

THE WHITE HOUSE

WASHINGTON

February 9, 2018

The Honorable Devin Nunes
Chairman, House Permanent Select Committee on Intelligence
United States Capitol
Washington, DC 20515

Dear Mr. Chairman:

On February 2, 2018, the President declassified a memorandum in response to a request by the House Permanent Select Committee on Intelligence (hereinafter “the Committee”). I noted in my letter conveying the declassified memorandum to you that the Executive Branch would continue to work with the Committee in connection with its present oversight activities to ensure protection of intelligence sources and methods.

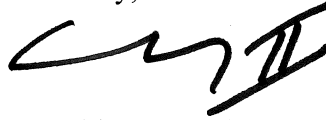
On February 5, 2018 the Committee voted to disclose publicly a second classified memorandum written by Committee members (the “February 5th Memorandum”). As I previously explained, the public release of classified information by unilateral action of the Legislative Branch is extremely rare and raises serious separation of powers concerns, as the Constitution vests the President with the authority to control access to sensitive national security information. *See, e.g., Dep’t of Navy v. Egan*, 484 U.S. 518, 527 (1988). Accordingly, we are once again treating the Committee’s action as a request for declassification pursuant to the President’s constitutional authority.

Consistent with the review of the previous memorandum, the President asked the Office of the Director of National Intelligence and the Department of Justice to assess the declassification request and provide him recommendations. The Department has identified portions of the February 5th Memorandum the disclosure of which it believes would create especially significant concerns for the national security and law enforcement interests. The enclosed letter from the Deputy Attorney General and the Director of the Federal Bureau of Investigation explains these determinations in greater detail.

Although the President is inclined to declassify the February 5th Memorandum, because the Memorandum contains numerous properly classified and especially sensitive passages, he is unable to do so at this time. However, given the public interest in transparency in these unprecedented circumstances, the President has directed that Justice Department personnel be available to give technical assistance to the Committee, should the Committee wish to revise the February 5th Memorandum to mitigate the risks identified by the Department. The President encourages the Committee to undertake these efforts. The Executive Branch stands ready to

review any subsequent draft of the February 5th Memorandum for declassification at the earliest opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read 'DM II', with a stylized, cursive flourish.

Donald F. McGahn II
Counsel to the President

cc: The Honorable Paul Ryan
Speaker of the House of Representatives

The Honorable Adam Schiff
Ranking Member, House Permanent Select Committee on Intelligence

Enclosures



U.S. Department of Justice

Washington, DC 20530

February 9, 2018

Mr. Donald F. McGahn II
Counsel to the President
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500-0003

Dear Mr. McGahn:

At your office's request, the Department of Justice (DOJ) and the Federal Bureau of Investigation (FBI) have reviewed the January 29, 2018 memorandum from the House Permanent Select Committee on Intelligence (HPSCI) Minority to all Members of the House of Representatives. Specifically, you have asked us to identify the information about which DOJ and the FBI would have national security or law enforcement concerns if released publicly.

Enclosed please find a version of the document that identifies, in highlighted text, information the release of which would present such concerns in light of longstanding principles regarding the protection of intelligence sources and methods, ongoing investigations, and other similarly sensitive information. We have further identified, in red boxes, the subset of such information for which national security or law enforcement concerns are especially significant. Our determinations have taken into account the information previously declassified by the President as communicated in a letter to HPSCI Chairman Devin Nunes dated February 2, 2018.

Sincerely,

Rod J. Rosenstein
Deputy Attorney General

Christopher A. Wray
Director
Federal Bureau of Investigation

Enclosure