

# LAMAR SMITH'S FUTILE LEAK INVESTIGATION

Lamar Smtih has come up with a list of 7 national security personnel he wants to question in his own leak investigation. (h/t Kevin Gosztola)

House Judiciary Committee Chairman Lamar Smith, R-Texas, told President Obama Thursday he'd like to interview seven current and former administration officials who may know something about a spate of national security leaks.

[snip]

The administration officials include National Security Advisor Thomas Donilon, Director of National Intelligence James Clapper, former White House Chief of Staff Bill Daley, Assistant to the President for Homeland Security and Counterterrorism John Brennan, Deputy National Security Advisor Denis McDonough, Director for Counterterrorism Audrey Tomason and National Security Advisor to the Vice President Antony Blinken.

Of course the effort is sure to be futile—if Smith's goal is to figure out who leaked to the media (though it'll serve its purpose of creating a political shitstorm just fine)—for two reasons.

First, only Clapper serves in a role that Congress has an unquestioned authority to subpoena (and even there, I can see the Intelligence Committees getting snippy about their turf—it's their job to provide impotent oversight over intelligence, not the Judiciary Committees).

As for members of the National Security Council (Tom Donilon, John Brennan, Denis McDonough,

Audrey Tomason, and Antony Blinken) and figures, like Bill Daley, who aren't congressionally approved? That's a bit dicier. (Which is part of the reason it's so dangerous to have our drone targeting done in NSC where it eludes easy congressional oversight.)

A pity Republicans made such a stink over the HJC subpoenaing Karl Rove and David Addington and backed Bush's efforts to prevent Condi Rice from testifying, huh?

The other problem is that Smith's list, by design, won't reveal who leaked the stories he's investigating. He says he wants to investigate 7 leaks.

Smith said the committee intends to focus on seven national security leaks to the media. They include information about the Iran-targeted Stuxnet and Flame virus attacks, the administration's targeted killings of terrorism suspects and the raid which killed Usama bin Laden.

Smith wants to know how details about the operations of SEAL Team Six, which executed the bin Laden raid in Pakistan, wound up in the hands of film producers making a film for the president's re-election. Also on the docket is the identity of the doctor who performed DNA tests which helped lead the U.S. to bin Laden's hideout.

But his list doesn't include everyone who is a likely or even certain leaker.

Take StuxNet and Flame. Not only has Smith forgotten about the programmers (alleged to be Israeli) who let StuxNet into the wild in the first place—once that happened, everything else was confirmation of things David Sanger and security researchers were able to come up with on their own—but he doesn't ask to speak to the Israeli spooks demanding more credit for the virus.

Then there's the Osama bin Laden raid, where Smith has forgotten two people who are almost certainly part of the leak fest: Ben Rhodes and Brigadier General Marshall Webb.

Smith's inclusion of Shakeel Afridi's plight here is downright ridiculous. It's fairly clear the first leaks about Afridi's role in the OBL operation came from the ISI, with reporting originally published in the UK, not the US. The source for confirmation that Afridi was working for the CIA? Well, if Lamar Smith and his staffers can't negotiate a TV remote or an internet search to find Leon Panetta confirming Afridi's role on TV, then they have no business serving in an oversight role, period. And yet Panetta's not on Smith's list.

Smith also wants to know who leaked details of the UndieBomb 2.0 plot. Well, he better start subpoenaing some Yemeni and Saudi—and even British—partners, then, because they were all part of the leak.

Finally, there are the various drone targeting stories. What Smith seems not to get is that the Kill List stories were responses to earlier stories on signature strikes and Brennan's grasp of targeting under NSC. Those leaks almost certainly did not arise from the White House; if I had to guess, they came from folks in JSOC who are miffed about losing a turf battle. Yet they, too, are not on the list. And all that's before you consider that CIA did not report a leak on, at least, the later targeted killing stories, suggesting the possibility that they're not leaks at all, but myths told to the American public.

All that, of course, is before you get to the circumstance that Republicans fiercely defended during the Plame investigation: for original classification authorities—and the Vice President if pixie dust has been liberally applied—can unilaterally declassify whatever the fuck they feel like, leak it to select journalists, and then start wars or end careers on it. All with no paperwork, making it hard to

prosecute either the legitimate  
instadeclassifications as well as the illegal  
ones. Lamar Smith had absolutely no problem with  
that unacceptable state of affairs five years  
ago. Now, it turns his entire witch hunt into a  
farce.

So either Lamar Smith is going to need to find a  
way to undo all the precedent on executive  
prerogative on secrecy he and his party set  
under the Bush Administration—as well as find a  
way to start subpoenaing our allies—or this  
entire effort is futile.

Unless, of course, this is all about election  
year posturing.