

Terwilliger, Zachary (ODAG)

From: Terwilliger, Zachary (ODAG)
Sent: Monday, March 20, 2017 10:56 AM
To: Tyson, Jill C. (OLA)
Subject: FW: For White House review/clearance - DAG nominee Rod Rosenstein QFRs
Attachments: Questions For the Record - Rod J. Rosenstein - MASTER DOC - CLEAN draftdocx
Importance: High

Okay for me to send to Rod for final review?

Zach

From: Zadrozny, John A. EOP/WHO (b) (6)
Sent: Monday, March 20, 2017 10:27 AM
To: Terwilliger, Zachary (ODAG) <Zachary.Terwilliger2@usdoj.gov>
Subject: FW: For White House review/clearance - DAG nominee Rod Rosenstein QFRs
Importance: High

Zach:

FYI.

JZ

w: (b) (6)

c: (b) (6)

From: Zadrozny, John A. EOP/WHO
Sent: Monday, March 20, 2017 10:25 AM
To: 'Tyson, Jill C. (OLA)' <Jill.C.Tyson@usdoj.gov>
Cc: Ramer, Sam (OLA) <Sam.Ramer@usdoj.gov>; Bremberg, Andrew P. EOP/WHO (b) (6); Winfree, Paul L. EOP/WHO (b) (6)

Mashburn, John K. EOP/WHO (b) (6)
Subject: RE: For White House review/clearance - DAG nominee Rod Rosenstein QFRs
Importance: High

Jill:

See attached. I recommended some edits, (b) (5)
(b) (5)

Let me know if any questions.

JZ

w: (b) (6)

c: (b) (6)

From: Tyson, Jill C. (OLA) [<mailto:Jill.C.Tyson@usdoj.gov>]
Sent: Sunday, March 19, 2017 4:35 PM
To: Winfree, Paul L. EOP/WHO (b) (6); Zadrozny, John A. EOP/WHO (b) (6)
Cc: Ramer, Sam (OLA) <Sam.Ramer@usdoj.gov>
Subject: FW: For White House review/clearance - DAG nominee Rod Rosenstein QFRs
Importance: High

Paul, John:

Thanks again for your help clearing Rachel Brand's QFRs this weekend. Here is the next set, which I'm sure John Mashburn will send your way momentarily. I just wanted to thank you in advance for your help clearing these and apologize for the very short deadline.

Feel free to reach out if you have any questions.
Sincerely,
-JCT

Cc: Sam Ramer, Acting Assistant Attorney General, OLA

From: Tyson, Jill C. (OLA)
Sent: Sunday, March 19, 2017 4:28 PM
To: Mashburn, John K. EOP/WHO (b) (6)
Cc: Tyson, Jill C. (OLA) <jctyson@jmd.usdoj.gov>; Ramer, Sam (OLA) <Sam.Ramer@usdoj.gov>
Subject: For White House review/clearance - DAG nominee Rod Rosenstein QFRs
Importance: High

John:

Please find attached draft responses to Questions for the Record posed to Deputy Attorney General nominee Rod Rosenstein following his confirmation hearing before the Senate Judiciary Committee. The Committee advises that Mr. Rosenstein's responses must be submitted by tomorrow evening (Monday 3/20) so that he can be placed on the Committee's 3/27 Business Meeting agenda (to hopefully be voted out of Committee on 4/3). In order to allow time to address any comments we receive from the White House, **we respectfully request your comments by mid-day tomorrow**. Sorry for the short deadline and thanks for all of your help clearing our QFRs.

Feel free to call my cell if you have any questions.
Thanks again,
-JCT

Jill C. Tyson
Deputy Assistant Attorney General
Office of Legislative Affairs
U.S. Department of Justice
(b) (6) - direct
(b) (6) - cell
Jill.C.Tyson@USDOJ.gov

**Nomination of Rod J. Rosenstein to be Deputy Attorney General
Questions for the Record
Submitted March 14, 2017**

QUESTIONS FROM SENATOR FEINSTEIN

1. Russian Interference with Elections

At your confirmation hearing, I asked you about the U.S. intelligence community's assessment that Vladimir Putin ordered a Russian influence campaign designed to interfere with the 2016 presidential election. During your hearing, you committed reading this report (titled "Assessing Russian Activities and Intentions in Recent U.S. Elections and released on January 6, 2017.

a. Do you believe Russia interfered in our election?

(b) (5)

A large black rectangular redaction box covering the response to question 1a.

b. If not, why not?

(b) (5)

A black rectangular redaction box covering the response to question 1b.

c. Prior to your hearing, did anyone suggest or advise you not to read the public, unclassified report? If so, who gave you that suggestion or advice, and why?

(b) (5)

A large black rectangular redaction box covering the response to question 1c.

2. Non-Responsive Record

Non-Responsive Record

A large gray rectangular redaction box covering the response to question 2.

**Nomination of Rod J. Rosenstein to be Deputy Attorney General
Questions for the Record
Submitted March 14, 2017**

QUESTIONS FROM SENATOR LEAHY

1. Non-Responsive Record



Non-Responsive Record



2. Non-Responsive Record



Non-Responsive Record



Non-Responsive Record



¹ <https://www.bna.com/trump-enforcement-foreign-n73014449002/>

² <http://www.newyorker.com/magazine/2017/03/13/donald-trumps-worst-deal>

5. At your hearing, you committed to finally reading the Intelligence Community's joint assessment on Russian interference in the 2016 presidential election.⁵ I was surprised that you had not read this assessment, which has been publicly available since January. During Attorney General Sessions' confirmation hearing, he too testified that he had not read the Intelligence Community's publicly available report, but in his first written responses he stated: "I have no reason not to accept the intelligence community's conclusion(s) as contained in the report."⁶ Since then, Attorney General Sessions has consistently refused to unequivocally denounce Russia's confirmed meddling in our electoral process. For instance, when recently pressed on whether the Trump campaign believed Russia favored candidate Trump over others, Attorney General Sessions said, "I have never been told that."⁷ And when pressed if he thought Russia favored candidate Trump, Attorney General Sessions responded, "I don't have any idea," and he then refused to comment on existing evidence. If confirmed, you would be working directly under an Attorney General who does not appear to take evidence of threats from Russia as a serious threat to our national security.
- a. **Since your hearing, have you read the Intelligence Community's joint assessment on Russian interference in the 2016 U.S. presidential election? If you have not read the report, was it so that you could avoid directly answering questions about it during the confirmation process?**

(b) (5)

- b. **Do you accept the Intelligence Community's findings as contained in that assessment?**

(b) (5)

- c. **If confirmed, do you commit to seriously investigating interference in U.S. elections from Russia or any other foreign government?**

(b) (5)

⁵ https://www.intelligence.senate.gov/sites/default/files/documents/ICA_2017_01.pdf

⁶ <https://www.judiciary.senate.gov/download/sessions-responses-to-leahy-questions-for-the-record-01-10-17>

⁷ <http://www.foxnews.com/on-air/tucker-carlson-tonight/index.html#/v/5346017322001>

**Nomination of Rod J. Rosenstein to be Deputy Attorney General
Questions for the Record
Submitted March 14, 2017**

QUESTIONS FROM SENATOR DURBIN

1. Non-Responsive Record



Non-Responsive Record



2. Non-Responsive Record



Non-Responsive Record



Non-Responsive Record

3. On January 6, the Intelligence Community issued its assessment titled “Assessing Russian Activities and Intentions in Recent U.S. Elections.”

- a. Have you now read either the classified or unclassified version of the assessment?

(b) (5)

- b. Do you accept the “Key Judgments” presented in the assessment?

(b) (5)

- c. Do you accept the Intelligence Community’s judgment that Russia interfered with our election?

(b) (5)

- d. Do you know if Attorney General Sessions has read the assessment yet?

(b) (5)

4. Non-Responsive Record

Non-Responsive Record

- 5.

Non-Responsive Record

Nomination of Rod J. Rosenstein to be Deputy Attorney General
Questions for the Record
Submitted March 14, 2017

QUESTIONS FROM SENATOR COONS

1. Non-Responsive Record
Non-Responsive Record



2. Non-Responsive Record
Non-Responsive Record



3. Non-Responsive Record
Non-Responsive Record



6. If confirmed, will you ensure that all investigations into Russian interference with the presidential election and the Trump administration are completed in a thorough and independent fashion?

(b) (5) [REDACTED].

7. If confirmed, how will you ensure that there is not political interference with the intelligence agencies and U.S. Attorneys' offices, with regard to any investigation into Russian interference with the presidential election and the Trump administration or any other issue?

(b) (5) [REDACTED]

8. During his confirmation hearing, Attorney General Sessions stated that he did not have communications with the Russians, even though he had met with the Russian Ambassador on at least two separate occasions.

- a. Do you agree with Attorney General Sessions' decision to recuse himself from any current or future inquiry into the Trump campaign and administration's interaction with the Russian government?

(b) (5) [REDACTED]

- b. How will you ensure, to the best of your ability, that the Attorney General honors his recusal commitment and is not involved in investigations concerning the Trump campaign and administration's interaction with the Russian government?

(b) (5) [REDACTED]

(b) (5)

9. Non-Responsive Record

Non-Responsive Record

10 Non-Responsive Record

Non-Responsive Record

11 Non-Responsive Record

Tyson, Jill C. (OLA)

From: Tyson, Jill C. (OLA)
Sent: Friday, March 24, 2017 1:12 AM
To: Terwilliger, Zachary (ODAG)
Cc: Ramer, Sam (OLA); Tyson, Jill C. (OLA)
Subject: RE: 3-7-17 Nominations Hearing - Written Follow-up Questions (Rosenstein)
Attachments: QFRs 2- Leahy - draft OLA responses 3.23.2017.docx

Zach:

Apologies for the late delivery of the attached draft answers. You will see a few comments embedded – (b) (5)

[REDACTED]

Can you please edit as you see fit then clear with Rod asap Friday (3/24)? I'd like to send Rod's preferred responses to the WH by early afternoon with the goal of submitting responses to the Hill by COB Friday or Saturday at the latest given the 3/27 markup. Please let me know if you need anything else.

Thanks,
-JCT

From: Tyson, Jill C. (OLA)
Sent: Thursday, March 23, 2017 5:37 PM
To: Terwilliger, Zachary (ODAG) <zterwilliger@jmd.usdoj.gov>
Cc: Goldschmidt, Lauren (OLA) <lgoldschmidt@jmd.usdoj.gov>; Ramer, Sam (OLA) <sramer@jmd.usdoj.gov>
Subject: FW: 3-7-17 Nominations Hearing - Written Follow-up Questions (Rosenstein)

Zach –

Please see attached additional QFRs to Rod from Leahy. (b) (5)

[REDACTED] Lauren will work up draft responses tonight (b) (5)

[REDACTED]. We'll get you drafts later tonight. (b) (5)

[REDACTED] transmitting the QFRs back to the Hill tomorrow night or this weekend (in advance of Monday's markup). Thanks.

-JCT

From: Covey, Jason (Judiciary-Rep) (b) (6)
Sent: Thursday, March 23, 2017 5:18 PM
To: King, Lola A. (OIP) <Lola.A.King@usdoj.gov>; Terwilliger, Zachary (USAVAF)

<Zachary.Terwilliger@usdoj.gov>; Sam.Ramer@usdoj.gov; Tyson, Jill C. (OLA) <Jill.C.Tyson@usdoj.gov>
Cc: Lehman, Ted (Judiciary-Rep) (b) (6); Mehler, Lauren (Judiciary-Rep)
(b) (6); O'Connor, Kasey (Judiciary-Rep) (b) (6)
(b) (6); Mehta, Nazneen (Judiciary-Dem) (b) (6); Park,
Chan (Judiciary-Dem) (b) (6)
Subject: 3-7-17 Nominations Hearing - Written Follow-up Questions (Rosenstein)

Attached please find follow-up questions submitted to the Honorable Rod J. Rosenstein from Senator Leahy.

Thank you.

Jason A. Covey
Hearing Clerk | Senate Judiciary Committee
<http://judiciary.senate.gov>

**Follow-Up Questions for the Record for Senator Patrick
Leahy, Senate Judiciary Committee,
Hearing on the Nomination of Rod J. Rosenstein to
Serve as Deputy Attorney General of the United
States March 23, 2017**

1. I asked you in writing why it was proper for Elliot Richardson to commit to appointing an independent prosecutor for Watergate when his nomination was pending before this Committee, but not for you to make a similar commitment regarding Russian interference in our election and possible collusion with the Trump campaign. You replied, “Richardson’s decision to appoint a special counsel was appropriate given the facts and circumstances known to him in May 1973. Those facts and circumstances are included in histories of the Watergate era. The facts and circumstances known to me in March 2017 are quite different.”

This week we learned additional facts. On March 20, 2017, at a public hearing held by the House Permanent Select Committee on Intelligence, FBI Director James Comey “confirm[ed] that the FBI, as part of our counterintelligence mission, is investigating, the Russian government’s efforts to interfere in the 2016 presidential election. And that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government, and whether there was any coordination between the campaign and Russia’s efforts. As with any counterintelligence investigation, this will also include an assessment of whether any crimes were committed.”¹

To ensure that the investigation is insulated as much as possible from any outside influences, this public announcement reaffirms the need for a Special Counsel who, unlike you, or the FBI director, does not report to the Attorney General, who was forced to recuse himself from this investigation, and cannot be fired by the President. In my view, several extraordinary circumstances are present, including an inescapable appearance of a conflict of interest.

- a. **In light of these newly public facts, do you still believe that it would be premature to commit to appointing an independent Special Counsel² to investigate the Russian connection to the Trump campaign?**

(b) (5)

- b. **Now that the FBI has publicly confirmed a counterintelligence investigation into Russian interference and possible collusion with the Trump campaign, will you commit to appointing a Special Counsel to ensure a fully impartial investigation that is protected from political meddling?**

(b) (5)

(b) (5) [Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Non-Responsive Record



Gauhar, Tashina (ODAG)

From: Gauhar, Tashina (ODAG)
Sent: Thursday, May 11, 2017 10:18 PM
To: Crowell, James (ODAG)
Subject: FW: Letter from House Intelligence Committee
Attachments: Carlin 9 May 2017.pdf; ATT00001.htm

FYI – HPSCI sent a letter to John Carlin.

From: (b)(6) per NSD
Sent: Thursday, May 11, 2017 5:35 PM
To: (b)(6) per NSD
(b)(6) per NSD; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>; Burton, Faith (OLA) <fburton@jmd.usdoj.gov>; May, M. Benjamin (OLA) <mbemay@jmd.usdoj.gov>
Subject: FW: Letter from House Intelligence Committee

FYSA.

From: Carlin, John P. [<mailto:JCarlin@mofo.com>]
Sent: Thursday, May 11, 2017 4:53 PM
To: (b)(6) per NSD
Subject: Fwd: Letter from House Intelligence Committee

Per my voicemail, for discussion tomorrow on coordination with Department of Justice. I am retaining Wainstein.

John P. Carlin
Partner
Global Chair, Risk and Crisis Management
Morrison & Foerster LLP
212-336-8600
jcarlin@mofo.com
Sent from my iPhone

Begin forwarded message:

From: "Patel, Kash" <(b) (6)>
Date: May 9, 2017 at 1:41:04 PM PDT
To: "jcarlin@mofo.com" <jcarlin@mofo.com>
Cc: "Bennett, Wells" <(b) (6)>
Subject: Letter from House Intelligence Committee

- External Email -

Mr. Carlin,

Please see the attached letter from the House Permanent Select Committee on Intelligence regarding our ongoing investigation into the 2016 U.S. election. Thanks for your time.

Regards,

Kashyap P. Patel
Senior Counsel for Counterterrorism
House Permanent Select Committee on Intelligence

Desk: 202-226-(b) (6)
Cell: 202-360-(b) (6)

This message may be confidential and privileged. Use or disclosure by anyone other than an intended addressee is prohibited. If you received this message in error, please delete it and advise the sender by reply email.

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UNCLASSIFIED//COMMITTEE SENSITIVE

U.S. HOUSE OF REPRESENTATIVES
PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

HVC-304, THE CAPITOL
WASHINGTON, DC 20515
(202) 225-4121

DAMON NELSON
STAFF DIRECTOR

MICHAEL BAHAR
MINORITY STAFF DIRECTOR

May 9, 2017

VIA CERTIFIED U.S. MAIL

Mr. John Carlin
Morrison & Foerster L.L.P.
250 West 55th Street
New York, New York 10019-9601
+1 212-336-8600
jcarlin@mofo.com

Dear Mr. Carlin:

As part of its bipartisan investigation into Russian active measures directed at the 2016 U.S. election, the House Permanent Select Committee on Intelligence requests that you produce certain documents and other materials to the Committee and participate in a voluntary, transcribed interview at the Committee's offices.

First we respectfully ask that you produce to the Committee, by no later than the close of business on **May 22**, the following:

Any documents, records, electronically stored information including e-mail, communication, recordings, data and tangible things (including, but not limited to, graphs, charts, photographs, images and other documents) regardless of form, other than those widely available (e.g., newspaper articles) that reasonably could lead to the discovery of any facts within the investigation's publicly-announced parameters.

In complying with this request, we ask that you furnish to the Committee, in unredacted form, any and all responsive material in your actual or constructive possession, custody, or control or otherwise available to you, including responsive material possessed by any third party to be transferred to your possession and shared with the Committee. This request is also made on an ongoing basis: if after making an initial production to the Committee you find additional responsive material, you should produce that material to the Committee.

To the extent not encompassed by the above request, this letter also requests preservation of all documents, records, electronically stored information, recordings, data and tangible things (including, but not limited to, graphs, charts, photographs, images and other documents)

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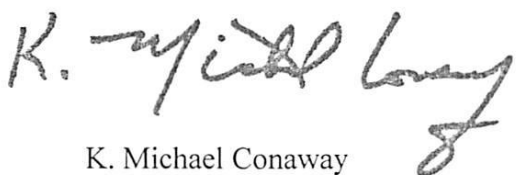
regardless of form, other than those widely available (e.g., newspaper articles), related to the Committee's investigation, your interview, and any ancillary matters.

Should it become necessary to do so, the Committee may supplement the document request contained in this letter at any time.

Committee staff will work with you to arrange your interview, at a time and date subsequent to your production of documents to the Committee. The interview may cover any topic within the publicly-announced parameters of the Committee's investigation, including Russian cyber activities directed against the 2016 U.S. election, potential links between Russia and individuals associated with political campaigns, the U.S. government's response to these Russian active measures, and related leaks of classified information.

Should you have any questions at any time, please contact Committee staff at (202) 225-4121. If you are represented by an attorney, please forward this letter to your attorney, and have him or her contact the Committee on your behalf.

Sincerely,



K. Michael Conaway
Member of Congress



Adam Schiff
Ranking Member

Attachment: Parameters for Russia Investigation

Intelligence Committee Chairman, Ranking Member Establish Parameters for Russia Investigation

Washington, March 1, 2017

Chairman Nunes and Ranking Member Schiff have approved the Scope of Investigation for the inquiry by the House Permanent Select Committee on Intelligence into the Russian active measures campaign targeting the 2016 U.S. election. While the detailed, six-page scoping document remains classified, the investigation will seek to answer the following questions:

- What Russian cyber activity and other active measures were directed against the United States and its allies?
- Did the Russian active measures include links between Russia and individuals associated with political campaigns or any other U.S. Persons?
- What was the U.S. Government's response to these Russian active measures and what do we need to do to protect ourselves and our allies in the future?
- What possible leaks of classified information took place related to the Intelligence Community Assessment of these matters?

To answer these questions, the Committee will seek access to and custody of all relevant information, including law enforcement and counterintelligence information, consistent with the Committee's oversight jurisdiction and investigative responsibilities. The Committee's inquiry will not, however, impede any ongoing investigation.

The Committee will also conduct interviews, take witness testimony, and review all reporting underlying the Intelligence Community Assessment (ICA) "Russian Activities and Intentions in Recent US Elections." The inquiry will seek to ensure that the ICA comported with all relevant Intelligence Community analytic standards, and that allegations of Russian collusion with any U.S. Persons and the leaks of classified information are fully investigated. While the Committee has access to the reporting underlying the ICA, the Scope of Investigation reiterates the need to expand access to those documents and to ensure they are delivered to and stored at the Committee. It also sets forth the expectation that the Intelligence Community provide any other relevant intelligence to the Committee.

Chairman Nunes said, "The Intelligence Committee has been investigating Russia for years and warning about the Putin regime's hostile international actions, its aggression in cyber space, and its influential international propaganda campaigns. The committee is determined to continue and expand its inquiries into these areas, including Russian activities related to the 2016 U.S. elections. On a bipartisan basis, we will fully investigate all the evidence we collect and follow that evidence wherever it leads."

Ranking Member Schiff stated, "The House Intelligence Committee must conduct a bipartisan investigation into Russia's interference in our election. We must follow the facts wherever they may lead, leaving no stone unturned, and that must also include both the Russian hacking and dumping of documents as well as any potential collusion between Russia and U.S. citizens. This investigation is a national security necessity and anything less than a full accounting of all the facts will be insufficient to protect the country and meet the expectations of the American people."

Schools, Scott (ODAG)

From: Schools, Scott (ODAG)
Sent: Tuesday, May 23, 2017 1:26 PM
To: Ramer, Sam (OLA)
Subject: FW: John Carlin
Attachments: Carlin 9 May 2017.pdf

FYI. I am going to speak with Ken at 5 pm today to discuss process with him. What is the process he should follow?

From: Wainstein, Ken [mailto:Ken.Wainstein@cwt.com]
Sent: Friday, May 19, 2017 10:17 AM
To: Schools, Scott (ODAG) <sschools@jmd.usdoj.gov>
Cc: Carlin, John P. <JCarlin@mofo.com>
Subject: John Carlin

Scott,

I hope you're doing well. John Carlin (cced here) received the attached letter from HPSCI requesting documents and an interview. John has asked me to represent him in this process. He called (b)(6) per NSD

(b)(6) per NSD at NSD to find out the Dept's position on the request and to inquire about representation. (b)(6) per NSD suggested we reach out to you.

Would you please let me know when you have a couple minutes for a call. Thanks very much.

Ken

Kenneth L. Wainstein
Partner
Cadwalader, Wickersham & Taft LLP
700 Sixth Street, N.W.
Washington, DC 20001
Tel: +1 202.862.2474
Fax: +1 202.862.2400
ken.wainstein@cwt.com
www.cadwalader.com

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Bumatay, Patrick (ODAG)

From: Bumatay, Patrick (ODAG)
Sent: Friday, May 12, 2017 12:51 PM
To: Terwilliger, Zachary (ODAG)
Subject: FW: Urgent: 2017-05-12 CEG DF to DOJ FBI (Briefings)
Attachments: 2017-05-12 CEG DF to DOJ FBI (Briefings).pdf
Importance: High

Are you receiving these?

From: Burton, Faith (OLA)
Sent: Friday, May 12, 2017 12:13 PM
To: McKay, Shirley A (OLA) <smckay@jmd.usdoj.gov>; Herbert, Jenelle R. (OLA) <jherbert2@jmd.usdoj.gov>; Brooks, Roshelle (OLA) <rbrooks@jmd.usdoj.gov>; Barnett, Gary (ODAG) <gbarnett@jmd.usdoj.gov>; Bumatay, Patrick (ODAG) <pabumatay@jmd.usdoj.gov>; Gauhar, Tashina (ODAG) <tagauhar@jmd.usdoj.gov>
Cc: (b)(6), (b)(7)(C) per FBI (b)(6) per NSD
(b)(6) per NSD Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>; May, M. Benjamin (OLA) <mbemay@jmd.usdoj.gov>; (b)(6) per NSD (b)(6) per NSD; Ramer, Sam (OLA) <sramer@jmd.usdoj.gov>
Subject: FW: Urgent: 2017-05-12 CEG DF to DOJ FBI (Briefings)
Importance: High

Please log in and assign to NSD and FBI; I will acknowledge receipt. Thanks. FB

From: Davis, Patrick (Judiciary-Rep) (b) (6)
Sent: Friday, May 12, 2017 11:47 AM
To: (b)(6), (b)(7)(C) per FBI Ramer, Sam (OLA) <sramer@jmd.usdoj.gov>
Cc: CEG (Judiciary-Rep) (b) (6); Foster, Jason (Judiciary-Rep) (b) (6); Sawyer, Heather (Judiciary-Dem) (b) (6) (b) (6); (b)(6), (b)(7)(C) per FBI May, M. Benjamin (OLA) <mbemay@jmd.usdoj.gov>; Burton, Faith (OLA) <fburton@jmd.usdoj.gov>
Subject: Urgent: 2017-05-12 CEG DF to DOJ FBI (Briefings)
Importance: High

Greg and Sam,

Attached is a letter from Chairman Grassley and Ranking Member Feinstein to Deputy Attorney General Rosenstein and Acting Director McCabe. Please confirm receipt, and please send all formal follow-up correspondence electronically in PDF format to (b) (6)

(b) (6) and me.

The letter is time-sensitive and requests a response call by the of the day. Also, to clarify, Chairman Grassley and Ranking Member Feinstein are not asking for this to be a Gang of Eight Briefing.

Thanks,
-Patrick

Patrick D. Davis

FOIA(b)(7)(C)

Investigative Counsel

Chairman Charles E. Grassley

U.S. Senate Committee on the Judiciary

(202) 224-(b) (6)

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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Staff Director

May 12, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Rod J. Rosenstein
Deputy Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

The Honorable Andrew McCabe
Acting Director
Federal Bureau of Investigation
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535

Dear Deputy Attorney General Rosenstein and Acting Director McCabe:

On Wednesday, May 3, 2017, the Senate Judiciary Committee held a hearing titled, *Oversight of the Federal Bureau of Investigation*. At the hearing, there were several matters discussed that require follow-up briefings for the Committee that the former Director committed the Bureau to providing.

In addition, on March 15, 2017, both of us received a briefing from former FBI Director Comey about the FBI's investigations of Russian interference in the 2016 election. We request that Mr. Rosenstein and/or Mr. McCabe, along with others who have firsthand knowledge of that briefing, provide a similar briefing to the rest of the Committee. Reportedly, the Select Committee on Intelligence received a briefing from Mr. Rosenstein on this yesterday. As the oversight committee of the FBI, it is important that the members of this Committee receive the same information.

Please contact Patrick Davis of Chairman Grassley's Committee staff at (202) 224-5225 and Heather Sawyer of Ranking Member Feinstein's staff at (202) 224-7703 by 5:00 p.m. today to schedule the briefings. Thank you for your immediate attention to these important matters.

Sincerely,

Charles E. Grassley
Chairman
Committee on the Judiciary

Dianne Feinstein
Ranking Member
Committee on the Judiciary

Johnson, Joanne E. (OLA)

From: Johnson, Joanne E. (OLA)
Sent: Friday, May 12, 2017 6:36 PM
To: (b)(6) per NSD
(b)(6) per NSD Gauhar, Tashina (ODAG)
Cc: Ramer, Sam (OLA); May, M. Benjamin (OLA); Cruikshank, Andrew A. (OLA)
Subject: Final Transcript, Threats Hearing/SSCI, May 11, 2017
Attachments: Senate Select Intelligence Committee Holds Hearing on World Wide Threats.Transcript.docx

Tash/NSD:

Attached please find the final transcript from yesterday's Annual Threats Hearing before SSCI (Open Hearing).

Thank you,

Joanne

(b) (6)

Senate Select Intelligence Committee Holds Hearing on World Wide Threats, May 11, 2017

BURR:

I'd like to call the hearing to order.

I'd like to welcome our witnesses today, director of National Intelligence, Dan Coats. Dan, it's good to see our former colleague here. Director of the Central Intelligence Agency, Mike Pompeo, good to see you Mike. Director of Defense Intelligence, General Vince Stewart; director of National Security Agency, Admiral Mike Rogers; director of Geospatial-Intelligence Agency Robert Cardillo and acting director of the Federal Bureau of Investigation, Andrew McCabe.

I thank all of you for being here this morning, especially to you Director McCabe for filling in on such short notice.

Since 1995 this committee is met in an open forum to hear about and discuss the security threats facing the United States of America. I understand that many people tuned in today are hopeful we'll focus solely on the Russian investigation of their involvement in our elections. Let me disappoint everybody upfront.

While the committee certainly views Russian intervention in our elections as a significant threat, the purpose of today's hearing is to review and highlight the extent -- to the extent possible, the ranges of threats that we face as a nation. The national security threat picture has evolved significantly since 1995. What used to be a collection of mostly physical and state based national security concerns has been replaced by something altogether different.

Today, our traditional focus on countries like North Korea, Russia and Iran is complicated by new challenges like strategic threats posed by non-state actors in the cyber arena and the danger of transnational terrorists who can use the Internet to inspire violence and fear in the homeland, all without leaving their safe havens in the Middle East.

What is not changed, however, is the tireless dedication and patriotism of the women and men who make up the United States intelligence community. The very people represented out (ph) witnesses this morning. One of the many reasons I find so many -- so much value in this hearing is that it provides the American public with some insight into the threats facing our country, but it also lets people know what's being done on their behalf to reduce those threats.

I encourage all the witnesses today to not only address the threats to our nation, but the talk about what their organizations are doing to help secure this country to the degree they can in an unclassified setting. Director Coats, your written statement for the record represents the collective insight of the entire intelligence community. It is a lengthy and detailed account of what this country is facing.

It is also evidence of why the substantial resources and investments this committee authorizes are in fact necessary. From the human tragedy of the refugee crisis in the Middle East to the risk that territorial ambitions will set off a regional conflict in the South China Sea, it's a complicated and challenging world.

Director Pompeo, the Korean Peninsula is a point of particular concern to me and to many on this committee. I'd like your insights into what is behind North Korea's unprecedented level of nuclear and missile testing and how close they are holding the U.S. mainland at risk of a nuclear attack. I'd also value your sense of how Tuesday's elections of a new president in South Korea is going to impact things for us on that peninsula.

General Stewart, I'm sure you're aware of the reinvigorated policy discussions on Afghanistan. While we all respect that you can't offer your own recommendations on what that policy should be, I would very much value your assessments of the situation in Afghanistan today; including the state of governance in Kabul, the sustainability and proficiency of the Afghan national security forces and whether Taliban reconciliation is a realistic objective. If the U.S. is ramping up in Afghanistan, we need to know the I.C.'s views on what we're getting into.

I also hope you'll share your assessments of the battlefield in Iraq and in Syria with us this morning. Your insights into conditions on the ground, including ongoing operations to dislodge ISIS from Mosul and sustainability of the Mosul dam would be of great value to the members of this committee and to the public. And Rogers, I made a couple references to cyber already and that's for good reason.

Of the many difficult challenges we're going to discuss this morning, nothing worries me more than the threat of well planned, well executed widescale attack on the computer networks and systems that make America work. From banking and healthcare to military and critical infrastructure, the functionality of our modern society is dependent on computers. When the first line of the DNI's statement reads, and I quote, "Nearly all information, communications networks and systems will be at risk for years," unquote, that alarms me.

Admiral Rogers, I look forward to hearing from you on this line of assessments. Director Cardillo, as head of the NGA you sit in the -- at the nexus of innovation in data collection and analysis. Given the complexity of the intelligence questions the I.C. is being confronted with and the global nature of our -- our national security threats to this country -- that this country faces, expectations of NGA are high.

We know the I.C. can't be everywhere at once, but that's still kind of what we look to the NGA to do. I'd appreciate your sense of what NGA analytic strengths are today and what the role of commercial imagery is in NGA's future.

Director McCabe, welcome to the table and into the fray. To the extent possible, I hope you'll discuss the bureau's assessments of the terrorist threat within our borders. Your agents are often our last line of defense here at home and, I will say, continue to do outstanding work. We're fortunate to have six people with the experience and the dedication that we have today.

I'll close there, but I'd like to highlight for my colleagues; the committee will be holding a classified hearing on worldwide threats this afternoon at 1:30. I will do everything I can to make sure that the questions that you ask in this open session are appropriate to the venue that we're in. I would ask you to think about that long and hard and, if there's a question, to -- to move to a staffer to ask him whether this is the appropriate area.

BURR:

And if you -- as our witnesses, feel that there's something that you can't sufficiently answer in an open setting that you will pause long enough to get my attention and -- and I'll -- we'll try to make sure that we moved to the appropriate setting.

With that, I turned the vice chairman for any comments he might make.

WARNER:

Well thank you, Mr. Chairman and thank you for your leadership on this committee and I also want to join in welcoming the witnesses. It's good to see you all. But it is impossible to ignore that one of the leaders of the intelligence community is not here with us today.

The president's firing of FBI Director Comey Tuesday night was a shocking development. The timing of Director Comey's dismissal, to me and to many members on this committee, on both sides of the aisle, is especially troubling. He was leading an active counterintelligence investigation into any links between the Trump campaign and the Russian government or its representatives. And whether there was any coordination between the campaign and Russia's efforts to interfere in our election.

For many people, including myself, it's hard to avoid the conclusion that the president's decision to remove Director Comey was related to this investigation and that that -- that is truly unacceptable. We were scheduled to hear -- hear directly from director Comey today in open session. We and the American people were supposed to hear straight from the individual responsible for the FBI investigation.

We anticipated asking director Comey, a series of questions about his actions and the actions the FBI in terms of looking into which Trump Associates, if any, and some of their actions during the campaign as it relates to the Russians. However, President Trump's actions this week cost us an opportunity to get the truth, at least for today.

You may wonder a little bit, how seriously -- I know the White House continues to dismiss this investigation. I'll point simply for the record, the front page of the New York Times, which shows a picture of clearly an administration that doesn't take this investigation too seriously. It is important to restate the critical importance of protecting the independence and integrity of federal law enforcement.

This is central to maintaining the confidence of the American people in principle that all Americans, no matter how powerful or accountable before the law. The president's actions have the potential to undermine that confidence. And that should be deeply concerning no matter which political party you belong to.

