: Wyden 2.5 Fix

Tracy,

Could you get Jack and Kathleen on the list downstairs for 4pm?

Thanks,
John

----- Original Message -----

From: Livingston, J (Intelligence) [(b) (6) @ssci.senate.gov]
To: Demers, John (NSD)
Cc: Rice, K (Intelligence) [(b) (6) @ssci.senate.gov]; Eisenberg, John [(b) (6) @SMOJMD.USDOJ.gov]
Sent: Thu Nov 29 13:32:16 2007
Subject: RE: Wyden 2.5 Fix

4:00 is good for us. Can you get us on the list to get into the building. I'll try not to violate the escort policy this time.

From: Demers, John (NSD) [mailto:(b) (6) @usdoj.gov]
Sent: Wednesday, November 28, 2007 7:07 PM
To: Livingston, J (Intelligence)
Cc: Rice, K (Intelligence); Eisenberg, John
Subject: RE: Wyden 2.5 Fix

I can't do anything until 4 pm, but happy to meet then.

John

From: Livingston, J (Intelligence) [mailto:(b) (6) @ssci.senate.gov]
Sent: Wednesday, November 28, 2007 4:48 PM
To: Demers, John (NSD)
Cc: Rice, K (Intelligence)
Subject: Wyden 2.5 Fix

May Kathleen and I come over tomorrow afternoon [to hammer out language we can all live with on this issue?]

Sent from my BlackBerry Wireless Device

Demers, John

From: Demers, John (NSD)
Sent: Friday, November 30, 2007 11:18 AM
To: 'Livingston, J (Intelligence)'
Subject: RE: Here's the latest draft for our meeting in a few minutes

Jack,

Do you have an updated draft I can send around after adding the "other comms" piece?

Thanks,
John

From: Livingston, J (Intelligence) [mailto:[\[REDACTED\]@ssci.senate.gov](mailto:(b) (6)@ssci.senate.gov)]
Sent: Thursday, November 29, 2007 3:42 PM
To: Demers, John (NSD)
Subject: Here's the latest draft for our meeting in a few minutes

9/25/2008

Demers, John

From: Grannis, D (Intelligence) [(b) (6)] [ssci.senate.gov]
Sent: Friday, February 01, 2008 11:03 AM
To: Duck, Jennifer (Judiciary-Dem); Dubee, M (Intelligence); Davidson, M (Intelligence); Healey, C (Intelligence); Starzak, Alissa (Intelligence); Tucker, L (Intelligence); Livingston, J (Intelligence); Rice, K (Intelligence)
Cc: Demers, John; Ben Powell [(b) (3)] Eisenberg, John
Subject: Exclusivity proposal from last night
Attachments: HEN08153_xml.pdf



HEN08153_xml.pdf
(30 KB)

Please find attached the leg counsel version of the exclusivity language we discussed last night. A quick note on the text:

Instead of repeating the phrase "physical search of stored electronic communications or stored electronic data in the custody of an electronic communications service provider," I propose that we use the phrase "acquisition of stored electronic communications" and then add a definition for "stored electronic communications" that uses all of the first term. This avoids repeating a very unwieldy phrase four times in the amendment, and it does not speak directly to the question of whether the acquisition of a stored communication is surveillance or a search, which I understand to be a plus for DOJ.

On a general note - we have tried to take the concerns of the ODNI and DOJ very seriously in drafting this language. I think this gives the Executive all the authority and flexibility that you have said would be needed, but with reasonable constraints, trigger mechanisms, and oversight that is necessary for substantive and political reasons. If there is something we have missed, let's talk, but we really hope this language will be accepted and we can finally put the exclusivity debate behind us.

Many thanks,
David

David Grannis
Professional Staff Member

(b) (6) Intelligence

Demers, John

From: Demers, John
Sent: Tuesday, February 05, 2008 1:47 PM
To: Livingston, J (Intelligence); 'Rice, K (Intelligence)'
Subject: FW: Call

From: Demers, John
Sent: Tuesday, February 05, 2008 1:47 PM
To: 'Grannis, D (Intelligence)'
Subject: RE: Call

David,

My concern with the other threat language stems from the possibility that it will lead to resistance up front and second-guessing later. There's no court order or directive mechanism for use in the relevant circumstances so we'd be relying on the voluntary cooperation of the private party. Especially in the current atmosphere, we risk push back when time is most of the essence. The possibility of resistance also arises because of the fear that the surveillance will be second-guessed later when no second attack occurs. I understand theoretically your point but I think in practice this requirement will raise difficulties and provide little protection in addition to that provided by the notification requirements.

