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February 3, 2006

Dr. Howard Dean  
Chairman  
Democratic National Committee  
430 South Capitol Street, SE  
Washington, D.C. 20003

Dear Dr. Dean:

I was recently apprised of your assessment of the President's terrorist surveillance program – an “early warning” capability to intercept the international communications of al Qaeda terrorists to and from persons within the United States. With respect to this important program, you stated, “President Bush's secret program to spy on the American people reminds Americans of the abuse of power during the dark days of President Nixon and Vice President Spiro Agnew.” As Chairman of the Select Committee on Intelligence, I find your statements to be irrational and irresponsible.

Any suggestion that a program designed to track the movement, locations, plans, or intentions of our enemy – particularly those that have infiltrated our borders – is equivalent to abusive domestic surveillance of the past is ludicrous. When Presidents John F. Kennedy and Lyndon B. Johnson approved the electronic surveillance of Martin Luther King, those Presidents were targeting American citizens based on activities protected by the First Amendment. When President Richard Nixon used warrantless wiretaps, they were not directed at enemies that had attacked the United States and killed thousands of Americans.

I believe Americans understand that the careful and targeted program authorized by President Bush has no relation to the abuses of the past. Indeed, its closest antecedent is the direction of President Franklin D. Roosevelt to Attorney General Robert H. Jackson on the eve of World War II. With war looming and reports of lurking enemy saboteurs, President Roosevelt ordered the use of domestic electronic surveillance to target “persons suspected of subversive activities.” As President Roosevelt noted, “It is too late to do anything about it after sabotage, assassinations and ‘fifth column’ activities are completed.” Significantly, President Roosevelt's direction was issued despite a statute (Section 605 of the Communications Act of 1934) and Supreme Court precedent (*United States v. Nardone*, 302 U.S. 379 (1937)) that prohibited such wiretapping.

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When President Bush exercised his constitutional authority and responsibility as Commander-in-Chief to target international communications between potential terrorists within this country and al Qaeda members overseas, he recognized, just like President Roosevelt, that after a terrorist attack occurs “[i]t is too late.” Our nation had been attacked on September 11, 2001, by foreign enemies. We were, and are still, at war with an enemy that Congress identified in an Authorization for Use of Military Force (Pub. L. No. 107-40 (Sept. 18, 2001)). Much of the war against al Qaeda is being fought overseas – Afghanistan, Pakistan, Iraq. But the war against terrorism is not confined to foreign lands. The war against terrorism is being fought every day in our own backyard. America is a battlefield.

In peacetime and especially when our nation is at war, our leaders, including the chairmen of our political parties, should be more careful and better informed before they criticize the intelligence programs that protect our nation. Vibrant debate is important in our free society, but that debate should be serious and rational, especially where national security is concerned. Too many are looking at national security issues through partisan lenses. I have seen it on the Intelligence Committee for the past three years. Our nation, and the men and women of the military, law enforcement, and the intelligence community, deserve better.

Sincerely

A handwritten signature in black ink that reads "Pat Roberts". The signature is written in a cursive, flowing style with a large initial "P".

Pat Roberts  
Chairman