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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

Marcia Lee Kelly
Deputy Assistant to the President
Director of White House Management and Office of Administration
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Ms. Kelly:

We write with great concern regarding the security clearance background investigations and adjudication determinations of certain White House officials who have 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 White House 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. While the Federal Bureau of Investigation (FBI) is charged with the investigation and reinvestigation for certain White House officials, the determination that a White House official requires and is eligible for a security clearance is the responsibility of the Office of Administration's Personnel Security Division.

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 serving as the National Security Advisor might have jeopardized our national security. In particular, reports indicate that senior administration officials under President Obama told President Trump's

transition team that he could be susceptible to blackmail based on intercepted phone calls with the Russian Ambassador to the U.S., Sergei Kislyak. In addition, 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, Mr. 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. Each of these revelations includes derogatory information about Mr. Flynn that merited further investigation. When taken together, they make it 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.

Finally, to ensure the proper oversight of the pre-investigation process at the White House, we require more information about the six White House officials who were dismissed during a pre-investigation and after submitting their SF-86 forms. While the pre-investigation process appears to have functioned, their dismissal serves as a reminder that the activities engaged in by senior White House officials, including the President's former Director of Scheduling, were so severe that they were ultimately found ineligible from holding a security clearance.

These reports raise questions as to whether the White House is properly vetting officials who seek access to classified information or is following existing policies and procedures related the granting of security clearances. They also raise questions as to whether any adjudication determinations were overruled to allow officials who were 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 your office submit a request 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? If so, who in the White House or at the Department of Defense was in charge of adjudicating Mr. Flynn's case?
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?
8. Does the FBI maintain records of Mr. Flynn's foreign travel prior to him working at the White House? If so, does your office have access to these records?
9. Does the FBI have records of Mr. Flynn's foreign contact logs during his time as Director of the Defense Intelligence Agency? If so, does your office have access to these records?
10. What additional areas of concern were flagged by investigators during Mr. Flynn's most recent background investigation?

Deputy Assistant to the President Sebastian Gorka

11. Does Dr. Gorka currently hold a security clearance? If so, what level clearance eligibility does Dr. Gorka currently have?
12. Does Dr. Gorka currently have access to classified information?

White House Personnel Security Clearance Process

13. Which White House positions currently require security clearances?
14. What are the dates on which these security clearances were granted to staff and what are the dates of the most recent investigations and re-investigations for these individuals?
15. Why does each of these individuals require a security clearance to hold their positions?
16. What requirement determines the need for these individuals to access classified information and hold security clearances? Which individual, office, or policy makes this determination within the White House?
17. How many individuals within the White House have recently been denied a security clearance? What were their intended job titles and responsibilities? Of those individuals who were denied a clearance to work at the White House, have any been hired or are in the process of being placed in another federal government department or agency in the Administration?
18. Are there any White House officials currently employed who have derogatory and/or disqualifying information in their background investigation, yet who the White House still deems eligible to hold a security clearance?
19. Are there any current White House officials who were determined to be ineligible for a security clearance or have not received an eligibility determination but for whom a senior Administration official, an individual designated by the President, or the

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President overruled that determination or allowed access to classified information? If so, who are these employees? Furthermore, which individual at the White House overruled the determination(s)?

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

Sincerely,



Jon Tester



Claire McCaskill



Tom Carper



Margaret Wood Hassan

cc: Ron Johnson
Chairman