



June 27, 2012

Hon. Eric H. Holder Jr.
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Hon. James R. Clapper Jr.
Director of National Intelligence
Office of the Director of National Intelligence
Washington, DC 20511

Lisa Monaco
Assistant Attorney General
U.S. Department of Justice, National Security Division
950 Pennsylvania Avenue, NW
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Robert Litt
General Counsel
Office of the Director of National Intelligence
Washington, DC 20511

Dear Attorney General Holder, Director Clapper, Assistant Attorney General Monaco and General Counsel Litt:

On behalf of the American Civil Liberties Union (ACLU), we write to inquire about the status of the review and possible release of Foreign Intelligence Surveillance Court and Court of Review opinions. The ACLU has long opposed the development of 'secret law' and therefore was encouraged when the Obama administration committed to releasing the opinions of those courts whenever possible. In the several years since the review process was first announced, however, the administration has yet to release a single opinion. This failure is particularly troubling as Congress is now considering whether and how to reauthorize the FISA Amendments Act in the coming months. According to the Senate Intelligence Committee, the secret courts have issued several opinions concerning the constitutionality of the Act. Release of those and other opinions is crucial to an open and informed debate about the scope of the law and its impact on our constitutional and privacy rights as Americans.

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We understand that some opinions may contain properly classified information that cannot be made public. We urge you, however, to consider redacting such information and releasing the rest of the opinions. We also ask that if you determine that redactions are not workable for certain opinions, the Department of Justice compose an unclassified summary that can be released. We are particularly interested in the opinions described in the report accompanying S. 3276, a five year extension of the FAA passed by the Senate Intelligence Committee earlier this month, which reportedly discussed the constitutional limitations on FAA intelligence collection.

The ongoing debate about whether and how to reauthorize the FISA Amendments Act is crucially important. The public has a right to know, at least in general terms, how the sweeping surveillance powers within the law are being used. Release of the requested opinions is one of the few ways to ensure the public can accurately assess the statutory framework adopted by Congress and we urge you to help fulfill the transparency mandate of the administration by releasing these opinions forthwith.

Thank you for your attention to this matter. If you have any questions, please contact Michelle Richardson, Legislative Counsel.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Michelle Richardson
Legislative Counsel