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DIRECTOR OF NATIONAL INTELLIGENCE
WASHINGTON, DC 20511

MAR 07 2007

The Honorable John D. Rockefeller IV
Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

The Honorable Christopher S. Bond
Vice Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Dear Mr. Chairman and Vice Chairman Bond:

Thank you for your January 30, 2007 letter seeking comment on S. 82, the *Intelligence Community Audit Act of 2007*. In addition to comments on the bill's particulars, you requested information regarding the history, present interactions, and benefits and drawbacks of expanded Government Accountability Office (GAO) authorities.

The Intelligence Community (IC) has a decades-long history of interaction with the GAO that has been carried out primarily by its all-source intelligence agencies: Central Intelligence Agency (CIA), Defense Intelligence Agency (DIA) and the Department of State's Bureau of Intelligence and Research (INR). Meetings and briefings provided to the GAO represent hundreds of hours each year devoted to increasing the situational awareness of GAO officials, providing detailed finished intelligence assessments, and reviewing and commenting on products produced by the GAO. The IC makes expert analysts available to the GAO in order to provide context to judgments contained in finished intelligence and to explain how the analysis was conducted. Moreover, the agencies of the IC have provided hundreds of classified documents to the GAO in furtherance of its work on a wide range of subject areas. These include provision of National Intelligence Estimates (NIEs), some of the most comprehensive products produced by the Intelligence Community.

The approach of the Office of the Director of National Intelligence (ODNI) has been, and continues to be, to provide the GAO appropriate assistance, on a case-by-case basis, while protecting sources and methods. In the short time that the ODNI has existed, this has included over a dozen briefings, provision of NIEs, and formal and informal commentary on GAO publications. In addition, the number of similar GAO contacts with CIA, DIA, and INR exceeds the level of interaction by the ODNI, given the analytic nature of those agencies. We have occasionally sought the views of GAO on appropriations matters and review of GAO reports has

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assisted us in determining the appropriate handling of certain appropriations questions. This cooperation will continue.

Pursuant to obligations to protect intelligence sources and methods, the IC has traditionally declined to participate in GAO inquiries that evaluate intelligence activities, programs, capabilities, and operations. This has been a consistent historical practice since the enactment of congressional oversight provisions of Title V of the National Security Act of 1947. Congress and the President have established reporting and oversight procedures over decades that balance the congressional oversight responsibility with the need to restrict access to intelligence information. This delicate compromise, embodied in the Intelligence Oversight Act, Title V of the National Security Act of 1947, 50 U.S.C. §§ 413-15, established the procedures for keeping Congress, through its intelligence committees, "fully and currently informed" of intelligence-related activities. The statutory and constitutional issues that this process reflects were addressed by the Department of Justice in 1988. See 12 U.S. Op. Off. Legal Counsel 171.

Any perceived advantage of investing the GAO and its staff with additional authorities is overshadowed by the existing relationship – based on comity and mutual understanding – that has developed between the IC and the Oversight Committees. The professional staff of the Congressional Intelligence Oversight Committees includes highly skilled individuals with detailed knowledge of IC programs, experience with highly sensitive, classified information, and understanding of intelligence operational concerns that is difficult to match with less experienced personnel. In addition, the ability of the Committee staffs to probe even the most sensitive programs and activities of the IC is not hampered by the need for additional extensive security clearance procedures. In short, each Intelligence Committee contains a cadre of knowledgeable and experienced staff who are particularly qualified to conduct oversight of the IC.

In addition, Committee staffs operate at the direction and supervision of the Chairman and Vice Chairman, rather than at the direction of the Comptroller General, who may seek to carry on work potentially beyond that directed by the Congress. If not moderated, self-initiated action by the GAO or action on behalf of non-oversight Committees could undermine the ability of Intelligence Committee leadership to direct or stay abreast of oversight activities, and could risk upsetting the historic balance struck between the two branches of government in national security matters.

In the IC, sources and methods are frequently and indistinguishably intertwined with issues such as knowledge management, information sharing, and strategic planning, which under S. 82 may be requested by any committee of jurisdiction. Indeed, Congress maintains oversight of the IC via the Intelligence Committees, in part, because of the inherently entwined nature of the most sensitive "operational" information with other administrative data. Although the Intelligence Committees and Leadership of the House and Senate can best address this issue, we also would note that our ability to respond to non-jurisdictional Committee requests, while maintaining a high-level of responsiveness to Committees of competent jurisdiction, could come into question. S. 82 has no provision for curbing such requests or recourse for the IC in addressing the predictable drain on resources.

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The Intelligence Community strives to be responsive in a timely manner to requests from the Intelligence Oversight Committees. For example, in 2006 the Office of the DNI provided over 650 briefings to the Members and staff of the oversight committees on a wide range of intelligence activities; thousands of intelligence assessments and written products on intelligence programs were also provided. The CIA, DIA, and other members of the IC provided an even greater number of products.

I am concerned that S. 82 would have an impact on the ability of the Intelligence Community to respond to Committee requests in a timely manner. I also believe S. 82 would require significant IC staffing resources to respond to GAO requests.

The Office of the Director of National Intelligence takes very seriously the statutory responsibility of the IC to keep Congress fully and currently informed of U.S. Government intelligence activities via the well-established congressional oversight mechanisms. Although we seek to aid the GAO in its important work on behalf of the Congress, we are convinced that the ability of our intelligence oversight Committees and the clarity of their mandate to conduct oversight, outweighs the value of expanding GAO authorities as envisioned in S. 82.

If you have any questions on this matter, please contact me or my Director of Legislative Affairs, Kathleen Turner, who can be reached on (202) 201-1698.

Sincerely,

A handwritten signature in black ink that reads "J. M. McConnell". The signature is written in a cursive style with a large, stylized "J" and "M".

J. M. McConnell

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