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United States Senate

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

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July 6, 2017

The Honorable Jeff Sessions
Attorney General
Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Sessions:

On June 13, 2017, you testified before the Senate Select Committee on Intelligence that the Department of Justice has opened investigations into recent unauthorized disclosures of sensitive matters that are “extraordinarily damaging to the United States security.”¹ The majority staff of the Senate Committee on Homeland Security and Governmental Affairs has been examining the recent, seemingly unprecedented rate of disclosures of information that could potentially be harmful to national security. In light of the Department’s ongoing investigations, I write to make the Department aware of the results of this examination.

This examination explored what *The New York Times* called the “staggering number of leaks from sources across the federal government” since President Trump’s inauguration.² Using Executive Order 13526 as a basis for determining the information that could be harmful to national security, the inquiry scoured anonymously-sourced, publicly-available news articles published between January 20, 2017, and May 25, 2017. The examination found:

- Since President Trump took office, there have been at least 125 separate leaks of information potentially damaging to national security pursuant to Executive Order 13526, signed by President Obama in 2009 – a leak a day.³
- While the majority of leaks concerned the investigation of alleged Russian interference in the 2016 election, other leaks during the Trump Administration disclosed information about U.S. adversaries or possible military plans against them.
- Leaked stories were sourced to virtually every possible type of anonymous current and former U.S. officials, some clearly from the intelligence community.

¹ *Open Hearing: Open Testimony of Attorney General of the United States, Jeff Sessions: Hearing Before the S. Select Comm. on Intelligence*, 115th Cong. (2017).

² Michael M. Grynbaum & John Koblin, *After Reality Winner’s Arrest, Media Asks: Did ‘Intercept’ Expose a Source?*, WASH. POST (June 6, 2017), <https://www.nytimes.com/2017/06/06/business/media/intercept-reality-winner-russia-trump-leak.html? r=0>.

³ Nat’l Archives Information Sec. Oversight Office, *The President Executive Order 13526*, <https://www.archives.gov/isoo/policy-documents/consi-eo.html> (last visited June 22, 2017).

- The rate of potentially damaging leaks during President Trump's first 126 days in office was about seven times higher than the comparable periods under President Obama and President George W. Bush.

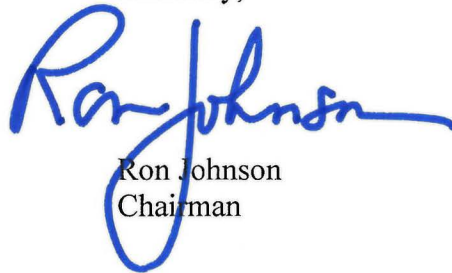
By necessity, this examination was not comprehensive, and it required some judgement calls on which leaks constituted potential damage to national security.⁴ Leaks of information that were borderline in terms of the criteria outlined in Executive Order 13526 were not included in the total. This analysis, if anything, presents a conservative estimate of the volume of leaks of information potentially damaging to national security during the Trump Administration.

The Committee on Homeland Security and Governmental Affairs is entrusted to oversee our nation's federal records and to examine "the effectiveness of present national security methods, staffing, and procedures as tested against the requirements imposed by the rapidly mounting complexity of national security problems."⁵ The recent deluge of unauthorized disclosures of information with the capacity to harm national security has real world consequences. Existing federal law already prohibits the release of this type of information.⁶ It is the responsibility of the Justice Department to decide whether to bring criminal prosecutions in leak cases.

As the Department continues its investigation, I hope that you will take care to ensure that the analysis can be useful to the relevant investigative entities, consistent with Departmental policies and your recusal.⁷ The success of the Department's investigation is crucial to safeguarding our nation's most sensitive information.

If you have any questions, please feel free to contact me directly or ask your staff to contact Jerry Markon at (202) 224-4751. Thank you for your attention to this matter.

Sincerely,



Ron Johnson
Chairman

cc: The Honorable Claire McCaskill
Ranking Member

⁴ No classified information was accessed or reviewed during this examination. The report takes no position on the accuracy of the reported information.

⁵ S. Rule XXV(k); S. Res. 62, 115th Cong. (2017).

⁶ *E.g.*, 18 U.S.C. § 793 (2012).

⁷ Press Release, U.S. Dep't of Justice, Attorney General Sessions Statement on Recusal (Mar. 2, 2017),

<https://www.justice.gov/opa/pr/attorney-general-sessions-statement-recusal>.