

# Davis Polk

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March 31, 2022

*John*  
Dear ~~Mr. Durham~~:

As you know, I've been nominated to serve as the Under Secretary for Intelligence and Analysis in the Department of Homeland Security. Depending on how the confirmation process unfolds, it is possible—but by no means guaranteed—that I could be assuming this position soon. Since I would then be precluded from representing any clients, my purpose here is to convey an account of the actions and decisions of John Brennan, former Director of the Central Intelligence Agency ("CIA"), and James Clapper, former Director of National Intelligence ("DNI"), both of whom I have represented since they left government service on January 20<sup>th</sup>, 2017, in relation to the Russian interference in the 2016 presidential election.<sup>1</sup>

Under their leadership, the CIA and the Office of the DNI ("ODNI") worked closely with their sister agencies, the Federal Bureau of Investigation ("FBI") and the National Security Agency ("NSA"), to collect intelligence on and assess the extent of this unprecedented threat to our democracy and do so without causing any prejudice or disruption to the ongoing presidential campaign. My clients and their Intelligence Community colleagues achieved those important objectives, and the result was a definitive report—the Intelligence Community Assessment ("ICA")—that authoritatively described and assessed Russia's operations and motivations in the 2016 election and sounded the alarm about similar or even more damaging interference efforts in future elections.

The Intelligence Community's work on the 2016 election interference threat became the target of factual distortions and baseless accusations from many pundits, political operatives, and even government leaders who sought to demonize the Intelligence Community and discredit its analytical assessments about the Russian interference. These accusations were leveled without evidence and without regard to potential damage to the reputations and morale of the intelligence professionals whose work they baselessly maligned. The orchestrated ferocity of these groundless accusations has been unprecedented in our history, and it represents a dangerous willingness to ignore truth and denigrate government professionals for the sake of political expediency.

My clients both spent considerable time describing the Intelligence Community's response to the election interference in 2016. They have testified and briefed multiple committees of Congress, explaining with clarity and candor how they managed the election interference collection effort and analytical assessment, and the reasons for their agencies' investigative and analytical judgments. They have also fully cooperated with your investigation, with Director Brennan participating in an eight-hour interview in August 2020 and Director Clapper participating in one for nearly three hours in December 2021.

<sup>1</sup> As you know, I also represented three other intelligence professionals in regard to your investigation, all of whom interviewed with your team. While this letter references one of those other clients—"CIA Supervisor"—it is submitted specifically on behalf of Director Brennan and Director Clapper.

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After a thorough review of all the classified and unclassified evidence, the U.S. Senate Select Committee on Intelligence ("SSCI") produced an authoritative, fact-based report on the Intelligence Community's work on the 2016 election interference threat. That report, prepared and authored in a bipartisan fashion by the SSCI staff and adopted by the full committee, carefully analyzed and validated the integrity of the Intelligence Community's work in 2016.<sup>2</sup>

I understand that you and your colleagues may be now drafting your own report on the findings of your lengthy investigation, and I trust your report will be similarly fact-based. In order to assist your effort, I want to document key facts that you have heard from my clients about their work on the election interference effort. I do that through the submission of this letter, which assembles those facts, describes them in chronological order, and identifies what I believe are key findings and conclusions to be drawn from them.

What follows is organized into seven sections:

- Section I, **My Clients' Professional Backgrounds**, briefly describes my clients' professional backgrounds and public service.
- Section II, **Initiation of the Election Interference Intelligence Collection Effort**, describes the initiation of the Intelligence Community effort in response to Russia's election interference, including the CIA's initial briefings to the National Security Council, the "Gang of Eight," and other national security components.
- Section III, **Conduct of the Election Interference Intelligence Collection Effort**, describes the creation of an inter-agency fusion cell responsible for overseeing the collection and analysis, its information-sharing efforts, and the measures to prevent leaks that could have compromised sources and methods and potentially affected the presidential election.
- Section IV, **Intelligence Community Assessment**, describes the development and drafting of the ICA and the formulation of its key judgments.
- Section V, **Briefing of the Intelligence Community Assessment**, describes the briefings the Intelligence Community provided to the President, President-Elect, and members of Congress following the ICA's publication.
- Section VI, **Investigations Since the 2016 Election**, describes the subsequent investigations into Russian interference by Congress, Special Counsel Mueller, and your team.
- Section VII, **Conclusions**, summarizes the important conclusions about my clients' work in response to the election interference threat of 2016.

## I. My Clients' Professional Backgrounds

My clients have devoted their professional careers to government service. Collectively, the two of them have served over 82 years in government, including as intelligence advisers to multiple Republican and Democratic administrations. They have each been confirmed in a bipartisan fashion by the United States Senate, with Director Clapper being nominated by Democratic and Republican presidents.

<sup>2</sup> See 4 SELECT COMM. ON INTEL., RUSSIAN ACTIVE MEASURES CAMPAIGNS AND INTERFERENCE IN THE 2016 U.S. ELECTION, S. REP. NO. 116-290 (1st Sess. 2020).



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## A. Director Brennan

Director Brennan had a distinguished 33-year career in government service. He started in 1980 as a CIA officer in the Directorate of Operations, the arm of the agency responsible for managing foreign assets in the field. In 1981, he became an analyst in what is now the Directorate of Analysis, where he was responsible for assessing the intelligence collected by the Intelligence Community. Director Brennan rose through the analyst ranks, serving as a political officer at the U.S. embassy in Saudi Arabia from 1982 to 1984 and in the Office of Near Eastern and South Asian Analysis from 1984 to 1989.

Director Brennan continued to take on increased leadership responsibility at the agency under both Republican and Democratic administrations. From 1990 to 1992, including during Operation Desert Storm, he was the chief of analysis at the CIA Counterterrorism Center. Afterward, he was the CIA's daily intelligence briefer for President Bill Clinton, Vice President Al Gore, and other senior White House and National Security Council officials. Following a three-year tour of duty as the senior U.S. intelligence representative in Saudi Arabia, Director Brennan served as the Chief of Staff to then Director George Tenet from 1999 to 2001 and as Deputy Executive Director of the CIA from 2001 to 2003 during the George W. Bush presidency. In 2003, he established and led the Terrorist Threat Integration Center and its successor organization, the interagency National Counterterrorism Center, until his departure from government service in 2005.

Director Brennan worked in the private sector before returning to government service in 2009 as President Obama's Assistant for Homeland Security and Counterterrorism and Deputy National Security Advisor. In March 2013, the Senate confirmed Director Brennan as the 23rd Director of the CIA, the position he held until his retirement on January 20, 2017.

