



U.S. Department of Justice

Office of the Inspector General

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June 15, 2010

The Honorable Patrick J. Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
433 Russell Senate Building  
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter dated March 17, 2010, concerning provisions in the USA PATRIOT Act Sunset Extension Act of 2009, S.1692, that would have required the Department of Justice Office of the Inspector General (OIG) and other Inspectors General in the intelligence community to conduct reviews of certain authorities contained in the Foreign Intelligence Surveillance Act of 1978 (FISA).

In your letter, you asked the OIG to conduct a review addressing these provisions, even though that bill was not enacted. We are writing this letter to inform you that the OIG is initiating a review that is intended to examine many of these provisions.

As you are aware, the OIG's March 2007 and March 2008 reports on the Federal Bureau of Investigation's (FBI) use of national security letters (NSLs) and Section 215 orders for business records made a total of 31 recommendations to improve the FBI's use of these authorities and ensure the FBI's compliance with the requirements governing their use. In addition, in January 2010 we completed our report on the FBI's use of exigent letters and other informal requests, instead of national security letters or other legal process, to obtain the production of non-content telephone records. In that report, we made 13 additional recommendations to address deficiencies we identified in the FBI's compliance with the statutes, guidelines, regulations, and policies governing the FBI's authority to request and obtain telephone records.

We intend to initiate another review examining the FBI's use of NSLs and Section 215 orders for business records. Among other issues, our review will assess the FBI's progress in responding to the OIG's recommendations in the prior reports. In addition, we intend to examine the number of NSLs issued by the FBI from 2007 through 2009, and we will closely examine the automated

system to generate and track NSLs that the FBI implemented to address the deficiencies identified in the OIG reports.

In addition, our review will cover the FBI's use of Section 215 orders for business records. It will examine the number of Section 215 applications filed from 2007 through 2009, how the FBI is using the tool today, and describe any reported improper or illegal uses of the authority. Our review also will examine the progress the FBI has made in addressing recommendations contained in our prior reports that the FBI draft and implement minimization procedures specifically for information collected under Section 215 authority.

We also intend to conduct a programmatic review of the FBI's use of its pen register and trap and trace authority under the FISA. That part of the review will examine issues such as how the FBI uses this authority to collect information, what the FBI does with the information it collects, and whether there have been any improper or illegal uses of the authority either reported by the FBI or identified by the OIG.

Thus, while our review may not address every one of the specific provisions that were contained in Senate Bill 1692, we anticipate that the results of our review will address many of the important issues reflected in the oversight provisions that were part of that bill.

If you have any questions about this letter or these issues, please contact me or Cynthia Schnedar from my office at (202) 514-3435.

Sincerely,



Glenn A. Fine  
Inspector General

cc: Honorable Jeff Sessions  
Ranking Member  
Committee on the Judiciary