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## Probe of Hill Leaks On 9/11 Is Intensified FBI Seeks Records From 17 Senators

By Dana Priest  
Washington Post Staff Writer  
Saturday, August 24, 2002; Page A01

The FBI has intensified its probe of a classified intelligence leak, asking 17 senators to turn over phone records, appointment calendars and schedules that would reveal their possible contact with reporters.

In an Aug. 7 memo passed to the senators through the Senate general counsel's office, the FBI asked all members of the Senate Select Committee on Intelligence to collect and turn over records from June 18 and 19, 2002. Those dates are the day of and the day after a classified hearing in which the director of the National Security Agency, Lt. Gen. Michael V. Hayden, spoke to lawmakers about two highly sensitive messages that hinted at an impending action that the agency intercepted on the eve of Sept. 11 but did not translate until Sept. 12.

The request suggests that the FBI is now focusing on the handful of senior senators who are members of a Senate-House panel investigating Sept. 11 and attend most classified meetings and read all the most sensitive intelligence agency communications. A similar request did not go to House intelligence committee members.

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The request also represents a much more intrusive probe of lawmakers' activities, and comes at a time when some legal experts and members of Congress are already disgruntled that an executive branch agency, such as the FBI -- headed by a political appointee -- is probing the actions of legislators whose job it is to oversee FBI and intelligence agencies.

The FBI declined to comment. Most senators are away for the August recess, but Sen. Bob Graham (D-Fla.), who heads the Senate intelligence committee, said through a spokesman that he is cooperating with the investigation and has asked staff members to gather the requested records.

In recent weeks, FBI agents finished questioning nearly 100 people, including all 37 members of separate House and Senate intelligence committees and some 60 staff members. At the conclusion of their interviews with members and staff, FBI agents typically asked them if they would be willing to take polygraph tests. Most declined.

Requesting calendars, phone logs and schedules over a two-day period "has much more of a fishing-around feel to it, trying to find out which senators are talking to the media," said Charles Tiefer, a University of Baltimore law professor and former House deputy general counsel. "That might frighten senators out of the business of telling the public [through the media] what they need to know."

Some officials generally involved in the probe believe that quashing the release of information to the public about embarrassing or sensitive information related to the Sept. 11 attacks was exactly what the administration intended when it sent Vice President Cheney to chastise committee members for unauthorized leaks that end up in news reports.

Others say that although references to the intercepts had been in print before, the specific words in messages, which might be code words, were never released. Those code words, U.S. intelligence officials said, could well have tipped off the individuals targeted and dried up a source of valuable information.

On June 19, CNN reported the contents of two messages based on NSA intercepts. The Arabic-language messages said, "The match is about to begin," and "Tomorrow is zero hour." Other news outlets, including The Washington Post, also reported on the intercepts.

The NSA, based at Fort Meade, is one of the government's most secretive intelligence agencies. Much of its information carries a higher classification than other sorts of intelligence. It is illegal to release classified information.

For that reason alone, other legal experts knowledgeable about executive-legislative branch relations said that, in a case like this, "criminal matters trump everything else."

Neither congressional historians nor legal experts could recall any situation in which the FBI was probing a leak of classified information in this way.

The closest example cited is the 1972 Supreme Court case involving Sen. Mike Gravel (D-Alaska), who read portions of the classified Pentagon Papers to reporters attending a Senate public works subcommittee hearing on June 29, 1971.

The papers revealed secret war plans and the Joint Chiefs of Staff's opposition to any limits on bombing in North Vietnam and were classified, although some by then had been published in the press.

Before he began the three-hour-long reading, Gravel stated: "I will not accept the notion that the president of the United States can manipulate the United States Senate into silence. It is my constitutional obligation to protect the security of the people by fostering the free flow of information absolutely essential to their democratic decision-making."

He was subpoenaed to testify before a grand jury, as was his aide, as part of an inquiry into the release of secret documents. Gravel challenged the inquiry as a violation of his congressional immunity.

The high court found that the constitutional "speech or debate" clause providing immunity from arrest to legislators only applied in matters that were "an integral part of the deliberative process and communicative process" in considering legislative actions. The clause "does not privilege either senator or aide to violate an otherwise valid criminal law in preparing for or implementing legislative acts."

If publishing the papers, it said, was a crime, "it was not entitled to immunity."

Legal experts said that the privilege protected during speech and debate does not extend to leaking classified information used by legislators to deliberate over legislative matters.

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##### **Business Section**

## Hunting Terrorists And Leaks

WASHINGTON, June 21, 2002

The joint congressional inquiry into the Sept. 11 attacks ended a third week of closed-door hearings with a request for the Justice Department to hunt down the sources of a leaked news story.

At President Bush's direction, Vice President Dick Cheney called the chairmen of the panel to complain that news organizations were reporting the contents of two Sept. 10 messages intercepted by the National Security Agency. The messages, which warned of an impending major event the next day, weren't translated by the NSA until the day after the attacks.

"We will cooperate with the FBI in any way possible" to find out how the information became public, said Rep. Porter Goss, R-Fla., chairman of the House Intelligence Committee.

In addition to dealing with the leak issues, the committees revamped their schedule Thursday.

Hearings, which were to have been opened to the public starting next week, will now be postponed until after July Fourth. It is uncertain that they will be public even then.

Cheney called Goss and Senate Intelligence Committee chairman Bob Graham, D-Fla., "to express the president's concerns about this inappropriate disclosure," White House spokesman Ari Fleischer said.

Fleischer called the disclosure of the language of the NSA intercepts "alarmingly specific."

Goss said the Justice Department investigation was necessary because committee members are entrusted to keep classified information secret, and undercover operatives or U.S. officials could be endangered by such leaks.

"We've got people out in harm's way who are conducting a lot of serious business," Goss said.

Concern about possible leaks has been a key reason the White House has opposed setting up an independent commission to investigate the attacks. The commission has been sought by some lawmakers and relatives of the victims.

Bush has said the intelligence panels were better positioned to avoid leaks. They "understand the obligations of upholding our secrets and our sources and methods of collecting intelligence," he said last month.

But Bush has clashed with Congress before over leaks. On Oct. 5, he issued a memo limiting sensitive congressional briefings to the top leaders of the House and Senate and their intelligence committees. He dropped the restrictions a week later after getting assurances from Graham and Goss that they would rein in their members.

The messages intercepted by the NSA were recorded in two separate conversations and contained the phrases, "Tomorrow is zero hour," and "The match is about to begin," an intelligence source said.

The messages were believed to be recorded from telephone conversations.

The committees said the staff is inundated with information from intelligence agencies, requiring extensive work before there are further hearings.

In addition, the committees are having discussions with the Justice Department regarding possibly declassifying information about Zacarias Moussaoui, who faces trial as an alleged conspirator in the Sept. 11 attacks.

The committees want some information about Moussaoui to be available for future hearings. The Justice Department is weighing whether declassifying the information will jeopardize its criminal case. The committees

also are having discussions with various intelligence agencies about declassifying information.

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## NATIONAL NEWS

### WHITE HOUSE RIPS 9/11 LEAKS

By DEBORAH ORIN and BRIAN BLOMQUIST

June 21, 2002 -- WASHINGTON - The White House yesterday hit the roof over leaks of ominous pre-Sept. 11 messages - and Congress asked the Justice Department to investigate the security breach.

White House spokesman Ari Fleischer publicly complained about the leaks to the media of two messages intercepted Sept. 10 by the National Security Agency, while Vice President Dick Cheney called leaders of the congressional 9/11 probe to express his fear that national security could be put at risk.

Leaders of the congressional intelligence panel responded to the scolding by asking the Justice Department to launch an investigation into the leaks - and suggested committee lawmakers would be subject to interviews and lie-detector tests by FBI agents.

Goss and Senate Intelligence chairman Bob Graham (D-Fla.) said they decided to ask Attorney General John Ashcroft for the investigation after the angry call from Cheney.

"The vice president was not a happy man," Graham said.\

The probe will focus on the National Security Agency's intercepts of Sept. 10 messages saying, "The match begins tomorrow" and "Tomorrow is zero hour," which weren't translated from Arabic until Sept. 12.

Those messages were relayed to the intelligence

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committee in a closed-door session on Wednesday, and Fleischer said President Bush was "deeply concerned" they were leaked because the "alarmingly specific" details could alert terrorists they're being overheard.

Emphasizing the gravity of the disclosure, Fleischer noted U.S. officials were able to eavesdrop on Osama bin Laden's satellite phone - and pinpoint his location - but as soon as that priceless secret was leaked in 1998, bin Laden stopped using the phone.

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**NEWS**

June 21, 2002

## Hill intelligence chiefs ask for investigation of leaks

**ASSOCIATED PRESS**

The chairmen of a joint congressional committee investigating pre-September 11 intelligence failures said yesterday they had asked the attorney general to investigate whether the panel leaked classified information.

"We will cooperate with the FBI in any way possible," while the Justice Department and the FBI investigate if or how such leaks occurred, said Rep. Porter J. Goss, Florida Republican and chairman of the House Select Committee on Intelligence.

Vice President Richard B. Cheney had complained to the two chairmen earlier yesterday about leaks that he believed led to the disclosure of the National Security Agency's Sept. 10 discovery of at least two messages in Arabic. The messages suggested a major event was to take place the next day.

