

STATE SECRETS: HOW AN AVALANCHE OF MEDIA LEAKS IS HARMING NATIONAL SECURITY

**A Majority Staff Report of the
Committee on Homeland Security and Governmental Affairs
United States Senate
Senator Ron Johnson, Chairman**



July 6, 2017

EXECUTIVE SUMMARY

Federal law prohibits the unauthorized release of certain information that could damage our national security. The protection of our nation's secrets is essential to protecting intelligence activities, sources and methods, preserving the ability of the President to effectively achieve foreign policy objectives, and ultimately to safeguard our country. In short, the unauthorized disclosure of certain information can cost American lives, and our laws protecting this information provide for harsh punishments when violated. Since President Trump assumed office, our nation has faced an unprecedented wave of potentially damaging leaks of information protected by these important laws.

Under President Trump's predecessors, leaks of national security information were relatively rare, even with America's vibrant free press. Under President Trump, leaks are flowing at the rate of one a day, an examination of open-source material by the majority staff of the Committee on Homeland Security and Governmental Affairs shows. Articles published by a range of national news organizations between January 20 and May 25, 2017 included at least 125 stories with leaked information potentially damaging to national security. Even a narrow search revealed leaks of comparable information during the Trump administration that were about seven times higher than the same period during the two previous administrations.

From the morning of President Trump's inauguration, when major newspapers published information about highly sensitive intelligence intercepts, news organizations have reported on an avalanche of leaks from officials across the U.S. government. Many disclosures have concerned the investigations of alleged Russian interference in the 2016 election, with the world learning details of whose communications U.S. intelligence agencies are monitoring, what channels are being monitored, and the results of those intercepts. All such revelations are potential violations of federal law, punishable by jail time.

But the leak frenzy has gone far beyond the Kremlin and has extended to other sensitive information that could harm national security. President Trump's private conversations with other foreign leaders have shown up in the press, while secret operations targeting America's most deadly adversaries were exposed in detail.

As *The New York Times* wrote in a candid self-assessment: "Journalism in the Trump era has featured a staggering number of leaks from sources across the federal government."¹ No less an authority than President Obama's CIA director called the deluge of state secrets "appalling."² These leaks do not occur in a vacuum. They can, and do, have real world consequences for national security. To ensure the security of our country's most sensitive information, federal law enforcement officials ought to thoroughly investigate leaks of potentially sensitive information flowing at an alarming rate.

¹ Michael Grynbaum & John Koblin, *After Reality Winner's Arrest, Media Asks: Did 'Intercept' Expose a Source?*, N.Y. TIMES (June 6, 2017).

² Brian Naylor, *Former CIA Director Tells Lawmakers About 'Very Aggressive' Russian Election Meddling*, NPR (May 23, 2017).

FINDINGS

Under the direction of Senator Ron Johnson, Chairman of the Senate Committee on Homeland Security and Governmental Affairs, majority committee staff examined media leaks between January 20, 2017, and May 25, 2017—President Trump’s first 126 days in office. The examination consisted entirely of publicly available news articles; no classified information was accessed or reviewed. The inquiry found:

- The Trump administration faced 125 leaked stories—one leak a day— containing information that is potentially damaging to national security under the standards laid out in a 2009 Executive Order signed by President Barack Obama.
- Leaks with the capacity to damage national security flowed about seven times faster under President Trump than during President Obama’s and President George W. Bush’s first 126 days.
- The majority of leaks during the Trump administration, 78, concerned the Russia probes, with many revealing closely-held information such as intelligence community intercepts, FBI interviews and intelligence, grand jury subpoenas, and even the workings of a secret surveillance court.
- Other leaks disclosed potentially sensitive intelligence on U.S. adversaries or possible military plans against them. One leak, about the investigation of a terrorist attack, caused a diplomatic incident between the United States and a close ally.
- Leaked stories appeared in 18 news outlets, sourced to virtually every possible permutation of anonymous current and former U.S. officials, some clearly from the intelligence community. One story cited more than two dozen anonymous sources.
- Almost all of the stories leaked during President Trump’s first 126 days were about the President or his administration. In contrast, only half of the stories leaked during the comparable period of the Obama administration were about President Obama or his administration; the other half concerned President Bush and his anti-terrorism tactics.

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OVERVIEW OF LAWS ON NATIONAL SECURITY INFORMATION

The Committee on Homeland Security and Governmental Affairs, in addition to its role as the chief oversight committee in the Senate, is specifically entrusted with two important responsibilities—to oversee our nation’s federal records and to examine “the effectiveness of present national security methods, staffing, and procedures as tested against the requirements imposed by the rapidly mounting complexity of national security problems.”³ Nothing is more important to America’s national security than protecting its secrets. While the First Amendment must be respected and a free press is vital to an accountable democracy, the federal government’s foremost mission must be to keep Americans safe from harm. As Deputy Attorney General Rod J. Rosenstein put it: “Releasing classified material without authorization threatens our nation’s security and undermines public faith in government.”⁴

While no single law governs unauthorized disclosures of national security information, a patchwork of statutes and presidential directives address the release of information that the executive branch deems potentially classified. The Espionage Act, a World War I-era law, remains “one of the U.S. government’s primary statutory vehicles for addressing the disclosure” of sensitive national security information.⁵ The Act’s broadest prohibition is 18 U.S.C. § 793, which criminalizes the dissemination of various types of national defense information.⁶ With so many recent Russia-related leaks disclosing intelligence activities and information, one security studies expert, Angelo M. Codevilla,⁷ decried the “patently obvious felonies that U.S. intelligence officials have committed each and every time they have informed reporters of *The Washington Post* and *New York Times* about the targets, functions and results of U.S. communications intelligence.”⁸

Violations of the Espionage Act are punishable by up to 10 years imprisonment, as are violations of a separate statute, 18 U.S.C. § 1030(a)(1), which prohibits the communication of classified information retrieved from a computer if the information “could be used to the injury of the United States.”⁹

The Obama administration laid out a zero-tolerance policy for leaks and the harm they cause. President Obama’s Director of National Intelligence, James R. Clapper, wrote in a blunt 2012 Intelligence Community Directive: “National intelligence and intelligence sources, methods and activities shall be protected. The integration of [counterintelligence] and security activities throughout the [intelligence community] is the primary method for neutralizing threats

³ S. Rule XXV(k); S. Res. 62, 115th Cong. (2017).

⁴ Press Release, U.S. Dep’t of Justice, Federal Government Contractor in Georgia Charged With Removing and Mailing Classified Materials to a News Outlet (June 5, 2017), <https://www.justice.gov/opa/pr/federal-government-contractor-georgia-charged-removing-and-mailing-classified-materials-news>.

⁵ Stephen P. Mulligan & Jennifer K. Elsea, *Criminal Prohibitions on Leaks and Other Disclosures of Classified Defense Information*, Cong. Research Serv. (March 7, 2017).

⁶ 18 U.S.C. § 793 (2012).

⁷ See The Claremont Inst., <http://www.claremont.org/crb/contributor-list/116/> (last visited June 20, 2017).

⁸ Angelo Codevilla, *Punishing The Real Russia Crime: Leaking*, AMERICAN GREATNESS (June 4, 2017), <https://amgreatness.com/2017/06/04/punishing-real-russia-crime-leaking/>.

