

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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May 22, 2017

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

All of the Democratic Members of our Committee have been asking you for weeks to issue a subpoena to compel the White House to produce documents that it has been withholding in response to the bipartisan request that you and I made on March 22, 2017, relating to former National Security Advisor Michael Flynn.

We need to know what the President, Vice President, White House Counsel, and other top officials knew about General Flynn—and when they knew it.

In refusing our requests for a subpoena, you have made the same argument as President Trump—that you believe the White House bears no responsibility for vetting General Flynn for the position of National Security Advisor because he received his latest security clearance renewal under the Obama Administration in early 2016.

During an interview on national television on April 25, 2017, you stated: “It was the Obama White House that this would have fallen under. I don’t think what happened here is really the fault of Donald Trump.”¹

Three days later, President Trump took your argument a step further and blamed President Obama personally:

When they say we didn’t vet—well, Obama, I guess, didn’t vet, ‘cause he was approved at the highest level of security by the Obama Administration. So when he came into our Administration for a short period of time, he came in, he was already approved by the Obama Administration.²

¹ *For the Record with Greta*, MSNBC (Apr. 25, 2017) (online at www.youtube.com/watch?v=B9BeLKg4C3M).

² *The First 100 Days*, Fox News (Apr. 28, 2017) (online at www.youtube.com/watch?v=eaW0ea7E1lw).

The problem with your argument is that the Oversight Committee has in our possession documents that appear to indicate that General Flynn lied to the investigators who interviewed him in 2016 as part of his security clearance renewal.

Specifically, the Committee has obtained a Report of Investigation dated March 14, 2016, showing that General Flynn told security clearance investigators that he was paid by “U.S. companies” when he traveled to Moscow in December 2015 to dine at a gala with Russian President Vladimir Putin. The actual source of the funds for General Flynn’s trip was not a U.S. company, but the Russian media propaganda arm, RT.

General Flynn submitted his application for a five-year security clearance reinvestigation in January 2016, about one month after he traveled to Moscow. As part of his security clearance renewal process, investigators conducted a “subject interview” on February 11, 2016, and they questioned General Flynn about the information he provided on his security clearance application. These investigators issued their Report of Investigation on March 14, 2016, with the results of their interview with General Flynn.

Defense Department officials have confirmed that the Report of Investigation is not classified, but they have highlighted that it contains information that the Department would not itself disclose publicly because of the Privacy Act.

The Privacy Act does not apply to Congress. You made this very clear when you told the FBI during this Committee’s investigation of former Secretary of State Hillary Clinton that “Congress is exempt from the Privacy Act.”³ Nevertheless, the Report of Investigation does include names and information about other individuals who were interviewed as part of General Flynn’s clearance renewal. At this time, I am releasing publicly only selected portions relating to our Committee’s investigation of General Flynn, although I reserve the right to release additional information in the future that is probative to our inquiry.

In addition, my staff have been in contact with the Department of Justice about this matter, and I am providing a copy of this letter to the office of Special Counsel Robert Mueller.

Flynn’s Claim That He Was Paid By “U.S. Companies”

The Report of Investigation states that General Flynn claimed during his interview with security clearance investigators that his 2015 trip to Russia, as well as trips to Japan and Saudi Arabia, were all funded by “U.S. companies” as part of General Flynn’s efforts to develop business overseas. The investigators explained that General Flynn told them:

All trips were funded by U.S. companies, as they are seeking business in other Countries and requested that HE visit the countries to develop business.
[emphasis added]

³ Chaffetz Asks FBI, ‘What Information Do You Believe That Congress Does Not Have a Right to See?’, CNSNews.com (Sept. 13, 2016) (online at www.cnsnews.com/news/article/susan-jones/chaffetz-asks-fbi-what-information-do-you-believe-congress-does-not-have).