## B. Director Clapper

Director Clapper had a similarly distinguished 50-year government service career. It began in 1961 when he enlisted in the Marine Corps Reserve. He transferred to the Air Force, where he ultimately served for over 32 years, including two year-long combat tours during the Vietnam War, and held numerous intelligence-related positions. Among these were: Assistant Chief of Staff for Intelligence for the Air Force; Director of Intelligence for U.S. Forces Korea, Pacific Command, and Strategic Air Command; and the 11th Director of the Defense Intelligence Agency, the position he held when he retired from military service in 1995 as a Lieutenant General.

Director Clapper worked in the private sector for six years following his retirement. During this time, he continued to provide public service as an advisor to Congress and the Departments of Defense and Energy, and as a member of the National Security Agency Advisory Board, the Downing Assessment Task Force that investigated the 1996 terrorist attack on U.S. service members in Dhahran, Saudi Arabia, and other government panels and commissions.

Two days after the 9/11 attacks, Director Clapper returned to government service as the second Director of the National Imagery and Mapping Agency, which he transformed into the National Geospatial-Intelligence Agency and led until 2006. After seven months in the private sector, President George W. Bush nominated, and the Senate confirmed, Director Clapper to serve as the second Under Secretary of Defense for Intelligence. Director Clapper served in this role from 2007 to 2010. In 2010, President Obama nominated, and the Senate unanimously confirmed, Director Clapper to serve as the fourth DNI, the position he held until his retirement in January 2017.

## II. Initiation of the Election Interference Intelligence Collection Effort

In early 2016, the Intelligence Community began detecting cyber efforts by the Russians (and other countries) to hack into the U.S. presidential campaigns. Foreign hacking efforts against our presidential campaigns were not a new phenomenon; the Intelligence Community had detected such activity in 2008 and 2012. However, these efforts reflected an intensity that far surpassed any such activity the Intelligence Community had previously observed. That intensity increased throughout the spring of 2016, leading Director Clapper to publicly announce in May 2016 that foreign intelligence services were tracking this election cycle to a greater degree than before and that it was likely that they would engage in further cyber espionage.<sup>3</sup> That analysis proved prescient in June and July 2016 when WikiLeaks released emails stolen from John Podesta by Russian cyber-espionage services and the Russian-affiliated front DCLeaks.com released thousands of additional emails that had been taken from the Democratic National Committee.

### A. Director Brennan Briefs the President and Senior Advisors

These developments, coupled with sensitive intelligence reports about Russian intentions toward the election, increased the Intelligence Community's concern that Russia was seeking to actively interfere in the campaign and influence its outcome. Accordingly, on July 25, 2016, Director Brennan requested that relevant components within the CIA provide him the raw intelligence underpinning their reports and their concerns, which he reviewed over the ensuing days. These materials made clear that the nation was facing an all-out Russian assault on the integrity of its presidential election process. Based on this review and the conclusions of the analysts, Director Brennan sought a meeting with President Obama to discuss this intelligence.

On July 28, 2016, Director Brennan met with President Obama, National Security Advisor Susan Rice, Deputy National Security Advisor Avril Haines, and White House Chief of Staff Denis McDonough. He presented the intelligence the CIA had identified to date, explaining that it suggested an unprecedented effort by Russia to interfere in the election. Director Brennan proposed that the Intelligence Community coordinate efforts to collect and analyze intelligence about Russia's activities and brief the National Security Council for consideration of possible responses.

The President agreed with Director Brennan's proposal and further asked that he brief the "Gang of Eight," an informal Congressional group comprised of the chair and ranking members of the House Permanent Select Committee on Intelligence ("HPSCI") and the SSCI; the Speaker of the House and House Minority Leader; and the Senate Majority and Minority Leaders. The President also asked Director Brennan to brief the two presidential campaigns. Director Brennan agreed to work with Director Clapper on Congressional briefings but deferred to the FBI on briefings for the campaigns, pursuant to traditional protocol that the FBI handle such "defensive briefings" when they involve U.S. persons or organizations.<sup>4</sup>

Later that same day, Director Brennan briefed CIA Deputy Director David Cohen on the White House meeting and the President's instructions. He further advised Deputy Director Cohen of his intention to establish a multi-agency task force to conduct the collection and analysis of intelligence relating to Russia's election interference effort.

<sup>3</sup> See Nicole Gaouette, *Intel Chief: Presidential Campaigns Under Cyber Attack*, CNN (May 18, 2016), <https://www.cnn.com/2016/05/18/politics/presidential-campaigns-cyber-attack/index.html>.

<sup>4</sup> The FBI briefed then candidate Donald Trump in August 2016 and provided a similar briefing to Hillary Clinton and her campaign. See Letter from Gregory A. Brower, Assistant Dir., Off. Cong. Affs., to Charles E. Grassley, Chairman, Comm. on Judiciary (Oct. 26, 2017), [https://www.judiciary.senate.gov/imo/media/doc/2017-10-26%20FBI%20to%20CEG%20\(Trump%20Campaign%20Defensive%20Briefing,%20rec'd%2010-30\).pdf](https://www.judiciary.senate.gov/imo/media/doc/2017-10-26%20FBI%20to%20CEG%20(Trump%20Campaign%20Defensive%20Briefing,%20rec'd%2010-30).pdf).



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## B. Director Brennan Briefs the “Gang of Eight”

Per the President’s direction, Director Brennan briefed each member of the “Gang of Eight” over the following weeks, either in person or by secure phone call. In each of these discussions, Director Brennan used the same classified talking points, describing what the CIA knew to date about Russia’s interference efforts and the basis for this knowledge, and explaining that the intelligence indicated that Russia intended to influence the election, specifically by damaging Hillary Clinton and helping Donald Trump’s election prospects.

## C. Director Brennan Briefs the DNI, FBI, NSA

Director Brennan also met with Director Clapper and spoke with FBI Director James Comey and NSA Director Admiral Mike Rogers to discuss implementation of the President’s instructions. The four directors all agreed on the following operating principles. First, the Russian interference demanded concerted action from the agencies to understand fully Russia’s capabilities and intentions. Second, close coordination and seamless information sharing among the agencies would be critical to the success of this work. Third, the work must be done in strict confidence owing to the sensitivity of the sources and methods that were producing this intelligence and the potential implications for the election process if this information became public. Based on these operating principles, Director Brennan proposed—and the other directors agreed—to establish the task force he had suggested to Deputy Director Cohen after his meeting with the President, i.e., a task force composed of experts from the CIA, NSA, and FBI to share relevant intelligence, coordinate and produce finished intelligence analyses, and regularly report through the directors to the National Security Council.