Also, you had put in your cover email a while back that you were considering redefining electronic surveillance for the purpose of this section. I prefer spelling out "electronic surveillance or the physical search of stored electronic communications or data..." --the way you have it. The reason for that is that it strengthens the idea that acquiring stored electronic communications is a physical search, a legal question we may need to revisit for reasons best discussed in a classified setting and unrelated to FISA modernization. I would rather leave the statute as it is for now without affecting that question either way.

John

From: Grannis, D (Intelligence) [mailto:(b) (6)@ssci.senate.gov]
Sent: Tuesday, February 05, 2008 9:02 AM
To: Demers, John
Subject: Call

John -- Thanks for the call. I'm talking with Sen. Feinstein about this shortly and will raise the two issues from your voicemail: notification to the full Congress and the Presidential determination of another threat. Can you describe at any more length the concern about the latter point? We have no standard in there, and understood the need for this authority to be in cases where the President needed to act to prevent further attacks. Any suggestions on what, short of no language at all, might satisfy the concern?

Again, thanks for your call. Would be great if we could get this wrapped up.

David

David Grannis
Professional Staff Member
Senate Select Committee on Intelligence

9/25/2008

Demers, John

From: Demers, John

Sent: Tuesday, February 05, 2008 5:45 PM

To: 'Livingston, J (Intelligence)'

Subject: RE: May I see the text of the Whitehouse proposed mod to assess compliance

What are you talking about?

*

Demers, John

From: Demers, John
Sent: Saturday, February 09, 2008 4:03 PM
To: (b) (6) @ssci.senate.gov; (b) (6) @ssci.senate.gov
Subject: [Whitehouse Assessment Compliance] Modification (Revised)

Does one of you have handy the pdf of the version of the manager's amendment with the uc amendments incorporated, that is, whatever the text is that the amendments are amending? I want to give it a scrub to be sure the amendments were incorporated correctly by leg counsel, etc.

Thanks,
John

Demers, John

From: Rice, K (Intelligence) [REDACTED] (b)(6) [SSCI.senate.gov]
Sent: Saturday, February 09, 2008 4:34 PM
To: Demers, John
Cc: Livingston, J (Intelligence)
Subject: Fw: Substitute and redline
Attachments: HEN08160_xml.pdf; Redline HEN08160_xml.doc

----- Original Message -----

From: Starzak, Alissa (Intelligence)
To: Rice, K (Intelligence); Livingston, J (Intelligence); Healey, C (Intelligence); Davidson, M (Intelligence)
Sent: Fri Feb 01 17:57:50 2008
Subject: Substitute and redline

Attached is a draft of the bill (and a redline from the original managers' substitute) that includes the provisions that will be incorporated by unanimous consent. It therefore does not include the expedited review provisions or the WMD amendment.

Demers, John

From: Demers, John
Sent: Wednesday, February 06, 2008 11:56 AM
To: 'Livingston, J (Intelligence)'
Subject: RE: How did the conference call go?

Ben said he was going to call you. [He was strongly in favor of this. I laid out your (and my own) points. On balance, he still favors it but said he wants to talk to you.]

From: Livingston, J (Intelligence) [mailto:(b)(6)@ssci.senate.gov]
Sent: Wednesday, February 06, 2008 11:54 AM
To: Demers, John
Subject: How did the conference call go?

Sent from my BlackBerry Wireless Device

Demers, John

From: Rice, K (Intelligence) [b)(6) DSSCI.senate.gov]
Sent: Monday, February 11, 2008 2:20 PM
To: Demers, John
Subject: FW: FISA - Judicial Conference states opposition to provision

Attachments: ReidMcconnellFISA.pdf



ReidMcconnellFISA.
pdf (103 KB)...

[I'm shocked.]

-----Original Message-----

From: Livingston, J (Intelligence)
Sent: Monday, February 11, 2008 2:10 PM
To: Rice, K (Intelligence)
Subject: Fw: FISA - Judicial Conference states opposition to provision

Fyi.

Sent from my BlackBerry Wireless Device

----- Original Message -----

From: [Peter_Owen@ao.uscourts.gov <Peter_Owen@ao.uscourts.gov>]
To: Davidson, M (Intelligence); Livingston, J (Intelligence)
Sent: Mon Feb 11 14:06:53 2008
Subject: FISA - Judicial Conference states opposition to provision

Mike and Jack,

Attached is a letter the Judicial Conference has sent to the House and Senate leadership opposing the time limits contained in the Bond Amendment passed last Thursday.

Please let me know how we can work with you to get these provisions adjusted.