Similarly, General Flynn has claimed in press interviews that he was paid by his “speakers’ bureau,” which is located in the United States, asserting that “I didn’t take any money from Russia, if that’s what you’re asking me.”⁴

General Flynn’s claims directly contradict documents the Committee has obtained showing that RT paid more than \$45,000 for General Flynn’s participation in the 2015 gala in Moscow. These funds were transferred from RT, through a London-based bank, to General Flynn’s speakers’ bureau in the United States, Leading Authorities Inc., and ultimately to General Flynn’s company.⁵ As one RT official stated in an email: “We will be covering the payment of General Flynn’s fee.”⁶

Apart from the RT payment routed through his speakers’ bureau, the documents obtained by the Committee also show that RT paid *directly* for General Flynn’s airfare, lodging at the Metropol Hotel in Red Square, and other expenses for both him and his son. These benefits were not routed through General Flynn’s speakers’ bureau.

According to the Report of Investigation, General Flynn told investigators about his trip to Moscow, but denied receiving any payments or benefits from foreign sources:

In December of 2015 HE and a family member traveled to Russia via air transportation for two days. They stayed at the Metro Pol Moscow Hotel. The purpose of the trip was to speak at a conference for the Russian Media.

The Report of Investigation also stated:

FLYNN stated HE does not own, control or stand to inherit any foreign property or foreign business. HE does not have any foreign business connections or foreign financial interests. **HE has not received any benefit from a foreign country.** [emphasis added]

On January 6, 2017, the National Intelligence Council issued its report detailing Russia’s attack on the United States in an effort to undermine the election. That report described RT as the “Kremlin’s principal international propaganda outlet.”⁷ Similarly, on December 11, 2012—while General Flynn was serving as the Director of the Defense Intelligence Agency—the

⁴ *Top Trump Adviser Defends Payment for Russian Speaking Engagement*, Yahoo News (July 18, 2016) (online at www.yahoo.com/news/trump-supporter-defends-payment-russian-175611942.html).

⁵ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to President Donald J. Trump, Secretary of Defense James Mattis, and Director of Federal Bureau of Investigation James Comey (Mar. 16, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-03-16.EEC%20to%20POTUS%20DOD%20FBI%20re%20Flynn%20Payments.pdf>).

⁶ Email from RT Senior Analyst to Leading Authorities, Inc. (Nov. 13, 2015) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Email%20Chain%20%231%20--%20Organized%20and%20Funded%20by%20RT.pdf>).

⁷ National Intelligence Council, *Assessing Russian Activities and Intentions in Recent US Elections* (Jan. 6, 2017) (online at www.dni.gov/files/documents/ICA_2017_01.pdf).

Central Intelligence Agency's Open Source Center warned that RT was engaged in "a Kremlin-directed campaign to undermine faith in the US Government and fuel political protest."⁸

The Report of Investigation also includes summaries of information provided by General Flynn's colleagues, associates, and friends. One of General Flynn's professional colleagues observed that "FLYNN would have professional work relationships with foreign businesses." However, General Flynn did not report any foreign business relationships to security clearance investigators, according to their Report of Investigation.

Flynn's Claim That He Had No Contacts With Foreign Government Officials

General Flynn's security clearance form required him to disclose every meeting with a foreign government official. Specifically, Question 20B.6 of the SF-86 asked:

Have you or any member of your immediate family **in the past seven (7) years had any contact** with a foreign government, its establishment (such as embassy, consulate, agency, military service, intelligence or security service, etc.) or its representatives, whether inside or outside the U.S.? [emphasis added]

According to the Report of Investigation, during his interview with security clearance investigators, General Flynn did not disclose the identities of any foreign government officials with whom he had come into contact:

FLYNN stated HE has no foreign relatives, friends or associates.

HE does not have any connections with any foreign government or foreign government officials. ...

FLYNN stated on all of the trips HE had only insubstantial contact with foreign nationals.

It is difficult to understand how General Flynn could have believed that his dinner with Russian President Vladimir Putin was an "insubstantial contact." Given his trips to Russia and several other countries, General Flynn likely had additional contacts with foreign government officials that he failed to disclose.

