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United States Senate

COMMITTEE ON APPROPRIATIONS

WASHINGTON, DC 20510-0025

www.senate.gov/appropriations

April 4, 2002

The Honorable Tom Ridge
 Director
 Office of Homeland Security
 The White House
 Washington, D.C. 20500

Dear Director Ridge:

I appreciate your letter of March 25, 2002, addressed to me and with a copy sent to my colleague, Senator Ted Stevens, in which you offer to meet publicly with the members of the Senate and the House of Representatives later this month in an informal setting. After speaking with you and carefully considering your proposal, however, I find that there are certain concerns for the Senate's institutional prerogatives which give me pause.

The U. S. Constitution, in Article I, section 5, clause 2, provides each House of Congress with the exclusive authority to create its own rules. The traditional method that the Senate has chosen for gathering information and vetting proposed legislation, including legislation making appropriations, is through the committee system. Committees are a central organizational feature of the United States Senate. In 1816, Senate Rule 42 established eleven "standing" committees including the Finance Committee, from which the Appropriations Committee emerged in 1867. The committees themselves publish additional rules governing their procedures pursuant to Rule XXVI.

Your proposal is a unique one. In fact, I am unaware of any instance in which a public briefing has been used as a substitute for responding to a Senate Appropriations Committee request for testimony concerning funding needs.

In addition to being unique, the approach you suggest seems to be quite contrary to the tried and true method that the Senate relies on for guidance on funding matters, which is formal hearings by the Committee on Appropriations. Replacing the mechanism that the Senate itself has chosen and has practiced for decades for gathering appropriations-related information seems to be unnecessary in this case, and probably unwise from an institutional perspective. The proposal undercuts the authority of the Appropriations Committee to seek the special information it needs to make the funding decisions which the Senate has delegated to it in the manner that the Senate's rules provide. Many of the members of the Appropriations Committee have long years of experience in the unique exercise of the most important power of the people's elected representatives in Congress: the power of the purse. Certainly, it seems prudent and wise for the Committee to conduct business in the manner it has traditionally found to be the most efficient

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and expeditious when rendering its judgment on funding matters, which it is charged by the Senate to do.

It is the unquestionable duty of all citizens to cooperate with Congress in its effort to obtain the information needed for intelligent legislative action. The Senate Appropriations Committee is the representative of the Senate, and the Committee serves as the eyes and ears of the Senate when it comes to obtaining critical information regarding funding priorities.

Director Ridge, pursuant to the President's Executive Order establishing your office, you are the central person in the Administration who can answer questions and provide information about the homeland security priorities of the federal government. Acceptance of your proposal not to testify in a formal committee hearing as set forth above would be a major departure from the Senate's traditions and long-standing practices regarding the expenditure of public monies. Compounding the problem is the lack of any discernable justification for such a departure. To the contrary, the many strong justifications for your appearance before the Committee are plainly evident. The decisions which you make as Director of the Office of Homeland Security undoubtedly will play a large role in thousands of funding decisions in the coming years, and there is simply no rational reason for avoiding the Committee which has to review and recommend expenditures from the U.S. Treasury to the full Senate and the American people.

The Senate Appropriations Committee's request for you to appear at an upcoming hearing on homeland security is both simple and straightforward. When President Bush announced your selection as Director of the Office of Homeland Security, he said that this "Cabinet-level position" would "lead, oversee and coordinate a comprehensive national strategy to safeguard our country against terrorism, and respond to any attacks that may come."

As such, the Senate Appropriations Committee needs to hear from you directly in the role that the President outlined in his joint address to Congress on September 20, 2001. The Committee plans to also hear from several Cabinet secretaries and other Administration officials about their specific initiatives and funding needs, but it is essential that, as the one person in the Administration with the responsibility for the effective policy development and implementation of present and future efforts to protect the American people within our nation's borders, the Committee hear your views and your strategies. As you said in your news conference of October 18, 2001, you have a critical mission: "[I]f there is a gap, if there is something I think that needs to be done differently, if there are additional preventive measures I think need to be taken, if I think we have overlooked something, I make the call." The Appropriations Committee needs you to answer our call.

As for the claim that there is a separation of powers issue somehow involved if you would accept our invitation to testify voluntarily about funding matters before the Senate Appropriations Committee, I do not see it. In addition to the numerous Executive Branch officials who routinely

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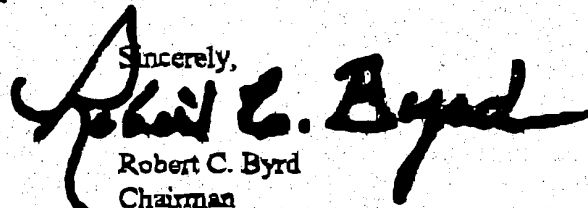
testify before the Senate Appropriations Committee, Supreme Court Justices regularly testify at Committee hearings regarding Judicial Branch budget requests. The only precedent that could possibly be set by your testimony might involve some claim of Executive Privilege, but I have repeatedly assured you and several presidential assistants that the Appropriations Committee has no interest in your private advice to the President. We have no interest in speaking to you in your role as "Assistant to the President for Homeland Security." Our interest is in speaking to you about your plans and programs as "Director of the Office of Homeland Security."

Our homeland defense hearings are not investigatory hearings; they are fact-finding hearings. As is customary in hearings of this nature, our witnesses will not be put under oath. The hearings are designed to provide the Committee, the Senate, and the American people with a comprehensive understanding of the homeland security efforts already underway and the plans for the future. As the Senate prepares to craft the supplemental appropriations bill and the Fiscal Year 2003 appropriations bills, it is imperative that we hear from you about the Administration's homeland defense budget requests.

I appreciate very much your proposal. But, as a former member of the House of Representatives, you understand the critical need for formal public hearings of the Appropriations Committee in matters involving public funds. Senator Stevens and I have asked for a meeting with President Bush to discuss your appearance before our Committee. I look forward to that meeting, and I also look forward to your testimony.

I thank you for your courtesy and your cooperation.

Sincerely,



Robert C. Byrd
Chairman

U.S. Senate Appropriations Committee

cc: Senator Ted Stevens