At President Bush's direction, Mr. Cheney called Mr. Goss and Sen. Bob Graham, Florida Democrat, chairman of the Senate Select Committee on Intelligence, "to express the president's concerns about this inappropriate disclosure," White House spokesman Ari Fleischer said.

Mr. Fleischer called the disclosure of the language of the messages "alarmingly specific."

Mr. Goss said the Justice Department investigation was necessary because committee members are entrusted to keep classified information secret, and undercover operatives or U.S. officials could be endangered by such leaks.

"We've got people out in harm's way who are conducting a lot of serious business," Mr. Goss said.

The Sept. 10 messages were not translated until Sept. 12. Intelligence agencies aren't sure if it they were warnings of the attacks on the World Trade Center and Pentagon, an intelligence source said Wednesday.

Even if they were, they provided no information on which authorities could have acted, the intelligence source said. The mere mention of a time was insufficient

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to provide clues of what was to come, the source said.

The messages, believed to be recorded in two separate telephone conversations, contained the phrases, "Tomorrow is zero hour," and "The match is about to begin," the intelligence source said.

Mr. Fleischer called the information that the CIA, FBI and NSA were providing to the committee "extraordinarily sensitive."

"The selective, inappropriate leaking of snippets of information risks undermining national security, and it risks undermining the promises made to protect this sensitive information," the White House spokesman said.

Mr. Fleischer said "we do not know who did it," but Mr. Cheney's phone call seemed to point a finger at the committees.

Concern about leaks has been a key reason the White House has opposed setting up an independent commission to investigate the attacks. The commission has been sought by some lawmakers and relatives of the victims.

Mr. Bush has said the intelligence panels were better positioned to avoid leaks. They "understand the obligations of upholding our secrets and our sources and methods of collecting intelligence," he said last month.

But Mr. Bush has clashed with Congress before over leaks. On Oct. 5, he issued a memo limiting sensitive congressional briefings to the top leaders of the House and Senate and their intelligence committees.

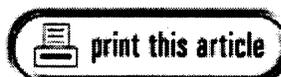
He dropped the restrictions a week later after getting assurances from Mr. Graham and Mr. Goss that they would rein in their members.

Mr. Fleischer did not address questions from reporters about the NSA's information, but he said a 1998 leak — that American intelligence agencies were eavesdropping on Osama bin Laden's satellite phone conversations — led bin Laden to stop using that phone.

"We are in the middle of a war, and one of the ways to prevent attacks on the United States and to win the war is to be able to obtain information from our enemies," Mr. Fleischer said.

If the enemy learns of U.S. capabilities, "they're going to change their methods."

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• Dick Arme

### President 'Furious' Over Leak

Senior administration officials told ABCNEWS the president was "furious" about the leak, which occurred only two days before the first wave of U.S.-led airstrikes were launched against terrorist and military targets in Afghanistan.

"I knew full well what was about to happen and yet I see in the media that somebody or somebodies feel that they should be able to talk about classified information and that's just wrong," the president said Tuesday.

The officials said far more classified information was shared with the *Post* than appeared in the story, but that the newspaper agreed not to print much of it after an appeal from the White House. They added that National Security Adviser Condoleezza Rice had to repeatedly leave a meeting with Bush in the Oval Office in order to handle the situation.

"If you receive a briefing of classified information, you have a responsibility," Bush said emphatically. "And some members did not accept that responsibility ... so I took it upon myself to notify the leadership of the Congress that I intend to protect our troops."

Lawmakers condemned the leak, but bristled at the new restrictions, arguing they needed access to information in order to carry out their oversight responsibilities.

"I understand there may be some heartburn on Capitol Hill," Bush responded. "But I suggest if they want to relieve that heartburn, that they take their positions very seriously and that they take any information they've been given by our government very seriously."

### Congressional Leaders: 'The Point Has Been Made'

Congressional leaders said this morning they got the message.

"When information that is sensitive to our operations, sensitive in terms of national security — when that information is leaked it does serious damage," said Daschle.

"To put our troops and our plans in jeopardy is something that I ... think any person should be able to understand that we don't want to do," added House Speaker Dennis Hastert, R-Ill.

White House press secretary Ari Fleischer told reporters an agreement was reached that will allow a wider group of lawmakers to continue receiving sensitive intelligence information. Secretary of State Colin Powell will brief members of the foreign relations committees, Defense Secretary Donald Rumsfeld will brief the armed services committees and other lawmakers will receive information on a "need-to-know basis," Fleischer said.

"We've all agreed, the point has been made and we're moving on," added Lott. "We'll get what we need and he'll [Bush] be able to do what he needs to do." ■



ABCNEWS' Terry Moran contributed to this report from the White House.

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07/18/2002 - Updated 10:14 PM ET

## FBI to question Congress on leaks

By Kathy Kiely and Kevin Johnson, USA TODAY

WASHINGTON — The FBI is interrogating congressional aides, and members of Congress believe they are next, in an extraordinary inquiry into leaks of classified information from a congressional probe of Sept. 11 intelligence failures, lawmakers and other officials said Thursday.

Leaders of the joint House-Senate inquiry requested the investigation last month after Vice President Cheney complained to them about the leaks.

Even though it was invited by Congress, the investigation is a rare executive branch incursion into the legislative branch. Some lawmakers are welcoming it. They say leaks are damaging to intelligence collection. Others say it raises concerns about First Amendment rights and the separation of powers.

Recent news leaks have infuriated the White House and prompted Defense Secretary Donald Rumsfeld last week to issue a memo warning that staffers who spill secrets are jeopardizing U.S. lives.

The FBI wants to know how the news media learned details of two messages with cryptic references to a possible attack. The messages, intercepted on the eve of Sept. 11 by the National Security Agency, said, "Tomorrow is zero hour" and "the match begins tomorrow." The messages were not translated until after the attacks, authorities said.

Rep. Pete Hoekstra, R-Mich., a member of the House Intelligence Committee, said he expects to be interviewed next week by the FBI. Hoekstra welcomed the inquiry, saying the leaks have been damaging.

Senior aides to members of the House and Senate intelligence committees said they either have been interviewed or expect to be soon.

"In my case, it was short and straightforward," said Paul Anderson, the chief spokesman for Senate Intelligence Committee Chairman Bob Graham, D-Fla.

Anderson said he told agents he didn't have clearance to be in the room when the leaked information was discussed.



Brendan Daly, a spokesman for House Minority Whip Nancy Pelosi of California, the ranking Democrat on the House intelligence committee, said he has been told by other staffers to gather his notes for the FBI and has heard that the interrogations are "thorough."

Interview subjects are not being put under oath, according to several staff members.

Lawmakers leading the congressional investigation asked for an FBI investigation after top Bush administration officials complained that intelligence had been compromised by the leak of the two NSA intercepts. Some lawmakers question whether federal agents should be investigating the same committee that is reviewing their bosses' performance.

Others resent the assumption that the leak came from Capitol Hill.

"If the FBI is going to investigate Congress, they certainly should be putting their crosshairs on the executive branch and the agencies," said House intelligence committee member Tim Roemer, D-Ind. Roemer questioned whether agents should be chasing leakers on Capitol Hill "when we're at war. It's probably not the most constructive use of the FBI's time."

Senate historian Richard Baker said there are few instances where an outside leak investigation has taken place, at least with public knowledge. The last time the Senate investigated leaks was on the disclosure of information about Anita Hill's testimony against Supreme Court nominee Clarence Thomas.

In that case, the Senate hired an outside counsel to do the investigation.

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**Remarks By President Bush**  
**Press Availability**

October 9, 2001

[...]

**Q:** Mr. President, can you tell us what prompted you to write the memo to Congress about briefing on intelligence matters, why you think such restrictions are appropriate? And could you also address what threat you think these limited anthrax exposures pose more generally? Is it linked to terrorism at all?

**THE PRESIDENT:** Well first, Mr. Chancellor, we had a -- we had some security briefings take place up on Capitol Hill that were a discussion about classified information and some of that information was shared with the press.

**CHANCELLOR SCHROEDER:** Oh, we know that trouble. (Laughter.)

**THE PRESIDENT:** Oh, you know that trouble, too. (Laughter.) These are extraordinary times. Our nation has put our troops at risk. And therefore, I felt it was important to send a clear signal to Congress that classified information must be held dear, that there's a responsibility that if you receive a briefing of classified information, you have a responsibility. And some members did not accept that responsibility, somebody didn't. So I took it upon myself to notify the leadership of the Congress that I intend to protect our troops.

And that's why I sent the letter I sent. It's a serious matter, Dave, it's very serious that people in positions of responsibility understand, that they have a responsibility to people who are being put in harm's way. I'm having breakfast tomorrow with members of Congress. I will be glad to bring up this subject.

I understand there may be some heartburn on Capitol Hill. But I suggest if they want to relieve that heartburn, that they take their positions very seriously, and that they take any information they've been given by our government very seriously. Because this is serious business we're talking about.

[...]

**Q:** Mr. President, when you meet with the congressional leadership tomorrow, will you be specific about what they can and cannot relay back up to the Hill? Or, do you just expect them not to relay anything?

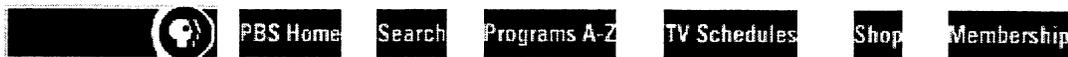
**THE PRESIDENT:** Well, I'm going to talk to the leaders about this. I have talked to them about it. I mean, when the classified information first seeped into the public, I called him on the phone and said, this can't stand. We can't have leaks of classified information. It's not in our nation's interest.

