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May 24, 2006

Dear Leader Frist and Assistant Leader McConnell,

I write to disagree in the strongest possible terms with the statements of some Congressional leaders which suggest that the court-approved search warrant which allowed the FBI to search a Congressional office is an abuse of power, something illegal or unconstitutional because of the separation of powers. I urge you not to make such arguments or propose any policy that would bar or require notice for such court-approved search warrants in the future.

In offering these views, I make no judgment whatsoever on the ongoing Jefferson investigation; that is for the justice system to sort out. And I agree with the practical, common sense rule that such searches of Congressional offices should be used sparingly and after very careful, apolitical review by both the prosecutors involved and an appropriate judge. But no location should be off limits and no one should be above the law.

First, I do not believe that these self-serving separation of power arguments coming from Congress have any significant basis in law.

It is very significant that the searches we are talking about can only happen with the detailed review and approval of a judge, a member of an entirely separate branch of government than the executive. Search warrants have been executed against members of the legislative branch in their homes; a distinction that would treat searches in their offices completely differently is superficial and baseless. The chambers of sitting federal judges have been searched before; once again, how are searches of Congressional offices different? It should be noted that searches of judicial chambers have led to criminal convictions which were upheld on appeal.

Second, for Congressional Leaders to make these self-serving arguments in the midst of serious scandals in Congress only further erodes the faith and confidence of the American people.

That has been shaken to its core by recent events on Capitol Hill. The Duke Cunningham scandal involved blatant corruption of enormous proportions. And now the Jefferson investigation seems to involve allegations which are tragically similar in nature and scope. For Congressional leaders to react by trying to ban or limit searches of Congressional offices will only destroy what little faith and confidence in the institution is left.

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Make no mistake, the American people will come to one conclusion – that Congressional leaders are trying to protect their own from valid investigations.

Many members adhere to the same views as I've presented. Please talk to them. And please don't participate in a course of action that has so little legal grounding and so much potential to further destroy Americans' faith and confidence in Congress.

Sincerely,

A handwritten signature in black ink, appearing to read "David Vitter". The signature is stylized with a large, sweeping initial "D" and a long horizontal stroke extending to the right.

David Vitter

CC: The Honorable Dennis J. Hastert, Speaker of the House
The Honorable John A. Boehner, Majority Leader