## III. Conduct of the Election Interference Intelligence Collection Effort

Following discussions with the other directors, Director Brennan quickly established the task force—dubbed the “fusion cell.”<sup>5</sup> He also tasked the heads of the relevant CIA components for cyber, counterintelligence, and Russia analysis to provide analysts, technical experts, and legal counsel to support the fusion cell. He further directed that the CIA provide the necessary logistics for the fusion cell, including shared office space at CIA headquarters and security arrangements<sup>6</sup> that would permit full information sharing among fusion cell members while ensuring the security of that information. These arrangements were undertaken to address two important considerations. First, to facilitate seamless information sharing among the agencies, to prevent the inter-agency information silos that had handicapped Intelligence Community coordination before and after the 9/11 attacks.<sup>7</sup> Second, to prevent any leaks that could both jeopardize sensitive intelligence sources and methods and affect the presidential campaign, by potentially tarnishing the Trump campaign with the disclosure of Russian efforts in support of his candidacy.<sup>8</sup>

<sup>5</sup> The Russian interference fusion cell is just one in a long history of “fusion” interagency task forces. For example, the FBI, in partnership with the Departments of State, Treasury, and Defense operate the Hostage Recovery Fusion Cell. *Hostage Recovery Fusion Cell Established*, FBI (June 24, 2015), <https://www.fbi.gov/news/stories/hostage-recovery-fusion-cell-established> (June 24, 2015). Similarly, the Department of Justice and Department of Homeland Security have jointly published guidance for local, state, and federal agencies to form their own fusion centers to combat violent extremism. See Glob. Just. Info. Sharing Initiative, *Fusion Center Guidelines: Developing and Sharing Information and Intelligence in a New Era* (2006), [https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fusion\\_center\\_guidelines.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/media/document/fusion_center_guidelines.pdf). The CIA Supervisor confirmed to you that the term “fusion cell” was interchangeable with “task force.”

<sup>6</sup> Specifically, the agencies established a common set of clearance tickets to ensure that all fusion cell members had access to the intelligence underlying the investigation.

<sup>7</sup> For example, the participating agencies conducted cross-agency read-ins, by which each agency read individuals from the other agencies into their highly restricted intelligence compartments.

<sup>8</sup> As relayed to you, the CIA Supervisor similarly understood that the purpose behind the fusion cell was to conduct a thorough investigation while protecting election integrity and sensitive intelligence sources and methods.

## A. Information-Sharing with the Intelligence Community

In addition to periodically producing reports for the directors of the four agencies, who in turn used that information to brief the White House and Congress, the CIA employees in the fusion cell prepared and conveyed transmittal memos to the FBI when the fusion cell encountered intelligence that might have implicated U.S. persons. This practice followed the standard CIA procedure by which it routinely sends to the FBI any information gleaned from its intelligence collection that may implicate U.S. persons in potential espionage activities.<sup>9</sup> It is then up to the FBI—the Intelligence Community agency with authority to conduct criminal investigations of U.S. persons—to assess that information and decide what, if any, investigative actions to undertake.<sup>10</sup> The CIA issued numerous transmittal memos to the FBI over this time period, a number of which related to contacts between representatives of the Russian government and individuals associated with candidate Trump's campaign. Neither Director Brennan nor Director Clapper reviewed these transmittal memos before they were sent to the FBI.

Director Brennan and the CIA were assiduous in following the transmittal memo process for U.S. person information, no matter which candidate that information concerned. For example, Director Brennan became aware of intelligence that Hillary Clinton had allegedly approved a plan to generate a narrative associating Donald Trump with Russian security services' efforts to interfere with the election.<sup>11</sup> Director Brennan shared this information at a National Security Council meeting, and the CIA shared it with the FBI via a transmittal memo. The information was shared even though the CIA could not assess its accuracy or the extent to which it reflected exaggeration or fabrication by the source.

## B. Protection of the Election and Sources and Methods

Recognizing the national security and political sensitivities surrounding the fusion cell's work, my clients and their Intelligence Community colleagues took a number of steps to prevent leaks of the Russian interference intelligence. They designed the fusion cell to maximize protection of the intelligence. It included only those agencies with the most relevant authorities—i.e., the CIA, with its foreign counterintelligence authority; the FBI, with its complementary domestic counterintelligence authority; and the NSA, with its cyber and signals intelligence capabilities. While others among the 17 Intelligence Community agencies may have had useful expertise or capacities, it was decided that their potential contributions were not worth the heightened risk of leaks that would come with broader Intelligence Community participation.

At the same time that the Intelligence Community stood up the fusion cell, it took further leak-prevention measures. For example, the Intelligence Community did not include in the President's Daily Brief references to specific sources and methods in any discussion of the Russian interference campaign. Though the President's Daily Brief is classified, it is still circulated to numerous government officials, and the inclusion of such sensitive intelligence could have increased the likelihood of a leak and an impact on the electoral process.

<sup>9</sup> See Memorandum of Understanding Concerning Overseas and Domestic Activities of the Central Intelligence Agency and the Federal Bureau of Investigation, AR 2-2E Annex E (June 28, 2005), [https://www.aclu.org/sites/default/files/field\\_document/C06235758%20AR%202%202E%20ANNEX%20E%20Memo%20of%20Understanding%20Concerning%20Overseas%20and%20Domestic%20Activities%20of%20CIA%20and%20FBI\\_0.pdf](https://www.aclu.org/sites/default/files/field_document/C06235758%20AR%202%202E%20ANNEX%20E%20Memo%20of%20Understanding%20Concerning%20Overseas%20and%20Domestic%20Activities%20of%20CIA%20and%20FBI_0.pdf) ("CIA shall report immediately to the FBI Headquarters any information concerning such a violation [of espionage laws]. CIA shall provide appropriate assistance to the FBI in the conduct of such investigations.")

<sup>10</sup> The CIA Supervisor confirmed for you that this process was carefully observed in the 2016 investigation and that the CIA deferred to the FBI to decide whether and how to pursue the information contained in transmittal memos.