But we're now in extraordinary times. And I was in the -- when those leaks occurred, by the way, it was right before we committed troops. And I knew full well what was about to happen. And yet, I see in the media that somebody, or somebodies, feel that they should be able to talk about classified information. And that's just wrong. The leadership understands that.

And if there's concerns, we'll work it out. I mean, obviously I understand there needs to be some briefings. I want Don Rumsfeld to feel comfortable briefing members of the Armed Services Committee. But I want Congress to hear loud and clear, it is unacceptable behavior to leak classified information when we have troops at risk. I'm looking forward to reiterating that message. And we will work together. We've got a great relationship.

Listen, the four leaders with whom I have breakfast on a weekly basis fully understand the stakes. They fully understand the decision I made. And they will have gotten feedback from their members, and we will discuss it. But one thing is for certain, I have made clear what I expect from Capitol Hill when it comes to classified information.

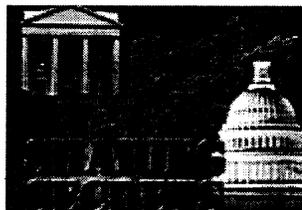
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Online NewsHour a NewsHour with Jim Lehrer Transcript ONLINE FOCUS SHARING SECRETS

October 10, 2001

After a Kwame Holman background report, Jim Lehrer talks with four senators about the how the White House passes intelligence to the Congress and the responsibility to withhold some information from the public.



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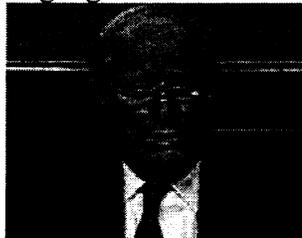
.JIM LEHRER: Now, on to the briefing story and other matters from four Senators: The Democratic chairman and senior Republican members of two key committees.

From Armed Services, Carl Levin of Michigan, and John Warner of Virginia; from Foreign Relations, Joe Biden of Delaware, and Chuck Hagel of Nebraska.

Senator Levin, are you all right now about today's compromise?

SEN. CARL LEVIN: We were all right as of last night at 7:00 when we were told by the Defense Department that the order was not intended to apply even to the Armed Services Committees of either House.

So the order looked like it applied to us by its own language but we were assured last night that it didn't.



And that's the way it should be. We cannot perform our authorizing function without having classified information because we have to know where the shortfalls of ammunition is, what systems aren't working well and those kinds of things which we need to know in order to give the President the tools that he needs to win this war.

JIM LEHRER: Senator Biden, as chairman of the

We cannot perform our authorizing function without having classified information because we have to know where the shortfalls of ammunition is, what systems aren't working well and those kinds of things which we need to know in order to give the President the tools that he needs to win this war.

SEN. CARL LEVIN, D- Michigan

black sea, a discussion about the challenges Russia now faces

Foreign Relations Committee, are you satisfied now you're going to get the information you need to do your job?

October 3, 2001: Experts discuss Rumsfeld's mission in the Middle East

SEN. JOSEPH BIDEN: Well, the same point I'll make is I met with the President for an hour yesterday at 4:00. I got briefed that very moment -- that very morning by secretaries and the like. It never stopped the information. I think Trent Lott had a point. You had a clip of him earlier.

October 3, 2001: The Pakistani ambassador to the U.N. shares his views

I think this is over. I think the President got very, very angry, with good reason, in my view. I think that there was a bit of a spasm here. As he said to me yesterday in the Oval Office, he said, look, I don't want to try to trump any law when Congressman Tom Lantos, the ranking member of the Foreign Affairs Committee in the House, said Mr. President the law says... He said I know, I know, we're going to get this straight.

October 2, 2001: Ways to boost the flagging economy

October 2, 2001: New aviation security measures

I really this was more almost an instinctive reaction and a spasm. It's over. It's done. I don't think it's a big deal.

October 2, 2001: The Greek Foreign Minister discusses NATO's coalition building efforts

### Dangerous leaks

October 1, 2001: How great a threat is biological terrorism?

JIM LEHRER: Senator Warner, do you think the President was justified in getting upset?

Sept. 26, 2001: Should racial profiling be an acceptable way to improve security?

SEN. JOHN WARNER: Clearly few people recognize the pressure on a President. If there were to be casualties in this or any other military operation, he's the first one that has to tell the families. That's his responsibility as commander in chief; it's a heavy one.

Sept. 26, 2001: The debate over whether to open National Airport

And I remember when I was a young sailor in the closing months of World War II, we were told every day loose lips can sink ships. And that's been a doctrine that I've followed these many years. So I think we've learned lessons from this past few days.

Sept. 25, 2001: How will civil liberties be affected by broader law enforcement authority?

We're going forward with business here. We just left, some of us, a classified briefing being given by the senior civilian and military officials, and we're going on about our business, but I think with a keen awareness of the heavy responsibilities on the President as commander in chief and the obligation that we have to those who are taking the risks and to

Sept. 25, 2001: The intricacies of Osama bin Laden's global network

**When I was a young sailor in the closing months of World War II, we were told every day loose lips can sink ships. And that's been a doctrine that I've followed these many years.**

SEN. JOHN WARNER, R-Virginia



Sept. 24, 2001:  
A look at Att. Gen.  
John Ashcroft's  
congressional  
testimony in favor  
of greater Justice  
Dept. authority

Sept. 24, 2001:  
Senators discuss  
what America can  
expect from the  
new war on  
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Sept. 20, 2001:  
House Speaker  
Hastert and House  
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Gephardt discuss  
America's response

Sept. 19, 2001:  
Four former  
senators discuss  
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their families.

JIM LEHRER: Senator Hagel, according to the reports, the President was particularly upset about a briefing last Friday in which somebody leaked, after a briefing, the fact that the FBI and the CIA were saying there was a 100 per cent chance of a terrorist attack on U.S. property if the United States... after the United States initiated military action in Afghanistan. Is he right to be upset about that?

SEN. CHUCK HAGEL: Well, he is right to be upset about any leaking of top-secret information. That is irresponsible. It does jeopardize people whose lives are on the line here.

We need to make sure that we are held accountable, and as Senator Warner said, the pressure on the President of the United States is immense. This is a very combustible equation here. We have emotion and pressure and responsibility all coming together. There are occasional blips, and this was one of those blips. It has been resolved and we'll move on.

### The public's right to know

JIM LEHRER: But Senator Hagel, what would you say to somebody who said, "Hey, wait a minute -- classified information aside, why shouldn't the American people know there was a 100 per cent chance of a retaliatory act against the United States"?



SEN. CHUCK HAGEL: Well, I would respond by saying in that specific incident-- and I don't know, by the way, if that, in fact, was the one incident and the one issue--

- but responding to your question, you're correct. Most of us have been saying to the American public that we must be prepared for every possibility of an asymmetrical terrorist attack. It can come any time, anywhere.

Does that mean 100 per cent surety of a terrorist attack? I don't know, but I'm not troubled by that, because there is a certain state of awareness that we must ensure the American public have but yet also responsibility not to needlessly panic the American public.

**There's no road map. This is unprecedented. This is a black galaxy that we have never traversed before. That means that we have got to work this through as we're moving forward, and that requires some definition as we go.**

SEN. CHUCK HAGEL,  
R- Nebraska

Services  
Committee

JIM LEHRER: Senator Biden, just to stay on this subject one more minute here -- let's just say when you talked to the President yesterday at 4:00 for an hour. You assumed it was classified and you weren't supposed to talk about what the President was telling.

Senate Foreign  
Relations  
Committee

The Federal  
Bureau of  
Investigation

Let's say the President said something to you that you really believed the American people should know, what would you have done about it?

The Central  
Intelligence  
Agency

SEN. JOSEPH BIDEN: There's a process in that. I've done it once before in my life. I was on the Intelligence Committee during the Reagan years. The CIA came up and briefed us on something they were going to do that I thought was wrong.

The U.S. State  
Department

Justice Department

Department of  
Defense

White House

There's a process. I asked for a secret session of the United States Senate. I demanded it. We had a secret session of the United States Senate. I stood up before my colleagues and I said, "I just learned this is what the administration is going to do. It's against the interest of the United States of America in my view and you should all know about it."

There is a legislative process by which to do that. That's the way to do it. If you don't want to go that route, at least be man enough to turn to the President and say, Mr. President, I'm walking out of here and telling them that.

JIM LEHRER: Senator Warner, what's your view of that, if you heard something that you thought should be shared with the American people, what would you do?

SEN. JOHN WARNER: Well, first I would draw on experience. Some 30 years ago I was Secretary of the Navy during Vietnam and daily we had briefings on intelligence. Every hour on the hour we had problems.

Yet I was obligated to give many speeches, daily press conferences, and you learn by experience how to distill from those briefings what the public and indeed especially the military families should learn. And only once in that 30 years have I ever been challenged. I still I was right on that one occasion. So you learn by experience.

JIM LEHRER: Excuse me. What did you do? You revealed something to the public that....

SEN. JOHN WARNER: Well, someone felt that I had a... A cabinet officer felt that I had used one word in a briefing. I still feel that that was owing to the families. It did not cause jeopardy, but I'm just pointing out of thousands of instances, I've been challenged once. Now the point is that we do...

