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RANKING MEMBER

One Hundred Ninth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

June 26, 2006

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

Dear Attorney General Gonzales:

I am deeply concerned by the consistent disregard for national security displayed by members of the news media regarding the federal government's efforts to detect and disrupt terrorist networks that threaten the American people. More specifically, I am outraged by the recent actions of the reporters, editors, and publisher of *The New York Times* to publish details of sensitive intelligence programs, and I request that you immediately investigate their actions for possible criminal prosecution under the Espionage Act (18 U.S.C. § 793 *et seq.*), the Comint Act (18 U.S.C. § 798), and/or other relevant federal criminal statutes.

On December 16, 2005, *The New York Times* published an article outlining a highly-classified overseas surveillance program conducted by the National Security Agency to monitor the communications of suspected terrorists. On June 23, 2006, the *Times* again divulged classified materials, this time on a program that seeks to identify international terrorist financing networks and transactions. These two programs have proven absolutely critical to the effective prosecution of the War on Terror, but have been seriously compromised. Both articles were published with the full knowledge that classified materials were being revealed and that such revelations would undermine ongoing intelligence activities directed against our terrorist enemies.

The Comint Act, enacted in the wake of the attacks on Pearl Harbor, provides in relevant part:

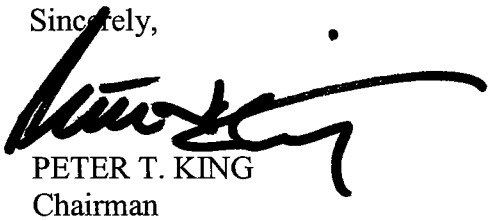
> Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an authorized person, *or publishes*, or uses in any manner prejudicial to the safety or interest of the United States...to the detriment of the United States any classified information...concerning the communication intelligence activities of the United States or any foreign government...shall be fined under this title or imprisoned for not more than ten years, or both.

18 U.S.C. § 798(a) (*emphasis added*). The repeated disclosure of classified programs by *The New York Times* appears to meet these criteria.

Congress clearly intended that media outlets should not have the unfettered power to report details about sensitive intelligence programs designed to detect and disrupt our enemies in a time of war. While I have the greatest respect for the Constitution of the United States and the guarantees provided by the First Amendment, I do not believe the Constitution can be read to provide such unlimited discretion to the media.

Since September 11, 2001, America has been at war with international terrorism. As this War on Terror continues, there will undoubtedly be additional casualties in the name of freedom. Those casualties should not be inflicted because the United States failed to enforce laws passed by the Congress to protect its citizens. The activities of *The New York Times* are shameful and irresponsible, and put Americans all over the world at risk by identifying sources and methods and warning our adversaries of our capabilities and techniques. I implore you to investigate thoroughly any possible violations of law by *The New York Times* and other media outlets such as the *Los Angeles Times* and *The Wall Street Journal* and hold accountable those persons responsible for aiding the cause of our enemies.

Sincerely,



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