<sup>11</sup> Though the substance of transmittal memos would ordinarily be classified, DNI John Ratcliffe declassified this information in a letter to Senator Lindsey Graham dated September 29, 2020. Letter from John Ratcliffe, Dir., Off. Dir. Nat'l Intel., to Lindsey Graham, Chairman, Comm. on Judiciary (Sept. 29, 2020), [https://www.judiciary.senate.gov/imo/media/doc/09-29-20\\_Letter%20to%20Sen.%20Graham\\_Declassification%20of%20FBI's%20Crossfire%20Hurricane%20Investigations\\_20-00912\\_U\\_SIGNED-FINAL.pdf](https://www.judiciary.senate.gov/imo/media/doc/09-29-20_Letter%20to%20Sen.%20Graham_Declassification%20of%20FBI's%20Crossfire%20Hurricane%20Investigations_20-00912_U_SIGNED-FINAL.pdf).



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Another example of the focus on leak prevention arose in the context of Director Brennan's "Gang of Eight" briefing with Senate Minority Leader Harry Reid in mid-August 2016. During that briefing, Senator Reid mentioned that he had separately received information about connections between Russia and the Trump campaign and that he was planning to refer that information by classified letter to FBI Director Comey for investigation. When Senator Reid then asked if he could include some of the substance of Director Brennan's briefing in that classified letter, Director Brennan refused the request, explaining that this information was too sensitive and politically flammable to be included in a letter—even a classified letter with limited circulation—once again demonstrating his concern for protecting the Russian interference intelligence and preventing it from having an impact on the campaign and the presidential election.

Even after the election, Director Brennan continued to maintain scrupulously the security of this information. In December 2016, Senator Mark Warner asked Director Brennan if the CIA would provide the SSCI with copies of intelligence reports relating to the Russian election interference effort. Senator Warner expressed concern about how the information would be handled by a CIA led by a Trump-appointed director. Director Brennan declined the request for two reasons. First, he felt confident that the men and women of the CIA would handle the Russian interference intelligence properly and apolitically, regardless of the party in charge of the White House. Second, he remained concerned about the potential for leaks. Though the election was over, any leaks about these reports could undermine the new administration and compromise sources and methods.

### C. Warning to the American People

While making every effort to prevent disclosures, the Obama Administration and the Intelligence Community also recognized they had a duty to warn the American people about the threat to the election. In the fall of 2016, the President and the Principals Committee debated whether and how to issue a public statement about Russia's activities based on the intelligence that the Intelligence Community directors were sharing from the fusion cell.

The decision was complicated by the concern that a complete disclosure of these activities could both compromise the Intelligence Community's ongoing collection efforts and have a disruptive effect on the election. The Intelligence Community had definitively determined that Russia was involved in the theft of the Democratic National Committee emails and that Russian President Vladimir Putin had directed these efforts specifically to harm Hillary Clinton's electoral chances and to enhance those of Donald Trump. While there was unanimity about this finding, there was great concern within the Obama Administration that its disclosure would raise questions among the public about the Trump campaign and could tilt the scale—or be perceived as tilting the scale—in favor of Clinton and against Trump at a very sensitive point in the election process.

In an effort to strike the right balance, Director of Homeland Security ("DHS") Jeh Johnson and Director Clapper issued a joint statement on October 7, 2016 that described the threat at only a very general level.<sup>12</sup> The statement described the Intelligence Community's confidence that Russia perpetrated the attacks against the Democratic National Committee, and explained that the Intelligence Community had detected attempts to infiltrate election systems, though it could not attribute those attempts to a specific actor. To avoid affecting the election, however, the statement made no mention of Russia's preference for President Trump or its intention to damage Clinton and to aid Trump.

<sup>12</sup> Press Release, Dep't Homeland Sec., Joint Statement from the Department of Homeland Security and Office of the Director of National Intelligence on Election Security (Oct. 7, 2016), <https://www.dhs.gov/news/2016/10/07/joint-statement-department-homeland-security-and-office-director-national>.

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## IV. Intelligence Community Assessment

After the election, it was clear that Russia had succeeded in sowing divisions among the American public and interfering with the presidential election. President Obama wanted to ensure that the American people understood both what had happened in 2016 and what could happen again in future elections. Accordingly, in early December 2016 he directed that the Intelligence Community prepare a report describing the Russian efforts to interfere in the election, that an unclassified version be drafted for issuance to the American people, and that the Intelligence Community complete these actions before the end of the Obama Administration.

### A. Stand-Up of the ICA Drafting Team

The Intelligence Community immediately complied with the President's instructions, and Director Clapper was tasked to oversee the effort. He staffed the drafting team with representatives from the CIA, FBI, and NSA and augmented it with a small number of ODNI staff.<sup>13</sup> Each agency contributed personnel with the necessary expertise in Russia, cyber, and counterintelligence matters, including some individuals who had participated in the fusion cell and some who had not. The team moved into office space at the CIA, and immediately began work.

To balance the expected widespread interest in the report with the need to protect sources and methods, the team was asked to produce three versions of the report: (1) a version classified at the highest level and containing specifics about the intelligence and sources relied upon for the findings; (2) a classified version that cited the critical intelligence but excluded more specific information that could reveal the most sensitive sources and methods; and (3) an unclassified version for public release that provided an overview of the analysis and findings without disclosing the origins of the underlying intelligence.

### B. ICA Drafting Process

The initial ICA draft came together over a two-week period in December 2016. Importantly, my clients empowered the analysts to drive the process—in recognition of the analysts' deep familiarity with the extensive intelligence on Russia's interference efforts. Thus, my clients' involvement in the production of the ICA was minimal.<sup>14</sup> Prior to the publication of the ICA, Director Brennan met with the participating CIA analysts on one occasion, for approximately an hour and a half, to discuss the ICA draft. During that meeting, Director Brennan discussed the analysts' findings and some of the specific intelligence they relied upon, but made no changes to their analysis or findings, believing that the analysts were best positioned to make those judgments. As you learned through your interview with Director Clapper and documentation you reviewed, he similarly deferred to the judgment of the professional analysts. He had no contact with them during the drafting process, gave no direction about their analysis or findings, and made no edits or changes to their draft report.

The analysts ultimately arrived at the following key judgments about Russia's interference (the wording of which was identical in all three versions of the ICA):<sup>15</sup>

- "Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election. Russia's goals were to undermine public faith in the U.S. democratic process,

<sup>13</sup> The CIA Supervisor explained to you how this was the right approach, given that these were the four agencies most directly involved in the collection and analysis of the intelligence being assessed.

