

**Rohrabacher Speech: BUSH Deliberately Obstructs ISLAMIC TERROR  
EVIDENCE: OKC BOMBING, SANDY BERGER**

Mr. Rohrabacher' s Floor Speech

EXCERPT: Dana Rohrabacher (Repub,CA): **In a democratic society, policy is made after having an open dialogue. George Bush was elected President, not king."**

Washington, Feb 26 -

ADMINISTRATION NOT COOPERATING WITH CONGRESS

-- (House of Representatives - February 26, 2008)

The SPEAKER pro tempore. Under the Speaker's announced policy of January 18, 2007, the gentleman from California (Mr. Rohrabacher) is recognized for 60 minutes.

Mr. ROHRABACHER. Madam Speaker , I come to the floor tonight with a heavy heart. The nature of the allegations I make speaks poorly of this administration. In my heart of hearts, I have always wanted this administration to succeed, but the issue at hand is of such magnitude that the American people need to know what is being done and what precedents are being set.

In my tenure as a senior member of the House Foreign Affairs Committee, both as chairman and ranking member of an investigative subcommittee, I have witnessed firsthand behavior by the Bush administration which I find deeply troubling.

The disdain and uncooperative nature that this administration has shown toward Congress, including Republican Members, is so egregious that I can no longer assume that it is simply bureaucratic incompetence or isolated mistakes. Rather, I have come to the sad conclusion that this administration has intentionally obstructed Congress' rightful and constitutional duties.

Tonight I will discuss some serious examples of this administration' s contemptuous disregard for the authority delegated to Congress by the Constitution. This bad attitude has consistently manifested itself in a sophomoric resentment toward Congress' constitutional role as an equal branch of government. The result has been an executive branch too insecure to let Congress do its job, an executive branch that sees Congress, even when Republicans held the majority, as a rival and a spoiler, rather than as elected representatives of the American people playing a rightful role in establishing policy for our great country.

Unfortunately, when the President of the United States rejects the legitimacy of congressional prerogatives, there are serious consequences. Tonight, I will provide examples of how this administration for the past 7 years has undercut congressional investigators, has lied to Members of Congress, and has forged ahead with secret deals in spite of efforts and pleas by Congress to be informed, if not involved.

In the last Congress, I was chairman of the Oversight and Investigations Subcommittee of the House Foreign Affairs Committee. In that capacity, I learned that in the time immediately leading up to the bombing of the Federal Building in Oklahoma City, convicted Oklahoma City bomber and murderer Terry Nichols had been in Cebu City in the Philippines. His stay in Cebu City coincided with another visitor to that city, al Qaeda's terrorist leader Ramsey Yousef. Interestingly, both Nichols and Yousef used similar bombs and methods just 2 years apart to blow up two American targets.

Yousef was the mastermind of the first attack on the World Trade Center in 1993. Nichols

was a co conspirator in the bombing of the Oklahoma City Federal Building in 1995.

By the way, I would like to acknowledge that today happens to be the 15-year anniversary of that first devastating attack on the World Trade Center.

These individuals, one American and one Arab, were responsible for planning two of the most lethal terrorist attacks on our countrymen in our history. We are to believe that by coincidence they ended up in an off-the-beaten-track city in the Southern Philippines? One doesn't have to be a conspiracy nut to understand that this coincidence is certainly worth looking into.

I started an official congressional investigation sanctioned by Henry Hyde, then the chairman of the International Relations Committee, to see whether Terry Nichols or his accomplice, Timothy McVeigh, had foreign help in their murderous terrorist bombing of the Alfred Murrah Building in Oklahoma City.

In light of the fact that Terry Nichols and Ramsey Yousef were both in Cebu City at the same time prior to hauntingly similar terrorist attacks, it was no stretch for a congressional investigative committee to be looking into this matter. However, the Bush administration felt quite differently. To those I had to deal with, it was "case closed, don't bother us." They had looked into the matter, and Congress should simply and blindly accept their conclusion that there was no Nichols-Yousef connection. "Don't bother us."

This was at times bureaucratic laziness, and at other times it was clearly based on a disdain for congressional investigations and authority.

During my investigation, I secured Ramsey Yousef's cell phone records. The records were part of the phone calls that he made when he was in that New York City area in the months just prior to the bombing of the World Trade Center in 1993.

The phone records show that Ramsey Yousef made at least two phone calls to a row house in Queens, New York.

That row house was occupied by the cousin of Terry Nichols' Filipino wife. Let me repeat that. The terrorist bomber of the first World Trade Center attack, the nephew of al Qaeda 9/11 mastermind Khalid Sheikh Mohammad, made phone calls to the same row house that was occupied by Terry Nichols' cousins-in-law just 2 months before he exploded the bomb in the garage of the World Trade Center 15 years ago. Another coincidence?

I gave this information to the Department of Justice and since that time have repeatedly sought their help in investigating this matter. Time after time, my requests have gone unanswered or have just been flatly denied.

I also asked the Department of Justice on numerous occasions to help me investigate the name Samir Khahil. This name is on a list of unindicted co-conspirators of the 1993 World Trade Center bombing, a gain in connection with Ramsey Yousef.

It also is the name, by the way, of an Iraqi man in Oklahoma City who at the time of the Oklahoma City bombing employed an Arab immigrant who fits the description originally made by numerous witnesses as to John Doe II.

This Oklahoma-based Iraqi lied, meaning the John Doe II look-alike, lied to the investigators about his whereabouts at the time of the Oklahoma City bombing, yet there was little if any follow-up on this John Doe II look-alike. In fact, the FBI simply declared that John Doe II never existed. The existence of John Doe II, let it be remembered, was based on a sketch and sketches derived from witnesses on the scene of the Oklahoma City bombing and the truck rental company in which that bomb was placed on a truck from that truck rental company. Those witnesses described a man who, as I say, looked

very much like Samir Khahil's employee.

