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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, Chief Counsel and Staff Director
JENNIFER DUCK, Democratic Chief Counsel and Staff Director

February 27, 2018

The Honorable Donald F. McGahn II
White House Counsel
Office of the White House Counsel
1600 Pennsylvania Ave NW
Washington, D.C. 20500

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation
935 Pennsylvania Ave NW
Washington, D.C. 20535

Dear Mr. McGahn and Director Wray,

We write to seek clarity on the process by which individuals are able to apply for and receive security clearances, allowing access to highly sensitive classified information. Recent reports reveal that officials at the highest levels of government may be operating with only interim security clearances,¹ either because of delays in the clearance-granting process or because information revealed during that process is not acted on in a timely and appropriate fashion.² If true, this raises significant concerns that ineligible individuals, who hold positions of public trust, may have access to sensitive or classified information. It is therefore important to understand, holistically, how the clearance process works across branches of government, and whether and to what extent the recent reporting on interim clearances details a common problem or one unique to this administration.

As members of the Senate Judiciary Committee, we have a responsibility to conduct oversight of the process by which the FBI's background checks impact the issuance of these clearances. As such, please provide answers to the following questions no later than March 13, 2018:

¹ Jim Sciutto, Gloria Borger and Zachary Cohen, *Dozens of Trump Officials Still Lack Full Security Clearance*, CNN, (Feb. 9, 2018), <https://www.cnn.com/2018/02/09/politics/trump-officials-pending-security-clearances/index.html>.

² Brian Naylor and Domenico Montanaro, *White House Clearance Trouble Shines Light on 'High Risk' Backlog Problem*, NPR (Feb. 10, 2018), <https://www.npr.org/2018/02/10/584375510/white-house-security-clearance-trouble-shines-light-on-high-risk-backlog-problem>.

1. How many individuals in the White House and on Capitol Hill are working with interim security clearances? Please provide this data from FY 2009-present, disaggregated on a per-year basis. How long would these individuals be permitted to work with interim status?
2. Please provide all relevant policies or procedures governing the ability for staff with interim clearances to access sensitive or classified information from FY 2009-present.
3. What procedures are required to extend or reactivate an interim or other clearance, and for what length of time are such clearances permitted to be extended? How many times may an interim clearance be extended or reactivated?
4. Are individuals at the White House who work with an interim security clearance barred from handling any matters or information that would otherwise be permissible if the individual had a full security clearance? Are individuals with interim security clearances granted access to the President's Daily Brief?
5. Please describe the process for issuing a security clearance to a White House and Congressional employee.
 - a. Please provide the relevant policies and procedures for issuing a security clearance to these employees. How long does the process typically take? What is the process for revoking a clearance, or otherwise restricting access to any classified information, after an individual leaves government service?
 - b. Does a high number of interim clearances necessarily indicate a high number of applicants with derogatory information, or could that indicate a processing backlog?
6. Please describe the process and timeline for investigating and adjudicating the security clearance application of former White House Staff Secretary Rob Porter. Did the FBI provide updates to the White House regarding Mr. Porter while Mr. Porter's security clearance application was pending? If so, when? What information was provided in each update? Director Wray testified before Congress that soon after the FBI completed a background investigation on Mr. Porter in late July of last year, "we received requests for follow-up inquiry, and we did the follow-up and provided that information in November."³ What were the requests for follow-up inquiry and who made them? What follow-up information was provided in November and to whom?

Thank you for your attention to this important matter. Should you have any questions, please contact Katherine Nikas of Chairman Grassley's staff at 202-224-5225, and Sam Simon of Senator Blumenthal's staff at 202-224-2823.

³ Testimony of FBI Director Christopher Wray, U.S. Senate Select Committee on Intelligence, Worldwide Threats Hearing, Feb 13, 2018.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" being more prominent than the last name "Grassley".

Chuck Grassley
Senate Committee on the Judiciary

A handwritten signature in blue ink that reads "Richard Blumenthal". The signature is fluid and cursive, with the first name "Richard" being more prominent than the last name "Blumenthal".

Richard Blumenthal
Senate Committee on the Judiciary

cc:

The Honorable Dianne Feinstein
Ranking Member
Committee on the Judiciary