

**Congress of the United States**  
**Washington, DC 20515**

December 17, 2012

The Honorable Eric H. Holder, Jr.  
Attorney General of the United States  
United States Department of Justice  
Washington, DC 20530

Dear General Holder:

Recently, the “Wall Street Journal” (WSJ) reported you granted the National Counterterrorism Center (NCTC) new powers to store dossiers on United States citizens, even if said citizens are not suspected of any criminal activity.

With these new powers, the NCTC would have the ability to copy entire government databases holding information on flight records, casino-employee lists, the names of Americans hosting foreign-exchange students, as well as other data.

The WSJ goes on to report the new rules allow the NCTC to keep data about innocent United States citizens for up to five years and to analyze it for suspicious patterns of behavior. Previously, both were prohibited.

If the WSJ report is accurate, these new powers represent a sweeping departure from past practices, which barred the NCTC from storing information about ordinary Americans unless a person was a terror suspect or the information sought was related to an investigation.

If the WSJ report is accurate, it raises numerous concerns and questions. As elected Representatives and members of the House Judiciary Committee, we are concerned such sweeping, fundamental changes would be made to existing policy without public input and Congressional approval. Changes, which fundamentally alter the relationship between the government and the governed, should only be made with input from the people by and through their elected Representatives.

So that we may better understand the facts and circumstances leading to the alleged change in policy and law, as well as what powers the Department currently believes the NCTC to have, we ask that the Department prepare a written response to the following questions. We respectfully request that the Department answer the questions as soon as possible, but no later than 5:00 pm on January 31, 2013.

1. Does the Justice Department believe the NCTC, or any other government agency, has the power/legal authority to keep data about citizens who are not suspected of a crime?
  - a. If yes, what statutory authority does the Department rely upon?
  - b. If yes, what constitutional authority does the Department rely upon?
  - c. If yes, what is the basis for believing 5 years meets the reasonableness test?
  
2. Does the Justice Department believe the NCTC, or any other government agency, has the power/legal authority to analyze government databases for suspicious patterns of behavior?
  - a. If yes, what statutory authority does the Department rely upon?
  - b. If yes, what constitutional authority does the Department rely upon?
  - c. If yes, what databases has the NCTC aggregated and analyzed?
  
3. Does the Justice Department believe it has the power to change the rules governing who NCTC has the power/legal authority to store data on and how that data may be used without approval from Congress?
  - a. If yes, what statutory authority does the Department rely upon?
  - b. If yes, what constitutional authority does the Department rely upon?
  
4. The Privacy Act of 1974 bars the federal government from sharing data for any purpose other than the reason for which the data was initially collected, unless the sharing meets a specific exception contained in the Act.
  - a. Does the Justice Department believe a specific exception exists in this instance?
    - i. If yes, what is the specific exception?
    - ii. If yes, what legal analysis does the Department rely upon when determining that sharing with NCTC does not violate the Act?

Sincerely,



Jason Chaffetz  
Member of Congress

Sincerely,



Trey Gowdy  
Member of Congress