We represent the public as does the President, of course. But we're the closest. The public looks to us -- and particularly those of us on the military committees -- the men and women of the armed forces and their families look to us. They rely on us to interpret situations and to do our very best to take care of those that are on the front lines taking the risks. And we do it.

JIM LEHRER: Senator Levin, do you feel that same... you have a responsibility as Chairman of the Armed Services Committee that goes beyond maintaining a classified piece of information at any given time?

SEN. CARL LEVIN: Well, we'd try to exercise that responsibility if we felt that keenly. But we can't unilaterally declassify information which is given to us under strict conditions.

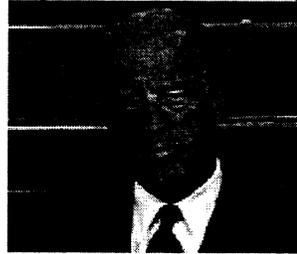
We either have to make an appeal, as Senator Biden said. We can do it legislatively with a secret session, talk to our colleagues about it but we can also declassify it through a process which does exist to declassify information which has been improperly classified.

But we just can't unilaterally on our own say, well, wait a minute, I don't think that should be declassified. Frankly if there were something so critically important to the American people that was classified and we couldn't persuade the folks that do declassify information that it should be or we didn't use the legislative process that Senator Biden mentioned, we should then share it with a few of our colleagues who have clearance and try to figure out what to do collegially. We just can't though go about declassifying information because we think it ought to be declassified.

SEN. JOSEPH BIDEN: Jim, can I make an important point here?

JIM LEHRER: Sure. Yes, sir.

SEN. JOSEPH BIDEN: One of the reasons I got upset when I read that on Monday or I guess it was Saturday -- I wasn't at that briefing -- was that I've not attended any briefings so far where the President or anyone on his team has briefed us on something that the American public needed to know that they didn't know. There's a big distinction.



If in the briefing they said, for example, there's 100 per cent certainty there's going to be an attack on Ninth and Vine Street in such-and-such a place, they would tell people. The Administration would tell people.

But to generically say to the American people that there's a 100 per cent certainty there's going to be an attack, what every American thinks when that's said is that we know of some specific attack that's about to take place. And that's simply not the case.

In those circumstances where we knew or the President or the CIA had reason to believe a specific attack was going to take place in a specific area, I am certain they would warn the American public. So this is... Part of this is the way it inflames the fears of the American people. And last point, a lot of the intelligence community is going to cover their rear end right now. They get thousands of these threats.

JIM LEHRER: When in doubt say 100 per cent you mean?

SEN. JOSEPH BIDEN: Exactly right, bingo, bingo.

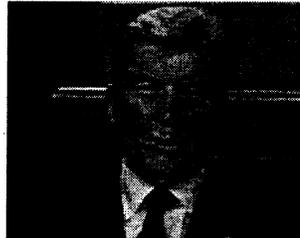
### **Military briefing**

JIM LEHRER: All right. Moving on here to where we are on the military action in Afghanistan, starting with you, Senator Hagel, without revealing any classified information, what is, of course, what is your feeling about how well it's going over there for us?

SEN. CHUCK HAGEL: I think the objectives that the President laid out a few days ago are being completed and fulfilled. You noted the briefing that the House and Senate had today. Part of those briefings consisted of the results and the status of where we are.

So based on what I know, I think at least this initial phase of our military action has been successful, 100 per cent. I don't know if anything is ever 100 per cent in this business, but certainly they've done very well.

JIM LEHRER: Senator Warner, is the Taliban still running things in Afghanistan?



SEN. JOHN WARNER: Again, that is covered by intelligence. I'll have to withhold what we've been told on that subject.

I do believe, however, the President and particularly his national security advisor today took a very wise step in talking to your profession, Jim, about withholding wide publication of this propaganda emanating from bin Laden and Taliban and others because they could be sending codes by means of simple words or I remember again during the Vietnam period, we used to watch the POWs, and they'd blink their eyes and send a code.

So I think our Administration, our President, our team that we're working with are doing a fine job with a most difficult situation. Believe me, there was no book on any shelf in the Pentagon that wrote the scenario that we're now having to follow to stamp out this type of terrorism.

JIM LEHRER: Senator Levin, what's your overview of how it's going?

SEN. CARL LEVIN: I think it's going well. The Chairman of the Joint Chiefs says we now basically have control of the skies. That's going to be essential when ground action begins.

I think it's very important though that the American people understand what the President and the Secretary of Defense have said, is that this is going to be a long, difficult process. This is really, in my judgment, going to be a war of attrition where we are strengthening the opposition over time militarily, but we hope that they would be the point of the spear when the time comes to really catch bin Laden and his operatives so that bin Laden cannot possibly argue if this works out well that this is the West versus Islam because I believe that the people of Afghanistan are

**In those circumstances where we knew or the President or the CIA had reason to believe a specific attack was going to take place in a specific area, I am certain they would warn the American public.**

JOSEPH BIDEN,  
D - Delaware

the right ones, if possible and if practical, to be the ones to destroy bin Laden and his terrorist gang.

And that will be possible over time. I believe the American people understand that this is going to be a fairly protracted effort here that we're going to be weakening the bin Laden folks and forces over time militarily while we strengthen the opposition and hopefully put together a government which can sustain operations over time against bin Laden.

JIM LEHRER: But Senator Biden, is it your impression that Osama bin Laden is still in business as we talk here tonight?

SEN. JOSEPH BIDEN: It's my impression... I didn't go to the briefing, so I can speak.

JIM LEHRER: Okay.

SEN. JOSEPH BIDEN: It's my impression that he is still in business but let's focus on what the administration's objectives were.

The easy part is the first part. Take control of the skies; take control of the airways, allow other operations now to be undertaken with a considerably increased prospect of success.

So when you say, has this been a success? I think based on what I know, it has been an overwhelming success so far, but it's only one small piece of a great big strategy here. Senator Levin spoke to some of it.

Is bin Laden still alive? Probably. Is Al-Qaida still around? Yes. Are they in control in the way they were before? No, they've gone underground. Is there progress being made by the Northern Alliance? Yes. In other words, everything is better proportioned in our direction than it was three



days ago.

But it's like the first step in about a five, six, seven-step process as it read it.

JIM LEHRER: Senator Hagel, do you believe that the

American people have been prepared for the next step? This may be considered the easy one: Dropping bombs and Cruise missiles.

Now it may move to real Americans with real guns on the ground. Are we ready for that do you think?

SEN. CHUCK HAGEL: Well, I'm not sure we are partly because we need to define or the President needs to define what that next step is. And that has not been clearly defined. That's okay because part of that definition of the next step is going to be the result of how successful the first step was, what the objectives are short-term, long-term. You've heard my colleagues talk about the long-term dynamic here, and that's right.

So also something I think that factors into your question, what Senator Warner said, there's no blueprint here. There's no textbook. There's no road map. This is unprecedented. This is a black galaxy that we have never traversed before.

That means that we have got to work this through as we're moving forward, and that requires some definition as we go. And I think that's what America needs to understand.

### **Learning from past mistakes**

JIM LEHRER: Now... Does anyone of the four of you believed based on what your jobs are as the chairman and ranking member of these two crucial committees that you're not getting the information that you need now to function? Are you okay?

SEN. CHUCK HAGEL: We're okay. We're all right.

SEN. JOHN WARNER: We're okay in Armed Services.

SEN. CHUCK HAGEL: We're satisfied.

SEN. JOHN WARNER: We're four veterans. Let me close out one observation. Congress is a co-equal branch with the Executive Branch of the President.

We should work in partnership in times of crisis like this, a sharing, a sharing of confidence in one another. I think that is present now. It has been present. And, sure, we learned a little from this incident but we're

going forward.

Mind you, in Vietnam it was the Congress pulling away from the President that began to undo that conflict in ways that it shouldn't have ended on. My view is that we'll work together with this President as solid partners. And I know he has respect for us and that we can do our job and protect any revelation of facts that would endanger the men and women or jeopardize the operation.

JIM LEHRER: All right.

SEN. CARL LEVIN: Our unity has not been affected at all by this blip today. We're very strong, we're very unified; we're together.

SEN. JOSEPH BIDEN: As they say, it ain't Vietnam though.

JIM LEHRER: Okay. Senators four, thank you all very much.



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# J.D. Hayworth

Congressman  
Representing the  
6th Congressional District of Arizona

## In the News

### **Hayworth Petitions House Ethics Panel To Investigate Hill Leaks**

October 11, 2001

WASHINGTON - U.S Rep. J. D. Hayworth (R-AZ) initiated a bipartisan caucus Wednesday for an investigation to find the sources of congressional leaks of top-secret intelligence information.

Hayworth is gathering signatures of House members on a letter formally requesting that the House Committee on Standards of Official Conduct undertake the investigation. The letter is addressed to Rep. Joel Hefley (CO), the committee chairman. Dozens of House members signed the letter immediately. Hayworth said signatures would be gathered until the close of legislative business today and the letter would be delivered to Rep. Hefley on Friday.

"Our military personnel have been sent in harm's way to fight terrorism," Hayworth said. "Here at home, civilians have been asked to make sacrifices to secure the homeland and they have done so without complaint. Given what we've asked the American people, Congress must show that it is willing to do its part by policing itself."

