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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

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March 30, 2017

The Honorable James Comey
Director, Federal Bureau of Investigation
Federal Bureau of Investigation Headquarters
935 Pennsylvania Avenue, NW
Washington, D.C. 20535

Dear Director Comey:

We write with great concern regarding the security clearance background investigations and adjudication determinations of certain White House officials who have sought access to classified national security information. On March 1, 2017, we sent a letter to Administration officials inquiring into the security clearances investigations and adjudications of key White House personnel. The deadline for a response was March 17. As of March 29, we have not yet received a response. Because we still lack this information regarding a critical national security matter, a response directly from the Federal Bureau of Investigation is now necessary.

As you know, there are four major components to the personnel security clearance process; 1) pre-investigation (including the submission of Standard Form SF-86), 2) investigation, 3) adjudication, and 4) reinvestigation. Because the Federal Bureau of Investigation (FBI) is charged with the investigation and reinvestigation for certain White House officials before their clearance eligibility is determined, it is critical that White House adjudicators have all derogatory or potentially damaging information about each individual working in the White House. In short, if the FBI does not do its job correctly, White House adjudicators cannot do theirs.

Recent reports have indicated that portions of the White House's security clearance process have experienced breakdowns since the beginning of the new Administration. Examples of these breakdowns include the hiring and subsequent resignation of former National Security Advisor Michael Flynn, the hiring of Dr. Sebastian Gorka as a senior White House counterterrorism official despite reports that he may have failed to disclose his membership in a Hungarian neo-Nazi organization, and the reported dismissal of six White House employees after not passing the initial pre-investigation process. These cases highlight the need not only for more oversight of the personnel security clearance process but also increased scrutiny of White House officials who seek access to classified national security information.

Perhaps the most disturbing case is that of former National Security Advisor Michael Flynn. While Mr. Flynn's security clearance is currently suspended by the Defense Intelligence

Agency, there is compelling evidence to show that – based on recent reports – his position as the National Security Advisor might have jeopardized White House decisions about our national security. First, according to reports, former senior administration officials relayed to then President-elect Trump’s counsel that Mr. Flynn could be susceptible to blackmail based on the transcript of his intercepted call with the Russian Ambassador to the U.S. Sergei Kislyak. Second, Mr. Flynn appears not to have self-reported travel to Moscow and payment of more than \$30,000 from a Russian state-run broadcaster RT TV-Russia for a speech in December 2015. Finally, Flynn failed to register as a foreign agent for his work on behalf of a Turkish company whose founder has close ties to Turkey’s government. When taken individually, each of these three examples demonstrates highly derogatory information about Mr. Flynn that merited further investigation. When taken together, it is exceedingly clear that Mr. Flynn’s re-investigation and adjudication should have uncovered his ineligibility to serve as the President’s senior advisor on national security issues.

Further, it has been widely reported that Dr. Sebastian Gorka, Deputy Assistant to the President, may have concealed his membership in the far-right Hungarian anti-Semitic organization known as Vitézi Rend on his naturalization application. Such failure to disclose this during the course of one’s naturalization proceedings would be unlawful. Moreover, it was reported that Dr. Gorka in February 2016 was arrested and charged with a misdemeanor for allegedly taking a 9 mm pistol through a TSA checkpoint at Ronald Reagan Washington National Airport. These reports call into question Dr. Gorka’s suitability to hold a Top Secret security clearance and to serve as a senior advisor to the President.

These incidents raise questions as to whether the FBI has fully investigated all White House staff who seek access to classified information. Given the concerns related to Mr. Flynn and Dr. Gorka, these incidents also raise questions as to whether the White House overruled any adjudication determinations despite derogatory information being found by the FBI, and allowed officials who were otherwise determined ineligible for security clearances to access classified information. Unfortunately, public trust is undermined by these recent events, and a number of questions need to be answered before our confidence in this process can be restored. Therefore, we request the following information, along with any supporting documentation:

Former National Security Advisor Michael Flynn

1. When was Mr. Flynn’s most recent Single Scope Background Re-Investigation conducted? Were you permitted full access to the results of this re-investigation?
2. Did the White House submit a request to the FBI for a background investigation to be conducted for Mr. Flynn?
3. Did the FBI conduct a background investigation for Mr. Flynn following the election and prior to him working at the White House?
4. If so, how long did it take for the FBI to conduct Mr. Flynn’s background investigation?
5. Was Mr. Flynn subject to a Counterintelligence Scope Polygraph prior to taking his position as National Security Advisor?

6. Was Mr. Flynn required to undergo a polygraph as part of his most recent security clearance investigation or for any other reason?
7. Did Mr. Flynn accurately indicate the extent of his contact with Russian government officials on his most recent SF-86 form? Did Mr. Flynn accurately indicate the extent of his contact with Turkish government officials on his most recent SF-86 form? Does the FBI have access to all SF-86 forms Mr. Flynn submitted while employed at the Department of Defense?
8. Does the FBI maintain records of Mr. Flynn's foreign travel prior to him working at the White House?
9. Does the FBI have records of Mr. Flynn's foreign contact logs during his time as Director of the Defense Intelligence Agency?
10. Was the FBI provided access to or made aware of Mr. Flynn's client list, invoices, payments, and taxes filed by the Flynn Intel Group in the course of his latest re-investigation?

Deputy Assistant to the President Sebastian Gorka

11. Has the FBI subjected Dr. Gorka to a Single Scope Background Investigation (SSBI)? If so, when was the investigation completed?
12. Was the FBI aware of the allegations against Dr. Gorka that he allegedly may have concealed membership in the organization known as Vitézi Rend? Did the FBI conduct any follow up to ensure the accuracy of this allegation?

White House Staff

13. Do FBI investigations of White House staff screen for evidence of foreign influence or risk of foreign exploitation? Are White House employees screened for their likelihood to be subject to blackmail, coercion, or extortion?
14. Did the FBI conduct Single Scope Background Investigations for all members of the White House staff?
15. Please list the White House positions for which the FBI has already completed background investigations. Of these positions, please provide further information about whether derogatory information was uncovered over the course of the investigation(s) and whether such information was provided to the White House Office of Administration prior to adjudication.

We request you provide this information no later than April 14, 2017 and look forward to your prompt response to this inquiry.

The Honorable James Comey

March 29, 2017

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Sincerely,



Jon Tester



Claire McCaskill



Tom Carper



Margaret Wood Hassan

cc: Ron Johnson
Chairman