<sup>14</sup> The CIA Supervisor similarly explained to you that the analysts directed the drafting process.

<sup>15</sup> Off. Dir. Nat'l Intel., *Intelligence Community Assessment: Assessing Russian Activities and Intentions in Recent U.S. Elections* (2017), [https://www.dni.gov/files/documents/ICA\\_2017\\_01.pdf](https://www.dni.gov/files/documents/ICA_2017_01.pdf).



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denigrate Secretary Clinton, and harm her electability and potential presidency. . . . Putin and the Russian Government developed a clear preference for President-elect Trump.”

- “Putin and the Russian Government aspired to help President-elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

The Intelligence Community analysts determined that they had “high” confidence in these judgments (versus the other standard confidence levels of “moderate” and “low”).

The analysts from all four agencies agreed on the judgments regarding the origin and intention of Russia’s campaign. However, several people who were not on the ICA drafting team did raise questions about the appropriate confidence level to be attributed to these findings. Specifically, in two situations, it was questioned whether the confidence level for the judgment that Putin aspired to help President Trump should be “high” or “moderate.” In each situation, my clients followed the same approach they took throughout the fusion cell and ICA processes—they deferred to the expertise and thorough review of the intelligence by the analysts, while hearing out and respecting differences of opinion.

In the first situation, two senior managers in the CIA department responsible for Russia analysis questioned whether the confidence level in that judgment should be “moderate.” These managers had deep experience with Russian intelligence activities, but they had not been involved in the fusion cell or the ICA drafting process and were therefore not closely tracking all of the intelligence available to the analysts who drafted the ICA. Director Brennan nevertheless met with the managers and sounded out their reasons for moderate confidence. Through that discussion, Director Brennan concluded that the managers’ assessment lacked an understanding of all of the intelligence that had informed the analysts’ high confidence in the ICA, including raw intelligence Director Brennan had also personally analyzed. For this reason, Director Brennan informed the managers that he would not unilaterally overturn or alter the analysts’ judgments, but he encouraged the two managers to raise and discuss their concerns further with the analyst team.

In the second situation, Director Rogers raised similar questions about the confidence level for that finding. NSA analysts, working with their CIA and FBI counterparts, had expressed high confidence in this finding, but at the end of the coordination process, Director Rogers told his director counterparts that he personally felt only moderate confidence. Directors Brennan and Clapper heard out Director Rogers’ concerns and ultimately reiterated their support for the analysts’ high-confidence judgment but made it clear that it was up to the NSA to decide how its confidence level would be reflected in the report. The NSA ultimately changed its confidence level on this finding to moderate, which was so reflected in the ICA. Importantly, none of the participating analysts or agencies raised any concern that there was less than moderate confidence in that judgment or less than high confidence in the other judgments.

### C. Steele Dossier

Though my clients had little role in drafting the ICA, they did actively engage in the preparation of the report in one aspect—in response to the FBI’s desire that the ICA include a discussion of the Steele dossier. The Steele dossier—named for its author, former British senior intelligence officer Christopher Steele—was originally a political opposition report composed of 17 separate memos of raw, uncorroborated information that implicated Donald Trump in various types of misconduct and his campaign in an alleged conspiracy with Russian operatives to influence the election in candidate Trump’s favor. In the years since this episode, the Steele dossier has taken on an almost mythic significance in the minds of those who believe that the Intelligence Community was intent on using the ICA process to undermine Donald Trump’s reputation and presidency. That conspiracy theory is inconsistent with the facts, and the irony is that my

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clients—the two principal leaders of the Intelligence Community—prevented the Steele dossier from playing any role in the ICA analysis.

The FBI first provided the dossier to my clients in mid-December 2016. Later, FBI officials asked that the dossier be included in the ICA report, for two reasons. First, citing President Obama's request for a complete assessment of the Russian interference, they argued that the Steele dossier was part of the complete record and should therefore be an integral part of any such assessment. Second, the FBI was concerned that their motivations might be questioned if they were perceived to have held back any potentially relevant intelligence.

My clients, echoing the views of the CIA and ODNI analysts, objected to including the Steele dossier in the ICA, citing the absence of corroboration for the information it contained.<sup>16</sup> They and their staffs expressed the concern that combining the dossier's unvetted information with the rest of the vetted intelligence would undermine the legitimacy of the report and compromise the credibility of its findings.

This situation resulted in a brief interagency standoff. The directors and their staffs reached a compromise by which they agreed to include a brief summary of the dossier in an appendix to the ICA—physically and formally distinct from the analytical work product—and to attach that appendix only to the highest classification version of the report, ensuring that it would only be seen by a relatively small number of highly cleared government officials. There was no mention of it in the report, and none of the report's text or its over 400 footnotes relied in any way on information from the Steele dossier.

Once the directors agreed on the treatment of the Steele dossier, the agencies finalized the highest classification version and submitted it to the National Intelligence Council as a memorandum to the President, dated December 30, 2016. The agencies then prepared and finalized the less classified and unclassified versions for further dissemination in early January.

## **V. Briefing of the Intelligence Community Assessment**

Following the completion of the ICA and its presentation to President Obama, the directors provided briefings to the "Gang of Eight" and President-elect Trump on its findings.

### **A. Congress**

My clients fully briefed Congress on the ICA findings. On January 6, 2017, Directors Clapper, Brennan, Rogers, and Comey jointly briefed the "Gang of Eight"—with each member accompanied by one staffer—on the ICA's findings. Then, on January 10, 2017, the four directors testified before the HPSCI in a closed hearing, and the SSCI in both an open hearing, as well as a closed session. Later that week, they briefed the ICA to classified all-Senate and all-House sessions.

### **B. President-Elect**

After the "Gang of Eight" briefing the morning of January 6, the Intelligence Community directors traveled to New York City and met with the President-elect to brief him on the findings of the ICA. Director Clapper led the discussion, while deferring at various points to Directors Brennan, Comey, and Rogers for details on their specific agencies' input to the ICA. During the briefing, President-elect Trump objected to the directors' conclusion that Russia sought to interfere in the election, raising questions about the reliability of the underlying sources from which the intelligence was gleaned. The directors endeavored to address the President-elect's questions by reference to the supporting intelligence and analysis, which clearly

<sup>16</sup> The CIA Supervisor confirmed for you that the CIA strongly objected to inclusion of the dossier because its information had not been vetted.



