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WHITE HOUSE PROCEDURES FOR  
SAFEGUARDING CLASSIFIED INFORMATION

Friday, March 16, 2007

House of Representatives,  
Committee on Oversight and  
Government Reform,  
Washington, D.C.

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**Committee Hearings**

of the

**U.S. HOUSE OF REPRESENTATIVES**



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4 SAFEGUARDING CLASSIFIED INFORMATION

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6 House of Representatives,

7 Committee on Oversight and

8 Government Reform,

9 Washington, D.C.

10 The committee met, pursuant to call, at 10:16 a.m., in  
11 Room 2154, Rayburn House Office Building, Hon. Henry A.  
12 Waxman [chairman of the committee] presiding.

13 Present: Representatives Waxman, Cummings, Kucinich,  
14 Watson, Yarmuth, Van Hollen, Sarbanes, Davis of Virginia, and  
15 Westmoreland.

16 Staff Present: Phil Schiliro, Chief of Staff; Phil  
17 Barnett, Staff Director and Chief Counsel; Kristin Amerling,  
18 General Counsel; Karen Lightfoot, Communications Director and  
19 Senior Policy Advisor; David Rapallo, Chief Investigative  
20 Counsel; Roger Sherman, Deputy Chief Counsel; Theo Chuang,

21 Deputy Chief Investigative Counsel; Michael Gordon, Senior  
22 Investigative Counsel; Susanne Sachsman, Counsel; Molly  
23 Gulland, Assistant Communications Director; Earley Green,  
24 Chief Clerk; Teresa Coufal, Deputy Clerk; Caren Auchman,  
25 Press Assistant; Zhongrui "JR" Deng, Chief Information  
26 Officer, Bonney Kapp, Fellow; David Marin, Minority Staff  
27 Director; Larry Halloran, Minority Deputy Staff Director;  
28 Jennifer Safavian, Minority Chief Counsel for Oversight and  
29 Investigations; Anne Marie Turner, Minority Counsel; Steve  
30 Castor, Minority Counsel; Christopher Bright, Minority  
31 Professional Staff Member; Nick Palarino, Minority Senior  
32 Investigator and Policy Advisor; Patrick Lyden, Minority  
33 Parliamentarian and Member Services Coordinator; Brian  
34 McNicoll, Minority Communications Director; and Benjamin  
35 Chance, Minority Clerk.

36 Chairman WAXMAN. The meeting of the committee will come  
37 to order. Today the committee is holding a hearing to  
38 examine how the White House handles highly classified  
39 information.

40 In June and July 2003, one of the Nation's most  
41 carefully guarded secrets, the identity of a covert CIA  
42 agent, Valerie Plame Wilson, was repeatedly revealed by White  
43 House officials to members of the media. This was an  
44 extraordinarily serious breach of our national security.  
45 President George W. Bush's father, the former President Bush  
46 said, and I quote, "I have nothing but contempt and anger for  
47 those who exposed the names of our sources. They are, in my  
48 view, the most insidious of traitors," end quote.

49 Today we'll be asking three questions. One, how did  
50 such a serious violation of our national security occur?  
51 Two, did the White House take the appropriate investigative  
52 and disciplinary steps after the breach occurred? And three,  
53 what changes in White House procedures are necessary to  
54 prevent future violations of our national security from  
55 occurring?

56 For more than 3 years Special Prosecutor Patrick  
57 Fitzgerald has been investigating the leak for its criminal  
58 implications. By definition, Mr. Fitzgerald's investigation  
59 had an extremely narrow criminal focus. It did not answer  
60 the broader policy questions raised by the release of Mrs.



61 | Wilson's identity nor did it seek to ascribe responsibility  
62 | outside of the narrow confines of the criminal law.

63 |         As the chief investigative committee of the House of  
64 | Representatives, our role is fundamentally different than Mr.  
65 | Fitzgerald's. It is not our job to determine criminal  
66 | culpability, but it is our job to understand what went wrong  
67 | and to insist on accountability and to make recommendations  
68 | to avoid future abuses. And we begin that process today.

69 |         This hearing is being conducted in open session. This  
70 | is appropriate, but it is also challenging. Mrs. Wilson was  
71 | a covert employee of the CIA. We cannot discuss all of the  
72 | details of her CIA employment in open session. I have met  
73 | personally with General Hayden, the head of the CIA, to  
74 | discuss what I can and cannot say about Mrs. Wilson's  
75 | service. And I want to thank him for his cooperation and  
76 | help in guiding us along these lines.

77 |         My staff has also worked with the Agency to assure these  
78 | remarks do not contain classified information. I have been  
79 | advised by the CIA that even now after all that has happened,  
80 | I cannot disclose the full nature, scope and character of  
81 | Mrs. Wilson's service to our Nation without causing serious  
82 | damage to our national security interests. But General  
83 | Hayden and the CIA have cleared these following comments for  
84 | today's hearing.

85 |         During her employment at the CIA, Mrs. Wilson was

86 | undercover. Her employment status with the CIA was  
87 | classified information, prohibited by disclosure under  
88 | Executive Order 12958. At the time of the publication of  
89 | Robert Novak's column on July 14, 2003, Mrs. Wilson's CIA  
90 | employment status was covert. This was classified  
91 | information.

92 |         Mrs. Wilson served in senior management positions at the  
93 | CIA in which she oversaw the work for other CIA employees and  
94 | she attained the level of GS-14, step 6, under the Federal  
95 | pay scale. Mrs. Wilson worked on some of the most sensitive  
96 | and highly secretive matters handled by the CIA. Mrs. Wilson  
97 | served at various times overseas for the CIA. Without  
98 | discussing the specifics of Mrs. Wilson's classified work, it  
99 | is accurate to say that she worked on the prevention of the  
100 | development and use of weapons of mass destruction against  
101 | the United States.

102 |         In her various positions at the CIA, Mrs. Wilson faced  
103 | significant risks to her personal safety and her life. She  
104 | took on serious risks on behalf of our country. Mrs.  
105 | Wilson's work in many situations had consequence for the  
106 | security of her colleagues, and maintaining her cover was  
107 | critical to protecting the safety of both colleagues and  
108 | others.

109 |         The disclosure of Mrs. Wilson's employment with the CIA  
110 | had several serious effects. First, it terminated her covert

111 | job opportunities with the CIA. Second, it placed her  
112 | professional contacts at greater risk. And third, it  
113 | undermined the trust and confidence with which future CIA  
114 | employees and sources hold the United States. This  
115 | disclosure of Mrs. Wilson's classified employment status with  
116 | the CIA was so detrimental that the CIA filed a crimes report  
117 | with the Department of Justice.

118 |         As I mentioned, Mrs. Wilson's work so was sensitive that  
119 | even now, she is still prohibited from discussing many  
120 | details of her work in public because of the continuing risks  
121 | to CIA officials and assets in the field and in the CIA's  
122 | ongoing work.

123 |         Some have suggested that Mrs. Wilson did not have a  
124 | sensitive position with the CIA or a position of unusual  
125 | risk. As a CIA employee, Mrs. Wilson has taken a lifelong  
126 | oath to protect classified information even after her CIA  
127 | employment has ended. As a result, she cannot respond to  
128 | most of the statements made about her.

129 |         I want to make clear, however, that any characterization  
130 | that minimizes the personal risk of Mrs. Wilson that she  
131 | accepted in her assignments is flatly wrong. There should be  
132 | no confusion on this point. Mrs. Wilson has provided great  
133 | service to our Nation and has fulfilled her obligation to  
134 | protect classified information admirably and with confidence  
135 | and she will uphold it again today.

136           That concludes the characterizations that the CIA is  
137 permitting us to make today. But to these comments, I want  
138 to add a personal note. For many in politics, praising the  
139 troops and those who defend our freedom is second nature.  
140 Sometimes it is done in sincerity and sometimes it is done  
141 with cynicism, but almost always we don't really know who the  
142 people are. We don't know they're out there, we don't know  
143 who those people are that are out there. They are our  
144 abstract heroes, whether they are serving in the armed  
145 services or whether they're serving in the CIA.

146           Two weeks ago this committee met some real heroes face  
147 to face when we went to visit Walter Reed. Every member was  
148 appalled at what we learned. Our treatment of the troops  
149 didn't match our rhetoric. Fortunately, Mrs. Wilson hasn't  
150 suffered physical harm and faces much more favorable  
151 circumstances now than some of the soldiers that we met last  
152 week. But she too has been one of those people fighting to  
153 protect our freedom, and she, like thousands of others, was  
154 serving our country bravely and anonymously. She didn't ask  
155 that her identity be revealed but it was, repeatedly. And  
156 that was an inexcusable breach of the responsibilities our  
157 country owes to her.

158           Once again, our actions did not match our rhetoric. I  
159 want to thank Mrs. Wilson for the tremendous service she gave  
160 to our country and recognize the remarkable personal

161 | sacrifices she and countless others have made to protect our  
162 | national security. You and your colleagues perform truly  
163 | heroic work, and what happened to you not only should never  
164 | have happened, but we should all work to make sure it never  
165 | happens again. Thank you very much.

166 | [Prepared statement of Mr. Waxman follows:]

167 | \*\*\*\*\* INSERT 1-1 \*\*\*\*\*

163 Chairman WAXMAN. I want to yield to Mr. Davis, the  
169 Ranking Member of our committee. And in doing so, I want to  
170 thank him for his cooperation in this hearing. This has been  
171 a complicated hearing. It is much more complicated than most  
172 of our hearings. We had to decide what we could and what we  
173 couldn't say, what we could and couldn't ask, whether it  
174 would be an open session or closed session, et cetera. And I  
175 want to thank Mr. Davis for the tremendous cooperation he has  
176 given and I do recognize him at this point.

177 Mr. DAVIS OF VIRGINIA. Thank you, Chairman Waxman. I  
178 want to first start by congratulating you on your passage of  
179 important reform legislation this week. We adopted  
180 bipartisan bills crafted in this committee to strengthen the  
181 Freedom of Information Act, disclose donors to Presidential  
182 libraries, expand access to Presidential records and to  
183 fortify most of all protections. Given those  
184 accomplishments, it is ironic that we in Sunshine Week of the  
185 annual observance of open government--with a more partisan  
186 hearing on how to best keep secrets.

187 Let me state at the outset that the outing of Mrs.  
188 Wilson's identity was wrong, and we have every right to look  
189 at this and investigate it. But I have to confess, I'm not  
190 sure what we're trying to accomplish today, given all the  
191 limitations that the Chairman has just described that have  
192 been put on us by the CIA.

193 I ostensibly called to examine White House procedures  
194 for handling and protecting classified information. The  
195 hearing's lead witness never worked at the White House. If  
196 she knows about security practices there, she can't say much  
197 about them in a public forum. We do know that she worked at  
198 the CIA. That now well-known fact raises some very different  
199 questions about how critical and difficult it is to protect  
200 the identity of individuals with covert status.

201 But, again, those are questions we probably can't say  
202 much about in a public forum without violating the various  
203 security safeguards the majority claims to be worried about  
204 at the White House. Under these circumstances, perhaps a  
205 hypothetical case is the best way to describe the futility of  
206 trying to enforce the Intelligence Identities Protection Act  
207 in this decidedly nonjudicial venue.

208 Let's say, for example, a committee staff is told to  
209 identify a CIA witness for a hearing on security practices.  
210 He or she calls the Agency and asks to speak with official A.  
211 Official A is not in so the call is routed to official B,  
212 who identifies him or herself by name and title and answers  
213 the staffer's question. Thinking official B would be a fine  
214 witness, the staff then calls the Congressional Research  
215 Service or a friend at another committee to find out more  
216 about official B, but official B happens to be a covert  
217 agent. In passing the name, title and CIA affiliation

218 | around, has the staff member violated the law against  
219 | disclosure? Probably not. But you would have to be looking  
220 | through a pretty thick political prism to see an intentional  
221 | unauthorized disclosure in that context, and that happened.

222 |         In the case of Mrs. Wilson, the majority stresses the  
223 | fact the disclosure of her status triggered a crimes report  
224 | by the CIA and the Justice Department. Allegations against  
225 | White House officials and reporters were thoroughly vetted,  
226 | but after spending 6 months and millions of dollars, the  
227 | special counsel charged no one with violations of the  
228 | Intelligence Identities Protection Act. The lack of  
229 | prosecution under the act show those disclosures probably  
230 | occurred in a similarly nonintentional context, lacking the  
231 | requisite knowledge of covert status or the intention to  
232 | disclose that status without authorization.

233 |         No process can be adopted to protect classified  
234 | information that no one knows is classified, just as no one  
235 | can be prosecuted for unauthorized disclosure of information  
236 | that no one ever said was protected. So this looks to me  
237 | more like a CIA problem than a White House problem. If the  
238 | Agency doesn't take sufficient precautions to protect the  
239 | identity of those who engage in covert work, no one else can  
240 | do it for them.

241 |         The same law meant to protect secret identities also  
242 | requires an annual report to Congress on the steps taken to



243 | protect the highly sensitive information. But we're told few  
244 | if any such reports exist from the CIA. Who knows what  
245 | information needs to be protected and how they are told. Is  
246 | there a list officials can check against? Do CIA briefers  
247 | know when material given to executive branch officials  
248 | references a covert agent, or are they cautioned not to  
249 | repeat the name? How is it made known, and to whom, when the  
250 | 5-year protection period for formerly covert agents has  
251 | elapsed?

252 |         Those are the questions that need to be asked about the  
253 | safeguards and classified information, but we won't hear from  
254 | the CIA today because this is an open forum.

255 |         Given all that, I suspect we're going to probably waste  
256 | some time talking about things we can't talk about. And that  
257 | is unfortunate. Unfortunate an individual possibly still in  
258 | a covert status was publicly identified, unfortunate  
259 | executive branch officials got anywhere near this media  
260 | maelstrom rather than focus on more serious problems. That  
261 | is a disappointment to me. And unfortunate that this has  
262 | become so politicized.

