

Hon. Rush Holt, Member of Congress
1019 Longworth House Office Building
Washington, DC 20515

26 April 2007

Hon. Vernon J Ehlers, Member of Congress
2182 Rayburn House Office Building
Washington, DC 20515

Dear Congressmen Holt and Ehlers:

We write to you in a spirit of bi-partisanship with a request for assistance in addressing a problem that unites the four of us despite political differences that might arise due to our identification with different major political parties. Two of us consider ourselves Democrats; the other two consider ourselves Republicans. Yet the four of us, like the two of you, hold doctorates in the physical sciences. Also, like you (prior to the start of your political careers), we serve as federally funded research investigators working on scientific problems that address the national interest. In our specific cases, each of us has more than 20 years experience as a federally funded principal investigator at NASA's Jet Propulsion Laboratory. It is our hope that you will address our concern not as political partisans but rather as part of a community of researchers committed to the understanding and application of physical law to address issues of national and international consequence.

Our concerns pertain to the new regulations and procedures regarding access to federal facilities. We view the way these regulations are being implemented as a serious threat to our nation's ability to conduct basic research, particularly in the non-classified domain. We refer specifically to the application of Homeland Security Presidential Directive #12. HSPD #12 was one of a series of executive orders signed by President Bush in the wake of 9/11 intended to enhance national security. On the surface it appears to have a fairly innocuous tone. However, we are finding that the implementation program associated with this order has created severe threats to the privacy rights of scientists and others, whether or not they are federal employees.

The intent of HSPD #12 is clear in its opening statement, "*Wide variations in the quality and security of forms of identification used to gain access to secure Federal and other facilities where there is potential for terrorist attacks need to be eliminated. Therefore, it is the policy of the United States to enhance security, increase Government efficiency, reduce identity fraud, and protect personal privacy* (emphasis added) *by establishing a mandatory, Government-wide standard for secure and reliable forms of identification issued by the Federal Government to its employees and contractors (including contractor employees).*"

We and our colleagues at JPL have found that this order, which is merely intended to establish a common standard of identification for access to federal facilities, is being used to gather extensive personal information about employees, including fingerprints, racial, ethnic, financial and medical information. This information is being transferred to databases maintained by the FBI associated with personal data from suspects in criminal investigations.

We note that the word 'fingerprints' never appears in HSPD-12. Nor did the president direct that detailed, intimate personal information be gathered. We believe that such transfers of information are a violation of the privacy act of 1974. HSPD-12 specifically states: "*(6) This directive shall be implemented in a manner consistent with the Constitution and applicable laws, including the Privacy Act (5 U.S.C. 552a) and other statutes protecting the rights of Americans.*" We note that the privacy act specifically states, "*No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertain,*"

While investigating the details of this new identification standard we learned of the intent to gather widespread personal information without a probable cause. In addition to our fingerprints, which will be commingled in the FBI criminal data base, the additional information being required includes full financial records, full medical records (including psychological therapy), and criminal history (including traffic infractions such as car pool lane violations). This is inconsistent with the fourth amendment of our constitution and its restriction on search and seizure of information from citizens without probable cause.

HSPD-12 mandates only "...rigorous proof and documentation of an individual's identity..." so as to provide "...more secure physical and logical access to federal facilities and systems." Rigorous proof does not require intrusion into the personal lives of federal employees. This prompts us to ask, what will the information gained from this background investigation be used for? A person's identity can certainly be rigorously proven without the background check, so what additional information obtained from the background check would be sufficient to deny a person an access badge? We are interested here in the obvious implication that denied access with subsequent loss of employment might ensue due to information obtained, whether true or false, from the background check, even if identity is proven.

Several of us have brought this information to the attention of the JPL Director, Charles Elachi, who asked this material to be reviewed by the CALTACH legal staff since JPL is administered by CALTECH for NASA. He tells us that NASA is insisting on imposing these requirements despite the fact that most of the research done at JPL is not classified and could easily be accomplished at a university. One of us has brought this to the attention of NASA Administrator Michael Griffin and he simply states that he intends to 'stay the course' and back the President.

While this issue has merit on the basis of its civil liberties impact alone, there is also a pragmatic aspect to this problem. These investigations have a very negative impact on our ability to recruit the very best scientific and engineering talent to address our nation's complex technical needs. Many highly talented individuals, like much of the populace, attach great value to their personal liberties. We are Americans after all, and the right to be secure in our personal effects is concept that dates to the founding of our republic. In the face of such intrusions talented researchers are inclined to take positions elsewhere, where the employers have a modicum of respect for the constitution. Thus, the way NASA is implementing HSPD 12 presents an obstacle to our ability to recruit the very best talent to address the nation's concerns.

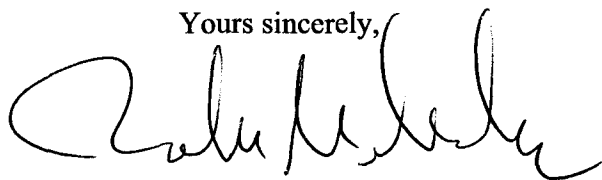
In addition to expressing our concerns to our laboratory management we have also brought this to the attention of our local representatives in congress, Adam Schiff and David Dreier. Congressman Schiff has kindly agreed to look into this matter.

We have recently learned that colleagues at other NASA facilities are also concerned about HSPD 12 and its deleterious impact on NASA's ability to undertake world class scientific and engineering endeavors. We understand that they are also working with their local congressional representatives in an effort to find relief.

We hope that as scientists and as statesmen that the two of you will provide assistance and support to congressman Schiff in his efforts to investigate this situation and help us find relief from this burden.

On 9/11 a group of terrorists perpetrated a most heinous and despicable act against the United States and the rest of the civilized world. It is inappropriate, if not entirely insulting, to harass loyal NASA employees six years later as a response. We hope you will bring an end to this unwise policy. Simple prudence suggests that the implementation of HSPD#12 be deferred until the Congress has had an opportunity to review this matter.

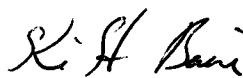
Yours sincerely,



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