This week's remarkable developments make our committee's investigation into Russia's influence on the 2016 U.S. presidential election even more important. And while it is clear to me now more than ever that an independent, special counsel must be -- must be appointed. Make no mistake, our committee will get to the bottom of what happened during the 2016 presidential election and again, I want to compliment the Chairman on his work in the separate.

We will not be deterred from getting to the truth. These actions will do nothing to undermine our resolve to follow the evidence wherever it leads. We hope to speak to Mr. Comey and we'll speak to anyone and everyone that had something to offer us in this investigation and Mr. McCabe, didn't

necessarily expect to see you here today. We don't know how long you'll be acting FBI director, but why -- we'll adhere to what the Chairman has indicated in terms of the line of questioning.

I will want to make sure my first question for you, even in this public setting for -- will be for you to assure the committee that if you come under any political influence from the White House or others to squash this investigation or impeded it in any way, that you'll let the committee know.

This investigations had it's ups and downs, and again some, including myself sometimes been frustrated with the pace. We will no doubt face other challenges in the future. But ups and downs and bumps sometimes is bipartisanship works. It's a constant struggle but one worth making and I'm proud of the way members of this committee, from both sides of the aisle, have conducted themselves in one of the most challenging political environments we've ever seen.

At the same time, Chairman Burr and I have put this investigation on what we believe to be a solid bipartisan footing with a shared goal of getting the truth. In spite of the events of the last 24 hours I intend to maintain our committee's focus on the investigation. Indeed, the recent actions only increase the burden of responsibility on all of us to ensure that we live up to this challenge and to uncover the truth wherever that leads.

There is, obviously, consensus agreement among the U.S. intelligence community that Russian massively intervened with active measures in the 2016 presidential elections, nor do I imagine that any member of this committee was surprised to see the exact same Russian playbook just being run during the French elections that just took place last weekend. And no one should forget back in mid-2015 Director Coats and -- we -- I had some of the folks in from the German services recently -- that there was hacking into German's Bundestag.

It's fair to say that Germans should anticipate seeing more cyber attack directed against their elected officials with their upcoming national elections in September. In short, Russia's direct interference in democratic processes around the globe is a direct assault that we must work on together and it is clearly one of the top worldwide threats.

That being said gentlemen; I want to start, again, by thanking you for your service to the nation. I want to particularly note that Director Coats, who is testifying before this committee in the first time since his confirmation.

Dan, I know that you and Marsha were ready for retirement and I think you both for being willing to serve your country one more time. I also want to recognize the men and women who you represent here today. These thousands of dedicated intelligence professionals toil min shadows, put their lives on the line and make sacrifices most of us will never know in order to keep our country safe.

I also want to make them -- I want to make sure they know that I appreciate their efforts and am proud to represent them not only as the vice chair of the Intelligence Committee, but as a Senator from Virginia where so many of those intelligence professionals live. This committee's annual Worldwide Threat hearing is an important opportunity to review the threats and challenges we face as a nation.

Obviously, these threats continue to multiple. As the world becomes more complex and challenging good intelligence gives our policy makers and national leaders a heads up on the challenges they need to address. The intelligence community, in many ways, is our nation's early warning system.

However, a fire alarm only works if you pay attention to it. You cannot ignore it simply because you do not like what it's telling you. Similarly, we need to make sure that all our policy makers pay attention to the warnings provided by you the independent, nonpartisan intelligence professionals.

Since the world's second -- Second World War America has relied, as we all know, on a global systems of alliances, institutions and norms to ensure our stability and prosperity. Today many challenges threaten that system. That system that has been built up over the last 70 years. Mr. Chairman mentioned countries like China and Russia are challenging many of the -- the global institutions. They are, in many cases, seeking to undercut and delegitimize them.

We must work together to stand vigilant against that threat. Similarly, rogue states such as North Korea have sought to undercut the global non-proliferation regime. Obviously North Korea is one of the most pressing issues our country faces.

And, Admiral Rogers, as the Chairman mentioned, we all share enormous concern about both the upside and down side of new technologies and the asymmetrical threats that are posed by cyber and other technology actors. And I would add as well -- Director Cardillo, I think we've discussed as well our dominance in terms of overhead in many ways is the threat as well from the emerging nations.

Terrorist groups and extremists are also able to access a lot of these new technologies. And, while ISIS in particular continues to suffer losses in Syria, Iraq and Libya, unfortunately it continues to spread its hateful ideology through social media and encrypted communications.

WARNER:

Gentlemen, I've only lightly touched on a few of the challenges we face. I look forward to the discussion we're about to have. But, again, I thank you for being here and look forward to this hearing.

Thank you, Mr. Chairman.

BURR:

I thank the vice chairman.

For member's purposes, we have a vote scheduled on the floor at 11 o'clock. It's the intent of the chair and vice chair that we will rotate the gavel so that the hearing continues through. Members will be recognized by seniority for five minutes. When we conclude the open session, hopefully in -- with enough gap for our witnesses to have some lunch, we will reconvene at 1:30.

The afternoon vote, to my knowledge, is not set yet, but we will work around that. So plan to be back at the SCIF by 1:30 for that hearing to start.

With that, Director Coats, the floor is yours.

COATS:

Chairman Burr, Vice Chairman Warner, members of the committee; thank you for the opportunity to appear before you today.

I'm here with my colleagues from across the I.C. community. And I'm sure I speak for my colleague Mike Pompeo, new director of the CIA, that the two of us, new to the job, have inherited an intelligence community with leadership and professionals; with expertise that is exceptional. And it is a great privilege to hold these positions and know we have the support from across 17 agencies relative to gathering intelligence, analyzing and synthesizing that intelligence. And several of those leaders are sitting here today and we're most appreciative of their contributions to their country and to this issue.

The complexity of the threat environment is ever expanding and has challenged the I.C. to stay ahead of the adversary, and it has not been an easy task. Given the tests we face around the world, the I.C. continues its work to collect, to analyze and integrate these and other issues. We appreciate very much the support from your committee to address these threats in a way that will give the president, the Congress and other policy makers the best and most integrated intelligence we can assemble.

In the interests of time and on behalf of my colleagues at the table I'll discuss just some of the many challenging threats that we currently face. The intelligence community's written statement for the record that was submitted earlier discusses these and many other threats in greater detail. Let me start with North Korea.

North Korea is an increasingly grave national security threat to the United States because of its growing missile and nuclear capabilities combined with the aggressive approach of its leader, Kim Jong Un. Kim is attempting to prove he has the capability to strike the U.S. mainland with a nuclear weapon. He has taken initial steps toward fielding a -- a mobile intercontinental ballistic missile, but it has not yet been flight tested.

North Korea updated its constitution in 2012 to declare itself a nuclear power. And it's officials consistently state nuclear weapons are the basis for regime survival. Suggesting Kim does not intend -- not intend to negotiate them away. Although intelligence collection on North Korea poses difficulties given North Korea's isolation.

The I.C. will continue to dedicate resources to this key challenge. It requires some of our most talented professionals to warn our leaders of impending North Korean actions and of in of the long-term implications of their strategic weapons programs.

In Syria, we assess that the regime will maintain its momentum on the battlefield provided, as its likely, that it maintains support from Iran and Russia. The continuation of the Syrian conflict will worsen already disastrous conditions for Syrians and regional states. Furthermore on April 4th, the Syrian regime used the nerve agent Sarin, against the opposition in Khan Shaykhun, in what is probably the largest chemical attack by the regime since August 2013.

The Syrian regime probably used chemical weapons in the response to battlefield losses along the Hama battlefield in late March that threatened key infrastructure. We assess the Syria is probably both willing and able to use CW chemical warfare in future attacks, but we do not know if they plan to do so. We are still acquiring and continuing to analyze all intelligence related to the question of whether Russian officials had foreknowledge of the Syrian CW attack on 4 April. And as we learn this information, we will certainly share it with this committee.

Cyber threats continue to represent a critical national security issue for the United States for two key reasons. First, our adversaries are becoming bolder, more capable and more adept at using cyberspace

to threaten our interest and shape real-world outcomes. And the number of adversaries grows as, nationstates, terrorist groups, criminal organizations and others continue to develop cyber capabilities.

Secondly, the potential impact of these cyber threats is amplified by the ongoing integration of technology into our critical infrastructure and into our daily lives. Our relationships and businesses already rely on our critical -- on -- on social media and communication technologies and on critical infrastructure as it is becoming increasingly reliant on the Internet.

As such, this raises the potential for physical, economic, and psychological consequences when a cyber attack or exploitation of it occurs. The worldwide threat of terrorism is geographically diverse and multifaceted. And it poses a continuing challenge for the United States, for our allies and partners who seek to counter it.

ISIS is experiencing territorial losses in Iraq and Syria with persistent counter-terrorism operations degrading its strength. However, ISIS will continue to be an active terrorist threat to the United States due to its proven ability to direct and inspire attacks against a wide range of targets around the world. Outside Iraq and Syria, ISIS is seeking to foster interconnectedness among its global branches and networks, align their efforts to its strategy and withstand counter Isis efforts.

We assess that ISIS maintains the intent and capability to direct, enable, assist and inspire transnational attacks. Al Qaida and its affiliates continue to pose a significant terrorist threat overseas as they remain primarily focused on local and regional conflicts. And homegrown violent extremists remain the most frequent and unpredictable terrorist threat to the United States homeland. This threat will persist with many attacks happening with little or no warning.

In Turkey -- tensions in Turkey might escalate rapidly and unpredictably in 2017 as the government's consolidation -- consolidation of power, crack downs on dissent and restrictions on free media continue. Let me now just take just a quick run through some key areas of the Middle East.

In Iraq, Baghdad's primary focus through 2017 will be recapturing and stabilizing Mosul and other territory controlled by ISIS. ISIS in Iraq is preparing to regroup however and continue an insurgency and terrorist campaign, even as it loses territory. We assess that Iraq will still face serious challenges to its stability, political viability and territorial integrity, even as the threat from ISIS is reduced.

Reconstruction will cost billions of dollars and ethno-sectarian and political reconciliation will be an enduring challenge. In Iran, Tehran's public statements suggest that it wants to preserve the Joint Comprehensive Plan of Action because it views the deal as a means to remove sanctions while preserving some nuclear capabilities. Iran's implementation of the deal has extended the amount of time Iran would need to produce enough fissile material for a nuclear weapon from a few months to about a year. Tehran's malignant activities, however, continue.

For example, Iran provides arms, financing and training and manages as many as 10,000 Iraqi, Afghan and Pakistani Shia fighters in Syria to support the Assad Regime. Iran has sent hundreds of its own forces to include members of the Islamic Revolutionary Guard Corps and the IRGC Quds force to Syria as advisors. In Yemen fighting -- we assess fighting will almost certainly persist in 2017 between Houthi aligned forces trained by Iran and the Yemeni government backed by a Saudi led coalition.

Neither side has been able to achieve decisive results through military force to this point. Al-Qaida in the Arabia -- Arabian Peninsula and ISIS branch in Yemen have exploited the conflict and the collapse of government authority to gain new recruits and allies that expand their influence.

In South Asia, the intelligence community assesses that the political and security situation in Afghanistan will almost certainly deteriorate through 2018 even with a modest increase in military assistance by the United States and its partners. This deterioration is undermined by its dire economic situation. Afghanistan will struggle to curb its dependence on external support until it contains the insurgency or reaches a peace agreement with the Taliban.

Meanwhile, we assess that the Taliban is likely to continue to make gains especially in rural areas. Afghan Security Forces performance will probably worsen due to a combination of Taliban operations, combat casualties, desertion, poor logistic support and weak leadership. Pakistan is concerned about international isolation and sees its position of India's rising international status including India's expanded foreign outreach and deepening ties to the United States. Pakistan will likely turn to China to offset its isolation, empowering a relationship that will help Beijing to project influence into the Indian Ocean .

In addition, Islamabad has failed to curb militants and terrorists in Pakistan. These groups will present a sustained threat to the United States's interest in the region and continue to plan and conduct attacks in India and Afghanistan. Pakistan is also expanding its nuclear arsenal in pursuing tactical nuclear weapons, potentially lowering the threshold for their use.

We now turn to Russia. We assess that Russia is likely to be more aggressive in -- in global affairs, more unpredictable in its approach to the United States and more authoritarian in its approach to domestic policies and politics. We assess the Russia will continue to look to leverage its military support to the Assad regime to drive a political settlement process in Syria on their terms.

Moscow is also likely to use Russia's military intervention in Syria in conjunction with efforts to capitalize on fears of a growing ISIS and extremist threat to expand its role in the Middle East. We assess at Moscow's strategic objectives in Ukraine, maintaining long term influence over Kiev and frustrating Ukraine's attempts to integrate into Western institutions, will remain unchanged in 2017.

Russia's military intervention in eastern Ukraine contains more than two years -- continues, excuse me, more than two years after the Minsk II Agreement. Russia continues to exert military and diplomatic pressure to coerce Ukraine into implementing Moscow's interpretation of the political provisions of the Minsk Agreement; among them, constitutional amendments that would effectively give Moscow a veto over Kiev's strategic decisions.

In China; China will continue, we assess, to pursue an active foreign policy. Especially within the Asia-Pacific region, highlighted by a firm stance on competing territorial claims in the East China Sea and South China Sea, relations with Taiwan and its pursuit of economic engagement across East Asia. China views a strong military is a critical element in advancing it's interests. It will also pursue efforts aimed at fulfilling its ambitious One Belt One Road initiative to expand their strategic influence and economic role across Asia through infrastructure projects.

Just a quick look at Sub-Saharan Africa, home to more than one billion people, and expected to double in size by mid century. African governments face the threat of coups, popular uprisings, widespread violence and terrorist attacks, including from Al-Qaida its ISIS affiliates.

In the Western Hemisphere, Venezuela's unpopular autocratic government will turn to increasingly repressive means to contain political opponents and street unrest. Oil has long been the regime's cash cow, but mismanagement is led to declining output in revenue. We assess the Venezuelan government will struggle to contain inflation, make debt payments and pay for imports of scarce basic goods and medicines.

Mexico's government will focus on domestic priorities to prepare for the 2018 presidential election, while seeking to limit fallout from strained relations with the United States. Public demand for government action against crime and corruption will add to political pressure. As Cuba heads into the final year of preparations for a historic transition to a next generation leader in early 2018, the government's focus will be on preserving control while managing recession.

Cuba, which continues to use repressive measures to stifle human rights and constrained democracy activists, blames it slowing economy on lower global commodity prices, The US embargo and the economic crisis in Venezuela, a key benefactor. Let me just a make a statement on the threat from illegal drugs.

The threat to the United States from foreign produced drugs, especially heroin, synthetic opioids, meth and cocaine have grown significantly in the past few years. This is contributing to previously unseen levels of U.S. drug related mortality, which now exceeds all other U.S. causes of injuries or death.

Finally, I'd like to make a few points here that are important to the I.C. going forward. As you are all very aware, section 702 of the FISA amendments act is due to expire at the end of the year. I cannot stress enough the importance of this authority and how the I.C. does its work to keep Americans safe. And I know that is shared by everyone at this table. Section 702 is an extremely effective tool to protect our nation from terrorist and other threats.

As I described in my confirmation hearing, 702 is instrumental to so much of the I.C.'s critical work in protecting the American people from threats from abroad. the Intelligence community is committed to working with all of you in both classified and unclassified sessions to ensure that you understand not only how we use our authorities, but also how we protect privacy and civil liberties in the process.

COATS:

Additionally, many of you have asked me as part of my confirmation process about the status of the I.C., its effectiveness and efficiency and how it can be improved. As part of the administration's goal of an effective and efficient government the ODNI, has already begun a review of the entire intelligence community to include the office of the DNI.

And to answer the very questions about how we can make our process even more streamlined, more efficient and more effective. My office is proud to lead this review and I look forward to the confirmation of my principal deputy in order to shepherd this process to completion, and I have total confidence in her that she has the capacity and capability to effectively lead this effort.

The recently a past -- past Intelligence Authorization Bill also includes the requirement for a review of the I.C. Focused on structures and authorities, 10 years beyond the intelligence reforms of the mid 2000s. Between these two reviews, I am confident that I will be able to report back to the committee with constructive recommendations on the best ways forward for the whole of the I.C.

In the short time I've been on this job, I have learned that the I.C. is full of dedicated, talented, creative, patriotic men and women who are committed to keeping America safe, we must retain this posture while looking for ways to improve.

In conclusion, the intelligence community will continue its tireless work against these and all threats but we will never be omniscient. Although we have extensive insight into many threats in places around the world, we have gaps in others. Therefore, we very much appreciate the support provided by this committee and will continue to work with you to ensure that the intelligence community has the capabilities it needs to meet its many mission needs.

And with that, we are ready to take your questions.

BURR:

Director Coats, thank you for that very thorough and comprehensive testimony on behalf of the intelligence community.

Dan, quite frankly, you make us proud seeing one of our own now head the entire intelligence community and I want to thank you and Marsha personally for your willingness to do that.

COATS:

Thank you.

BURR:

And to also go past you, we are anxious for your deputy to be consider by the committee, would you please send us a nomination?

(LAUGHTER)

COATS:

We are doing our very best to do that and I'm -- nobody's more anxious than me.

BURR:

I'm -- I'm sure that's the case. I'm going to recognize myself for five minutes.

Director McCabe, did you ever hear Director Comey tell the president that he was not the subject of an investigation -- excuse me did you ever hear Director Comey tell the president he was not the subject of an investigation?

MCCABE:

(inaudible) sir I -- I can't...

BURR:

Could you do your microphone please?

MCCABE:

Rookie mistake, I'm sorry. Sir, I can't comment on any conversations the director may have had with the president.

BURR:

OK.

General Stewart, you heard Director Coats state on everybody's behalf that there is an expected deterioration of conditions in Afghanistan, can you give us DIA's assessment of the situation today in Afghanistan and what would change that deterioration?

STEWART:

Thanks Mr. Chairman. I -- I pay close attention to the operations in Afghanistan. I make two trips there each year, one before the fighting season and one following the fighting season. That way I get, on the ground, my own personal assessment of how things are going. I was there about six weeks ago.

The NDSF two years into taking control of the security environment in the end has had mixed results in this past year. Those mixed results can be characterized -- can characterize the security environment as a stalemate and, left unchecked, that stalemate will deteriorate in the favor of the belligerents. So we have to do something very different than what we've been doing in the past.

Let me back out just a little bit and talk about the fact that the Taliban failed to meet any of their strategic objectives that they outlined during the last fighting season. They controlled no district centers, they were able to execute high visibility attacks which causes a psychological effect, that has a debilitating effect. They maintain some influence in the rural areas but they control none of the large district centers.

Having said that, the Afghan National Defense Security Forces did not meet their force generation objectives, they had some success in training of the force, they were able to manage a crisis better than they have in the past, they were able to deploy forces, but failed, in my opinion, to employ the ISR and the fire support to make them as effective on the battlefield as possible.

Unless we change something where we introduce either U.S. forces, NATO forces that changes the balance of forces on the ground, changes the fighting outputs on the ground or add additional training and advising capability at lower levels than we do now; the situation will continue to deteriorate and we'll lose all the gains that we've invested in over the last several years.

So they've got to get more trainers below the core level, I believe -- not sure how far down. Or they'd have to get more personnel on the ground; generate greater forces, greater fire support, greater use of ISR or this will in fact deteriorate further.

BURR:

Thank you, General.

Admiral Rogers, every aspect of our daily lives continues to become part of a traceable, trackable interaction -- interacting environment now known as the internet of things. In addition, artificial intelligence, or A.I., has increasingly enabled technology to become autonomous.

What is the I.C.'s current assessment of the ever changing capabilities of the internet of things and what it presents?

ROGERS:

So it represents both opportunity, but -- from an information assurance or computer network defense perspective, it represents great concern. Where the ability to harness literally millions of devices that were built for a very simple day to day activities suddenly can be tied together and focus and oriented to achieve a specific outcome. We've seen this with denial of service attempts against a couple significant companies on East Coast of the United States in the course of the last year.

This is going to be a trend in the future, it's part of the discussions we're having -- I'm -- I'm in the midst of having some discussions in the private sector with -- this is going to be a problem that's common to both of us. How can we work together to try to, number one, understand this technology and, number two, ask ourselves how do we ensure that it's not turned around, if you will, against us.

BURR:

Thank you for that.

Admiral Rogers, I'll probably put this to you as well. Section 702 of the FISA Amendments Act authorizes the government to target only non-U.S. persons reasonably believed to be located outside the United States for the purposes of acquiring foreign intelligence information. Section 702 cannot be used to target any person located inside the United States and the law prohibits the government from reverse targeting, that is targeting on non-U.S. person outside the United States specifically for the purpose of collecting the communications of a person inside the United States.

The I.C. uses FISA 702 collection authority to detect, identify and disrupt terrorist and other national security threats. How would you characterize 702 authority and its importance to the current intelligence collection platform overall?

ROGERS:

If we were to lose 702's authorities, we would be significantly degraded our ability to provide timely warning and insight as to what terrorist actors, nation states, criminal elements are doing that is of concern to our nation as well as our friends and allies. This 702 has provided us insight that is focused both on counterterrorism, but as well as counter proliferation, understanding what nation states are doing. It's given us tremendous insights in the computer network defense arena.

I would highlight much -- not all, much of what was in the intelligence community's assessment, for example, on the Russian efforts against the U.S. election process in 2016 was informed by knowledge we gained through 702 authority.

BURR:

Thank you for that.

Vice Chairman.

ROGERS:

Thank you, Mr. Chairman, I've got a couple questions that I -- hopefully will be -- only require yes or no answers.

First, for the whole panel as the assembled leadership of the intelligence community, do you believe that the January 2017.

WARNER:

Intelligence community assessment accurately characterized the extent of Russian activities in the 2016 election and its conclusion that Russian intelligence agencies were responsible for the hacking and leaking of information and using misinformation to influence our elections? Simple yes or no would suffice.

CARDILLO:

I do. Yes, sir.

STEWART:

Yes, Senator.

ROGERS:

Yes I do.

COATS:

Yes I do.

POMPEO:

Yes.

MCCABE:

Yes.

WARNER:

And I guess the presumption there -- or the next presumption, I won't even ask this question is consequently that committee assess -- or that community assessment was unanimous and is not a piece of fake news or evidence of some other individual or nation state other than Russia. So I appreciate that again for the record.

I warned you Mr. McCabe I was going to have to get you on the record as well on this. Mr. McCabe for as long as you are Acting FBI Director do you commit to informing this committee of any effort to interfere with the FBI's ongoing investigation into links between Russia and the Trump campaign?

MCCABE:

I absolutely do.

WARNER:

Thank you so much for that. I think in light of what's happened in the last 48 hours it's critically important that we have that assurance and I hope you'll relay, at least from me to the extraordinary people that work at the FBI that this committee supports them, supports their efforts, support their professionalism and supports their independence.

MCCABE:

I will sir, thank you.

WARNER:

In light of the fact that we just saw French elections where it felt like deja vu all over again in terms of the release of a series of e-mails against Mr. Macron days before the election and the fact that this committee continues to investigate the type of tactics that Russia has used.

Where do we stand, as a country, of preparation to make sure this doesn't happen again in 2018 and 2020 -- where have we moved in terms of collaboration with state voting -- voter files, in terms of working more with the tech community, particularly the platform -- platform entities in terms of how we can better assure real news versus fake news, is there some general sense -- Director Coats I know you've only been in the job for a short period of time -- of how we're going to have a strategic effort? Because while it was Russia in 2016 other nation states could -- you know -- launch similar type assaults.

COATS:

Well, we are -- we will continue to use all the assets that we have in terms of collection and analysis relative to what the influence has been and potentially could be in future. Russians have spread this across the globe -- interestingly enough I met with the Prime Minister of Montenegro the latest nation to join NATO, the number 29 nation, what was the main topic?

Russian interference in their political system. And so it does -- it sweeps across Europe and other places. It's clear though, the Russians have upped their game using social media and other opportunities that we -- in ways that we haven't seen before. So it's a great threat to our -- our democratic process and our job here is to provide the best intelligence we can to the policy makers to -- as they develop a strategy in terms of how to best reflect a response to this.

WARNER:

Well one of the things I'm concerned about is, we've all expressed this concern but since this doesn't fall neatly into any particular agency's jurisdiction you know, who's -- who's taking the point on interacting with the platform companies like the Google, Facebook and Twitter, who's taking the point in terms of interacting DHS image in terms of state boards of election? How are we trying to ensure that our systems more secure, and if we can get a brief answer on that because I got one last question for Admiral Rogers.

COATS:

Well, I think the -- the obviously, our office tasks and takes the point, but there's contribution from agencies across the I.C. We will -- I've asked Director Pompeo to address that and others that might want to address that also. But each of us -- each of the agencies to the extent that they can and have the capacity whether its NSA though SIGINT, whether it's NSA through human or other sources will provide information to us that we want to use as a basis to provide to our -- to our policymakers.

Relative to a grand strategy, I am not aware right now of any -- I think we're still assessing the impact. We have not put a grand strategy together, which would not be our purview, we would provide the basis of intelligence that would then be the foundation for what that strategy would be.

WARNER:

My hope -- my hope would be that we need to be proactive in this. We don't want to be sitting here kind of looking back at it after 2018 election cycle. Last question, very briefly, Admiral Rogers do you have any doubt that the Russians were behind the intervention in the French elections?

ROGERS:

I -- let me phrase it this way, we are aware of some Russian activity directed against the Russian -- excuse me, directed against the French election process. As I previously said before Congress earlier this week, we in fact reached out to our French counterparts to say, we have become aware of this activity, we want to make you aware, what are you seeing?

I'm not in a position to have looked at the breadth of the French infrastructure. So I'm -- I'm not really in a position to make a whole simple declaratory statement.

WARNER:

Thank you, Mr. Chairman.

BURR:

Senator Rubio?

RUBIO:

Thank you, Mr. Chairman.

Mr. McCabe, can you without going into the specific of any individual investigation, I think the American people want to know, has the dismissal of Mr. Comey in any way impeded, interrupted, stopped or negatively impacted any of the work, any investigation, or any ongoing projects at the Federal Bureau of Investigations?

MCCABE:

As you know, Senator, the work of the men and women of the FBI continues despite any changes in circumstance, any decisions. So there has been no effort to impede our investigation today. Quite simply put sir, you cannot stop the men and women of the FBI from doing the right thing, protecting the American people, and upholding the Constitution.

RUBIO:

And this is for all the members of the committee, as has been widely reported, and people know this, Kaspersky Lab software is used by not hundreds of thousands, millions of Americans. To each of our witnesses I would just ask, would any of you be comfortable with the Kaspersky Lab software on your computers?

MCCABE:

A resounding no, from me.

POMPEO:

No.

COATS:

No, Senator.

ROGERS:

No, sir.

STEWART:

No, Senator.

CARDILLO:

No, sir.

RUBIO:

On the -- Director Pompeo, on Venezuela which was mentioned in Director Coat's statements, as all of you are probably well aware, armed civilian groups our colectivos, these militias in the street have been armed by the regime for purposes of defending, for lack of a better term, the regime from protesters.

We all are aware of the Maduro regime's cozy relationship with Hezbollah, with the FARC, which is a designated terrorist organization, and links to narco trafficking.

POMPEO:

Among the weapons and stockpile of the military in Venezuela are igla-S, basically the Russian variant of our stinger missiles.

RUBIO:

And Director Pompeo, if you could comment on the risk that I believe exists; that as these groups become more desperate -- potential even operate at some point outside the control of the Maduro regime, they're running around in the streets also in search of money and food and anything else that they want to get their hands on. The threat of any advanced weaponry, such as what I've just mentioned, being sold or transferred to the FARC, a terrorist organization; sold to drug cartels in Mexico, potentially; or even sold to terrorist organizations on the black market.

Is that a real threat? Is that something we should be cognizant of?

POMPEO:

Senator, it is a real threat. As we have all seen, the situation in Venezuela continues to deteriorate, Maduro gets more desperate by the hour. The risk of these colectivos (ph) acting in a way that is not under his control increases as time goes on as well.

In a classified setting I'm happy to share with you a little bit more about the details of what we know. We have not seen any of those major arms transfers take place, we don't have any evidence that those have taken place to date. But those stockpiles exist not only -- not only in the Maduro regime, but other places as well. There are plenty of weapons running around in Venezuela. And this risk is incredibly real and serious and ultimate threat to South America and Central America in addition to just in Venezuela.

RUBIO:

Staying in the Western Hemisphere for -- for a moment and -- and is the potential results with the director -- Director McCabe as well as you, Director Pompeo.

I continue to be concerned about the potential, and what I believe is the reality, of a concerted effort on the part of the Cuban government to recruit and unwittingly enlist Americans -- business executives and others, even local and state political leaders an effort to have them influence of U.S. policy making on Cuba. And particularly the lifting of the embargo. Would this be a tactic consistent with what we have seen in the past from other nation states, including the regime in Cuba?

POMPEO:

I'll -- I'll let Mr. McCabe make a comment as well, but yes, of course. Frankly, this is consistent with what -- right, this is the -- the -- the attempt to interfere in United States is not limited to Russia. The Cubans have deep ties, it is in their deepest tradition to take American visitors and do their best influence of the way that is in adverse to U.S. interests.

MCCABE:

Yes, sir. Fully agree, we share your concerns about that issue.

RUBIO:

And my final question is on -- all this focus on Russia and what's happened in the past is that the opinion of all of you -- or those of -- you certainly all have insight on this. That even as we focus on 2016 and the efforts leading up to that election, efforts to influence policy making here in the United States vis-a-vis the Russian interests are ongoing that the Russians continue to use active measures; even at this moment, even on this day.

To try, through the use of multiple different ways, to influence the political debate and the decisions made in American politics; particularly as they pertain to Russia's interests around the world. In essence, these active measures is an ongoing threat, not simply something that happened in the past.

MCCABE:

Yes, sir, that's right.

POMPEO:

Senator, it's right. In some sense, though, we've got to put it in context, this has been going on for a long time. There's -- there's nothing new. Only the cost has been lessened, the cost of doing it.

COATS:

I -- I would just add that the use of cyber and social media has significantly increased the impact and the capabilities that -- obviously this has been done for years and years. Even decades. But the ability they have to -- to use the interconnectedness and -- and all the -- all that that provides, that didn't provide before I -- they literally upped their game to the point where it's having a significant impact.

ROGERS:

From my perspective I would just highlight cyber is enabling them to access information in massive quantities that weren't quite obtainable to the same level previously and that's just another tool in their attempt to acquire information, misuse of that information, manipulation, outright lies, inaccuracies at time.

But other times, actually dumping raw data which is -- as we also saw during this last presidential election cycle for us.

BURR:
Senator Feinstein.

FEINSTEIN:
Thanks very much Mr. Chairman.

Where there's obviously more than one threat to our country, I would argue that the greatest danger to the United States is North Korea and I am one of those who have been very worried and trying to follow this as close as possible.

In the statement for the record you state, and I quote, "North Korea's nuclear weapons and missile programs will continue to pose a serious threat to U.S. interest and to the security environment in East Asia in 2017." You go on to thank -- state, "Pyongyang is committed...

(UNKNOWN)
Thank you.

FEINSTEIN:
... to developing a long range nuclear armed missile that is capable of posing a direct threat to the United States." These assessments combined with North Korea's behavior, recent ballistic missile launches and proximity to U.S. forces and allies in Asia is deeply concerning.

For the purpose of this open hearing could each of you express the threat posed by North Korea in this public setting and then address, most importantly, some of the specific actions were taken -- we're taking as a nation? And some of it you may want to do in the closed hearing later.

COATS:
I think we could get into greater detail in the closed hearing but it's clear that we have assessed this as a -- a very significant, potentially existential threat to the United States that has to be addressed. You're aware there's been considerable discussion among the policy makers with our providing intelligence with -- with the administration relative to steps moving forward.

General Mattis has taken a major role in this as well as our secretary of State and others. The interaction with the Chinese of late -- we think it can play a significant role in terms of how we deal with this. We have dedicated a very significant amount of our intelligence resources to North -- the issue of North Korea. And I think we'd look forward to going deeper into all of that in a classified session.

FEINSTEIN:
Let me ask this, is it possible, in this hearing, to estimate when they will have an intercontinental ballistic missile capable of taking a nuclear warhead?

COATS:
I -- I think it would be best if safe that for the -- those kind of details for the closed session.

FEINSTEIN:
Can you say in this session how effective China has been in stopping some of the testing?

POMPEO:

Senator Feinstein let me -- let me try to answer that as best I can. I actually just returned from Korea I was there last week. I had chance to meet with our great soldiers, General Brooks and his team as well as the great soldiers of the Republic of Korea Army who are on the frontlines there, they're doing amazing work in a difficult condition. With respect to the Chinese, they have made efforts in a way that they have not made before.

FEINSTEIN:
Good.

POMPEO:
In an effort to close down the trade that they have and putting pressure, diplomatic pressure as well, on the North Koreans. The intelligence suggests we're going to need more to shake free this terribly challenging problem. And -- and that they could do more. And they have the capacity to do more as well.

FEINSTEIN:
Could you be specific? It's my -- have they entirely stopped cold? What -- to what degree have they reduced it? And how about oil and other commodities?

POMPEO:
I'd prefer to defer the details of that to the classified setting, but there have been restrictions on coal that have been significant.

FEINSTEIN:
Is there any other comment?

STEWART:
If I -- if I could, Senator, North Korea has declared its intent. It's said it publicly, it produces propaganda images that shows their intent to develop intercontinental missile,s nuclear armed. What we've not seen them do is do a complete end-to-end test of an ICBM with a nuclear device.

In the closed session we can talk about how close they might be to doing that. But they're certainly unparalleled fast nuclear device, processing enough fissile material for nuclear warheads and developing a wide range of missile technology; short, intermediate, long range missile technology.

So they're going to put those two together at some point, but we have not seen them do that tested end-to-end; missile launch intercontinental range, miniaturization and survival of a reentry vehicle. But they're on that path and they're committed to doing.

FEINSTEIN:
Thank you.