[Peter Owen]
Attorney Advisor
Administrative Office of the US Courts
[202-502-1700]

Demers, John

From: Kim, Harold H. [Harold_H._Kim@who.eop.gov]
Sent: Monday, February 11, 2008 12:29 PM
To: (b)(6)@intelligence.senate.gov; Livingston, J (Intelligence); (b)(6)@SSCI.senate.gov
Cc: Demers, John; Eisenberg, John; (b)(3), (b)(6); Emling, John G.; Meyer, Daniel P.; Stewart, Margaret B.; Abegg, John (McConnell)
Subject: Revised Whitehouse Assessment Compliance Modification

Louis, Jack and Kathleem:

Based on the email traffic over the weekend, please find below the most recent language per comments from DOJ, DNI and you guys:

"Nothing in this Act shall be considered to reduce or contravene the inherent authority of the Foreign Intelligence Surveillance Court to determine, or enforce, compliance with its orders, rules, and court-approved procedures."

Also, in terms of placement, we suggest inserting the language in Title III as a new section 302.

9/25/2008

Demers, John

From: [Peter_Owen@ao.uscourts.gov]
Sent: Thursday, February 14, 2008 4:01 PM
To: (b)(6)@ssci.senate.gov; (b)(6)@ssci.senate.gov;
 (b)(6)@mail.house.gov; (b)(6)@mail.house.gov; (b)(6)@mail.house.gov;
 (b)(6)@mail.house.gov; (b)(6)@judiciary-dem.senate.gov;
 (u)(v)@judiciary-rep.senate.gov
Cc: Demers, John; (b)(6)@ao.uscourts.gov
Subject: possible FISA bill language
Attachments: ReidMcconnellFISA.pdf, HoyerBoehnerFISA.pdf

Colleagues,

You have received a letter expressing the Judicial Conference's strong opposition to any statutory time limits for judicial decision-making. The Conference continues to urge that any and all such time limits be stricken from the FISA statute.

Because we are not involved in the moment-to-moment negotiations on this legislation, we are not in the best position to track and identify all instances in which time limits might be inserted into the bill (and then ask for their removal in each instance). For example, the Bond Amendment would seem to provide an exception to its 30-day requirement, but the exception is merely a partial list of constitutional constraints the FISC would need to adhere to anyway – in other words a tautology.

Thus considering the manner in which the bill is being negotiated, you might consider adoption of the following statutory provision as part of any bill final bill. This language would ameliorate much of the detriment the various time limits might cause.

50 USC Section 1803(c), is amended by adding after the sentence "Proceedings under this chapter shall be conducted as expeditiously as possible." the following new sentence: "A time limit for a judicial decision in this chapter shall apply unless the judge, by order for reasons stated, extends that time for good cause."

Finally, we are to continuing reach out to the Department of Justice. Their support for us in this request would of course make this easier to solve. We hope that with enough time to think about it, they will re-consider their position. However, if there is not time for that, we request Congress to address our reasonable concerns.

Please don't hesitate to contact me if I can be of further assistance in this matter.

[Peter Owen]
 Attorney Advisor
 Administrative Office of the US Courts
 Office of Legislative Affairs
 [202-502-1700]

9/25/2008



JUDICIAL CONFERENCE OF THE UNITED STATES

WASHINGTON, D.C. 20544

THE CHIEF JUSTICE
OF THE UNITED STATES
Presiding

JAMES C. DUFF
Secretary

February 11, 2008

Honorable Steny H. Hoyer
Majority Leader
United States House of Representatives
Washington, DC 20515

Dear Mr. Leader:

I am writing to express the Judicial Conference's strong opposition to a provision in S.2248 ("The FISA Amendments Act of 2008") that would impose statutory time limits on the Foreign Intelligence Surveillance Court (FISC) when adjudicating the lawfulness of directives to assist in the acquisition of foreign intelligence information.

The Judicial Conference has traditionally strongly opposed time limits in legislation for judicial actions/rulings for a variety of reasons, including the fact that they limit the ability of the judge to give needed consideration to the complexity of the issues presented, which can be done on an expedited basis where warranted.

Another reason that the Conference has had a longstanding opposition to statutorily-mandated expedited review is that as the categories of cases required to be expedited proliferate, the ability of a court to expedite any of those cases is restricted. The national security significance of the cases before the FISC means there is a chance this provision could force the FISC by statute to forego consideration of another matter of paramount importance.

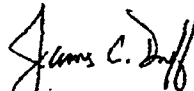
Indeed, Congress has also recognized that time limits are inappropriate in the analogous context of petitions challenging requests for business records sought by the government in the statute for review of non-frivolous petitions (see 50 U.S.C. 1861(f)(2)(A)(ii), providing for non-frivolous petitions only that "...the assigned Judge

Honorable Steny H. Hoyer
Page 2

shall promptly consider the petition in accordance with the procedures established under section 1803(e)(2) of this title.”).