Now, I have repeatedly asked the Department of Justice to tell me if the Samir Khahil on the unindicted co-conspirators list of the 1993 World Trade Center bombing is the same Samir Khahil who employed a man originally identified as John Doe II, the bomber, the number two bomber in the Oklahoma City bombing. The Justice Department's answer: "It would be too burdensome to find out if it was the same man."

Further, we asked help in finding the Arab immigrant who looked like John Doe II and the man who was employed by Samir Khahil. We traced him to Boston, but we have had no support or cooperation in finding this very possible terrorist, or at least terrorist suspect. He may well have been working at Boston's Logan Airport on 9/11/01, the day that a plane took off from that airport and was hijacked and crashed into the World Trade Center. Another weird coincidence to the Oklahoma City bombing. Another coincidence, yes.

You don't have to be a conspiracy nut to believe that these things should be investigated. Instead, there has been no follow-through, no interest. The case is closed, forget it, both in terms of Samir Khahil and his Iraqi employer and employee; and both of these people, of course, reside in the United States right now.

That is just a small taste of the deplorable lack of cooperation for a legitimate congressional investigation. And it was no fluke. I didn't just happen to snag some uncooperative Federal employee. No, this is the level of non-cooperation Congress has learned to expect from this administration.

Yes, Departments and agencies do have limited resources, and I understand that. I used to work in the executive branch. So, yes, there may be some better uses for and some good uses for those limited resources and better uses for their time and investigators, rather than just following up on leads that are provided by Members of Congress.

You can hear someone explaining that. But the lack of cooperation that we have had goes far beyond the fact that they are not going to give their limited resources or even use some of their investigators to track down what most of us would consider a very worthwhile lead, especially considering that the terrorist that we are asking to look into currently resides in the United States and may well have had something to do with the bombing of the World Trade Center and the bombing of the Oklahoma City building there.

But, again, a lot of my requests don't require a lot of time and effort on the part of the executive branch, and I still have been stonewalled. For the past year, for example, I have repeatedly requested to interview the imprisoned terrorist Ramzi Yousef. He is in Colorado and in strict lockup. He has been there for 10 years.

This would have taken no time and no resources from any executive branch or Federal employee. None. This request is well within my committee's jurisdiction as ranking member of the Investigative Subcommittee of the House Foreign Affairs Committee. This request has been supported by the chairman of the Investigative Subcommittee, the chairman of the full Foreign Affairs Committee, the chairman of the Judiciary Committee, and the chairman of the Intelligence Committee.

Such attention by Congress should be welcomed by this administration and every administration. The legislative branch can help bring new information to light and inform the public.

Nevertheless, the Department of Justice, consistent with its treatment of congressional inquiries during the tenure of this President, has dismissed this valid request. This request has been treated with what can only be described as contempt and condescension.

The point is, unfortunately, that this rejectionist attitude is typical. It is not that they don't have enough resources to help out, to look into an easy matter to look into. It is just that they do not want to cooperate with Congress, even when it's a Republican in Congress, even when the Congress was controlled by a Republican majority.

So, why would this administration obstruct congressional inquiries such as this?

Remember, Ramzi Yousef was the mastermind behind several devastating terrorist attacks and plots against America. He led the first murderous attack on the World Trade Center in 1993, as I say.

After fleeing to the Philippines, he and two other terrorists plotted to kill thousands of Americans by blowing up 12 commercial airliners over the Pacific at the same time. It was known as the Bojinka plot. It was within 2 weeks of being executed when it was discovered and thwarted by Philippine police.

Interestingly, the terrorist operation, the Bojinka plot, was to take place about the same time as the Oklahoma City Federal building bombing, perhaps on the same day. We don't know. Perhaps we should know. Perhaps we should ask Ramzi Yousef about that.

Ramzi Yousef has been in Federal prison for over a decade. He is a prisoner with a unique understanding of the al Qaeda terrorist structure. He is the nephew of Khalid Sheik Mohammed, the mastermind of the 9/11 attack on the World Trade Center.

In 2006, when I was the chairman of the House Oversight Investigations Subcommittee on the Foreign Affairs Committee, I was investigating Yousef's movements and activities not only in the United States but in the Philippines. I even traveled to the Philippines to question authorities who had captured Yousef's roommate and co conspirator in the Bojinka plot.

In spite of that fact and in spite of the fact that I was looking into Yousef's terrorist activities and in spite of the fact that I had obtained new information about Yousef's phone calls right here in the United States and new information about his associates while he was in the United States, the Department of Justice still dismisses the effort and, more than that, they are obstructing a legitimate congressional investigation, refusing to permit this elected Member of Congress, a ranking member of a congressional investigating committee, to interview a Federal prisoner. They refused access to Yousef claiming that there is a ``ongoing investigation. "

This prisoner has been in jail for over 10 years. It is more likely that what we have here is an ongoing coverup and not an ongoing investigation. In fact, I have been told recently by a former member of the Justice Department that they were told routinely simply to give answers that there is an ongoing investigation even if no ongoing investigation was underway, but simply using it as a phrase to dismiss a request from Congress.

Well, this is outrageous, but it's typical of this administration. This is a lot more than just a hurtful pride on my part of being turned down.

This administration is setting a terrible precedent. What people have to understand, when I am turned down like this, is when there is a liberal Democrat in the White House, the President will have set that Members of Congress can simply be dismissed, and that when they are trying to do a congressional investigation need not be cooperated with, in fact,

can be obstructed. Is that the type of President that we want? Is that acceptable? It shouldn't be acceptable to Democrats and it shouldn't be acceptable to Republicans. Doesn't Congress have a right to talk to Federal prisoners. Are these the rules of engagement? Is it really the rules of engagement that we want for our government that Members of Congress and the legislative branch don't have a right to talk to Federal prisoners?