Citing remarks by President Bush that congressional sources leaked classified information to the Washington Post, Hayworth's letter quoted House rule that states, "The Committee on Standards of Official Conduct shall investigate any unauthorized disclosure of intelligence or intelligence related information by a Member, Delegate, Resident Commissioner, officer, or employee of the House ... and report to the House concerning any allegation that it finds to be substantiated."

"We are writing to formally request that the Ethics Committee energetically undertake such an investigation into this most recent leak," Hayworth wrote. "If you determine that the leak came from the House, urge you to take action to punish the guilty party. If you determine that the Senate is the source of the leak, we would ask you to make that information available to the Senate Ethics Committee so that its members can consider appropriate action in that chamber."

In a separate message urging House colleagues to sign the letter, Hayworth said the leaking of classified information by a few "damages reputation of the entire Congress. We cannot afford to have the American people believe that Congress, as an institution, cannot be trusted to

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safeguard our nation's secrets at this critical junction in our history," Hayworth said.

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a NewsHour with Jim Lehrer Transcript

ONLINE FOCUS

## WHAT WENT WRONG?

June 4, 2002



Sens. Bob Graham (D-Fla.) and Richard Shelby (R-Ala.) of the Senate Select Intelligence Committee discuss the investigation into alleged pre-Sept. 11 intelligence lapses.

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JIM LEHRER: The congressional investigation into what went wrong before the 9/11 terrorist attacks opened today in Washington, but behind closed doors. We hear from the Chairman of the Senate Select Intelligence Committee, Democrat Bob Graham of Florida; and the Vice Chairman, Republican Richard Shelby of Alabama. Gentlemen, welcome.



Senator Graham, how would you characterize the day, the beginning of this investigation, the formal part at least?

### Discussing today's events

SEN. BOB GRAHAM: Jim, it was a very excellent beginning. Today we concentrated on developing a statement of what our inquiry will accomplish and adopted the rules. This is the first time in the history of the Congress or over 200 years, where a standing committee of the House of Representatives and a standing committee of the Senate have joined for the purpose of a specific investigation.

So we are developing a new set of procedures and understandings between the two houses as we do this. It was a very bipartisan meeting today. There was no hint of people trying to speak based on what they thought would be some political interests, rather how

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discuss how US  
agencies gather  
and share  
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May 16, 2002:  
Examining the  
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Oct. 26, 2001:  
President Bush  
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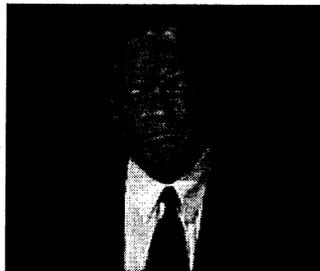
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Department of  
Justice

The American  
Civil Liberties

could we best accomplish our responsibility to the American people.

JIM LEHRER: Senator Shelby, what would you add or subtract from that?



SEN. RICHARD SHELBY: I would agree with what Senator Graham has said. I would just say that the hearings today started out, and I believe they will stay, in the direction of a very high-principled hearings.

The House and the Senate are working together. We've got a great staff that we've assembled. We've got a staff director now, finally, Eleanor Hill (ph), who is well recognized by just about anybody in Washington that knows her as one of the top investigative attorneys in this area. She brings a lot of experience.

And I believe what we're going to do and the tone today said a lot, that we are going to conduct a bipartisan investigation; one of credibility, one of substance, one that's thorough. If we do this, we are going to do a good job for the American people. And the tone today says a lot.

JIM LEHRER: Well, Senator Shelby, if you were talking today about procedure and mission, why was it necessary to do it behind closed doors?

SEN. RICHARD SHELBY: Well, a lot of this stuff we deal with has to do with the rules of the Senate and House Select Committees. A lot of that is very sensitive, very classified. And this was the way to go.

But I will tell you this, Jim. Senator Graham, Congressman Goss, Congress[wo]man Pelosi, and I have agreed earlier on and we are going to have a lot of open hearings, as many open hearings as we possibly can, considering how sensitive the information is.

JIM LEHRER: Senator Graham, what kind of witnesses are you going to have? Are you going to have mostly the heads of these agencies? Are you going to have some Indians as well as chiefs? What

**This is the first time in the history of the Congress or over 200 years, where a standing committee of the House of Representatives and a standing committee of the Senate have joined for the purpose of a specific investigation... There was no hint of people trying to speak based on what they thought would be some political interests, rather how could we best accomplish our responsibility to the American people.**

SEN. BOB GRAHAM  
D-Fla.

Union have you worked out?

SEN. BOB GRAHAM: Jim, we'll have a variety of witnesses, depending on what the issue is. For instance, we may -- we will be exploring the issues of the finances of terrorist organizations and what can we do to shut down access, particularly access to the United States financial institutions.

That may entail bringing in people from the private sector who have particular knowledge about that, able to assess how well our current laws are functioning and what should we be doing in order to strengthen them. So we're going to be led by what we need to learn and, from that, who would be the most appropriate witnesses.

### The propaganda issue



JIM LEHRER: Well, let me be specific. There's been stories in the last few days, another one this morning in the "Washington Post" about what the FBI knew, what the CIA knew, what they told the FBI prior to

September 11. How deeply are you going to go into that? Are you going to go down to the working agent level in trying to determine what the truth is here?

SEN. BOB GRAHAM: We will go as deep as is necessary in order to get the facts. I understand that sometimes -- frequently -- talking to the top of the agency doesn't give you the insight that you need to know as to what was really happening at the operational level; for instance, some of the disputes between the FBI and the CIA are going to require at least talking to people at the middle management and field level in order to determine just why certain pieces of information were not shared or if they were shared, what was done with that information.

JIM LEHRER: Senator Shelby, how do you feel about that? How far down this your investigation and this hearing should go? Who should we hear from -- you, members of the United States Senate but also we the United States public?

SEN. RICHARD SHELBY: I think that like Senator Graham says, we have to go where the facts lead us,

**I can feel tension at times between the various agencies... But, Jim, I think what it says to all of us, [is] that we've got to come out of these hearings with a lot of evidence to make some positive recommendations to make our intelligence agencies... work together for the common goal and that is the security of the people of this country.**

SEN. RICHARD SHELBY  
R-Ala.

and I believe a lot of the facts are going to go, as far as the FBI is concerned, some of it is going to go to the agents in the field who obviously have been doing a tremendous job and have been stifled right here about a bureaucracy, I believe right here in Washington, D.C. As far as the CIA and other agencies, I think what you've been hearing and seeing in the last few weeks is just the beginning of a long summer and fall as we bring this investigation along.

JIM LEHRER: Senator Shelby, former Senator Rudman was on this program last night and he said that all of these leaks that we are reading about in the papers every day is a very conscious war at



various levels between the CIA and the FBI right now to try to point the blame "No, it wasn't our fault. It's their fault, et cetera." What do you think is going on?

SEN. RICHARD SHELBY: I don't know what's going on, but I can feel tension at times between the various agencies. You know, this is nothing new between the FBI and the CIA except in the last ten years, I believe they have worked together on a lot of issues better than they ever have before.

But, Jim, I think what it says to all of us, that we've got to come out of these hearings with a lot of evidence to make some positive recommendations, to make our intelligence agencies, be it NSA, CIA, FBI, to work together for the common goal and that is the security of the people of this country.

SEN. BOB GRAHAM: If I could just say--

JIM LEHRER: Yes, sir.

SEN. BOB GRAHAM: What Senator Shelby said is absolutely correct, and it's also true that we aren't the first people and this isn't the first time that we have been aware of these problems such as between the FBI and the CIA. The fact that they haven't been corrected is an indication of how deeply ingrained these habits of practice are.

So it is going to be our job to build a case of the seriousness of these gaps between our agencies, the

failure to communicate, the failure to use information to protect our people, to build a case that will be strong enough to overcome the support of the status quo and the resistance to change, which, in the past, has overwhelmed a whole series of reports such as the one that Senator Rudman and Senator Hart developed just a few months ago.

### The magnitude of the investigation

JIM LEHRER: Senator Graham, are you and your colleagues -- how many members are involved in this, both House and Senate -- 13?

SEN. BOB GRAHAM: No, 38.

JIM LEHRER: Thirty eight all together. Are you all prepared, when this is all said and done, to go back pre-9/11 and issue a report and name names and say look, there was a piece of information that came through whatever technique on this particular day in September a year ago. It came from the CIA. It didn't get to this and this and this. Are you going to be that precise?

SEN. BOB GRAHAM: We are going to be that precise and go beyond that and by saying why did this happen? What is the reason that people acted in such perverse ways, and what do we need to do, whether it's changing the way in which we recruit or train or deploy our intelligence personnel in order to reduce the chances of this repeating itself in the future.



SEN. RICHARD SHELBY: Jim, if I could add this.

JIM LEHRER: Sure.

SEN. RICHARD SHELBY: If we fail to do our investigation and do it properly and I tell you, we're going to do it right. I believe that from the members and the attitude and the staff. But what we're trying to do, and will do, I believe, is bring about some reform into our intelligence community, some areas where they've got to work together for the common good.