263 |         On this side, we're not here to defend or attack anyone.  
264 |         In an open session, we hope to shed some sunshine on the  
265 | workings of government. I have to say, I am not sure that's  
266 | going to happen today, but I thank our witnesses for trying.  
267 | Thank you.

268 [The information follows:]

269 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

270 Chairman WAXMAN. Thank you very much, Mr. Davis.

271 Our first witness is Mrs. Valerie Plame Wilson. She is  
272 a former covert CIA employee whose service to this country  
273 included work involving the prevention of the development and  
274 use of weapons of mass destruction against our Nation. Her  
275 employment status was publicly disclosed in July 2003,  
276 effectively terminating her covert job opportunities within  
277 the CIA.

278 Mrs. Wilson, it is the practice of this committee that  
279 all witnesses are administered an oath, and I would like to  
280 ask you to stand and raise your right hand.

281 [Witness sworn.]

282 Chairman WAXMAN. The record will reflect the fact that  
283 the witness answered in the affirmative. Before we begin the  
284 questioning period, I wanted to underscore to members of the  
285 committee that while it is important that Mrs. Wilson have  
286 the opportunity to provide testimony that will help us  
287 understand the significance of the disclosure of her CIA  
288 employment status, we should not be seeking classified  
289 information from Mrs. Wilson in this open forum, and we need  
290 to respect that she may in some cases have to decline to  
291 respond on the grounds of doing so would risk disclosure of  
292 sensitive information.

293 Mrs. Wilson, we're pleased to have you here. Thank you  
294 very much for coming to our committee today. And I want to

295 recognize you for an opening statement. There is a button on  
296 the base of the mike. Be sure to press it in and pull it  
297 closely enough to you so you can be heard.

298 STATEMENT OF VALERIE PLAME WILSON, FORMER EMPLOYEE, CENTRAL  
299 INTELLIGENCE AGENCY

300 Mrs. PLAME WILSON. Good morning, Mr. Chairman and  
301 members of the committee. My name is Valerie Plame Wilson  
302 and I am honored to be invited to testify under oath before  
303 the Committee on Oversight and Government Reform on the  
304 critical issue of safeguarding classified information.

305 I am grateful for this opportunity to set the record  
306 straight. I have served the United States loyally and to the  
307 best of my ability as a covert operations officer for the  
308 Central Intelligence Agency. I worked on behalf of the  
309 national security of our country, on behalf of the people of  
310 the United States, until my name and true affiliation were  
311 exposed in the national media on July 14, 2003, after a leak  
312 by administration officials.

313 Today I can tell this committee even more. In the  
314 run-up to the war with Iraq, I worked in the  
315 Counterproliferation Division of the CIA, still as a covert  
316 officer whose affiliation with the CIA was classified. I was

317 | to discover solid intelligence for senior policymakers on  
318 | Iraq's presumed weapons of mass destruction programs. While  
319 | I helped to manage and run secret worldwide operations  
320 | against this WMD target from CIA headquarters in Washington,  
321 | I also traveled to foreign countries on secret missions to  
322 | find vital intelligence.

323 | I loved my career because I love my country. I was  
324 | proud of the serious responsibilities entrusted to me as a  
325 | CIA covert operations officer, and I was dedicated to this  
326 | work. It was not common knowledge on the Georgetown cocktail  
327 | circuit that everyone knew where I worked. But all of my  
328 | efforts on behalf of the national security of the United  
329 | States, all of my training, all of the value of my years of  
330 | service were abruptly ended when my name and identity were  
331 | exposed irresponsibly.

332 | In the course of the trial of Vice President Cheney's  
333 | former chief of staff, Scooter Libby, I was shocked by the  
334 | evidence that emerged. My name and identity were carelessly  
335 | and recklessly abused by senior government officials in both  
336 | the White House and the State Department. All of them  
337 | understood that I worked for the CIA, and having signed oaths  
338 | to protect national security secrets, they should have been  
339 | diligent in protecting me and every CIA officer.

340 | The CIA goes to great lengths to protect all of its  
341 | employees, providing at significant taxpayer's expense

342 | painstakingly devised covers for its most sensitive staffers.  
343 |     The harm that is done when a CIA cover is blown is grave,  
344 | but I can't provide details beyond that in this public  
345 | hearing. But the concept is obvious. Not only have breaches  
346 | of national security endangered CIA officers, it has  
347 | jeopardized and even destroyed entire networks of foreign  
348 | agents who, in turn, risk their own lives and those of their  
349 | families to provide the United States with needed  
350 | intelligence. Lives are literally at stake.

351 |         Every single one of my former CIA colleagues, from my  
352 | fellow covert officers to analysts to technical operations  
353 | officers to even the secretaries, understand the  
354 | vulnerabilities of our officers and recognize that the  
355 | travesty of what happened to me could happen to them. We in  
356 | the CIA always know that we might be exposed and threatened  
357 | by foreign enemies. It was a terrible irony that  
358 | administration officials were the ones who destroyed my  
359 | cover. Furthermore, testimony in the criminal trial of Vice  
360 | President Cheney's former chief of staff, who has now been  
361 | convicted of serious crimes, indicates that my exposure arose  
362 | from purely political motives.

363 |         Within the CIA it is essential that all intelligence be  
364 | evaluated on the basis of its merits and actual credibility.  
365 | National security depends upon it. The trade craft of  
366 | intelligence is not a product of speculation. I feel

367 | passionately as an intelligence professional about the  
368 | creeping insidious politicizing of our intelligence process.  
369 | All intelligence professionals are dedicated to the idea that  
370 | they would rather be fired on the spot than distort the facts  
371 | to fit a political view, any political view or any ideology.

372 |         As our intelligence agencies go through reorganizations  
373 | and experience the painful aspects of change and our country  
374 | faces profound challenges, injecting partisanship or ideology  
375 | into the equation makes effective and accurate intelligence  
376 | that much more difficult to develop. Politics and ideology  
377 | must be stripped completely from our intelligence services or  
378 | the consequences will be even more severe than they have been  
379 | and our country placed in even greater danger.

380 |         It is imperative for any President to be able to make  
381 | decisions based on intelligence that is unbiased. The Libby  
382 | trial and the events leading to the Iraq War highlight the  
383 | urgent need to restore the highest professional standards of  
384 | intelligence collection and analysis and the protection of  
385 | our officers and operations.

386 |         The Congress has a constitutional duty to defend our  
387 | national security and that includes safeguarding our  
388 | intelligence. That is why I am grateful for this opportunity  
389 | to appear before this committee today and to assist in its  
390 | important work.

391 |         Thank you. And I welcome any questions.

392 [The information follows:]

393 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



394 Chairman WAXMAN. Thank you very much, Mrs. Wilson.  
395 We'll now proceed with 10 minutes on each side managed by the  
396 Chair and the Ranking Member of the committee. For our first  
397 round, I want to yield 5 minutes to the gentleman from  
398 Kentucky, Mr. Yarmuth, to begin the questioning.

399 Mr. YARMUTH. Thank you, Mr. Chairman. Thank you for  
400 being here today, Mrs. Wilson. Our country owes you a great  
401 debt of gratitude for your service, and I think you are  
402 continuing that service today by appearing.

403 I would like to start by asking you about July 14, 2003,  
404 the day that Robert Novak wrote the column in the Chicago Sun  
405 Times, identifying you as an Agency operative on weapons of  
406 mass destruction, quote.

407 But before I get to that, I want to ask you about the  
408 day before, July 13. My understanding is that on that date,  
409 you were covert. Is that correct? On July 13?

410 Mrs. PLAME WILSON. I was a covert officer, correct.

411 Mr. YARMUTH. Without destroying--or disclosing  
412 classified information, what does covert mean?

413 Mrs. PLAME WILSON. I'm not a lawyer. But my  
414 understanding is that the CIA is taking affirmative steps to  
415 ensure that there are no links between the operations officer  
416 and the Central Intelligence Agency. I mean, that is simple.

417 Mr. YARMUTH. And as you said and my understanding is  
418 that your work was classified for purposes of many

419 | regulations in the laws, and we're talking about your work  
420 | was classified on that day, July 13.

421 |         Mrs. PLAME WILSON. That's correct.

422 |         Mr. YARMUTH. Did the July 14 column destroy your covert  
423 | position and your classified status?

424 |         Mrs. PLAME WILSON. Yes, it did. I could no longer  
425 | perform the work for which I had been highly trained. I  
426 | could no longer travel overseas or do the work for which--my  
427 | career which I loved. It was done.

428 |         Mr. YARMUTH. And this may be a simplistic question, but  
429 | the information that was disclosed in Robert Novak's column,  
430 | is it correct to say that that is information that you would  
431 | not have disclosed yourself?

432 |         Mrs. PLAME WILSON. That is correct.

433 |         Mr. YARMUTH. How did you react when you learned that  
434 | your identity had been disclosed?

435 |         Mrs. PLAME WILSON. I found out very early in the  
436 | morning when my husband came in and dropped the newspaper on  
437 | the bed and said, "He did it." and I quickly turned and read  
438 | the article, and I felt like I had been hit in the gut. It  
439 | was over in an instant, and I immediately thought of my  
440 | family's safety, the agents and networks that I had worked  
441 | with, and everything goes through your mind in an instant.

442 |         Mr. YARMUTH. What effect did the leak have on you  
443 | professionally?

444 Mrs. PLAME WILSON. Professionally? Well, I could no  
445 longer do the work which I had been trained to do. There  
446 was--after that, there is no way that you can serve overseas  
447 in a covert capacity. And so that career path was  
448 terminated.

449 Mr. YARMUTH. Did the leak make you feel that your  
450 entire career had been thrown out the window essentially, it  
451 had been wasted at all?

452 Mrs. PLAME WILSON. Not wasted, but certainly terminated  
453 prematurely.

454 Mr. YARMUTH. You talked a little bit about your concern  
455 about the effect of the leak on your professional contacts.  
456 Did you have any contact with those people who  
457 weren't--expressed their concern about the effect on their  
458 professional career?

459 Mrs. PLAME WILSON. No, I did not. But I do know the  
460 Agency did a damage assessment. They did not share it with  
461 me. But I know that it certainly puts the people and the  
462 contacts I had all in jeopardy, even if they were completely  
463 innocent in nature.

464 Mr. YARMUTH. And what effect do you think it had at the  
465 broadest level? I'm talking about for future CIA employees  
466 and future sources.

467 Mrs. PLAME WILSON. I think it was--it had a very  
468 negative effect. If our government cannot even protect my

469 | identity, future foreign agents who might consider working  
470 | with the Central Intelligence Agency and providing needed  
471 | intelligence would think twice. Well, they can't even  
472 | protect one of their own. How are they going to protect me?  
473 | As well as the Agency is working very hard to attract highly  
474 | talented young people into its ranks, because we do have  
475 | profound challenges facing our country today. And I can't  
476 | think that that helped those efforts.

477 |         Mr. YARMUTH. I can't see the clock, Mr. Chairman. I  
478 | don't know whether my time has expired or not.

479 |         Chairman WAXMAN. You have 9 seconds.

480 |         Mr. YARMUTH. Well, I will yield back the balance of my  
481 | seconds to you, Chairman. Thank you. Thank you, Mrs.  
482 | Wilson.

483 |         Chairman WAXMAN. Thank you Mr. Yarmuth.

484 |         The Chair would now like to yield time to Mr. Hodes, the  
485 | gentleman from New Hampshire.

486 |         Mr. HODES. Thank you, Mr. Chairman. Mrs. Wilson, thank  
487 | you for coming today. What happened to you is deadly  
488 | serious. You were the victim of a national security breach.  
489 | If this was a law enforcement context, something I am  
490 | familiar with, it would be equivalent to disclosing the  
491 | identity of an undercover police officer who has put his life  
492 | on the line and the lives of all those who helped that  
493 | officer.

494           Our job on this committee is to find out how the breach  
495 happened. Now, I would like to show you a chart that we  
496 prepared on the committee. You will see it up on the  
497 screens, and we're putting it up here on paper. That chart  
498 is a graphic depiction of all the ways that your classified  
499 CIA employment was disclosed to White House officials and  
500 then to the press. Every colored block on that chart is an  
501 individual, and every arrow shows a disclosure of classified  
502 information. That classified information was your CIA  
503 employment status. And the arrows are based on the testimony  
504 in Mr. Libby's criminal case and press reports. This chart  
505 shows over 20 different disclosures about your employment.

506           Let me ask you, looking at this chart, are you surprised  
507 that so many people had access to the classified information  
508 about your CIA employment?

509           Mrs. PLAME WILSON. Yes, I am, Congressman. And I am  
510 also surprised at how carelessly they used it.

511           Mr. HODES. What was your expectation about how the  
512 government would handle the classified information about your  
513 work and status?

514           Mrs. PLAME WILSON. My expectation, Congressman, was  
515 that--as of all CIA operations officers, every officer  
516 serving undercover, that senior government officials would  
517 protect our identity. We all take oaths to protect  
518 classified information and national security. So--

519 Mr. HODES. Prior to the time that you learned that your  
520 status had been disclosed, you never authorized anyone to  
521 disclose your status, did you?

522 Mrs. PLAME WILSON. Absolutely not.

523 Mr. HODES. And no one ever approached you and asked for  
524 permission to disclose any classified information about you?

525 Mrs. PLAME WILSON. No.

526 Mr. HODES. Vice President Cheney never approached you  
527 and asked if he had your permission to disclose your status,  
528 did he?

529 Mrs. PLAME WILSON. No.

530 Mr. HODES. Karl Rove never approached you and asked  
531 whether he had your permission to disclose your status, did  
532 he?

533 Mrs. PLAME WILSON. No.

534 Mr. HODES. Now, this isn't even a complete picture  
535 because as you can see on this chart, we don't know, for  
536 example, who told Karl Rove your status. There is a black  
537 box up there, and it says unknown. And there are two arrows  
538 from that. One pointing to Vice President Cheney and one  
539 pointing to Karl Rove. So that is an unanswered question  
540 right now.