CARDILLO:
I'd just add, Senator, on top of General Stewart's comments, that they are in a race. He's pushing very hard on the accelerator here. This whole panel is well aware of that and -- and we are doing everything in our power, and we can give you the details in closed, to make sure that we give you and our -- our customers the advantage to win that race.

FEINSTEIN:

If I might just say, Mr. Cardillo, you've -- you've given us very good information, very solid information; it is much appreciated. I think at, you know, it is time for the American people to begin to understand that, as a director said, we do in fact have an existential threat in the Pacific Ocean and we need to come to grips with it.

BURR:

Senator Blunt.

BLUNT:

Thank you, Mr. Chairman.

Director Coats, let me join everybody else in welcoming you back to the committee, this time on the other side of the -- of the hearing at table. But pleased, along with others, that you take this responsibility.

It's my understanding, I want to talk just a little bit about the to executive orders on of vetting that the president has been challenged on in court. My understanding is you're -- as the DNI involved in that vetting -- in that process, is that right? The screening process, is that something that reports up through you?

COATS:

You're talking about the classification process?

BLUNT:

Yes -- well, I'm talking about the extreme vetting where the president's issued -- the first executive order was January 27th where the president's order said that we'd suspend refugee admissions from certain countries for 90 days pending a review.

There's also 120 days mentioned in that order. And since were beyond 90 days and approaching the 120 days, my real question is are we -- in spite of what's happening outside of the organization, are we continuing pursue that timeline and are we about to get to the 120 days of having that review period behind us?

COATS:

I would like to take that question and get back to you with the specifics relative to the days away, what is been done to this particular date and are we on -- on target. Obviously, this is -- this is going forward, I don't have details in front of me right now, but I'd be happy to get that information for you.

BLUNT:

Good, I'd be interested in that, I'd be very concerned frankly, if we're now over 100, close to 120 into that timeframe to find out the 120 days didn't get the job done because we were waiting to figure out how the order could be properly enforced. And so I'd be interested in that.

On the cyber front, Director Cardillo, I know among other things, your organization has conducted what you've called a hackathon or at least have been called hackathons. What has that done in terms of bringing other people into the discussion of how we protect ourselves better from these cyber attacks?

CARDILLO:

Sure, thank you, Senator. So we're quite proud at NGA of our history of support to the community and to you. But through predominantly historically closed systems, government owned systems, et cetera, as the committee's already discussed and the panel's responded clearly, the -- the high-tech reality of our world, the interconnectedness of the internet, et cetera.

So what we're trying to do is take that historic success of our expertise and our experience and then engage with that community in a way that we can better leverage our data, in a way to inform and warn you. And so I'm trying to tap into the agility and the innovation of that community. We use these hackathons to put out challenge questions in which we can engage with industry and academic in a way that -- that'll enable us to do our job better.

BLUNT:

Let me ask one more question, we had a -- we had a witness before this committee on March the 30th in an open hearing, Clint Watts, who observed that he said, quote, "The intelligence community is very biased against open source information," that ends his quote. I may come to you on that too, Director Pompeo. But in terms of geospatial, what -- what are you doing there with open source information?

CARDILLO:

We're -- we're engaging, as Admiral Rogers mentioned though there -- you know, there's an upside to this connectedness and the fact that -- that the commercial market and the commercial imagery market is getting into a business that was prior a government-only entity has great advantage and we seek to build on that and take -- take advantage of those developments. We also need to go in eyes wide open and realize that there is a risk.

So I don't have a bias. I have an awareness and appreciation for this open development and innovation and my commitment is to smartly engage with it, to make sure that we -- we use the best of it while we're aware that there -- there is a risk as we do so.

BLUNT:

Director Pompeo, do you think that was a fair criticism that the intelligence community is biased against using open source information?

POMPEO:

Several I think historically, that may well have been true. I don't think that's the case today. We have an enormous open- source enterprise that does its best to stay up with world class and information management get information that is not -- not stolen secrets, but open-source information to the right place at the right time to help inform the intelligence that would provide to you and to our other customers. So today, I would -- I would say that statement is inaccurate.

BLUNT:

Thank you, Director.

Thank you, Chairman.

BURR:

Senator Cornyn?

CORNYN:

Thank you, Mr. Chairman.

Let me ask -- let me highlight one issue and then ask a question, Director Coats, about another issue I'd invite comment from any one who has something they want to offer. I've become increasingly concerned about foreign governments hiring lobbyists here in Washington. And unbeknownst to members of Congress, actually lobbying Congress to enact policies which may be contrary to the best interest of the American people, of course the Foreign Agent Registration Act provides some level of transparency for that but I just highlight that issue and we can come back to it at a later time because I want to ask you about another topic as well.

The Committee on Foreign Investment in the United States, or CFIUS, provides a very important role in determining whether there are technology transfers from the United States to foreign governments and I'm -- was happy to see Director Coats, your comments on page four of your written statement specifically regarding China's increasing effort to use investment as a way to improve its technological capabilities.

China we've seen continues to use an aggressive campaign to vacuum up advanced U.S. technology however and whenever it can, whether stealing it through cyber or buying it in the open market. Do you feel like the current CFIUS process adequately protects against this threat vector and are all elements of the U.S. government cognizant of these vulnerabilities?

COATS:

I can't speak to how many agents of -- of the U.S. government are as cognizant as perhaps we should be but I certainly think that, given China's aggressive approach relative to information gathering and -- and all the things that you mentioned merits a -- a review of CFIUS in terms of whether or not it is -- needs to have some changes or innovations to -- to address the aggressive -- aggressive Chinese actions not just against or companies, but across the world.

They -- they clearly have a strategy through their investments, they've started a major investment bank - - you name a part of the world Chinese probably are -- are there looking to put investments in. We've seen the situation in Djibouti where they're also adding military capability to their investment, strategic area for -- on the Horn of Africa there that -- that you wouldn't necessarily expect. But they're active in Africa, Northern Africa, they're active across the world.

Their one belt, one road process opens -- opens their trade and -- and what other interest they have to the Indian Ocean in -- and a different way to address nations that they've had difficulty connecting with. So it's a -- it's clearly an issue that we ought to take a look at.

CORNYN:

Thank you.

POMPEO:

Senator -- Senator Cornyn if I might...

CORNYN:

Go ahead.

POMPEO:
... just add one comment.

CORNYN:
Please.

POMPEO:
I'm sorry -- two quick comments.

One on CFIUS, you know it mostly deals with changing control transactions, purchases. There are many other ways one could invest in an entity here in the United States and exert significant control over that entity, I think that ought to be looked at.

And then second and apart from CFIUS there are many vectors, you mentioned several. Another places are educational institutions where there are many folks coming here, some of who are coming here in good faith to learn but others who are being sent here with less noble undertakings and missions.

CORNYN:
Thank you.

Admiral Rogers.

(CROSSTALK)

ROGERS:
And the only additional comment I was going to make was, it is clear as we watch China and other nations they are gaining greater insights as to our CFIUS processes, the criteria that we use that tend to shape our decision process. And so I think that's also an issue of concern that we're aware of here.

CORNYN:
Thank you. I look forward to visiting with you in the closed session later on.

Thank you Mr. Chairman.

BURR:
Senator Wyden.

WYDEN:
Thank you very much Mr. Chairman.

Gentlemen, it's fair to say I disagreed with Director Comey as much as anyone in this room but the timing of this firing is wrong to anyone with a semblance of ethics. Director Comey should be here this morning testifying to the American people about where the investigation he's been running stands.

At our public hearing in January where he refused to discuss his investigation into connections between Russia and Trump associates I stated my fear that if the information didn't come out before inauguration day it might never come out. With all the recent talk in recent weeks about whether there is evidence of

collusion, I fear some colleagues have forgotten that Donald Trump urged the Russians to hack his opponents. He also said repeatedly that he loved WikiLeaks.

So the question is not whether Donald Trump actively encouraged the Russians and WikiLeaks to attack our democracy, he did; that is an established fact. The only question is whether he or someone associated with him coordinated with the Russians.

Now, Mr. McCabe, the president's letter to Director Comey asserted that on three separate occasions the director informed him that he was not under investigations. Would it have been wrong for the director to inform him he was not under investigations? Yes or no?

MCCABE:

Sir, I'm not going to comment on any conversations that the director may have had with the president...

(CROSSTALK)

WYDEN:

I didn't ask that. Would it have been wrong for the director to inform him he was not under investigation? That's not about conversations, that's yes or no answer.

MCCABE:

As you know, Senator. We typically do not answer that question. I will not comment on whether or not the director and the president of the United States had that conversation.

WYDEN:

Will you refrain from these kinds of alleged updates to the president or anyone else in the White House on the status of the investigation?

MCCABE:

I will.

WYDEN:

Thank you.

Director Pompeo, one of the few key unanswered questions is why the president didn't fire Michael Flynn after Acting Attorney General Yates warned the White House that he could be blackmailed by the Russians. Director Pompeo, did you know about the acting attorney general's warnings to the White House or were you aware of the concerns behind the warning?

POMPEO:

I -- I don't have any comment on that.

WYDEN:

Well, were you aware of the concerns behind the warning? I mean, this is a global threat. This is a global threat question, this is a global threat hearing. Were you...

(CROSSTALK)

POMPEO:
Tell me...

(CROSSTALK)

WYDEN:
Were you aware?

POMPEO:
Senator, tell me what global threat it is you're concerned with, please. I'm not sure I understand the question.

WYDEN:
Well, the possibility of blackmail. I mean, blackmail by a influential military official, that has real ramifications for the global threat. So this is not about a policy implication, this is about the national security advisor being vulnerable to blackmail by the Russians. And the American people deserve to know whether in these extraordinary circumstances the CIA kept them safe.

POMPEO:
Yes, sir, the CIA's kept America safe. And...

WYDEN:
So...

POMPEO:
And the people at the Central Intelligence Agency are committed to that and will remain committed to that. And we will...

(CROSSTALK)

POMPEO:
... do that in the face of...

WYDEN:
You won't answer the question...

POMPEO:
We will do that in the face of political challenges that come from any direction, Senator.

WYDEN:
But, you will not answer the question of whether or not you were aware of the concerns behind the Yates warning.

POMPEO:
Sir, I don't know exactly what you're referring to with the Yates warning, I -- I -- I wasn't part of any of those conversations. I -- I...

(CROSSTALK)

WYDEN:
The Yates warning was...

(CROSSTALK)

POMPEO:
... I have no first hand information with respect to the warning that was given.

WYDEN:
OK.

POMPEO:
She didn't make that warning to me. I -- I can't -- I can't answer that question, Senator...

WYDEN:
OK.

POMPEO:
... as much as I would like to.

WYDEN:
OK.

Director Coats, how concerned are you that a Russian government oil company, run by a Putin crony could end up owning a significant percentage of U.S. oil refining capacity and what are you advising the Committee on Foreign Investment in the United States about this?

COATS:
I don't have specific information relative to that. I think that's something that potentially, we could provide intelligence on in terms of what this -- what situation might be, but...

WYDEN:
I'd like you to furnish that in writing. Let me see if I can get one other question in, there have been mountains of press stories with allegations about financial connections between Russia and Trump and his associates. The matters are directly relevant to the FBI and my question is, when it comes to illicit Russian money and in particular, it's potential to be laundered on its way to the United States, what should the committee be most concerned about?

We hear stories about Deutsche Bank, Bank of Cypress, Shell companies in Moldova, the British Virgin Islands. I'd like to get your sense because I'm over my time. Director McCabe, what you we most -- be most concerned about with respect to illicit Russian money and its potential to be laundered on its way the United States?

MCCABE:
Certainly sir. So as you know, I am not in the position to be able to speak about specific investigations and certainly not in this setting. However, I will confirm for you that those are issues that concern us greatly.

They have traditionally and they do even more so today, as it becomes easier to conceal the origin and the -- and the track and the destination of purpose of illicit money flows, as the exchange of information becomes more clouded in encryption and then more obtuse, it becomes harder and harder to get to the bottom of those investigations. That would shed light on those issues.

WYDEN:

Thank you, Mr. Chairman.

BURR:

Senator Risch?

RISCH:

Thank you very much. Gentlemen, I -- the purpose of this hearing as the chairman expressed is to give the American people some insight into what we all do, which they don't see pretty much at all. And so I think what I want to do is I want to make an observation and then I want to get your take on it, anybody who wants to volunteer. And I'm going to start with you Director Coats, to volunteer.

My -- I have been -- I've been on this committee all the time I've been here in the Senate and all through the last administration. And I have been greatly impressed by the current administrations hitting the ground running during the first hundred days, as far as their engagement on intelligence matters and their engagement with foreign countries. The national media here is focused on domestic issues which is of great interest to the American people be it healthcare, be it personnel issues in the government.

And they don't -- the -- the media isn't as focused on this administrations fast, and in my judgment, robust engagement with the intelligence communities around the world and with other governments. And my impression is that it's good and it is aggressive. And I want -- I'd like you're -- I'd like your impression of where we're going. Almost all of you had real engagement in the last administration and all the administrations are different. So Director Coats, you want to take that on to start with?

COATS:

I'd be happy to start with that, I think most presidents that come into office come with an agenda in mind in terms of what issues they'd like to pursue, many of them issues that effect -- domestic issues that affect infrastructure and education and a number of things only to find that this is dangerous world, that the United States -- that the threats that exist out there need to be -- be given attention to.

This president, who I think the perception was not interested in that, I think Director Pompeo and I can certify the fact that we have spent far more hours in the Oval Office than we anticipated. The president is a voracious consumer of information and asking questions and asking us to provide intelligence. I -- we are both part of a process run through the national security council, General McMaster, all through the deputy's committees and the principal's committees consuming hours and hours of time looking at the threats, how do we address those threats, what is the intelligence that tells us -- that informs the policy makers in terms of how they put a strategy in place.

And so what I initially thought would be a one or two time a week, 10 to 15 minute quick brief, has turned into an everyday, sometimes exceeding 45 minutes to an hour or more just in briefing the president. We have -- I have brought along several of our directors to come and show the president

what their agencies do and how important it is the info -- that the information they provide how that -- for the basis of making policy decisions.

I'd like to turn to my CIA colleague to get -- let him give you, and others, to give you their impression.

RISCH:

I appreciate that. We're almost out of time but I did -- Director Pompeo you kind of sit in the same spot we all sit in through the last several years and I kind of like your observations along the line of Director Coats, what you feel about the matter?

POMPEO:

Yeah, I think Director Coats had it right. He and I spend time with the president everyday, briefing him with the most urgent intelligence matters that are presented to us as -- in our roles. He asks good, hard questions. Make us go make sure we're doing our work in the right way.

Second, you asked about engagement in the world. This administration has reentered the battle space in places the administration -- the previous administration was completely absent. You all travel some too...

RISCH:

Yes.

POMPEO:

... you will hear that when you go travel. I've now taken two trips to places and they welcome American leadership. They're not looking for American soldiers, they're not looking for American boots on the ground, they're looking for American leadership around the globe and this president has reentered that space in a way that I think will serve America's interest very well.

RISCH:

Yeah I -- I couldn't agree more and we -- we deal with them not only overseas but they come here, as you know, regularly.

POMPEO:

Yes sir.

RISCH:

And the fact that the president has pulled the trigger twice as he has in -- in the first 100 days and -- and done it in a fashion that didn't start a world war and -- and was watched by both our friends and our enemies has made a significant and a huge difference as far as our standing in the world. My time's up. Thank you very much Mr. Chair.

WARNER:

Thank you Senator.

Senator Heinrich.

HEINRICH:

Director McCabe you -- you obviously have several decades of law enforcement experience, is it -- is it your experience that people who are innocent of wrong doing typically need to be reassured that they're not the subject of an investigation?

MCCABE:

No sir.

HEINRICH:

And I ask that because I'm still trying to make heads or tails of the dismissal letter from -- earlier this week from the president where he writes, "While I greatly appreciate you informing me, on three separate occasions, that I am not under investigation." And I'm still trying to figure out why that would even make it into a dismissal letter. But let me go to something a little more direct.

Director, has anyone in the White House spoken to you directly about the Russia investigation?

MCCABE:

No, sir.

HEINRICH:

Let me -- when -- when did you last meet with the president, Director McCabe?

MCCABE:

I don't think I -- I'm in...

HEINRICH:

Was it earlier this week?

MCCABE:

... the position to comment on that. I have met with the president this week, but I really don't want to go into the details of that.

HEINRICH:

OK. But Russia did not come up?

MCCABE:

That's correct, it did not.

HEINRICH:

OK, thank you. We've heard in the news that -- that -- claims that Director Comey had -- had lost the confidence of rank and file FBI employees. You've been there for 21 years, in your opinion is it accurate that the rank and file no longer supported Director Comey?

MCCABE:

No, sir, that is not accurate. I can tell you, sir, that I worked very, very closely with Director Comey. From the moment he started at the FBI I was his executive assistant director of national security at that time and I worked for him running the Washington field office. And of course I've served as deputy for the last year.

MCCABE:

I can tell you that I hold Director Comey in the absolute highest regard. I have the highest respect for his considerable abilities and his integrity and it has been the greatest privilege and honor in my professional life to work with him. I can tell you also that Director Comey enjoyed broad support within the FBI and still does until this day.

We are a large organization, we are 36,500 people across this country, across this globe. We have a diversity of opinions about many things, but I can confidently tell you that the majority -- the vast majority of FBI employees enjoyed a deep and positive connection to Director Comey.

HEINRICH:

Thank you for your candor. Do you feel like you have the adequate resources for the existing investigations that the -- that the bureau is invested in right now to -- to follow them wherever they may lead?

MCCABE:

Sir, if you're referring to the Russia investigation, I do. I believe we have the adequate resources to do it and I know that we have resourced that investigation adequately. If you're referring to the many constantly multiplying counter-intelligence threats that we face across the spectrum, they get bigger and more challenging every day and resources become an issue over time.

HEINRICH:

Sure.

MCCABE:

But in terms of that investigation, sir, I can -- I can assure you we are covered.

HEINRICH:

Thank you.

Director Coats, welcome back. Would you agree that it is a national security risk to provide classified information to an individual who has been compromised by a foreign government as a broad matter.

COATS:

As a broad matter, yes.

HEINRICH:

If the attorney general came to you and said one of your employees was compromised what -- what sort of action would you take?

COATS:

I would take the action as prescribed in our procedures relative to how we report this and how it's -- how it is processed. I mean, it's a serious -- serious issue. Our -- our -- I would be consulting with our legal counsel and consulting with our inspector general and others as to how -- how best to proceed with this, but obviously we will take action.

HEINRICH:

Would -- would one of the options be dismissal, obviously?

COATS:

Very potentially could be dismissal, yes.

HEINRICH:

OK, thank you Director.

BURR:

Senator Collins?

COLLINS:

Thank you, Mr. Chairman and Mr. Vice Chairman.

Mr. McCabe, is the agent who is in charge of this very important investigation into Russian attempts to influence our election last fall still in charge?

MCCABE:

I mean we have many agents involved in the investigation at many levels so I'm not who you're referring to.

COLLINS:

The lead agent overseeing the investigation.

MCCABE:

Certainly, almost all of the agents involved in the investigation are still in their positions.

COLLINS:

So has there been any curtailment of the FBI's activities in this important investigation since Director Comey was fired?

MCCABE:

Ma'am, we don't curtail our activities. As you know, has the -- are people experiencing questions and are reacting to the developments this week? Absolutely.

COLLINS:

Does that get in the way of our ability to pursue this or any other investigation?

MCCABE:

No ma'am, we continue to focus on our mission and get that job done.

COLLINS:

I want to follow up on a question of resources that Senator Heinrich asked your opinion on. Press reports yesterday indicated that Director Comey requested additional resources from the Justice Department for the bureau's ongoing investigation into Russian active measures. Are you aware that request? Can you confirm that that request was in fact made?

MCCABE:

I cannot confirm that request was made. As you know ma'am, when we need resources, we make those requests here. So I -- I don't -- I'm not aware of that request and it's not consistent with my understanding of how we request additional resources.

That said, we don't typically request resources for an individual case. And as I mentioned, I strongly believe that the Russian investigation is adequately resourced.

COLLINS:

You've also been asked a question about target letters. Now, it's my understanding that when an individual is the target of an investigation, at some point, a letter is sent out notifying a individual that he is a target, is that correct?

MCCABE:

No ma'am, I -- I don't believe that's correct.

COLLINS:

OK. So before there is going to be an indictment, there is not a target letter sent out by the Justice Department?

MCCABE:

Not that I'm aware of.

COLLINS:

OK that's contrary to my -- my understanding, but let me ask you the reverse.

MCCABE:

Again, I'm looking at it from the perspective of the investigators. So that's not part of our normal case investigative practice.

COLLINS:

That would be the Justice Department, though. The Justice Department...

MCCABE:

I see, I see...

COLLINS:

I'm -- I'm asking you, isn't it standard practice when someone is the target of an investigation and is perhaps on the verge of being indicted that the Justice Department sends that individual what is known as a target letter?

MCCABE:

Yes, ma'am I'm going have to defer that question to the Department of Justice.

COLLINS:

Well, let me ask you the -- the flip side of that and perhaps you don't know the answer to this question but is it standard practice for the FBI to inform someone that they are not a target of an investigation?

MCCABE:

It is not.

COLLINS:

So it would be unusual and not standard practice for there -- it -- for there to have been a notification from the FBI director to President Trump or anyone else involved in this investigation, informing him or her that that individual I not a target, is that correct?

MCCABE:

Again ma'am, I'm not going to comment on what Director Comey may or may not have done.

COLLINS:

I -- I'm not asking you to comment on the facts of the case, I'm just trying to figure out what's standard practice and what's not.

MCCABE:

Yes ma'am. I'm not aware of that being a standard practice.

COLLINS:

Admiral Rogers, I want to follow up on Senator Warner's question to you about the attempted interference in the French...

ROGERS:

French.

COLLINS:

... election. Some researchers, including the cyber intelligence firm Flashpoint claim that APT28 is the group that was behind the stealing of the -- and the leaking of the information about the president elect of France, the FBI and DHS have publicly tied APT28 to Russian intelligence services in the joint analysis report last year after the group's involvement in stealing data that was leaked in the run up to the U.S. elections in November.

Is the I.C. in a position to attribute the stealing and the leaking that took place prior to the French election to be the result of activities by this group, which is linked to Russian cyber activity?

ROGERS:

Again ma'am, right now I don't think I have a complete picture of all the activity associated with France but as I have said publicly, both today and previously, we are aware of specific Russian activity directed against the French election cycle in the course -- particularly in the last few weeks.

To the point where we felt it was important enough we actually reached out to our French counterparts to inform them and make sure they awareness of what we were aware of and also to ask them, is there something we are missing that you are seeing?

COLLINS:

Thank you.

BURR:

Senator King.

KING:

Mr. McCabe, thank you for being here today under somewhat difficult circumstances, we appreciate your candor in your testimony.

On March 20th, Director Comey -- then Director Comey testified to the House of Representative, "I have been authorized by the Department of Justice to confirm that the FBI, as part of our counterintelligence mission, is investigating the Russian government's efforts to interfere in the 2016 presidential election and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russian efforts.

As with any counter intelligence investigation this will also include an assessment of whether any crimes were committed." Is that statement still accurate?

MCCABE:

Yes sir, it is.

KING:

And how many agents are assigned to this project? How many -- or personnel generally with the FBI, roughly?

MCCABE:

Yeah, sorry I can't really answer those sorts of questions in this forum.

KING:

Well, yesterday a White House press spokesman said that this is one of the smallest things on the plate of the FBI, is that an accurate statement?

MCCABE:

It is...

KING:

Is this a small investigation in relation to all -- to all the other work that you're doing?

MCCABE:

Sir, we consider it to be a highly significant investigation.

KING:

So you would not characterize it as one of the smallest things you're engaged in?

MCCABE:

I would not.

KING:

Thank you.

Let me change the subject briefly. We're -- we've been talking about Russia and -- and their involvement in this election. One of the issues of concern to me, and perhaps I can direct this to -- well, I'll direct it to anybody in the panel. The allegation of Russian involvement in our electoral systems, is that an issue that is of concern and what do we know about that? And is that being up followed up on by this investigation.

Mr. McCabe, is that part of your investigation? No I'm -- I'm not talking about the presidential election, I'm talking about state level election infrastructure.

MCCABE:

Yes, sir. So obviously not discussing any specific investigation in detail. The -- the issue of Russian interference in the U.S. democratic process is one that causes us great concern. And quite frankly, it's something we've spent a lot of time working on over the past several months. And to reflect comments that were made in response to an earlier question that Director Coats handled, I think part of that process is to understand the inclinations of our foreign adversaries to interfere in those areas.

So we've seen this once, we are better positioned to see it the next time. We're able to improve not only our coordination with -- primarily through the Department of Homeland -- through DHS, their -- their expansive network and to the state and local election infrastructure. But to interact with those folks to defend against ; whether it's cyber attacks or any sort of influence driven interactions.

KING:

Thank you, I think that's a very important part of this issue.

Admiral Rogers, yesterday a camera crew from TAS (ph) was allowed into the Oval Office. There was not any American press allowed, was there any consultation with you with regard to that action in terms of the risk of some kind of cyber penetration or communications in that incident?

ROGERS:

No.

KING:

Were you -- you were -- your agency wasn't consulted in any way?

ROGERS:

Not that I'm aware of. I wouldn't expect that to automatically be the case; but no, not that I'm aware of.

KING:

Did it raise any concerns when you saw those pictures that those cameramen and crew were in the Oval Office without....

ROGERS:

I'll be honest, I wasn't aware of where the images came from.

KING:

All right, thank you.

Mr. Coats -- Director Coats, you're -- you're -- you lead the intelligence community. Were you consulted at all with regard to the firing of Director Comey?

COATS:
I was not.

KING:
So you had no -- there were no discussions with you even though the FBI's an important part of the intelligence community?

COATS:
There were no discussions.

KING:
Thank you.

Mr. Chairman, thank you.

BURR:
Thank you Senator King.

Senator Lankford.

LANKFORD:
Thank you, let me just run through some quick questions on this. Director McCabe, thanks for being here as well.

Let me hit some high points of some of the things I've heard already, just to be able to confirm. You have the resources you need for the Russia investigation, is that correct?

MCCABE:
Sir, we believe it's adequately resourced...

LANKFORD:
OK, so there's not limitations on resources, you have what you need? The -- the actions about Jim Comey and his release has not curtailed the investigation from the FBI, it's still moving forward?

MCCABE:
The investigation will move forward, absolutely.

LANKFORD:
No agents have been removed that are the ongoing career folks that are doing the investigation?

MCCABE:
No, sir.

LANKFORD:

Is it your impression at this point that the FBI is unable to complete the investigation in a fair and expeditious way because of the removal of Jim Comey?

MCCABE:

It is my opinion and belief that the FBI will continue to pursue this investigation vigorously and completely.

LANKFORD:

Do you need somebody to take this away from you and somebody else to do?

MCCABE:

No sir.

LANKFORD:

OK. Let me ask you a separate question.

As I go through the report and tracking through the worldwide threats that was put out, that Director Coats put out, there's a section on it in narcotics and the movement of illegal drugs. And there's a section on it about tens of thousands of illegal pharmacies that are online at this point distributing narcotics. And 18 to 20 of those go online a day, still.

Can you help me understand a little more about what the FBI is doing to be able to interdict, to be able to engage, how many of those are American, how many of those are international and what we can do to be able to stop the movement of narcotics through our mail system?

MCCABE:

Yes, yes, sir so -- it's a great question and one that we spend a great deal of time on. As you know, the traffic of illegal narcotics is something that we, along with our partners at the DEA and other law and federal, state and local law enforcement partners are focused on for many years, we've had great success.

But the issue, the threat continues to change, continues to develop and -- and confront us in new ways. The profusion of illegal online pharmacies is certainly one of those ways. And quite frankly, it's something that we are learning more about, spending more time on every day.

LANKFORD:

Well, I'm glad that it is highlighted in the report with tens of thousands of these pharmacies that are out there in the distribution systems, it's no longer a drug dealer on the corner anymore. They just deliver it to your house now and there's a whole different set of issues that we aggressively need to address on this.

Director Coats, I have a -- I have a question for you. We've talked often about a cyber doctrine and its one of the issues that keeps being raised that other nations and nation states and -- and actors need to understand what our boundaries are and how we're going to do this. This seems to be talked to death. And everyone that I raise it with says yes, it needs to occur.

What I need to know is, who has the ball on leading out to make sure a year from now, we're not talking about we need to get a cyber doctrine. I guess specifically, when we do this hearing next year, who should we hold accountable if we don't have a cyber doctrine?

COATS:

Well, that's a very good question. I think all of us would agree we need a cyber doctrine because clearly it is one of the top, if not the number one threat today that we're dealing with. As you know, the president passed an effort under the direction of former Mayor Giuliani with this. That has not led to a conclusion at this particular point in time. I don't have the details on that.

I would agree with you, however, that this is a threat that our policymakers need to -- need to address. I'm hoping that when we are here next year, we will have a solid response to your question, but at this particular point in time, frankly given the proliferation of issues that we're trying to deal with, it's almost overwhelming...

LANKFORD:

And it is and that -- and that's getting our hands to all of them. They are just so many things that are flying around, this keeps getting left and it has been for years, been left. And what we need to try to figure out is how do we actually find out who's got the ball and who do we hold to account to be able to help us work through this or is this something that we need to be able to work through?

I noticed as I read through your report, which was excellent by the way on all the worldwide threats, every single section of your report, every section of it had a section on Iran. Every part of that, that there's a threat and in fact, in one section of it, you wrote Iran continues to be the foremost state sponsor of terrorism. Whether it was cyber, whether it is active terrorism, whether it is involvement in every different nefarious action, it seems to always circle back to Iran at some point, in some way of facilitating this.

So this is -- this is one of those areas that we've got to be able to figure out how to be able to deal with. Just in a broad question on it and maybe General Stewart you'd be the right one to be able to deal with this but anyone could -- could answer this. My concern is, is that when we're dealing with Syria, the focus seems to be on Russia in Syria or ISIS in Syria and we're losing track of the movement of Iran through Iraq into Syria, we're losing track of what's happening in Yemen and other places.

Who -- what is your perception of Iran's goal through the Middle East? Is their goal higher for Yemen or is it higher going into Syria and into Iraq and to be able to occupy and stay? And is the perception that the Russians want to remain there or Iran wants to remain in Syria and be the dominant force there?

STEWART:

Clearly Iran views themselves as the regional -- the dominant regional power. They will continue to use militia forces and asymmetric forces to achieve the aims of controlling large parts of the region.

If they can't control them physically they tend to influence them politically. Syria becomes a very key strategic point for them, it allows them to leverage the Syrian force, Lebanese and Lebanese Hezbollah and move capability and forces across the region. They will be in competition, at some point, with Russia.

Russia views themselves as the regional power, at least the dominant regional power today. I'm not sure that Russian and Iran's influence will remain aligned in the long term. In the near term they're very closely aligned as it relates to propping up and securing the Syrian regime.

LANKFORD:

Thank you.

BURR:

Senator Manchin.

MANCHIN:

Thank you Mr. Chairman.

Thank all of you for being here, I really appreciate it and I know that, Mr. McCabe, you seem to be of great interest of being here. And we're going to look forward to really from hearing from all of you all in a closed hearing this afternoon which I think that we'll able to get into more detail. So I appreciate that.

I just one question for Mr. McCabe it's basically the morale of the agency, the FBI agency and the morale basically starting back from July 5th to July 7th, October 28th, November 6th and election day -- did you all ever think you'd be embroiled in an election such as this and did -- what did it do to the morale?

MCCABE:

Well, I -- I don't know that anyone envisioned exactly the way these things would develop. You know, as I said earlier Senator, we are a -- a large organization. We are -- we have a lot of diversity of opinions and -- and viewpoints on things. We are also a fiercely independent group.

MANCHIN:

I'm just saying that basically, before July 5th, before the first testimony that basically Director Comey got involved in, prior to that, did you see a change in the morale? Just yes or no -- yes a change or more anxious, more concern?

MCCABE:

I think morale has always been good, however we had -- there were folks within our agency who were frustrated with the outcome of the Hillary Clinton case and some of those folks were very vocal about that -- those concerns.

MANCHIN:

I'm sure we'll have more questions in the closed hearing, sir but let me say to the rest of you all, we talked about Kaspersky, the lab, KL Lab. Do you all have -- has it risen to your level being the head of all of our intelligence agencies and people that mostly concerned about the security of our country of having a Russian connection in a lab as far outreaching as KL Labs?

Has it come with your IT people coming to you or have you gone directly to them making sure that you have no interaction with KL or any of the contractors you do business with? Just down the line there, Mr. Cardillo?

CARDILLO:

Well, we count on the expertise of Admiral Rogers and the FBI to protect our systems and so I value...

MANCHIN:

...But you have I -- you have IT people, right?

CARDILLO:

Absolutely.

MANCHIN:

Have you talked to the IT people? Has it come to your concern that there might be a problem?

CARDILLO:

I'm aware of the Kaspersky Lab challenge and/or threat.

MANCHIN:

Let me tell you, it's more of a challenge -- more than a challenge, sir and I would hope that -- I'll go down the line but I hope that all of you -- we are very much concerned about this, very much concerned about security of our country watching (ph) their involvement.

CARDILLO:

We share that.

MANCHIN:

General?

STEWART:

We are tracking Kaspersky and their software. There is as well as I know, and I've checked this recently, no Kaspersky software on our networks.

MANCHIN:

Any contractors?

STEWART:

Now, the contractor piece might be a little bit harder to define but at this point we see no connection to Kaspersky and contractors supporting (ph)...

MANCHIN:

...Admiral Rogers?

ROGERS:

I'm personally aware and involved with the director on the national security issues and the Kaspersky Lab issue, yes sir.

COATS:

It wasn't that long ago I was sitting up there talking -- raising issues about Kaspersky and its position here. And that continues in this new job.

POMPEO:

It has risen to the director of the CIA as well, Senator Manchin.

MANCHIN:

Great.