⁹ 18 U.S.C. § 1030 (2012).

by foreign powers, organizations, or persons, or their agents, or international terrorist organizations or activities.”¹⁰ President Obama also issued Executive Order 13526 in 2009 governing classified national security information. Section 1.4 specifies the categories of information subject to classification because “unauthorized disclosure could reasonably be expected to cause identifiable or discernible damage to the national security.”¹¹ The categories include “intelligence activities”; “foreign relations or foreign activities of the United States”; “military plans, weapons systems, or operations”; and “scientific, technological or economic matters relating to the national security.”¹²

Prosecuting leakers is complicated and subject to case-specific factors, including criminal intent. This report is not meant to suggest that the unauthorized disclosure of sensitive information will always lead to criminal prosecutions. It is the responsibility of federal prosecutors and law enforcement officials to decide if cases should be brought.

What is clear, however, is that the cascade of leaks may be unprecedented and is causing real harm. Susan Hennessey, a Brookings Institution scholar and former National Security Agency lawyer, said that recent disclosures of telephone intercepts are beyond anything in her experience. “This information is really, really sensitive,” she told *The Washington Post*.¹³ Among those calling for a crackdown on leaks is former CIA director John Brennan. After criticizing President Trump’s reported decision to share sensitive information with Russian officials,¹⁴ Brennan recently told House members that his bigger concern was subsequent leaks disclosing that the information had been provided by a U.S. intelligence partner.¹⁵ “What I was very concerned about, though, is the subsequent release of what appears to be classified information purporting to point to the originator of the information, liaison partners,” Brennan testified before the House Permanent Select Committee on Intelligence. “These continue to be very, very damaging leaks, and I find them appalling, and they need to be tracked down. So, that is where the damage came from.”¹⁶

It is also apparent that the arguments often used to justify leaks that are at odds with the Trump administration—that leakers are bringing to light potential illegality, unwise policies, or concerns about the President’s temperament—have no legal basis. According to the non-partisan

¹⁰ U.S. OFFICE OF THE DIR. OF NAT’L INTELLIGENCE, INTELLIGENCE COMMUNITY DIRECTIVE 700 (June 7, 2012), https://www.dni.gov/files/documents/ICD/ICD_700.pdf.

¹¹ Exec. Order No.13526, 75 Fed. Reg. 2, 707 (January 5, 2010).

¹² *Id.*

¹³ Margaret Sullivan, *Of Course Washington is Plagued by Leaks. That’s a Good Thing*, WASH. POST (June 4, 2017), https://www.washingtonpost.com/lifestyle/style/of-course-washington-is-plagued-by-leaks-thats-a-good-thing/2017/06/02/f6a8245c-46e7-11e7-98cd-af64b4fe2dfc_story.html?utm_term=.99d84e9c36df.

¹⁴ Greg Miller & Greg Jaffe, *Trump Revealed Highly Classified Information to Russian Foreign Minister and Ambassador*, WASH. POST (May 15, 2017), https://www.washingtonpost.com/world/national-security/trump-revealed-highly-classified-information-to-russian-foreign-minister-and-ambassador/2017/05/15/530c172a-3960-11e7-9e48-c4f199710b69_story.html?utm_term=.dd6c1b5b4560.

¹⁵ Adam Goldman, Eric Schmitt & Peter Baker, *Israel Said to Be Source of Secret Intelligence Trump Gave to Russians*, N.Y. TIMES (May 16, 2017), <https://www.nytimes.com/2017/05/16/world/middleeast/israel-trump-classified-intelligence-russia.html>.

¹⁶ Video: *Brennan: IC Leaks To Press Are Appalling And Need to Be Tracked Down*, YOUTUBE (May 23, 2017), https://www.youtube.com/watch?v=lfguLYzgP_U.

Congressional Research Service (CRS), no accused leaker “has ever been acquitted based on a finding that the public interest in the released information was so great that it justified an otherwise unlawful disclosure.”¹⁷ Instead, “courts have regarded such disclosures by government employees to be conduct that enjoys no First Amendment protection, regardless of the motives of the divulger or the value the release of such information might impart to public discourse.”¹⁸

METHODOLOGY

This examination of media leaks during the Trump administration consists entirely of publicly available news reporting. No classified information was accessed or reviewed for any purpose during this examination. As such, the report takes no position on the accuracy of the information as reported in the media.

President Obama’s Executive Order 13526 served as the basis for this examination. The inquiry began with searches of Google and commercial databases for stories that ran in publications and/or were posted online between January 20, 2017 and May 25, 2017—President Trump’s first 126 days in office. Staff members used 36 search terms designed to identify phrases typically used in anonymously-sourced stories, such as “Trump and U.S. officials,” and “Trump and people familiar with.” Articles were tagged if they: (a) had no named sources; (b) reflected the news outlet’s original sources;¹⁹ and (c) fell under a category in Executive Order 13526 as reasonably expected to cause damage to national security, such as “intelligence activities” or “foreign relations or foreign activities of the United States.” This search resulted in 125 stories that matched these criteria.²⁰

To approximate the amount of national security leaks during the Trump administration relative to President Trump’s predecessors, searches were conducted using the Lexis database of news articles for the same time period of the Trump, Obama and Bush administrations.²¹ The same 36 search terms were used for each of these searches.

By necessity, these searches were not comprehensive, and this report required some judgement calls on which leaks could reasonably be expected to cause damage to national security. This analysis does not include a number of stories during the Trump administration that

¹⁷ Stephen P. Mulligan & Jennifer K. Elsea, *supra* note 5.

¹⁸ *Id* (citing argument based upon *U.S. v. Marchetti*, 466 F.2d 1309 (4th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972); *Snepp v. U.S.*, 444 U.S. 507 (1980)).

¹⁹ “Original sources” means that the article contained a unique leak of the damaging information. The *Washington Post*, for example, broke a story in April 2017 that the FBI had obtained a secret order from the secret Foreign Intelligence Surveillance Court to monitor the communications of a Trump advisor. See Ellen Nakashima, Devlin Barrett & Adam Entous, *FBI Obtained FISA Warrant to Monitor Trump Adviser Carter Page*, WASH. POST (April 11, 2017). Stories were only tagged from publications that confirmed the *Post* reporting with their own sources. Stories were not included if they ran: “The *Washington Post* reported that”

²⁰ These articles are included in the Appendix.

²¹ Since a comprehensive Lexis search for President Trump’s first 126 days produced more than 10,000 hits, the Lexis inquiries for Trump and his two predecessors were limited to The Associated Press and five major newspapers: *The New York Times*; *The Washington Post*; *The Los Angeles Times*; *The Boston Globe* and *The Houston Chronicle*. Even those narrower searches—of The Associated Press and five major newspapers—produced nearly 3,000 articles. Staff members pulled out those that met the same criteria listed above.

could meet the criteria outlined in President Obama's executive order but were considered borderline. The analysis also does not include examples of what could be called "palace intrigue" stories, such as a *CNN* report that President Trump was furious and lashing out at White House staff over the Russia investigation.²² Thus, this analysis represents a conservative estimate of the volume of leaks of information potentially damaging to national security during the Trump administration.

²² Jake Tapper ET AL., *Trump Angry and Frustrated at Staff Over Sessions Fallout*, CNN (Mar. 6, 2017, 6:08 AM), <http://www.cnn.com/2017/03/04/politics/donald-trump-jeff-sessions-reince-priebus/index.html>.