541 Now, I can imagine that you have followed the  
542 proceedings and the press pretty closely over the past few  
543 years, have you not?

544 Mrs. PLAME WILSON. Yes.

545 Mr. HODES. Do you have any theories about who told Karl  
546 Rove about your status?

547 Mrs. PLAME WILSON. No, I do not. There was much  
548 evidence introduced in the Libby trial that provides quite a  
549 bit, but I have no--it would just be guesses.

550 Mr. HODES. Well, that is what this committee's  
551 investigation is all about, following all the links in the  
552 chain from their sources to their destination. Now, it has  
553 been reported that Mr. Rove had a discussion with Chris  
554 Matthews about you, and the report was that Mr. Rove told Mr.  
555 Matthews, Valerie Plame is fair game. Do you recall that?

556 Mrs. PLAME WILSON. Yes, I do.

557 Mr. HODES. I'd like to ask you to forget for a moment  
558 that he was talking about you. Imagine that he was talking  
559 about another undercover agent working on sensitive issues,  
560 and that undercover agent, that undercover agent's life was  
561 on the line. Do you have a reaction to that?

562 Mrs. PLAME WILSON. Absolutely. This happened to me,  
563 but I would like to think I would feel just as passionately  
564 if it had happened to any of my former colleagues at the CIA.

565 Mr. HODES. One final question. Is there any  
566 circumstance that you can think of that would justify leaking  
567 the name of an undercover agent?

568 Mrs. PLAME WILSON. No, Congressman.

569 Mr. HODES. Thank you very much. I yield back.

570 Chairman WAXMAN. Thank you, Mr. Hodes.

571 Before we yield our time, we have a long list of people  
572 that seem to have either intentionally or advertently passed  
573 on your status and your name as a CIA agent, and that  
574 included the President, Vice President, Scooter Libby, Karl  
575 Rove, Ari Fleisher, just to name a few.

576 Did any of those people, the President, the Vice  
577 President, Karl Rove, Scooter Libby, Ari Fleisher, did any of  
578 them ever call you and apologize to you?

579 Mrs. PLAME WILSON. No, Chairman.

580 Chairman WAXMAN. None of them ever called you to  
581 express regrets?

582 Mrs. PLAME WILSON. No.

583 Chairman WAXMAN. Thank you. Mr. Davis?

584 Mr. DAVIS OF VIRGINIA. Thank you. Thank you, Ms.  
585 Plame.

586 It's clear that administration officials knew you worked  
587 for the CIA, but did they know that your status was that of a  
588 covert agent?

589 Mrs. PLAME WILSON. I have no way of knowing, but I can  
590 say I worked for the Counterproliferation Division of the  
591 Directorate of Operations. And while not all, many of the  
592 employees of that division are, in fact, in covert status.

593 Mr. DAVIS OF VIRGINIA. But you don't have--I think one



594 | of the issues here was not that you worked for the CIA,  
595 | because that was obviously widely known in the  
596 | administration, but for the crime to have been committed,  
597 | they had to have known you were covert, and you don't have  
598 | any direct linkage that they knew you were covert at that  
599 | point.

600 |         Mrs. PLAME WILSON. Again, Congressman. I am not a  
601 | lawyer, but as I said--

602 |         Mr. DAVIS OF VIRGINIA. You don't have any direct  
603 | knowledge.

604 |         Mrs. PLAME WILSON. No. But as I said in my opening  
605 | comments, the fact that they knew that I worked for the CIA,  
606 | that alone should have increased their level of diligence.

607 |         Mr. DAVIS OF VIRGINIA. Look, we all agree that  
608 | everybody needs to protect national security and protect the  
609 | identities of undercover and covert agents. But should the  
610 | CIA have done more to adequately protect people as well and  
611 | say these covert agents shouldn't be outed? Did the CIA have  
612 | a responsibility here as well?

613 |         Mrs. PLAME WILSON. I think that Congress might think  
614 | about reviewing the Intelligence Identities Protection Act  
615 | and seeing what went wrong and where it needs to be perhaps  
616 | rewritten.

617 |         Mr. DAVIS OF VIRGINIA. I mean,--look, the CIA is  
618 | supposed to report to Congress each year on the steps taken

619 | to protect this highly sensitive information. And I am told  
620 | few, if any, reports are even filed. So I think there is a  
621 | responsibility from the CIA, and I think what is missing and  
622 | I think from--at least from a criminal perspective, not from  
623 | a policy but from a criminal perspective, that the special  
624 | prosecutor in this case looked at that and found that the  
625 | people who may have been saying this didn't know that you  
626 | were covert, and you didn't have any evidence to the  
627 | contrary?

628 |       Mrs. PLAME WILSON. That, I think, is a question better  
629 | put to the special prosecutor, Congressman.

630 |       Mr. DAVIS OF VIRGINIA. Shouldn't the CIA have made sure  
631 | that anyone who knew your name and your work be told of your  
632 | status? Would that have been helpful in this case? That  
633 | would have made it very clear if anyone leaked it at that  
634 | point they were violating the law at least.

635 |       Mrs. PLAME WILSON. The CIA does go to great lengths to  
636 | create and protect all kinds of covers for its officers.  
637 | There is a lot of money and a lot of time and a lot of energy  
638 | that goes into that. And the onus also--the burden falls on  
639 | the officer himself or herself to live that cover, but it is  
640 | not a perfect world.

641 |       Mr. DAVIS OF VIRGINIA. The Intelligence Identities  
642 | Protection Act makes it a crime to knowingly disclose the  
643 | identity of a covert agent, which has a specific definition

644 | under the act. Did anyone ever tell you that you were so  
645 | designated?

646 | Mrs. PLAME WILSON. I'm not a lawyer.

647 | Mr. DAVIS OF VIRGINIA. That's why I asked if they told  
648 | you. I'm not asking for your interpretation.

649 | Mrs. PLAME WILSON. No. But I was covert. I did travel  
650 | overseas on secret missions within the last 5 years.

651 | Mr. DAVIS OF VIRGINIA. I'm not arguing with that. What  
652 | I am asking is, for purposes of the act--and maybe this just  
653 | never occurred to you or anybody else at the time, but did  
654 | anybody say that you were so designated under the act, or was  
655 | this just after it came to fact?

656 | Mrs. PLAME WILSON. No. No one told me that.

657 | Mr. DAVIS OF VIRGINIA. How about after the disclosure?  
658 | After the disclosure did anyone then say, gee, you were  
659 | designated under the act. This should not have happened.  
660 | Did anyone in the CIA tell you at that point?

661 | Mrs. PLAME WILSON. No.

662 | Mr. DAVIS OF VIRGINIA. Okay. Since the disclosure of  
663 | your identity, have you been offered other positions within  
664 | the CIA?

665 | Mrs. PLAME WILSON. Yes. I went on to other jobs with  
666 | commensurate responsibility.

667 | Mr. DAVIS OF VIRGINIA. No demotion or anything? You  
668 | didn't experience any demotion?

669 Mrs. PLAME WILSON. No.

670 Mr. DAVIS OF VIRGINIA. Did anyone at the CIA tell you  
671 your career path was damaged by the disclosure?

672 Mrs. PLAME WILSON. Yes.

673 Mr. DAVIS OF VIRGINIA. Now, you were a senior manager,  
674 a GS-14, step 6, eligible for a GS-15 at the time. Did  
675 anyone ever tell you that you could not advance in a normal  
676 career path after this exposure?

677 Mrs. PLAME WILSON. It was very clear that I could not  
678 advance as a covert operations officer.

679 Mr. DAVIS OF VIRGINIA. And would that then--your upward  
680 career path in terms of getting a GS-15 then was impaired in  
681 your opinion?

682 Mrs. PLAME WILSON. No. But that was the career for  
683 which I had been trained, for which I wanted to do. My  
684 husband and I, after our children were born, discussed going  
685 overseas again when they were a little bit older, and all of  
686 that came to an abrupt end, obviously.

687 Mr. DAVIS OF VIRGINIA. Do you know if any of the CIA  
688 colleagues--like Robert Grimere who testified at the Libby  
689 trial, that he told administration officials that you were  
690 involved in sending your husband to Niger--do you know if he  
691 ever told any of these officials that you were involved?

692 Mrs. PLAME WILSON. I have no idea other than what he  
693 testified.

694 Mr. DAVIS OF VIRGINIA. Okay. When you introduced  
695 yourself and your husband to the group of IC analysts at the  
696 February 19, 2002 meeting at CIA headquarters, did you tell  
697 anybody present then you were undercover?

698 Mrs. PLAME WILSON. No, I did not. I was in CIA  
699 headquarters. I introduced them and left the meeting,  
700 Congressman.

701 Mr. DAVIS OF VIRGINIA. Okay. Would they have known  
702 that you were--would they have had any reason to have known  
703 you were undercover or--

704 Mrs. PLAME WILSON. I believe that they would have  
705 assumed such.

706 Mr. DAVIS OF VIRGINIA. We're limited in what we can  
707 ask. So we're trying to stay in the confines that the CIA  
708 has--

709 Mrs. PLAME WILSON. I understand.

710 Let me just ask, try to put some of the speculation to  
711 rest and give you an opportunity to answer. In January 2004,  
712 Vanity Fair published an article, not always known for great  
713 accuracy, touching on your role in the Niger uranium affair.  
714 It said--this is what they said: In early May, Wilson and  
715 Plame attended a conference sponsored by the Senate  
716 Democratic Policy Committee at which Wilson spoke about  
717 Iraq--one of the other panelists was New York Times  
718 journalist Nicholas Kristof--over breakfast the next morning.

719 | It was Kristof and his wife Wilson told about his trip to  
720 | Niger and said Kristof could write about it but not name him.

721 | Is that account accurate?

722 | Mrs. PLAME WILSON. I think it is. I had nothing--I was  
723 | not speaking to Mr. Kristof, and I think my husband did say  
724 | that he had undertaken this trip but not to be named as a  
725 | source.

726 | Mr. DAVIS OF VIRGINIA. Okay. Just to be clear, the  
727 | article says that your husband met for breakfast with Kristof  
728 | and his wife. Just to be clear, were you at the breakfast?

729 | Mrs. PLAME WILSON. Briefly. Yes, Congressman.

730 | Mr. DAVIS OF VIRGINIA. Okay. On June 13, Kristof wrote  
731 | a column about the Niger uranium matter. He wrote that he  
732 | was piecing the story from two people directly involved and  
733 | two others who were briefed on it. Do you know if you were  
734 | one of those people that he was referring to?

735 | Mrs. PLAME WILSON. I can't imagine that I would be. I  
736 | did not speak to him about it.

737 | Mr. DAVIS OF VIRGINIA. Okay. What about your husband?  
738 | Would he have been one of the sources?

739 | Mrs. PLAME WILSON. I think he was speaking to Mr.  
740 | Kristof at that point.

741 | Mr. DAVIS OF VIRGINIA. Okay. Was any of that  
742 | information classified to your knowledge?

743 | Mrs. PLAME WILSON. Not that I am aware of.

744 Mr. DAVIS OF VIRGINIA. I yield back at this point.

745 Chairman WAXMAN. Thank you very much.

746 Mr. Cummings for 5 minutes.

747 Mr. CUMMINGS. Thank you very much.

748 Mrs. Wilson, first of all, let me thank you for your  
749 service. Mrs. Wilson, even today your work for the CIA is so  
750 highly classified that we're not permitted to discuss the  
751 details. But we can clarify one crucial point, whether you  
752 worked under cover for the CIA. You said that your position  
753 was covert, but I have heard others say that you were not  
754 covert. In fact, one of the witnesses who will testify a  
755 little bit later, Victoria Toensing, is making that same  
756 argument.

757 In an op-ed that appeared in the Washington Post on  
758 February 18, she says it quite bluntly, she says, quote,  
759 "Plame was not covert. She worked at CIA headquarters and  
760 had not been stationed abroad within 5 years," end of quote.  
761 I know there are restrictions on what you can say today, but  
762 is Ms. Toensing's statement correct?

763 Mrs. PLAME WILSON. Congressman, thank you for the  
764 opportunity. I know I am here under oath, and I am here to  
765 say that I was a covert officer of the Central Intelligence  
766 Agency. Just like a general is a general whether he is in  
767 the field in Iraq or Afghanistan, when he comes back to the  
768 Pentagon, he is still a general. In the same way, covert

769 | operations officers who are serving in the field, when they  
770 | rotate back for a temporary assignment in Washington, they  
771 | too are still covert.

772 |         Mr. CUMMINGS. Is it possible that Ms. Toensing had more  
773 | information than you do about your work or had access to  
774 | secret documents that you don't?

775 |         Mrs. PLAME WILSON. I would find that highly unlikely,  
776 | Congressman, because much of that information about my career  
777 | is still classified.

778 |         Mr. CUMMINGS. On Wednesday night, I know Mr. Waxman,  
779 | our Chair, and Congressman Reyes, the Chairman of the House  
780 | Intelligence Committee, spoke personally with General Hayden,  
781 | the head of the CIA. And Chairman Waxman told me that  
782 | General Hayden said clearly and directly, quote, "Mrs. Wilson  
783 | was covert," end of quote. There was no doubt about it.

784 |         And by the way, the CIA has authorized us to be able to  
785 | say that. In addition, I understand that Chairman Waxman  
786 | sent his opening statement over to the CIA to be cleared and  
787 | to make sure that it was accurate. In it he said, quote,  
788 | "Mrs. Wilson was a covert employee of the CIA," end of quote.

789 |         Quote: Mrs. Wilson was under cover," end of quote.

790 |         The CIA cleared these statements. I emphasize all of  
791 | this because I know that there are people who are still  
792 | trying to suggest that what seems absolutely clear isn't  
793 | really true and that you weren't covert. And I think one of



794 | the things we need to do in this hearing is make sure there  
795 | isn't any ambiguity on this point.