Well, that's apparently what the Bush administration is trying to establish as the executive authority, as executive authority, the right to deny congressional investigators access to Federal prisoners. The danger of this should be easy to understand, both on my side of the aisle, the Republican side, and the Democratic side of the aisle.

Again, the attitude, apparent in the treatment of this request, is not an aberration or is it some sort of situation where this is not really a representative way the President has acted with his authority. No, I am afraid that's not the case.

This request was first made and denied when the Republicans controlled the Congress and I was the chairman of the Investigative Subcommittee.

Now Congress has a Democrat majority. In my position as ranking member of the International Organizations, Human Rights, and Oversight Subcommittee of the House Foreign Affairs Committee, I have seen it time and time again.

Our subcommittee chairman, BILL DELAHUNT from Massachusetts, read in the newspaper that our President is negotiating a security agreement with the Iraqi Prime Minister that will govern the future relationship of our countries.

Now let me say that again. The Chairman of the Oversight Subcommittee on Foreign Affairs Committee is getting the information about a hugely important foreign bilateral security agreement by reading the newspaper. So, Chairman Delahunt conducted a hearing about the status of such an agreement and invited the administration to send a witness to testify before Congress.

How did the administration respond? They ignored the request. So the hearing was held with a private panel of witnesses, and, yes, the public has a right and an obligation to fully understand such commitments that are being made by the President in our name. In a democratic society, policy is made after having an open dialogue. George Bush was elected President, **not king**.

In another attempt last month, our subcommittee held another hearing on the Iraqi security agreement and, again, our panel invited and pleaded with the administration to provide a witness. Their response? Silence.

Our subcommittee held another, a third hearing on this topic. Again, our subcommittee invited the administration to attend and explain to Congress what kind of commitment our government has agreed to with the government of Iraq. Even our full committee chairman wrote letters asking for the administration to participate in the subcommittee hearing. All the requests to the administration by our committee and by the superiors in the full committee were ignored, except for one, and, in one instance, where the contact was made, and I am sad to say that once again this administration was less than honest on a matter of national importance, Chairman Delahunt's subcommittee was told by a White House staffer that the administration's unwillingness to participate in hearings was because "There is nothing to talk about because we haven't put pen to paper" on security, because they haven't put the pen to paper on the security agreement, supposedly.

Well, when confronted with the fact that the New York Times had written a story saying

that a 17-page agreement was being passed around, this White House staffer backtracked and quibbled.

This is unacceptable, it's dishonest, and it's typical. It's like saying there is an ongoing investigation; don't discuss anything anymore with me. There is nothing going on here. Now, there is something going on, just as, instead of talking and trying to negotiate about what type of spokesman we could have at a hearing, instead, what we get is an undermining of the congressional right to oversee for the foreign policy decisions of this administration.

This stonewalling prevailed until a few weeks ago, when Condoleezza Rice, Secretary of State Condoleezza Rice, a person and a leader who I deeply admire, testified at a hearing of the full International Relations Committee.

When asked about this issue, about witnesses not showing up from the State Department and this administration to explain to us in public and to discuss in public these very important agreements that are being negotiated with Iraq, she pledged at that time that there would be future witnesses dealing with this Iraqi agreement.

At least Condoleezza Rice, the Secretary of State, feels secure enough in this administration to do what's right and to talk directly to Congress and to send her people over to talk to us.

Unfortunately, we had to go all the way to the Secretary of State before we could get anybody in this administration to participate. Let me note, I am a supporter of the President's Iraqi policies. I have been a supporter since day one. I supported the surge, and I am not in favor of some of the propositions made by my friends on the other side of the aisle, which I consider would be a precipitous leaving of Iraq and would cause damage, I believe.

But that's not the point. The point is, Congress has a legitimate oversight responsibility and that the President of the United States should be discussing in public so that the public could understand why policy is being made rather than trying to secretly arrange a policy agreement and then surprise everybody, you know, as a done deal. Sadly, this administration's antipathy to the constitutional responsibilities of the legislative branch of government does not stop and end with my efforts and those of my subcommittee on investigations.

In October of last year, 22 of my colleagues and I wrote to the Acting Attorney General, Peter Keisler, regarding the pending lie detector test for former National Security Advisor Sandy Berger.

Madam Speaker, I submit for the Record, a copy of a letter concerning making that request of Acting Attorney General Peter Keisler.

October 10, 2007.

Mr. PETER D. KEISLER,  
Acting Attorney General,  
Department of Justice,  
Washington, DC.

DEAR ACTING ATTORNEY GENERAL KEISLER:

In 2005, former Clinton National Security Advisor Sandy Berger pled guilty to the mishandling and destruction of classified documents.

He admitted to entering the National Archives and unlawfully removing, then subsequently destroying, classified documents dealing with terrorist t related issues.

He removed the documents by stuffing them down his pants and in his suit jacket, presumably with the intention of getting rid of any damning evidence showing his involvement in the failure of our intelligence and law enforcement communities to prevent the Sept. 11th attacks prior to his testimony before the 911 Commission. These documents have never been recovered.

As part of a plea deal, Mr. Berger agreed to take a polygraph test to be administered by the Department of Justice. It has been two years since that agreement and Mr. Berger has yet to fulfill his obligation.

We are writing to officially request that as Attorney General you direct the Department of Justice without any further delay to administer a lie detector test to Mr. Berger and determine what documents were stolen and how our National Security was compromised. The Congress, and the American people, deserve to know the facts of this crime and what Mr. Berger was covering up. Therefore we respectfully request a directive be issued by your office ordering Mr. Berger to surrender to the Justice Department immediately and that a polygraph test be administered forthwith. Sincerely,

Dana Rohrabacher,  
Member of Congress.

