

**Congress of the United States**  
**Washington, DC 20515**

January 22, 2007

The Honorable Alberto R. Gonzales  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Ave., NW  
Washington, DC 20530-0001

Dear Attorney General Gonzales:

This letter requests the Department of Justice to administer a polygraph examination to former National Security Advisor Sandy Berger asking him about his admittedly illegal behavior at the National Archives in 2002 and 2003.

As you know, Mr. Berger pleaded guilty to removing highly classified documents from the National Archives relating to the Clinton Administration's record on terrorism. Paragraph 11(c) of Mr. Berger's Plea Agreement states, "The defendant agrees that, upon request by the United States, he will voluntarily submit to polygraph examinations to be conducted by a polygraph examiner of the United States' choice." In his plea, Mr. Berger agreed to sit for such an examination; however two senior Justice Department officials involved in the prosecution, Chief of the Counterespionage Section John Dion and Deputy Assistant Attorney General for the Criminal Division Bruce Swartz, told Committee staff Mr. Berger was never polygraphed.

Last week, the Republican staff of the Committee on Oversight and Government Reform released a Report on its investigation of the handling of the Berger matter. The Report paints the Department of Justice as remarkably incurious about all of Mr. Berger's visits to the Archives. While Mr. Berger was prosecuted for taking documents he admitted to taking, questions remain about what other documents he may have removed.

As you are aware, Mr. Berger visited the National Archives four times in 2002 and 2003 to review highly classified documents – some of which were so highly classified Mr. Berger's own deputy did not have the requisite security clearances to see – in advance of inquiries into the terrorist attacks of September 11, 2001. Mr. Berger was provided original materials for which there were no copies or inventory. Mr. Berger admitted taking documents on three of these visits. The Archives official who provided the materials to Mr. Berger said that she would "never know what if any original documents were missing."

Officials from the 9/11 Commission told Committee staff they now have deep concerns about the materials Mr. Berger had access to. Executive Director Philip Zelikow and General Counsel Daniel Marcus said the Justice Department never told them

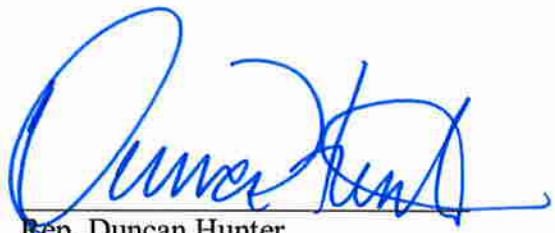
that Mr. Berger had access to originals. Had he known, Dr. Zelikow said, he would have had "grave concern."

We also have grave concern. It is extraordinarily important that the Justice Department avail itself of its rights under the Plea Agreement and administer a polygraph examination to Mr. Berger to question him about the extent of his thievery. This may be the only way for anyone to know whether Mr. Berger denied the 9/11 Commission and the public the complete account of the Clinton Administration's actions or *inactions* during the lead-up to the terrorist attacks on the United States.

Sincerely,



Rep. Tom Davis



Rep. Duncan Hunter



Rep. John L. Mica



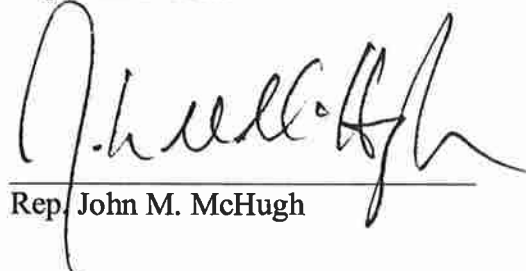
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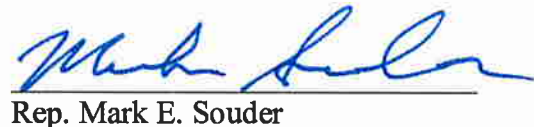
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Rep. Chris Cannon



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Rep. Michael Turner

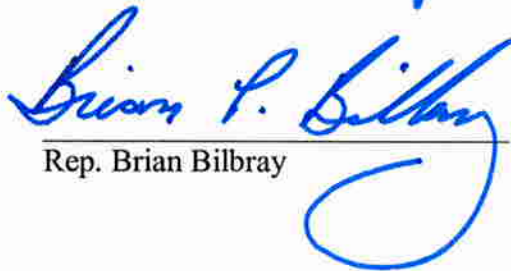
  
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