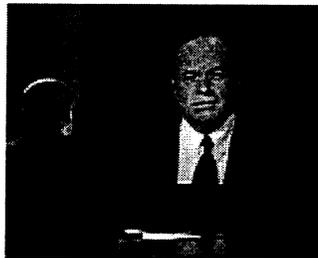
This is not necessarily so today it hasn't been in the past. As Senator Graham has alluded to it, but the

I would say just the superficial facts of some of the cases that we are now dealing with raise questions of how could a professional intelligence or law enforcement officer come to what appear to be such bizarre conclusions and actions based on those conclusions. We deserve to give them the chance to present their side of this case. But if they're not able to make a convincing case, then their higher-ups should be prepared to respond.

SEN. BOB GRAHAM  
D-Fla.

security of this nation, security of our people will trump any of that. It's more important than the bickering between agencies, the lack of sharing of information between agencies for various and sundry reasons.

JIM LEHRER: Senator Shelby, what I was going to get at, just on a basic human level, that somewhere -- if it turns out that somewhere down the line some individual or some one, two, three, four, five individuals failed to act in a way that might have prevented September 11, what kind of burden does that put on you and the members of the committee to call that to the public's attention?



SEN. RICHARD SHELBY: That's what our obligation is not only to the Senate, but to the people of the United States, to call it as we see it, as we find it by the facts, because we if we don't, we will never hold anybody

accountable for their actions.

SEN. BOB GRAHAM: And there is also going to be a focus on the leadership of these agencies. If there were people within the agencies who acted in a demonstrably inappropriate manner, and that resulted in the loss of American lives or could have resulted in that, then what did the higher ups in the organization do in order to indicate that was behavior that that was unacceptable and that there would be some strong sanctions for such behavior. We don't want to tolerate the agencies' whitewashing, ineptitude or incompetence.

JIM LEHRER: Is there evidence that there has been some of that Senator Graham?

SEN. BOB GRAHAM: Well, I would say just the superficial facts of some of the cases that we are now dealing with raise questions of how could a professional intelligence or law enforcement officer come to what appear to be such bizarre conclusions and actions based on those conclusions. We deserve to give them the chance to present their side of this case. But if they're not able to make a convincing case, then their higher-ups should be prepared to respond, why did you not sanction this individual.

## January 3, 2003

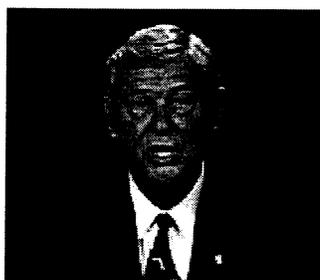
JIM LEHRER: Senator Shelby, let me ask you this. We just talked about how the two agencies and probably there are others involved in this, too, are trying to protect their reputations, let's say, at this stage of the game, and maybe their futures. How are you going to decide who is telling the truth when they finally get up there?

SEN. RICHARD SHELBY: Well, we've got a great staff. We've got good investigators that come from all over the intelligence community. They know these people -- if not personally, they know what they do, what they should do and they know a lot about the standards.

But if people don't measure up, if they're not doing their work, then they're not doing anything for their-- for this country. And a lot of people have been-- have lost their lives already because of terrorism.

And if we fail in our job, a lot more will. We're going to get to the bottom of the problems in our intelligence agencies, whatever it costs. And I'm talking about we are going to follow the facts.

JIM LEHRER: Senator Graham, finally, to both of you, beginning with you, how long is it going to be before the two of you are back on this program and elsewhere and say okay, here are our findings. Here's what we think happened. This is what we think should be done. How long is this going to take?



SEN. BOB GRAHAM: The scope of inquiry we adopted today, we indicated that our charter runs out with the end of the 107th Congress, which is January 3 of 2003. So that's sort of the outer date that we have.

So I would hope that sometime before New Year's Eve, we would have the opportunity to be with you, Jim, to indicate what we have found, what we think it means, and what actions we are going to be recommending to our colleagues as to how to reduce the chances of this happening again.

If [intelligence agents] don't measure up, if they're not doing their work, then they're not doing anything for their-- for this country. And a lot of people have been-- have lost their lives already because of terrorism. And if we fail in our job, a lot more will. We're going to get to the bottom of the problems in our intelligence agencies.

SEN. RICHARD SHELBY  
R-Ala.

JIM LEHRER: What would you add to that, Senator Shelby, in just in terms of a time frame here?

SEN. RICHARD SHELBY: Well, probably another six months. But we don't know that for sure. We've got to follow the facts. Something could lead us to some investigation that we cannot ignore, would not ignore.

JIM LEHRER: It's going to be a leak-free investigation?

SEN. RICHARD SHELBY: Well, I don't know about that, but I'll tell you what, the biggest leakers; and we've had testimony by the FBI Director and CIA Director before our committee before -- are the executive branch-- is the executive branch of government.

JIM LEHRER: Gentlemen, thank you both very much and good luck.



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**THE WHITE HOUSE**  
**Office of the Press Secretary**

**June 20, 2002**

**PRESS BRIEFING BY ARI FLEISCHER**

[excerpts on leaks of NSA information]

[...]

**MR. FLEISCHER:** They talked generally, Ron.

Helen?

**Q:** Has he talked to the NSA Director about the information that's flowed out of it concerning 9/11?

**MR. FLEISCHER:** I don't know that the President talked to General Hayden today. They do talk from time to time; I don't know if they talked today.

**Q:** What does he think about -- I mean, does he think the American people have a right to this information? Or is he so obsessed with leaks -- so-called leaks, which is information, that he doesn't think we should have this?

**MR. FLEISCHER:** I think your question is in regard to a report that was in the newspapers and widely on TV yesterday and this morning that had extraordinarily specific information that was provided under a promise of confidentiality to the committees that are doing the investigation of events leading up to 9/11. And the information that was leaked is alarmingly specific. And the President does have very deep concerns about anything that would be inappropriately leaked that could in any way endanger America's ability to gather intelligence information, anything that could harm our ability to maintain sources and methods, and anything that could interfere with America's ability to fight the war on terrorism.

The President was deeply concerned about these leaks. We do not know who did it. The President earlier today asked the Vice President to call the chairmen of the committees who are doing the investigation. The Vice President spoke with Congressman Goss and with Senator Graham to convey the President's concerns about anything that would be released that could indeed harm America's ability to gather information and to maintain access to that information. And the President and the Vice President are satisfied that the chairmen will address this issue.

**Q:** Would a blue ribbon commission keep a secret better?

**MR. FLEISCHER:** No, I have no reason to believe that. I think it was just a case of this committee has important obligations. The President believes the committee understands that. The chairmen certainly do. And, as I indicated, the Vice President spoke to the two chairmen and the President is confident that it will be addressed and addressed wisely and properly.

Campbell. I'll come back, Helen.

**Q:** Can you explain why these intercepts, in particular, what was reported -- without confirming it -- what we've all read about in the papers would be a threat to national security?

**MR. FLEISCHER:** Let me try to walk it through as specifically as I possibly can without giving you in any way at all any indication about whether whatever has been leaked is true or not true, because I won't discuss that.

The problem we have as a free society and a democratic society that places an important value on providing information to the press and to the public is we are in the middle of a war, and one of the ways to prevent attacks on the United States and to win the war is to be able to obtain information from our enemies. And I'm not going to describe how we obtain information from our enemies. But common sense shows and says that if our enemies know, with great specificity, that we have means of obtaining things that they say, and all of a sudden they find out that something they said with specificity is known by our government, they're going to change their methods.

Sometimes people get lazy, sometimes people forget. It is not helpful to the cause to provide specific information that makes people take efforts to avert America's ability to defend itself or to protect itself.

And in 1998, as a result of an unauthorized disclosure of intelligence information, it was revealed publicly that the United States had Osama bin Laden's satellite phone. As soon as it was publicly revealed, we never heard from that source again. We never again heard from that satellite phone.

That can damage America's ability to know important information that this government needs to protect the country. Public disclosure of that information can damage our ability to protect the country. So the President does feel very strongly about it. He has concerns, and those concerns were conveyed. And the President is confident that it was well-received.

**Q:** Was this information put out in a closed meeting of the committee?

**MR. FLEISCHER:** Yes.

**Q:** So everyone on the committee knew about it?

**MR. FLEISCHER:** I think that you'd have to ask that to the appropriate people on the committee, but, yes, it was put out in a closed session.

**Q:** Ari, is the implication of the --

**MR. FLEISCHER:** And that's not confirming the specific information, Helen. But it was a closed session at which people apparently have said some things.

**Q:** Isn't the implication of the Vice President's phone call that you believe that this information came off the Hill? And if so, how do you know that? I mean, the sourcing of the stories is "intelligence official."

**MR. FLEISCHER:** Reporters reported it yesterday. You can just look at the reporting, and the reporting says "congressional sources."

**Q:** I looked at that stories. There are a couple of stories in the Post and in the Wall Street Journal today that quote "intelligence sources." And one of them quotes a "senior administration official" commenting on the matter. So have you also taken actions to make sure that -- to determine whether there was a leak from the administration and --

**MR. FLEISCHER:** The President is satisfied it's not coming from his administration. And again -- I can cite you the news organization, if you're interested, that explicitly reported on the air in its TV report that their sources were from the Hill. Wherever the source is, the point is the same. This is not to finger-point, this is not to place blame. If it comes from the administration, it's wrong. If it comes from the Hill, it's wrong. No matter where the source, no matter where it comes from, we all are in this together, and everybody needs to remember the delicacy of this information and the sensitivity of the information, and the fact that making specific information of this nature public does raise important concerns, because it can harm our ability to continue to gather that information.