In 2005, Sandy Berger pled guilty to the mishandling and destruction of classified documents. He admitted that he unlawfully removed and subsequently destroyed classified documents from the National Archives. These documents dealt with the failure of our intelligence agencies during the Clinton administration to prevent the horrendous attacks on 9/11.

As part of his plea, Mr. Berger agreed to a lie detector test which was given by the Department of Justice. This would determine what documents had been stolen by Mr. Berger. We are still waiting for that test to be administered.

As a member, as a senior member of the House Foreign Affairs Committee, I was and still am rightfully concerned about the length of time between his crime and the administration of his lie detector test.

So on October 10, 2007, I sent a letter, that letter signed by 22 of my colleagues, asking the Department of Justice why the test had not been administered.

On October 22, 2007, my office received a form letter acknowledging the DOJ's receipt of our inquiry. It was signed with an illegible signature. We have no idea who signed it. All we know is that he or she penned it "for" next to a printed name Brian Benczkowski. Principally, he is the principal Deputy Assistant Secretary General.

We were also given a tracking number so we could track any future correspondence. In spite of that fact, we received a computer-generated response and a tracking number to an official congressional inquiry, okay, signed by 23 Members of Congress. We had hoped that we would actually have an answer to our request and that there would actually be a human being rather than a tracking number that we could look to.

Well, we got our wish and we got a letter back. On January 24, 2008, 94 days after the letter, we received a response, and I submit the response for the Record.

DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC,  
January 24, 2008.  
Hon. DANA ROHRBACHER,

House of Representatives,  
Washington, DC.

DEAR CONGRESSMAN ROHRBACHER:

This is in response to your letter, dated October 10, 2007, in which you requested that the Department of Justice administer a polygraph examination to Mr. Samuel Berger, who pleaded guilty in April 2005, to violations of federal law relating to the removal of copies of classified documents from the National Archives.

We appreciate your interest and have enclosed a copy of our letter, dated February 16, 2007, to the Honorable Henry A. Waxman, Chairman of the Committee on Oversight and Government Reform, advising him of our views regarding the Minority Staff Report that was issued regarding this matter. As stated in our response to Chairman Waxman, we believe that there are no facts that would justify a polygraph of Mr. Berger at this time. We are sending an identical response to the other Members who joined in your letter to us. Please do not hesitate to contact this office if you would like additional assistance regarding this or any other matter.

Sincerely,

Brian A. Benzckowski,

Principal Deputy Assistant Attorney General.

The letter was dismissive and said that the DOJ found no reason to issue a polygraph test to Sandy Berger, and attached was an old letter the DOJ had sent to Chairman Waxman of the House Oversight and Government Reform Committee almost a year before our correspondence. The letter this time was signed by Brian Benzckowski.

Madam Speaker, I have been a Member of Congress for 19 years. I have never seen such a pattern of blatant disregard and outright disdain for Members of Congress. If Sandy Berger is not to be polygraphed to verify the documents that were stolen from the Archives, we need to know why such verification is not being done. This administration wouldn't even give a respectable answer to the rightful inquiry of Members of Congress of why we are not verifying through a polygraph test what documents were stolen from the National Archives by the former National Security Adviser.

On the one hand, this President believes he has a right to make demands on us. The President said in his State of the Union address that Congress must act on certain issues. We must do as he wishes. We must pass legislation he deems necessary. Yet while 23 Members of Congress write his Justice Department a serious letter of inquiry about a national security issue, we get a computer-generated form letter and a copy of an old response to a different inquiry. The bad attitude I am detailing is pervasive.

The handling of a proposed totalization agreement with Mexico is again yet another example. The totalization agreements, and totalization agreements are not necessarily a bad thing, they can serve a useful function. Large corporations both in the United States and abroad often assign people to work in an overseas office for several years. During these years, employers are double taxed. They pay both Social Security and the equivalent tax in their native countries. Allowing the Social Security Administration and foreign agencies to give credit under one system towards retirement makes sense if there are a limited number of people involved and the people who are involved in this are working here legally and temporarily. The concept itself is not alarming.

However, this is emphatically not the case with Mexico. We have millions of Mexican citizens living illegally in the United States. This is not a limited number of Swedish or

Japanese executives who will only work here for a number of years and then go home. Not only are Mexicans not going to return to Mexico; the Mexican Government encourages them to stay in the United States. After all, if the U.S. is going to pay for their health care, their education and now their retirement, why should Mexico be bothered. Knowing the volatility of the American people on both the Social Security and illegal immigration issues, the totalization negotiations with Mexico were kept totally under wraps. Now remember, these negotiations with Mexico started in 2002 with a Republican-controlled Congress. One would think that a Republican administration would at the very least advise Congress, perhaps giving a status report, concerning such diplomatic efforts as the totalization negotiations with Mexico.

Well, Congress did not know the details until it hit the press. Worse, these press releases on the agreement, put out by the administration, were misleading and it appears that Congress was being misled as to just what the administration had agreed to concerning Social Security benefits for Mexican nationals illegally working in the United States. Now, I have proposed legislation to ensure that no work done while someone is in this country illegally should be counted towards a Social Security benefit. The administration apparently agreed in the totalization agreement negotiations that illegal aliens from Mexico will be eligible for the same treatment under Social Security as U.S. citizens without ever becoming a legal resident or citizen. It took a long, drawn-out legal battle in the form of a Freedom of Information lawsuit to get the details of this agreement from the administration. Again, stonewalling and concealment, whether it deals with Iraq or whether it deals with a totalization agreement dealing with Social Security rights for the people from Mexico who come to our country illegally.

In both cases, regardless of how you feel about the Iraq policies or Social Security for illegal immigrants into our country, the point is we should not be keeping this debate secret. Congress has a right to oversee such agreements, and we should have a public dialogue about these types of decisions.