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demonstrated the Russian intent and effort to interfere. At the conclusion of the approximately hour and 15-minute briefing, my clients departed and Director Comey remained behind to alert the President-elect to the contents of the Steele dossier. With portions starting to circulate in the media, Director Comey wanted to warn the President-elect about its existence and contents. In addition, Director Comey told my clients that he felt compelled to provide the President-elect a “defensive briefing” on the dossier in case the Russians tried to use it as leverage over him, which would be consistent with the Russians’ age-old practice of generating and using “kompromat”—whether true or contrived—to exert pressure on foreign leaders.

The skepticism the President-elect exhibited towards the Intelligence Community and its findings quickly turned to vitriol in the ensuing days. Five days after the briefing, and after further public revelations of some of the contents of the Steele dossier, President-elect Trump tweeted that “Intelligence agencies should never have allowed this fake news to ‘leak’ into the public. One last shot at me. Are we living in Nazi Germany?”<sup>17</sup> The tweet falsely accused the Intelligence Community of being the source of leaks about the Steele dossier, alleged that the Intelligence Community was trying to undermine the President-elect, and equated the work of the Intelligence Community with the atrocities of the Nazis.

Within hours of that tweet, Director Clapper privately reached out to the President-elect in an effort to reassure him that the Intelligence Community did not cause the leak, to reiterate that the Intelligence Community had not relied on the Steele dossier for its conclusions in the ICA, and to discourage the President-elect from any more inflammatory rhetoric that would undermine public confidence in the Intelligence Community and the morale of its workforce. Director Clapper followed up that phone call with a public statement intended to publicly assuage the President-elect’s concerns, emphasizing that the Steele dossier was not an Intelligence Community product and that it had been excluded from consideration in the analysis resulting in the ICA’s judgments. Unfortunately, Director Clapper’s peacemaking efforts were not successful, and President Trump continued to assail the Intelligence Community and my clients in a variety of ways after his inauguration.<sup>18</sup>

## VI. Investigations Since the 2016 Election

Starting in 2017, the Intelligence Community’s collection effort and analytical assessment of the Russian 2016 election interference have been scrutinized during the course of numerous inquiries and investigations.

### A. Congressional Investigations

Congress was the first to initiate these efforts, with then-Chairman Richard Burr announcing plans at the January 10, 2017 SSCI hearing that his committee would conduct its own bipartisan review of Russia’s interference efforts and the government’s response. That announcement was followed by the HPSCI announcing its own investigation on January 25, 2017 and the Senate Judiciary Committee doing the same on February 2, 2017.

<sup>17</sup> The Internet Archive, *Twitter.com @realDonaldTrump captured on 11 January 2017*, <https://web.archive.org/web/20170111184847/https://twitter.com/realdonaldtrump/status/819164172781060096?lang=en>.

<sup>18</sup> In the years since, President Trump has issued approximately 60 tweets that explicitly criticize Directors Brennan and Clapper. He has called them names such as “dirty cops” and “sleazebags at the highest level” (August 11, 2020), and he has branded Director Clapper a “lying machine” (April 28, 2018) and Director Brennan a “loudmouth, partisan, political hack who cannot be trusted with the secrets to our country” (August 18, 2018). See generally, UC Santa Barbara, *The American Presidency Project*, [https://www.presidency.ucsb.edu/advanced-search?field-keywords=&field-keywords2=&field-keywords3=&from%5Bdate%5D=&to%5Bdate%5D=&person2=200301&category2%5B%5D=423&items\\_per\\_page=25](https://www.presidency.ucsb.edu/advanced-search?field-keywords=&field-keywords2=&field-keywords3=&from%5Bdate%5D=&to%5Bdate%5D=&person2=200301&category2%5B%5D=423&items_per_page=25). He even took the unprecedented step of ordering the revocation of Director Brennan’s clearance and issuing a secret presidential directive prohibiting executive branch agencies from sharing any classified information with Director Brennan.

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Though my clients no longer served in the government and were private citizens after January 20, 2017, they cooperated fully with these Congressional committees, testifying, interviewing, or providing written responses no fewer than seven times. Director Clapper testified before the Senate Judiciary Committee on May 8, 2017, and in the same month, Director Brennan testified before the HPSCI. My clients were interviewed by the SSCI—Director Brennan on June 23, 2017 and Director Clapper on July 17, 2017. They also responded to written questions from the HPSCI in February 2018, and Director Brennan testified before the SSCI on May 16, 2018.

At each appearance, my clients presented the facts and avoided making statements that could be used to unfairly suggest misconduct on the part of Donald Trump or his campaign. When asked about the established connections between Russian officials and members of the Trump campaign, Director Brennan offered that members of the campaign may have unintentionally been used by Russia for its own ends. For example, in his May 23, 2017 appearance before HPSCI, Director Brennan testified that he “was aware of intelligence and information about contacts between Russian officials and U.S. persons that raised concerns in my mind about whether or not those individuals were cooperating with the Russians,” but acknowledged that any cooperation could have been “either in a witting or unwitting fashion.”<sup>19</sup> Similarly, in his July 2017 SSCI interview, Director Clapper explained—as he did publicly on many other occasions—that he “didn’t have any evidence of collusion” between the Trump campaign and Russia.<sup>20</sup>

Over the course of these Congressional appearances, my clients cooperated fully with members and their staffs, and their input was important to the Congressional effort to chronicle the Intelligence Community’s response to the 2016 election interference and assess the danger of that threat to future elections. The most authoritative and credible output of those Congressional investigations was the SSCI report that was issued in five volumes and titled “Report on Russian Active Measures Campaigns and Interference in the 2016 Election.”

In its fourth volume, published on April 21, 2020, the SSCI report specifically assessed the process and findings of the ICA effort and gave it unqualified validation. Describing the ICA effort as an “impressive accomplishment,” the SSCI report found that the ICA presented “a coherent and well-constructed intelligence basis for the case of unprecedented Russian interference” and that all of the “analytic lines in the report were supported by all-source intelligence.”<sup>21</sup> The SSCI report also found that differing confidence levels on the one judgment were “justified and properly represented” and that “analysts were under no politically motivated pressure to reach specific conclusions,” and it confirmed that “the information provided by Christopher Steele to the FBI was not used in the body of the ICA or to support any of its analytic judgments.”<sup>22</sup> Finally, the report validated the Intelligence Community’s concern about the future election interference threat, noting that “[s]ince January 2017, the Committee has discovered additional examples of Russia’s attempts to sow discord, undermine democratic institutions, and interfere in U.S. elections.”<sup>23</sup>

### B. Special Counsel Mueller’s Investigation

Simultaneous with the Congressional investigations, Deputy Attorney General Rod Rosenstein appointed Robert S. Mueller, III as Special Counsel on May 17, 2017 and directed him to investigate potential links between President Trump’s campaign and the Russian government. Special Counsel Mueller conducted a probing investigation and issued his report to Attorney General William Barr on March 22, 2019. While

<sup>19</sup> PERM. SELECT COMM. ON INTEL., RUSSIAN ACTIVE MEASURES DURING THE 2016 ELECTION, RUSSIA INVESTIGATION TASK FORCE (May 23, 2017), <https://docs.house.gov/meetings/IG/IG00/20170523/105992/HHRG-115-IG00-Transcript-20170523.pdf>, at 16, 29.