796 |         Just three more questions. Did you hold this covert  
797 | status at the time of the leak, did you? The covert status  
798 | at the time of the leak?

799 |         Mrs. PLAME WILSON. Yes, I did, Congressman. Yes.

800 |         Mr. CUMMINGS. Number two, the Identities Protection Act  
801 | refers to travel outside the United States within the last 5  
802 | years. Let me ask you this question. Again, we don't want  
803 | classified information, dates, locations or any other  
804 | details. During the past 5 years, Ms. Plame, from today, did  
805 | you conduct secret missions overseas?

806 |         Mrs. PLAME WILSON. Yes, I did, Congressman.

807 |         Mr. CUMMINGS. Finally, so as to be clear for the  
808 | record, you were a covert CIA employee and within the past 5  
809 | years from today, you went on secret missions outside the  
810 | United States; is that correct?

811 |         Mrs. PLAME WILSON. That is correct, Congressman.

812 |         Mr. CUMMINGS. I want to thank you, and I hope this  
813 | committee now has cleared up the issue of covert, whether Ms.  
814 | Plame was a covert agent. And I yield back.

815 |         Chairman WAXMAN. Thank you very much Mr. Cummings. Mr.  
816 | Westmoreland.

817 |         Mr. WESTMORELAND. Thank you, Mr. Chairman. And I am  
818 | glad Mr. Cummings asked those questions because I was going

819 | to ask them, too.

820 |         Mrs. Wilson, I want to thank you for your service to our  
821 | country. If I seem a little nervous, I have never questioned  
822 | a spy before, and so--

823 |         Mrs. PLAME WILSON. I have never testified before.

824 |         Mr. WESTMORELAND. I'm sorry?

825 |         Mrs. PLAME WILSON. I have never testified under oath  
826 | before.

827 |         Mr. WESTMORELAND. And I was here during the steroid  
828 | hearings too, and I don't think any of those baseball stars  
829 | got this kind of media attention that you are getting today.

830 |         But when the Chairman had his opening statements, he  
831 | used three different terms: covert, undercover and  
832 | classified. Were you one of those in particular? Or all of  
833 | them? Or three different terms to categorize, I guess, your  
834 | service to the country?

835 |         Mrs. PLAME WILSON. For those of us that were undercover  
836 | in the CIA, we tended to use covert or undercover  
837 | interchangeably. I am not--we typically would not say of  
838 | ourselves we were in a classified position. You are kind of  
839 | undercover or covert employee.

840 |         Mr. WESTMORELAND. Now, did you just discuss this among  
841 | yourself if you were classified or covert? Because I am  
842 | assuming that you couldn't discuss it with anybody outside  
843 | the Agency. So was it kind of like y'all sat around the

844 | break room and said, I am covert or I am classified? Or if I  
845 | was going to tell somebody, what I would tell somebody?

846 |       Mrs. PLAME WILSON. Yes. Within your colleagues, either  
847 | within the field or at headquarters here in Washington, if  
848 | you were working on a project, sometimes you did need to  
849 | know, are you under cover or are you overt? Let me know.  
850 | And then you know how to treat them accordingly in the sense  
851 | of how careful to be and your association and so forth.

852 |       Mr. WESTMORELAND. Right. So your fellow CIA employees  
853 | would have known that you were covert or classified or  
854 | whatever.

855 |       Mrs. PLAME WILSON. Oh, absolutely, absolutely.

856 |       Mr. WESTMORELAND. Did you ever tell anyone that you  
857 | worked for the CIA or was that commonly known that you worked  
858 | for the CIA or did you tell them that you were something  
859 | else?

860 |       Mrs. PLAME WILSON. No, Congressman. I could count on  
861 | one hand the number of people who knew where my true employer  
862 | was the day that I was--my name was and true affiliation was  
863 | exposed in July 2003.

864 |       Mr. WESTMORELAND. Okay. And I'm assuming one of those  
865 | was your husband.

866 |       Mrs. PLAME WILSON. That's--yes, he did know.

867 |       Mr. WESTMORELAND. Did he know if you were covert or  
868 | classified or--

869 Mrs. PLAME WILSON. He did understand. As a former  
870 Ambassador and having held security clearances and worked  
871 with many Agency employees, he understood that world to a  
872 certain point, and he certainly understood that I was  
873 undercover, and he protected that diligently.

874 Mr. WESTMORELAND. Okay. And this is the one last--are  
875 we going to have another round of questions, Mr. Waxman, do  
876 you think? Or--

877 Chairman WAXMAN. Well, we do have other panels. I  
878 guess if members wish them.

879 Mr. WESTMORELAND. I mean, I'm just trying--

880 Chairman WAXMAN. You have a minute and 48 seconds.

881 Mr. WESTMORELAND. Okay. Ms. Plame, on October 5, 2003,  
882 being interviewed on Meet the Press, your husband stated that  
883 my wife will not allow herself to be photographed. In  
884 response to the picture you took for Vanity Fair, your  
885 husband was quoted in the Washington Post, the picture should  
886 not be able to identify her and are not supposed to. She is  
887 still employed by the CIA and has obligations to her  
888 employer. So I guess this was after the incident where  
889 everybody knew that you worked for the CIA, that this was  
890 done?

891 Mrs. PLAME WILSON. Yes, Congressman. At the time that  
892 picture came out, my covert status was long gone. And I will  
893 say this: Having lived most of my life very much under the

894 radar, my learning curve was steep, and it was more trouble  
895 than it was worth.

896 Mr. WESTMORELAND. But when the photograph was actually  
897 taken in Vanity Fair, nobody that was not--that was not  
898 public knowledge? I mean, all of this was not out then?

899 Mrs. PLAME WILSON. Oh, Congressman, the picture came  
900 out in late 2003. My covert status was blown.

901 Mr. WESTMORELAND. Okay. If your status was either  
902 covert or classified and if you did, in fact, meet with the  
903 Senate Democratic Policy Committee, Mr. Kristof, did you view  
904 as part of your covert or classified work to meet with  
905 political groups and a columnist from The New York Times to  
906 discuss matters within your purview at the CIA? And, you  
907 know, I don't know if you saw the list of things that we  
908 could or could not ask you. Did this Democratic Policy  
909 Committee and the columnist from The New York Times have  
910 these same rules that they could or could not ask you? Or  
911 did you volunteer other information?

912 Mrs. PLAME WILSON. Congressman, I attended that  
913 conference simply as a spouse of my husband, who was invited  
914 to speak. He had been invited to speak because he had quite  
915 a bit of experience on Iraq, having served the first  
916 President Bush as the Charg D'Affairs at our Embassy in  
917 Baghdad during the first gulf war and negotiated the release  
918 of the hostages with Saddam Hussein and so forth. And he was

919 | asked to attend in that capacity. I had no discussions other  
920 | than purely social in nature.

921 | Chairman WAXMAN. Thank you, Mr. Westmoreland. Your  
922 | time has expired. Mr. Kucinich?

923 | Mr. KUCINICH. Thank you very much, Mrs. Wilson, and  
924 | thank you for your service to our country. Briefly, I want  
925 | to pick up on my colleague Mr. Hodes's question. When you  
926 | look at this chart and you see the extraordinary efforts that  
927 | were made to disclose your identity, and most of this  
928 | information came out of the Libby trial, what were you  
929 | thinking when you saw the effort? This wasn't just a leak,  
930 | was it, in your estimation--was this simply just a leak of an  
931 | ID?

932 | Mrs. PLAME WILSON. Quite a bit of evidence came out in  
933 | the course of the Libby trial, and I really was deeply  
934 | dismayed because it just showed a recklessness and a  
935 | political path that is very, very unfortunate.

936 | Mr. KUCINICH. In your judgment, when you look at the  
937 | chart, does it show a fairly organized approach to disclose  
938 | your identity?

939 | Mrs. PLAME WILSON. Well, it certainly is wide-reaching.

940 | Mr. KUCINICH. Because, Mr. Chairman, you know, do leaks  
941 | occur of agents' identities? It does happen?

942 | Mrs. PLAME WILSON. I'm sorry, Congressman?

943 | Mr. KUCINICH. Have there been in the past leaks of an

944 agent's identity?

945 Mrs. PLAME WILSON. None that I am aware of by their  
946 very own government.

947 Mr. KUCINICH. And you have never in your experience as  
948 an agent seen this kind of a coordinated effort by one's own  
949 government, in this case our government, to disclose the  
950 identity of an agent?

951 Mrs. PLAME WILSON. No, Congressman. I am not aware of  
952 any.

953 Mr. KUCINICH. To what extent does the agency go to to  
954 protect the identities of its agents?

955 Mrs. PLAME WILSON. Significant effort. And, again,  
956 taxpayers' money, particularly in this day and age of Google  
957 and Internet. The efforts have to be even more vigilant and  
958 ever more creative, because it is extremely easy to find out  
959 a lot of information about someone if you really want to. So  
960 we are constant--the CIA constantly needs to be one step  
961 ahead to protect their operations officers.

962 Mr. KUCINICH. So when there is an extraordinary effort  
963 made to disclose the identity of an agent, it is destructive  
964 of the Agency and it is destructive of the taxpayers'  
965 investment in the Central Intelligence Agency; is that  
966 correct?

967 Mrs. PLAME WILSON. Absolutely.

968 Mr. KUCINICH. And one of the things that keeps running

969 | through my mind is why, why did this happen to you? Was it  
970 | an unintentional mistake or is it part of a larger pattern?  
971 | In recent weeks we've learned that U.S. attorneys in all  
972 | parts of the country were fired despite exemplary service,  
973 | and several of these attorneys testified to Congress that  
974 | they were being pressured to pursue cases against Democratic  
975 | officials. Others believe that they were fired because they  
976 | were pursuing cases against Republican officials. Have you  
977 | followed this issue?

978 |         Mrs. PLAME WILSON. Yes, I have, Congressman.

979 |         Mr. KUCINICH. And when I think of what's happened to  
980 | these attorneys, I can't help but think of your case, because  
981 | these could be isolated instances, but they seem to be part  
982 | of a larger pattern. Do you know what happened, for example,  
983 | with the former Treasury Secretary, Mr. O'Neill, when he  
984 | wrote his book The Price of Loyalty?

985 |         Mrs. PLAME WILSON. Yes, I am aware of that.

986 |         Mr. KUCINICH. And then after Secretary O'Neill wrote  
987 | that the Bush administration was planning to overthrow Saddam  
988 | Hussein in a much earlier time frame than anyone knew,  
989 | Secretary O'Neill was falsely accused of leaking classified  
990 | information. Did you know that Secretary O'Neill was  
991 | investigated by the Treasury Department for a groundless  
992 | accusation?

993 |         Mrs. PLAME WILSON. I believe I have read that. Yes,



994 | sir.

995 |       Mr. KUCINICH. Now another instance, General Shinseki  
996 | warned that the United States would need several hundred  
997 | thousand troops in Iraq. Ms. Wilson, do you remember what  
998 | happened to General Shinseki?

999 |       Mrs. PLAME WILSON. Yes, I do, Congressman. He was  
1000 | dismissed.

1001 |       Mr. KUCINICH. I will also remind you of the case of  
1002 | Richard Foster, the government's chief Medicare actuary. He  
1003 | was actually told he would be fired if he told Congress the  
1004 | truth about how much the administration's proposed drug  
1005 | benefit would cost. Were you aware of that, Ms. Wilson?

1006 |       Mrs. PLAME WILSON. Yes, I was.

1007 |       Mr. KUCINICH. Now, again, these could all be isolated  
1008 | instances, but they seem to be part of a larger pattern. And  
1009 | I am struck by what your husband, Joe Wilson, was quoted as  
1010 | saying in the book Hubris.

1011 |       Now according to the book--here is a quote, Joe Wilson  
1012 | was upset and said he regarded the leak as a warning to  
1013 | others. "stories like this are not intended to intimidate  
1014 | me, since I have already told my story. But it is pretty  
1015 | clearly intended to intimidate others who might come forward.

1016 |       You need only look at the stories of intelligence analysts  
1017 | who say they've been pressured. They may have kids in  
1018 | college who may be vulnerable to these types of smears." is

1019 | this what you think was going on here?

1020 |       Mrs. PLAME WILSON. When you look at--and I can speak  
1021 | only to the realm of intelligence, and you have the  
1022 | politicizing of that. Certainly Vice President Cheney's  
1023 | unprecedented number of visits to CIA headquarters in the  
1024 | run-up to the war might be one example.

1025 |       Mr. KUCINICH. That's exactly the point. What happens  
1026 | when someone is working at the Agency level that people are  
1027 | working at when the Vice President visits, the Vice President  
1028 | of the United States comes over and starts looking over their  
1029 | shoulder. Is that intimidating?

1030 |       Mrs. PLAME WILSON. Yes, it is.

1031 |       Chairman WAXMAN. Mr. Kucinich, your time has expired.

1032 |       Mr. KUCINICH. Thank you very much.

1033 |       Chairman WAXMAN. Ms. Watson?

1034 |       Ms. WATSON. Mr. Chairman, I want to thank you for this  
1035 | hearing. It shows our determination to bring out into the  
1036 | open the malfeasance in office. I am an Ambassador. I have  
1037 | gone through the training. I have been blindfolded, put on a  
1038 | C-130, taken to a site, taken into a room with my colleagues,  
1039 | just like Galactica 3,000, handed a red folder "highly  
1040 | classified" with a general standing over my shoulder, "Read  
1041 | it and give it back to me." any information that came out of  
1042 | that folder and was made public had to come from two sources,  
1043 | the general or myself. I was the only woman in the room.

1044           The men, if their wives asked them said, I could tell  
1045 you but I would have to kill you. So I am very sensitive to  
1046 how it works. And I am furious that your classified  
1047 information was exposed. And Robert Novak of all people.

