U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

September 22, 2004

The Honorable John Conyers, Jr.
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Conyers:

On July 13, 2004, the Department provided you with a copy of a recent report entitled "Report From The Field: The USA PATRIOT Act at Work." We are pleased to provide you with the enclosed supplemental report, "Delayed Notice Search Warrants: A Vital and Time-Honored Tool for Fighting Crime." This report highlights the importance and successful use of delayed notice search warrants. The report also addresses concerns that have been raised regarding the constitutionality of this law enforcement technique that has been recognized and upheld by the courts for more than three decades.

The USA PATRIOT Act has been invaluable to the Department of Justice's efforts to prevent terrorism and make America safer while at the same time preserving civil liberties. By passing the USA PATRIOT Act, Congress provided law enforcement and intelligence authorities with important new tools needed to combat the serious terrorist threat faced by the United States. Specifically, the Act enhanced the federal government's ability to share intelligence, strengthened the criminal laws against terrorism, removed obstacles to investigating terrorists, and updated the law to reflect new technologies used by terrorists.

During the early stages of criminal investigations, including terrorism investigations, keeping the existence of an investigation confidential can be critical to its success. To keep from tipping off suspects, in appropriate circumstances the government can petition a court to approve a delayed-notice search warrants, and thus avoid tipping off the suspect to the existence of a criminal or terrorist investigation. A delayed-notice warrant is exactly like an ordinary search warrant in every respect except that law enforcement agents are authorized by a judge to temporarily delay giving notice that the search has been conducted. The USA PATRIOT Act established a uniform nationwide standard for use of delayed-notice search warrants to ensure an even handed application of Constitutional safeguards to all Americans. Unfortunately, the public debate about how delayed-notice warrants work and why investigators need them has featured a great deal of misinformation.

Along with the other materials the Department has provided to Congress, we hope this report will serve to be informative to you and your constituents about the truth regarding our efforts in the war on terror, and our ever present battle against violent crime and drugs. It is vital that Congress act on the basis of facts rather than fictions. To that end, the Department is fully committed to providing Congress with the information it needs to inform itsdeliberations.

The progress made by the Department to date in the war against terrorism would not have been possible without the tools and resources provided by Congress. The Department is grateful for the strong support it has received from Congress and looks forward to working closely with Congress to ensure that the key tools contained in the USA PATRIOT Act do not expire at the end of 2005.

If we can be of further assistance regarding this or any other matter, please do not hesitate to contact this office.

Sincerely,

William E. Moschella

William E. Moschella
Assistant Attorney General

Enclosure