Finally, as you know, the FISC judges have a well-established reputation for diligence and a willingness to adjust their personal and courtroom schedules as the work of the FISC requires. There is no demonstrated need to impose statutory deadlines in this particular area. To the contrary, the FISC judges have demonstrated an ability to prioritize their docket based on the exigencies of the national interest.

Sincerely,


James C. Duff
Secretary

cc: Honorable Silvestre Reyes
Honorable John Conyers

Identical letter sent to: Honorable Harry Reid
Honorable Mitch McConnell
Honorable John Boehner

Demers, John

From: Demers, John
Sent: Tuesday, February 12, 2008 11:36 AM
To: Rice, K (Intelligence); (b)(6) [redacted]@ssci.senate.gov; Livingston, J (Intelligence)
Cc: (b)(6) (b)(3) [redacted]
Subject: Managers nit amendment

Tracking: Recipient Read

Rice, K (Intelligence)
(b)(6) [redacted]@ssci.senate.gov
Livingston, J (Intelligence)
(b)(6) (b)(3) [redacted]

Read: 2/12/2008 11:37 AM

Mike, Jack and Kathleen,

We've reviewed the nit amendment and had just a couple of comments:

1. The amendment on page 2, lines 1-4, changes the language about retention of directives to make it apply only to the Government. This seems inconsistent with FISA. Section 1805(h) of FISA provides: "Certifications made by the Attorney General . . . and applications made and orders granted under this subchapter shall be retained for a period of at least 10 years from the date of the certification or application."
2. On page 5, line 5, the page number should be 67, not 61.

Also, we spotted on other nit:

page 54, lines 22-23. I think some language got dropped at some point. It reads: "shall remain in effect with respect to any directive issued pursuant to . . . during the period such directive was in effect." The language should read, as it does on page 83 (lines 10-13): "shall remain in effect with respect to any directive issued pursuant to . . . for information, facilities, or assistance provided during the period such directive was or is in effect."

Thanks,
John

Demers, John

From: Davidson, M (Intelligence) (b)(6) [redacted]@ssci.senate.gov
Sent: Tuesday, February 12, 2008 11:55 AM
To: Demers, John; Rice, K (Intelligence); Livingston, J (Intelligence)
Cc: (b)(6) (b)(3) [redacted] Healey, C (Intelligence); Starzak, Alissa (Intelligence)
Subject: RE: Managers nit amendment

Jack,

If you're reading this over on the floor –

[We'll take out the amendment described in (1) below and insert an amendment to incorporate the page 54, lines 22-23 suggestion.]

And bring it over to the floor as soon as we get it back, as there is only one more amendment to be voted on.

Mike

Demers, John

From: Livingston, J (Intelligence) (b)(6) [redacted]@ssci.senate.gov
Sent: Thursday, February 14, 2008 1:37 PM
To: Demers, John; Ben Powell
Subject: FW: ARTICLES: FISA and Democrat Campaign Contributions

Interesting.

ARTICLE 1 --

Obama, Hillary, Dems Take FISA Trial Lawyer Cash

By Amanda Carpenter
Wednesday, February 13, 2008
Townhall.com

As Congress debates giving immunity to phone companies that assisted the government in tracking terrorist communications, trial lawyers prosecuting those phone companies have poured money into the coffers of Democratic senators, representatives and causes.

Court records and campaign contribution data reveal that 66 trial lawyers representing plaintiffs in lawsuits against these phone companies donated at least \$1.5 million to 44 different current Democratic senators and Democratic causes.

All of the trial lawyers combined only contributed \$4,250 to Republicans in comparison. Those contributions were made to: Sen. John Cornyn (Tex.), Rep. Tom Davis (Va.), Sen. Lindsay Graham (S.C.), Sen. Mel Martinez, and Sen. Arlen Specter (Pa.).

One maxed-out lawyer donor, Matthew Bergman of Vashon, Washington, has given more than \$400,000 in his name to Democrats. In the 2008 cycle alone he has donated \$78,300 to various campaigns.

Bergman's law firm's website says that he also specializes in "identifying viable asbestos defendants, locating evidence and developing legal theories to hold offending companies accountable." In 2004, his firm split a \$4.3 billion payout from Halliburton with seven other law firms. \$30 million of that was delivered to their firm's asbestos victim clients.

Another lawyer prosecuting the phone companies is Mikal Watts of Corpus Christi, Texas, who has given more than \$200,000 to Democrats. Watts has prosecuted Ford Motors over defective tires and attempted to run against Republican Sen. John Cornyn (Tex.) for the Senate.