1048           Now, I am going to ask you some questions. They might  
1049 appear repetitive. But you are sworn, and I want this for  
1050 the record. Special Prosecutor Patrick Fitzgerald found that  
1051 at the time of Robert Novak's July 14, 2003 column, your  
1052 employment status was classified and that your affiliation  
1053 with the CIA was not common knowledge outside the  
1054 Intelligence Community. The CIA has confirmed to this  
1055 committee that at the time of Mr. Novak's article, your  
1056 employment status was covert and that information was  
1057 classified.

1058 RPTS THOMAS

1059 DCMN NORMAN

1060 [11:16 p.m.]

1061 Ms. WATSON. But some people are still trying to  
1062 minimize your service by suggesting you really weren't at  
1063 risk and that your position was not classified because you  
1064 worked at a desk job at the CIA headquarters at Langley,  
1065 Virginia.

1066 Let me give you an actual example.

1067 Representative Roy Blunt said on the television program  
1068 Face the Nation, you know, this was a job that the  
1069 Ambassador's wife had that she went to every day. It was a  
1070 desk job. I think many people in Washington understood that  
1071 her employment was at the CIA and she went to that office  
1072 every day.

1073 Mrs. Wilson, is it fair to say that based on your  
1074 service for our government, you are well versed in the rules  
1075 governing the handling of classified information?

1076 Mrs. PLAME WILSON. Absolutely, Congresswoman. And I  
1077 would like to just add that when operations officers, when  
1078 they are posted in the field or back at headquarters, we are  
1079 given training to understand--surveillance detection training  
1080 so that we understand very carefully that we are not being  
1081 followed and that we feel very comfortable that our status  
1082 can be protected.

1083 Ms. WATSON. That is the reason why I started off with  
1084 my own scenario.

1085 Is it your understanding that the executive order  
1086 governing the safeguarding of classified information  
1087 prohibits the disclosure of classified information to persons  
1088 who are not authorized to receive this information?

1089 Mrs. PLAME WILSON. Yes. Correct.

1090 Ms. WATSON. "yes" is the answer?

1091 Mrs. PLAME WILSON. Yes, Congresswoman.

1092 Ms. WATSON. And is it your understanding that when an  
1093 employee at the CIA is undercover, that individual's  
1094 employment status at the CIA is considered classified  
1095 information?

1096 Mrs. PLAME WILSON. Yes, it is.

1097 Ms. WATSON. Are you aware of any desk job exception to  
1098 the rules prohibiting the release of--release on information  
1099 on the employment status of a CIA employee?

1100 Mrs. PLAME WILSON. No, Congresswoman.

1101 Ms. WATSON. So I think your testimony underscores the  
1102 efforts to minimize the significance of the disclosure of  
1103 your employment status or, in effect, minimizing the  
1104 importance of the classified information, rules designed to  
1105 protect our national security. And I am infuriated to  
1106 continue to hear, "She just had a desk job," because I  
1107 understand, I have been there, I have had the training, and I

1108 | want to thank you sincerely for the work that you have done  
1109 | in regards to the protection of Homeland Security and showing  
1110 | the love for this country.

1111 |         Thank you very much.

1112 |         Mrs. PLAME WILSON. Thank you, Congresswoman.

1113 |         Chairman WAXMAN. Thank you, Ms. Watson.

1114 |         Mr. Lynch.

1115 |         Mr. LYNCH. Thank you. First of all, I want to thank  
1116 | you, Ms. Plame, for coming before this committee and helping  
1117 | us with our work, and for your service to our country. I  
1118 | have to say this hearing has been a long time in coming. The  
1119 | Chairman and I and the members of this committee have signed  
1120 | five or six requests over the last 4 years to try to get you  
1121 | before us and to get to the bottom of this.

1122 |         What has happened to you needs to be taken in a wider  
1123 | context, however. The two issues, two of the major issues  
1124 | here are, one, the process by which Congress receives  
1125 | information relative to national security. And as you know,  
1126 | your outing, if you will, or the disclosure of your covert  
1127 | status was, I think, a deliberate attempt to discount the  
1128 | statements of your husband with respect to the supposed  
1129 | attempts by Saddam Hussein to purchase uranium or plutonium  
1130 | through Niger. And, evidently from this chart, there were 20  
1131 | occasions in which people deliberately, I think, attempted to  
1132 | destroy your credibility and also to destroy your

1133 | effectiveness within the organization, within the CIA.

1134 |         And I know you have been very careful with your words.  
1135 | Once or twice might be a careless disclosure. Five or six  
1136 | times might be reckless, but 20 times--I will say it, 20  
1137 | times is a deliberate attempt to destroy your status as a  
1138 | covert agent.

1139 |         And the only other major case in which we have had the  
1140 | outing of CIA agents, such as the Supreme Court in Haig v.  
1141 | Agee, said "It is obvious and inarguable that no governmental  
1142 | interest is more compelling than the security of the Nation."

1143 |         And going to those couple of issues, first of all, the  
1144 | integrity of the process by which we get our information was  
1145 | affected greatly, I think, in the terms of other agents may  
1146 | have been very disheartened and troubled by what happened to  
1147 | you. And in an effort to discount your husband's  
1148 | credibility, the question was raised, and it has been  
1149 | continually raised, of whether you were involved in the  
1150 | decision by the CIA to actually send your husband, Ambassador  
1151 | Joseph Wilson, to Niger in February of 2002 to obtain  
1152 | information on the allegations that Iraq sought uranium from  
1153 | Niger--they sort of said, "Oh, her. His wife sent him," like  
1154 | my wife sends me out to put out the trash, you know-- tried  
1155 | to discount the import of that. At least I admit it.

1156 |         Now I want to ask you, the suggestion that you were  
1157 | involved in sending your husband seemed to drive the leaks in

1158 | an effort to discount his credibility. I want to ask you now  
1159 | under oath, did you make the decision to send Ambassador  
1160 | Wilson to Niger?

1161 | Mrs. PLAME WILSON. No. I did not recommend him. I did  
1162 | not suggest him. There was no nepotism involved. I didn't  
1163 | have the authority. And, Congressman, if you will allow me  
1164 | briefly to just lay out the sequence of events.

1165 | Mr. LYNCH. That was my next question, if you would. I  
1166 | sort of doubted this. If I was going to send my wife  
1167 | somewhere, it wouldn't be Niger. But--nobody goes to Niger.

1168 | But, please, if you could lay out, walk us through  
1169 | everything you did that may have been related around the time  
1170 | of the decision to send Ambassador Wilson to Niger.

1171 | Mrs. PLAME WILSON. Thank you, Congressman. I am  
1172 | delighted as well that I am under oath as I reply to you.

1173 | In February of 2002, a young junior officer who worked  
1174 | for me came to me very concerned, very upset. She had just  
1175 | received a telephone call on her desk from someone, I don't  
1176 | know who, in the Office of the Vice President, asking about  
1177 | this report of this alleged sale of yellow cake uranium from  
1178 | Niger to Iraq.

1179 | She came to me, and as she was telling me this, what had  
1180 | just happened, someone passed by. Another officer heard  
1181 | this. He knew that Joe had already--my husband had already  
1182 | gone on some CIA missions previously to deal with other



1183 nuclear matters. And he suggested well, why don't we send  
1184 Joe?

1185 He knew that Joe had many years of experience on the  
1186 African continent. He also knew that he had served, and  
1187 served well and heroically, in the Baghdad Embassy, the  
1188 Embassy in Baghdad during the first gulf war.

1189 And I will be honest, I was somewhat ambivalent. At the  
1190 time, we had 2-year-old twins at home, and all I could  
1191 envision was me by myself at bedtime with a couple of  
1192 2-year-olds. So I wasn't--I wasn't overjoyed with this idea.

1193 Nevertheless, we went to my branch chief, our  
1194 supervisor. My colleague suggested this idea, and my  
1195 supervisor turned to me and said, "Well, when you go home  
1196 this evening, would you be willing to speak to your husband,  
1197 ask him to come in to headquarters next week and we will  
1198 discuss the options? See if this--what we could do." of  
1199 course. And as I was leaving, he asked me to draft a quick  
1200 e-mail to the chief of our Counterproliferation Division  
1201 letting him know that this was--might happen. I said, "Of  
1202 course."

1203 And it was that e-mail, Congressman, that was taken out  
1204 of context, a portion of which you see in the Senate Select  
1205 Committee on Intelligence report of July of 2004 that makes  
1206 it seem as though I had suggested or recommended him.

1207 Mr. LYNCH. If I could follow up because--just 30

1208 seconds.

1209 Chairman WAXMAN. Without objection.

1210 Mr. LYNCH. And I want to go back to that Senate  
1211 Intelligence Committee hearing.

1212 There were three Republican Senators who included a more  
1213 definitive statement, and this is a quote. It said, "The  
1214 plan to send the former Ambassador to Niger was suggested by  
1215 the former Ambassador's wife, a CIA employee."

1216 What is your reaction to that statement in the Senate  
1217 report about the genesis of your husband's trip to Niger in  
1218 2002?

1219 Mrs. PLAME WILSON. Congressman, it is incorrect. It  
1220 has been borne out in the testimony during the Libby trial.  
1221 And I can tell you that it just doesn't square with the  
1222 facts. Those additional views were written exclusively by  
1223 three Republican Senators.

1224 Mr. LYNCH. Thank you, Mr. Chairman. I yield back.

1225 Chairman WAXMAN. Thank you, Mr. Lynch.

1226 Mr. Yarmuth.

1227 Mr. YARMUTH. Thank you, Mr. Chairman. I am going to  
1228 yield my time to Mr. Van Hollen.

1229 Chairman WAXMAN. Mr. Van Hollen is recognized for 5  
1230 minutes.

1231 Mr. VAN HOLLEN. Thank you very much, Mr. Yarmuth and  
1232 Mr. Chairman.

1233 Ms. Plame, thank you for your service to our country and  
1234 your testimony here today.

1235 Just to remind us all of the larger context in which  
1236 this happened and the lead-up to the war, we remember many  
1237 statements from the President of the United States, the Vice  
1238 President of the United States, Secretary of State  
1239 Condoleezza Rice, others, about mushroom clouds and invoking  
1240 the image that Saddam Hussein was going to be obtaining  
1241 nuclear weapons and using them in terrorist attacks.

1242 So when Ambassador Wilson wrote his article in the New  
1243 York Times that began with this statement, "Did the Bush  
1244 administration manipulate intelligence about Saddam Hussein's  
1245 weapons program to justify invasion of Iraq," and answered  
1246 that question in the following sentence, "Based on my  
1247 experience with the administration, in the months leading up  
1248 to the war, I have little choice but to conclude some of the  
1249 intelligence relating to Iraq's nuclear intelligence program  
1250 was twisted to exaggerate the Iraqi threat. That posed a  
1251 direct threat to the administration's credibility." and  
1252 clearly they understood the danger of that because it  
1253 undercut one of the main underpinnings and justifications the  
1254 administration gave for the war.

1255 And we see from the chart here that the White House did  
1256 spring into action and begin to try and discredit your  
1257 husband, and that is how you were drawn into this Web.

1258 Mr. McClellan, then-White House spokesman, said, "On  
1259 behalf of the administration, on behalf of the President, if  
1260 any one in this administration was involved in it,"  
1261 meaning the leaks and the dissemination of information, "they  
1262 would no longer be in this administration."

1263 Do you believe there continue to be people, individuals  
1264 in this administration, who were involved in leaking  
1265 information about you?

1266 Mrs. PLAME WILSON. Yes, Congressman. As we know,  
1267 again, from the evidence that was introduced at the trial of  
1268 the Vice President's former chief of staff, for one, Karl  
1269 Rove clearly was involved in the leaking of my name, and he  
1270 still carries a security clearance to this date, despite the  
1271 President's words to the contrary that he would immediately  
1272 dismiss anyone who had anything to do with this.

1273 Mr. VAN HOLLEN. And the CIA spokesman made a statement,  
1274 and other intelligence officers have made the statements  
1275 that we have today, that the failure to hold people  
1276 accountable for leaking this kind of information sends a very  
1277 terrible message to others in the intelligence field.

1278 Do you think the failure of the President to fire the  
1279 people in his administration who were involved with this  
1280 message sends a chilling message to those in the intelligence  
1281 agencies, that the White House is not willing to stand up  
1282 behind those people who are putting their lives at danger

1283 every day?

1284 Mrs. PLAME WILSON. Yes. I believe it undermines the  
1285 President's words.

1286 Mr. VAN HOLLEN. Let me ask you this. And I would just  
1287 say on the record, with the statements that were made at  
1288 trial with respect to Karl Rove's involvement, I would just  
1289 state the testimony given by Mr. Cooper of Time Magazine, who  
1290 said that he was told by Karl Rove, quote, "Don't go too far  
1291 out on Wilson." that Mr. Wilson's wife worked at the, quote,  
1292 "Agency." and at the conclusion of the conversation,  
1293 according to Mr. Cooper, Mr. Rove said, quote, "I have  
1294 already said too much."

1295 Can you think of any reason that Mr. Rove would make  
1296 that statement if he did not know that he was engaged in  
1297 wrongdoing?

1298 Mrs. PLAME WILSON. Congressman, I cannot--I cannot  
1299 begin to speculate on Mr. Rove's intent. I just know what  
1300 his words were and the effects.

1301 Mr. VAN HOLLEN. Thank you.

1302 Let me follow up briefly on Mr. Lynch's line of  
1303 questioning regarding the Senate report and who really had  
1304 Ambassador Wilson sent to Niger and who was the instigator of  
1305 that.

1306 The unclassified Senate report asserts that the  
1307 Counterproliferation Division report officer told the

1308 | committee staff that the former Ambassador's wife, you,  
1309 | offered up his name. Are you familiar with that statement in  
1310 | the unclassified--

1311 |         Mrs. PLAME WILSON. Yes, I am.

1312 |         Mr. VAN HOLLEN. Now, we don't want to reveal, and we  
1313 | don't want you to reveal any classified information or  
1314 | anyone's identity, but have you talked with that CPD reports  
1315 | officer who was interviewed by the Senate committee?

