

July 11, 2018

The Honorable Bob Goodlatte, Chair
The Honorable Jerry Nadler, Ranking Member
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Trey Gowdy, Chairman
The Honorable Elijah Cummings, Ranking Member
House Committee on Oversight and Government Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Goodlatte and Gowdy and Ranking Members Nadler and Cummings:

We write to you regarding your joint hearing on “Oversight of FBI and DOJ Actions Surrounding the 2016 Election: Testimony by FBI Deputy Assistant Director Peter Strzok”¹ and the FBI’s failure to notify hundreds of government officials that Russian actors compromised their email. The Electronic Privacy Information Center (“EPIC”) is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.²

After reports emerged about Russian interference with the 2016 election, EPIC launched a new project on Democracy and Cybersecurity.³ EPIC has pursued four Freedom of Information Act matters to learn more about the Russian interference in the 2016 Presidential election.⁴ EPIC is pursuing these matters because, as we stated in *The Hill*,

The public has a right to know the details when a foreign government attempts to influence the outcome of a U.S. presidential election. The public has a right to know the extent of the risk and how the government agencies, tasked with

¹ *Oversight of FBI and DOJ Actions Surrounding the 2016 Election: Testimony by FBI Deputy Assistant Director Peter Strzok*, 115th Cong. (2018), H. Comm. on the Judiciary and H. Comm. on Oversight and Gov’t Reform, <https://judiciary.house.gov/hearing/committee-on-the-judiciary-and-committee-on-oversight-and-government-reform-joint-hearing-on-oversight-of-fbi-and-doj-actions-surrounding-the-2016-election-testimony-by-fbi-deputy-assistant/> (July 12, 2018).

² See EPIC, *About EPIC*, <https://epic.org/epic/about.html>.

³ See EPIC, *Democracy and Cybersecurity*, <https://epic.org/democracy/>.

⁴ *EPIC v. ODNI*, No. 17-163 (D.D.C. Dec. 18, 2017); *EPIC Seeks Release of FISA Order for Trump Tower*, EPIC (March 6, 2017), <https://epic.org/2017/03/epic-seeks-release-of-fisa-ord.html>; *EPIC v. IRS*, No. 17-670 (D.D.C. filed Apr. 15, 2017); *EPIC v. FBI*, 2018 U.S. Dist. LEXIS 85467 *; 2018 WL 2324084 (D.D.C. May 22, 2018); *EPIC v. FBI (Russian Hacking)*, <https://epic.org/foia/fbi/russian-hacking/>.

defending the nation, responded. And the public has a right to know what steps have been taken to prevent future attacks.⁵

In *EPIC v. ODNI*, EPIC sought the release of the complete intelligence report on the Russian interference with the 2016 election. A limited, declassified version of the report was published on Jan. 6, 2017.⁶ This report stated that Russia carried out a multi-pronged attack on the 2016 U.S. Presidential Election to “undermine public faith in the US democratic process.” The report also states that “this version does not include the full supporting information on key elements of the influence campaign.”

A recent report from the Senate Select Committee on Intelligence has confirmed the 2017 assessment from the Intelligence Community on Russian interference with the 2016 election.⁷ The Intelligence report stated “Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump.”⁸ Senate Committee Chair Richard Burr (R-NC) said “the Committee has spent the last 16 months reviewing the sources, tradecraft and analytic work underpinning the Intelligence Community Assessment and sees no reason to dispute the conclusions.”⁹ The Senate Report also stated, “the Committee's investigation has exposed a far more extensive Russian effort to manipulate social media outlets to sow discord and to interfere in the 2016 election and American society” than the Intelligence Community assessment reported.¹⁰

ODNI was required to release all “non-exempt portions” of the complete Intelligence Community report to EPIC on May 3, 2017. However, the agency withheld the entire document, refusing to provide even partial information that should have been released to EPIC under the Freedom of Information Act.¹¹ In December 2017, a federal district court in Washington, D.C. ruled that document was properly withheld under FOIA exemptions.

But there is still an urgent need to make available to the public the Complete ODNI Assessment to fully assess the Russian interference with the 2016 Presidential election and to prevent future attacks on democratic institutions.¹² The Declassified ODNI Assessment failed to provide critical information about the extent and nature of the Russian interference and leaves significant questions unanswered. For example, while the report notes that “Russian actors” had

⁵ Marc Rotenberg, *Americans have a right to know what intel community knows on Russia*, The Hill (March 27, 2017).

⁶ Office of the Dir. of Nat'l Intelligence, *Assessing Russian Activities and Intentions in Recent US Elections* (2017), https://www.dni.gov/files/documents/ICA_2017_01.pdf [hereinafter Declassified ODNI Assessment].

⁷ Press Release, Senate Select Committee on Intelligence, Intel Committee Releases Unclassified Summary of Initial Findings on 2017 Intelligence Community Assessment (July 3, 2018), *available at* <https://www.intelligence.senate.gov/press/intel-committee-releases-unclassified-summary-initial-findings-2017-intelligence-community>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ 5 U.S.C. 552(a)(8)(A)(ii).

¹² Complaint at 3, *EPIC v. ODNI*, *supra* note 5.

been “targeting or compromising” democratic institutions including “state or local election boards” since “early 2014,” the report provides no further detail on these intrusions or the extent of the damage or future threats involved. The Declassified ODNI Assessment also did not identify which systems in the United States were attacked, whether voter records of Americans were obtained, the ongoing risks to U.S. political parties and other democratic institutions, or whether similar activities could impact democratic institutions in other countries.

We ask that this letter be entered in the hearing record. EPIC looks forward to working with the Committee on these issues of vital importance to the American public.

Sincerely,

/s/ Marc Rotenberg

Marc Rotenberg
EPIC President

/s/ Caitriona Fitzgerald

Caitriona Fitzgerald
EPIC Policy Director

/s/ Christine Bannan

Christine Bannan
EPIC Policy Fellow