(UNKNOWN)

He's very concerned about it, sir, and we are focused on it closely.

MANCHIN:

Only thing I would ask all of you, if you can give us a report back if you've swept all of your contractors to make sure they understand the certainty you have, concern that you have about this and making sure that they can verify to you all that they're not involved whatsoever with any Kaspersky's hardware. I'm going to switch to a couple different things because of national security.

But you know, the bottom gangs that we have in the United States, and I know -- we don't talk about them much. And when you talk about you have MS-13, the Crips, you've got Hells Angels, Aryan Brotherhood, it goes on and on and on, it's quite a few. What is -- what are we doing and what is it to your level -- has it been brought to your level the concern we have with these gangs within our country, really every part of our country?

Anybody on the gangland?

MCCABE:

Yes sir. So we spend a lot of time talking about that at the FBI. It's one of our highest priorities...

MANCHIN:

Did the resources go out to each one of these because they're interspersed over the country?

MCCABE:

We do, sir. We have been focused on the gang threat for many years. It -- like -- much like the online pharmacy threat. It continues to change and develop harried we think it's likely a -- having an impact on elevated violent crime rates across the country, so we're spending a lot of time focused on that.

MANCHIN:

One -- One last question real quick, my time is running out, is basically the question is on rare earth elements. I'm understanding ever since the closure of the California -- which is the Mountain Pass mine, which was the last mine that we had that was giving a domestic source of restless of elements, that's been closed, and now we're 100 percent dependent of foreign -- on basically foreign purchases of rare earth elements for what we need every day to run this country. We don't do any of it in this country anymore. And most of it comes from china. Do any of you have a concern about that?

POMPEO:

So, Senator Manchin (ph), I'll speak to that. Yes, we're concerned. We are -- we do a lot of work to figure out where they are and help the intelligence community -- help the policy community shape policy surrounding how we ought to treat this issue. But it's a very -- it's a very real concern, and it obviously depends on the elements. But we use them for important technologies to keep us all safe, those very rare earth elements.

MANCHIN:

Let me just say, that I -- its been told to me that the department of defense needs about 800 tons of rare earth elements per year, and I would want you to make sure you know, West Virginia has the opportunity to provide this country with the rare earth elements it has because of our mining process and all of that we have extract through the mining process. We are happy to come to aid, sir.

(UNKNOWN)

Thank you, senator.

BURR:

Thank you, Senator Manchin. Before I turn to Senator Cotton, can I say for the members, the vice chair and I have to step out for a meeting that we can't push off. I would ask Senator Harris, Senator Cotton, to conclude their first-round questions. Any member that seeks additional questions will be recognized by the chair. I would ask you to limit those questions, if you can, but the chair will ask -- will say we're not going over five minutes for the second round of questions.

It is my hope we will give sufficient time to these six gentlemen to have nutrition before we reconvene at 1:30 into 219. It's my understanding that there will be a vote, circa 2:00, and we will decide exactly how we handle that. But the closed hearings, we like to make sure nobody misses anything, so we -- we might slightly adjust what we are doing.

WYDEN:

Mr. Chairman, just and inquiry, and I appreciate your thoughtfulness. So, in your departure, as we work through it, it's still acceptable to begin another five-minute round for those...

BURR:

Up to five minutes.

WYDEN:

Thank you.

BURR:

Senator Cotton.

COTTON:

Inmates are running the asylum.

(LAUGHTER)

COTTON:

So, I think everyone in this room and most Americans have come to appreciate the aggressiveness with which would Russia uses active measures or covert influence operations, propaganda, call them what you will, as your agencies assess they did in 2016 and in hacking into those e-mails and releasing them as news reports suggest they did. In the French election last week -- that's one reason why I sought to revive the Russian active measures working group in the FY'17 Intelligence Authorization Act.

These activities that will go far beyond elections, I think, as most of our witnesses know. former director of the CIA, Bob Gates, in his memoir "From the Shadows," detailed soviet covert influence campaigns

designed to slow or thwart the U.S. development of nuclear delivery systems and warheads, missile-defense systems and employment of intermediate nuclear range systems to Europe.

Specifically on page 260 of his memoir, he writes "during the period, the soviets mounted a massive covert action operation, aimed at thwarting INF deployments by NATO. We at CIA devoted tremendous resources to an effort at the time to uncovering the soviet covert campaign. Director Casey summarized this extraordinary effort in a paper he sent to Bush, Schultz, Weinberger and Clark on January 18, 1983. We later published it and circulated it widely within the government and to the allies, and finally, provided an unclassified version of the public to use," end quote.

I'd like to thank the CIA for digging up this unclassified version of the document and providing it to the committee, Soviet Strategy to derail U.S. INF deployment. Specifically, undermining NATO's solidarity in those deployments. I have asked unanimous consent that it be included in the hearing transcript and since the inmates are running the asylum, hearing no objection, we'll include it in the transcript.

(LAUGHTER)

Director Pompeo, earlier this year, Dr. Roy Godson testified that he believed that Russia was using active measures and covert influence efforts to undermine our nuclear modernization efforts, our missile defense deployments, and the INF Treaty, in keeping with these past practices.

To the best of your ability in this setting, would you agree with the assessment that Russia is likely using such active measures to undermine U.S. nuclear modernization efforts and missile defenses?

POMPEO:
Yes.

COTTON:
Thank you.

As I mentioned earlier, the F.Y. '17 Intelligence Authorization Act included two unclassified provisions that I authored. One would be re-starting that old (inaudible) Measures Working Group. A second would require additional scrutiny of Russian embassy officials who travel more than the prescribed distance from their duty station, whether it's their embassy or a consulate around the United States.

In late 2016, when that bill was on the verge of passing, I personally received calls from high-ranking Obama administration officials asking me to withdraw them from the bill. I declined. The bill did not pass. It passed last week as part of the F.Y. '17 spending bill.

I did not receive any objection from Trump administration officials to include from our intelligence community.

Director Coats, are you aware of any objection that the Trump administration had to my two provisions?

COATS:
No, I'm not aware of any objection.

COTTON:

Director Pompeo?

POMPEO:

None.

COTTON:

Do you know why the Obama administration objected to those two provisions in late 2016? I would add after the 2016 presidential election.

COATS:

Well, it would be pure speculation. I don't -- I couldn't read -- I wasn't able to read the president's mind then and I don't think I can read it now.

COTTON:

Thank you.

I'd like to turn my attention to a very important provision of law. I know that you've discussed earlier section 702.

Director Rogers, it's my understanding that your agency is undertaking an effort to try to release some kind of unclassified estimate of the number of U.S. persons who might have been incidentally collected using 702 techniques. Is that correct?

ROGERS:

Sir, we're looking to see if we can quantify something that's of value to people outside the organization.

COTTON:

Would -- would that require you going in and conducting searches of incidental collection that have been previously unexamined?

ROGERS:

That's part of the challenge. How do I generate insight that doesn't in the process of generating the insight violate the actual tenets that...

(CROSSTALK)

COTTON:

So -- so we're -- you're trying to produce an estimate that is designed to protect privacy rights, but to produce that estimate, you're going to have to violate privacy rights?

ROGERS:

That is a potential part of all of this.

COTTON:

It seems hard to do.

ROGERS:

Yes, sir. That's why it has taken us a period of time and that's why we're in the midst of a dialogue.

COTTON:

Is it going to be possible to produce that kind of estimate without some degree of inaccuracy or misleading information, or infringing upon the privacy rights of Americans?

ROGERS:

Probably not.

COTTON:

If anyone in your agency, or for that matter, Director McCabe, in yours, believes that there is misconduct or privacy rights are not being protected, they could, I believe under current law, come to your inspector general; come to your general counsel. I assume you have open door policies.

ROGERS:

Whistleblower protections in addition, yes, sir, and they can come to you.

COTTON:

They can come to this committee.

So four -- at least four different avenues. I'm probably missing some, if they believe there are any abuses in the section 702 (inaudible).

MCCABE (?):

And anyone in their chain of command.

COTTON:

I would ask that we proceed with caution before producing a report that might infringe on Americans' privacy rights needlessly, and that might make it even that much harder to reauthorize a critical program, something that, Director McCabe, your predecessor last week just characterized, if I can paraphrase, as a must-have program, not a nice-to-have program.

Thank you.

BURR:

Thank you, Senator Cotton.

Senator Harris?

HARRIS:

Thank you.

Acting Director McCabe, welcome. I know you've been in this position for only about 48 hours, and I appreciate your candor with this committee during the course of this open hearing.

MCCABE:

Yes, ma'am.

HARRIS:

Until this point, what was your role in the FBI's investigation into the Russian hacking of the 2016 election?

MCCABE:

I've been the deputy director since February of 2016. So I've had an oversight role over all of our FBI operational activity, including that investigation.

HARRIS:

And now that you're acting director, what will your role be in the investigation?

MCCABE:

Very similar, senior oversight role to understand what our folks are doing and to make sure they have the resources they need and are getting the direction and the guidance they need to go forward.

HARRIS:

Do you support the idea of a special prosecutor taking over the investigation in terms of oversight of the investigation, in addition to your role?

MCCABE:

Ma'am, that is a question for the Department of Justice and it wouldn't be proper for me to comment on that.

HARRIS:

From your understanding, who at the Department of Justice is in charge of the investigation?

MCCABE:

The deputy attorney general, who serves as acting attorney general for that investigation. He is in charge.

HARRIS:

And have you had conversations with him about the investigation since you've been in this role?

MCCABE:

I have. Yes, ma'am.

HARRIS:

And when Director Comey was fired, my understanding is he was not present in his office. He was actually in California. So my question is: Who was in charge of securing his files and devices when that -- when that information came down that he had been fired?

MCCABE:

That's our responsibility, ma'am.

HARRIS:

And are you confident that his files and his devices have been secured in a way that we can maintain whatever information or evidence he has in connection with the investigation?

MCCABE:

Yes, ma'am. I am.

HARRIS:

It's been widely reported, and you've mentioned this, that Director Comey asked Rosenstein for additional resources. And I understand that you're saying that you don't believe that you need any additional resources?

MCCABE:

For the Russia investigation, ma'am, I think we are adequately resourced.

HARRIS:

And will you commit to this committee that if you do need resources, that you will come to us, understanding that we would make every effort to get you what you need?

MCCABE:

I absolutely will.

HARRIS:

Has -- I understand that you've said that the White House, that you have not talked with the White House about the Russia investigation. Is that correct?

MCCABE:

That's correct.

HARRIS:

Have you talked with Jeff Sessions about the investigation?

MCCABE:

No, ma'am.

HARRIS:

Have you talked with anyone other than Rod Rosenstein at the Department of Justice about the investigation?

MCCABE:

I don't believe I have -- you know, not recently; obviously, not in that -- not in this position.

HARRIS:

Not in the last 48 hours?

MCCABE:

No, ma'am.

HARRIS:

OK. What protections have been put in place to assure that the good men and women of the FBI understand that they will not be fired if they aggressively pursue this investigation?

MCCABE:

Yes, ma'am. So we have very active lines of communication with the team that's -- that's working on this issue. They are -- they have some exemplary and incredibly effective leaders that they work directly for. And I am confident that those -- that they understand and are confident in their position moving forward on this investigation, as my investigators, analysts and professionals staff are in everything we do every day.

HARRIS:

And I agree with you. I have no question about the commitment that the men and women of the FBI have to pursue their mission. But will you commit to me that you will directly communicate in some way now that these occurrences have happened and Director Comey has been fired? Will you commit to me that given this changed circumstance, that you will find a way to directly communicate with those men and women to assure them that they will not be fired simply for aggressively pursuing this investigation?

MCCABE:

Yes, ma'am.

HARRIS:

Thank you.

And how do you believe we need to handle, to the extent that it exists, any crisis of confidence in the leadership of the FBI, given the firing of Director Comey?

MCCABE:

I don't believe there is a crisis of confidence in the leadership of the FBI. That's somewhat self-serving, and I apologize for that.

(LAUGHTER)

You know, it was completely within the president's authority to take the steps that he did. We all understand that. We expect that he and the Justice Department will work to find a suitable replacement and a permanent director, and we look forward to supporting whoever that person is, whether they begin as an interim director or a permanently selected director.

This -- organization in its entirety will be completely committed to helping that person get off to a great start and do what they need to do.

HARRIS:

And do you believe that there will be any pause in the investigation during this interim period, where we have a number of people who are in acting positions of authority?

MCCABE:

No, ma'am. That is my job right now to ensure that the men and women who work for the FBI stay focused on the threats; stay focused on the issues that are of so much importance to this country; continue to protect the American people and uphold the Constitution. And I will ensure that that happens.

HARRIS:

I appreciate that. Thank you.

MCCABE:
Yes, ma'am.

BURR:
Thank you.

Senator King?

Second round, five minutes each.

Senator Wyden?

WYDEN:
Thank you, Mr. Chairman.

I want to go back to the question I asked you, Director Pompeo. And I went out and reviewed the response that you gave to me. And of course, what I'm concerned about is the Sally Yates warning to the White House that Michael Flynn could be blackmailed by the Russians.

And you said you didn't have any first-hand indication of it. Did you have any indication -- second-hand, any sense at all that the national security adviser might be vulnerable to blackmail by the Russians? That is a yes or no question.

POMPEO:
It's actually not a yes-or-no question, Senator. I can't answer yes or no. I regret that I'm unable to do so. You have to remember this is a counterintelligence investigation that was largely being conducted by the FBI and not by the CIA. We're a foreign intelligence organization.

And I'll add only this, I was not intending to be clever by using the term "first-hand." I had no second-hand or third-hand knowledge of that conversation either.

WYDEN:
So with respect to the CIA, were there any discussion with General Flynn at all?

POMPEO:
With respect to what sir? He was for a period of time the national security advisor.

WYDEN:
Topics that could have put at risk the security and the well being of the American people. I mean I'm just finding it very hard to swallow that you all had no discussions with the national security advisor.

POMPEO:
I spoke with the national security advisor. He was the national security advisor. He was present for the daily brief on many occasions and we talked about all the topics we spoke to the President about.

WYDEN:
But nothing relating to matters that could have compromised the security of the United States?

POMPEO:

Sir I can't recall every conversation with General Flynn during that time period.

WYDEN:

We're going to ask some more about it in closed session this afternoon. Admiral Rogers, let me ask you about a technical question that I think is particularly troubling and that is the S.S. 7 question in the technology threat. Last week the Department of Homeland Security published a lengthy study about the impact on the U.S. government of mobile phone security flaws. The report confirmed what I have been warning about for quite some time, which is the significance of cyber security vulnerabilities associated with a signaling system seven report says the department believes, and I quote, that all U.S. carriers are vulnerable to these exploits, resulting in risks to national security, the economy and the federal governments ability to reliably execute national security functions. These vulnerabilities can be exploited by criminals, terrorists and nation state actors and foreign intelligence organizations.

Do you all share the concerns of the Department of Human -- the Homeland Security Department about the severity of these vulnerabilities and what ought to be done right now to get the government and the private sector to be working together more clearly and in a coherent plan to deal with these monumental risks. These are risks that we're going to face with terrorists and hackers and threats. And I think the federal communications commission has been treading water on this and I'd like to see what you want to do to really take charge of this to deal what is an enormous vulnerability to the security of this country?

ROGERS:

Sure. I hear the concern. It's a widely deployed technology in the mobile segment. I share the concern the Department of Homeland security in their role kind of as the lead federal agency associated with cyber and support from the federal government to the private sector as overall responsibility here.

We are trying to provide at the national security agency our expertise to help generate insights about the nature of the vulnerability, the nature of the problem. Partnering with DHS, talking to the private sector. There's a couple of specific things from a technology stand point that we're looking at in multiple forms that the government has created partnering with the private sector.

I'm not smart, I apologize about all of the specifics of the DHS effort. I can take that for the record if you'd like.

WYDEN:

All right. I just want to respond before we break to Senator Cotton's comments with respect to section 702. Mr. Director, glad to see my tax reform partner back in this role. You know Mr. Director that I think it's critical the American people know how many innocent law abiding Americans are being swept up in the program. The argument that producing an estimate of the number is in itself a violation of privacy, is I think a far fetched argue has been made for years. I and others who believe that we can have security and liberty, that they're not mutually exclusive have always believed that this argument that you're going to be invading peoples privacy doesn't add up.

We have to have that number. Are we going to get it? Are we going to get it in time so we can have a debate that shows that those of us who understand there are threats coming from overseas, and we

support the effort to deal with those threats as part of 702. That we are not going to have American's privacy rights indiscriminately swept up.

We need that number. When will we get it?

COATS:

Senator as you recall, during my confirmation hearing, we had this discussion. I promised to you that I would -- if confirmed and I was, talk (ph) to NSA indeed with Admiral Rogers, try to understand -- better understand why it was so difficult to come to a specific number. I -- I did go out to NSA. I was hosted by Admiral Rogers. We spent significant time talking about that. And I learned of the complexity of reaching that number. I think the -- the statements that had been made by Senator Cotton are very relevant statements as to that.

Clearly, what I have learned is that a breach of privacy has to be made against American people have to be made in order to determine whether or not they breached privacy. So, it -- it -- there is an anomaly there. They're -- they're -- they're issues of duplication.

I know that a -- we're underway in terms of setting up a time with this committee I believe in June -- as early as June to address -- get into that issue and to address that, and talk through the complexity of why it's so difficult to say...

WYDEN:

I'm...

COATS:

...this is specifically when we can get you the -- the number and what the number is. So, I -- I believe -- I believe -- we are committed -- we are committed to a special meeting with the committee to try to go through this -- this particular issue.

But I cannot give you a date because I -- I -- and -- and a number because the -- I understand the complexity of it now and why it's so difficult for Admiral Rogers to say this specific number is the number.

WYDEN:

I'm -- I'm well over my time. The point really is privacy advocates and technologists say that it's possible to get the number. If they say it, and the government is not saying it, something is really out of synch.

You've got people who want to work with you. We must get on with this and to have a real debate about 702 that ensures that security and liberty are not mutually exclusive. We have to have that number.

Thank you, Mr. Chairman.

RISCH:

Thank you, Senator. Senator King, I understand you had a...

KING:

Thank you, Senator. If this hearing had been held two weeks ago, we'd be spending the last two hours talking about North Korea. And I think we ought to pay some attention to that.

Director Pompeo and Director Cardillo, could you give us an update on the North Korea situation, the nature of the threat, whether some of the pressure that we were feeling two and three and four weeks ago has relieved? Is there anything going on that should either concern or make us feel better about that situation?

Director Pompeo?

POMPEO:

Senator, I don't see anything that should make any us feel any better about this threat. We have a threat from flashpoints that something could spark and have a conventional war, right, wholly apart from the issues we talk about with ICBMs and nuclear. Just a well-armed adversary that our Department of Defense works hard to make sure and mitigate against those risks remain.

They -- the leader continues to develop, test, attempt to verify not only in the launches that we see, many of which have failed, but learned from each one, but continue to develop software that improves day by day. This threat is very real.

We -- we should not all focus simply on the ICBMs either. American interests are held at risk today by shorter-range missiles in theater. Enormous American assets...

(CROSSTALK)

KING:

Seoul is held at risk by artillery.

POMPEO:

Seoul is held at risk. We have enormous American interests in and around the region in Seoul.

So, no, I wouldn't say that in spite of the fact that it has fallen out of the headlines for the moment that there's any decreased risk associated with the threat from Kim Jung Un.

KING:

There was some discussions after -- again, about two weeks ago of entering into some kind of discussions with the North Koreans. Has anything -- can you report anything on that front?

POMPEO:

Sir, there -- there -- there are none that I'm aware of related to trying to talk Kim Jung Un away from his nuclear missile program. We have taken actions.

The agency -- I've stood up a Korean mission center to draw the best minds, the most innovative, create people from across our agency, and I'm sure we'll have others join in from across the intelligence community to try and focus this effort so that we can get back on our front foot with respect to foreign intelligence collection against the North Koreans and the capacity -- the impact what Kim Jung Un is actually doing.

KING:

On that latter point, would you agree that the -- the path to influence is through China?

POMPEO:

I think it's among our most productive paths and one that I know the president's committed to working, as is Secretary Tillerson.

KING:

Thank you very much. Admiral Rogers...

CARDILLO:

Senator King...

KING:

Yes?

CARDILLO:

I...

KING:

Yes, please?

CARDILLO:

Just to chime in. I was in front of your in closed session a couple of weeks ago, giving you great detail about the threat you've just highlighted. What you'll hear this afternoon is just an -- you know, the continuation of what I was briefing a couple of weeks ago.

So, I would agree with the director that this is -- this threat has not only been sustained, it's continued to grow.

KING:

Because it's fallen out of the headlines doesn't mean it's not...

CARDILLO:

That's correct. It's still our highest priority.

KING:

Thanks.

CARDILLO:

It is -- it is the highest priority -- the -- one of the highest, if not the highest priority the intelligence community at this time. A great deal of effort is being spent relative to how we can even better assess the situation and provide all the relevant intelligence to our policy makers.

KING:

Thank you. Two final questions.

Admiral Rogers, we -- the reason I was late this morning, we had a very informative hearing in Armed Services on cyber with some -- Jim Clapper and Admiral Stavitis and Admiral -- General Hayden. The -- the upshot of that hearing was we still don't have a doctrine. We still don't have a policy.

We still don't really fully understand -- you would concur, I assume, that cyber's one of the most serious threats we face.

ROGERS:

Yes, sir.

KING:

And do we need to have a policy and a deterrent policy and something further than what we have now, which is kind of an ad hoc response to events?

ROGERS:

Right, it tends to be a case-by-case basis. Yes, sir. I -- I agree.

And we spoke about that when I testified before the Senate (ph) last week as a matter of fact...

(CROSSTALK)

KING:

And it -- Senator McCain said -- Senator McCain said what's the impediment? Why can't we get there?

Is it -- is it the structure of our government? We got too many people thinking about this? What is it going to take to get us to the point of having a -- a doctrine that will guide us in this incredibly important era.

We -- we are seeing the nation of warfare change before our eyes.

ROGERS:

Sir, I don't have any easy answer for you. My role in life, not speaking now as a director of NSA but as the commander of the United States Cyber Commander, is to the operational commander. So, I don't develop policy. I -- I play a role on the doctrine side, trying to provide an operational perspective.

KING:

Well, I hope from your position though, you would be...

(CROSSTALK)

ROGERS:

Oh, yes, sir.

KING:

...the administration and everyone you can think of because...

ROGERS:

Yes, sir.

KING:

...I do not want to go home to Maine and say well, we talked a lot about this but we didn't do anything. And when the electric system went down, you know, we -- we might've been able to prevent it.

ROGERS:

Yes, sir.

KING:

Director Pompeo, final question. Do you think that Russian activity in the 2016 election was a one-off?

POMPEO:

No, sir.

KING:

This is a continuing threat, is it not?

POMPEO:

Yes, sir.

KING:

And things that they learned in this election they're going to apply in -- in 2018, 2020, and beyond.

POMPEO:

Yes, sir. And I hope we learn from it as well and will be able to more effectively defeat it.

KING:

And I believe that's why the work of this committee and others is so important because we've got to understand what they did, how they did it so that we can deal with it in the future. Would you agree?

POMPEO:

Yes, Senator, I would.

KING:

Thank you very much.

COATS:

Senator King, if I could just add to that. I think making this as transferable -- transparent as possible, not only to our -- our -- our own public, but throughout democratic nations that are facing this -- this threat. The more we inform our people of what the Russians are trying to do and how they're trying to impact our thinking and our decisions relative to how we want to be governed and what kind of democratic institutions that we want to preserve, the better.

So, my hope is the Russians have overstepped here to the point where people will say we absolutely have to do something about it. And we ask will it have to -- to prevent deterrent efforts in place as well as potentially offensive efforts.

KING:

Well, I -- I think your point about open hearings and education is incredibly important. You and I were in the Ukraine and Poland just about a year ago. And what they told us over there was that the best defense -- they can't shut down their TV networks, they can't turn off the internet.

The best defense is if the public knows what's happening and they say oh, it's just the Russians again. And we have to reach that level of knowledge in -- in this country. So, I completely agree and hope that as much of our work as possible can be done in open hearing.

Thank you, Mr. Chair (ph).

RISCH:

Thank you, Senator King. Gentlemen, thank you so much.

Thank you all for your service. Thank you to all the men and women of all 17 agencies for the incredible service they provide to the people of the United States, keeping them safe, doing things that most people in America will never know nor be able to fully appreciate.

Mr. McCabe, a special thank you for to stepping up to the battlefield promotion and -- and representing your agency quite well here. This part of the hearing will be adjourned.

And gentlemen, you have about an hour and six minutes. And we'll see at the other room.

Thank you. Meeting's adjourned.

List of Panel Members and Witnesses

PANEL MEMBERS:

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SEN. MARCO RUBIO, R-FLA.

SEN. SUSAN COLLINS, R-MAINE

SEN. ROY BLUNT, R-MO.

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SEN. KAMALA HARRIS, D-CALIF.

SEN. DIANNE FEINSTEIN, D-CALIF.

SEN. ANGUS KING, I-MAINE

WITNESSES:

DAN COATS, DIRECTOR OF NATIONAL INTELLIGENCE

MIKE POMPEO, DIRECTOR, CIA

ANDREW MCCABE, ACTING FBI DIRECTOR

ADMIRAL MICHAEL S. ROGERS (USN), DIRECTOR, NATIONAL SECURITY AGENCY, AND COMMANDER, U.S. CYBER COMMAND

ROBERT CARDILLO, DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY

LIEUTENANT GENERAL VINCENT STEWART (USMC), DIRECTOR, DEFENSE INTELLIGENCE AGENCY

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May 11, 2017 - Final

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Johnson, Joanne E. (OLA)

From: Johnson, Joanne E. (OLA)
Sent: Monday, May 15, 2017 10:40 AM
To: Gauhar, Tashina (ODAG); (b)(6) per NSD
(b)(6) per NSD
Cc: Ramer, Sam (OLA)
Subject: Final Transcript, SJC, May 8, 2017
Attachments: SJC Hearing 5.8.17 Yates and Clapper as Witnesses.docx

Tash/NSD – Attached please find the transcript for the SJC hearing where former DAG Yates and former DNI Clapper testified.

(b) (6) will be handling his portfolio, which includes all CI matters (e.g., Russia, FISA, 702, etc.)).

Thanks,

Joanne

(b) (6)

From: Gauhar, Tashina (ODAG)
Sent: Friday, May 12, 2017 8:25 PM
To: Johnson, Joanne E. (OLA) <jojohnson@jmd.usdoj.gov>
Subject: RE: Final Transcript, Threats Hearing/SSCI, May 11, 2017

Thanks. Did we get one for the Yates/Clapper hearing?

From: Johnson, Joanne E. (OLA)
Sent: Friday, May 12, 2017 6:36 PM
To: (b)(6) per NSD

(b)(6) per NSD

(b)(6) per NSD

Gauhar, Tashina (ODAG)
<tagauhar@jmd.usdoj.gov>
Cc: Ramer, Sam (OLA) <sramer@jmd.usdoj.gov>; May, M. Benjamin (OLA) <mbemay@jmd.usdoj.gov>;
Cruikshank, Andrew A. (OLA) <acruikshank@jmd.usdoj.gov>
Subject: Final Transcript, Threats Hearing/SSCI, May 11, 2017

Tash/NSD:

Attached please find the final transcript from yesterday's Annual Threats Hearing before SSCI (Open Hearing).

Thank you,

Joanne

JOANNE

(b) (6)

Senate Judiciary Subcommittee on Crime and Terrorism Holds Hearing on Russian Interference in the
2016 Elections, May 8, 2017

GRAHAM:

The hearing will come to order, thank you all for coming. Here's sort of the order of the day. I'll give a brief opening statement along with Senator Whitehouse, then we'll have Senator Grassley and Feinstein follow some questioning and it'll be seven minute rounds initially and we'll try to do a second round of five minutes. To both of the witnesses, thank you for coming.

I'll try to make this as reasonably short as possible and if you need a break, please let us know. So people wonder what are we doing and what are we trying to accomplish? In January, the intelligence community unanimously said that the Russians through their intelligence services tried to interfere in the 2016 American presidential election, that it was the Russians who hacked Podesta's e-mails.

It was the Russians who broke into the Democratic National Committee and it was Russians who helped empower WikiLeaks. No evidence that the Russians changed voting tallies, how people were influenced by what happened only they know and God knows but I think every American should be concerned about what the Russians did. From my point of view, there's no doubt in my mind it was the Russians involved in all the things I just described, not some 400 pound guy sitting on a bed or any other country.

Russia is up to no good when it comes to democracies all over the world. Dismembering the Ukraine, the Baltics are always under siege by Russian interference, so why? We want to learn what the Russians did, we want to find a way to stop them because they're apparently not going to stop until somebody makes them. The hearing that was held last week with Director Comey asked a question, is it fair to say that Russian government still involved in American politics and he said yes.

So I want House members and Senators to know it was the presidential campaign in 2016, it could be our campaigns next. I don't know what happened in France but somebody hacked into Mr. Macron's account and we'll see who that may have been but this is sort of what Russia does to try to undermine democracy. So what are we trying to accomplish here?

GRAHAM:

To validate the findings of the intelligence committee as much as possible and to come up with a course of action as a nation bipartisan in nature because it was the Democratic Party of 2016 were the victims, could be the Republican Party of the future. When one party's attacked, all of us should feel an attack. It should be an Article 5 agreement between both major parties -- all major parties, that when a foreign power interferes in our election, it doesn't matter who they targeted, we're all in the same boat.

Secondly, the unmasking the 702 program. Quite frankly, when I got involved in this investigation, I didn't know much about it. Director Comey said the 702 program, which allows warrants for intelligence gathering and a vital intelligence tool, I've learned to bid about unmasking and what I've learned is disturbing.

So I don't know exactly all the details, what goes into unmasking an American citizen, being incidentally surveilled when they involved with a foreign agent. I'd like to know more and I want to make sure that that unmasking can never be used as a political weapon in our democracy, so I am all for hitting the enemy before they hit us, intelligence gatherings essential.

But I do believe we need to take a look at the procedures involved in 702, particularly how unmasking is requested, who can request it and what can -- what -- what limitations exist, if any, on how the information can be used. So that's why we're here.

We're here to find out all things Russia and the witnesses are determined by the evidence and nothing else. And the 702 reauthorization will come before the Congress fairly soon and I, for one, have a lot of questions I didn't have before.

I've enjoyed doing this with Senator Whitehouse, Senator Feinstein and Grassley have been terrific. Let it be said that the chairman and ranking member of this subcommittee have allowed us to do our job, have empowered us and have been hands-on and it's much appreciated.

And with that, I'll recognize Senator Whitehouse.

WHITEHOUSE:

Thank you, Chairman Graham, for the important work this subcommittee is doing understood your leadership investigating the threat of Russian interference in our elections.

In January, America's intelligence community disclosed that the Russian government on the orders of Vladimir Putin engaged in an influence campaign throughout 2016. In March, FBI Director Comey confirmed that, and I quote him here, "The FBI as part of its counter- intelligence mission, is investigating the Russian government's efforts to interfere in the 2016 election and that includes investigating the nature of any links between individuals associated with the Trump campaign and the Russian government and whether there was any coordination between the campaign and Russia's efforts."

The FBI and the intelligence community's work is appropriately taking place outside the public eye. Our inquiry serves broader aims. To give a thorough public accounting of the known facts, to pose the questions that still need answers and to help us determine how best to protect the integrity and proper functioning of our government.

At the subcommittee's first hearing on March 15th, we heard from expert witnesses about the Russian toolbox for interfering in the politics of other countries. Now, we can ask which of these tools were used against us, by the Russians, in 2016.

Here's a checklist, propaganda, fake news, trolls and bots. As Clint Watts told the Senate Select Committee on Intelligence in March, Russian state-sponsored media outlets, RT and Sputnik in the lead up to the election, quote, "Turned out manipulated truths, false news stories and conspiracies," end quote, providing a weaponized fake news effort openly supporting Donald Trump's candidacy, quoting again, "While consistently offering negative coverage of Secretary Clinton."

This was to again, quote, "Watch a deliberate, well organized, well resourced, well funded, wide ranging effort," end quote, by Russia, using trolls and bots to amplify its messages particularly across social media. These facts are not disputed by any serious person, so this is a yes on the checklist.

Hacking and theft of political information. Throughout 2015 and 2016, Russian intelligence services and state-sponsored hackers conducted cyber operations against U.S. political targets, including state and

local election boards, penetrating networks probing for vulnerabilities and stealing private information and e-mails.

Attribution of these crimes to Russian actors was confirmed in our last hearing and by many other sources. So this is another yes. Timed leaks of damaging material. Russian intelligence fronts, cutouts and sympathetic organizations like Guccifer 2.0, dcleaks.com and WikiLeaks, then time the release of stolen victim data to maximize its political effect, manipulate public opinion and thereby, influence the outcome of an election.

WHITEHOUSE:

Long time Trump associate Roger Stone admits to having interacted with Guccifer 2.0 and he foreshadowed released of stolen data on Twitter in August and October 2016. Timing can matter. On October 7th, just hours after the damaging Access Hollywood tapes of Donald Trump were made public, WikiLeaks began publishing e-mails stolen from Clinton campaign manager, John Podesta.

So yes, again. Assassination and political violence. Last October, Russian military intelligence reportedly conspired to assassinate the then prime minister of Montenegro as part of a coup attempt.

In 2004, former Ukrainian prime minister, Viktor Yushchenko was disfigured when he was poisoned in a suspected assassination attempt by Russian agents. Russian opposition figures are routinely the targets of state directed political violence.

Volodymyr (inaudible) has survived two recent poisonings while Boris Nemtsov was brazenly murdered near the Kremlin in 2015. Thankfully we have no evidence of that happening here. Investment control and key economic sectors.

We learned from Heather Connolly's testimony in our last hearing that the Kremlin playbook is to manipulate other countries through economic penetration. Heavily investing in critical sectors of the target country's economic to create political leverage.