LEAKS OF SENSITIVE NATIONAL SECURITY INFORMATION DURING THE TRUMP ADMINISTRATION

The broad search of Trump's first 126 days in office yielded a total of 125 leaked stories that met the criteria for original sourcing and potential national security damage. The second, narrower Lexis searches of The Associated Press and five major newspapers found 62 such stories—about seven times more than the comparable numbers of stories under President Obama or President Bush. Of the 125 total stories, half were broken by *The Washington Post* or *The New York Times*. But leaks also flowed to 16 other news organizations, ranging from mainstream newspapers such as *The Wall Street Journal* and wire services such as *Reuters*, to major television network websites, venerable magazines such as *Foreign Policy*, and relatively newer outlets like *The Daily Beast*.

Many stories presented President Trump in a negative and often harsh light, with some seemingly designed to embarrass the administration. For example, a *Mother Jones* article detailed a memo telling intelligence analysts to keep President Trump's daily briefings short and to avoid nuance;²³ a *Reuters* piece reported on how the National Security Council frequently puts his name in briefings so he will keep reading;²⁴ and *The Washington Post* wrote a story on how the President “badgered, bragged and abruptly ended” a phone call with the Australian Prime Minister.²⁵ This *Post* story was one of several that quoted directly from President Trump's private calls with foreign leaders, a rare occurrence under previous presidents.

More than 70 leaked stories were attributed to “officials” in virtually every form the word can be used, including “U.S. officials”; “former U.S. officials”; “current and former U.S. officials”; “senior U.S. officials”; “former government officials”; “administration officials”; “intelligence officials”; “national security officials”; “Justice Department officials”; “law enforcement officials”; and “defense officials.” Other stories cited people “familiar with” or briefed on closely-held information such as classified intelligence; contents of wiretapped communications; national security forms, and internal administration deliberations. The sheer volume and scope of the sources indicates that they are coming from across the government, with some clearly from within the intelligence community, given the large number of stories reporting on secret intelligence and how publications cite their sources.

The stories about reported Russia-related intelligence are especially troublesome given the potential for disclosure of national security information. In recent months, the world has learned, reportedly, that U.S. intelligence agencies are routinely monitoring Russian officials,

²³ Ashley Dejean, *Exclusive: Classified Memo Tells Intelligence Analysts to Keep Trump's Daily Brief Short*, MOTHER JONES (Feb. 16, 2017, 1:58 PM), <http://www.motherjones.com/politics/2017/02/classified-memo-tells-intelligence-analysts-keep-trumps-daily-brief-short/>.

²⁴ Steve Holland & Jeff Mason, *National Security Officials Put Trump's Name in Their Briefings As Much As Possible So He Will Keep Reading*, REUTERS (May 17, 2017, 9:33 AM), <http://www.businessinsider.com/r-embroiled-in-controversies-trump-seeks-boost-on-foreign-trip-2017-5>.

²⁵ Greg Miller & Phillip Rucker, *'This Was the Worst Call by Far': Trump Badgered, Bragged and Abruptly Ended Phone Call With Australian Leader*, WASH. POST (Feb. 2, 2017), https://www.washingtonpost.com/world/national-security/no-gday-mate-on-call-with-australian-pm-trump-badgers-and-brags/2017/02/01/88a3bfb0-e8bf-11e6-80c2-30e57e57e05d_story.html?utm_term=.91af5709181e.

including “within the Kremlin”;²⁶ the communications channels being monitored; whose conversations have been picked up on telephone wiretaps; the contents of some of these communications; and, in at least one case, which agency is doing the monitoring.²⁷ In one egregious example, current and former officials apparently gave *Reuters* the exact number of calls and electronic messages exchanged in a specific time period between Trump advisors and Russian officials.²⁸ These stories plainly could damage national security under the definition laid out in President Obama’s 2009 Executive Order.

Equally clear is the potential damage from numerous leaks unrelated to Russia. A *Bloomberg* story in May 2017, for example, unveiled an intelligence community assessment about the U.S. resources that would be required to “stop the advance of the Taliban” in Afghanistan and “save the government in Kabul.”²⁹ That leak alone appeared to violate three parts of the 2009 Executive Order: the prohibition on unauthorized disclosure of intelligence activities, another on revealing U.S. “military plans, weapons systems or operations,” and a third on disclosing information about “foreign relations or foreign activities of the United States.” A number of recent stories about alleged terrorist plots or possible military action against a terrorist group could help undermine anti-terror activities, while another disclosing details of a secret cyber operation targeting a terrorist group constitutes potential harm under a provision of the 2009 Executive Order prohibiting disclosure of “technological . . . matters relating to the national security.”³⁰ Even a relatively short *Washington Post* piece in March 2017 that reported about Administration data that allegedly undercuts President Trump’s visa restrictions could fall under the Executive Order.³¹ By disclosing internal reports, including one reportedly drawn from closely-held FBI data, the article risks revealing “vulnerabilities . . . of systems, installations, infrastructures, projects, plans . . . relating to the national security”—because the administration argues the ban is necessary for maintaining that security.³²

Many of the most publicized leaks in recent weeks stemmed from President Trump’s removal of FBI Director James Comey and the documents Director Comey allegedly wrote detailing his communications with the President. In testimony before the Senate, Director Comey

²⁶ Matthew Rosenberg, Adam Goldman & Michael S. Schmidt, *Obama Administration Rushed to Preserve Intelligence of Russian Election Hacking*, N.Y. TIMES (Mar. 1, 2017), <https://www.nytimes.com/2017/03/01/us/politics/obama-trump-russia-election-hacking.html>.

²⁷ Michael S. Schmidt, Matthew Rosenberg, Adam Goldman & Matt Apuzzo, *Intercepting Russian Communications Part of Inquiry Into Trump Associates*, N.Y. TIMES (Jan. 19, 2017), <https://www.nytimes.com/2017/01/19/us/politics/trump-russia-associates-investigation.html>.

²⁸ Ned Parker, Jonathan Landay & Warren Strobel, *Exclusive: Trump Campaign Had At Least 18 Undisclosed Contacts with Russians: Sources*, REUTERS (May 18, 2017, 1:07 PM), <http://www.reuters.com/article/us-usa-trump-russia-contacts-idUSKCN18E106>.