1316 |         Mrs. PLAME WILSON. Yes, Congressman. And I can tell  
1317 | you that he came to me almost with tears in his eyes. He  
1318 | said his words had been twisted and distorted. He wrote a  
1319 | memo, and he asked his supervisor to allow him to be  
1320 | reinterviewed by the committee. And the memo went nowhere,  
1321 | and his request to be reinterviewed so that the record could  
1322 | be set straight was denied.

1323 |         Mr. VAN HOLLEN. Just so I understand, Mr. Chairman, if  
1324 | I could.

1325 |         So there is a memo written by the CPD officer upon whose  
1326 | alleged testimony in the Senate report that contradicts the  
1327 | conclusions in that report.

1328 |         Mrs. PLAME WILSON. Absolutely. Yes, sir.

1329 |         Mr. VAN HOLLEN. Mr. Chairman, it seems to me that this  
1330 | committee should ask for that memo. It bears directly on the  
1331 | credibility of the Senate report on this very, very important  
1332 | issue that they have attempted to use to discredit Ambassador

1333 Wilson's mission.

1334 Chairman WAXMAN. I think the gentleman makes an

1335 excellent point, and we will insist on getting that memo.

1336 [The information follows:]

1337 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1338 Mr. VAN HOLLEN. Thank you. Thank you for your  
1339 testimony.

1340 Chairman WAXMAN. Mr. Hodes, you are next.

1341 Mr. HODES. Thank you, Mr. Chairman. I reserve my time.  
1342 I yield back.

1343 Chairman WAXMAN. Mr. Sarbanes.

1344 Mr. SARBANES. Thank you, Mr. Chairman.

1345 Ms. Wilson, thanks for being here today. I know this  
1346 can't be easy for you.

1347 If you put this affair in context, what has happened  
1348 with you, with all of the other abuses, frankly, Mr.  
1349 Chairman, that we have been investigating over the last 7  
1350 weeks--and I thank you for the diligence of your inquiry and  
1351 fairness of your inquiry into a number of the things that  
1352 have occurred--it paints a picture of an administration of  
1353 bullies, in my view. The things that--in order to achieve  
1354 whatever the ends they are seeking, any means can be  
1355 justified and that people can just be pushed around.

1356 We saw it when we had testimony of people in the White  
1357 House who bullied the scientific community by altering  
1358 testimony on global warming. We have seen it in terms of the  
1359 investigations you have done, Mr. Chairman, with respect to  
1360 the treatment of our Civil Service. Now we see it in context  
1361 of our Intelligence Community.

1362 And to me what you have experienced is really the result



1363 | of the syndrome that has developed in this administration  
1364 | which reflects the arrogance of power run amok.

1365 |         I have just a couple of questions that I wanted to ask  
1366 | you in that vein.

1367 |         First of all, I gather you believe that the outing of  
1368 | your status, the blowing of your covert status, was as a  
1369 | result of some of the statements that your husband was making  
1370 | and the challenges that he was bringing; is that right?

1371 |         Mrs. PLAME WILSON. Yes. I believe that was one of the  
1372 | consequences.

1373 |         Mr. SARBANES. Okay. But at the point that they were  
1374 | prepared to surrender your covert status to the public, I  
1375 | mean, what was to be gained by that? I mean, can you--was it  
1376 | to apply further leverage? I mean, really it was sort of  
1377 | after the fact at that point, right?

1378 |         Mrs. PLAME WILSON. My thinking, Congressman, is that by  
1379 | continuing to assert falsely that I somehow suggested him or  
1380 | recommended him for this mission, it would undercut the  
1381 | credibility of what he was saying. And that is--that is what  
1382 | I think has happened. And it just got a little out of hand.

1383 |         Mr. SARBANES. It strikes me as petulant behavior on  
1384 | their part.

1385 |         Secondly, there is a suggestion being made that your  
1386 | status could have been divulged sort of accidentally. But  
1387 | you have described efforts, structural efforts, that are

1388 | designed to make sure that this doesn't happen accidentally.

1389 | And so could you comment on that?

1390 | I mean, it seems to me that in order for your status to  
1391 | have been disclosed, somebody had to want that to happen. In  
1392 | other words, the way things were set up, it is highly  
1393 | unlikely that your status would be disclosed by accident. It  
1394 | had to be as a result of an orchestrated effort that somebody  
1395 | wanted to put it out there.

1396 | Can you talk about sort of structurally, whether that is  
1397 | the case?

1398 | Mrs. PLAME WILSON. I can't speak to intent, but I can  
1399 | speak to simply what the actions that we can observe, and  
1400 | that, again, they all knew that I worked in the CIA. They  
1401 | might not have known what my status was. But that alone, the  
1402 | fact that I worked at the CIA, should have put up a red flag  
1403 | that they acted in a much more protective way of my identity  
1404 | and true employer.

1405 | Mr. SARBANES. And then lastly, again, I'm trying to  
1406 | get--because this is more than--it's more than a story about  
1407 | Valerie Plame Wilson and what happened to you, as devastating  
1408 | as it has been to your life over these last period of months.

1409 | It's about our Intelligence Community. And you spoke  
1410 | yourself to how this kind of conduct can affect the integrity  
1411 | and effectiveness of our intelligence apparatus.

1412 | Can you comment on the chilling effect, if you will, on

1413 | what the message it sends to people, to those, for example,  
1414 | who would be sent on a mission to collect intelligence about  
1415 | a subject that the White House might already have a very  
1416 | strong opinion about. How would it affect the way that  
1417 | agent, the way that person would check that information and  
1418 | get that information back up the chain?

1419 |         Mrs. PLAME WILSON. Intelligence collection is certainly  
1420 | more an art than a science, but if there is any taint of  
1421 | bias, then it undermines its usefulness. The primary  
1422 | customer of our intelligence is, of course, the President of  
1423 | the United States. And if the President of the United States  
1424 | thinks somehow--or doesn't believe that his intelligence that  
1425 | he receives on his desk, he or she receives on his desk every  
1426 | morning, is free of ideology, politics, a certain viewpoint,  
1427 | how then can that President make the most important decisions  
1428 | of all about the security of our country? I mean, that is--I  
1429 | do feel passionately about that. You have to get the  
1430 | politics out of our intelligence process.

1431 |         Mr. SARBANES. I appreciate that. I appreciate the  
1432 | passion that you brought to your job. And you represent  
1433 | hundreds of thousands of people that go to work and try to  
1434 | make a difference for this country and I think are being  
1435 | bullied by this administration. You won't get the policy  
1436 | from them that you deserve. But I want you to know that  
1437 | everyone here appreciates your service.

1438 Thank you very much.

1439 Chairman WAXMAN. We have gone back and forth, and,  
1440 rather than a second round, Mr. Davis and I have agreed that  
1441 we will have 5 minutes wrap-up on each side; 5 minutes will  
1442 be controlled by the Chairman and the Ranking Member.

1443 And I would yield 5 minutes to Mr. Davis at this point.

1444 Mr. DAVIS OF VIRGINIA. I yield to Mr. Westmoreland such  
1445 time as he would consume.

1446 Mr. WESTMORELAND. Thank you, Mr. Chairman.

1447 Mr. Chairman, I hate it that we are not going to stay  
1448 here to get all of our questions answered by Ms. Wilson,  
1449 because I have so many to ask, because there is so many  
1450 conflicting reports. And I think that with something of this  
1451 importance, that we should have made a little more time for  
1452 it.

1453 But Ms. Wilson, the Counterproliferation Division of the  
1454 CIA, that seems like a pretty important place where a bunch  
1455 of smart people would work and keep good records. Would  
1456 that--would I be okay in thinking that?

1457 Mrs. PLAME WILSON. Yes, Congressman.

1458 Mr. WESTMORELAND. But in the Senate Intel report that I  
1459 have got that says some CPD officials could not recall how  
1460 the Office decided to contact the former Ambassador, was this  
1461 a voluntary lack of memory or were there no notes kept on it?  
1462 Is it--how could they forget how they came about a name that

1463 | they were fixing to send to a foreign country to check on the  
1464 | intelligence of Iraq getting material to build nuclear bombs?  
1465 | That seems a little bit far-fetched to me.

1466 | Mrs. PLAME WILSON. Congressman, please remember that in  
1467 | this period in the run-up to the war, we in the  
1468 | Counterproliferation Division of the CIA were working  
1469 | flat-out as hard as we could to try to find good, solid  
1470 | intelligence for our senior policymakers on these presumed  
1471 | programs.

1472 | My role in this was to go home that night without  
1473 | revealing any classified information, of course, and ask my  
1474 | husband would he be willing to come into CIA headquarters the  
1475 | following week and talk to the people there. At that  
1476 | meeting, I introduced him and I left, because I did have a  
1477 | hundred and one other things I needed to do.

1478 | Mr. WESTMORELAND. But what I'm trying to say is do you  
1479 | think there would not have been a paper trail of how his name  
1480 | came about, who would have--who would have mentioned it first  
1481 | or--I mean, to me that is a pretty important assignment to  
1482 | give somebody; and, you know, maybe somebody would want to  
1483 | say "Hey, that was my idea. That was my guy that I was  
1484 | sending over there," and want to take credit for it. But it  
1485 | seems like everybody is running from it.

1486 | Mrs. PLAME WILSON. Congressman, I believe one of the  
1487 | pieces of evidence that was introduced in the Libby trial was

1488 an INR memo of that meeting where it states, in fact, my  
1489 husband was not particularly looking forward to--he didn't  
1490 think it was necessary. There had been, I believe, at least  
1491 two other reports, one by a three-star general and one by the  
1492 Ambassador there on the ground who said there wasn't really  
1493 much of this allegation. And the INR folks that attended the  
1494 meeting also said well, we are not sure that this is really  
1495 necessary.

1496 But it was ultimately decided that he would go, use his  
1497 contacts, which were extensive in the government, to see if  
1498 there was anything more to this. It was a serious question  
1499 asked by the Office of the Vice President and it deserved a  
1500 serious answer.

1501 Mr. WESTMORELAND. Are you familiar with a Charles  
1502 Grimere that was the former Iraq mission manager for the CIA?

1503 Mrs. PLAME WILSON. I know of him, sir, yes.

1504 Mr. WESTMORELAND. He testified in the Libby trial that  
1505 all he had heard is that you were working for this  
1506 Counterproliferation Division, and it could have been a  
1507 number of things that different people, I guess, look at  
1508 this, some covert, some classified, some undercover, some  
1509 different names.

1510 Is that true that there are different classifications of  
1511 people that work at this Counterproliferation Division?

1512 Mrs. PLAME WILSON. What I would say that's most

1513 accurate is most of the employees at the Counterproliferation  
1514 Division are undercover of some sort.

1515 Mr. WESTMORELAND. But he did work for the CIA so he  
1516 should have known that you were undercover or classified or--

1517 Mrs. PLAME WILSON. I am saying that the fact was that  
1518 most people in the Counterproliferation Division were  
1519 undercover. I can't speak to what he should have or should  
1520 have not known--were probably cognizant of that, yes, sir.

1521 Mr. WESTMORELAND. And you mentioned taking politics out  
1522 of intelligence. And your husband--would you say he was a  
1523 Democrat or a Republican?

1524 Mrs. PLAME WILSON. Although my husband comes from a  
1525 Republican family with deep roots in California, I would say  
1526 he is a Democrat now, Congressman.

1527 Mr. WESTMORELAND. Okay. And just to kind of keep  
1528 score, not that you would put yourself in any political  
1529 category, would you say you are a Democrat or a Republican?

1530 Mrs. PLAME WILSON. Congressman, I am not sure that that  
1531 is--

1532 Mr. WESTMORELAND. I know. But I gave a list of  
1533 questions I couldn't ask you, and that wasn't one of them, so  
1534 I didn't know if you would be willing to--

1535 Mrs. PLAME WILSON. Yes, Congressman. I am a Democrat.

1536 Mr. WESTMORELAND. You are a Democrat.

1537 Mrs. PLAME WILSON. Yes, I am.

1538 Mr. WESTMORELAND. So the Vice President, who is a  
1539 Republican, who evidently thought from his CIA briefing that  
1540 he had gotten one day, felt like that this needed to be  
1541 looked at further, the report that Niger was selling this  
1542 yellow cake uranium to Iraq, that he would get some further  
1543 intel on it. They called the Counterproliferation--or at  
1544 least somebody in the CIA--and then we had a Democrat or at  
1545 least supposedly someone who may be affiliated on the  
1546 Democratic side--represent her, or present or supposedly  
1547 present or at least vouch for her husband who was--who had  
1548 come from a good Republican family that had lost his way and  
1549 became a Democrat.

1550 But my point is, in his piece titled, "What I Didn't  
1551 Find in Africa," he disputes the Bush administration's claims  
1552 of there was no evidence that Niger was selling it. But you,  
1553 coming from an intelligence background, you don't just depend  
1554 on one report from one country or one source to base all your  
1555 intelligence on, do you? Wouldn't you gather it from a bunch  
1556 of different sources and then kind of put it together and  
1557 look at it and not just one from--

1558 Mrs. PLAME WILSON. That is correct, Congressman.

1559 Chairman WAXMAN. The gentleman's time has expired.

1560 Do you have a last question that you want to ask?

1561 Mr. WESTMORELAND. No.

1562 I guess, Mr. Chairman, my last comment would be to you



1563 | that I still think it is a shame that--we have got Ms. Wilson  
1564 | here and all of the press came and all of these good people  
1565 | came to witness all of this, and it's been quite a  
1566 | spectacle--that we wouldn't get to ask all of the questions  
1567 | that we had.

1568 |         Mr. DAVIS OF VIRGINIA. I think what is clear here is,  
1569 | first of all, it is a terrible thing that any CIA operative  
1570 | would be outed. But what is difficult, I think, what we  
1571 | haven't been able to establish is who knew who was undercover  
1572 | and who was in a covert status. And I think we would have to  
1573 | look at that. But if there is no evidence here that the  
1574 | people that were outing this and pursuing this, had knowledge  
1575 | of the covert status-- And so I just wanted to make that  
1576 | point.