General Flynn had a duty to be truthful on his security clearance renewal form and during his interview with security clearance investigators. General Flynn's attorney has asserted publicly that General Flynn briefed Defense Intelligence Agency (DIA) officials both before and after his trip to Moscow and that they were "fully aware of the trip."⁹ According to the Report of

⁸ Central Intelligence Agency, Open Source Center, *Russia—Kremlin's TV Seeks to Influence Politics, Fuel Discontent in US* (Dec. 11, 2012).

⁹ Twitter, @robkelner (Apr. 27, 2017) (online at <https://twitter.com/robkelner/status/857664868815654913>).

Investigation, General Flynn did not tell security clearance investigators about any relationships with foreign government officials or foreign businesses.

Flynn's Claims About Past Work Experience

The Report of Investigation states that General Flynn denied to investigators that he ever had any problems in previous employment positions. According to the Report of Investigation:

FLYNN stated HE has never had any problems at this or any other employment, including no reprimands, forced resignations or terminations.

By contrast, there have been multiple press reports detailing how General Flynn was forced out of his position as the Director of the Defense Intelligence Agency.¹⁰

Although these accounts explain that General Flynn was allowed to submit his formal resignation in 2014, President Trump allowed him to do the same thing when he fired him from his position as National Security Advisor on February 13, 2017.¹¹

Red Flags About Flynn Since His Security Clearance Renewal in 2016

Apart from the claims by you and President Trump that vetting General Flynn for the National Security Advisor position was the Obama Administration's job, the other problem with your argument is that you completely disregard all of the troubling events that occurred *after* General Flynn received his security clearance renewal in early 2016. For example:

- I wrote to Vice President-Elect Mike Pence on November 18, 2016, warning the Trump transition team specifically about serious conflicts of interest with General Flynn given public reports of Flynn Intel Group's work on behalf of Turkish interests.¹²
- The *New York Times* reported that General Flynn's attorney informed White House Counsel Donald McGahn and other officials—weeks before the inauguration—that General Flynn was under federal investigation for “secretly working as a paid lobbyist for Turkey during the campaign.”¹³

¹⁰ See, e.g., *Head of Pentagon Intelligence Agency Forced Out, Officials Say*, Washington Post (Apr. 30, 2014) (online at www.washingtonpost.com/world/national-security/head-of-pentagon-intelligence-agency-forced-out-officials-say/2014/04/30/ec15a366-d09d-11e3-9e25-188ebef1fa93b_story.html) (“Critics said that his management style could be chaotic and that the scope of his plans met resistance from both superiors and subordinates.”). See also *Report: The U.S. Military's Top Spy Is Being Forced Out*, Business Insider (Apr. 30, 2014) (online at www.businessinsider.com/michael-t-flynn-fired-from-dia-2014-4).

¹¹ *Michael Flynn, Fired Once By Obama, Now Resigns to Trump*, Associated Press (Feb. 14, 2017) (online at www.oregonlive.com/today/index.ssf/2017/02/michael_flynn_fired_once_by_a.html).

¹² Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Vice President-Elect Mike Pence (Nov. 18, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-11-18.EEC%20to%20Pence.pdf>).

¹³ *Trump Team Knew Flynn Was Under Investigation Before He Came to White House*, New York Times

- White House spokesman Sean Spicer claimed that President Trump knew nothing about General Flynn's lobbying when he named him National Security Advisor.¹⁴
- Vice President Pence told *Fox News* he did not learn about General Flynn's work on behalf of Turkish interests until March.¹⁵
- *McClatchy* reported that, in one of his first acts as National Security Advisor, General Flynn put a halt to a military plan that Turkey opposed—after he had received more than half a million dollars for representing Turkish interests.¹⁶
- The *New York Times* reported that President Trump personally pressured then-FBI Director James Comey to drop the ongoing criminal investigation of General Flynn.¹⁷
- The President himself admitted during a nationally televised interview on *NBC News* that he fired Director Comey because he believed the FBI's criminal investigation of contacts between his aides and the Russians was illegitimate.¹⁸
- The *New York Times* reported that President Trump openly admitted to the Russians in a meeting in the Oval Office that he "faced great pressure" from the FBI's criminal investigation that was "taken off" when he fired Director Comey a day earlier.¹⁹
- Finally, *Yahoo News* reported that President Trump and General Flynn have remained in contact, and on the same day that you and I held a press conference announcing that we

(May 17, 2017) (online at www.nytimes.com/2017/05/17/us/politics/michael-flynn-donald-trump-national-security-adviser.html).