[...]

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Source: <http://www.whitehouse.gov/news/releases/2002/06/20020620-12.html>

## MYRICK ANGERED BY CONGRESSIONAL LEAKS

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**WASHINGTON, D.C. -- U.S. REPRESENTATIVE SUE MYRICK (NC-09) ISSUED THE FOLLOWING STATEMENT IN RESPONSE TO RECENT CONGRESSIONAL LEAKS OF CLASSIFIED INFORMATION.**

**"I'm furious that a Member of Congress leaked potentially damaging secret national security information to the news media - endangering military operations and our sons and daughters fighting for the U.S. in Afghanistan," Myrick said.**

**"We, who make up the remaining 534 Members of Congress do not deserve to be painted with the same broad brush as one who's lack of integrity brought about this despicable act."**

**"That Member should be disciplined. Certainly, a member of the military would be. Further, the citizens of the U.S. deserve to know the Member's name."**

**"No Member of Congress that I know expects or wants information beyond 'the need to know.' However we must all remember and heed the famous caution from World War II: 'Loose lips sink ships.'"**

**"One positive from this incident is heartening. According to reports, the journalist who was informed called the White House and did not release the damaging information. That reporter is a great American," Myrick said.**

**Sue Myrick represents North Carolina's Ninth Congressional District in the U.S. House of Representatives. The Ninth District includes part of Charlotte-Mecklenburg, and Gaston and Cleveland Counties.**

**Contact: Sarah Flowers (202) 225-1974**

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## Ridge Testifies on Capitol Hill

Friday, June 21, 2002

### FOX NEWS

WASHINGTON — As Homeland Security Director Tom Ridge testified on the need to coordinate homeland security offices into one Cabinet-level department, the top four members of the joint congressional committee investigating pre-Sept. 11 intelligence lapses wrote the attorney general asking for a probe of leaks from their own committee.

"There has been a report that has reached the highest levels of the White House that has said that congressional sources may have been involved in a leak of information," said Rep. Porter Goss, chairman of the House Permanent Select Committee on Intelligence. "The four principles have signed a letter to the attorney general asking for an investigation of those leaks."

The move, admits Senate Intelligence Committee chairman Bob Graham, was prompted by a phone call from Vice President Dick Cheney at the president's request to complain that such leaks undermine national security

"The vice president was not a happy man," Graham said.

The offending leak came Wednesday when, citing congressional sources, CNN reported the actual phrases the National Security Agency intercepted on Sept. 10 but failed to translate until a day after the attacks.

Fox News and others also reported the same information. But a week earlier, Fox News broke the story that NSA had intercepted two calls from Afghanistan to Saudi Arabia the day before the attacks. At the request of sources who said it was a matter of national security, Fox did not report the actual words.

"If our enemies know with great specificity that we have means of obtaining things that they say, and all of a sudden they find out that something they say with specificity is known by our government, they are going to change their methods," said White House spokesman Ari Fleischer.

Meanwhile, Homeland Security Director Tom Ridge, officially testifying for the first and second time before Congress Thursday, told Senate and House committees that the creation of a Cabinet-level Department of Homeland Security would be an "historic step" by Congress.

"I am here to ask, as the president did, that we move quickly. The need is urgent," Ridge told the Senate Governmental Affairs Committee. "It is crucial that we take this historic step."

The Bush administration wants to combine 22 federal agencies, including the Immigration and Naturalization Service, the Secret Service, the Coast Guard, and the Customs Service, into one department. The CIA and the FBI would remain separate but would provide intelligence to the new

department so it could for the first time analyze all the information at once, Ridge said.

"You get the information, you analyze it. For the first time, it would all be integrated in one place. You map that information against potential vulnerabilities and if it calls for action then the federal government directs the action that must be taken. We've never done that before," Ridge said.

The proposal has the support of lawmakers on both side of the aisle, although many questions arose during Thursday's hearing asking how the agency would get a hold of information it doesn't know that it doesn't have, particularly because the CIA and FBI are notorious for not sharing information.

"There's no accountability here. If the FBI doesn't share the information with you, you don't know about it. If the CIA doesn't share the information with the FBI, the FBI doesn't know about it," said Sen. Carl Levin, D-Mich. "Where is all the relevant information properly gathered about threats going to be coordinated?"

Testifying at the House Government Reform Committee, Ridge heard similar concerns.

"If the FBI and CIA were loathe to communicate before 9-11 and are now casting blame at one another as we investigate 9-11, what makes anyone think they will communicate with a new untested agency or state and local first-responder?" asked Rep. John Tierney, D-Mass.

But despite concerns, senators, even those who in principle oppose expanding the federal government, said that the need for a federal office is urgent.

"As a former governor and mayor, I didn't believe Congress should force a management structure on an administration without its input and agreement, and the administration did not initially favor the creation of a Cabinet-level department. The president's new proposal follows months of analysis and Congress should now work closely with the president to expedite the creation and operation of the new agency," said Sen. George Voinovich, R-Ohio.

Congress' sorting out the people, processes and technology to be included in a new agency will likely entail a lot of backroom negotiating, but Senate Government Affairs Committee chairman Joe Lieberman, D-Conn., said the Senate is committed to bringing a bill to the floor by mid-July. House Speaker Dennis Hastert, R-Ill., has said floor debate in the House is planned for the week of July 21.

"This isn't about rearranging the deck chairs on a sinking ship. It's about building a stronger ship of state," Lieberman said. "Slowly but surely won't do it in this case. We must proceed swiftly but surely."

Lieberman already proposed a bill that cleared his committee in May, which could be used as a negotiating tool along with the president's plan provided to Congress by Ridge on Tuesday.

The administration originally opposed the Lieberman bill, and Ridge had refused to testify before Congress, citing his role as a confidential presidential adviser. The president has said he wants a new Cabinet-level department up and running by Jan. 1, 2003.

*Fox News' Carl Cameron and the Associated Press contributed to this report.*



## DOJ Asked to Probe Leaks

Friday, August 02, 2002

### FOX NEWS

WASHINGTON — The Bush administration hates leakers, but a high-profile congressional committee may have one among its members or staff.

Under pressure from the White House, leaders of a joint House and Senate panel set up to look into intelligence failures before Sept. 11 are asking the FBI to look into their own committee.

For three weeks, the panel was briefed in secret, and was told about telephone conversations intercepted by the National Security Agency on Sept. 10 that mentioned a major event the next day. The communications, in Arabic, were not translated until Sept. 12.

This past Wednesday, the story, including quotations from the conversations, broke wide in the news media.

Fox News had reported a week earlier that the NSA had had clues the day before the attack, but didn't decipher them. It did not report the exact words until a week later, when they appeared elsewhere.

Asked if members felt it is appropriate for the Department of Justice to investigate the matter, House Majority Leader Dick Armey said, "I think it may be a good example for us to not to comment on that."

Added Rep. Nancy Pelosi, D-Calif., a member of the House Select Committee on Intelligence: "The leak is not necessarily from the legislative branch. ... It could [have been] from the executive branch earlier on."

Asked later whether she had any reason to believe that the executive branch may have leaked such information, Pelosi responded, "All I'm saying is we don't know where leaks came from, we want to eliminate leaks because they sometimes can be dangerous and give the public a distorted view of one piece of information."

The White House, however, thinks it knows the source. So, Vice President Dick Cheney stepped into the morass Thursday and called Sen. Bob Graham, D-Fla., chairman of the Senate Select Committee on Intelligence, to say President Bush was concerned that the leaks could damage national security.

"The vice president was not a happy man," Graham said.

The major concern of the White House is that revealing such "alarmingly specific" information could tell adversaries which spying sources and methods the United States employs.

"If our enemies ... find out that something they say with specificity is known by our government, they

are going to change their methods," White House spokesman Ari Fleischer said Thursday.

Now that the committee has agreed to cooperate, it is also in the process of re-organizing its schedule.

Hearings that were supposed to have been opened to the public starting next week are on hold until after July 4. They may never be public at all.

Concern about possible leaks has been a key reason the White House has opposed setting up an independent commission to investigate the attacks. The commission has been sought by some lawmakers and relatives of the victims.

Bush has said the intelligence panels were better positioned to avoid leaks. They "understand the obligations of upholding our secrets and our sources and methods of collecting intelligence," he said last month.

But Bush has clashed with Congress before over leaks.

On Oct. 5, he issued a memo limiting sensitive congressional briefings to the top leaders of the House and Senate and their intelligence committees. He dropped the restrictions a week later after getting assurances from Graham and House Intelligence Committee chairman Porter Goss, R-Fla., that they would rein in their members.

The committees said the staff is inundated with information from intelligence agencies, requiring extensive work before there are further hearings.

In addition, the committees are having discussions with the Justice Department regarding possibly declassifying information about Zacarias Moussaoui, who faces trial as an alleged conspirator in the Sept. 11 attacks.

The committees want some information about Moussaoui to be available for future hearings.

The Justice Department is weighing whether declassifying the information will jeopardize its criminal case. The committees also are having discussions with various intelligence agencies about declassifying information.