<sup>20</sup> PERM. SELECT COMM. ON INTEL., EXECUTIVE SESSION (July 17, 2017), <https://intelligence.house.gov/uploadedfiles/jc7.pdf>, at 26-27.

<sup>21</sup> S. Doc. No. 116-290, at 6 (1st Sess. 2020).

<sup>22</sup> *Id.* at 6, 7.

<sup>23</sup> *Id.* at 50.



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Mueller's team did not interview my clients or offer an assessment of the Intelligence Community's work, their redacted report reiterated and affirmed the central findings of the ICA. It described Russian efforts to steal and disclose the emails of Democratic Party officials and concurred in the finding that the Internet Research Agency, an arm of the Russian government, intentionally undertook to damage candidate Clinton and promote candidate Trump.

## **C. Special Counsel Durham's Investigation**

My clients have also cooperated with your review of the Intelligence Community's collection effort and analytical assessment concerning Russian interference in the 2016 election. As early as May 2019, my clients expressed their willingness to be interviewed. Director Brennan engaged in an eight-hour long interview with you and your team in August 2020, and Director Clapper did the same for nearly three hours in December 2021. Each responded to every question posed, and detailed, at a classified level, the points discussed here. I trust you would agree that these were productive sessions.<sup>24</sup>

## **VII. Conclusions**

The foregoing narrative highlights critical points about the work of the Intelligence Community and my clients in response to the threat posed by the Russian interference in the 2016 election. Accordingly, I would like to emphasize the following points to assist in the formulation and drafting of your report.

### **A. My Clients Are Intelligence Professionals Who Insisted on an Apolitical Approach to Intelligence and Counterintelligence**

My clients spent their government careers as non-partisan intelligence officials safeguarding our national security. They both came up the ranks and learned that objectivity is the coin of the realm and political bias of any kind is to be avoided. They later served at senior levels in both Republican and Democratic administrations, earning the trust and confidence of presidents and senior political figures of both parties. With this apolitical background, they approached each project or mission with focus on our national security interests without regard to political considerations. They each brought that apolitical approach to their work on the 2016 election interference collection effort and analytical assessment.

### **B. My Clients Enforced Strict Confidentiality in Large Part to Protect the Trump Campaign**

My clients focused on preventing leaks about the substance and findings of the collection efforts during the presidential campaign. That focus can be seen in such measures as the formation of a separate fusion cell to conduct the collection effort; the limitation of participants to the NSA, FBI, and CIA; the restricted dissemination of the resulting intelligence—even in the President's Daily Brief—and Director Brennan's refusal to allow Senator Reid to include some of that intelligence in his classified letter to Director Comey. As both Directors have explained, they took these measures to protect not only intelligence sources and methods but also the presidential campaigns-- the Trump campaign in particular. They knew that the analysts' finding of Russia's active preference for Trump could be damaging to Trump's candidacy. For that reason, they protected that finding from disclosure throughout the fall of 2016, and it remained protected until it was revealed publicly with the issuance of the ICA well after the election was over.

<sup>24</sup> Director Brennan issued a public statement crediting you and your staff for your professionalism during the interview, which he directly contrasted with the seeming politicization of the process by statements from President Trump and Attorney General Barr.

## **C. My Clients and the Intelligence Community Avoided Statements About the 2016 Threat That Could Influence the Election**

In addition to preventing leaks that could influence the election, my clients and the Intelligence Community avoided making public statements that could have had a similar impact. As my clients explained to you and Congress, the Obama Administration agonized over how to warn the American people about Russia's disinformation and influence campaign without affecting the election. It was decided ultimately that Director Clapper and DHS Secretary Jeh Johnson would issue the above-described warning statement to the American people on October 7, 2016.

The absence of any reference to Russia's preference for candidate Trump in that statement is very telling. That intelligence finding was well established; analysts had come to that conclusion early in the summer of 2016, and it could have been included in the October statement. In fact, one could argue that it *should have been* included so that Americans would know to be vigilant not only toward influencing efforts in general but also toward Russia's pro-Trump influencing efforts in particular. That finding would have made for a much more effective warning, yet my clients and the Obama Administration did not include it—once again demonstrating their conscientious effort to avoid damaging Trump's candidacy.

## **D. The CIA Shared Intelligence with the FBI Without Regard to Its Political Implications**

Director Brennan made sure that intelligence generated by the election interference collection effort was disseminated in a politically even-handed manner. That even-handedness is clearly evident in the episode that was declassified and publicly disclosed by DNI Ratcliffe on September 29, 2020, where the CIA passed to the FBI intelligence that Hillary Clinton had allegedly approved a plan to generate a narrative associating Donald Trump with Russian security services' efforts to interfere with the election. This intelligence, though unverified, was passed along to the FBI for potential investigation, pursuant to the standard, routine procedure when U.S. persons are implicated.

## **E. The Intelligence Community Analysts Developed the ICA's Findings Without Influence from the Intelligence Community Leadership**

My clients have the utmost respect for professional analysts and for their independence. Throughout the election interference collection effort and analytical assessment—from the initial detection and determination of Russian interference to the formulation of the final judgments in the ICA—my clients deferred to the expert judgment of the professional analysts at every turn. Director Brennan allowed the ICA analysts to arrive at their own conclusions and to write the ICA without interference from him or the rest of the Intelligence Community leadership. In fact, when Director Brennan reviewed the ICA at the end of the analysts' drafting process, he had nothing more than a few stylistic edits and made no substantive changes.<sup>25</sup> Similarly, Director Clapper played no role in the drafting process and remanded disagreements about analytical judgments to the analysts who drafted the ICA.