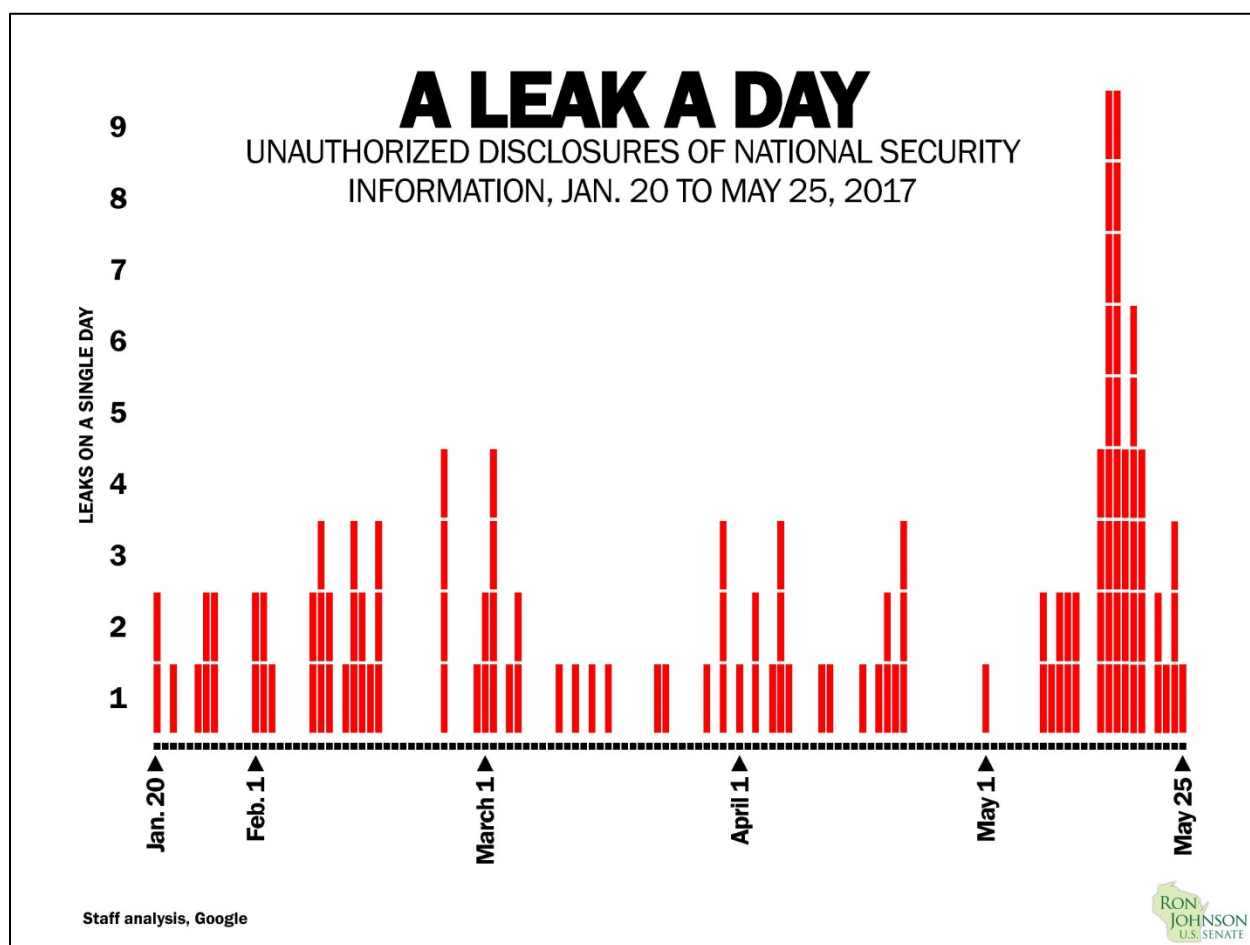
²⁹ Eli Lake, *Trump Has to Decide: 50,000 Troops to Afghanistan?*, BLOOMBERG (May 17, 2017, 5:00 AM), <https://www.bloomberg.com/view/articles/2017-05-17/trump-has-to-decide-50-000-troops-to-afghanistan>.

³⁰ Ellen Nakashima, *Cyber Operation Targeting ISIS Divided Obama Officials*, WASH. POST (May. 12, 2017), <https://www.pressreader.com/usa/the-washington-post/20170512/281724089472008>.

³¹ Devlin Barrett, Abigail Hauslohner & David Nakamura, *Internal Trump Administration Data Undercuts Travel Ban*, WASH. POST (Mar. 16, 2017), https://www.washingtonpost.com/world/national-security/internal-trump-administration-data-undercuts-travel-ban/2017/03/16/9a2dc6b4-098e-11e7-93dc-00f9bdd74ed1_story.html?utm_term=.e83c36a0261a.

³² Nat’l Archives Information Sec. Oversight Office, *The President Executive Order 13526*, <https://www.archives.gov/isoo/policy-documents/ncsi-eo.html> (last visited June 20, 2017).

said he deliberately wrote the memos in unclassified form and that he helped leak them to the media in hopes of getting a special counsel appointed.³³ This report is not meant to question the motives of Director Comey. The release of these documents, however, could potentially harm national security under the 2009 presidential Executive Order if they concern foreign relations or counter-intelligence efforts. Constitutional law expert Jonathan Turley, for one, said the former director is still subject to laws “governing the disclosure of classified and non-classified information.” Professor Turley, who opined the memos should have been classified “even on the confidential level,” concluded that leaking them “is problematic given the overall controversy involving leakers undermining the Administration.”³⁴ For these reasons, this report includes articles relating to leaks surrounding Director Comey’s conversations with the President.



³³ Devlin Barret, Ellen Nakashima & Ed O’Keefe, *Comey: White House Lied About Me, FBI*, WASH. POST (June 8, 2017), https://www.washingtonpost.com/world/national-security/comey-testimony-trump-senate-hearing/2017/06/07/afadf87c-4bd0-11e7-bc1b-fddbd8359dee_story.html?hpid=hp_hp-banner-main_comey-845a-hed%3Ahomepage%2Fstory&utm_term=.23c811a98c4b.

³⁴ Jonathan Turley, *Did Comey Violate Laws in Leaking the Trump Memo?*, JONATHAN TURLEY: RES IPSA LOQUITUR (June 8, 2017), <https://jonathanturley.org/2017/06/08/did-comey-violate-laws-in-leaking-memo/>.

LEAKS OF SENSITIVE NATIONAL SECURITY INFORMATION DURING THE OBAMA AND BUSH ADMINISTRATIONS

Compared to news reports containing potentially damaging national security information occurring during the Trump administration, there were a fraction of similar reports during the Obama and Bush administrations. The Lexis search of President Obama's first 126 days in office produced 18 stories that met the criteria of anonymously sourced accounts reflecting original sourcing that could reasonably be expected to cause damage to national security. A closer look, however, revealed that national security reporting in the early Obama administration was often focused on President Obama's Republican predecessor.

Soon after President Obama took office in January 2009, debate raged anew in Washington about years-old Bush administration tactics for fighting terrorism. Much of the media storm was fueled by President Obama's authorized release in April 2009 of so-called "torture memos"—Justice Department documents authorizing enhanced interrogations of terror suspects after the September 11, 2001 attacks. The Obama administration's decision to make these documents public meant that 10 of the 18 stories identified in this analysis were actually mostly negative pieces about the Bush administration, with headlines such as "A grim look at a key CIA method; Memos show sleep deprivation is harsher and more controversial than most realize" and "Debate over interrogation methods sharply divided the Bush White House."³⁵

Because these 10 stories were plainly not about the Obama administration, they were excluded from the analysis. That left a total of eight stories containing leaks of information potentially damaging to national security during the Obama administration, compared to 62 stories found in the comparable Lexis search for President Trump. Those remaining eight Obama administration stories reported on topics such as the new White House's increasing reliance on foreign intelligence to detain terror suspects,³⁶ a new missile test-fired by Iran,³⁷ and a hacking of the U.S. electric grid that exposed key vulnerabilities.³⁸ While the leaks in all of these stories could be harmful to national security and are thus prohibited by law, none depicted President Obama in a negative light.

