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ONE HUNDRED NINTH CONGRESS

# Congress of the United States

## House of Representatives

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INDEPENDENT

October 11, 2006

The Honorable Tom Davis  
Chairman  
Committee on Government Reform  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

I am writing to ask about the timing of your letter today requesting materials from the National Archives and Records Administration (NARA) relating to Samuel R. Berger, former National Security Advisor to President Clinton.

The Berger incident is not new, and there is no conceivable standard under which it would be considered a vitally important national security matter. As you know, the Justice Department thoroughly investigated the incident in 2004, and Mr. Berger pled guilty in April 2005 to a misdemeanor charge of taking classified documents without authorization. At the time of Mr. Berger's plea, Noel Hillman, the chief of the Justice Department's public integrity section, said that Mr. Berger "did not have an intent to hide any of the content of the documents."<sup>1</sup> Over a year ago, our staffs had a long meeting with Mr. Berger's attorney, during which the attorney provided extensive information about Mr. Berger's actions. Between then and today, the Committee took no further action on this issue of which I am aware.

Yesterday, Mr. Berger appeared on Fox television and criticized the Bush Administration for its negligent approach to North Korea.<sup>2</sup> It would be regrettable if the letter from Republican members that you received today and your own letter to NARA were prompted by Mr. Berger's criticism of the Administration. In our country, individuals should be free to criticize the government without fearing congressional investigation.

It would be equally regrettable if the sudden calls for an investigation were part of an organized effort to divert attention from the war in Iraq and other pressing national issues.

<sup>1</sup> *Berger Is Likely to Face Fine*, Washington Post (Apr. 2, 2005).

<sup>2</sup> *Former Clinton Adviser Sandy Berger on North Korea Nuke Crisis*, The Big Story with John Gibson, Fox News (Oct. 10, 2006).

The Honorable Tom Davis

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In recent weeks, there have been a series of reports that raise major questions about how the Administration has handled national security issues. These questions include: (1) why President Bush repeatedly claimed that the war in Iraq has made the United States safer when all 16 intelligence agencies had reached the opposite conclusion in an April 2006 National Intelligence Estimate; (2) why, as detailed in Bob Woodward's recent book *State of Denial*, President Bush and Administration officials provided Congress and the American people with false assessments of the violence in Iraq; and (3) whether Condoleezza Rice, then National Security Advisor, failed to take appropriate action after reportedly being informed in a July 2001 meeting with then CIA Director George Tenet about an imminent attack by Al Qaeda.

I respectfully suggest that any of these subjects would be more deserving of the Committee's attention than the Berger matter and request an explanation of why the Committee is pursuing the Berger matter at this time.

Sincerely,

A handwritten signature in black ink that reads "Henry A. Waxman". The signature is written in a cursive, flowing style.

Henry A. Waxman  
Ranking Minority Member