## **F. My Clients Resisted Inclusion of the Steele Dossier in the ICA**

As my clients have explained, and the CIA Supervisor and SSCI's report confirmed, the CIA and ODNI opposed the FBI request to include the Steele dossier in the ICA. They recognized that it was unvetted and therefore not appropriate for an Intelligence Community product like the ICA. They successfully held that line, excluding the substance of the Steele dossier from the analysis contained in the ICA and relegating it

<sup>25</sup> This absence of political influence in the formulation of the ICA was confirmed by the CIA Supervisor in the interview with your team. It was also confirmed by the SSCI staff through their interviews of the ICA analysts, as reflected in the resulting finding to that effect in the SSCI report. See S. Doc. No. 116-290, at 6 (1st Sess. 2020).



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to a brief summary that was attached as an appendix to only the most highly classified version of the ICA to avoid its public disclosure.

My clients could have easily agreed to the FBI's request and allowed the dossier to be included or referenced in the body of the ICA, thereby publicly highlighting its contents, which were highly critical of Trump. Their refusal to do so is a credit to their professionalism and evidence of their politically even-handed approach.

### **G. My Clients Were Measured in Their Testimony About the Trump Campaign's Role in Russia's Election Interference Effort**

During their public testimonies, my clients fielded numerous questions about possible complicity by members of the Trump campaign in Russia's interference efforts in a measured and even-handed way. For example, in Director Clapper's HPSCI interview on July 17, 2017, Congressman Francis Rooney asked about collusion between the Trump campaign and the Russian government, and Director Clapper responded that he "never saw any direct empirical evidence that the Trump campaign or someone in it was plotting/conspiring with the Russians to meddle with the election."<sup>26</sup> Director Clapper was asked variations of the same question 10 other times during his Congressional appearances, and he gave the same answer. Director Brennan similarly testified in the May 23, 2017 HPSCI hearing that he lacked "sufficient information to make a determination whether or not such cooperation or complicity or collusion was taking place."<sup>27</sup> He then went further and, citing the adroitness of Russian agents at manipulating their targets, he explained four different times in his testimony that any such cooperation by members of the Trump campaign may have been "unwitting."<sup>28</sup> At three other junctures in his testimony, he further allowed that the contacts the Intelligence Community observed between the Trump campaign and Russian official could have been "innocent" or "benign."<sup>29</sup> My clients could have made a different choice when answering those questions and could have placed less emphasis on those mitigating points. Their insistence on highlighting those points is further evidence of their even-handedness.

### **H. My Clients Fully Cooperated with All of the Post-2016 Investigations**

Immediately after their departure from government service, both of my clients received a series of invitations to appear for interviews or hearings by the members and staff of the three Congressional committees that examined the Intelligence Community's response to the Russian election interference threat. They accepted every one of these invitations, and between May 2017 and May 2018, they participated in two interviews, testified at five hearings, and answered numerous written questions from the investigating committees. They have been similarly cooperative with your investigation. From the outset, they offered to meet with you and your colleagues, and they voluntarily engaged in interviews and responded to every question posed to them.

<sup>26</sup> See *supra* n. 20 at 26.

<sup>27</sup> See *supra* n. 19 at 29.

<sup>28</sup> *Id.* at 16 ("[Russians] try to suborn individuals . . . to act on their behalf, either wittingly or unwittingly. And I was worried by a number of the contacts that the Russians had with U.S. persons. . . . I had unresolved questions in my mind as to whether or not the Russians had been successful in getting U.S. persons, involved in the campaign or not, to work on their behalf, again, either in a witting or unwitting fashion."), 26 (Rep. Himes: "Do Americans who are suborned . . . necessarily need to know that they are doing Russia's bidding?" Director Brennan: "No. Many times they do not."), 29 ("So I can only repeat what I said, which is that I was aware of intelligence and information about contacts between Russian officials and U.S. persons that raised concerns in my mind about whether or not those individuals were cooperating with the Russians either in a witting or unwitting fashion").

<sup>29</sup> *Id.* at 20 ("[T]his was an exceptionally, exceptionally sensitive issue, an active counterintelligence case, . . . [t]hat included information that may have involved U.S. persons' contacts with Russia, whether they are benign or not."), 25 ("[T]hese are contacts [with Russians] that might have been totally, totally innocent and benign"), 51 (Rep. Turner: "You said that those contacts might have been benign, might not have been . . . [d]id I characterize that correctly?" Director Brennan: "Yes . . . You know we see contacts and interactions between Russian officials and U.S. persons all the time.").

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## I. Subsequent Investigations Have Supported the Analysis and Integrity of the ICA

Subsequent investigations have affirmed the work of the Intelligence Community in responding to the Russian interference in the 2016 election. The Mueller report reinforced the findings of the ICA, chronicling many of the same Russian cyber efforts and contacts with the Trump campaign that the fusion cell had identified. The SSCI investigation similarly endorsed the ICA's findings and the process by which the Intelligence Community reached those findings. In the fourth volume of its report, the SSCI evaluated the Intelligence Community's work on the election threat and came to the following conclusions: (1) the ICA's findings were well-founded and supported by all-source intelligence; (2) the process by which the Intelligence Community prepared its report adhered to proper tradecraft; (3) the analysts had been empowered to do their jobs without political interference and felt free to debate and disagree on findings; and (4) the Steele dossier did not factor into the ICA findings and my clients were instrumental in refusing its inclusion in the analysis.

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I hope that you find these points helpful in your evaluation of the 2016 election interference intelligence collection and assessment.<sup>30</sup> They provide an important understanding of the motivations and approach that my clients brought to their work on the 2016 election threat. In short, they demonstrate that my clients acted throughout this difficult process with the objective of insulating it from the highly charged political atmosphere and with a single-minded focus on protecting national security. That is the major conclusion to be drawn here, and it is critical that your report clearly articulate that conclusion.

There is understandable concern in some quarters about whether the Intelligence Community's work to analyze and chronicle the Russian interference in the 2016 election was affected by politics. The above narrative and points demonstrate that it was not. That is an important truth for Americans to understand, and I trust that your investigation and concluding report will buttress that understanding.

Thank you for considering this input, for your work on this important project, and for your service to the country.

Sincerely,



Kenneth L. Wainstein  
Davis, Polk & Wardwell, LLP

Will Schildknecht  
Davis, Polk & Wardwell, LLP

<sup>30</sup> Please note that I have developed this letter and list of points without any knowledge of the direction that you will take in any report that you might generate. Needless to say, please let me know if there are other points or factual issues that you would like me to address.