1577 |         Mrs. PLAME WILSON. Thank you, Congressman.

1578 |         Chairman WAXMAN. Thank you, Mr. Davis.

1579 |         I want to yield to Ms. Norton for 5 minutes.

1580 |         Ms. NORTON. Thank you very much. And thank you, Ms.  
1581 | Wilson, as others have thanked you for your extraordinary  
1582 | service to our country.

1583 |         I am trying to understand the effect of the executive  
1584 | order, because there is an executive order that is Executive  
1585 | Order 12958. It is an executive order, a Presidential  
1586 | executive order, that indicates what authorized--what the  
1587 | requirements are to prevent unauthorized disclosures.

1588           And in summary, they are background checks, official  
1589 need to know. I am particularly interested in the official  
1590 need to know.

1591           And I ask you to look at the middle chart, the middle  
1592 part of the chart on there where the White House and other  
1593 officials, State Department officials, are listed.

1594           Can you think of any reason that any of those officials  
1595 would have had a reason to know your identity, in particular,  
1596 as a covert agent?

1597           Mrs. PLAME WILSON. Congresswoman, there was no need to  
1598 know my specific identity other than I was a CIA officer,  
1599 according to that chart. None whatsoever.

1600           Ms. NORTON. Could I ask you whether there is any  
1601 difference in your review between disclosing the identity of  
1602 a covert agent and disclosing classified information, what if  
1603 any difference would there be?

1604           Mrs. PLAME WILSON. I think damage in either case could  
1605 be equally devastating. It would simply depend on what the  
1606 classified information was. But certainly revealing an  
1607 operative's true identity is devastating. In my case, I was  
1608 working on trying to find the Iraq weapons of mass  
1609 destruction programs and what they were up to.

1610           Ms. NORTON. I suppose we could all think of classified  
1611 information involving our country that would have a  
1612 devastating effect on all of us.

1613           Disclosing the name of a classified agent might have a  
1614 devastating effect on more than that agent's career; is that  
1615 not the case?

1616           Mrs. PLAME WILSON. Absolutely, Congresswoman.

1617           The ripple effects go outward in quite wide circles.  
1618 There are all of the contacts through the years as either  
1619 innocent or in a professional manner. The agents, the  
1620 networks. Much is taken out.

1621           Ms. NORTON. Are there circumstances under which  
1622 disclosing the identity of a covert agent could result in the  
1623 death of that agent, and hasn't that occurred before in our  
1624 country's history?

1625           Mrs. PLAME WILSON. Yes, it has.

1626           Ms. NORTON. If, in fact, an official of any kind did  
1627 not have an official reason to know your status, in your view  
1628 would that be a violation of the executive order which lists  
1629 need to know, official need to know as a reason for--a reason  
1630 for having classified information?

1631           Mrs. PLAME WILSON. Yes, Congresswoman. I would think  
1632 so.

1633           Ms. NORTON. So you think it would be.

1634           Mrs. PLAME WILSON. It would be a violation.

1635           Ms. NORTON. One of my colleagues questioned you  
1636 regarding the accusation that over and over again was  
1637 repeated in the press, and, for that matter, by a number of

1638 | public officials, that it was you who was responsible for  
1639 | your husband's being selected to go on the controversial trip  
1640 | at issue.

1641 |         As I understand it, that person has indeed said that he  
1642 | was not the person who indicated that you had been  
1643 | responsible for the selection of your husband to go to Niger.

1644 |         If that is the case, would you say that it would be  
1645 | inappropriate for us or others to rely on the information  
1646 | that a CIA official had said that you were responsible for  
1647 | the selection of your husband to go to Niger?

1648 |         Mrs. PLAME WILSON. That is incorrect. A senior Agency  
1649 | officer said she had nothing to do with his trip. And I  
1650 | would just like to add that certainly I had no political  
1651 | agenda at the time of my husband's trip. Joe had no  
1652 | political agenda. We were both looking to serve our country.

1653 |         Ms. NORTON. Mr. Chairman, I understand that that--that  
1654 | the CIA official to which I refer has in fact said that in  
1655 | writing, and I ask that you try to get the memorandum of that  
1656 | official that would make it clear that he or she was not  
1657 | responsible for this information.

1658 |         Chairman WAXMAN. We will try to get that information  
1659 | and hold it for the record.

1660 [The information follows:]

1661 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

1662 Ms. NORTON. Thank you very much, Mr. Chairman.

1663 Chairman WAXMAN. Mr. Davis.

1664 Mr. DAVIS OF VIRGINIA. Let me clarify one thing. You  
1665 noted that when you learned about this, your husband picked  
1666 up the paper and said, "He did it." do you remember your  
1667 testimony today? "he did it." was he referring to Novak?  
1668 Was he referring to the administration? And did you know  
1669 this was percolating?

1670 Mrs. PLAME WILSON. Yes, sir. He was referring to Mr.  
1671 Novak. We had indications in the week prior that Mr. Novak  
1672 knew my identity and my true employer. And I, of course,  
1673 alerted my superiors at the Agency, and I was told don't  
1674 worry, we will take care of it. And it was much to our  
1675 surprise that we read about this July 14th.

1676 Mr. DAVIS OF VIRGINIA. Do you know if your superiors at  
1677 the Agency did anything at that point to stop the outing of a  
1678 CIA agent? It would seem to me they would have picked up the  
1679 phone to say this is a serious matter, this is a crime. Do  
1680 you have any idea?

1681 Mrs. PLAME WILSON. Absolutely. This is what I believe  
1682 and this is what I read, that then-spokesman Mr. Harlow spoke  
1683 directly to Mr. Novak and said something along the lines of,  
1684 "Don't go with this. Don't do this." I don't know exactly  
1685 what he said. But he clearly communicated the message that  
1686 Mr. Novak should not publish my name.

1687 Mr. DAVIS OF VIRGINIA. And you don't know if he said  
1688 this could be a violation of law, she is a covert operator or  
1689 anything like that.

1690 Mrs. PLAME WILSON. I have no idea.

1691 Mr. DAVIS OF VIRGINIA. One of the long-term concerns  
1692 outside of the--I mean, the outing of an agent is very  
1693 serious business which I think has been underscored by both  
1694 sides. But if no one knows that you're covert, it's hard at  
1695 that point to show any violation of law and the like. But if  
1696 you have notice, that's a different issue.

1697 And so you did the appropriate thing in notifying your  
1698 superiors that this was percolating, and they were not able  
1699 to stop it. Is that your testimony?

1700 Mrs. PLAME WILSON. That is correct.

1701 Mr. DAVIS OF VIRGINIA. Thank you.

1702 Chairman WAXMAN. Mrs. Wilson, you can be a Democrat,  
1703 you can be a Republican. No one asks our servicemen or CIA  
1704 operatives what they believe in in terms of their politics to  
1705 go out and serve their country. They are not acting as  
1706 Democrats or Republicans. They and you were acting as  
1707 Americans.

1708 Facts are not Republican or Democratic. Your husband  
1709 revealed the falsehood of the reason the President gave to go  
1710 to war against Saddam Hussein in Iraq. And the reason he  
1711 gave, even in his State of the Union address, was that the

1712 | weapon of mass destruction that Saddam Hussein had, or would  
1713 | soon have, is a nuclear bomb. That was very sobering, but it  
1714 | was false.

1715 |         Mrs. PLAME WILSON. Uh-huh.

1716 |         Chairman WAXMAN. And when your husband wrote the  
1717 | article, that went right to the heart of this claim.

1718 |         So one could see why they wouldn't like what your  
1719 | husband wrote. But they made you collateral damage. Your  
1720 | career was ended. Your life may have been in jeopardy. And  
1721 | they didn't seem to care, even to this point, because you  
1722 | said they haven't even called to apologize.

1723 |         Now, whether they knew it and intentionally gave out  
1724 | this information about your status is the reason for this  
1725 | investigation. If they knew it then, that you were a covert  
1726 | undercover agent, and they disclosed that fact, that is a big  
1727 | deal. That is a serious jeopardizing of our national  
1728 | security.

1729 |         If they didn't know you were an undercover covert agent,  
1730 | then I have to wonder in my mind what was their thinking.  
1731 | That this guy couldn't be right because his wife had  
1732 | something to do with the mission? Boy, is that sort of  
1733 | silly.

1734 |         Either way, I don't think it speaks well for all of  
1735 | those people in the White House to have gone out of their way  
1736 | to let the press know this information which was the only, I



1737 | guess, the only thing they had to say.

1738 |       The President has finally acknowledged the statement  
1739 | that your husband pointed out was factually incorrect. The  
1740 | President has acknowledged it was factually incorrect. The  
1741 | Secretary of State said the CIA didn't tell her, but it  
1742 | turned out that her chief deputy did get informed, Mr.  
1743 | Hadley, that the statement was not correct; that they were  
1744 | putting it into the State of the Union address, the most  
1745 | vetted speech a President ever makes. They acknowledged the  
1746 | validity of your husband's statement. And what do we have  
1747 | for you? Well, just collateral damage.

1748 |       I find that troubling that in the zeal for their  
1749 | political positioning, that there are a lot of collateral  
1750 | damage around, including a war that didn't have to be fought.

1751 |       I want to thank you very much for your presence here. I  
1752 | think it has been helpful, and we are going to continue this  
1753 | investigation.

1754 |       Ms. WATSON. A question to the Chair.

1755 |       Chairman WAXMAN. Yes.

1756 |       Ms. WATSON. The first, I think, most of us knew about  
1757 | Valerie Plame as being an undercover agent was through Robert  
1758 | Novak's July 14th, 2003 column. Is it possible, as we  
1759 | continue our oversight function, to have Mr. Novak under oath  
1760 | come in and testify to the fact that he did print that  
1761 | information?

1762 Chairman WAXMAN. Well, I think we know that he did  
1763 print that information and that we know now she was a covert  
1764 agent. I have many--I will give it some thought. But I want  
1765 to underscore that we need an investigation. This is not  
1766 about Scooter Libby, and it's not just about Valerie Plame  
1767 Wilson. It is about the integrity of our national security  
1768 and whether it is being jeopardized.

1769 Mr. DAVIS OF VIRGINIA. I think if you do that, we--you  
1770 need to involve the CIA, because there is no evidence here  
1771 that anyone out there had any idea that she was an undercover  
1772 agent, that she was a covert agent at this point.

1773 Chairman WAXMAN. You may well be right. But the CIA  
1774 did.

1775 Mr. DAVIS OF VIRGINIA. And, in fact, she did the  
1776 appropriate thing in going to her superiors when she found  
1777 out that she was about to be outed.

1778 I would have thought at that point, if the CIA felt one  
1779 of their operatives were going to be outed, they would have  
1780 gone to great lengths to try to kill the story and let them  
1781 know what the law was.

1782 Chairman WAXMAN. That is a very good point, and I think  
1783 we need to get--

1784 Mr. DAVIS OF VIRGINIA. In the President's speech--and I  
1785 have to say this--in the President's speech when he mentioned  
1786 the uranium, those words were cleared by the CIA. It may not

1787 | have been in accordance with what Mr. Wilson found, but Ms.  
1788 | Plame's boss approved that. And I think the record should  
1789 | reflect that.

1790 | Chairman WAXMAN. Before I call on anybody else.

1791 | Yes, Mr. Hodes.

1792 | Mr. HODES. Just very briefly. The suggestion about  
1793 | what we don't know cannot be finally determined until we  
1794 | pursue the investigation that we need to pursue and find out  
1795 | what the people on this chart knew and when they knew it, who  
1796 | the unknown person or persons are, and we need an  
1797 | investigation.

1798 | Mr. DAVIS OF VIRGINIA. We had a special prosecutor who  
1799 | did this, Mr. Hodes. The special prosecutor looked at this  
1800 | and spent 2 years on this.

1801 | Chairman WAXMAN. This is a hearing to get information  
1802 | from witnesses, not to debate, although it is inevitable.  
1803 | But let us, I think, move on with our hearing.

1804 | I thank all of the members for their participation. I  
1805 | wish we had all of the members here to participate, but all  
1806 | of those members were invited and had adequate notice, but  
1807 | this is a Friday.

1808 | Thank you so much for being here.

1809 | Mrs. PLAME WILSON. Thank you, Mr. Chairman.

1810 | Chairman WAXMAN. We are going to recess for 4 or 5  
1811 | minutes just so we can settle down and get the next witnesses

1812 up and take care of whatever pressing matters that need to be  
1813 attended to.

1814 [Recess.]

1815 Chairman WAXMAN. The committee will come back to order.

1816 I am pleased to welcome our next two witnesses. Dr.  
1817 James Knodell is the security officer for the Executive  
1818 Office of the President. According to GAO, this position is,  
1819 quote, responsible for formulating and directing the  
1820 execution of security policy, reviewing and evaluating  
1821 Executive Office of the President security programs, and  
1822 conducting security indoctrinations and debriefings for  
1823 agencies of the Executive Office of the President, end quote.

1824 Mr. Bill Leonard is the director of the Information  
1825 Security Oversight Office at the National Archives and  
1826 Records Administration. This office is charged with  
1827 developing security classification policies for classifying,  
1828 declassifying, and safeguarding security information  
1829 generated in government and industry, and evaluating the  
1830 effectiveness of the security classification programs  
1831 developed by government and industry.

1832 And I want to welcome both of you to our hearing today.

1833 Your prepared statements are going to be in the record  
1834 in its entirety, and we are going to ask you to keep your  
1835 oral presentation to around 5 minutes or try to keep it under  
1836 5 minutes.