Since the New York Times broke a story in late 2005 that found the Bush administration had engaged in surveillance activities with cooperation from phone companies like Verizon, AT&T, and MCI, a debate has erupted, largely on party lines, over whether or not to protect those companies from prosecution under the Foreign Intelligence Surveillance Activities Act.

President Bush has aggressively called on Congress to do so, and Homeland Security Secretary Michael Chertoff has testified that FISA "is the radar we have for the 21st century to detect attacks before they happen."

On Wednesday, the Senate held a critical vote on an amendment to the FISA reauthorization that would grant this immunity. It passed, but 29 Democratic senators voted against it. 24 of them have accepted campaign contributions from trial lawyers who are suing the government over those activities.

Two of them are running for President.

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Sen. Barack Obama (D.-Ill.), who is in the running for the Democratic nomination, was given \$28,650 from trial lawyers listed as counsel for plaintiffs who are suing Verizon, AT&T, and MCI because those companies turned over phone records as a part of President Bush's covert phone surveillance program. \$19,150 of that was donated in the last year.

Sen. Hillary Clinton (D.-N.Y.), the other main contender for the Democratic presidential bid, also accepted money from trial lawyers on the case. Records show those lawyers have poured \$34,800 to her and her husband's campaigns over the years. \$12,150 of those donations were made to her within the last year.

The other 22 senators who opposed the amendment and have taken similar donations are: Joe Biden (Del.), Barbara Boxer (Calif.), Maria Cantwell (Wash.), Ben Cardin (M.D.), Chris Dodd (Conn.), Byron Dorgan (N.D.), Dick Durbin (Ill.), Russ Feingold (Wisc.), Teddy Kennedy (Mass.), John Kerry (Mass.), Amy Klobuchar (Minn.), Frank Lautenberg (N.J.), Patrick Leahy (Vt.), Carl Levin (Mich.) Robert Menendez (N.J.), Patty Murray (Wash.), Jack Reed (R.I.), Harry Reid (Nev.) Charles Schumer (N.Y.), Debbie Stabenow (Mich.), Jon Tester (Mont.) and Ron Wyden (Ore.).

Clinton did not vote Tuesday because she was campaigning. She has, however, voted against granting telephone companies immunity and other FISA reforms in the past.

Since 1997, Senate Majority Leader Sen. Harry Reid (D.-Nev.) accepted donations from three lawyers working the FISA case that amount to \$10,000. The No.2 Democrat in the Senate, Dick Durbin, who is charged with whipping votes, has accepted \$18,350 from 1996 through 2007 from lawyers listed as counsel against phone companies.

Now that FISA has been reauthorized in the Senate, the bill was sent over to the House where an effort to strip the immunity provision is expected. House Republicans are pressuring House Democrats to pass the Senate version of the bill quickly, as it is scheduled to expire on Saturday.

Records show that House Speaker Nancy Pelosi (D.-Calif.) accepted \$3,750 in donations to her campaigns and PACs from these lawyers from 1996-2001.

Amanda Carpenter is National Political Reporter for Townhall.com.

ARTICLE 2 (Editorial) --

EDITORIAL: Retroactive immunity
February 14, 2008
Copyright © Las Vegas Review-Journal

If you're an AT&T executive confronted with armed federal agents demanding access to customer records as part of the government's warrantless wiretapping program put in place after 9/11, what do you do?

Standing up for the Fourth Amendment may be wonderful in principle, but in practice, the pressure to cooperate would be immense.

In the wake of Sept. 11, many telecommunications companies did just that. Today, there are some four dozen lawsuits accusing those companies of improperly acceding to government demands.

On Tuesday, the Senate made permanent an anti-terror measure passed in August allowing intelligence agencies to intercept -- often without a warrant -- phone calls and e-mails of U.S. citizens communicating with those overseas.

As part of the bill, the Senate approved by a 67-31 vote a provision granting retroactive immunity to the telecommunications companies now facing lawsuits for cooperating with the government after 9/11.

Many Democrats were livid over the amendment.

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"It is inconceivable that any telephone companies that allegedly cooperated with the administration's warrantless wiretapping program did not know what their obligations were," said Sen. Russell Feingold, D-Wis. "And it is just as implausible that those companies believed they were entitled to simply assume the lawfulness of a government request for assistance."

Really? The burden is on a private company to ensure that a request from the federal government is constitutional when it involves a secret court and national intelligence?

In fact, Sen. Feingold and other Democrats, including Barack Obama – Hillary Clinton didn't show for the vote – were carrying water for their friends at the trial bar, who are already seeking millions of dollars through lawsuits against various telecommunication companies. Is it really fair that the trial lawyers are free to shake down companies that thought they were acting in good faith by helping the government fight the terror war?