Putin's petro politics uses Russia's control of natural gas to create political pressure. But no, as to that tactic here so far. Shady business and financial ties. Russia exploits the dark shadows of economic and political systems.

FBI Director Comey testified last week that the United States is becoming the last big haven for Shell corporations where the opacity of the corporate form allows the concealment of criminal funds and can allow foreign money to directly and indirectly influence our political system.

Since the citizens united decisions, we've seen unprecedented dark money flow in our elections from 501(c)(4) organizations. We don't know who's behind that dark money, or what they're demanding in return.

Using Shell corporations and other devices, Russia establishes illicit financial relationships to develop leverage against prominent figures through the carrot (ph) of continued bribery or the stick of threatened disclosure.

How about here? Well we know that President Trump has long pursued business deals in Russia. He's reported to have done or sought to do business there since the mid 1990s.

As he chased deals in Russia throughout the 2000s he deputized a colorful character named Felix Sater to develop real estate projects there under the Trump name. Sater's family has links to Russian organized crime. And Felix himself has had difficulties with the law.

Sater said in a 2008 deposition that he would pitch business ideas directly to Trump and his team on a constant basis. As recently as 2010, Trump had a organization business card and an office in Trump Tower.

Donald Trump Jr. said in September 2008 that he'd made half a dozen trips in the preceding 18 months, noting that Russian investors were heavily involved in Trump's New York real estate projects. We see a lot of money pouring in from Russia, he said.

One Trump property in midtown Manhattan had become, within a few years of opening, a prominent depository of Russian money, according to a report in Bloomberg Business Week. So here, there are still big questions.

Of course President Trump could clarify these questions by releasing his business and personal tax returns.

Corrupting and compromising politicians. In testimony before the judiciary committee last Wednesday, Director Comey acknowledged that financial leverage has been exploited by Russian intelligence over many decades.

Back to the days of -- day of Joseph Alsop, they used compromat (ph) or compromising material to pressure and manipulate targeted individuals with the prospect of damaging disclosures.

Has Russia compromised, corrupted, cultivated, or exerted improper influence on individuals associated with President Trump, his administration, his transition team, his campaign, or his businesses? Another big question mark.

We know that President Trump has had in his orbit a number of very Russia friendly figures. In August 2015, Trump first met informally with Michael Flynn who as Director of the Defense Intelligence Agency, had developed strong professional relationships with Russian military intelligence.

In December of that year, Flynn traveled to Moscow for a paid speaking appearance at an anniversary gala for RT (ph) where he was briefly seated next to Vladimir Putin. Quite a seat for a retired American General.

Two months after that trip, Flynn was reportedly serving as an informal national security advisor to Trump. Trump identified a little know energy investor named Carter Page as one of his foreign policy advisors.

In late March 2016, Page told Bloomberg Politics that friends and associates had been hurt by U.S. sanctions against Russia. And that there's a lot of excitement in terms of the possibilities for creating a better situation, end quote.

On April 27, 2016 Trump and several of his advisors, including Jeff Sessions, met Sergey Kislyak, Russia's ambassador to United States before a campaign speech. The speech which was hosted by the Center for the National Interest had been arranged by Trump's son in law, Jared Kushner. Kislyak attended the Trump Republican convention and he told the Washington Post that he had multiple contacts with the Trump campaign both before and after the election.

In the days after the November election, Russia's deputy foreign minister confirmed that his government had communicated with the Trump team during the campaign. And we know Michael Flynn spoke with Ambassador Kislyak on December 29, the same day President Obama announced punitive sanctions against Russia for its interference in the 2016 election.

Trump transition and administration officials thereafter made false statements to the media and the public about the content of Flynn's conversations with Kislyak apparently as a result of Flynn having misled them. This eventually led President Trump to ask for Flynn's resignation, something I'm hoping Ms. Yates can shed some light on in her testimony today.

The president and his administration have yet to take responsibility for or explain these and other troubling Russia links, dismissing facts as fake news and downplaying the significance of individuals involved. More than 100 days into the Trump administration and nearly two years since he declared his candidacy for president, only one person has been held accountable for improper contacts with Russia; Michael Flynn.

Even then, the Trump administration has maintained that Flynn's communications with the ambassador were not in fact improper. He simply lost the confidence of the president. We need a more thorough accounting of the facts. Many years ago, an 18 minute gap transfixed the country and got everybody's attention in another investigation. In this case, we have an 18 day gap between the notification of the White House that a senior official had potentially been compromised and action taken against that senior official's role.

At best the Trump administration has displayed serious errors of judgment, at worst these irregularities may reflect efforts at compromise or corruption at the hands of Russian intelligence. My sincere hope is that this hearing and those to come will help us find out. Thank you, Chairman.

GRAHAM:

Our two witnesses are well known and will be sworn in but Mr. Clapper, the former director of national intelligence has served his country for decades in uniform and out and dedicated his life to intelligence gathering and we appreciate that. Ms. Yates was the former deputy attorney general, is well respected by people in the legal profession. Thank you both for coming.

If you'll please rise. Raise your right hand, please. Do you affirm that testimony you're about to give this subcommittee is the truth, the whole truth, and nothing but the truth so help you God?

YATES:

(OFF MIKE)

GRAHAM:

Mr. Clapper.

CLAPPER:

(OFF MIKE). Chairman Graham, Ranking Member Whitehouse and members of the subcommittee, certainly didn't expect to be before this committee or any other committee of the Congress again so soon since I thought I was all done with this when I left the government. And this is only my first of two hearings this week. But understandably, concern about the egregious Russian interference in our election process is so critically serious as to merit focus, hopefully bipartisan focus by the Congress and the American people.

Last year, the intelligence community conducted an exhaustive review of Russian interference into our presidential election process resulting in a special intelligence community assessment or ICA as we call it. I'm here today to provide whatever information I can now as a private citizen on how the intelligence community conducted its analysis, came up with its findings, and communicated them to the Obama administration, to the Trump transition team, to the Congress and in unclassified form to the American public.

Additionally, I'll briefly address four related topics that have emerged since the ICA was produced. Because of both classification and some executive privilege strictures (ph) requested by the White House, there are limits to what I can discuss. And of course my direct official knowledge of any of this stopped on 20 January when my term of office was happily over.

As you know, the I.C. was a coordinated product from three agencies; CIA, NSA, and the FBI not all 17 components of the intelligence community. Those three under the aegis of my former office. Following an extensive intelligence reporting about many Russian efforts to collect on and influence the outcome of the presidential election, President Obama asked us to do this in early December and have it completed before the end of his term.

The two dozen or so analysts for this task were hand-picked, seasoned experts from each of the contributing agencies. They were given complete, unfettered mutual access to all sensitive raw intelligence data, and importantly, complete independence to reach their findings. They found that the Russian government pursued a multifaceted influence campaign in the run-up to the election, including aggressive use of cyber capabilities.

The Russians used cyber operations against both political parties, including hacking into servers used by the Democratic National Committee and releasing stolen data to WikiLeaks and other media outlets. Russia also collected on certain Republican Party- affiliated targets, but did not release any Republican-related data.

The Intelligence Community Assessment concluded first that President Putin directed and influenced campaign to erode the faith and confidence of the American people in our presidential election process. Second, that he did so to demean Secretary Clinton, and third, that he sought to advantage Mr. Trump. These conclusions were reached based on the richness of the information gathered and analyzed and were thoroughly vetted and then approved by the directors of the three agencies and me.

These Russian activities and the result and (ph) assessment were briefed first to President Obama on the 5th of January, then to President-elect Trump at Trump Tower on the 6th and to the Congress via a series of five briefings from the 6th through the 13th of January. The classified version was profusely

annotated, with footnotes drawn from thousands of pages of supporting material. The key judgments in the unclassified version published on the 6th of January were identical to the classified version.

While it's been over four months since the issuance of this assessment, as Directors Comey and Rodgers testified before the House Intelligence Committee on the 20th of March, the conclusions and confidence levels reached at the time still stand. I think that's a statement to the quality and professionalism of the -- of the intelligence community people who produced such a compelling intelligence report during a tumultuous, controversial time, under intense scrutiny and with a very tight deadline.

Throughout the public dialogue about the issue over the past few months, four related topics have been raised that could use some clarification. I'd like to take a few moments to provide - attempt to provide that clarification.

First, I want to address the meaning of quote, "unmasking," which is an unofficial term that's appeared frequently in the media in recent months and was often I think misused and misunderstood. So it frequently happens that in the course of conducting lawfully authorized electronic surveillance on validated foreign intelligence targets, the collecting agency picks up communications involving U.S. persons, either their direct interface with a validated foreign intelligence target or where there is discussion about those U.S. persons by validated foreign intelligence targets. Under intelligence community minimization procedures, the identities of these U.S. persons are typically masked in reports that go out to intelligence consumers and they're referred to each report at a time as U.S. person one, U.S. person two, et cetera.

However, there are cases when, to fully understand the context of the communication that has been obtained or the threat that is posed, the consumer of that collected intelligence may ask the identity of the U.S. person be revealed. Such requests explain why the unmasking is necessary and that explanation is conveyed back to the agency that collected the information. It is then up to that agency whether to approve the request and to provide the identity. And if the U.S. person's identity is revealed, that identity is provided only to the person who properly requested it, not to a broader audience.

This process is subject to oversight and reporting, and in the interest of transparency, my former office publishes a report on the statistics of how many U.S. persons' identities are unmasked based on collection that occurred under section 702 of the FISA Amendment Act, which I'll speak to in a moment. And in 2016, that number was 1,934. On several occasions during my six and a half years as DNI, I requested the identity of U.S. persons to be revealed. In each such instance, I made these requests so I could fully understand the context of the communication and the potential threat being posed.

At no time did I ever submit a request for personal or political purposes or to voyeuristically look at raw intelligence nor am I aware of any instance of such abuse by anyone else.

Second is the issue of leaks. Leaks have been conflated with unmaskings in some of the public discourse, but they are two very different things. An unmasking is a legitimate process that consists of a request and approval by proper authorities, as I've just briefly described. A leak is an unauthorized disclosure of classified or sensitive information that is improper under any circumstance.

I've long maintained during my 50-plus year career in intelligence that leaks endanger national security, they compromise sources, methods and tradecraft and they can put assets' lives at risk. And for the

record, in my long career, I've never knowingly exposed classified information in an inappropriate manner.

Third is the issue of counterintelligence investigations conducted by the Federal Bureau of Investigation. While I can't and won't comment in this setting on any particular counterintelligence investigation, it's important to understand how such investigations fit into and relate to the intelligence community and at least the general practice I followed during my time as DNI with respect to FBI counterintelligence investigations.

When the intelligence community obtains information suggesting that a U.S. person is acting on behalf of a foreign power, the standard procedure is to share that information with the lead investigatory body, which of course is the FBI. The bureau then decides whether to look into that information and handles any ensuing investigation if there is one. Given its sensitivity, even the existence of a counterintelligence investigation's closely held, including at the highest levels.

During my tenure as DNI, it was my practice to defer to the FBI director, both Director Mueller and then subsequently Director Comey, on whether, when and to what extent they would inform me about such investigations. This stems from the unique position of the FBI, which straddles both intelligence and law enforcement. And as a consequence, I was not aware of the counterintelligence investigation Director Comey first referred to during his testimony before the House Permanent Select Committee for Intelligence on the 20th of March, and that comports with my public statements.

Finally I'd like to comment on Section 702 of the Foreign Intelligence Surveillance Act Amendment Acts, as it's called, what it governs and why it's vital. This provision authorizes the Foreign Intelligence Surveillance Court to approve electronic surveillance of non-U.S. person, let me repeat that, non-U.S. person, foreign intelligence targets outside the United States. Section 702 has been a tremendously effective tool in identifying terrorists and other threats to us, while at the same time protecting the privacy and civil liberties of U.S. persons.

And as the - as Chairman Graham indicated, Section 702 is due for reauthorization by Congress this year. It was renewed in 2012 for five years and it expires on 31 December of this year. With so many misconceptions flying around, it would be tragic for Section 702 to become a casualty of misinformation and for us to lose a tool that is so vital to the safety of this nation.

In conclusion, Russia's influence activities in the run-up to the 2016 election constituted the high water mark of their long running efforts since the 1960s to disrupt and influence our elections. They must be congratulating themselves for having exceeded their wildest expectations with a minimal expenditure of resource. And I believe they are now emboldened to continue such activities in the future both here and around the world, and to do so even more intensely. If there has ever been a clarion call for vigilance and action against a threat to the very foundation of our democratic political system, this episode is it.

I hope the American people recognize the severity of this threat and that we collectively counter it before it further erodes the fabric of our democracy.

I'll now turn to my former colleague, Acting Attorney General Sally Yates, for any remarks that she has to make.

YATES:

Thank you. Chairman Graham, Ranking Member Whitehouse and distinguished members of the subcommittee, I'm pleased to appear before you this afternoon on this critically important topic of Russian interference in our last presidential election and the related topics that this subcommittee is investigating.

For 27 years, I was honored to represent the people of the United States with the Department of Justice. I began as an assistant United States attorney in Atlanta in the fall of 1989, and like all prosecutors, I investigated and tried cases and worked hard to try to ensure the safety of our communities and that those who violated our laws were held accountable. Over time, through five Republican and Democratic administrations, I assumed greater leadership positions within the department.

In the U.S. Attorney's Office in Atlanta, I served as chief of the fraud and public corruption section as first assistant United States attorney and then was appointed United States attorney. And then, I had the privilege of serving as deputy attorney general for a little over two years, and finally, the current administration asked me to stay on as acting attorney general.

Throughout my time at the department, I was incredibly fortunate to be able to work with the talented career men and women at the Department of Justice, who followed the facts and applied the law with tremendous care and dedication and who are, in fact, the backbone of the Department of Justice.

And at every step, in every position, from AUSA to acting attorney general, I always try to carry out my responsibility to seek justice in a way that would engender the trust and the confidence of the people whom I served. I want to thank this subcommittee for conducting an impartial and thorough investigation of this vitally important topic.

The efforts by a foreign adversary to interfere and undermine our Democratic processes and -- and those of our allies pose a serious threat to all Americans. This hearing and others this subcommittee has conducted and will be conducting in the future are an important bipartisan step in understanding the threat and the best ways to confront it going forward.

As the intelligence community assessed in its January of 2017 report, Russia will continue to develop capabilities to use against the United States and we need to be ready to meet those threats. I sincerely appreciate the opportunity to take part in today's discussion.

Now, I want to note that in my answers today, I intend to be as fulsome and as comprehensive as possible, while respecting my legal and ethical boundaries. As the subcommittee understands, many of the topics of interest today concern classified information that I cannot address in this public setting.

My duty to protect classified information applies just as much as a former official, as it did when I led the department. In addition, I'm obviously no longer with the Department of Justice and I am not authorized to generally discuss deliberations within DOJ or more broadly, within the executive branch, particularly on matters that may be the subject of ongoing investigations.

I take those obligations very seriously. And I appreciate the subcommittee's shared interest in protecting classified information and preserving the integrity of any investigations that the Department of Justice may now be conducting.

I look forward to answering your questions. Thank you.

GRAHAM:
Senator Grassley, would you like to make a statement?

GRASSLEY:
(inaudible)

GRAHAM:
OK.

GRASSLEY:
I don't want to.

GRAHAM:
OK.

GRASSLEY:
I've got questions.

GRAHAM:
All right, you'll get to ask them.

Senator Feinstein?

FEINSTEIN:
Thank you very much, Mr. Chairman and I'll be very brief. We have prepared for the committee and I'd like to ask the staff to distribute it, a background and time line on Lieutenant General Michael Flynn and some of the key dates involved, which may be of help to the subcommittee.

And I would just like to take this opportunity to thank the subcommittee, Chairman Graham and -- and the Ranking Member Whitehouse, I think you've done a good job and your whole subcommittee has. And so thank you very, very much.

I'd just like to make a few comments, if I might, and put all the remarks in the record. I think it is a foregone conclusion about Russia's involvement and we see it replicated even in the French election, perhaps not to the extent or in the way, but certainly replicated.

On February 9th, 2017, the Washington Post reported that either Flynn had misled the vice president or that Pence had misspoken. Lieutenant General Flynn resigned his post on February 13th, four days after the Post broke this story. There are still many unanswered questions about General Flynn, including who know what -- who knew what and when.

For example, the press is now reporting that in addition to the warning from Sally Yates, concerns were raised by former President Obama directly to then President-elect Trump, 95 days before Flynn resigned. So the question, what role did Flynn play in communications with the Russians, both after the first warning by President Obama and then after the warning by Sally Yates? And I hope to ask that today. What role did Flynn play in high-level national security decisions, again both during the 95 days and the 18 days when the White House was on notice?

So, I look forward to hearing more about this from you, acting Attorney General Yates. You have stated that you warned the White House on January 26, nearly three weeks before Flynn resigned that he had not been truthful and might be vulnerable to Russian blackmail.

And finally, there are other troubling questions regarding Russia's relationships and connections with Trump advisors and associates. And there are questions about whether anyone was the target of Russian intelligence, either to be exploited or cultivated.

So, I will put my whole remarks in the record, Mr. Chairman. And I hope to ask some questions around these few comments. Thank you very much for this opportunity.

GRAHAM:

Yes, ma'am, without objections.

WHITEHOUSE:

Mr. Chairman, may I also put into the record a letter dated November 18, 2016 from the ranking member on the House Committee on Oversight Government Reform, Representative Elijah Cummings, giving then Vice President-elect Pence notice about certain -- what he called apparent conflicts of interest regarding General Flynn?

GRAHAM:

Without objection. General Clapper, on March 5, 2017, you said the following to a question. Here's the question.

Does intelligence exist that can definitely answer the following question, whether there were improper contacts between the Trump campaign and Russian officials? You said we did not include any evidence in our report.

And I say our, that's the NSA, the FBI, the CIA, with my office, the Director of National Intelligence, that had anything -- that had any reflection of collusion between members of the Trump campaign and the Russians. There was no evidence of that included in our report.

Chuck Todd (ph) then asked, I understand that, but does it exist? You say no, not to my knowledge. Is that still accurate?

CLAPPER:

It is.

GRAHAM:

Ms. Yates, do you have any evidence -- are you aware of any evidence that would suggest that in the 2016 campaign anybody in the Trump campaign colluded -- colluded with the Russian government intelligence services in improper fashion?

YATES:

And Senator, my answer to that question would require me to reveal classified information. And so, I -- I can't answer that.

GRAHAM:

Well, I don't get that because he just said he issued the report. And he said he doesn't know of any. So, what would you know that's not in the report?

(CROSSTALK)

CLAPPER:

Are you asking me, or...

GRAHAM:

No, her.

CLAPPER:

Oh.

YATES:

Well, I think that Director Clapper also said that he was unaware of the FBI counter intelligence investigations.

GRAHAM:

Would it be fair to say that the counter-intelligence investigation was not mature enough to come to his -- to get in the report. Is that fair, Mr. -- Mr. Clapper?

CLAPPER:

I -- that's an -- that's a possibility.

GRAHAM:

What I don't get is how the FBI can have a counter- intelligence investigation suggesting collusion, and you, as director of National Intelligence not know about it, and the FBI sign on to a report that basically said there was no collusion.

CLAPPER:

I can only speculate why that's so. There wasn't -- the evidence, if there was any, didn't reach the evidentiary bar in terms of the level of confidence that we were striving for in that intelligence community assessment.

GRAHAM:

OK, that makes perfect sense to me. Follow up on that, are you familiar with a dossier about Mr. Trump compiled with some guy in England?

CLAPPER:

I am.

GRAHAM:

Did you find that to be a credible report?

CLAPPER:

Well, we didn't make a judgment on that. And that's -- that's one reason why we did not include it in the body of our intelligence community assessment.

GRAHAM:
You didn't find it credible enough to be included?

CLAPPER:
We couldn't corroborate the sourcing, particularly the second -- third-order sources.

GRAHAM:
Ms. Yates, are you familiar with the dossier?

YATES:
(OFF-MIKE)

CLAPPER:
Microphone.

GRAHAM:
Microphone.

YATES:
If I could try to clarify one answer before as well, because I think, Senator Graham, you may have misunderstood me. You asked me whether I was aware of any evidence of collusion, and I declined to answer because answering would reveal classified information.

I believe that that's the same answer that Director Comey gave to this committee when he was asked this question as well. And he made clear, and I'd like to make clear, that just because I say I can't answer it, you should not draw from that an assumption that that means that the answer is yes.

GRAHAM:
OK, fair enough.

CLAPPER:
I also think, if I may, sir, that this illustrates what I was trying to get at in my statement about the unique position that FBI straddles between intelligence and law enforcement.

GRAHAM:
I just want the country to know that whatever they're doing on the counterintelligence side, Mr. Clapper didn't know about it, didn't make it in the report and we'll see what comes from it. Ms. Yates, what did you tell the White House about Mr. Flynn?

YATES:
I had two in-person meetings and one phone call with the White House Counsel about Mr. Flynn. The first meeting occurred on January 26, called Don McGahn first thing that morning and told him that I had a very sensitive matter that I needed to discuss with him, that I couldn't talk about it on the phone and that I needed to come see him. And he agreed to meet with me later that afternoon.

I took a senior member of the national security division who was overseeing this matter with me to meet with Mr. McGahn. We met in his office at the White House which is a skiff (ph) so we could discuss classified information in his office. We began our meeting telling him that there had been press accounts of statements from the vice president and others that related conduct that Mr. Flynn had been involved in that we knew not to be the truth.

And as I - as I tell you what happened here, again I'm going to be very careful not to reveal classified information.

GRAHAM:

Well the reason you knew it wasn't true was because you had collected some intelligence from an incidental collection system, is that fair to say?

YATES:

And I can't answer that because that again would call me - for me to reveal classified information.

GRAHAM:

Let me ask you this, did anybody ever make a request to unmask the conversation between the Russian ambassador and Mr. Flynn?

YATES:

And again, Senator, I can't answer a question like that, it would call for classified information...

GRAHAM:

...Mr. Clapper, do you know if that was the case?

CLAPPER:

I don't.

GRAHAM:

Is there a way to find that out?

CLAPPER:

Well, in another setting it could be discussed.

GRAHAM:

But there is a record somewhere of who would make a request to unmask the conversation with General Flynn and the Russian ambassador?

CLAPPER:

Well, I'm...

GRAHAM:

...If one was made, there'd be a record of it?

CLAPPER:

I can't speak to this specific case but I can generally comment that in the case of 702 requests, yes, those are all documented.

GRAHAM:

OK and I don't mean to interrupt you but this is important to me. How did the conversation between the Russian ambassador and Mr. Flynn make it to the "Washington Post?"

YATES:

Which one of us are you asking?

GRAHAM:

Ms. Yates.

CLAPPER:

That's a great question.

GRAHAM:

I thought so...

CLAPPER:

...All of us would like to know that and I don't know the answer to that.

YATES:

Yeah. Nor do I know the answer to that.

GRAHAM:

Is it fair to say that if somebody did make an unmasking request, we would know who they were and we could find out from them who they shared the information with? Is that fair to say, the system would allow us to do what I just described?

YATES:

Well, unmasking requests are not made to the Department of Justice.

GRAHAM:

No but to the agency who does the collection.

YATES:

That's my understanding is that yes...

GRAHAM:

...So there should be a record somewhere in our system whether or not an unmasking request was made for the conversation between Mr. Flynn and the Russian ambassador. We should be able to determine if it did - if it was made, who made it. Then we can ask, what did they do with the information? Is that a fair statement, Mr. Clapper?

CLAPPER:

Yes.

GRAHAM:

OK. Now what did you finish? What did you tell the White House?

YATES:

So I told them again that there were a number of press accounts of statements that had been made by the vice president and other high-ranking White House officials about General Flynn's conduct that we knew to be untrue. And we told them how we knew that this - how we had this information, how we had acquired it, and how we knew that it was untrue.

And we walked the White House Counsel who also had an associate there with him through General Flynn's underlying conduct, the contents of which I obviously cannot go through with you today because it's classified. But we took him through in a fair amount of detail of the underlying conduct, what General Flynn had done, and then we walked through the various press accounts and how it had been falsely reported.

We also told the White House Counsel that General Flynn had been interviewed by the FBI on February 24. Mr. McGahn asked me how he did and I declined to give him an answer to that. And we then walked through with Mr. McGahn essentially why we were telling them about this and the first thing we did was to explain to Mr. McGahn that the underlying conduct that General Flynn had engaged in was problematic in and of itself.

Secondly, we told him we felt like the vice president and others were entitled to know that the information that they were conveying to the American people wasn't true. And we wanted to make it really clear right out of the gate that we were not accusing Vice President Pence of knowingly providing false information to the American people.

And, in fact, Mr. McGahn responded back to me to let me know that anything that General Flynn would've said would have been based -- excuse me -- anything that Vice President Pence would have said would have been based on what General Flynn had told him.

We told him the third reason was -- is because we were concerned that the American people had been misled about the underlying conduct and what General Flynn had done, and additionally, that we weren't the only ones that knew all of this, that the Russians also knew about what General Flynn had done.

And the Russians also knew that General Flynn had misled the vice president and others, because in the media accounts, it was clear from the vice president and others that they were repeating what General Flynn had told them, and that this was a problem because not only did we believe that the Russians knew this, but that they likely had proof of this information.

And that created a compromise situation, a situation where the national security adviser essentially could be blackmailed by the Russians. Finally, we told them that we were giving them all of this information so that they could take action, the action that they deemed appropriate.

I remember that Mr. McGahn asked me whether or not General Flynn should be fired, and I told him that that really wasn't our call, that was up to them, but that we were giving them this information so that they could take action, and that was the first meeting.

GRAHAM:

Thank you, and I'll go to Senator Whitehouse -- one very quick question. Was...

YATES:

Yeah.

GRAHAM:

... are you either one of you aware of incidental collection by our intelligence community -- of any presidential candidate, staff or campaign during the 2016 election cycle?

CLAPPER:

Say that again, sir. I'm sorry (ph).

GRAHAM:

Was there any incidental collection, where our intelligence community collects information, involving a presidential candidate on either side of the aisle during 2015 or 2016?

CLAPPER:

No, not to my knowledge.

YATES:

I believe Director Comey was also asked this question and declined to answer it, so I'm -- I need to follow the same lines the DOJ has drawn. Again, you should not draw from that that my answer is yes, but rather, that the answer would require me to reveal classified information.

GRAHAM:

Thank you.

Senator Whitehouse.

CLAPPER:

My -- my response is all within the context of intelligence -- foreign intelligence, not the domestic consideration.

YATES:

(OFF-MIKE)

GRAHAM:

Exactly.

WHITEHOUSE:

Following the Comey line, the director testified a few days ago in the full committee that the FBI had interviewed Mr. Flynn a day before, or two days before, your meeting at the White House, and you've just testified that you had told the White House counsel that the FBI had interviewed Flynn and he'd asked -- McGahn had asked, how'd he do?

YATES:

Right.

WHITEHOUSE:

Did you have the 302 with you when you were in the White House? Did you show it to White House counsel? And had you seen it at the time you went up to the White House?

YATES:

No. The FBI had conducted the interview on the 24th. We got a readout from the FBI on the 25th, a detailed readout specifically from the agents that had conducted the interview.

But we didn't want to wait for the 302, because we felt that it was important to get this information to the White House as quickly as possible, so we had folks from the national security division who spent a lot of time with the agents, not only finding out exactly how the interview went but how this impacted their investigation.

WHITEHOUSE:

So did you take that summary with you? Do you have any document with you that described the FBI interview of General Flynn?

YATES:

At the time that I was there, I had notes that described that interview, as well as the individual that was with me -- the senior career official from the national security division -- had been part of all of those discussions with the FBI.

WHITEHOUSE:

Did you discuss criminal prosecution of Mr. Flynn -- General Flynn?

YATES:

My recollection is that did not really come up much in the first meeting. It did come up in the second meeting, when Mr. McGahn called me back the next morning and asked the -- the morning after -- this is the morning of the 27th, now -- and asked me if I could come back to his office.

And so I went back with the NSD official, and there were essentially four topics that he wanted to discuss there, and one of those topics was precisely that. He asked about the applicability of certain statutes, certain criminal statutes and, more specifically, about...

WHITEHOUSE:

This was (ph) the second meeting at the White House Council's Office in his office again?

YATES:

In his office again.

WHITEHOUSE:

With the same two individuals?

YATES:

Exactly.

WHITEHOUSE:

On the following day?

YATES:

Right.

WHITEHOUSE:

And you went back pursuant to a phone call request or a -- was...

YATES:

Yes, the morning of the 27th after our meeting had occurred on the afternoon of the 26th, the morning of the 27th, Mr. McGann called me and asked if I could come back to the White House to discuss this further. And we set up a time and I went over there that afternoon, bringing again the same career official with me from the national security division, who was overseeing this investigation.

He had the same associate from the White House Council's Office and we talked through four to five more issues.

WHITEHOUSE:

You could perhaps have waited until you actually had seen the agents 302 from the interview of General Flynn. Why go ahead of that? Why not wait?

YATES:

Well, because this was a matter of some urgency, we...

WHITEHOUSE:

Describe.

YATES:

In making the determination about notification here, we had to balance a variety of interest. For the reasons that I just described a few minutes ago, we felt like it was critical that we get this information to the White House, because in part because the vice president was unknowingly making false statements to the public and because we believed that General Flynn was compromised with respect to the Russians.

We were balancing this though, against the FBI's investigation, as you would always do, and take into account the investigating agency's desires and concerns about how a notification might impact that ongoing investigation. But once General Flynn was interviewed, there was no longer a concern about an impact on an investigation.

WHITEHOUSE:

Do you know where that interview took place or under what circumstances?

YATES:

I believe it took place at the White House.

WHITEHOUSE:

The Flynn interview?

YATES:
Yes.

WHITEHOUSE:
OK. Do you know if Flynn was represented by council at the time?

YATES:
I don't believe he was.

WHITEHOUSE:
OK. And the scenario that you were concerned about was that you were seeing all these statements coming from the White House that were inconsistent with what you knew, you presumed that the White House was being truthful which meant that Flynn was misleading them.

YATES:
Right.

WHITEHOUSE:
Which meant that he was vulnerable to manipulation by the Russians, who knowing what had actually taken place could call up the national security advisor to the president and say, you got to do this for us or we're going to out you with all your folks and your career is done.

YATES:
That's right, because one of the questions that Mr. McGann asked me when I went back over the second day was essentially, why does it matter to DOJ if one White House official lies to another White House official?

And so we explained to him, it was a whole lot more than that and went back over the same concerns that we had raised with them the prior day, that the concern first about the underlying conduct itself, that he had lied to the vice president and others, the American public had been misled.

And then importantly, that every time this lie was repeated and the misrepresentations were getting more and more specific, as -- as they were coming out. Every time that happened, it increased the compromise and to state the obvious, you don't want your national security advisor compromised with the Russians.

WHITEHOUSE:
Were there any takeaways from the first meeting or action items that you left with?

YATES:
Well, there was an action item in the second meeting because I got -- we talked about several issues but...

WHITEHOUSE:
To get the order right, you said earlier that there were two meetings and a phone call.

YATES:
Right.

WHITEHOUSE:

Was the phone call the phone call that set up the second meeting or was there a third...

YATES:

There was a third substantive phone call. There was a...

WHITEHOUSE:

Go ahead, I can...

YATES:

Sorry about that. One of the -- one of the issues that Mr. McGann raised with me in this second meeting that again was on the 27th, the day after the first meeting, was his concern because we had told him before that we were giving him this information so that they could take action.

And he said that they were concerned that taking action might interfere with the FBI investigation. And we told him, both the senior career official and I, that he should not be concerned with it, that General Flynn had been interviewed, that their action would not interfere with any investigation and in fact, I remember specifically saying, you know it wouldn't really be fair of us to tell you this and then expect you to sit on your hands.

WHITEHOUSE:

Was the interview of General Flynn accelerated once you became aware of this information and felt you needed to get his statement quickly?

YATES:

Well, we had wanted to tell the White House as quickly as possible and we're working with the FBI and in the course of the investigation but certainly, we did...

(CROSSTALK)

WHITEHOUSE:

And the first thing you know is that you have information that one thing was said and the White House is saying something different. And you know that that information irrespective of who is involved needs to get up to the White House quickly. And so at that point, the decision was made to do the interview so that that was locked down before you went up to White House counsel?

YATES:

Right, so that that would not have a negative impact on the FBI investigation at that point.

And there was a request made by Mr. McGahn, in the second meeting as to whether or not they would be able to look at the underlying evidence that we had that we had described for him of General Flynn's conduct. And we told him that we were inclined to allow them to look at that underlying evidence, that we wanted to go back to DOJ and be able to make the logistical arrangements for that. This second meeting on the 27th occurred late in the afternoon, this is Friday the 27th. So we told him that we would work with the FBI over the weekend on this issue and get back with him on Monday morning. And

I called him first thing Monday morning to let him know that we would allow them to come over and to review the underlying evidence.

WHITEHOUSE:

And was that the phone call or is there a separate phone call?

YATES:

There was the phone call initially to let him know I needed to come see him.

WHITEHOUSE:

Yeah?

YATES:

Two meetings and then a phone call at the end to let him know...

WHITEHOUSE:

That the material was available if he wanted to see it.

YATES:

... that the material was available. He had to call me back. He was not available then and I did not hear back from him until that afternoon of Monday the 30th.

WHITEHOUSE:

And that was the end of this episode, nobody came over to look at the material?

YATES:

I don't know what happened after that because that was my last day with DOJ.

WHITEHOUSE:

Got it. OK.

(LAUGHTER)

GRAHAM:

Senator Grassley.

GRASSLEY:

Mr. Clapper, you said that you've never exposed classified information in an inappropriate manner. I asked Director Comey these questions last week, so for both of you, yes or no. As far as you know, has any classified information relating to Mr. Trump or his associates been declassified and shared with the media?

CLAPPER:

Not to my knowledge.

GRASSLEY:

Ms. Yates?

YATES:

Not to my knowledge either.