¹⁴ *Press Briefing by Press Secretary Sean Spicer*, The White House (Mar. 9, 2017) (online at www.whitehouse.gov/the-press-office/2017/03/09/press-briefing-press-secretary-sean-spicer) ("Q: Was the President aware that Lieutenant General Michael Flynn was acting as a foreign agent when he appointed him to be the national security advisor? MR. SPICER: I don't believe that that was known.").

¹⁵ *Special Report with Bret Baier*, Fox News (Mar. 9, 2017) (online at www.youtube.com/watch?v=5gbapJrFmhk) ("Pence: Let me say, hearing that story today was the first I heard of it. And I fully support the decision President Trump made to ask for General Flynn's resignation. Baier: You're disappointed by the story. Pence: First I heard of it. And I think it's an affirmation of the President's decision to ask General Flynn to resign.").

¹⁶ *Flynn Stopped Military Plan Turkey Opposed—After Being Paid As Its Agent*, *McClatchy* (May 17, 2017) (online at www.mcclatchydc.com/news/politics-government/white-house/article151149647.html).

¹⁷ *Comey Memo Says Trump Asked Him to End Flynn Investigation*, *New York Times* (May 16, 2017) (online at www.nytimes.com/2017/05/16/us/politics/james-comey-trump-flynn-russia-investigation.html).

¹⁸ *Trump Interview with Lester Holt: President Asked Comey If He Was Under Investigation*, *NBC News* (May 11, 2017) (online at www.nbcnews.com/news/us-news/trump-reveals-he-asked-comey-whether-he-was-under-investigation-n757821).

¹⁹ *Trump Told Russians That Firing 'Nutmeg' Comey Eased Pressure From Investigation*, *New York Times* (May 19, 2017) (online at www.nytimes.com/2017/05/19/us/politics/trump-russia-comey.html?hp=undefined&action=click&pgtype=Homepage&clickSource=story-heading&module=span-ab-top-region®ion=top-news&WT.nav=top-news&_r=1&mtref=www.nytimes.com).

had confirmed that he failed to disclose his foreign payments, the President contacted General Flynn and urged him "to stay strong."²⁰

Renewal of Request to Subpoena to White House

Obviously, the White House had its own solemn responsibility to fully vet General Flynn before the President appointed him as National Security Advisor and gave him access to our nation's most highly classified information. Separate and apart from the ongoing investigation by the Special Counsel Mueller into whether crimes were committed, our Committee has direct oversight jurisdiction over the White House and its proper functioning.

Although the Committee sent a bipartisan request to obtain information about General Flynn, the White House is refusing to provide us with any of the documents we requested, including documents relating to:

- any vetting of General Flynn conducted by the transition team or the White House;
- any communications by the President's top aides about General Flynn's contacts with foreign officials;
- why General Flynn's security clearance was not suspended immediately after Acting Attorney General Sally Yates warned the White House that he was compromised;
- the President's decision to fire General Flynn because he lied to the Vice President about his communications with the Russian Ambassador; and
- whether General Flynn may have jeopardized national security by inappropriately disclosing information to the Russians.

These issues may not necessarily involve criminal activity, but they all relate to our Committee's core oversight functions. For these reasons, I request once again that you either issue a subpoena to the White House for the documents it is withholding or schedule a business meeting during which Committee Members can vote to issue the subpoena ourselves.

Sincerely,



Elijah E. Cummings
Ranking Member

²⁰ *As Investigators Circled Flynn, He Got a Message From Trump: Stay Strong*, Yahoo News (May 18, 2017) (online at www.yahoo.com/news/investigators-circled-flynn-got-message-trump-stay-strong-145442727.html).