*The Associated Press contributed to this report.*

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May 29, 2002

Honorable Nancy Pelosi  
2457 Rayburn House Office Building  
Washington, D.C. 20515

Re: United States v. Zacarias Moussaoui, Criminal No. 01-455-A  
In the United States District Court for the Eastern District of Virginia

Dear Congresswoman Pelosi:

On December 11, 2001, Mr. Zacarias Moussaoui was indicted by a federal grand jury in Alexandria, Virginia. That case, which is styled United States v. Zacarias Moussaoui, Criminal Number 01-455-A, involves charges related to the incidents of September 11, 2001. The indictment charges Mr. Moussaoui with Conspiracy to Commit Acts of Terrorism Transcending National Boundaries, 18 U.S.C. §§ 2232b(a)(2) & (c), Conspiracy to Commit Aircraft Piracy, 18 U.S.C. §§ 46502(a)(1)(A) and (a)(2)(B), Conspiracy to Destroy Aircraft, 18 U.S.C. §§ 32(a)(7) & 34, Conspiracy to use Weapons of Mass Destruction, 18 U.S.C. §§ 2232a(a), Conspiracy to Murder United States Employees, 18 U.S.C. §§ 1114 & 1117, and Conspiracy to Destroy Property, 18 U.S.C. §§ 844 (f), (i) and (n). On March 28, 2002, the United States filed a Notice of Intent to Seek Death Penalty in this case. Trial is currently set to begin with jury selection on September 30, 2002.

On December 11, 2001, I was appointed by the court to represent Mr. Moussaoui in this matter. Mr. Frank Dunham, the Federal Public Defender for the Eastern District of Virginia was also appointed to represent Mr. Moussaoui. We remain counsel of record in this matter.

The defense has recently learned that the Senate Intelligence Committee and the House Intelligence Committee have both launched investigations into the facts and circumstances surrounding the actions of our intelligence services and law enforcement agencies before September 11, 2001. As counsel to Mr. Moussaoui, we have been watching these proceedings from afar with some interest. That interest, however, became acute when we learned of a letter from Coleen Rowley to Director Mueller that was reportedly delivered to your offices. We also have reviewed a letter dated May 24, 2002, from Senators Spector, Grassley and Leahy to Director Mueller. The issues raised in both of those letters are, for reasons set forth below, relevant to the defense of the Moussaoui matter and have caused me to write to you.

Honorable Nancy Pelosi

May 29, 2002

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In its Notice of Intent to Seek to Death, the government does not identify any action taken by Mr. Moussaoui that directly caused any deaths on September 11, 2001. This is, of course, impossible as Mr. Moussaoui was in federal custody on that fateful day and had been in federal custody for almost a month and has denied, by pleading not guilty, any knowledge of the 911 plot. Instead, argues the government, Mr. Moussaoui should be executed because he failed to tell the F.B.I. about the September 11 plan when questioned. "Had defendant truthfully disclosed the existence of the conspiracy to federal agents, instead of lying, thousands of deaths would have been prevented. Indeed, that such a bold conspiracy existed beyond defendant's arrest bespeaks the utter confidence the other 19 hijackers had that defendant would fulfill his final responsibility as a coconspirator: that of enshrouding the existence of the conspiracy with his lies, so that the others could complete his, and their, joint terrorist plans." (Government's Response to Defendant's Motion to Strike Government's Notice of Intent to Seek a Sentence of Death, pp. 23-24)

In this letter I will not seek to disprove the obviously false allegations made so recklessly by the government in its zeal to execute someone for the awful crimes of September 11. Regardless of the veracity of these claims, the government has created an issue that cannot be avoided and is central to the evidence that it must produce and prove in order to execute Mr. Moussaoui. That is, did Mr. Moussaoui know more or less than the F.B.I. or other governmental agencies about the 911 plot before September 11, 2001. Stated otherwise, should Mr. Moussaoui be executed for failing to disclose information to the F.B.I. or the C.I.A. that those agencies already possessed? Mr. Moussaoui's life may hang upon the fair and unbiased outcome of this dispute. Documents that have been delivered to your committee, including the Rowley letter and the Phoenix Memorandum, necessarily and directly address this question. As such, all of the information that your Committee is receiving regarding the events of September 11 and the various failures of the intelligence and law enforcement agencies to prevent that plot is critical to this defense.

On Friday, May 24, 2002, I spoke with Morgan Frankel and Geraldine Gennet. The purpose of that call was to provide notice that it was the intention of the Moussaoui defense team to seek, by whatever lawful means necessary, certain information that has been provided to the House Intelligence Committee and the Senate Intelligence Committee that is relevant and material to the defense of the Moussaoui case. I have later spoken to Mr. Poltinsky as well. I was advised to write to you and list the documents that we were requesting. None of the information requested in this letter has been provided to the defense by the Department of Justice or the Office of the United States Attorney for the Eastern District of Virginia despite requests for same. I will attempt to describe the information that we seek despite the fact that I obviously have not seen that information and cannot be more specific.

The information that we would like to review consists of the following:

Honorable Nancy Pelosi  
May 29, 2002  
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1. The Rowley letter to Director Mueller. All members of the defense team have clearances and should not have to rely upon redacted public versions of this obviously material document. The reports from French Intelligence and some other unidentified intelligence agency referenced in her letter have never been produced to the defense.
2. The Phoenix Memorandum in its entirety.
3. Transcripts of the Testimony of Director Mueller and the two Phoenix Agents (Williams and Kurtz) as disclosed in the May 24, 2002, letter from Senators Grassley, Leahy and Specter to Director Mueller. This request would also include other recorded testimony about what the government knew about the events of 9/11 before September 11, 2001.
4. Whatever documents or other evidence that has been produced to your Committees by the Executive Branch as indicated by press reports including an interview of the Vice-President on Sunday May 19, 2002, on Meet the Press.

In closing, I understand that the various committees may refuse to produce any records to the Moussaoui defense team by invoking the privilege of the Speech and Debate Clause. I hope this is not the case and assert that the privilege is inapplicable to the facts of this request. These records have been delivered to you and have not been created by the Committees. Moreover, the world is watching the Moussaoui case and our justice system is on trial along with Mr. Moussaoui. It would be inappropriate for the trial of this action to proceed while the Congress withholds upon a claim of privilege exculpatory evidence that is material to the defense.

Thank you for your prompt consideration and response.

Sincerely yours,

  
Edward B. MacMahon, Jr.

EBM/mlj

cc: David Poltinsky, Esquire  
Morgan Frankel, Esquire  
Frank W. Dunham, Jr., Esquire

Congress of the United States  
Washington, DC 20515

June 10, 2002

Edward B. MacMahon, Jr.  
107 East Washington Street  
P.O. Box 903  
Middleburg, VA 20018

Re: *United States v. Zacarias Moussawi*, Crim. No. 01-455-A (E.D. Va.)

Dear Mr. MacMahon:

We are responding, on behalf of the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence, to your letters of May 29, 2002 to Senators Bob Graham and Richard C. Shelby and Representatives Porter J. Goss and Nancy Pelosi. You seek from the Intelligence Committees' Joint Inquiry into the terrorist attacks of September 11 certain records which you describe as potentially relevant to the defense of criminal charges in the above-captioned case. You also express the view that "all of the information" that the Committees are collecting in the Joint Inquiry "is critical to this defense."

As you know, the criminal justice system provides criminal defendants with a panoply of constitutionally and statutorily guaranteed rights to certain information from the prosecutor. See Fed. R. Crim. P. 16, 26.2; 18 U.S.C. § 3500; *Brady v. Maryland*, 373 U.S. 83 (1963). Your letters advise that the information you are seeking from the Committees has not been provided to the defense by the Justice Department. To the extent that the Committees have information responsive to your request, they obtained that documentary or other information from the Executive Branch, and it is to the Justice Department that you should direct your requests. It is not appropriate to ask the congressional Committees to supplant the proper role of the Executive and Judicial Branches by furnishing to the defense information under the control of those Branches, which they have not determined should properly be produced to the defense.

It is the objective of the Joint Inquiry to conduct a thorough investigation and study of the events leading up to the September 11 terrorist attacks and the information learned before and since the attacks. The purpose is to evaluate the actions that the United States Government could or should have taken to prevent the attacks, as well as future attacks, in fulfillment of the constitutional oversight and informing functions of the Congress. It is neither the purpose nor the focus of the Joint Inquiry to reach a judgment whether the defendant in any particular case is guilty of crimes charged by the United States, the responsibility for which rests with the criminal justice system. In order to protect the ability of congressional committees to fulfill their constitutional responsibilities as they see fit, the Speech or Debate Clause, Art. I, sec. 6, cl. 1, of the Constitution affords an absolute privilege against compelled production of investigatory records, whether generated or obtained in the course of an investigation. The Clause reflects the recognition that autonomy from external control is essential to the independent performance of the legislative function that undergirds our constitutional system of separated powers.

Edward B. MacMahon, Jr.  
June 10, 2002  
Page 2

Moreover, the request comes before the two Committees have even begun their hearings. During the course of those hearings, the Committees will be considering, in conjunction with appropriate declassification procedures, what information to place on the public record. In doing so over the coming months, the Committees will be exercising their responsibilities to make determinations about the use of materials obtained or developed in their inquiry. It is premature for them to make those determinations now.

Accordingly, the Committees respectfully decline your request.

Sincerely,

  
Geraldine R. Gennet  
General Counsel  
U.S. House of Representatives

  
Patricia Mack Bryan  
Senate Legal Counsel