GRASSLEY:

OK. Next question; have either of you ever been an anonymous source in a news report about matters relating to Mr. Trump, his associates or Russia's attempt to meddle in the election?

CLAPPER:

No.

YATES:

Absolutely not.

GRASSLEY:

OK. Third question; did either of you ever authorize someone else at your respective organizations to be an anonymous source in a news report about Mr. Trump or his associates?

CLAPPER:

No.

YATES:

No.

GRASSLEY:

OK. As far as either of you know, have any government agencies referred any of the leaks over the past several months to the Justice Department for potential criminal investigation?

CLAPPER:

I don't know. As you know, Senator, there is a process for that -- for doing that. I don't know if that -- that's happened.

GRASSLEY:

Ms. Yates?

YATES:

I'm not at DOJ anymore, so I don't know what's been referred.

GRASSLEY:

So then I guess to kind of sum up, neither one of you know whether the department authorized a criminal investigation of the leaks?

CLAPPER:

I do not, sir.

YATES:

No, sir.

GRASSLEY:

OK. Have any of you been questioned by the FBI about any leaks?

CLAPPER:

I have not been.

YATES:

No.

GRASSLEY:

OK. I want to discuss unmasking.

Mr. Clapper and Ms. Yates, did either of you ever request the unmasking of Mr. Trump, his associates or any member of Congress?

CLAPPER:

Yes, in one case I did that I can specifically recall, but I can't discuss it any further than that.

GRASSLEY:

You can't, so if I ask you for details, you said you can't discuss that, is that what you said?

CLAPPER:

Not -- not here.

GRASSLEY:

OK.

Ms. Yates, can you answer that question? Did you ever request unmasking of Mr. Trump, his associates or any member of Congress?

YATES:

No.

GRASSLEY:

Question two. Did either of you ever review classified documents in which Mr. Trump, his associates or members of Congress had been unmasked?

CLAPPER:

Yes.

GRASSLEY:

You have? Can you give us details here in this...

CLAPPER:

No, I can't.

GRASSLEY:

Ms. Yates, have you?

YATES:

Yes, I have and no, I can't give you details.

GRASSLEY:

OK. Did either of you ever share information about unmasked (ph) Trump associates or members of Congress with anyone else?

CLAPPER:

Well, I'm thinking back over six and a half years, I could have discussed it with either my deputy or my general counsel.

GRASSLEY:

Ms. Yates?

YATES:

In the course of the Flynn matter, I had discussions with other members of the intel community. I'm not sure if that's responsive to your question.

GRASSLEY:

And in both cases, you can't give details here.

YATES:

No.

CLAPPER:

No.

GRASSLEY:

The FBI notified the Democratic National Committee of the Russian's intrusion into their systems in August of 2015, but the DNC turned down the FBI's offer to get the Russians out and refused the FBI access to their servers. Instead, it evidently eventually hired a private firm in the spring of 2016. WikiLeaks began releasing the hacked DNC e-mails last July. It took roughly 27,000 of the 27,500 DNC e-mails it released were e-mails sent after the FBI notified the DNC of the breach.

Mr. Clapper, would you agree that one of the lessons of this episode is that people should cooperate with the FBI when notified of foreign hacks instead of stone walling?

CLAPPER:

Yes, sir. I generally think that's a very good idea.

GRASSLEY:

Mr. Clapper, you sent the Russians -- you said the Russians did not release any negative information on Republican candidates. I believe that that's not quite right. On June the 15th, 2016, Guccifer 2.0 released to Gawker and The Smoking Gun more than 200 pages of the DNC's opposition research on Mr. Trump's -- hundreds of pages of what I would call dirt. This happened just two days after The Wall Street Journal published a plan for Republican Convention delegates to revolt to prevent Mr. Trump from securing the nomination.

Why wasn't - why wasn't the Russian release of harmful information about Mr. Trump addressed in the Russia report? And was this even evaluated during the review?

CLAPPER:

I would have to consult with the analysts that were involved in the report to definitively answer that. I don't know personally whether they considered that or not.

GRASSLEY:

Can you submit that as an answer in writing?

CLAPPER:

Well, I'm a private citizen now, sir. I don't know what -- what the rules are on my...

GRASSLEY:

Well, give me the name...

CLAPPER:

... obtaining classified -- potentially classified information, so I will look in to it.

GRASSLEY:

OK. Mr. Clapper, you testified that the intelligence community conducted an exhaustive review of Russian interference and the analysts involved had complete, unfettered access to all sensitive raw intelligence data. Do you have any reason to believe that any agency withheld any relevant information?

CLAPPER:

I don't believe so, with one potential caveat, which is that there is the possibility, again acknowledging this role that the FBI plays in straddling both intelligence and law enforcement, that for whatever reason they may have chosen to withhold investigatory sensitive information from the report. I don't know that to be a fact. I was not apprised of that, I'm just suggesting that as a possibility.

GRASSLEY:

My time's up, Mr. Chairman. Thank you.

GRAHAM:

Thank you.

Senator Feinstein.

FEINSTEIN:

Thanks very much, Mr. Chairman.

Ms. Yates, I'm not going to ask you anything that deserves a confidential or secure answer, but after your second in-person meeting with Mr. McGahn, you said there were four topics he wanted to discuss. Would you list those four topics?

YATES:

Sure. The first topic in the second meeting was essentially why does it matter to DOJ if one White House official lies to another. The second topic related to the applicability of criminal statutes and the likelihood that the Department of Justice would pursue a criminal case. The third topic was his concern that their taking action might interfere with an investigation of Mr. Flynn. And the fourth topic was his request to see the underlying evidence.

FEINSTEIN:

Were all those topics satisfied with respect to your impression after the second meeting?

YATES:

Yes. The only thing that was really left open there would (ph) -- was the logistics, for us to be able to make arrangements for them to look at the underlying evidence.

FEINSTEIN:

And you did make those arrangements?

YATES:

We did make those arrangements, but again, I don't know whether that ever happened, whether they ever looked at...

FEINSTEIN:

OK.

YATES:

... that evidence or not.

FEINSTEIN:

Fair enough.

Apparently, Lieutenant General Flynn remained national security adviser for 18 days after you raised the Justice Department's concern. In your view, during those 18 days, did the risk that Flynn had been or could be compromised diminish at all?

YATES:

You know, I don't know that I'm in a position to really have an answer for that. I know that we were really concerned about the compromise here, and that was the reason why we were encouraging them to act. I don't know what steps they may have taken, if any, during that 18 days to minimize any risk.

FEINSTEIN:

Well, did you discuss this with other DOJ career professionals?

YATES:

Certainly, leading up to our notification on the 26th. It was a topic of a whole lot of discussion, in DOJ and with other members of the intel community, and we discussed it at great length. But after the 30th, again, I wasn't at DOJ anymore, so I didn't have any further discussions after that point about what was being done with respect to that.

FEINSTEIN:

Did you consult with other career prosecutors?

YATES:

Absolutely. We had, really, the experts within the national security division. As we were navigating this situation, they were working with the FBI on the investigation, and we were trying to make a determination about how best to make this notification so that we could get the information to the White House that they needed to be able to act.

FEINSTEIN:

So what's the point that you were trying to make -- yes or no will be fine -- that General Flynn had seriously compromised the security of the United States, and possibly the government, by what he had done, whatever that was?

YATES:

Well, our point was -- is that logic would tell you that you don't want the national security adviser to be in a position where the Russians have leverage over him. Now, in terms of what impact that may have or could have had, I can't speak to that, but we knew that was not a good situation, which is why we wanted to let the White House know about it.

FEINSTEIN:

The Guardian has reported that Britain's intelligence service first became aware in late 2015 of suspicious interactions between Trump advisers and Russian intelligence agents. This information was passed on to U.S. intelligence agencies.

Over the spring of 2016, multiple European allies passed on additional information to the United States about contacts between the Trump campaign and Russians. Is this accurate?

YATES:

I -- I can't answer that.

FEINSTEIN:

General Clapper, is that accurate?

CLAPPER:

Yes, it is and it's also quite sensitive.

FEINSTEIN:

OK. Let me ask you this.

CLAPPER:

The specifics are -- are --- are quite sensitive.

FEINSTEIN:

When did components of the intelligence community open investigations into the interactions between trump advisers and Russians?

What was the question again, ma'am, I'm sorry?

FEINSTEIN:

When did components of the intelligence community open investigations into the interactions between Trump advisers and Russians?

CLAPPER:

What was the question, again, Ma'am? I'm sorry.

FEINSTEIN:

When did components of the intelligence community open investigations into the interactions between Trump advisers and Russians?

CLAPPER:

Well, I can -- I refer to Director Comey's statement before the House Intelligence Committee on the 20th of March -- is when he advised that they'd open an investigation in July of '16.

FEINSTEIN:

And what was the reaction when you advised that the investigation be opened as early as July 15th?

CLAPPER:

I'm sorry?

FEINSTEIN:

I -- I thought you said that you advised on July...

CLAPPER:

No, Director Comey did, before the House Intelligence Committee...

FEINSTEIN:

The director (ph) -- I see.

CLAPPER:

... announced that the FBI had initiated investigation in July of 2016.

FEINSTEIN:

Well, what did the intelligence agencies do with the findings that I just spoke about that The Guardian wrote about?

CLAPPER:

Well, I'm not sure about the accuracy of that article, so clearly over actually going back to 2015, there was evidence of Soviet, excuse me, Freudian slip, Russian activity. Mainly, in an information gathering or recon ordering mode, where they were investigating voter registration rolls and the like.

And that activity started early, and so, we were monitoring this as it progressed, and certainly as it picked up, accelerated in spring, summer and fall of 2016.

FEINSTEIN:

OK.

So let me go back to you, Miss Yates, I take it you were very concerned. What was your prime worry during all of this?

Now, you were worried that General Flynn would be compromised? What did you think would happen, if he were, and how do you believe he would have been compromised?

YATES:

Well, we had two concerns, compromise was certainly the number one concern and the Russians can use compromised material, information, in a variety of ways, sometimes overtly and sometimes subtly. And again, our concern was, is that you have a very sensitive position, like the National Security advisor and you don't want that person to be in a position, where again, the Russians have leverage over him.

But, I will also say, another motivating factor is that we felt like the Vice President was entitled to know that the information he had been given, and that he was relaying to the American public, wasn't true.

FEINSTEIN:

So, what's you're saying is that General Flynn lied to the Vice President?

YATES:

That's certainly how it appeared, yes, because the Vice President went out and made statements about General Flynn's conduct, that he said were based on what General Flynn had told him, and we knew that that just flat wasn't true.

FEINSTEIN:

Well, as the days went on, what was your view of the situation? Because there were, I guess two weeks before, or was it 18 days before Director Flynn was dismissed?

YATES:

Well, again, I was no longer with DOJ after the 30th, and so I wasn't having interaction or any involvement in this issue after that day.

FEINSTEIN:

Thank you, Mr. Chairman.

GRAHAM:

Senator Cornyn.

CORNYN:

Thank you, Chairman Graham.

And Senator Whitehouse, for today's hearing.

This is important, the American people have every right to know as much as possible about Russian interference in our elections. But, as I think, as the Director has told us before many times, this is not anything new.

Although, perhaps, the level and intensity, and the sophistication, of both Russian overt and covert operations is really unprecedented, and I thank the intelligence community for their assessment.

I do regret that, while these two witnesses are certainly welcomed and we're glad to have them here, that former National Security Advisor Susan Rice, has refused to testify in front of the Committee. It seems to me, there are a lot of questions that she needs to answer.

I would point out, though, Mr. Chairman, that both Senator Feinstein and I, are fortunate enough to be on the Senate Intelligence Committee, which is also conducting a bipartisan investigation under the leadership of Chairman Burr and Vice Chairman Warner.

One of the benefits of that additional investigation, is that we have been given access to the raw intelligence collected by the intelligence community, which I think, completes what understandably is an incomplete picture. When you can only talk in a public setting about part of the evidence, but it is important for the American people to understand what's happening.

I think this subcommittee hearing is playing an important role in that.

I want to ask Director Clapper, because, I think, unfortunately some of the discussion about unmasking is casting suspicion on the intelligence community in a way that I think is, frankly, concerning. Particularly when we're looking at reauthorizing Section 702 of the Patriot Act by the end of next year.

because as many have said, I can't recall your specific words, but I know Director Comey has called that the crown jewels of the intelligence community, and I'm very concerned that some of the information that's been discussed about unmasking, for example, might cause some people to worry about their legitimate privacy concerns.

CORNYN:

So when it comes to incidental collection on an American person, and that is unmasked at the request of some appropriate authority, can you describe, briefly, the paper trail and the series -- and the approval process that is required in order to allow that to happen? That's not a trivial matter, is it?

CLAPPER:

The -- and the -- the process is that, first of all, the judgment as to whether or not to unmask or reveal the identity is rendered by the original collection agency so normally that's going to be, in the case of 702 -- going to be NSA.

And I know, for my part, because, as I indicated in my statement, over my six and a half years of DNI, I occasionally ask for identities to be unmasked to understand the context.

What I was concerned about, and those of us in the intelligence community are concerned about, is the behavior of the -- the validated foreign intelligence target. Is that target trying to co-opt, recruit, bribe, penetrate or what?

And it's very difficult to understand that context by the labels "U.S. person one," "U.S. person two." And as well, I should point out, doing that on an anecdotal basis, one SIGINT report at a time, in which you need to look at is there a -- is there a pattern here, and so I tried on my part to be very, very judicious about that.

It's a very sensitive thing. But I did feel an obligation, as DNI, that I should attempt to understand the context and who this person was, because that had a huge bearing on how important or critical it was, and what threat might be posed by virtue of the -- again, the behavior of the validated foreign intelligence target.

So our focus was on the target, not -- not as much as the U.S. person -- only to understand the context.

CORNYN:

Well, the fact that some appropriate authority might request and receive the unmasking of the name of the U.S. person does not then authorize the release of that information -- that classified information -- into the public domain? that remains a crime, does it not?

CLAPPER:

Yes. Again, that's why I attempted to make -- to clarify, in my statement...

(CROSSTALK)

CORNYN (?):

Push the button.

CLAPPER:

That's why, in my statement, I attempted to make that distinction between unmasking, an authorized, legitimate process with approval by the appropriate authorities, and leaking, which is an unauthorized process under any circumstance.

CORNYN:

Mr. Chairman, I think it's really important that, in order to determine who actually requested the unmasking, and in order to establish whether appropriate procedures were undertaken under both legislative oversight and judicial oversight, that we determine what that paper trail is and follow it...

CLAPPER:

Senator Cornyn, if I may, I just -- and I have to be very careful here about how I phrase this, but I would just repeat to you the definition of what 702 is used for...

CORNYN:

Foreign intelligence (ph).

CLAPPER:

... which is collection against a non-U.S. person overseas.

CORNYN:

I don't think you can say that enough, Director Clapper. It's important, because people need to understand that...

CLAPPER:

Happy to say it again.

CORNYN:

... we are both getting necessary foreign intelligence...

(CROSSTALK)

CORNYN:

... to keep the American people safe, but also respecting the privacy rights and the constitutional rights of American citizens.

CLAPPER:

Absolutely.

CORNYN:

Ms. Yates, this is the first time that you've appeared before Congress since you left the Department of Justice, and I just wanted to ask you a question about the -- your decision to refuse to defend the president's executive order.

In the letter that you sent to Congress, you point out that the executive order itself was drafted in consultation with the Office of Legal Counsel, and you point out that the Office of Legal Counsel reviewed it to determine whether, in its view, the proposed executive order was lawful on its face and properly drafted.

Is it true that the Office of Legal Counsel did conclude it was lawful on its face and properly drafted?

YATES:

Yes, they did. The office of...

CORNYN:

And you overruled them?

YATES:

... I did. The office of legal...

CORNYN:

Did you (ph) -- what -- what is your authority to -- to overrule the Office of Legal Counsel when it comes to a legal determination?

YATES:

The Office of Legal Counsel has a narrow function, and that is to look at the face of an executive order and to determine purely on its face whether there is some set of circumstances under which at least some part of the executive order may be lawful. And importantly, they do not look beyond the face of the executive order, for example, statement that are made contemporaneously or prior to the execution of the E.O. that may bear on its intent and purpose.

That office does not look at those factors, and in determining the constitutionality of this executive order, that was an important analysis to engage in and one that I did.

CORNYN:

Well, Ms. Yates, I thought the Department of Justice had a long standing tradition of defending a presidential action in court if there are reasonable arguments in its favor, regardless whether those arguments might prove to be ultimately persuasive, which of course is up to the courts to decide and not you, correct?

YATES:

It is correct that often times, but not always, the civil division of the Department of Justice will defend an action of the president or an action of Congress if there is a reasonable argument to be made. But in this instance, all - all arguments have to be based on truth because we're the Department of Justice. We're not just a law firm, we're the Department of Justice and the...

(CROSSTALK)

CORNYN:

You distinguish the truth from lawful?

YATES:

Yes, because in this instance, in looking at what the intent was of the executive order, which was derived in part from an analysis of facts outside the face of the order, that is part of what led to our conclusion that it was not lawful, yes.

CORNYN:

Well, Ms. Yates, you had a distinguished career for 27 years at the Department of Justice and I voted for your confirmation because I believed that you had a distinguished career. But I have to tell you that I find it enormously disappointing that you somehow vetoed the decision of the Office of Legal Counsel with regard to the lawfulness of the president's order and decided instead that you would counter man (ph) the executive order of the president of the United States because you happen to disagree with it as a policy matter.

YATES:

Well, it was...

CORNYN:

I just have to say that.

YATES:

I appreciate that, Senator, and let me make one thing clear. It is not purely as a policy matter. In fact, I'll remember my confirmation hearing. In an exchange that I had with you and others of your colleagues where you specifically asked me in that hearing that if the president asked me to do something that was unlawful or unconstitutional and one of your colleagues said or even just that would reflect poorly on the Department of Justice, would I say no? And I looked at this, I made a determination that I believed that it was unlawful. I also thought that it was inconsistent with principles of the Department of Justice and I said no. And that's what I promised you I would do and that's what I did.

CORNYN:

I don't know how you can say that it was lawful and say that it was within your prerogative to refuse to defend it in a court of law and leave it to the court to decide.

YATES:

Senator, I did not say it was lawful. I said it was unlawful.

GRAHAM:

Senator Durbin is next, but I have one quick, if you don't mind Senator Durbin, about how 702 works. You said something, General Clapper, I don't quite understand. Is it unlawful to surveil with a FISA warrant a foreign agent in the United States?

CLAPPER:

No, it's not. But that's another provision. I was - I was saying...

GRAHAM:

OK.

CLAPPER:

I was saying what 702 does.

GRAHAM:

I just want to make sure there is a procedure to do that.

CLAPPER:

There is.

GRAHAM:

OK.

Senator Durbin?

(UNKNOWN)

Just to your point, you said the word overseas. Ambassador Kislyak was not overseas on December 29th, was he?

CLAPPER:

That's correct.

(UNKNOWN)

Thank you.

DURBIN:

Thank you, Mr. Chairman.

Let me say at the outset in response to Senator Cornyn, in your conclusion about the unlawful nature of the Muslim travel ban was, of course, a position which was supported by three different federal courts that stopped the enforcement of that ban and ultimately led to the president withdrawing that particular travel ban. Is that not true?

YATES:

That's correct.

DURBIN:
Thank you.

I want to mention at the outset here that this is a critically important hearing and I want to thank Senator Graham and Senator Whitehouse for the bipartisan nature and the cooperation in this hearing. I think the testimony we've received from these witnesses and the presence of so many other of my colleagues is an indication of how we view the severity and gravity of the issue before us.

I'm troubled that this great committee with its great chairman and all its members does not have professional staff assigned to this investigation. It's the ordinary staff of the subcommittee who are working it. I think that what we have seen with this situation calls for the appointment of an independent commission, presidential commission or congressional commission, one that is clearly independent, transparent and can get to the bottom of the Russian involvement in our last election process and the threat that faces -- we face in the future because of it.

Short of that, we'll continue to do our best on a committee level with meager resources in both the Intelligence Committee and here. And this is, I think, an issue that begs for so much more. I might also say that I'm starting to hear from the Republican side of the table some real concerns about Section 702, which Senator Lee, Republican member of the committee and myself, have been calling for reform on for several years. Unfortunately, we didn't have the support from the other side of the table when we did. I hope that we can get it now when we talk about real reform to (ph) the 702 and protecting the rights of individuals in America.

Ms. Yates, let me ask you about this meeting on January the 26th with White House Counsel Don McGahn. You shared the Justice Department's concern about his communications with Russia, his apparent dishonesty about those communications and his vulnerability to blackmail. Is that correct?

YATES:
That's right.

DURBIN:
Was there anything else about the relationship of General Flynn and the Russians other than his representations that he had no conversation that you warned Don McGahn about?

YATES:
No.

DURBIN:
So it didn't go back to his trip to Moscow, money received and so forth?

YATES:
No, it did not.

DURBIN:
It was strictly on that question?

YATES:

Yes.

DURBIN:

And then you had a second meeting the next day.

YATES:

That's right.

DURBIN:

Is that correct, on January 27th?

YATES:

At his request, yes.

DURBIN:

At Mr. McGahn's request. And at that second meeting, did Mr. McGahn say anything about whether he had taken the information you'd given him the previous day to the president?

YATES:

No, he didn't tell us.

DURBIN:

Are you aware of the fact that Mr. Spicer, the White House press secretary, on February 14th said, and I quote, "Immediately after the Department of Justice notified the White House counsel of the situation, the White House counsel briefed the president and a small group of senior advisors?"

YATES:

I've seen media reports to that effect, but that's all I know is from the media.

DURBIN:

So there was no statement by Mr. McGahn that he had either spoken to the president about your concerns with his national security advisor or with any other members of the White House?

YATES:

No, he didn't advise us in the second meeting anyone he may have discussed this with the prior evening.

DURBIN:

I guess I want to also go to the question which keeps gnawing at me here that Mr. McGahn asked of you. Is there anything wrong with one White House official lying to another White House official?

YATES:

Well, to be fair to Mr. McGahn here, I wouldn't say that he said is there anything wrong. His question was more essentially what's it to the Justice Department if one White House official is lying to another? In other words, why is this something that DOJ would be concerned about? And that's why went back through the list of issues and reasons why this was troubling to us.

DURBIN:

Did you think there was a legal reason to be concerned if one White House official lied to another White House official?

YATES:

We didn't go into that. And to the extent you may be talking about like 1001 violation, that was not something that we were alluding to or discussing with Mr. McGahn. I think his point when he made that point to me was that he wasn't sure why the Department of Justice would care about one lying to another, not to be discussing whether that was in fact a crime.

DURBIN:

And the reason you told him was what?

YATES:

Was that, again, it was a whole lot more than one White House official lying to another. First of all, it was the vice president of the United States and the vice president had then gone out and provided that information to the American people who had then been misled and the Russians knew all of this, making Mike Flynn compromised now.

DURBIN:

You said earlier, I believe, that Mr. McGahn asked you if you thought they should fire General Flynn at that point.

YATES:

Right.

DURBIN:

And what was your response?

YATES:

Told him that it was not our call as to whether General Flynn was fired, that we were giving them this information so that they could take action, the action that they believed was appropriate.

DURBIN:

On February 14th, after General Flynn resigned, Sean Spicer said, and I quote, "There was nothing in what General Flynn did in terms of conducting himself that was an issue." Do you have any idea what he meant by those words?

YATES:

No. I'm not -- all I can say is he didn't reach that conclusion from his conversation with us. I can't speak to how he arrived at that.

DURBIN:

Let me ask you, there was a period of time, 18 days, that we've referred to (inaudible) and during that period of 18 days, a number of things occurred; General Glynn continued to serve as the national security advisor for 18 days after you had briefed the White House about the counterintelligence risk that he posed. And during those 18 days, General Flynn continued to hire key senior staff on the National Security Council, announced new sanctions on Iran's ballistic missile program, met with Japanese Prime Minister Shinzo Abe along with President Trump at Mar-a-Lago and participated in

discussions about responding to a North Korean missile launch and spoke repeatedly to the press about his communications with Russian Ambassador Kisliak.

DURBIN:

Ms. Yates, in -- in your view, were there national security concerns in these decisions being made after the information you shared with the White House?

YATES:

I was no longer with DOJ after January 30th, so I wasn't aware of any actions that the General Flynn was taking. So I -- I couldn't really opine on that.

DURBIN:

General Clapper? Would you comment? If you had the warning from the White House -- pardon me, from the Department of Justice to the White House about General Flynn possibly being compromised here, and then these important national security decisions had followed, would you have concern about that?

CLAPPER:

Well, I would. Hypothetically, yes. I mean, again, I was gone from the government as well when all this happened.

DURBIN:

But -- but you've had quite a career in intelligence and national security. And here, you have a man that's been told -- the White House has been told his -- he could be compromised and blackmailed by the Russians -- continuing to make the highest level decisions of our government.

CLAPPER:

Well, that's -- that's -- it is certainly a potential vulnerability, there's no question about it.

DURBIN:

I would say so. Thank you very much.

Thanks, Mr. Chairman.

GRAHAM:

(OFF-MIKE)

CRUZ:

Thank you, Mr. Chairman. Thank you to the witnesses for being here today.

Mr. Clapper, you -- you testified as to the harms that come from leaks -- the harms that come to our national security -- and you also testified about the importance of protecting classified information and keeping it classified.

During your many years in intelligence, and at the DNI, have you ever knowingly forwarded classified information to a non-government employee on a non-government computer who did not have authorization to receive that information?

CLAPPER:

Not to my -- not to my recollection, no, sir.

CRUZ:

And, Director Clapper, what would you do, at the DNI, if you discovered that an employee of yours had forwarded hundreds or even thousands of e-mails to a non-government individual, their spouse, on a non-government computer?

CLAPPER:

Well, you know, I'm not a investigatory or prosecutorial element. But if I were aware of it, I would certainly make known to the appropriate officials that that was going on.

CRUZ:

Would that strike you as anything ordinary?

CLAPPER:

Hopefully not.

CRUZ:

What -- what concerns would that raise for you?

CLAPPER:

Well, it raises all kinds of potential security concerns. Again, depending on -- on the -- the content of the e-mail, what the intent was, there's a whole bunch of variables here that would have to be considered. But, you know, potentially, and again, this is a hypothetical scenario, it could be quite concerning.

CRUZ:

What would you expect to happen if you made a referral of an individual who had forwarded hundreds or even thousands of classified information...

CLAPPER:

Well...

CRUZ:

... to a non-government employee...

CLAPPER:

... whether (ph)...

CRUZ:

... on a non-government computer?

CLAPPER:

... whatever the transgression -- potential transgression was, if there were sufficient evidence of a compromise, we would file a crimes report. That's standard procedure that we use when there's the potential for investigating and prosecuting someone.

CRUZ:

Last week, I asked similar questions to FBI Director Comey, and -- and he said an individual who did that would be subject to, quote, "significant administrative discipline," but that he was highly confident they wouldn't be prosecuted. Do you share that assessment?

CLAPPER:

Well, I don't -- I -- I don't know. I think the -- the track record is that the prior administration, I think, prosecuted more people for leaking than anyone in any -- in any other administration in the past.

So it's difficult to do that. And there are many cases we could not prosecute or even seek a crimes report because the potential audience of people that could have been the perpetrator of -- of -- of these insecurities could not be identified.

CRUZ:

It is true that other individuals who were not the direct employee of the Democratic nominee for president were prosecuted for that conduct. Let me -- let me shift to a different topic.

Director Clapper, you -- you also testified that you're not aware of any intercepted communications of any presidential candidates or campaigns, other than the Trump campaign that's been discussed here. Is -- is that correct?

CLAPPER:

Yes. But that's to my knowledge. But, you know, prior administrations, prior campaigns -- they wouldn't have been visible to me. So I -- I can't -- I can't say...

CRUZ:

But -- but in 2016, you're not aware any other campaigns or candidates?

CLAPPER:

... no.

CRUZ:

And, Ms. Yates, same question to you.

YATES:

I'm not aware of any interceptions of the Trump campaign.

CRUZ:

And are you aware of any intercepted communications of any other candidates or campaigns?

YATES:

No.

CRUZ:

Okay. Because earlier, when Chairman Graham had asked you that, I -- I thought you'd declined to answer. So perhaps I misunderstood that.

YATES:

And I may have misunderstood the question. I thought the question I declined to answer was a different one than that. So I'm -- I'm glad I got a chance to clear it up.

CRUZ:

OK. So you have no information of any interceptions of the Bernie Sanders campaign, Hillary Clinton campaign...

YATES:

No.

CRUZ:

... or any other candidate...

YATES:

No.

CRUZ:

... in 2016, or campaigns?

YATES:

No.

CRUZ:

OK. Let's revisit the topic, Ms. Yates, that -- that you and Senator Cornyn were talking about.

YATES:

OK.

CRUZ:

It is correct that the constitution vests the executive authority in the president?

YATES:

Yes.

CRUZ:

And if an attorney general disagrees with a policy decision of the president -- a policy decision that is lawful -- does the attorney general have the authority to direct the Department of Justice to defy the president's order?

YATES:

I don't know whether the attorney general has the authority to do that or not. But I don't think it would be a good idea. And that's not what I did in this case.

CRUZ:

Well, are you familiar with 8 USC Section 1182?

YATES:

Not off the top of my head, no.

CRUZ:

Well, it -- it -- it is the binding statutory authority for the executive order that you refused to implement, and that led to your termination. So it -- it certainly is a relevant and not a terribly obscure statute.

By the express text of the statute, it says, quote, "whenever the president finds that entry of any alien or of any class of aliens into the United States would be detrimental to the interest of the United States, he may by proclamation, and for such period as he shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or non-immigrants, or impose on the entry of aliens any restrictions he may deem appropriate."

Would you agree that is broad statutory authorization?

YATES:

I would, and I am familiar with that. And I'm also familiar with an additional provision of the INA that says no person shall receive preference or be discriminated against an issuance of a visa because of race, nationality or place of birth, that I believe was promulgated after the statute that you just quoted.

And that's been part of the discussion with the courts, with respect to the INA, is whether this more specific statute trumps the first one that you just described.

(CROSSTALK)

YATES:

But my concern was not an INA concern here. It, rather, was a constitutional concern, whether or not this -- the executive order here violated the Constitution, specifically with the establishment clause and equal protection and due process.

CRUZ:

There is no doubt the arguments you laid out are arguments that we could expect litigants to bring, partisan litigants who disagree with the policy decision of the president.

I would note, on January 27th, 2017, the Department of Justice issued an official legal decision, a determination by the Office of Legal Counsel, that the executive order -- and I'll quote from the opinion - - "the proposed order is approved with respect to form and legality."

That's a determination from OLC on January 27th that it was legal. Three days later, you determined, using your own words, that although OLC had -- had opined on legality, it had not addressed whether it was, quote, "wise or just."

YATES:

And I also, in that same directive, Senator, said that I was not convinced it was lawful. I also made the point that the office of -- OLC looks purely at the face of the document and, again, makes a determination as to whether there is some set of circumstances under which some portion of that E.O. would be enforceable, would be lawful.

They, importantly, do not look outside the face of the document. And in this particular instance, particularly where we were talking about a fundamental issue of religious freedom -- not the

interpretation of some arcane statute, but religious freedom -- it was appropriate for us to look at the intent behind the president's actions, and the intent is laid in and out his statements.

CRUZ:

A final, very -- very brief question. In the over 200 years of the Department of Justice history, are you aware of any instance in which the Department of Justice has formally approved the legality of a policy, and three days later, the attorney general has directed the department not to follow that policy, and to defy that policy?

YATES:

I'm not. But I'm also not aware of a situation where the Office of Legal Counsel was advised not to tell the attorney general about it until after it was over.

CRUZ:

Thank you, Ms. Yates. I -- I -- I would note, that might be the case, if there's reason to suspect partisanship.

GRAHAM:

Senator Klobuchar.

KLOBUCHAR:

Thank you.

I want to thank you very much for your service Ms. Yates. From beginning to end your distinguished career as a prosecutor and I just was putting this time table together and I realize that you're second meeting, when you went over to the white house to warn them of General Flynn's line, and his connections with Russia was the same day that this Refugee order came out and it was the same day that you had to leave the justice department. So you -- when did you meet with the White House council on that day?

YATES:

I met with White House Council as best as I can recall about 3:00 in the afternoon on the 30th.

KLOBUCHAR:

And during that meeting did they mention -- anyone mention that this refugee order was about to come out?

YATES:

No.

KLOBUCHAR:

Did the acting Attorney General of the United States?

YATES:

No and that was one thing that was of concern to us, is that not only was department leadership not consulted here and beyond department leadership, really the subject matter experts, the national

security experts, not only was the department not consulted, we weren't even told about it. I learned about this from media reports.

KLOBUCHAR:

So you learned about it after the meeting at the White house Council from the media.

YATES:

Right.

KLOBUCHAR:

And then it's true that during your hearing, then Senator Sessions, now the Attorney General actually asked you if the views the President wants to execute are unlawful, should the Attorney General or Deputy Attorney General say no? And what did you say?

YATES:

And I said yes, the Attorney General should.

KLOBUCHAR:

And then moving forward here, as was mentioned by Senator Durbin, this order was (inaudible) after a lawsuit from the State of Washington and Minnesota, the court basically challenged -- the constitutionality of the order. The order is now taken effect, but what I want to get to right now is the fact that the administration then withdrew its request for an appeal of the court ruling blocking implementation of the same order and then they changed the order that you would not implement.

YATES:

Right. And there were a number of important distinctions between travel ban one and travel ban two. At the time I had to make my decision for example, the executive order still applied to green card holders, lawful permanent residents and those who had visas.

There were a number of other distinctions as well. And look, let me say ...

KLOBUCHAR:

Thank you.

YATES:

Oh, OK sorry.

KLOBUCHAR:

I want to get on to -- but go ahead very quickly.

