

# United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

February 3, 2010

The Honorable Patrick J. Leahy  
Chairman  
Committee on the Judiciary  
United States Senate  
224 Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Leahy:

It has now been more than a month since Umar Farouk Abdulmutallab attempted to detonate an explosive device aboard Northwest Airlines flight 253 to Detroit. Since that time, the Judiciary Committee and other committees of Congress have heard disturbing testimony about the handling of this matter, including decisions that were made after Mr. Abdulmutallab was taken into custody by the government. That testimony also revealed that a decision was made by either Attorney General Holder or other senior officials in the Department of Justice to treat Mr. Abdulmutallab as a criminal suspect, entitled to *Miranda* warnings and the right to counsel, rather than as an unprivileged enemy belligerent subject to military detention and interrogation.

Though witnesses have provided valuable insight into the systematic failures which led to the attack, we are left with more questions than answers regarding the handling of Mr. Abdulmutallab once he was taken into custody. Aside from understanding which senior government officials made the capricious decisions to end his interrogation after only fifty minutes and to prosecute Abdulmutallab in the criminal justice system (and on what basis those decisions were made), it is imperative that we also know whether this Administration has developed a protocol or standard operating procedure for detaining and interrogating terrorists captured on American soil.

Republican Senators have sent two letters to Attorney General Holder to inquire into the Justice Department's role in these decisions. One of these letters expressly asks the Attorney General to appear to testify before the appropriate committees of jurisdiction. To date, we have received no formal response to either letter. Instead, the Administration apparently has decided to leak to the media various accounts of what occurred. These leaks, at times containing contradictory statements and explanations, only heighten the need for clear answers from the Attorney General. We therefore respectfully ask you to schedule an oversight hearing this month and invite Attorney General Holder to testify about circumstances surrounding this attempted terrorist attack.

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As FBI Director Mueller noted in his testimony before the Judiciary Committee last month, he was constrained from discussing many important aspects of this matter without prior approval from the Department of Justice. A hearing would give the Judiciary Committee a chance to fully explore and understand the legal and policy rationales for the controversial decisions surrounding Mr. Abdulmutallab's detention and interrogation, including the decision to charge him as a criminal rather than treat him as an enemy combatant. Furthermore, as the Committee with jurisdiction over these issues, a hearing with Attorney General Holder will give Members an opportunity to explore whether additional procedures are needed to address the next al Qaeda terrorist who is captured on American soil.

Very truly yours,



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Jeff Sessions  
Ranking Member



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Orrin G. Hatch



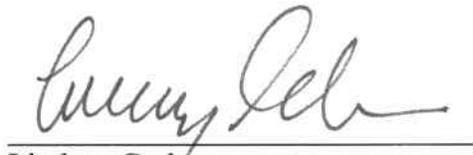
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Charles E. Grassley



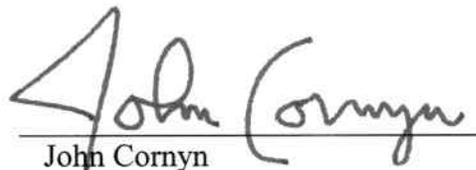
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Jon Kyl



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Lindsey Graham



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John Cornyn



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Tom Coburn