The bill now goes to the House, which passed a previous version without the immunity provision. And while debates over the constitutional ramifications of allowing this type of surveillance are important and appropriate – How far down this road can we go if the Bill of Rights is to survive? – setting up major corporations as fodder for the trial bar is counterproductive.

If it's going to approve this bill, the House should agree to the immunity provision.

Find this article at:

<http://www.lvrj.com/opinion/15626377.html>

Christopher M. Jaarda
Senate Republican Policy Committee
347 Russell Building
Washington, D.C. 20510

(b)(6)

Demers, John

From: Rice, K (Intelligence) [REDACTED] [SSCI.senate.gov]
Sent: Thursday, February 14, 2008 3:01 PM
To: [REDACTED] Demers, John
Subject: Fw: FISA, next week

----- Original Message -----

From: Rice, K (Intelligence)
To: Livingston, J (Intelligence); Tucker, L (Intelligence)
Sent: Thu Feb 14 14:59:53 2008
Subject: Re: FISA, next week

[Please just shoot me now]

----- Original Message -----

From: Livingston, J (Intelligence)
To: Tucker, L (Intelligence); Rice, K (Intelligence)
Sent: Thu Feb 14 14:56:01 2008
Subject: Fw: FISA, next week

Sent from my BlackBerry Wireless Device

----- Original Message -----

From: Davidson, M (Intelligence)
To: DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep)
Cc: Livingston, J (Intelligence); Espinel, Zulima (Judiciary-Dem); Solomon, Matthew (Judiciary-Dem)
Sent: Thu Feb 14 14:28:56 2008
Subject: FISA, next week

Mary and Nick,

[In case higher powers have not resolved all this before then, there is an interest in convening a bipartisan, bicameral (Intelligence and Judiciary each House) process, with ODNI/DOJ/NSA next week.]

I'll be away Tuesday and Wednesday. What are your plans next week?

Thursday afternoon is a possibility.

Mike

9/25/2008

Demers, John

From: Davidson, M (Intelligence); (b)(6) @ssci.senate.gov
Sent: Thursday, February 21, 2008 4:54 PM
To: Benjamin Powell; Demers, John; Eisenberg, John; Nichols, Carl (CIV); (b)(3) Chris; Gerry, Brett ; Potenza, Vito; (b)(3), (b)(6)
Cc: Livingston, J (Intelligence); Healey, C (Intelligence); Rice, K (Intelligence); Starzak, Alissa (Intelligence); DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep); (b)(6) @mail.house.gov; (b)(6) @mail.house.gov; Johnson, A (Intelligence); Tucker, L (Intelligence); Weich, Ron (Reid); Lettre, Marcel (Reid); Hoy, Serena (Reid)
Subject: FISA, meeting tomorrow (Friday), 10, at HPSCI.

Ben, et al.

This is just to confirm the FISA meeting tomorrow, at HPSCI (H405), at 10, and that we are looking forward to ODNI/DOJ/NSA participation.

As you undoubtedly know, our Republican colleagues decided not to attend this afternoon's bicameral meeting (House and Senate Intelligence and Judiciary Committee staff), which just concluded.

Working on the belief that every new day is a new opportunity, I hope that tomorrow's meeting will be bipartisan as well as bicameral. However that may develop, it is important that the DNI, DIRNSA, and AG allow for your participation, which has always been helpful, in responding to questions, providing information, and considering suggestions that the staff of these four committees may have in preparing members for important decisions in the days ahead.

None of us now knows whether the House will be asking for a conference or considering whether to send the bill back to the Senate with an amendment. At the very least, there may be a need for an amendment to the transition provisions that takes into account that the Protect America Act has expired, and perhaps provides for its extension retroactive to February 17 -- as well as its repeal upon enactment of the FISA Amendments -- to make sure there has not even been an arguable gap in liability protection.

But whether there is a conference or an amendment from the House back to the Senate, members will have questions, and I know that you'll be able to help in answering them.

I've added Wyndee Parker and Perry Apfelbaum to the cc list, so that they might keep their House Democratic and Republican colleagues up to date, and also Ron Weich, Marcel Lettre, and Serena Hoy, so that they can do the same for their counterparts in Senator McConnell's office.

Looking forward to seeing everyone tomorrow.

Demers, John

From: Livingston, J (Intelligence) [(b)(6)]@ssci.senate.gov]
Sent: Thursday, February 21, 2008 5:07 PM
To: Demers, John; Ben Powell
Subject: FW: FISA, meeting tomorrow (Friday), 10, at HPSCI.
Follow Up Flag: Follow up
Flag Status: Red

Have you guys figured out what you're going to do with respect to this meeting. [We won't be attending for the same reasons that we did not attend the meeting this afternoon. We are past the point of staff negotiations and down to member level issues. The Senate has spoken very clearly on where it is with respect to many of those member level issues, e.g., immunity, sunset, bulk collection, use of information limitations, prior court approval, etc.]