The results from the search of stories in President Obama's first 126 days in office mirrored the search of President Bush's first 126 days in office. A total of nine anonymously sourced stories met the criteria, including potential damage to national security. The topics reported by these stories included an intelligence estimate on Iraq rebuilding weapons factories, a confidential Pentagon review calling for new arms to counter China, and details about possible

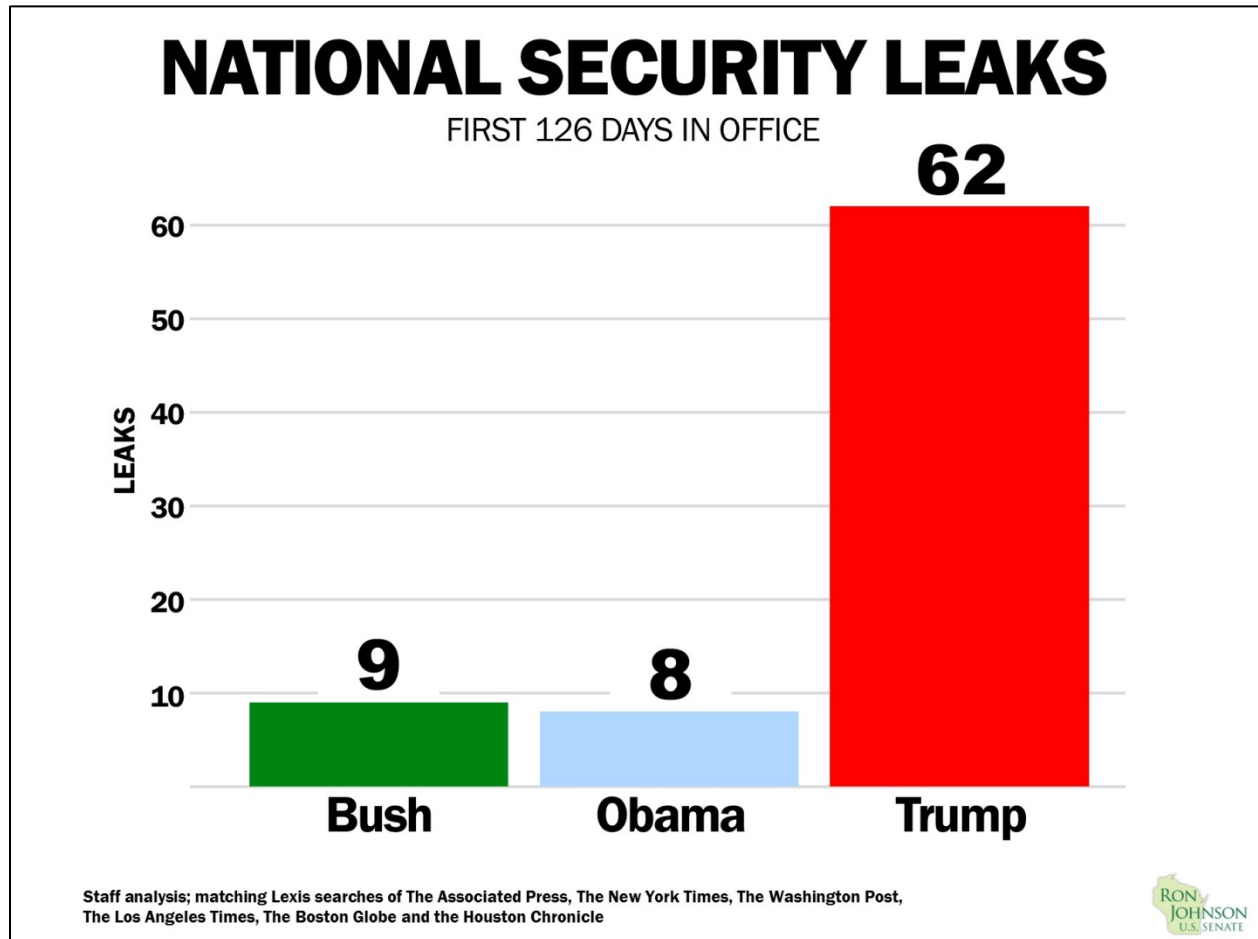
³⁵ Mark Mazzetti & Scott Shane, *Debate Over Interrogation Methods Sharply Divided the Bush White House*, N.Y. TIMES (May 3, 2009), <http://www.nytimes.com/2009/05/04/us/politics/04detain.html>.

³⁶ Eric Schmitt & Mark Mazzetti, *U.S. Relies More on Aid of Allies in Terror Cases*, N.Y. TIMES (May 23, 2009), <http://www.nytimes.com/2009/05/24/world/24intel.html>.

³⁷ Pamela Hess & Pauline Jelinek, *S Officials: Iran Missile May be More Advanced*, ASSOCIATED PRESS, May 20, 2009, Washington Dateline.

³⁸ Jordan Robertson & Eileen Sullivan, *AP Source: Spies Comprised US Electric Grid*, ASSOCIATED PRESS, April 9, 2009, Domestic News.

arms sales to Taiwan. Even with the nation still healing from the divisive presidential election in 2000, none of the stories targeted President Bush specifically or cast him in a negative light.



CONCLUSION

The American institutions of a free press and honest, open government are among our most sacred traditions. Every citizen has an interest in the free flow of information so the American public can stay informed about public policy, make wise decisions, and hold its leaders accountable. Yet, it is critical to maintain a balance between these democratic imperatives and the government's most vital role: keeping our country safe.

With the recent surge of harmful leaks of information potentially damaging to national security during the Trump administration, that balance is now under threat. It must be restored, as people on different sides of the debate are beginning to realize. Mark S. Zaid, a Washington lawyer known for representing national security whistleblowers, points out that “as a matter of law, no one who leaks classified information to the media (instead of to an appropriate governmental authority) is a whistleblower entitled to legal protection The law appropriately protects only those who follow it.”³⁹ While reaffirming the need for whistleblowers to ensure accountability in government, Zaid adds: “It is a fact that the Trump administration has been besieged by leaks . . . at a level that far exceeds that of previous presidencies within the first 130 days.”

This report confirms Zaid's statement. President Trump and his administration have faced apparent leaks on nearly a daily basis, potentially imperiling national security at a time of growing threats at home and abroad. The commander-in-chief needs to be able to effectively manage U.S. security, intelligence operations and foreign relations without worrying that his most private meetings, calls and deliberations will be outed for the entire world to see. As Zaid concludes:

“One day history will judge the consequences of these actions.”

³⁹ Mark S. Zaid, *Reality Winner Isn't a Whistleblower – or a Victim of Trump's War on Leaks*, WASH. POST (June 8, 2017), https://www.washingtonpost.com/posteverything/wp/2017/06/08/reality-winner-isnt-a-whistleblower-or-a-victim-of-trumps-war-on-leaks/?utm_term=.17d12882e932.

