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## United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-6025

<http://appropriations.senate.gov>

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April 5, 2008

The Honorable Harry Reid  
Majority Leader  
United States Senate

The Honorable Mitch McConnell  
Republican Leader  
United States Senate

Dear Senator Reid and Senator McConnell:

On March 6, 2008, you received a letter from members of the Senate Select Committee on Intelligence (SSCI) expressing their views on how to reform congressional oversight of intelligence.

The March 6, 2008, letter offered two proposals. The first proposal was for the SSCI to assume responsibility for appropriating funds. The authors correctly noted that the Senate has already rejected this proposal. Second, the Senators recommend the creation of an Intelligence Subcommittee on the Appropriations Committee.

The SSCI letter fails to point out that the Committees on Appropriations and Intelligence have already initiated several reforms responding to the need to improve the intelligence oversight process, both in the Intelligence Reform and Terrorism Prevention Act as well as through a memorandum of understanding reached between the two Committees last year. We question why additional reforms are necessary or would be beneficial to the Senate.

While we recognize that the SSCI letter is in response to a requirement enacted in the Implementing Recommendations of the 9/11 Commission Act, we note that it fails to point out any benefit from creating an intelligence subcommittee other than that it would approximate the recommendations of the 9/11 Commission. The Commission did a masterful job of reviewing the reasons for the tragedy of 9/11, but the commissioners spent far less time deliberating on their recommendations. As such, not all of its judgments have been accepted. Several have already been rejected by the Congress, including the proposal to abolish the House and Senate Intelligence Committees and create one bi-cameral authorizing Committee. Many others have been dismissed as unworkable or counter-productive even by individual commissioners themselves.

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At the crux of this issue, the Commission believed the Congress should reduce the number of members reviewing intelligence to provide them with “a greater sense of responsibility and accountability.” We strongly believe that consolidating authority over intelligence in a smaller group of Senators is precisely the wrong way to improve the Senate’s oversight of intelligence. We do not understand how the creation of an Intelligence Subcommittee, led by members of the Intelligence Committee, would do anything but minimize the free exchange of ideas and hamper the debate which exists in the current system.

Nowhere is congressional scrutiny more important than in the review of intelligence. Whereas the media and public provide an effective check on the actions of government on unclassified matters, they are unable to review the inner-workings of intelligence. We believe the current Senate system guarantees that no one small group of Senators becomes too powerful in this area, where external oversight is necessarily minimized.

Our Constitution is revered throughout the world for its systems of checks and balances. Sharing of power has preserved liberty for more than 200 years. In a similar vein, the sharing of authority between the Committees of Congress and between the House and Senate ensures that no one group of individuals has too much control over the workings of the Congress. Our separate authorizing and appropriating functions guarantee that responsibility is shared. The proposals recommended by the SSCI would be tantamount to undoing the time honored and effective practice and tradition of the Senate.

We recognize that there is a constant tension between authorizing committees and the Appropriations Committees over control of the legislative process and spending decisions. We strongly believe that intelligence policy should be the jurisdiction of the Intelligence Committees, but we believe as strongly that spending decisions are best left to an independent Appropriations Committee which has experienced membership and staff skilled in the review of budgetary matters. We would also note that the SSCI already possesses nearly unprecedented authority over spending decisions through section 504 of the National Security Act of 1947 which denies the Executive Branch the authority to obligate appropriated funds without a specific authorization.

From our perspective, we see that a portion of the intelligence community is linked to the conduct of foreign policy, another to nuclear energy, and others to homeland security and national defense. The current appropriations process aligns these functions with their related agencies. The inclusion of intelligence funding among the various Appropriations bills creates a competition for resources which ensures that the most meritorious of programs are funded whether intelligence or non-intelligence. We believe the tensions and competition which exist are healthy and enhance the Senate’s oversight.

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In effecting the February 28, 2007, Memorandum of Understanding between the Chairman of the Intelligence Committee and the Chairman and ranking members of the Appropriations Committee, the two Committees established a system which ensures that the leaders of each committee have the ability to review and comment on the workings of each other's committees. It has allowed for closer working relationships between staff of the two committees. But it has also allowed for the continued independence of review which is accomplished by having separate oversight panels.

Were the Senate to follow the detailed recommendations in the March 6, 2008, SSCI letter, the result would be to lessen congressional oversight of intelligence, not strengthen it. As such, we would strongly urge you to reject the proposals included in this letter or a similar March 13, 2008, letter from Senator Mikulski and Senator Feinstein.

Sincerely,



Thad Cochran  
Ranking Member  
Committee on Appropriations



Robert C. Byrd  
Chairman  
Committee on Appropriations