

# Congress of the United States

Washington, DC 20515

February 15, 2017

The Honorable Michael E. Horowitz  
Inspector General  
Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Mr. Horowitz:

Over the last several days, there have been a series of news articles recounting potentially classified national security information.<sup>1</sup> These include reports on communications of or regarding the President's former National Security Advisor, Lieutenant General Michael Flynn (ret.). Another report cited "current and former U.S. officials," and detailed a meeting between then-Acting Attorney General Sally Q. Yates and White House Counsel Donald McGahn.<sup>2</sup>

According to some of the reports, the information may come from classified intelligence products. In one case, reports indicate the National Security Division of the Department of Justice applied for a warrant from the Foreign Intelligence Surveillance Court to intercept electronic records from Russian banks.<sup>3</sup> Other reports cite to a U.S. intelligence agency's monitoring of Flynn's call or calls with Russia Ambassador Sergey Kislyak.<sup>4</sup>

Generally, collection activities by intelligence agencies are classified, as are the products that result from those activities. This is to ensure the continued integrity of the sources and methods used. Therefore, it seems probable that the fact that an intelligence agency monitored the call, if it did, as well as any recording of the call, would also be classified. Similarly, the Department of Justice's reported application for and receipt of a Foreign Intelligence Surveillance Court warrant would likely be classified.

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<sup>1</sup> E.g., *Trump, GOP lawmakers eye 'illegal' leaks in wake of Flynn resignation*, FOX NEWS, Feb. 14, 2017, <http://www.foxnews.com/politics/2017/02/14/trump-gop-lawmakers-eye-illegal-leaks-in-wake-flynn-resignation.html>; Mark Hensch, *DOJ warned Flynn could be vulnerable to blackmail: reports*, THE HILL, Feb. 13, 2017, <http://thehill.com/policy/national-security/319361-doj-warned-wh-on-flynn-report>.

<sup>2</sup> Adam Entous, et al., *Justice Department warned White House that Flynn could be vulnerable to Russian blackmail, officials say*, WASH. POST, Feb. 13, 2017, <http://wapo.st/2IRDQzl>.

<sup>3</sup> E.g., Paul Wood, *Trump 'Compromising' Claims*, BBC, Jan. 12, 2017, <https://amp.theguardian.com/us-news/2017/feb/14/flynn-russia-trump-putin-relationship>.

<sup>4</sup> E.g., Greg Miller, et al., *National Security Adviser Flynn Discussed Sanctions with Russian Ambassador, Despite Denials, Officials Say*, WASH. POST, Feb. 9, 2017, <https://wpo.st/kntb2>; Editorial, *Eavesdropping on Michael Flynn*, WALL ST. J., Feb. 13, 2017, <http://www.wsj.com/articles/eavesdropping-on-michael-flynn-1487031552>.

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We have serious concerns about the potential inadequate protection of classified information here. Federal laws, and the Constitution, distinguish law enforcement investigation authorities from intelligence collection authorities for good reason, and in neither case is collection intended to enable the government's publication of conversations surreptitiously recorded by intelligence agencies. Similarly, the release of classified national security information can, by definition, have grave effects on national security.<sup>5</sup> In light of this, we request that your office begin an immediate investigation into whether classified information was mishandled here.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. The Committee on the Judiciary has jurisdiction over the Department of Justice and the nation's criminal and surveillance laws.

We thank you for your attention to this matter.



Jason Chaffetz  
Chairman  
House Committee on Oversight  
& Government Reform

Sincerely,



Bob Goodlatte  
Chairman  
House Committee on the Judiciary

cc: The Honorable Elijah E. Cummings, Ranking Minority Member,  
House Committee on Oversight & Government Reform

The Honorable John Conyers, Ranking Minority Member,  
House Committee on the Judiciary

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<sup>5</sup> Exec. Order No. 13,526 (2009).