This administration has, as I am pointing out, a history of concealment and in some cases of distorting and actually not telling us the truth about what is going on with these negotiations and agreements that are happening behind closed doors.

Once Congress and the public found out about the agreement in the totalization agreement, a fire storm broke out not just about giving illegals Social Security but about keeping it secret from Congress. Yes, as I said, Congress, as well as America's seniors, have a very right to know if the President of the United States is in the process of signing an agreement to give Social Security benefits to illegal immigrants. It is something we should discuss. It is not something where the President should try to make an agreement behind closed doors. In this case the administration is undermining the public's right to know and the Congress is being left in the dark.

And please remember, the danger from this agreement is not past. Due to the public outrage, it has been put on the back burner, but the President at any time can submit this agreement to Congress even if he has not detailed it for us now so we can discuss it. What I am describing is a pattern of arrogance and contempt, and that is especially true not just with Social Security but with broader issues relating to illegal immigration and on issues dealing with Mexico.

The tragic case of wrongly imprisoned Border Patrol agents Ignacio Ramos and Jose Compean exemplifies the worst aspects of this administration's attitude problem, and

will forever leave a black mark on this administration.

President Bush has himself made decisions that directly led to the ongoing tragedy which sees these two Border Patrol agents languishing in solitary confinement; and that's where they are today, in solitary confinement, being treated worse than we treat the terrorists in Guantanamo. That is where we are now. That is what they have had to endure in that solitary confinement for over a year.

Now, this is clearly a questionable case, but President Bush has deliberately dug in his heels to protect his good friend and young protege, the prosecutor, U.S. Attorney Johnny Sutton. Rather than entertain the probability that a terrible injustice was in progress and instruct the Justice Department and the Department of Homeland Security to cooperate so Congress could get to the bottom of this nightmare, this President has thumbed his nose at the congressional concerns and initiated a policy of obstruction and denial in terms of Ramos and Compean.

Since the Ramos and Compean case was brought to my attention in September 2006, I have written over a dozen letters to this administration requesting various documents regarding the harsh prosecution of Ramos and Compean. I have been joined by several other Members of Congress in this effort, including Congressmen POE, CULBERSON, and MCCAUL. These three Members of Congress, in fact, attended a briefing on Ramos and Compean's prosecution by the Department of Homeland Security Inspector General's Office on September 26, 2006.

In that briefing, serious questions were raised by these three Members about the fundamental justification for this prosecution to begin with. The President and his lap-dog prosecutors would like us to believe that they have no discretion, but these Members of Congress who have long histories in the law and in prosecution, they know. They could see there was something wrong because we know that the actual charges being brought against Ramos and Compean, and they were fully aware of this because these Members of Congress, as I said, have a big background in law, they knew that what charges were being brought were totally at the discretion of the prosecutors. The prosecution's hands were not tied.

What were the grounds for charging these men with crimes like attempted murder, assault with a deadly weapon, the unlawful discharge of a firearm during a crime of violence, and a Federal civil rights violation?

These charges that could have put Ramos and Compean in prison for 10-20 years were totally at the discretion of the prosecution. Did this fit the crime? If there was any crime at all that was committed, why would they be charged with this overwhelming attack by the prosecution knowing that by making these charges these men are going to end up being put away for one or two decades of their life.

These two Border Patrol agents had wounded a fleeing illegal alien drug smuggler who was escaping after assaulting one of the officers who had intercepted the drug dealer during an attempt to bring \$1 million worth of drugs into this country. Although they were never intended by Congress to be applied in this way, the gun laws which were applied by the prosecution, the gun law of mandatory prison sentence, was applied to the law enforcement officers in this case, and these law enforcement officers had made a split-second decision to discharge their weapons. Is that right? Isn't there some question about that, considering they threw the book at these guys?

The prosecutors knew that it was not the intent of Congress that they should be charging

law enforcement officers with split-second decisions in the discharge of a weapon; but they threw the book at the agents, including the charges that required tens of years of mandatory imprisonment. Again, it was at their discretion that they made these charges. When Congressmen POE, CULBERSON, and MCCAUL asked why the most serious charges that could be leveled at the Border Patrol agents were initiated by the prosecutors, and why the prosecutors took the word of the drug dealer that he had no weapon rather than the word of the law enforcement officers, the DHS officials, briefing these Congressmen, assured them that this was a legitimate and righteous prosecution. These were, according to the DHS briefing given to these Members of Congress, these were rogue cops. Ramos and Compean were rogue cops, and the Congressmen were told they actually confessed that they knew that the drug smuggler was unarmed and that the agents didn't really feel threatened.

And the biggest lie of all, the Department of Homeland Security briefer insisted that Ramos and Compean had told fellow officers the day of the incident that they "wanted to shoot a Mexican" that day. That charge raised eyebrows considering that the accused, Ignacio Ramos and Jose Compean, are themselves Mexican Americans married to Mexican American wives with Mexican American children. Sure, they just go out and intentionally shoot some Mexicans that day. Sure.

This is what Members of Congress were told in an official briefing. Asking for proof, the three Congressmen who were being briefed were told that the charges were documented in the reports of the investigative officers. The Department of Homeland Security briefer promised to provide this proof that Ramos and Compean had actually intended that day to go out and "kill a Mexican." Of course, the proof never came.

The Congressmen kept asking. Calls weren't returned. The Department of Homeland Security stalled for 5 months. Members asked for copies of the completed report of investigation which should have backed up the alleged facts that were told to Members during the September 26 briefing to the Members of Congress.

Months passed, and nothing more. Just months passed. Nothing from the Department of Homeland Security. Several letters and public pressure arose, and the Department of Homeland Security finally released a redacted version of the official report of investigation in February 2007. And surprise, surprise, the alleged confession of Ramos and Compean was nowhere to be found in that document. The documentation of the charge that they had brazenly proclaimed their intent to kill a Mexican was not there. But that charge was repeated over and over again.

