

Congress of the United States
Washington, DC 20515

January 28, 2010

The Honorable Barack Obama
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

We write concerning the Privacy and Civil Liberties Oversight Board (“Board”), which was created by Congress in 2004 to implement one of the 41 recommendations of the 9/11 Commission. The mission of the board is to review privacy and civil liberties issues raised by national security policies. Currently, the Board is vacant and none of the five members have been nominated. We urge you to submit nominations to the Senate in a timely manner to ensure that the Board is fully operational as soon as possible.

As a nation, we are facing challenges on every front: recession, war, terrorism, millions of Americans without work or health insurance, among others. We are grateful for your efforts on all of these fronts, and we applaud the hard work of your administration in its first year. In these challenging times, though, as our government pursues policies designed to defend our national security, it is more important than ever to ensure that individual liberties are upheld. The Christmas Day airline bombing attempt, and the policy changes that may come as a result, underscore the pressing need to balance national security with individual privacy rights.

Throughout its short history, the Board has not lived up to expectations. As you know, the Board was created by Congress in 2004 in response to a recommendation by the 9/11 Commission. Initially, the Board lacked the independence and authority necessary to provide effective oversight.

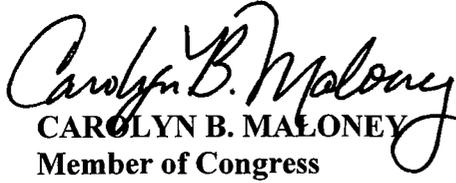
In 2007, Congress passed legislation that we sponsored to ensure a strong, independent Privacy and Civil Liberties Board. The bill, the “Protection of Civil Liberties Act,” elevated the Board to an independent agency in the executive branch, gave the Board subpoena power, directed that all five members be confirmed by the Senate, and required that no more than three members can be from the same political party. It was included in the “Implementing Recommendations of the 9/11 Commission Act” which was signed into law on August 3, 2007 (P.L. 110-53).

Unfortunately, President Bush delayed nominating members to the Board. Eventually, in February 2008, he nominated three Republican members. By the end of 2008, he had still not appointed both Democratic members, and the Senate had yet to confirm any of the nominees.

Mr. President, we know that preserving privacy and civil liberties is very important to you and your administration. We urge you to quickly nominate members to the Privacy and Civil Liberties Oversight Board, so that the Board can finally begin its critical work to ensure that the government protects privacy and liberties while also fighting to secure our national security.

Please contact Anna Cielinski in Rep. Maloney's office with any questions.

Sincerely,


CAROLYN B. MALONEY
Member of Congress


TOM UDALL
United States Senator