APPENDIX

I. Trump Administration

Date of publication	Headline	Publication	Byline
5/25/17	Jared Kushner now a focus in Russia investigation	The Washington Post	Matt Zapotosky, Sari Horwitz, Devlin Barrett and Adam Entous
5/24/17	How a dubious Russian document influenced the FBI's handling of the Clinton probe	The Washington Post	Karoun Demirjian and Devlin Barrett
5/24/17	Found at the Scene in Manchester: Shrapnel, a Backpack and a Battery	The New York Times	C.J. Chivers
5/24/17	Top Russian Officials Discussed How to Influence Trump Aides Last Summer	The New York Times	Matthew Rosenberg, Adam Goldman, and Matt Apuzzo
5/23/17	Trump asked DNI, NSA to deny evidence of Russia collusion	CNN	Jim Sciutto, Stephen Collinson, and Eli Watkins
5/22/17	Mueller briefed on secret Comey memos, source says	CNN	Pamela Brown and Shimon Prokupecz
5/22/17	Trump asked intelligence chiefs to push back against FBI collusion probe after Comey revealed its existence	The Washington Post	Adam Entous and Ellen Nakashima
5/20/17	As Trump prepared for Riyadh visit, Saudis blocked U.S. on terrorist sanctions	The Washington Post	Joby Warrick
5/20/17	Killing C.I.A. Informants, China Crippled U.S. Spying Operations	The New York Times	Mark Mazzetti, Adam Goldman, Michael S. Schmidt and Matt Apuzzo
5/20/17	Russia Probe Looking at Official in Trump White House	NBC News	Andrew Rafferty, Pete Williams and Ken Dilanian
5/20/17	Comey now believes Trump was trying to influence him, source says	CNN	Pamela Brown, Gloria Borger and Eric Lichtblau
5/19/17	Russia probe reaches current White House official, people familiar with the case say	The Washington Post	Devlin Barrett and Matt Zapotosky
5/19/17	White House looking at ethics rule to weaken special investigation: sources	Reuters	Julia Edwards Ainsley

Date of publication	Headline	Publication	Byline
5/19/17	Trump Told Russians That Firing ‘Nut Job’ Comey Eased Pressure from Investigation	The New York Times	Matt Apuzzo, Maggie Haberman and Matthew Rosenberg
5/19/17	Russian officials bragged they could use Flynn to influence Trump, sources say	CNN	Gloria Borger, Pamela Brown, Jim Sciutto, Marshall Cohen and Eric Lichtblau
5/19/17	Israeli Intelligence Furious Over Trump’s Loose Lips	Foreign Policy	Kavitha Surana, Dan De Luce, Robbie Gramer
5/19/17	Sources: White House lawyers research impeachment	CNN	Evan Perez
5/18/17	Trump Team Planning Possible Retaliation for Classified Leak Allegations	Foreign Policy	Jenna McLaughlin
5/18/17	Trump campaign had at least 18 undisclosed contacts with Russians: sources	Reuters	Ned Parker, Jonathan Landay and Warren Strobel
5/18/17	Comey, Unsettled by Trump, Is Said to Have Wanted Him Kept at a Distance	The New York Times	Michael S. Schmidt
5/18/17	Trump Transition Said to Know Of Flynn Inquiry before Hiring	The New York Times	Matthew Rosenberg and Mark Mazzetti
5/17/17	Comey Wrote Memo Saying Trump Urged Him to Drop Flynn Investigation: Sources	NBC News	Ken Dilanian, Dafna Linzer, Alex Johnson and Peter Alexander
5/17/17	Besieged White House denies, defends as new bombshells hit	Associated Press	Eric Tucker, Catherine Lucey, and Julie Pace
5/17/17	NSA feared its hacking tool would get out. Then it did.	The Washington Post	Ellen Nakashima and Craig Timberg
5/17/17	National security officials put Trump’s name in their briefings as much as possible so he will keep reading	Reuters	Steve Holland and Jeff Mason
5/17/17	House majority leader to colleagues in 2016: ‘I think Putin pays’ Trump	The Washington Post	Adam Entous
5/17/17	Trump Has to Decide: 50,000 Troops to Afghanistan?	Bloomberg	Eli Lake
5/17/17	Trump Team Knew Flynn Was Under Investigation Before He Came to White House	The New York Times	Matthew Rosenberg and Mark Mazzetti
5/17/17	Memo: Trump asked Comey to end Flynn investigation	CNN	Pamela Brown, Jake Tapper, and Stephen Collinson
5/17/17	Flynn never spoke to Trump about ending investigations, sources close to former adviser say	Fox News	Catherine Herridge
5/16/17	Sources: Trump shared classified info with Russians	CNN	Dan Merica, Jake Tapper, and Jim Sciutto

Date of publication	Headline	Publication	Byline
5/16/17	Trump's disclosure endangered spy placed inside ISIS by Israel, officials say	ABC News	Brian Ross, James Gordon Meek, and Randy Kreider
5/16/17	Trump Officials on Comey Memo: 'Don't See How Trump Isn't Completely F*cked'	The Daily Beast	Lachlan Markay, Asawin Suebsaeng, and Jana Winter
5/16/17	Intelligence Trump shared with Russians came from Israel	CBS News	N/A
5/16/17	U.S. officials 'warned Israel' not to share sensitive intel with Trump administration	Newsweek	Jack Moore
5/16/17	Notes made by FBI Director Comey say Trump pressured him to end Flynn probe	The Washington Post	Devlin Barrett, Ellen Nakashima, and Matt Zapotosky
5/16/17	Comey Memo Says Trump Asked Him to End Flynn Investigation	The New York Times	Michael S. Schmidt
5/16/17	Israel Was Source of Intelligence Trump Shared With Russia: Sources	NBC News	Dafna Linzer and Ken Dilanian
5/16/17	Israel Said to Be Source of Secret Intelligence Trump Gave to Russians	The New York Times	Adam Goldman, Eric Schmitt, and Peter Baker
5/15/17	Trump Revealed Highly Classified Information To Russians During White House Visit	Buzzfeed News	Jim Dalrymple II and Jason Leopold
5/15/17	Top US officials warn Trump against moving US embassy to Jerusalem	CNN	Jeremy Diamond and Elise Labott
5/15/17	Trump Revealed Highly Classified Intelligence to Russia, in Break With Ally, Officials Say	The New York Times	Matthew Rosenberg and Eric Schmitt
5/15/17	Trump revealed highly classified information to Russian foreign minister and ambassador	The Washington Post	Greg Miller and Greg Jaffe
5/12/17	Former Trump Adviser Paul Manafort's Bank Records Sought in Probe	The Wall Street Journal	Michael Rothfeld, Mark Maremont and Rebecca Davis O'Brien
5/12/17	Cyber operation targeting ISIS divided Obama officials	The Washington Post	Ellen Nakashima
5/11/17	In a Private Dinner, Trump Demanded Loyalty. Comey Demurred.	The New York Times	Michael S. Schmidt
5/11/17	Before the ax, Comey was pushing Trump-Russia probe harder	The Associated Press	Julie Pace
5/10/17	Michael Flynn targeted by grand jury subpoenas, sources confirm	CBS News	N/A
5/10/17	Grand jury subpoenas issued in FBI's Russia investigation	CNN	Evan Perez, Shimon Prokupecz and Pamela Brown