YATES:

Look I understand that, you know people of good will and -- who are good folks can make different decisions about this. I understand that. But all I can say is that I did my job the best way I knew how. I looked at this E.O., I looked at the law, I talked with the folks at the Department of Justice, gathered them all to get their views and their input and I did my job.

KLOBUCHAR:

OK. I appreciate that. Let's go to Russia. December 29th, this is the date that actually Senator Graham and I were with Senator McCain hearing about Russian interference, meeting with leaders in the Baltic's, Georgia and Ukraine. This is the date that the President expanded the sanctions against Russia and this is the date that Michael Flynn reportedly talked to the Russians, perhaps several times about sanctions.

He then went on to not tell the truth to the Vice President. And one of the White House officials has described the notification that you provided warning them of this as a heads up. How would you describe a heads-up?

YATES:

Well at the risk of trying to characterize. I mean we were there to tell the White House about something we were very concerned about and emphasized to them repeatedly. It was so they could take action.

KLOBUCHAR:

So it was much more formal than just a simple hey this is happening. Michael Flynn did not resign his position as national security advisor until February 13th. That is 18 days after you went over there with a formal warning. And in particular after they knew about this on January 28th Flynn was allowed to join President Trump on an hour long telephone call with Russian President Vladimir Putin. Do you have any doubt that the information that you conveyed to the White House on January 26th should have been made clear that Flynn had been potentially compromised by Russia? That this information was clear?

YATES:

Well the purpose in our telling them again was so that they could act and so that they could convey that information. So I would hope that they did.

KLOBUCHAR:

If a high ranking national security official is caught on tape with a foreign official saying on thing in private and then caught in public saying another thing to the Vice President, is that material for blackmail?

YATES:

Certainly.

KLOBUCHAR:

Do you want to add anything to that Director Clapper?

CLAPPER:

No (inaudible).

KLOBUCHAR:

OK. I think it's pretty clear. And I think it's pretty clear why we had this hearing today. I wanted to ask you, Director Clapper, a few things about just in general this Russian influence.

When Director Comey was here last week, he said, "I think that one of the lessons that the Russians may have drawn from this," he's talking about the election influence, "is that this works."

Those were Comey's words, do you agree?

CLAPPER:

Absolutely. And as I said in my statement, the Russians have to be celebrating the success of what -- for what they set out to do with rather minimal resource expenditure.

And the first objective was to sow discord and dissension, which they certainly did.

KLOBUCHAR:

And when you look at this, in addition to the hacking into the DNC and Podesta's e-mails, all of those things, we also had the fake news propaganda, which is referenced in the report.

I believe it's \$200 million, is that all they spent in the scheme of things? Something like that?

CLAPPER:

If that, which doesn't include government support to -- subsidies to RT.

KLOBUCHAR:

And how does RT work, when you look at this?

CLAPPER:

Well, RT is essentially a propaganda mouthpiece for the government, since the predominance of its funding comes from the government and the management is close to Putin. So it's, as I say, I think a governmental -- Russian governmental mouthpiece.

KLOBUCHAR:

Ms. Yates, I'm asking you in your capacity as a former attorney general and deputy attorney general, I would ask this of Director Comey, about the use of shell corporations.

Now something like 50 percent real estate deals over \$5 million are now done with shell corporations. We're trying to push so that the Treasury Department puts more transparency. This is something that European countries are working on right now.

And I'm very concerned that this is another vehicle where money is laundered. I'm concerned about loopholes in our campaign finance laws as well. But could you address this just from your experience as a criminal prosecutor?

YATES:

Sure. And those are all valid concerns. We're actually lagging behind other countries in the world. And we don't want to become a haven then where you can have shell corporations that can be used for all sorts of nefarious purposes. They can have national security implications as well as criminal implications.

KLOBUCHAR:

Director Clapper, did you want to add anything to that? And, again, this is why I believe an independent commission -- in addition to the great work that's being done by this subcommittee and the Senate Intelligence Committee, which is so important, as well as the investigation, an independent commission would allow a panel of experts to go into the next election, go into 2020, where Director Comey had said "I expect to see them back in 2018 and especially 2020."

Those are his words. Do you agree with that, Director?

CLAPPER:
Absolutely.

KLOBUCHAR:
And that is why an independent commission would allow us to come up with some ideas and how we can stop this from happening again, whether it is how the media handled these things, how campaigns handled these things, how intelligence agencies, when they find out, handle these things, because we cannot allow foreign countries to influence our democracies.

Do you agree, Director Clapper?

CLAPPER:
I certainly do. And I understand how critical leaks are and unmasking and all these ancillary issues. But to me, the transcendent issue here is the Russian interference in our election process, and what that means to the erosion of the fundamental fabric of our democracy.

And that to me is a huge deal. And they're going to continue to do it. And why not? It proved successful.

KLOBUCHAR:
Thank you.

GRAHAM:
Until they pay a price, I hope which they will soon pay.

Senator Sasse?

SASSE:
Thank you, Mr. Chairman.

Thank you, both, for being here.

Director Clapper, how likely do you think it is that foreign intelligence services are trying to compromise congressional IT systems?

CLAPPER:
Well, I think that's -- congressional IT systems are a target, and have been. And certainly I saw examples of that during my time as DNI and then the -- this is one case where we expeditiously informed the Congress when we saw evidence of that.

And, again, that's not just Russians, there are others out there doing the same thing.

SASSE:
And what intel value would it provide to them?

CLAPPER:

Well, depending on the nature of the material that they've purloined, it could be quite sensitive. That -- hard to make a general statement about it. But just as a general rule, it could be quite damaging.

SASSE:

And could you talk a little bit about the relationship between that particular intel gathering on legislators and the interface with propaganda campaigns such as you say Russia? I've heard you testify in other places about Russia's activity among their near neighbors.

What is the relationship between propaganda and director intel gathering?

CLAPPER:

You mean, on the part of the Russians?

SASSE:

Yes, on their neighbors.

CLAPPER:

Well, they would certainly use that, as they have and examples of that in places like Georgia and the Baltics where they will turn evidence that or -- or what they've gathered and use that as -- as leverage or if they can, to use kompromat (ph), the -- the Russian acronym for compromise of material or the real tribes (ph) so there's all kinds of nefarious things they can potentially do if -- if they gather information like that.

SASSE:

One of -- one of the unhelpful ways that we talked about this issue in the present context in D.C.'s polarized context, is it's almost always retrospective about our election in 2016. And so it devolves into a shirts and skins exercise about what candidate you allegedly supported.

Director Comey last week said he expects as Senator Klobuchar just quoted him, he expects the Russians to be back in 2018 and back with a vengeance in 2020. I think it would be helpful for the American people to understand what Russia does among its near neighbors now. So could you unpack a little bit more of how that works?

CLAPPER:

Well, they're -- if anything, in many ways, particularly those countries that were in the former soviet orbit which they still feel, shall I say, paternal about. And so places like Moldova, or the Baltics, Georgia, they are very aggressive in using all the multitude of tools that were on Senator Whitehouse's checklist, wherever they can, however they can, to influence the outcome of elections towards candidates of for whatever office whom they think will be more pliant with them.

And -- and of course, what's new and different here is that -- that aggressiveness is -- is spreading into Western Europe. As we've seen I believe in France and will in Germany. And -- and their relatives, in their minds success at doing this is simply going to reinforce.

So all the tools available to them, active propaganda, financing, candidates sympathetic to -- to their cause, trolls, hacking, revelations of -- of confidential e-mails, whatever it is, they'll -- they'll use that fairly well (ph).

SASSE:

And could you give us some sense of the -- without revealing classified information, the order of magnitude of their financial investment in these kind of efforts? If you're a near neighbor of Russia and you've got your Army, Navy, Air Force, Marines then you might have a little bit of an Intel community and a little bit of a -- of a sort of Intel ops, info ops campaign going. How does -- what is the Russian investment?

CLAPPER:

Well, I can't -- I can't give you a figure. I will say though that in -- in comparison to a classical military expenditures, its -- it's a bargain for them. And of course, what they're looking for particularly in Europe is so dissension, split unity, and of course end sanctions.

And if they can drive wedges between and among the European nations by and particularly by their manipulating and influencing elections, they're going to do it.

SASSE:

Director, do you stand by the IC's January assessment that WikiLeaks is a known propaganda platform for Russia?

CLAPPER:

Absolutely, and I am in agreement with Director Pompeo's characterization of WikiLeaks as a non-nation state intelligence service.

SASSE:

Unpack that a little bit more, if that's the case, then you're saying that Julian Assange is not a journalist.

CLAPPER:

You're asking the wrong guy a question like that, absolutely not.

SASSE:

I mean, reasonable people in the American debate are worried when they hear people in the IC talk about something that sounds like its just information. I'm obviously highly skeptical of Mr. Assange and I've been pushing the Justice Department to ask why we have not been taking steps to prosecute him for particular crimes that have endangered American intelligence assets.

But across the continuum of journalists who are legitimate journalists who are trying to get information to help the American people under our First Amendment to be fully informed about the operations of our government, there are people in the journalistic community who will lean on IC resources to say, we want to know all that you're able to tell us.

And the burden of -- the burden is on the intelligence official not to leak classified information. The burden is not on the journalists to not ask hard questions.

CLAPPER:

That is correct, that's absolutely correct.

SASSE:

And so it's useful for the American people to hear you explain, why is Assange something other than just an American journalist asking hard questions?

CLAPPER:

Well, I think and there's -- there's obviously judgment, here. And when a journalist does -- does harm to the country, harms our national security, compromises sensitive sources and methods and trade craft and puts the company -- the -- the country -- deliberately puts the country in jeopardy, I think that -- that's -- the line is -- is -- that's a red line, to use a -- use a phrase, that I think is -- is unacceptable.

SASSE:

Have any unauthorized disclosures from Assange and WikiLeaks directly endangered Americans and American interests?

CLAPPER:

In the -- yes, absolutely.

SASSE:

Thank you.

Ms. Yates, I wanted to ask you a couple of questions. But I'm almost at my time, so I'll -- I'll limit it to one. Could you please explain the bureaucratic process in which concerning information about political appointees would be brought to the attention of the attorney general? Just give us a few steps in how that process would happen.

YATES:

When you say concerning information, what do you mean? If (ph)...

SASSE:

I'm trying to elicit an answer from that you doesn't require you to say that, related to Flynn particularly, you can't disclose how this happened. I think it would be useful for the public to understand, more generally, how information about a political appointee would be brought to the attorney general from the FBI and other...

YATES:

I understand.

SASSE:

... aspects of the intelligence community.

YATES:

Generally, if we discovered information -- let's say an investigative agency like FBI discovered information about a political appointee, they would first get in contact with the relevant division of the Department of Justice that would have jurisdiction over it, whether it's the criminal division, the national security division -- whatever it might be.

They would report that information there, and then, depending on the seriousness of that information, it would probably make its way to me, when I was deputy attorney general, or, then, acting attorney general.

SASSE:
Thank you.

GRAHAM:
(OFF-MIKE)

COONS:
Thank you, Senator Graham.

I want to thank both of you for your decades of dedicated service in intelligence and law enforcement, and for your testimony here today.

The question before us is one of really grave consequence, as you suggested in your opening statements. Really an existential threat to our democracy, which, if not faced appropriately, will simply encourage increased aggressive actions.

The reality is that a foreign adversary intentionally influenced our 2016 presidential election, and our president may not want to confront this, but it is a reality, and one that our U.S. intelligence community agreed about with very high confidence.

I greatly appreciate Senators Graham and Whitehouse in convening this hearing, and in treating this very real threat to our democracy with the seriousness that it deserves.

Former Director Clapper, in your opening statement, you suggested that the Russians should be celebrating, and that they are likely emboldened, because they succeeded beyond their wildest dreams and at minimal cost, and they are likely to continue.

In the French national elections, which concluded yesterday, there was a -- a stunning dump of hacked e-mails at the last moment in an attempt -- I, at least, believe -- to influence the outcome of that election in a way designed to help advance a candidate favored by the Kremlin.

And in that instance, there was a significant amount of fake news, of manufactured articles, mixed in with, seemingly, actual e-mails that had been hacked, and there are allegations that there was coordination between alt-right news sites trying to forward this information and to get it out around France and around the world.

Is that your understanding of what's just happened in France? And, more importantly, was there any evidence that you saw of comparable coordination between alt-right news sites and released information in the attempts to influence the 2016 American presidential election?

CLAPPER:
Senator Coons, I -- I honestly -- all I know is what I'm reading in the media, and so I -- I don't have access to any intelligence information that would help me cast any light -- could authoritatively answer your question. All I know is -- is what's -- what's in the media.

COONS:

But, during the period when you did have regular access to intelligence, did you see any evidence to suggest that the longstanding Russian practice of spreading misinformation and fake news was being amplified by news sites in the United States, and any reason to believe that might have been coordinated or intentional?

CLAPPER:

Well, I don't know about the latter. But I -- and I think some news outlets were -- were probably unwitting of that. It certainly went on. But I can't say to what extent that was coordinated intentionally with -- with certain news outlets.

COONS:

And you...

CLAPPER:

Again, that's a -- kind of in the domestic realm.

COONS:

... you said that the Russians will continue this behavior until we impose some significant costs. Could you speak briefly to what sort of actions you think we might take that would deter them...

(CROSSTALK)

COONS:

... this action (ph)?

CLAPPER:

... that's a little over my labor grade as an intelligence guy. I thought the sanctions that we did impose on the -- on the -- as -- and I was part of that, as part of the former -- the former administration -- were a great first step. And (inaudible).

COONS:

Well, I'll simply say that I agree with you, and a bipartisan bill led by my colleague, Senator Graham, and co-sponsored by 20 senators, Republican and Democrat, would be a terrific next step.

Ms. Yates, we established, in the course of these questions, that, on December 27th and 29th, former national security adviser General Flynn discussed sanctions with the Russian ambassador. So when the Trump transition team told the Washington Post on January 13th that sanctions were not discussed, was that false?

YATES:

I understand that there have been news reports to that account. But I can't confirm whether in fact those conversations regarding sanctions occurred, because that would require me to reveal classified information.

COONS:

Understood. So I have a whole series of questions about things that would have been untrue were that the case. You're not going to be able to answer any of those.

YATES:

Not to the extent that it goes to General Flynn's underlying conduct. I can't address that.

COONS:

Well, then let me move to that, if I might.

YATES:

Sure.

COONS:

On January 24th, you just testified that National Security Adviser Flynn was interviewed by the FBI about his underlying conduct, and that that underlying conduct was problematic because it led to the conclusion the vice president was relying on falsehoods.

What was that underlying conduct? And are you convinced that the former national security adviser was truthful in his testimony to the FBI on January 24?

YATES:

Again, I -- I hate to frustrate you again, but I think I'm going to have to, because my knowledge of his underlying conduct is based on classified information. And so I can't reveal what that underlying conduct is.

That's why I had to do sort of an artificial description, here, of events, without revealing that conduct.

COONS:

I understand that.

On January 27th you just testified that you discussed with White -- White House Counsel McGahn four different topics, and one of them included the possibility of criminal prosecution of the former national security adviser, and what would the applicable statutes be.

What applicable statutes did you discuss, and in your conclusion, should the national security adviser face criminal prosecution?

YATES:

Senator Coons, I'm going to strike out here, because, if I identified the statute, then that would be insight into what the conduct was. And, look, I'm not trying to be hyper-technical here. I'm trying to be really careful that I observe my responsibilities to protect classified information. And so I -- I can't identify the statute.

COONS:

OK. Do you believe the administration took your warnings seriously when you made this extraordinary effort to go to the White House and, in person, brief the White House counsel on the 26th and 27th? Do you think they took appropriate steps with regards to General Flynn as the national security adviser, given that he remained a frequent participant in very high level national security matters for two weeks?

YATES:

Well, certainly, in the course of the meetings, both on the 26th and 27th, Mr. McGahn certainly demonstrated that he understood that this was serious. So he did seem to be taking it seriously.

I -- you know, I don't have any way of knowing what, if anything, they did. If nothing was done, then certainly, that would be concerning.

COONS:

So you don't know whether they took any steps to restrict his access to classified information, to investigate him further, up and until the -- the Washington Post published information that made it clear that he had been lying to the vice president?

YATES:

No, again, I was gone after the 30th. And so it's -- I wouldn't know if -- if any steps had been communicated to the Department of Justice, but I was not aware of any, no.

COONS:

Had you not been summarily fired, would you have recommended to the White House counsel that they begin further investigations into the national security adviser, or that they restrict his access to sensitive and classified information?

YATES:

Well, it's -- it's a bit of a hypothetical. Had I remained at the Department of Justice, and if I were under the impression that nothing had been done, then, yes, I would have raised it again with the White House.

COONS:

Thank you. Ms. Yates. Thank you, Mr. Graham (ph).

GRAHAM:

(OFF-MIKE)

KENNEDY:

Ms. Yates, Dr. Clapper, thank you both for your years of service to the American people.

Ms. Yates, I want to start with you. You declined to support -- to defend President Trump's executive order because you thought it was unconstitutional. Is that correct?

YATES:

That's correct. Yes.

KENNEDY:

And you believe there was no -- you believe that no reasonable argument could be made in its defense, is that correct?

YATES:

I don't know that I would put it in that -- in that way, Senator. I -- this was the analysis that we went through.

KENNEDY:

Let me -- let me -- let me stop you, because I've got a whole bunch of questions.

YATES:

Okay.

KENNEDY:

I just want to understand your thinking from my perspective.

YATES:

Sure.

KENNEDY:

Did you believe, then, that there were reasonable arguments that could be made in its defense?

YATES:

I believed that any argument that we would have to make in its defense would not be grounded in the truth, because, to make an argument in its defense, we would have to argue that the executive order had nothing to do with religion, that it was not done with an intent to discriminate against Muslims. And based on a variety of factors...

KENNEDY:

And you were looking at intent?

YATES:

Yes, and I believe that that's the appropriate analysis. And in fact, that's been borne out in several court decisions since that time, that that's the appropriate analysis when you're doing a constitutional analysis is to look to see what are you trying to accomplish here?

KENNEDY:

OK. Suppose instead of an executive order, this had been an act of Congress. Would you have refused to defend it?

YATES:

If it were the same act, yes. And in fact, the Department of Justice has done that in the past. For example, with DOMA, the Defense of Marriage Act, when the Department of Justice refused to defend DOMA.

KENNEDY:

But that was a political decision, was it not?

YATES:

Well, I wasn't at main justice at that time, so I can't speak to that. But that was another example of when DOJ did not defend the constitutionality of a statute in that sense.

KENNEDY:

OK. But in your opinion, the executive order is unconstitutional.

YATES:

I certainly was not convinced that it was constitutional, and given that I wasn't in the import of this, I couldn't in good conscience send Department of Justice lawyers in to defend it.

KENNEDY:

Well, I want to be sure I understand. Do you believe it's constitutional or unconstitutional?

YATES:

I believed -- I was not convinced that it was constitutional. I believed that it was unconstitutional in the sense that there was no way in the world I could send folks in there to argue something that we didn't believe to be the truth.

KENNEDY:

So you believe it's unconstitutional?

YATES:

Yes.

KENNEDY:

OK. I don't mean to wax too (ph)...

YATES:

And if I can say, I can understand why might be a little frustrated with the language here...

KENNEDY:

I'm not frustrated. I'm happy as a clown.

YATES:

And here's - here's the reason. Let me give you a little idea of the timing of this.

KENNEDY:

Let me stop you because I don't have much time. I've got a lot of ground to cover.

YATES:

OK.

KENNEDY:

I don't mean to wax too (ph) metaphysical here, but at what point does an act of Congress or an executive order become unconstitutional?

YATES:

Well, it all depends on what the act does.

KENNEDY:

No, but I mean, at what point -- is it become -- I can look at a statute and say I think that's unconstitutional. Does that make it unconstitutional?

YATES:

I think the issue that we faced at the Department of Justice is to defend this executive order would require lawyers to go in and argue that this has nothing to do with religion, something that...

KENNEDY:

But at what point does a statute or an executive order become unconstitutional? Is it some apriori (ph) determination? It become -- let me - telling you what you I'm getting at and I don't mean you any disrespect. Who appointed you to the United States Supreme Court?

YATES:

I was appointed...

KENNEDY:

That determined -- isn't it a court of (ph) final jurisdiction decides what's constitutional and not? In fact, aren't most acts of Congress presumed to be constitutional?

YATES:

They are presumed but they're not always constitutional, and of course, I was not on the Supreme Court. And I can tell you, Senator, look, we really wrestled over this decision. I personally wrestled over this decision and it was not one that I took lightly at all. But it was because I took my responsibilities seriously...

(CROSSTALK)

KENNEDY:

I believe you believe what you're saying.

YATES:

Yes, I do.

KENNEDY:

I just find it - understand, this is likely to come up in the future.

YATES:

Well...

KENNEDY:

At what point does an executive order or statute become unconstitutional? When I think it's unconstitutional or you think it's unconstitutional or a court of final jurisdiction says it's unconstitutional?

YATES:

I believe that it is the responsibility of the attorney general if the president asks him or her to do something that he or she believes is unlawful or unconstitutional to say no, and that's what I did.

KENNEDY:

OK, I get it.

All right. Let me ask you both a couple questions. Can we agree, Director and Counselor, that the Russians attempted to influence the outcome of the election?

CLAPPER:

Yes, sir, absolutely.

YATES:

Yes.

KENNEDY:

Do you believe that the Russians did in fact influence the outcome of the election?

Director?

CLAPPER:

In our intelligence community assessment, we made the point that we could not make that call. The intelligence community has neither the authority, the expertise or the resources to make that judgment. The only thing we said was we saw no evidence of influencing voter tallies at any of the 50 states. But we were not in a position to judge whether -- what actual outcome on the election.

KENNEDY:

How about you, Ms. Yates?

YATES:

I don't know the answer to that and I think that's part of the problem, is we'll never know.

KENNEDY:

OK. Have you ever -- the Russians have been doing this for years, have they not? I'm not minimizing what they did. I think they did try to influence the election.

CLAPPER:

It's absolutely true. As I pointed -- as I mentioned in my opening statement, sir, the -- they've been doing this since at least the '60s.

KENNEDY:

OK.

CLAPPER:

The difference, however, was this is unprecedented in terms of its aggressiveness and the multifaceted campaign that they mounted. That's new.

KENNEDY:

Isn't it a fact that in 1968, the Kremlin -- actually Service A, which was part of the AGB (ph), attempted to subsidize the campaign of Hubert Humphrey?

CLAPPER:

I don't know the specifics of that. I'd want to research that, but again, that certainly comports with what Russian tactics would be.

KENNEDY:

OK. Isn't it a fact that in 1984, the Kremlin tried to stop Ronald Reagan from being re-elected?

CLAPPER:

Again, I'd have to do some research to verify that. But again, it certainly comports with what, if they chose a candidate for whatever reason they had an aversion to, they would do that.

KENNEDY:

OK. General Clapper, have you ever leaked information, classified or unclassified, to a member of the press?

CLAPPER:

Not wittingly or knowingly, as I said in my statement.

KENNEDY:

Classified or unclassified?

CLAPPER:

Well, unclassified is not leaking.

(LAUGHTER)

Unclassified -- that's -- that's somewhat of a (inaudible).

KENNEDY:

And have you ever given information to a reporter that you didn't want to have your name connected with, but you wanted to see it in the paper?

CLAPPER:

I have not. I've had many encounters with media over my career.

KENNEDY:

I'm sorry about that.

(LAUGHTER)

How you about, Ms. Yates?

YATES:

Other than situations where the Department of Justice would arrange, for example, for me to talk on background with reporters about a particular issue to educate them about that, no. I certainly never provided classified information and that would be the only kind of background information...

(CROSSTALK)

KENNEDY:

Do you know...

CLAPPER:

I might have done the same thing, but certainly not -- that doesn't include sharing classified information.

KENNEDY:

Do you know anybody else at Justice who has ever leaked classified or unclassified information to the press?

YATES:

No.

KENNEDY:

Ms. Yates?

YATES:

No.

KENNEDY:

OK.

Thank you, Mr. Chairman. I went over. I apologize.

(CROSSTALK)

GRAHAM:

Senator Leahy?

LEAHY:

Thank you, Mr. Chairman.

General Clapper, Ms. Yates, good to see you again. Good to have you back here.

I -- Ms. Yates, I remember so well your confirmation hearing. I remember one senator just bearing in on you, intensely bearing in on you saying, "Would stand up to the president of the United States if you thought he was asking you to do something unlawful? He's demanding under oath for you to say yes, you would stand up?" And you told then Senator Jeff Sessions of Alabama that's what you would do and appears to me that you kept your word. Apparently, it's OK to keep your word depending upon who the administration is.

But I'm proud of you for keeping your word when the president tried to set a religious test for entrance into this country, something (inaudible) it was unconstitutional. You said you aren't going to uphold it. I wish that Mr. Sessions and others had kept as consistent in this administration as they did in the last. That's my editorial judgments.

Now, you wrote to the Justice Department, "I am responsible for ensuring that the positions we take in court remain consistent with this institution's solemn obligation to always seek justice and stand for what is right. At present, I'm not convinced that the (inaudible) executive order's consistent with these

responsibilities, nor am I convinced the executive order is lawful." Is that an accurate statement of what you said?

YATES:

Yes, it is, Senator.

LEAHY:

And do you still feel that way today?

YATES:

Yes, I do.

LEAHY:

The White House claimed that you betrayed the Department of Justice? Do you feel you betrayed the Department of Justice?

YATES:

No, Senator, I feel to have done anything else would have been a betrayal of my solemn obligation to represent the people and to uphold the law and the Constitution.

LEAHY:

Was the White House trying to tell the Justice Department how to carry out that executive order?

YATES:

Well, I didn't have a lot of discussion with the White House about this executive order. They -- I'm sorry. I don't entirely understand the question.

LEAHY:

No, but I mean, did anybody from the White House try to direct the Justice Department how they should respond on that executive order?

YATES:

Well, certainly there was discussion with the White House about litigation strategy, but that occurred, to my knowledge, over the weekend. But, after the 30th, when I issued my directive, I was gone then that evening around 9:00, so I don't know what other discussions occurred after that.

LEAHY:

Well, one, I applaud you for keeping your word to then Senator Sessions, who apparently has a different standard as Attorney General.

FBI Director Comey testified before this committee, he has told why he appointed a special counsel to investigate the law plainly, back in 2003, he was Deputy Attorney General, Attorney General Ashcroft has refused, himself. Some of the senior officials and Trump campaign administration are connected to this Russian investigation, and Attorney General was forced to recuse himself.

I do think this is the kind of situation where we should do what, then Deputy Attorney General Comey as acting Attorney General did in the flame (ph) investigation, and appoint a special counsel.

YATES:

Well, Senator, I think that my successor, Rod Rosenstein has a big job ahead of him. And, I don't think I'm going to be giving him any advice from the cheap seats about how he needs to do it.

LEAHY:

Well, let me ask you this, we know about General Putin's vulnerability to Russian blackmail, Attorney General Sessions misled this committee about his contacts, and then he had to change his testimony.

The President's son-in-law and senior adviser, also reported he failed to disclose contacts on his security clearance forms.

Do you have or did you have, or did you have, any concerns about the Attorney General, about Mr. Kushner or other Trump officials, vulnerability to blackmail?

YATES:

All this information came to light after I was no longer with DOJ.

LEAHY:

Did you have concerns, though, while you were at DOJ, that General Flynn might be vulnerable to blackmail?

YATES:

Yes, I did, and expressed those to the White House.

LEAHY:

You say why you feel he may have been vulnerable to blackmail, and if somebody else fell into that same category, might they be vulnerable to blackmail?

YATES:

Well, certainly any time the Russians have compromising information on you, then you are certainly vulnerable to blackmail.

LEAHY:

Let me ask General Clapper this. You've looked at a lot of these, the other cases of the senior government officials. If they have hidden financial information, things that normally disclose when you take a senior official position, is that an area where they could be blackmailed, if it's discovered?

CLAPPER:

Yes, it is, of course.

LEAHY:

And, is it your experience that Russians search for that kind of thing?

CLAPPER:

Absolutely, they do.

LEAHY:

January, the intelligence community, the FBI, CIA, NSA, concluded high conference (ph) that Russia interfered in the 2016 election, to denigrate Secretary Clinton, help elect Donald Trump.

Last week, President Trump contradicted that consensus, he said while it could have been China, it could have been a lot of different groups. Do you feel Russia was responsible?

CLAPPER:

Absolutely. And regrettably, certainly he, although the conclusions that we rendered were the same as in the highly classified report, as the unclassified, unfortunately a lot of the substantiation for that could not be put in the unclassified report because of the sensitivity of it.

To me, the evidence was overwhelming, and very compelling, that the Russians did this.

LEAHY:

Does it serve any purpose for high officials, like the President, to say, "Well it could have been somebody else, it could have been china"? I mean does that really, does that help us, or does that help Russia?

CLAPPER:

Well, yes, I guess it could be -- you could rationalize that it helps the Russians by obfuscating who was actually responsible.

LEAHY:

Thank you, thank you very much, General.

Thank you, Miss Yates.

It's good to have you, both, here.

GRAHAM:

Senator Franken.

FRANKEN:

Thank you, Mr. Chairman.

I want to thank both you and the ranking member for -- for this hearing and these hearings.

And I want to thank General Clapper and -- and Attorney General Yates for -- for appearing today. We have -- the intelligence communities have concluded all 17 of them that Russia interfered with this election. And we all know how that's right.

CLAPPER:

Senator, as I pointed out in my statement Senator Franken, it was there were only three agencies that directly involved in this assessment plus my office...

FRANKEN:

But all 17 signed on to that?

CLAPPER:

Well, we didn't go through that -- that process, this was a special situation because of the time limits and my -- what I knew to be to who could really contribute to this and the sensitivity of the situation, we decided it was a constant judgment (ph) to restrict it to those three. I'm not aware of anyone who dissented or -- or disagreed when it came out.

FRANKEN:

OK. And I think anyone whose looked at even the unclassified border's pretty convinced that this is what happened. And one of the questions is, why do they favor Donald Trump? There are a number of contacts and communications that between Trump campaign officials and associates and members of the Trump administration, Jeff Sessions as Senator Leahy mentioned.

Carter Page, a former campaign advisor, Paul Manafort who was a former campaign manager and chief strategist, Rex Tillerson, secretary of state, friend of Russia war (ph) Roger Stone, and of course, Jared Kushner, White House senior advisor, Simon Law (ph) and Michael Flynn. All -- that's a lot, in -- in my mind.

Now, going to Flynn, he appeared during the campaign on Russia Today. Russia Today is the propaganda arm, one of the propagandas arms. And now you, General, since you've retired have you appeared on Russia today?

(LAUGHTER)

CLAPPER:

No, no, not willingly, you know.

FRANKEN:

OK. And -- and General Flynn received \$37,000 for sitting next to Putin at the 10th anniversary of Russia today. It seems -- all this seems very odd to me and raised a lot of questions.

I was struck that Mr. McGahn did not ask you in the second meeting why DOJ, General Yates, would have concerns that the -- that the national security advisor had lied to the vice president. In the first meeting, did you mention that? That that was -- that he might be compromised?

YATES:

Certainly, we went through all of our concerns in the first meeting. And it was in the second meeting that he just raised the question of essentially, why is this an issue for the Department of Justice if one White House official lies to another.

FRANKEN:

OK I don't understand why he didn't understand that.

YATES:

I'm not sure I can help you with that, Senator.

FRANKEN:

This is -- General Flynn after that, for 18 days stayed there and was in one classified thing after another. There are policies that deal with who gets clearance, security clearance and not.

The executive order 12968 outlines the rules for security clearances and says that when there is a credible allegation that raises concern about someone's fitness to access classified information, that person's clearance should be suspended, pending investigations, is that right?

The executive order also states that clearance holders must always demonstrate, quote, "trustworthiness, honesty, reliability, discretion and sound judgment, as well as freedom from allegiances and potential for coercion." Is that right?

And yet, the White House Council did not understand why the Department of Justice was concerned.

YATES:

Well, to be fair to Mr. McGahn, I think the issue that he raised, he wasn't clear on was why we cared that Michael Flynn had lied to the vice president and others, why that was a matter of ...

(CROSSTALK)

FRANKEN:

I think that's clear.

YATES:

Within DOJ jurisdiction.

FRANKEN:

I think that's so clear, I can't...

YATES:

Yes.

FRANKEN:

And the president had told -- President Obama had told the incoming president-elect two days after the election, don't hire this guy.

YATES:

I don't know anything about that.

FRANKEN:

Well, that's what we've heard.

(LAUGHTER)

FRANKEN:

And we have McGahn doesn't understand what's wrong with this? And then we have Spicer, the press secretary, saying the president was told about this. The president was told about this in late January, according to the press secretary.

So now he's got a guy who has been, the former president said, don't hire this guy. He's clearly compromised. He's lied to the vice president. And he keeps him on, and he lets him be in all these

classified phone -- lets him talk with Putin. President of the United States and the national security adviser sit in the oval office and discuss this with Putin.

Is it possible that the reason that he didn't fire him then was that, well, if I fire him for talking to the Russians about sanctions, and if I fire -- what about all the other people on my team, who coordinated? I mean, isn't it possible that the reason -- because you ask yourself, why wouldn't you fire a guy who did this? And all I can think of is that he would say, well, we've got all these other people in the administration who have had contacts. We have all these other people in the administration who coordinated, who are talking. Maybe that. I'm just trying to -- we're trying to put a puzzle together here, everybody.

And maybe, just maybe, he didn't get rid of a guy who lied to the vice president, who got paid by the Russians, who went on Russia Today, because there are other people in his administration who met secretly with the Russians and didn't reveal it until later, until they were caught. That may be why it took him 18 days, until it became public, to get rid of Mike Flynn, who is a danger to this republic.

Care to comment?

(LAUGHTER)

YATES:

I don't think I'm going to touch that, senator. Thank you.

GRAHAM:

Senator Blumenthal.

BLUMENTHAL:

Thank you, Mr. Chairman. And I want to thank you, Senator Graham, and Senator Whitehouse for conducting this hearing in a bipartisan way and for prioritizing this issue, which is of such gravity to our Democracy.