How could this be? How could the Department of Homeland Security officials, how could they assure Members this was a solid prosecution and that evidence existed that Ramos and Compean were guilty and they wanted to shoot a Mexican? These were flat out lies told to Members of Congress who were being officially briefed by this administration.

During a Department of Homeland Security subcommittee hearing on February 6, 2007, DHS Inspector General Richard Skinner was questioned by Congressman Culberson about this issue. Under oath Skinner acknowledged the information given to the Texas Congressman was in fact false, but he smugly justified his blatant and willful lying by calling it "mischaracterization unfortunately repeated at the briefing." No, Mr. Skinner, it was a lie, no matter how colorful the euphemism.

Ollie North was prosecuted on a charge far less egregious than what we're talking about

now. Ollie North gave, or so it was alleged, misinformation to congressional staffers who were not part of an official briefing of Members of Congress; yet, he was prosecuted. This administration ends up lying in a briefing to Congress and shrugs it off. To this day, absolutely nothing has been done about this crime. And yes, lying to Congress, especially about an issue of this magnitude, is a crime.

Administration officials deliberately misled Members of Congress in order to discourage them from pursuing the Ramos and Compean case, and no one has been held accountable for this crime. The Ramos and Compean case has stunk since day one. The President, instead of looking into the matter, which he should have done, has dug in his heels, permitting his appointees to slander these two agents.

Even worse, the President has personally made decisions that have resulted in these two agents languishing in solitary confinement. They are in solitary confinement because of decisions made directly by the President of the United States. U.S. Attorney Johnny Sutton publicly labeled Ramos and Compean as corrupt; yet, again, when asked for some sort of justification on this, what corruption charges were brought against these people, there were no charges of corruption.

To say that this is a mean-spirited and vindictive prosecution is to put it mildly. This case demonstrates why hearings are an integral part of the check-and-balance system created by our Founding Fathers. It is in this venue that the executive branch is held accountable for their actions. Under oath, it was only when an administration official was under oath that the lies about Ramos and Compean were admitted. But this administration has decided to thumb its nose at that obligation and has decided not to make its case under oath at a public hearing and, instead, has actually said things, as I say, calling Ramos and Compean corrupt in radio interviews and such.

Chairman WILLIAM DELAHUNT graciously approved my request to hold hearings on the Ramos and Compean case. In doing so, an official subcommittee investigation into the case in preparation for the hearing was authorized. During the course of this investigation, the resistance from the Department of Justice, Homeland Security, and State was consistent with the arrogance and obfuscation that flows through this administration from the top down. Our hearing had to be postponed for months because of the administration's refusal to provide documents or to send the necessary witnesses to testify before the subcommittee, citing that the committee did not have proper jurisdiction; therefore, the U.S. Attorney Johnny Sutton, the Department of Homeland Security Inspector General Skinner, or any of his other investigators need not appear.

That decision was clearly made by the White House.

Our Government provided a flawed immunity agreement, free health care, unconditional border crossing cards to an illegal alien criminal drug smuggler in exchange for his testimony that sent Border Patrol Agents Ramos and Compean to prison.

Our Government kept secrets from the jury that the drug dealer intercepted by Ramos and Compean had hauled another shipment of drugs across the border, this, while on a Government-issued border crossing pass.

Clearly, this is well within the jurisdiction of an oversight investigative committee responsible for overseeing relations with other countries, including Mexico, and including international drug smuggling. Clearly, the public has a right to know about these things.

This administration apparently believes there is no obligation to answer questions in public and under oath about the actions or policies of the administration. And in preparation for that hearing, we made a request, and request after request, countless phone calls, and even a freedom of information lawsuit by a watchdog group, Judicial Watch, and the administration still refuses to release copies of the border crossing cards that were issued to the drug smuggler in this case. Of course, they are claiming, when we make this request about these cards issued to the drug smuggler that permitted him to freely go across the border, they say that the drug smuggler is protected under, get this, "the privacy act." This is what the Justice Department tells us.

I was instructed by the Justice Department to obtain a privacy waiver in order that that information be released, a privacy waiver for an illegal alien criminal. This is absurd and just another example of the condescending and dismissive attitude. This type of obstructionism, however, is the rule, not the exception, of this administration.

By the way, due to a bureaucratic fluke, the border crossing cards, we actually got a hold of them, and this is how we have learned that this person that was involved with the Ramos and Compean event actually took a second shipment of drugs.

I submit for the Record the letters and copies of these exchanges with the administration.

CONGRESS OF THE UNITED STATES,

HOUSE OF REPRESENTATIVES,

Washington, DC,

September 12, 2006.

Attorney General Alberto Gonzales,

Department of Justice,

Washington, DC.

DEAR ATTORNEY GENERAL GONZALES:

We are writing to you as members of Congress with deep concern over the Justice Department's wrongheaded prosecution of two U.S. Border Patrol agents who were simply doing their jobs to protect our homeland.

Agents Ignacio Ramos and Jose Alonso Compean should have been commended by our government for their actions last year in attempting to apprehend a Mexican drug smuggler who brought 743 pounds of marijuana across our border. But because of an incomprehensible prosecution by the U.S. Attorney's Office--including granting full immunity to the smuggler so he could testify against our agents--these men may soon receive 20-year prison sentences for firing shots at the fleeing smuggler, who they believed carried a gun. The smuggler--who received complete medical care at William Beaumont Army Medical Center in El Paso, Texas--is now suing the Border Patrol for \$5 million for violating his civil rights!

The Justice Department's unjust prosecution does nothing but tie the hands of our Border Patrol and prevent them from securing America against a flood of illegal immigrants, drugs, counterfeit goods and quite possibly, terrorists. This demoralizing prosecution puts the rights of illegal alien drug smugglers ahead of our homeland security and undermines the critical mission of better enforcing our immigration laws. The convictions against these agents demand oversight.

