

**GAO**

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United States Government Accountability Office  
Washington, DC 20548

February 7, 2006

The Honorable Zoe Lofgren  
House of Representatives

Dear Ms. Lofgren:

Thank you for your letter of December 20, 2005, jointly signed by a number of your colleagues, asking the Government Accountability Office to investigate reports that the Attorney General authorized personnel at the National Security Agency to conduct warrantless domestic electronic surveillance activities in violation of the Foreign Intelligence Surveillance Act. 50 USC § 1802(a).

As Mr. Ralph Dawn, Assistant Director for Congressional Relations, discussed with Mr. Praveen Goyal, we are unable to accept your request for two reasons. First, our analysis of your request reveals that an audit of the reported acts of domestic electronic surveillance activities would necessitate reviewing and assessing highly classified government records involving the government's sources and methods of identifying and tracking persons associated with international terrorist organizations. While GAO has broad statutory audit and agency-records access authority, our ability to enforce access to records related to foreign intelligence or counterintelligence activities is specifically limited by law. 31 USC § 716(d)(1)(A). Accordingly, the Comptroller General has determined that GAO will not attempt to conduct audits that would necessitate a review and assessment of such highly sensitive intelligence community records without the express support of one or both of the congressional select intelligence oversight committees. Second, it is our understanding that the allegations in your request regarding unlawful government actions are currently being reviewed in several federal district courts. It is GAO's longstanding policy, as outlined in our congressional protocols, not to conduct work on matters pending before judicial forums. It would not be appropriate for us to undertake this review while the litigation is ongoing.

Please know that we appreciate your interest in GAO, and we regret that we cannot be of assistance on this matter. If we can be of future assistance, please contact Mr. Ralph Dawn at 202-512-4544.

Sincerely,

*Mary Frances Widner*

*for* Gloria L. Jarmon  
Managing Director  
Congressional Relations

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