I want to thank each of you not only for your long and distinguished service, but also for the conscience and conviction that you have brought to your jobs. Whether we agree or disagree with you. I hope that there are young prosecutors around the country and young members of our intelligence committee who will watch this hearing and say, that's the kind of professional I want to be. Not just expert, but people of deep conviction and conscience.

And I agree with my colleagues that there ought to be an independent commission that can have public hearings, produce recommendations and a report.

But I also believe that there has to be a special prosecutor. Because what I hear from people in Connecticut and from my colleagues in their town halls and meetings is that people want the truth uncovered about how the Russians sought to interfere and undermine our democracy and electoral system. And they also want accountability.

They want not only the Russians to pay a price, they want anybody who colluded with the Russians or aided and abetted them to pay a price as well. And there are criminal statutes that prohibit that kind of collusion, and impose serious criminal fines and imprisonment for people who might have done that.

And we know that the FBI is now investigating the potential collusion of Trump associates and Trump campaign and administration officials with the Russians, as Director Comey has told us and made public. So, there's no classified information there.

The meeting that the FBI conducted on January 24th preceded by one day, approximately, your first meeting with Donald McGahn. Isn't it a fact that Michael Flynn lied to the FBI?

YATES:

And I can't reveal the internal FBI investigation, Senator, even though it's not -- even though part would not be technically classified, it's on ongoing investigation and I can't reveal that.

BLUMENTHAL:

Did you tell Donald McGahn that then-National Security Adviser Flynn told the truth to the FBI?

YATES:

No, he asked me how he had done in the interview, and I specifically declined to answer that.

BLUMENTHAL:

Because it was part of an investigation?

YATES:

That's right.

BLUMENTHAL:

Was that intended to indicate to him that Michael Flynn had a problem in that interview?

YATES:

No, I was intending to let him know that Michael Flynn had a problem on a lot of levels, but it wasn't necessarily with respect to how he performed in the interview. I was intentionally not letting him know how the interview had gone.

BLUMENTHAL:

And lying to the FBI is a crime, correct?

YATES:

It is, yes.

BLUMENTHAL:

Violation of 18 United States Code 1001?

YATES:

That's right.

BLUMENTHAL:

And it's punishable by five years in prison?

YATES:

Yes, it is.

BLUMENTHAL:

So, if Michael Flynn lied to the FBI, he had a ton of legal trouble facing him?

YATES:

He could face criminal prosecution if he lied to the FBI, yes.

BLUMENTHAL:

And if he became a foreign agent for another country, for Turkey, which he was a foreign agent for, without getting permission from the Department of Defense, he faced criminal penalties for that and still faces them, correct?

YATES:

Yes. It's certainly FARA violations can be criminally prosecuted, yes.

BLUMENTHAL:

In fact, it's a violation of 18 United States Code 219, and that's punishable by two years in prison, correct?

YATES:

Mm-hmm.

BLUMENTHAL:

And his failure to disclose payments from foreign sources which also he had done before you went to Donald McGahn is also criminally punishable, is it not?

YATES:

That was not a topic I discussed with Mr. McGahn and so it's not something I can discuss here today.

BLUMENTHAL:

But it is in fact, from your knowledge a violation of criminal law, is it not?

YATES:

To not disclose payments for it, yes, but I'm not speaking to his specific conduct, just generally that it is, yes.

BLUMENTHAL:

If Michael Flynn is prosecuted for any of these crimes, isn't it possible that the vice president of the United States might be a witness?

YATES:

I guess it would depend on the crime.

BLUMENTHAL:

If it were a false statement to the FBI about his conversations with the Russians, wouldn't the vice president potentially be called as a witness to corroborate that false statement?

YATES:

You know, I would be -- certainly that's possible, but I would be speculating how such criminal prosecution would come together.

BLUMENTHAL:

So where I'm going is, the need for a special prosecutor is because officials at the highest level who are responsible for appointing the deputy attorney general, the United States attorney general are all potentially witnesses and they are even targets, correct?

YATES:

Potentially.

BLUMENTHAL:

And so a special counsel, in order to hold those government officials or others responsible, really has to be independent, correct?

YATES:

Well, Department of Justice lawyers pride themselves on being able to be independent regardless of whether they're appointed as a special counsel.

BLUMENTHAL:

But the ultimate decision whether or not to prosecute, for the sake of appearance as well as in reality, should be made by someone who is unquestionably independent, objective, and impartial?

YATES:

Senator, I absolutely understand your concerns here. But the fact of the matter is, is that particularly as someone who just departed from the Department of Justice, I'm just not going to wade into whether or not they should have a special counsel or an independent counsel in this matter. I don't really think they need the formers telling them how to do their jobs.

BLUMENTHAL:

Well, I'm going to be very unfair to you and just ask you, as a private citizen, wouldn't you like to see a special counsel appointed under these circumstances?

(LAUGHTER)

YATES:

Not going to go there either, Senator.

BLUMENTHAL:

As an expert witness...

(LAUGHTER)

... for our committee, I'll qualify you as an expert if Judge Graham allows me to do it. Let me...

GRAHAM:

You'll have to pay her.

(LAUGHTER)

BLUMENTHAL:

Let me just close by asking you, my colleague, Senator Franken, made reference to warnings given to the -- given by President Obama to then-President-elect Trump about hiring Michael Flynn.

That is a public report from The New York Times, in fact, of today, which I ask to be entered into the record. And I also ask to be entered into the record, the February 9th report from The Washington Post, I believe there has been a reference to it.

Without that published report, and without the free press telling us a lot of what went on, Michael Flynn might still be sitting in the White House as national security adviser, because by January 30th, you were forced to resign, correct? You were fired.

YATES:

Yes, I was fired.

BLUMENTHAL:

So nobody was around to tell the White House, as you said, that our national security was in danger.

YATES:

Well, there were still the career officials in the National Security Division who had been working with me on this matter that were there and were certainly conversant in the facts.

BLUMENTHAL:

But the ultimate decision to go to the White House was yours?

YATES:

Yes, it was.

BLUMENTHAL:

Thank you, Mr. Chairman.

GRAHAM:

Senator Hirono.

HIRONO:

Thank you, Mr. Chairman.

In spite of the Trump administration's ongoing efforts to convince all of us that there is nothing to see here with regard to Russian interference with our 2016 election, the Trump team's connections to these efforts, we need to get to the bottom of this.

And so I thank Chair Graham and Ranking Member Whitehouse for these hearings. And in fact I just had a number of town hall meetings in Hawaii this past weekend. And hundreds of people came, and believe me, they care that we get to the bottom of this.

The Trump administration blames President Obama for failing to suspend General Flynn's clearance. And in fact in a press conference today, Sean Spicer said: "Everyone in the government goes through the same process."

And he also said: "There's no difference of a security clearance once it's issued. And basically as far as this administration is concerned, nothing more needed to be done" by them regarding General Flynn's clearance.

Director Clapper, isn't it true that the CIA has a separate vetting process for National Security Council appointees? And in fact the press is reporting today that General Flynn never completed that process. Can you enlighten us?

CLAPPER:

I can't speak to specifics of how it was done with General Flynn. I know what I went through as a political appointee twice in two -- in a Republican and a Democratic administration.

And the vetting process for either a political appointee or someone working in the White House is far, far more invasive and far, far more thorough than a standard TS/SCI clearance process.

But I don't know what process was used in General Flynn's case. And nor did I have access to his complete investigatory file, so it's very difficult for me to speculate on what was in it and what action, if any, was taken by the White House.

HIRONO:

Well, according to Sean Spicer, that he had a clearance from the Obama administration, and that was it. And this administration had no further responsibilities.

So let me go on. Others of my colleagues have mentioned, and you yourself, Mr. Clapper, said that RT is a Russian mouthpiece to spread propaganda. And, of course, we know that General Flynn attended a gala hosted by -- or a 10th anniversary gala for RT in December, 2015, where he sat next President Putin and got paid over \$33,000 for that.

Mr. Clapper, given the conversation that Ms. Yates provided to the White House regarding -- and this is during the January 26th and 27th timeframe -- regarding General Flynn, should he have sat in on the following discussions?

On January 28th, he participated in an hour-long call, along with President Trump, to President Putin. And on February 11th, he participated in a discussion with Prime Minister Abe and the president at Mar-a-Lago to discuss North Korea's missile tests.

Should he -- given the -- the information that had already been provided by Ms. Yates, should he have participated in these two very specific instances?

CLAPPER:

Well, I -- you know, I can't, it's difficult for me to answer, Because I'm not -- I -- I was out at that...

HIRONO:

Well, let's say you were in.

CLAPPER:

... point. I -- I don't -- as just a standard comment, a -- a general comment, I -- I don't think it -- it was a -- I don't think it was a good practice. Put it that way.

HIRONO:

So I think this comports with some of the concerns that have been raised about the appropriateness or adequacy of the Trump administration's vetting process with regard to various disclosures by other members of his administration, and, as I mentioned, the administration's continuing efforts to downplay Russia's interference in our elections.

After General Flynn resigned on February 13th, on February 15th, President Trump tweeted that Flynn is a, quote, "wonderful man," and, quote, "it's very, very unfair what's happened to General Flynn," unquote.

So, Mr. Clapper, is this the kind of statement that would be made by a president aware of serious security concerns about his former national security adviser?

CLAPPER:

Well, I -- I'm loath to comment on the tweets. I -- you know, that's -- that was, I -- I suppose, an honest expression of how he felt.

HIRONO:

Well, does this sound like somebody who knew that there were serious security concerns about it, that he would say it was very, very unfair, and that -- that Mr. Flynn is a wonderful man? Maybe I should just...

(CROSSTALK)

CLAPPER:

Well, I don't...

HIRONO:

... and people can draw their own conclusions.

CLAPPER:

... I -- I don't know what information was conveyed to the president. I -- I have no insight there. So I don't know to -- the extent to which he had an understanding of what the former attorney -- acting attorney general...

HIRONO:

Yes.

CLAPPER:

... conveyed. I don't know how much of that made its way to the president.

HIRONO:

Yes, precisely that -- that is a concern that I would have, that it sounds like perhaps the president was not aware.

And in fact, going on, in March, the president tweeted that Flynn should be given immunity -- Flynn resigned on February 13 -- and that the FBI's investigation is, quote, "a witch hunt."

So, I'd like to ask both of you, should these tweets -- these kinds of tweets and other similar assertions by the president have any influence at all on the FBI's ongoing investigation into Russian interference in our elections and team Trump's connections to these efforts?

CLAPPER:

Well, it shouldn't, and I'm confident it won't.

HIRONO:

I hope so.

I have a question about the Foreign Agents Registration Act violations -- FARA. A number of Trump administration officials are belatedly disclosing and registering their work on behalf of foreign governments under the Foreign Agents Registration Act, some of which raised serious counter-intelligence concerns.

I asked Director Comey about these concerns last week. Ms. Yates, what are the consequences for White House staffers who fail to disclose their foreign contacts on their security clearance forms?

YATES:

Well, there can be a variety of ramifications. You can lose your security clearance. You can lose your job, or, in certain circumstances, you can be criminally prosecuted.

HIRONO:

Is it up to the Department of Justice or the FBI to pursue these kinds of allegations against staffers who do not disclose appropriately?

YATES:

Again, it would all depend on the circumstances of the non-disclosure, whether it was willful, and what the circumstances were of the conduct underlying that. So it would really -- it's going to be very fact-specific.

HIRONO:

I agree that it should be fact-specific, but considering the allegations, though, I -- I hope that either the FBI or the Department of Justice is pursuing an investigation into these matters.

Again, under what circumstances would the Department of Justice decide to bring charges against someone for violating FARA? So you -- you said, Ms. Yates, it would depend on the facts...

YATES:

Right (ph).

HIRONO:

... of the -- of the situation.

If the president or someone close to him knew that a White House official failed to disclose work on behalf of a foreign government, and chose to cover that up. Again, can you reiterate again the possible repercussions to this person?

YATES:
To the individual?

HIRONO:
To the individual. Let's say that the allegations are proven true.

YATES:
That they fail to disclose their activity and that the President covered it up, or the individual did?

HIRONO:
Let's say the person knew or the administration knew and then the individual also covered it up?

YATES:
Well cover ups are bad. They (inaudible) usually as evidence of intent and so that's something that we look at in making determinations about whether it's something that should be criminally prosecuted. But again, you know it's going to be very fact specific. It's hard to give you a hard fast answer.

HIRONO:
And if the administration -- either knew or should have known --I'm sorry.

GRAHAM:
Senator.

HIRONO:
Thank you very much, you've been very ...

GRAHAM:
We're going to do a second round, but we're going to do it quickly and we're going to do four minute rounds and there's light at the end of the tunnel. We got a vote at 5:30, so I promise you you're going to get out of here pretty quick. But I know Senators have questions, starting with me and I'm going to enforce the four minutes to myself.

General Clapper, during your investigation of all things Russia, did you ever find a situation where a trump business interest in Russia gave you concern?

CLAPPER:
Not in the course of the preparation of the intelligence communities assessment.

GRAHAM:
Since?

CLAPPER:

I'm sorry?

GRAHAM:
At all, any time?

CLAPPER:
Senator Graham I can't comment on that because that impacts an investigation.

GRAHAM:
It wasn't enough to put into the report.

CLAPPER:
That's correct.

GRAHAM:
OK. Ms. Yates the rule of law, you cannot allow people to leak classified information because they want a particular outcome, that's not the rule of law, is that correct?

CLAPPER:
Absolutely.

GRAHAM:
Then I think you both agree with that concept. Did Mr. McCan(ph), in your view Ms. Yates, ask reasonable questions about your concerns?

YATES:
I didn't really have a judgment about whether they were reasonable or unreasonable. But I do think that Mr. McCan (ph) was trying to get to the bottom, in our discussion of what had happened with General ...

GRAHAM:
And he wanted to actually see the information that you were talking about?

YATES:
He indicated he did. Again, I don't have any way of knowing what happened after that.

GRAHAM:
But he said he wanted to and you tried to set that up.

YATES:
That's right.

GRAHAM:
OK. Now about surveillance, this is very important, an American citizen cannot be surveilled in the United States for colluding with a foreign government unless you have a warrant. Is that a true statement of the law?

YATES:
That's right.

GRAHAM:

Is it fair to say that incidental collection occurs, even in the united States?

YATES:

That's correct as well, yes.

GRAHAM:

OK. So there's two situations that we would have found out what General Flynn said to the Russian bastard. If there was a FISA warrant focused on him, was there?

YATES:

You asking?

GRAHAM:

Yes, either one of you.

YATES:

Again I think you know I'm not going to answer whether there was a FISA warrant. Nor am I even going to talk about whether General Flynn was talking to the Russians.

GRAHAM:

OK.

CLAPPER:

Oh I have to obviously going to go along with ...

YATES:

Well if he wasn't talking to the Russians, we've had a hearing for no good reason. So clearly he's talking to the Russians and we know about it. So if there is no FISA warrant, and I'm going to find out about this by the way. The other way that we knew what he was talking about, the Russia (inaudible) was incidentally surveilled. So those were the two options. Do we know who unmasked the conversation between the Russian ambassador and General Flynn? Was there unmasking in this situation?

CLAPPER:

Are you looking at me?

GRAHAM:

Yes sir.

CLAPPER:

I don't know.

GRAHAM:

Do you Ms. Yates?

YATES:

I can't speak to this specific situation. But can I try to clarify one point on this unmasking thing?

GRAHAM:
Very quickly.

YATES:
OK I'll try to do it quickly. As a consumer of intelligence I would -- for example, I would receive intelligence reports from various agencies.

GRAHAM:
I get that, no.

YATES:
Now often times the names are already unmasked by the intelligence agencies ...

GRAHAM:
The bottom line here is I want to know how it got to the Washington Post. Somebody had to have access to the information and they gave it to the Washington Post, is that a fair statement?

YATES:
That's right. That's what it looks like to me.

GRAHAM:
Is that right General Clapper?

CLAPPER:
Yes.

GRAHAM:
And it was -- neither one of you did it?

YATES:
That's right.

CLAPPER:
That's right.

GRAHAM:
How many people can request unmasking of American citizen in our government, General Clapper, how many?

CLAPPER:
I don't have an exact number. It's I think fairly limited, because it's a -- normally fairly high level officials.

GRAHAM:
How did you know that General Flynn was talking to the Russian's who told you?

YATES:

And I can't reveal that in an open setting. But what I was trying to say was, is that often times we receive intelligence reports where the name of the American citizen is already unmasked, and it's unmasked by the intel agency because, not based on anybody's request, but because the name of that citizen is essential.

GRAHAM:

Is that the situation here?

YATES:

I can't -- Senator, I cannot...

(CROSSTALK)

GRAHAM:

Thank you. My four minutes is up. Thank you both. But I want to know the answer to these questions.

Senator Whitehouse?

WHITEHOUSE:

Thanks, again, Chairman.

Two things. One, there are multiple levels of security clearances, and they're issued by different agencies, correct? So having one from DoD doesn't necessarily make you good for all positions and places.

CLAPPER:

It does not.

WHITEHOUSE:

And in DoD operates clearances at multiple levels, correct?

CLAPPER:

Right. But I think the key point here is that, as I indicated earlier, the requirements for a TS/SCI versus the requirements for occupying a sensitive position in the White House as a part of the National Security Council or...

(CROSSTALK)

WHITEHOUSE:

Way higher than for a retired general?

CLAPPER:

Well, exactly. And as I can attest, much more invasive and aggressive than a standard TS/SCI.

WHITEHOUSE:

Now in terms of compromise tradecraft, if you have somebody, and you have them compromised, it's pretty standard compromise tradecraft to ask them to do some little thing for you under the threat of having the compromising information disclosed.

And if you succeed, you now have two things on them. And you work it that way to get somebody more and more enmeshed in compromise until they're more or less owned by the intelligence agency. Is that a fair description of how you can develop compromise through regular tradecraft?

CLAPPER:

Yes, yes, yes.

WHITEHOUSE:

OK. Just want to make that sure, because we're talking a lot about it here.

Last thing, my list. So, I went through the list, it looked like propaganda, fake news, trolls, and bots. We can all agree from the IC report that those were in fact used in the 2016 election.

Hacking and theft of political information, the hack into the DNC, into the Podesta e-mails, I think we can all agree that that's a yes.

Timed leaks of damaging material. That appears very strongly to be a yes, because of the timing of the release, smack after the "Access Hollywood" release.

I believe that the answers were correct, no, as to in-country assassination and political violence by the Russians here in the United States. Would you both agree with that?

CLAPPER:

I don't think we turned up any evidence of that.

WHITEHOUSE:

OK. And controlling investment in key economic sectors for leverage, it seems that our economy is probably a little too big for that and there was no evidence of that in the IC report either, correct?

CLAPPER:

That's correct.

WHITEHOUSE:

So, the question of shady business and financial ties that not only start out as bribery, perhaps, or as highly favorable deals, secret deals with Russians, but that in turn can then turn into compromise?

CLAPPER:

It could.

WHITEHOUSE:

And it's not just the carrot of I'm continuing to bribe you, at some point you have a stick over the individual of, I'm going to out the deal that we have unless you do this, correct?

CLAPPER:

That's classic kompromat.

WHITEHOUSE:

And we do not yet know the extent to which that has played a role in the 2016 Russian election hack, correct?

CLAPPER:
I don't.

WHITEHOUSE:
And in terms of corrupting and compromising politicians, same, we don't know the full extent of whether or not politicians have been corrupted and compromised?

CLAPPER:
I certainly don't -- I did not and don't.

WHITEHOUSE:
So, if we were to go down this, yes, yes, yes, no, no, question mark, question mark, would be our tally at the end. Are we agreed on that?

CLAPPER:
Yes.

WHITEHOUSE:
OK.

Anything else, Ms. Yates?

YATES:
Not from me, sir.

WHITEHOUSE:
Terrific. Thank you.

I yield back my nine seconds.

(LAUGHTER)

GRAHAM:
You're a trend-setter.

Senator Grassley?

GRASSLEY:
Mr. Clapper, you said yes when I asked you if you ever unmasked a Trump associate or a member of Congress. But I forgot to ask, which was it? Was it a Trump associate, a member of Congress, or both?

CLAPPER:
Over my time as DNI, I think the answer was on rare occasion, both. And, again, Senator, just to make the point here, my focus was on the foreign target and at the foreign target's behavior in relation to the U.S. person.

GRASSLEY:

OK. How many instances were there, or was there just one?

CLAPPER:

I can only recall one.

GRASSLEY:

Could you provide...

CLAPPER:

It could have been more. And the best accounting of this would be in accordance with the procedure, the collecting agency, and that would be a better source of records than the top of my head.

GRASSLEY:

OK.

Could you provide us more details in a classified setting?

CLAPPER:

I could.

GRASSLEY:

OK.

Miss Yates, the same question -- you said, I don't know what you said to answer my question about if you were involved in any unmasking, were you involved?

YATES:

No, I've never asked for anyone to be unmasked.

GRASSLEY:

OK.

Senator Graham, both you and I, and maybe other people, have been said that we need a classified setting to get some answers here. I assume you're going to pursue that?

GRAHAM:

Yes, sir.

GRASSLEY:

OK.

Let's see, I got time for a couple more questions, I believe.

Regardless of any disagreements that we have about allegations of collusion, the fact that Russia tried to meddle in our democracy is obviously a front to all Americans. We have to punish Russia, and we have to deter all nations from these shenanigans.

Do you two believe that the government's response, so far, has been enough to deter future attacks of this kind? And if not, what else would you think we should be doing?

Miss Yates, would you start out, please?

YATES:

I think they're coming back, and we have to do a whole lot more, both to harden our election systems, our state election systems, to ensure that folks out there know when they're looking at news feeds, that it may not be real news that they're reading.

I think that we have to do more to deter the Russians, and it wouldn't hurt to prosecute a few folks, but I don't think we should kid ourselves, that we'll be able to prosecute our way out of this problem.

GRASSLEY:

OK, Mr. Clapper.

CLAPPER:

Well, as much as I love Congressional Hearings, I think there is a useful purpose served. Because I think the most important thing that needs to be done here, is educate the electorate as to what the Russians' objective is, and the tactics and techniques, and procedures that they've employed and will continue to employ, and I predict it will be against all the parties.

And so, I think education of the public is the most important thing we can do in this hearing, grudgingly though, I admit it, serves that purpose to the extent that this can be shared openly.

GRASSLEY:

So, your . . .

CLAPPER:

I do think as well, there needs to be more done in the way of sanctions to the Russians, or any other government, that attempts to interfere in our election process.

GRASSLEY:

I'm done.

GRAHAM:

thank you very much.

Senator Klobuchar?

KLOBUCHAR:

Thank you.

And we thank you, both, for being here again.

I think Senator Graham asked if you would want to come back, then Director Clapper, and we're very glad that you're here.

So, when I asked my questions before, I asked about this general fact, if a high-ranking national security official is caught on tape, with a foreign official, saying one thing in private, and then says something in public that's different, and if that's material for blackmail. And you, both, said that it was.

Can you give me an examples, just from your experience, Director Clapper, of when Russians have used, for one of better words, sex, lies, and videotape against people as blackmail?

CLAPPER:

Well, I don't have a lot of direct knowledge external to Russia, this is a classical technique going back to Soviet era, that they would use to co-opt, compromise political opponents. And of course, you know, the current administration in Russia is even more aggressive than that, where they just blot out people for being opposition.

So, there are examples of that, I don't have them off the top of my head, but I have read, and seen it, particularly during the Soviet era, internal to the Soviet Union, that this was a common practice.

KLOBUCHAR:

What about our election infrastructure, as we move forward? As you said, one major thing we need to do, is to educate the public.

And I'm very concerned, while we have different states, have different election equipment on the ranking on rules, and we're working on a Bill on this. How important is that to protect the integrity of our election equipment?

CLAPPER:

It's quite important and speaking now as a private citizen, not my former capacity, I do think that our election apparatus should be considered critical infrastructure, and should have the protections that are tended to that. A lot of states pushed back when Jeh Johnson, secretary of Homeland Security, engaged with state election officials about having that designation and having the federal government interfere in -- in their election process. But as a citizen, I'd be concerned with doing all we can to secure that apparatus part of the -- attendant (ph) to the intelligence community assessment that we put out. DHS put out a paper on best practices for -- as an advisory on how to secure election apparatuses in -- at the state and local level.

KLOBUCHAR:

Very good. Do you think we're doing a good enough job now, back to the propaganda issue, in educating our citizens about this?

CLAPPER:

No, we're not. And the other thing we don't do well enough is the counter messaging.

KLOBUCHAR:

And how would you suggest we could improve that?

CLAPPER:

I would be for -- I have been an advocate for a USIA (ph) on steroids. I felt that way in terms of countering the message from ISIS, who is very sophisticated at conveying messages and proselytizing and recruiting people. Our efforts to counter message are too fragmented in my -- in my own opinion. That's all I'm saying here. I -- I would seriously consider the notion of a, as I say, a USIA (ph) on steroids not only for the...

KLOBUCHAR:

What would that mean exactly?

CLAPPER:

I'm sorry?

KLOBUCHAR:

Well, someone that we could -- we could message or counter message, and our efforts to counter violent extremist ideology, particularly that from ISIS, who are very skilled at this and we -- I don't think we do, as a nation, we do a good enough job. I think counter messaging the Russians, giving them some of their own medicine much more aggressively than we've done now. And I would hasten to add that is - - should not be tagged onto the intelligence community. It needs to be a separate entity from the intelligence community, something the I.C. would support, but should be separate from that.

KLOBUCHAR:

Mr. Chair, just one last question. Ms. Yates, you brought a lawyer with you, a career lawyer, to the meeting at the White House. Is that right?

YATES:

Yes, that's right.

KLOBUCHAR:

About when you were giving these warnings about the knowledge you had on General Flynn. Is that normal practice? Why did you do that?

YATES:

Well, this was a person who was the career lawyer who was supervising this matter and we thought that it was important. First of all, she had been the one who was most intimately familiar with it, but secondly, we knew that my tenure was going to be short and wanted to make sure that there was continuity there and that...

(CROSSTALK)

KLOBUCHAR:

You just didn't know it was going to be that short.

YATES:

I didn't.

KLOBUCHAR:

OK. Thank you.

(LAUGHTER)

GRAHAM:

I think the vote is on, so I hate to change, but let's do three minutes.

KENNEDY:

I can be very quick.

GRAHAM:

Yes, sir.

KENNEDY:

Mr. Clapper, does Mr. Putin have any assets in the United States?

CLAPPER:

I don't know the answer to the question.

KENNEDY:

Who would know that?

CLAPPER:

Well, some component in the intelligence community might know it or the FBI, but I don't know.

KENNEDY:

Do you know if any of Mr. Putin's friends might have assets in the United States that are being held for Mr. Putin?

CLAPPER:

That's a possibility, yes.

KENNEDY:

Who would know that? Same person?

CLAPPER:

I'm sorry?

KENNEDY:

Who would know that? Same person?

CLAPPER:

I would guess the FBI.

KENNEDY:

OK. If the intelligence community and the attorney general knew all this information about Mr. Flynn, how did he get a security clearance?

CLAPPER:

Knew what about Mr. Flynn?

KENNEDY:

Well, that he had had a conversation with the Russian ambassador about sanctions.

CLAPPER:

Well, that was late -- that was the 29th of December or so, whenever that -- whenever that -- as reported in the media when that took place.

KENNEDY:

January 19th, I think, the president was sworn in, 17th, something like that. How did he get a security clearance?

CLAPPER:

Well, he was a security clearance -- had one for a long time. He's a career military intelligence officer. I don't know the specifics of when his -- when his fell due. The system is every five years -- the current system, every five years, you're supposed to get a periodic reinvestigation. I don't know the details of that. It would probably be done by his old agency, the Defense Intelligence Agency, but...

KENNEDY:

But don't you have to get some additional double secret security clearance to serve in the White House?

CLAPPER:

Well, yes, you do. And as I indicated before...

KENNEDY:

Can i ask you how he got one...

CLAPPER:

... the process is done -- I don't know how it's done in this administration.

KENNEDY:

OK.

CLAPPER:

But my own knowledge of how it was done when I served in the Bush administration and again in the Obama administration, there's an extensive vetting process by the FBI.

KENNEDY:

OK. Let me stop you because I've only got 50 seconds.

Ms. Yates, are there any reasonable arguments that can be made in defense of President Trump's executive order?

YATES:

I don't believe that there are reasonable legal arguments that are grounded in truth that can be made in defense of his argument that the travel ban was not intended to have an impact, a religious impact, and to disfavor Muslims.

KENNEDY:

So you believe that the arguments made by the lawyers who are now defending the executive order are unreasonable?

YATES:

I believe that the Department of Justice has a responsibility to uphold the law and to always speak the truth, particularly when it's about something as fundamental as this executive order was, that deals with religious freedom.

But let me say this. I have tremendous respect for the career men and women of the Department of Justice, including the lawyers in the civil division who are handling this. But their obligation was different than mine. They must make an argument if they can make a reasonable legal argument. As acting attorney general, my responsibility was broader than that and I had to look beyond the confines of the face of the E.O. to look at the president's statements and to look at other factors to determine what was the actual intent here, and that was the basis for my decision.

KENNEDY:

And for the record, different travel ban.

GRAHAM:

Yeah, there's a -- the first order was withdrawn. There's a second one out there.

Senator Blumenthal.

BLUMENTHAL:

Thanks, Mr. Chairman.

Ms. Yates, so far, the concerns you expressed about the constitutionality of these executive orders have been upheld by the courts, correct?

YATES:

That's right.

BLUMENTHAL:

Second, Director Clapper, on the issue of possible use of the far right websites by the Russians, you were asked earlier whether you have any knowledge about that potential cooperation or involvement. Do you have independent knowledge of the use of those far right websites?

CLAPPER:

I don't. I don't have, at least off the top of my head, specific knowledge or insight into that connection. Could have been, I just don't know that directly.

BLUMENTHAL:

But you made reference to published reports. You said, I think, you knew about it from what you read about in the newspapers.

CLAPPER:

Well, that's a specific reference to what happened in -- occurred in France.

BLUMENTHAL:

Correct. And the same tactics that were used most recently in France were also used or at least reportedly used in this country?

CLAPPER:

Correct.

BLUMENTHAL:

And I'd like to put in the record one public report, there are probably others, a McClatchy report of March 20th, which begins with the lead, "federal investigators are examining whether far right news sites played any role last years in the Russian cyber operation that dramatically widened the reach of news stories, some fictional, that favored Donald Trump's presidential bid." It quotes tow people familiar with the inquiry and it goes on to mention, "Among those sites, Breitbart News and Infowars."

Mr. Chairman, if this report could be entered into the record.

GRAHAM:

(OFF-MIKE)

BLUMENTHAL:

Do you have knowledge, Ms. Yates, of that federal investigation?

YATES:

I don't, and if I did, I couldn't tell you about it.

BLUMENTHAL:

I thought that might be your answer.

Finally, you said, Ms. Yates, that we're not going to prosecute our way out of the Russian continued attack on this country. But putting Americans in prison if they cooperate, collude, aid and abet or otherwise assist in that illegality might send a very strong deterrent message, correct?

YATES:

I expect that it would, yes.

BLUMENTHAL:

And there are indeed criminal penalties existing on the books, we don't need new laws, which involve criminality and potential criminal prosecution for those acts, correct?

YATES:

Yes, that's right.

BLUMENTHAL:

Thank you very much, Mr. Chairman.

GRAHAMN:

Thank you all. We're at the end of the day and you've been great. I think the public is better educated, at least I hope, about what Russia did. Seems to be bipartisan consensus that Russia tried to interfere with our election. We have some differences in other places.

But just some housekeeping here, you will provide to the committee if you could, Mr. Clapper -- I know you're a private citizen now, but if you could help us to determine the pool of people that can request unmasking, we'd appreciate it some later date. When it comes to (inaudible) collection on 2016 campaigns, I'm a little confused, but I think we found at least one occasion where that did happen. You made a request for unmasking on a Trump associate and maybe a member of Congress? Is that right, Mr. Clapper?

CLAPPER:
Yes.

GRAHAM:
OK. Do we know any others off the top of your head of any other candidate on either side of the aisle?

CLAPPER:
Well, I don't -- there could have been other requests -- unmasking requests that I...

GRAHAM:
But there's a way to find that out.

CLAPPER:
Yes.

GRAHAM:
OK, good.

CLAPPER:
And the best way to do it would be to the original collection agency...

(CROSSTALK)

GRAHAM:
Right, to find out who requested what.

Finally, the current deputy attorney general, do you know him, Ms. Yates?

YATES:
(OFF-MIKE)

GRAHAM:
Do you have confidence in him?

YATES:
Yes, I do.

GRAHAM:
Thank you all.

WHITEHOUSE:
Final comment?

GRAHAM:
Absolutely.

WHITEHOUSE:
During the last hearing, we had the author of the Kremlin playbook as one of our witnesses and we had the very well-regarded Kenneth Weinstein as one of our witnesses, and they both agreed that the United States is leaving itself vulnerable to this kind of influence if we continue to allow shell corporations to proliferate without a way for law enforcement to figure out who the beneficial owners are.

So I mention that because Chairman Grassley and I are working on a piece of legislation to help solve that, but I think it's very important in this area and I just wanted to flag it and express to Chairman Grassley my appreciation for his bipartisan cooperation on that front, and of course, my appreciation to Chairman Graham for his work to make this hearing a success and so interesting and meaningful.

Thank you.

GRAHAM:
Thank you both. The hearing is adjourned.

List of Panel Members and Witnesses

PANEL MEMBERS:

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WITNESSES:

SALLY Q. YATES, FORMER ACTING ATTORNEY GENERAL

JAMES R. CLAPPER JR., FORMER DIRECTOR OF NATIONAL INTELLIGENCE

Source: CQ Transcripts
CQ CONGRESSIONAL TRANSCRIPTS
Congressional Hearings
May 8, 2017 - Final

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