Due to significant concerns over the circumstances surrounding the prosecution of Agents Ramos and Compean, the House Judiciary Committee has already recognized the need for a thorough review of this case by calling for Congressional hearings and an

investigation of the Department of Homeland Security, Office of the Inspector General, U.S. Customs and Border Patrol and the U.S. Attorney's Office.

Mr. Gonzales, we strongly urge the Department of Justice to postpone the sentencing of Agents Ramos and Compean, and to reopen their case for a fuller investigation of the facts.

Sincerely,

Walter B. Jones, Tom Tancredo, Ted Poe, Charlie Norwood, Ernest Istook, Dana Rohrabacher, Sue Myrick, Virginia Foxx, John Duncan, Barbara Cubin, Jim Ryun, Virgil Goode, Ginny Brown-Waite, Gary G. Miller, Kenny Marchant, Ed Whitfield, Ed Rover, Dan Burton, Robin Hayes, Henry Brown, John Campbell, Michael Bilirakis, Members of Congress.

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DEPARTMENT OF JUSTICE,  
OFFICE OF LEGISLATIVE AFFAIRS,  
Washington, DC, February 16, 2007.

Hon. HENRY A. WAXMAN,  
Chairman, Committee on Oversight and Government Reform,  
House of Representatives, Washington, DC.

DEAR CHAIRMAN WAXMAN:

This letter responds to concerns expressed in the January 9, 2006, Minority Staff Report, "Sandy Berger's Theft of Classified Documents: Unanswered Questions" ("the Report"). The Report alleges failures in the Department's handling of the Berger investigation. We have reviewed the Report and respectfully disagree with its characterization of the Department's investigation.

The Department's investigation began when we were first advised of Berger's actions by the National Archives and Records Administration Inspector General (IG) on October 15, 2003, almost two weeks after Archives staff and agents of the IG had begun their own investigation of the incident. The Department and the Federal Bureau of Investigation (FBI) devoted significant resources to the task, including prosecutors and FBI Special Agents trained in the investigation of national security cases. The FBI conducted over 50 interviews, made inspections of the Archives facilities, and reviewed thousands of pages of documents, in addition to other law enforcement efforts. We examined Mr. Berger's conduct during all four of his visits to the Archives.

The Report suggests that the Department did not inquire about Mr. Berger's first two visits to the Archives, citing the IG's recollection that the Department had informed the IG in April 2004 that the Department had not questioned Mr. Berger about his May 2002 and July 2003 visits. This suggestion appears to be based on a misunderstanding of the sequence of the Department's investigation. As of April 2004, the Department had not yet asked Mr. Berger any questions, as he had not yet agreed to an interview. When the Department did subsequently interview Mr. Berger, the Department questioned him regarding all of his visits. Furthermore, the Department questioned every witness with knowledge of Mr. Berger's visits about all of his visits. Neither Mr. Berger nor any other witness provided the Department with evidence that Mr. Berger had taken any documents beyond the five referenced in the plea agreement.

In this, as in all criminal investigations, the Department's obligation was to gather the available testimonial and documentary evidence and then rigorously put that evidence to

the test--often pitting the memory of witnesses against the written record supplied by the documents--in order to determine as accurate a picture as possible of what transpired. In this case, as in others, some of the initial allegations did not withstand further analysis. For example, the Report suggests that the Department did not give sufficient weight to the accounts of Mr. Berger's activities provided by Archives staff, most notably the e-mail sent on September 2, 2003, from Official A to Senior Official 1. In this e-mail, Official A described an encounter with Mr. Berger that day in which he saw Mr. Berger "fiddling with something white which looked to be a piece of paper or multiple pieces of paper" down by his ankle. The Department was fully aware of this e-mail, and knew that Berger had in fact removed his notes and a document on the visit of September 2, 2003. The e-mail was a significant piece of information that the Department appropriately investigated.

The account described in the e-mail was evaluated in conjunction with Official A's interview with the IG's agents on October 15, 2003, conducted before the Department was involved in the case. The recording and transcript of the interview with the IG's Agents were reviewed in full in the course of our investigation. According to the IG's recorded interview, Official A repeatedly stated that the interaction was "very quick" and he could not be certain what he saw. Further, Official A told the IG's Agents, "I could not, um, you know, swear that what I saw was documents, but it certainly unnerved me enough." Later, Official A was asked by the IG's agents how he was feeling and he responded, "very unsettled. I mean, it's, it's unsettled but at the same time I mean, not, not unsettled in the way that I'm a hundred percent sure of what I've seen and, and I'm sick, just like, did I see what, what I, you know possibly could ..... There was a certain grey area in my mind and whether this was actually a document, a piece of paper."

When Official A was interviewed later by the FBI on October 17, 2003, he once again expressed uncertainty about what he saw, diminishing further the probative value of his e-mail. The e-mail, and Official A's interviews with the IG's agents and the FBI, had to be further weighed against the evidence that after the e-mail was sent and after Official A discussed with Senior Official 1 what he saw, Senior Official 1 contacted a supervisor, but the Archives staff did not confront Mr. Berger, did not search him, and did not contact any security or law enforcement officials. In light of these additional facts, the Report's suggestion that the Department somehow failed to consider the full import of the e-mail and related information is unfounded.