Demers, John

From: Livingston, J (Intelligence) [(b)(6)]@ssci.senate.gov
Sent: Monday, March 03, 2008 2:28 PM
To: Demers, John
Subject: FW: FISA Meeting Tuesday at 1 in Room H-326

John,

Sorry to bother you when you're out of the office [redacted] but are you guys going to this [redacted] On a different matter, it looks like SJC may mark up Sen. Kennedy's state secrets privilege bill this week. Have you guys provided any input on this? Thanks.

Scope

Jack

From: Parker, Wyndee [mailto:(b)(6)]@mail.house.gov
Sent: Monday, March 03, 2008 1:26 PM
To: Doneso, Chris; Lewis, James; Roland, Sarah; Livingston, J (Intelligence); Davidson, M (Intelligence); Johnson, A (Intelligence); Healey, C (Intelligence); Starzak, Alissa (Intelligence); DeRosa, Mary (Judiciary-Dem); Espinel, Zulima (Judiciary-Dem); Apelbaum, Perry; Kalo, Ted; DeBaca, Lou; Dubester, Mark; Delaney, Mike; Bash, Jeremy; Sheehy, Mike; Onek, Joe; Sixkiller, Mariah; Cantrell, Margaret; Weich, Ron (Reid); Lettre, Marcel (Reid); Hoy, Serena (Reid)
Subject: FISA Meeting Tuesday at 1 in Room H-326

As a follow-up to last week's bicameral, bipartisan leadership discussions, we plan to convene a staff meeting Tuesday at 1 pm in H 326, the Majority Whip's office.

At the meeting we hope to discuss issues related to HR 3773/S 2248. Administration representatives have also been invited.

Please pass this message along as appropriate.

Thanks,

Wyndee Parker

Deputy Staff Director and General Counsel

House Permanent Select Committee on Intelligence

The Capitol, Room H-405

Washington, DC 20515

(b)(6)
[redacted]

9/25/2008

Demers, John

From: Demers, John
Sent: Monday, March 03, 2008 3:46 PM
To: (b)(6) @ssci.senate.gov
Subject: Re: FISA Meeting Tuesday at 1 in Room H-326

This is the first I've heard of this. [The usual rule of thumb is we don't go if it's not bipartisan. Are you going?]

Demers, John

From: Davidson, M (Intelligence) [(b)(6)]@ssci.senate.gov
Sent: Monday, March 03, 2008 4:39 PM
To: Ben Powell; Demers, John; Eisenberg, John; Nichols, Carl (CIV); [(b)(3)] Potenza, Vito; [(b)(3), (b)(6)] Chris
Cc: Livingston, J (Intelligence); DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep); Parker, Wyndee; [(b)(6)]@mail.house.gov; Apfelbaum, Perry; Weich, Ron (Reid)
Subject: FISA, meeting tomorrow (Tuesday), 1 pm,

Ben, et al.:

This follows up on a message that Wyndee Parker has left for Ben.

Invitations have been sent to House and Senate Democratic and Republican staff (Leaders' offices and Intelligence and Judiciary Committees) for a bipartisan, bicameral FISA meeting tomorrow (Tuesday), at 1 pm, in H 326, the Majority Whip's Office.

The purpose is to build on the bicameral, bipartisan Members meeting of last week with Ben, and to discuss specific matters that may be presented to the House this week.

Wyndee or I can describe further.

Mike

9/25/2008

Demers, John

From: Tucker, L (Intelligence) [(b)(6)] SSCI.Senate.Gov]
Sent: Wednesday, March 12, 2008 11:36 AM
To: Kim, Harold H.; [(b)(6)] mail.house.gov; Hawkins, Tom (McConnell); Abegg, John (McConnell); Soderstrom, Sharon (McConnell); [(b)(6)] mail.house.gov; Rossi, Nick (Judiciary-Rep); Emling, John G.; [(b)(3), (b)(6)] Demers, John; Stewart, Margaret B.; [(b)(6)] mail.house.mail
Cc: Livingston, J (Intelligence); Rice, K (Intelligence); Russell, J (Intelligence)
Subject: FISA
Attachments: Side by Side with Revised House Version 3-12-08.doc



Side by Side with
Revised Hous...