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5/9/17	Trump Advisers Call for More Troops to Break Deadlock in Afghan War	The New York Times	Michael R. Gordon
5/8/17	U.S. poised to expand military effort against Taliban in Afghanistan	The Washington Post	Missy Ryan and Greg Jaffe
5/8/17	Obama Warned Trump Against Hiring Mike Flynn, say Officials	NBC News	Kristen Welker, Peter Alexander, Dafna Linzer and Ken Dilanian
5/1/17	Making Afghanistan Great Again	Bloomberg	Eli Lake
4/21/17	Putin-linked think tank drew up plan to sway 2016 US election	Reuters	Ned Parker, Jonathan Landay and John Walcott
4/21/17	Justice Dept. is Weighing Prosecution of Assange	The New York Times	Adam Goldman
4/21/17	Russia tried to use Trump advisers to infiltrate campaign	CNN	Pamela Brown, Shimon Prokupecz, Jim Sciutto and Marshall Cohen
4/20/17	Justice Dept. debating charges against WikiLeaks members in revelations of diplomatic, CIA materials	The Washington Post	Matt Zapotosky and Ellen Nakashima
4/19/17	Exxon Seeks U.S. Waiver to Resume Russia Oil Venture	The Wall Street Journal	Jay Solomon and Bradley Olson
4/19/17	Trump Adviser's Visit to Moscow Got the F.B.I.'s Attention	The New York Times	Scott Shane, Mark Mazzetti and Adam Goldman
4/18/17	FBI used dossier allegations to bolster Trump-Russia investigation	CNN	Evan Perez, Shimon Prokupecz and Manu Raju
4/16/17	Trump Is Willing to Consider a Sudden Strike on North Korea	Bloomberg	Jennifer Jacobs and Michelle Jamrisko
4/12/17	Court Approved Wiretap on Trump Campaign Aide over Russia Ties	The New York Times	Matthew Rosenberg and Matt Apuzzo
4/11/17	FBI obtained FISA warrant to monitor Trump adviser Carter Page	The Washington Post	Ellen Nakashima, Devlin Barrett and Adam Entous
4/7/17	C.I.A. Tracked Russian Prying in the Summer	The New York Times	Eric Lichtblau
4/6/17	Trump considering military action in Syria in retaliation for chemical attack	CNN	N/A
4/6/17	Trump considering military strike on Syria in response to poison gas attack	Los Angeles Times	W.J. Hennigan
4/6/17	Kushner Omitted Meeting With Russians on Security Clearance Forms	The New York Times	Jo Becker and Matthew Rosenberg

Date of publication	Headline	Publication	Byline
4/5/17	Trump Giving Military New Freedom. But With That Comes Danger.	The New York Times	Helene Cooper
4/3/17	Top Obama Adviser Sought Names of Trump Associates in Intel	Bloomberg	Eli Lake
4/3/17	Susan Rice requested to unmask names of Trump transition officials, sources say	Fox News	Adam Housley
4/1/17	U.S. increasingly sees Iran's hand in the arming of Bahraini militants	The Washington Post	Souad Mekhennet and Joby Warrick
3/30/17	2 White House Officials Helped Give Nunes Intelligence Reports	The New York Times	Matthew Rosenberg, Maggie Haberman and Adam Goldman
3/30/17	Mike Flynn Offers to Testify in Exchange for Immunity	The Wall Street Journal	Shane Harris, Carol E. Lee and Julian E. Barnes
3/30/17	Three White House officials tied to files shared with House intelligence chairman	The Washington Post	Greg Miller and Karen DeYoung
3/28/17	Trump administration sought to block Sally Yates from testifying to Congress on Russia	The Washington Post	Devlin Barrett and Adam Entous
3/23/17	U.S. Officials: Info suggests Trump associates may have coordinated with Russians	CNN	Pamela Brown, Evan Perez, Shimon Prokupecz, and Jim Sciutto
3/22/17	Before Trump job, Manafort worked to aid Putin	The Associated Press	Jeff Horwitz and Chad Day
3/16/17	Internal Trump administration data undercuts travel ban	The Washington Post	Devlin Barrett, Abigail Hauslohner and David Nakamura
3/14/17	Trump wants to relax rules governing drone strikes	The Washington Post	Greg Jaffe and Karen DeYoung
3/12/17	Trump Administration Is Said to Be Working to Loosen Counterterrorism Rules	The New York Times	Charlie Savage and Eric Schmitt
3/10/17	FBI investigation continues into 'odd' computer link between Russian bank and Trump organization	CNN	Pamela Brown and Jose Pagliery
3/5/17	Comey Asks Justice Dept. to Reject Trump's Wiretapping Claim	The New York Times	Michael S. Schmidt and Michael D. Shear
3/5/17	FBI director asks Justice Department to publicly reject Trump's wiretap claim	Los Angeles Times	Laura King and Del Quentin Wilber
3/4/17	More Trump advisers disclose meetings with Russia's ambassador	CNN	Sara Murray, Jim Acosta and Theodore Schleifer

Date of publication	Headline	Publication	Byline
3/2/17	White House staff told to preserve Russia-related materials	The Associated Press	Julie Pace and Vivian Salama
3/2/17	Chaotic Yemen raid still reverberates for president	The Washington Post	Missy Ryan and Thomas Gibbons-Neff
3/2/17	Investigators Probed Jeff Sessions' Contacts with Russian Officials	The Wall Street Journal	Carol E. Lee, Christopher S. Stewart, Rob Barry and Shane Harris
3/2/17	Top Trump Advisers Are Split on Paris Agreement on Climate Change	The New York Times	Coral Davenport
3/1/17	Sessions met with Russian envoy twice last year, encounters he later did not disclose	The Washington Post	Adam Entous, Ellen Nakashima and Greg Miller
3/1/17	Obama Administration Rushed to Preserve Intelligence of Russian Election Hacking	The New York Times	Matthew Rosenberg, Adam Goldman and Michael S. Schmidt
2/28/17	FBI once planned to pay former British spy who authored controversial Trump dossier	The Washington Post	Tom Hamburger and Rosalind S. Helderman
2/24/17	DHS report casts doubt on need for Trump travel ban	The Washington Post	Matt Zapotosky
2/24/17	State Department writes anti-leak memo, which promptly leaks	The Washington Post	Josh Rogin
2/24/17	Trump administration sought to enlist intelligence officials, key lawmakers to counter Russia stories	The Washington Post	Greg Miller and Adam Entous
2/24/17	FBI refused White House request to knock down recent Trump-Russia stories	CNN	Jim Sciutto, Evan Perez, Shimon Prokupecz, Manu Raju, and Pamela Brown
2/16/17	Flynn in FBI interview denied discussing sanctions with Russian ambassador	The Washington Post	Sari Horwitz and Adam Entous
2/16/17	Spies Keep Intelligence from Donald Trump on Leak Concerns	The Wall Street Journal	Shane Harris and Carol E. Lee
2/16/17	Classified Memo Tells Intelligence Analysts to Keep Trump's Daily Brief Short	Mother Jones	Ashley Dejean
2/15/17	Trump aides were in constant touch with senior Russian officials during campaign	CNN	Pamela Brown, Jim Sciutto and Evan Perez
2/14/17	Trump Campaign Aides Had Repeated Contacts with Russian Intelligence	The New York Times	Michael S. Schmidt and Matt Apuzzo