The Department's analysis of the other documentary and testimonial evidence in this case was similarly thorough. And at the conclusion of its extensive investigation, the Department secured a guilty plea from Mr. Berger, pursuant to which he admitted to "conceal[ing] and remov[ing]" five copies of classified documents from the Archives, concealing them at his office, and "cut[ting] three of the documents into small pieces and discard[ing] them"--all in violation of 18 U.S.C. §1924. April 1, 2005 Factual Basis for Plea at 2. The Department stands by its investigation and believes that this resolution was the best one possible in light of the available evidence,

The Report also suggests that, as a result of Mr. Berger's conduct, the 9-11 Commission may have been deprived of the information necessary to render its final report. The Department, however, has no evidence indicating that this suggestion is accurate. In the course of its investigation, the Department interviewed numerous witnesses who might have had knowledge of any missing items. None of these witnesses, however, provided

the Department with evidence that Mr. Berger's conduct deprived the 9-11 Commission of information or documents. Nor has the IG ever advised us--either at the time of our investigation or at any time since--of any evidence that Mr. Berger had taken any documents other than the five referenced in the plea agreement.

Thus, not the Department, the FBI, or the Archives IG has found any evidence that Mr. Berger took any documents other than the five referenced in the plea agreement. The Department's public statements made after Mr. Berger's April 1, 2005, guilty plea reflected the results of its extensive investigation into this matter, and were based solely on the evidence gathered in that investigation and contained in the detailed factual statement--the contents of which Mr. Berger admitted as a condition of his plea agreement.

Under the terms of his plea agreement, Mr. Berger must cooperate with the Archives IG and make himself available for any cooperation with the government. Indeed, on July 8, 2005, after the plea and prior to sentencing, the IG, along with Department attorneys and FBI agents, also questioned Mr. Berger. At this meeting, Mr. Berger was again questioned about all of his visits to the Archives, including those that occurred in May 2002 and July 2003. Again, Mr. Berger's answers in this session were evaluated and compared to his previous answers and the vast amount of evidence collected in the investigation.

In light of Mr. Berger's disclosures during an extensive interview in March 2005 and his acceptance, as part of his guilty plea, of a detailed factual basis for the charges against him, the judgment of the Department and the FBI was not to administer a polygraph examination to Mr. Berger. The Department is aware of no new facts regarding the law enforcement aspects of this investigation to suggest that it should revisit that judgment. In closing, I would like to emphasize that the Department's silence with respect to certain other factual assertions and conclusions in the Report should not be mistaken for agreement. Indeed, to cite but one additional example, the Department disagrees with both the manner in which certain of its employees were interviewed and the manner in which their statements to Committee staff were presented in the Report. We nevertheless hope that this letter provides you assurance that the Department takes investigations regarding the mishandling of classified information and documents very seriously, and vigorously investigates and prosecutes those who endanger our national security. We appreciate your attention to this matter. Sincerely,

Richard A. Heiting,

Acting Assistant Attorney General.

This is plea after plea from Members of Congress, I might add that even a majority of Members of Congress have voted for and supported on both sides of the aisle. Chairman Delahunt of our Investigative Subcommittee knows that there's something wrong with this case. As I say, it stinks and has stunk from the beginning.

We have asked for the President to intervene on behalf of Ramos and Compean personally, either by pardoning or commuting their sentences. These requests have been ignored over and over again. And last year, I personally reached out to the President to take the pressure and confrontation out of this issue. I suggested that the President direct the Department of Justice to request that Ramos and Compean be permitted to remain free on bond pending their appeal. Even common criminals in our society are able to stay out pending appeal of a decision.

And what was the response? The White House released a press release the next day, it

was issued the very next day, proclaiming that the administration opposes letting Ramos and Compean out pending appeal and that no special consideration would be granted to anyone.

Now, that's a lot of holier than thou rhetoric, okay? So no special consideration was going to be given to anyone, much less these two Border Patrol agents. Now, that sounds righteous, a position of not making any exceptions, except, of course, for the fact that a short time later, White House Aide Scooter Libby had his sentence commuted by the President in a heartbeat.

For the record, I found out, and let me just note, I believe that commuting Scooter Libby's sentence was justified. But it's totally inconsistent with what we had been told of why Ramos and Compean couldn't even be considered to let them out, even waiting, pending appeal.

Yeah, Scooter Libby got a raw deal. But the fact is that what's happening, what we see is only members of the President's personal clique get such consideration. It's clear, that's evident, and it's disgraceful.

It is truly with a heavy heart, Madam Speaker, that I stand here reciting example after example of the maliciousness and condescending attitude exhibited by this administration. It is a problem that's flowing from the top.

When I hear my friends on the other side of the aisle accusing this administration of stonewalling, of cover ups, or thwarting investigations, I sadly must concur with them. Even though I may disagree with what the policy issue of the day is, I have to agree that Congress is not being treated with respect and that the President is engaged in obfuscating and in stonewalling of rightful requests by this body.

This White House exemplifies needless hostility, turf jealousy, and obstructionism. The American people should know it and should know that these charges come not from a partisan Democrat, but from a lifelong conservative Republican. I have worked in the White House. I worked for 7 years as a special assistant to President Ronald Reagan. Ronald Reagan, as much as people can disagree or agree with the policies that he espoused, was a person who never acted arrogantly towards others. He never, when he was giving State of the Union messages, never used the word "must," never made demands. And I think that President Reagan would not feel comfortable with the type of attitude that is exemplified in this administration. He, instead, wanted to reach out to people and cooperate.

This administration seems to want to just bulldoze whoever gets in their way and does not have the human concern for other people, especially for people like Ramos and Compean, the little guys, that we saw in Ronald Reagan, which made him so popular and successful.

I would ask that the rest of my remarks be put into the Record. Thank you very much for permitting me this hour.

And to the American people, I say, carefully consider who our leaders are going to be and carefully consider the issue of the day. We have a wonderful democratic society. There's a balance of power here set up by our Founding Fathers. And it's important, whether you're Republican or Democrat, that we maintain this balance of an authority, the legislative, executive, and judicial in this country, and we should not be setting precedents that the President of the United States has the lion's share of the power in this great democracy of ours. The power is rested in these three branches and in the people themselves. END