Folks,

We digested the Revised House version and attached is the side-by-side the minority staff on the SSCI put together (correcting the inaccuracies on the one we received yesterday) on the Restore Act - Senate Bill - Revised House Bill.
Louis

Louis Tucker
Republican Staff Director
Select Committee on Intelligence
[(b)(6)]

Demers, John

From: Davidson, M (Intelligence); (b)(6) [REDACTED]@ssci.senate.gov [REDACTED]
Sent: Friday, March 28, 2008 4:54 PM
To: Ben Powell; Demers, John; Eisenberg, John; Nichols, Carl (CIV); Potenza, Vito (b)(3) [REDACTED]; (b)(3), (b)(6) [REDACTED] Chris; Livingston, J (Intelligence); Rice, K (Intelligence); DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep); Espinel, Zulima (Judiciary-Dem); Solomon, Matthew (Judiciary-Dem)
Cc: Healey, C (Intelligence); Starzak, Alissa (Intelligence)
Subject: RE: On the return of H.R. 3773 to the Senate

After consulting with Ben about a date and time, let's plan to meet on Monday, April 7, at 2, for a full afternoon, bipartisan Senate-side discussion (Intelligence and Judiciary) with ODNI/DOJ/NSA to help set us on a path that enables the branches to reach agreement on a good law.

I've reserved both our hearing room, SH-219, and a conference room in SH-211, depending on the number of participants. Let's assume for now that we'll meet in 219.

Looking forward to seeing all.

Mike

Demers, John

From: Demers, John
Sent: Monday, March 31, 2008 3:42 PM
To: 'Livingston, J (Intelligence)'
Subject: FISA immunity language

Attachments: FISA immunity alternative.doc

Jack,

[For your eyes only, attached is an idea on court review of immunity. The redline shows changes from the Senate bill. Let me know if you'd like to meet on this to walk through it. As we discussed, please don't forward to anyone. This is just an idea and has not been vetted.]

John



FISA immunity
alternative.doc ...

Demers, John

From: Demers, John
Sent: Friday, April 04, 2008 1:42 PM
To: 'Livingston, J (Intelligence)'; Davidson, M (Intelligence); Ben Powell; Eisenberg, John; Nichols, Carl (CIV); Potenza, Vito; (b)(3) (b)(6) [Redacted] Chris Rice, K (Intelligence); DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep); Espinel, Zulima (Judiciary-Dem); Solomon, Matthew (Judiciary-Dem)
Cc: Healey, C (Intelligence); Starzak, Alissa (Intelligence)
Subject: RE: On the return of H.R. 3773 to the Senate

Tracking: Recipient Message Status

'Livingston, J (Intelligence)'
Davidson, M (Intelligence)
Ben Powell
Eisenberg, John
Nichols, Carl (CIV)
Potenza, Vito
(b)(3) (b)(6) [Redacted]
Rice, K (Intelligence)
DeRosa, Mary (Judiciary-Dem)
Rossi, Nick (Judiciary-Rep)
Espinel, Zulima (Judiciary-Dem)
Solomon, Matthew (Judiciary-Dem)
Healey, C (Intelligence)
Starzak, Alissa (Intelligence)

Mike,

We are available Friday [and] would strongly prefer for this meeting to involve all of the key players on the Senate side.

Thanks,
John

Demers, John

From: Livingston, J (Intelligence); (b)(6) @ssci.senate.gov
Sent: Tuesday, April 15, 2008 6:10 PM
To: Davidson, M (Intelligence); Ben Powell; Demers, John; (b)(3) Eisenberg, John; Nichols, Carl (CIV); Potenza, Vito; (b)(3) (b)(6) Rice, K (Intelligence); DeRosa, Mary (Judiciary-Dem); Rossi, Nick (Judiciary-Rep); Espinel, Zulimā (Judiciary-Dem); Solomon, Matthew (Judiciary-Dem)
Cc: Healey, C (Intelligence); Starzak, Alissa (Intelligence); (b)(6) @mail.house.gov Tucker, L (Intelligence)
Subject: RE: FISA, Monday, April 21, 1 pm

Wyndee,

We understand that you would like to meet to see if we can reach a bicameral solution on the FISA legislation. I think the most productive use of our time on Monday will be to figure out what modest changes can be made to the Senate bill, since it appears to have the most support in Congress (a supermajority in the Senate and apparent near-majority in the House). We look forward to your thoughts. Thanks.

Jack

Demers, John

From: Demers, John
Sent: Friday, May 09, 2008 9:59 AM
To: Tucker, L (Intelligence); Livingston, J (Intelligence)
Subject: FISA Mod Final (5 9 08).doc

Attachments: FISA Mod Final (5 9 08).doc

Louis and Jack,

Attached is a proposed counterproposal reflected as a redline to the relevant pages from the Senate-passed bill. I will send you an email shortly explaining any changes that may not be immediately apparent.

Thanks,
John



FISA Mod Final (5 9
08).doc (...)