Date of publication	Headline	Publication	Byline
2/14/17	Flynn's Downfall Sprang From 'Eroding Level of Trust'	The New York Times	Peter Baker, Glenn Thrush, Maggie Haberman, Adam Goldman and Julie Hirschfeld Davis
2/13/17	Michael Flynn Resigns as National Security Adviser	The New York Times	Maggie Haberman, Matthew Rosenberg, Matt Apuzzo and Glenn Thrush
2/13/17	Justice Dept. warned Trump team about Flynn's contacts with Russia	The Associated Press	N/A
2/13/17	Justice Department warned White House that Flynn could be vulnerable to Russian blackmail, officials say	The Washington Post	Adam Entous, Ellen Nakashima and Philip Rucker
2/12/17	Turmoil at the National Security Council, From the Top Down	The New York Times	David E. Sanger, Eric Schmitt and Peter Baker
2/10/17	US investigators corroborate some aspects of the Russia dossier	CNN	Jim Sciutto and Evan Perez
2/10/17	Flynn Said to Talk of Sanctions to Russians in 2016	The New York Times	Matthew Rosenberg and Matt Apuzzo
2/9/17	National security adviser Flynn discussed sanctions with Russian ambassador, despite denials, officials say	The Washington Post	Greg Miller, Adam Entous, and Ellen Nakashima
2/9/17	Caution urged on terror label for Iranian entity	The Washington Post	Karen DeYoung
2/9/17	In call with Putin, Trump denounced Obama-era nuclear arms treaty	Reuters	Jonathan Landay and David Rohde
2/8/17	Trump's faux-pas diplomacy	Politico	Tara Palmeri, Kenneth P. Vogel, Josh Dawsey and Nahal Toosi
2/8/17	U.S. Weighs Terror Label on Iran Revolutionary Guard, Muslim Brotherhood	The Wall Street Journal	Felicia Schwartz and Jay Solomon
2/3/17	Trump team ditches Obama's plan to take Raqqa	The Washington Post	Adam Entous, Greg Jaffe, and Missy Ryan
2/2/17	'This was the worst call by far': Trump badgered, bragged and abruptly ended phone call with Australian leader	The Washington Post	Greg Miller and Philip Rucker
2/2/17	Trump had heated exchange with Australian PM, talked 'tough hombres' with Mexican leader	CNN	Jake Tapper, Eli Watkins, Jim Acosta and Euan McKirdy
2/2/17	Trump to Mexico: take care of 'bad hombres' or US might	The Associated Press	Vivian Salama

Date of publication	Headline	Publication	Byline
2/1/17	More immigration measures weighed	The Washington Post	Abigail Hauslohner, Janell Ross
1/27/17	How Civilian Prosecution Gave the U.S. a Key Informant	The New York Times	Adam Goldman and Benjamin Weiser
1/27/17	President Is Said to Seek Plan for U.S. to Strike ISIS Harder	The New York Times	Michael R. Gordon, Helene Cooper and Eric Schmitt
1/26/17	Trump signals changes to US interrogation, detention policy	The Associated Press	Desmond Butler and Deb Riechmann
1/25/17	White House draft order calls for review on use of CIA 'black site' prisons overseas	The Washington Post	Greg Miller
1/25/17	Leaked Draft of Executive Order Could Revive C.I.A. Prisons	The New York Times	Mark Mazzetti and Charlie Savage
1/22/17	U.S. Eyes Michael Flynn's Links to Russia	The Wall Street Journal	Carol E. Lee, Devlin Barrett and Shane Harris
1/20/17	U.S. counterintelligence officials are examining possible ties between Russia and Trump associates	The Washington Post	Ellen Nakashima and Greg Miller
1/20/17	Wiretapped Data Used in Inquiry of Trump Aides	The New York Times	Michael S. Schmidt, Matthew Rosenberg, Adam Goldman and Matt Apuzzo

II. Obama Administration

Date of publication	Headline	Publication	Byline
5/24/09	U.S. Relies More on Aid of Allies in Terror Cases	The New York Times	Eric Schmitt and Mark Mazzetti
5/20/09	US officials: Iran missile may be more advanced	The Associated Press	Pamela Hess and Pauline Jelinek
5/19/09	Amid Queries, CIA Worries About Future; Intelligence Officials Privately Warn That New Rules May Hinder Their Interrogations	The Washington Post	Walter Pincus
5/10/09	A grim look at a key CIA method; Memos show sleep deprivation is harsher and more controversial than most realize. And it could be used again.	Los Angeles Times	Greg Miller

Date of publication	Headline	Publication	Byline
5/6/09	Charges unlikely for interrogation memos; A Justice draft report finds problematic conduct by two Bush administration lawyers	Los Angeles Times	Josh Meyer and Julian E. Barnes
5/6/09	Torture Memos: Inquiry Suggests No Prosecutions	The New York Times	David Johnston and Scott Shane
5/4/09	Debate Over Interrogation Methods Sharply Divided the Bush White House	The New York Times	Mark Mazzetti and Scott Shane
5/4/09	Pakistan Strife Raises U.S. Doubt on Nuclear Arms	The New York Times	David E. Sanger
4/22/09	Banned Techniques Yielded 'High Value Information,' Memo Says	The New York Times	Peter Baker
4/17/09	CIA objections slowed torture memos release	The Associated Press	Pamela Hess
4/17/09	Role of Bush NSA Plan Under Review; Obama Administration Faces Privacy, Security Challenges in Defending Cyberspace	The Washington Post	Ellen Nakashima
4/14/09	U.S. May Drop Key Condition for Iran Talks	The New York Times	David E. Sanger
4/9/09	AP source: Spies compromised US electric grid	The Associated Press	Jordan Robertson and Eileen Sullivan
4/3/09	Intel chief wants new spy satellite program	The Associated Press	Pamela Hess
3/29/09	Detainee's Harsh Treatment Foiled No Plots; Waterboarding, Rough Interrogation of Abu Zubaida Produced False Leads, Officials Say	The Washington Post	Peter Finn and Joby Warrick
3/11/09	Officials: Taliban ops chief once held at Gitmo	The Associated Press	Pamela Hess
3/3/09	CIA Destroyed 92 Interrogation Tapes, Probe Says	The Washington Post	Carrie Johnson and Joby Warrick
1/25/09	Guantanamo Case Files in Disarray; Situation Complicates Prison's Closure	The Washington Post	Karen DeYoung and Peter Finn

III. Bush Administration

Date of publication	Headline	Publication	Byline
5/17/01	Pentagon Review Puts Emphasis On Long-Range Arms in Pacific	The New York Times	Michael R. Gordon
5/13/01	What Happened to the McVeigh Evidence?	The New York Times	Neil A. Lewis and David Johnston

Date of publication	Headline	Publication	Byline
4/23/01	U.S. Says CIA Crew Urged Against Attack on Plane	The Washington Post	Alan Sipress and Karen DeYoung
4/17/01	U.S. May Withhold Main Radar Item om Taiwan's List	The New York Times	David E. Sanger and Eric Schmitt
4/13/01	Returning Crew Tells of Collision; Debriefings Reveal A Nearly Fatal Dive	The Washington Post	William Claiborne and Thomas E. Ricks
3/11/01	Border Arrest Stirs Fear of Terrorist Cells in U.S.	Los Angeles Times	Josh Meyer
3/4/01	Dispute Over Russian Testing Divides U.S. Nuclear Experts	The New York Times	William J. Broad with Patrick E. Tyler
2/23/01	U.S. Had Evidence of Espionage, But F.B.I. Failed to Inspect Itself	The New York Times	David Johnston and James Risen
1/22/01	Iraq Rebuilt Weapon Factories, U.S. Officials Say	The New York Times	Steven Lee Myers and Eric Schmitt