



U.S. Rep. Jane Harman
36th District of California



2400 Rayburn Building, Washington, DC 20515

<http://www.house.gov/harman>

June 28, 2007

Contact: Adam Blickstein
(202) 225-2156

Statement of Chair Jane Harman
Committee on Homeland Security
Subcommittee on Intelligence, Information Sharing & Terrorism Risk Assessment

“Over-Classification and Pseudo-Classification: Making DHS the Gold Standard for Designating Classified and Sensitive Homeland Security Information”

AS PREPARED:

Like many other Americans, I read the Washington Post last Sunday, and was surprised about how the Vice President is apparently conducting the business of his office.

Like the CIA, the FBI, and the Department of Homeland Security, Mr. Cheney has reportedly been making up classified and unclassified designations to keep his work products secret.

My personal favorite – and I had never heard of this designation during my eight years on the House Permanent Select Committee on Intelligence – is “Treated As: Top Secret/SCI.”

According to the Washington Post, “[E]xperts in and out of government said Cheney’s office appears to have invented that designation – which alludes to ‘sensitive compartmented information,’ the most closely guarded category of government secrets.”

By adding the words “Treated As,” the Post noted, the Vice President seems to be seeking to protect his unclassified work as though its disclosure would cause “exceptionally grave damage to national security.”

And that – in a nutshell – is the problem we’re facing with over-classification and pseudo-classification.

Everyone – from the Vice President on down – believes that their information should be “Treated as Top Secret” – regardless of the law, the rules, or what’s right for this country.

Is this the best we can hope for from an Administration that is supposed to be taking on over-classification and the obstacles it presents to our first preventers in State and local law enforcement?

What hope is there for the “Controlled Unclassified Information” regime being developed by the Program Manager of the Information Sharing Environment?

One of our witnesses today is a major player in the controversy.

Mr. Bill Leonard of the Information Security Oversight Office testified before this Subcommittee this past March, and we welcome him here again today.

At the prior hearing, he and the other witnesses helped paint a picture of the consequences of abusing the classification regime, and its outrageous costs – to both taxpayers and our information sharing efforts.

As I understand it, the Justice Department is currently trying to resolve the legal issue, so I assume Mr. Leonard will not be able to comment.

But, I expect Mr. Leonard to testify and our subcommittee to probe what best practices the Department of Homeland Security should adopt to minimize over-classification and pseudo-classification. If this Committee has learned anything from the hearings that we have held this year, it's this:

The only way to ensure that relevant homeland security information is shared between the Federal Government and its State, local, tribal, and private sector partners is to create a classification system that is enforceable, understandable, and applicable to everyone. Almost six years after 9/11, we should be treating far less information as Top Secret.

Instead, we should be making it a top priority to fix over-classification and pseudo-classification.

In my personal view, this task is made harder by the repeated actions of the Vice President to exempt his office from the rules everyone else follows.

Classified markings are NOT – repeat NOT – to be used to protect political turf or to hide embarrassing facts from public view.

Indeed, a recurrent theme throughout the 9/11 Commission's report was the need to address the problems of over- and pseudo-classification to clear up a major stumbling block to responding to the terrorist threat.

While I hope Congress will fashion a government-wide solution, the Department of Homeland Security is an excellent place to start.

It can become the “best practices” center and the test bed for the rest of the government. We are joined today by a panel of four experts each of whom brings great value to this subject.

This Subcommittee has a major role to play, and we intend to play it.

If we do this right – and do it now – we can help ensure that the Department will become the “gold standard” by which all other agencies will be judged when it comes to the use of classifications and information controls.

I look forward to working with Mr. Reichert on legislation that I hope we can introduce this summer. I would like to extend a warm welcome to our experts who will be helping us work these issues. I look forward to your testimony