1837 STATEMENTS OF JAMES KNODELL, DIRECTOR, OFFICE OF SECURITY,  
1838 EXECUTIVE OFFICE OF THE PRESIDENT, THE WHITE HOUSE; AND  
1839 WILLIAM LEONARD, DIRECTOR, INFORMATION SECURITY OVERSIGHT  
1840 OFFICE, NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

1841 Chairman WAXMAN. It is the practice of this committee  
1842 to swear in all witnesses, so if you will please rise.

1843 The record will indicate that the witnesses answered in  
1844 the affirmative.

1845 Mr. Knodell, why don't we start with you?

1846 STATEMENT OF JAMES KNODELL

1847 Mr. KNODELL. Thank you, Mr. Chairman.

1848 My name is James Knodell. I am the Chief Security  
1849 Officer for the Office of Security and Emergency  
1850 Preparedness, Office of Administration, Executive Office of  
1851 the President.

1852 The Office of Security and Emergency Preparedness is  
1853 commonly referred to as OSEP, which provides personnel  
1854 security and physical security and emergency preparedness for  
1855 the Executive Office of the President and Office of the Vice  
1856 President.

1857 OSEP works closely with the United States Secret  
1858 Service, National Security Council, and the White House  
1859 Military Office as well as EOP managers and all personnel  
1860 assigned to the EOP to ensure their security measures are  
1861 well coordinated and that required controls are consistently  
1862 and fully implemented.

1863 OSEP provides a variety of services that ensure the  
1864 proper protection of EOP resources including information,  
1865 people, and facilities. These services include prescreening  
1866 candidates for employment based on security guidelines,  
1867 monitoring the background investigation process, briefing  
1868 employees on requirements and guidelines for the handling and  
1869 storage of classified material.

1870 In reference to the committee's request that I provide  
1871 information on White House procedures for safeguarding  
1872 classified information, OSEP follows guidelines set forth in  
1873 various executive orders that deal with classified  
1874 information.

1875 For example, Executive Order 12968, Access to Classified  
1876 Information, dated August 2nd, 1985, established a uniform  
1877 Federal personnel security program for employees who will be  
1878 considered for initial or continued access to classified  
1879 information.

1880 Executive Order 12958, Classified National Security  
1881 Information, dated April 17th, 1995, prescribes a uniform

1882 | system for classifying, safeguarding, and declassifying  
1883 | national security information.

1884 |       OSEP staff members brief all new EOP employees on the  
1885 | responsibilities for handling and securing classified  
1886 | information consistent with these executive orders.

1887 | Additionally, mandatory annual refresher security briefings  
1888 | are provided to those EOP employees holding security  
1889 | clearances. In the event that an EOP employee fails to  
1890 | follow applicable guidelines resulting in a security  
1891 | violation, a member of the EOP office to which the  
1892 | individual's assigned should report the matter to OSEP.

1893 |       OSEP then refers the matter and it follows procedures  
1894 | consistent with the guidelines in Executive Order 12968 to  
1895 | ensure that a determination is made to whether the person  
1896 | should continue to hold a security clearance and if the  
1897 | incident involves a risk to classified information controlled  
1898 | by an organization outside the EOP, that that organization is  
1899 | notified.

1900 |       Mr. Chairman, I am not able to discuss individual cases  
1901 | or investigations. I would be happy to answer questions  
1902 | related to the procedures for handling classified information  
1903 | or corresponding to the unauthorized release of classified  
1904 | information.

1905 |       Thank you.

1906 |       [The information follows:]

1907 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*



1908 Chairman WAXMAN. Mr. Leonard.

1909 STATEMENT OF J. WILLIAM LEONARD

1910 Mr. LEONARD. Thank you, Mr. Chairman.

1911 Chairman Waxman, Mr. Davis, and members of the  
1912 committee, I wish to thank you for inviting me to testify  
1913 here today.

1914 I direct the Information Security Oversight Office,  
1915 often called ISOO. Under Executive Order 12958, as amended,  
1916 we have substantial responsibilities with respect to the  
1917 classification, safeguarding, and declassification of  
1918 information by agencies within the executive branch.  
1919 Included is the responsibility to develop and promulgate a  
1920 directive implementing the order.

1921 It is the order that sets forth the basic framework and  
1922 legal authority by which executive branch agencies may  
1923 classify national security information. Pursuant to his  
1924 constitutional authority and through the order, the President  
1925 has authorized a limited number of officials to apply  
1926 classification to certain national security-related  
1927 information.

1928 In delegating classification authority, the President  
1929 has established clear parameters for its use and certain

1930 | burdens that must be satisfied.

1931 |       Specifically, every act of classifying information must  
1932 | be traceable back to its origin as an explicit decision by a  
1933 | responsible official who has been expressly delegated  
1934 | original classification authority. In addition, the original  
1935 | classification authority must be able to identify or describe  
1936 | the damage to national security that could reasonably be  
1937 | expected if the information was subject to unauthorized  
1938 | disclosure. Furthermore, the information must be owned by,  
1939 | produced by or for, or under the control of the U.S.  
1940 | Government. And, finally, it must fall into one or more of  
1941 | the categories of information specifically provided for in  
1942 | the order.

1943 |       The President has also spelled out in the order some  
1944 | very clear prohibitions and limitations with respect to the  
1945 | use of classification. Specifically, for example, in no case  
1946 | can information be classified in order to conceal violations  
1947 | of law, inefficiency, or administrative error.

1948 |       It is the responsibility of officials delegated original  
1949 | classification authority to establish at the time of the  
1950 | original decision the level of classification as well as the  
1951 | duration of classification.

1952 |       The order and directive go on to establish requirements  
1953 | for access to classified information, such as the need for a  
1954 | favorable access eligibility determination by an agency, as

1955 well as the execution of an approved nondisclosure agreement.

1956           The order and directive also promulgates minimum  
1957 standards for the safeguarding of classified information,  
1958 including such issues as storage, reproduction, transmission  
1959 and destruction.

1960           We also establish actions to be taken in the event of a  
1961 loss, possible compromise, or unauthorized disclosure of  
1962 classified information. This includes the prompt reporting  
1963 and investigation of such instances in order to implement  
1964 appropriate corrective actions and to ascertain the degree of  
1965 damage to national security.

1966           While I stated earlier it is the responsibility of the  
1967 original classification authority to determine the duration  
1968 of classification, a fundamental principle of the order is  
1969 that classified information shall be declassified as soon as  
1970 it no longer meets the standards for classification.

1971           In addition, while the order presumes that information  
1972 that continues to meet the standards for classification  
1973 requires continued protection, it provides for exceptional  
1974 cases in which the need to protect such information may be  
1975 outweighed by the public's interest in disclosure of the  
1976 information.

1977           In such circumstances, an agency head or designated  
1978 official may, as an exercise of discretion, declassify the

1979 information.

1980 In addition to the above, information can be  
1981 declassified in one of three ways: first, by implementing  
1982 the instructions set forth in a classification or  
1983 declassification guide; second, by following a view by an  
1984 authorized official, or third, automatically, without benefit  
1985 of review.

1986 Finally, the order establishes specific responsibility  
1987 for agencies in establishing an effective classification  
1988 management program.

1989 Again, I want to thank you for inviting me here today,  
1990 Mr. Chairman. I would be happy to answer your questions and  
1991 any questions any members the committee might have.

1992 Chairman WAXMAN. Thank you very much.

1993 [prepared statement of Mr. Leonard follows:]

1994 \*\*\*\*\* INSERT 2-1 \*\*\*\*\*

1995 Chairman WAXMAN. The Chair will recognize himself to  
1996 start off the questions.

1997 Mr. Knodell, you are the one charged at the White House  
1998 for safeguarding classified information; isn't that correct?

1999 Mr. KNODELL. That is correct.

2000 Chairman WAXMAN. And in doing so, you have an Executive  
2001 Order 12958 that implements the regulations for the  
2002 protection of this information. I want to ask you about that  
2003 and, of course, we are looking at the context of Mrs.  
2004 Wilson's identity being disclosed.

2005 Federal regulations require that any person who has  
2006 knowledge of the loss or compromise of classified information  
2007 has an obligation to report to the White House Security  
2008 Officer.

2009 I want to read to you 5CFS section 1212.30. "any White  
2010 House employee who has knowledge of the loss or possible  
2011 compromise of classified information should report the  
2012 circumstances to the EOP security officer," end quote. Is  
2013 that accurate, Mr. Knodell?

2014 Mr. KNODELL. Yes, it is.

2015 Chairman WAXMAN. And the White House officials who know  
2016 about the disclosure of classified information have an  
2017 obligation to report what they know to you.

2018 Mr. KNODELL. Yes, sir.

2019 RPTS CALHOUN

2020 DCMN BURRELL

2021 [12:45 p.m.]

2022 Chairman WAXMAN. Mr. Leonard, you are one of the  
2023 Nation's experts on protection of classified information. Do  
2024 Federal officials who learn of the possible breach of  
2025 classified information have an obligation to report it to the  
2026 security officer at the White House?

2027 Mr. LEONARD. Any individual that becomes aware of a  
2028 security violation, especially one in which may involve an  
2029 unauthorized disclosure, has the obligation to promptly  
2030 report that matter to the designated official to receive  
2031 that.

2032 Chairman WAXMAN. That's whether it was intentionally  
2033 disclosed or unintentionally disclosed?

2034 Mr. LEONARD. Yes, sir, that's correct.

2035 Chairman WAXMAN. Mr. Knodell, I want to ask you about  
2036 whether the White House officials complied with this  
2037 requirement after the disclosure of Mrs. Wilson's identity.  
2038 Let me start with the former White House Press Secretary Ari  
2039 Fleischer, Mr. Fleischer's conversations with Walter Pincus  
2040 of the Washington Post and David Gregory of NBC News about  
2041 Ms. Wilson's identity. These conversations took place in  
2042 July 2003. Almost immediately it was clear that Ms. Wilson's  
2043 identity was classified information.

2044 Mr. Knodell, the regulations require Mr. Fleischer to  
2045 report what he knew about this disclosure to you. Did he do  
2046 that?

2047 Mr. KNODELL. Mr. Chairman, I thought the agreement here  
2048 for me today was I would not discuss specific investigations.

2049 Chairman WAXMAN. As I understood it, we wouldn't  
2050 discuss the Libby case. That was a concern, that we were  
2051 going to rehash the Libby case. This is the Valerie Plame  
2052 Wilson case, and it is a question Congress is exploring to  
2053 fine out whether our security laws and regulations are  
2054 working.

2055 One way to find that out is to find out whether you were  
2056 told that there was a violation and the rules were upheld and  
2057 followed in the requirement and obligations to report it to  
2058 you.

2059 Mr. KNODELL. Mr. Chairman, that happened before my  
2060 tenure in this current position. I began this position in  
2061 August of 2004.

2062 Chairman WAXMAN. Well, do you--are you aware of whether  
2063 the report was made by Mr. Fleischer to your predecessor?

2064 Mr. KNODELL. I'm not, Mr. Chairman.

2065 Chairman WAXMAN. Are you aware if there's any  
2066 investigation that ever took place in the White House about  
2067 the release of this classified information?

2068 Mr. KNODELL. I am not.

2069 Chairman WAXMAN. Do you know whether Carl Rove, the  
2070 President's senior political adviser, came forward and  
2071 reported what he knew about the breach of Ms. Wilson's  
2072 identity. After all, we learned that Mr. Rove talked about  
2073 her identity with at least two journalists, a Robert Novak  
2074 and Matthew Cooper of Time Magazine.

2075 Mr. KNODELL. Mr. Chairman, I have no knowledge of any  
2076 investigation within my office.

2077 Chairman WAXMAN. How long have you been in this office?

2078 Mr. KNODELL. Since August of 2004.

2079 Chairman WAXMAN. Two and a half years. Were you aware  
2080 in the last 2-1/2 years that this was an issue for which  
2081 there was a lot of concern?

2082 Mr. KNODELL. Yes, Mr. Chairman, I was.

2083 Chairman WAXMAN. Did you learn that from people in the  
2084 White House?

2085 Mr. KNODELL. Through the press.

2086 Chairman WAXMAN. Mr. Leonard, the regulations seem  
2087 clear, it says that officials like Mr. Rove have an  
2088 obligation to report security violations.

2089 Mr. Knodell, wouldn't there have to be a report that  
2090 would have been filed in your office?

2091 Mr. KNODELL. If we were notified, there would be, sir,  
2092 yes.

2093 Chairman WAXMAN. So if you were notified, a report



2094 | would be on file. Is that right?

2095 | Mr. KNODELL. Correct.

2096 | Chairman WAXMAN. You don't know if there's one on file.

2097 | Is that correct, you don't even know there's one on file?

2098 | Mr. KNODELL. There is not one on file.

2099 | Chairman WAXMAN. There is not one on file. You know  
2100 | that there is no report on file that classified information  
2101 | was disclosed and that report was about Fleischer or Rove or  
2102 | all the other names.

2103 | Mr. KNODELL. Mr. Chairman, not within the Office of  
2104 | Security and Emergency Preparedness.

2105 | Chairman WAXMAN. Mr. Leonard, just to clarify the  
2106 | point, isn't there an obligation under the law to have that  
2107 | information filed by the person who learns that he disclosed  
2108 | classified information even inadvertently?

2109 | Mr. LEONARD. Again, Mr. Chairman, the requirement is  
2110 | for anyone who becomes aware of a violation, the person who  
2111 | may be involved in committing it or someone who is otherwise  
2112 | aware of it, to promptly report that to the designated  
2113 | official so that an appropriate inquiry and investigation can  
2114 | be conducted.

2115 | Chairman WAXMAN. Well, these people may not have known  
2116 | at the time they disclosed this information to the press but  
2117 | they certainly learned afterwards. Did they have an  
2118 | obligation even then to report?

2119 Mr. LEONARD. Yes, Mr. Chairman. Again, the purpose of  
2120 the notification is to allow for the conduct of an  
2121 investigation or an inquiry in order to at the very least  
2122 determine what the causes were so as to provide for  
2123 corrective action to assess the possibility of damage to  
2124 national security.

2125 Chairman WAXMAN. Last question to Mr. Knodell. Was  
2126 there any corrective action taken, was any disciplinary  
2127 action taken against Mr. Rove for failing to report his  
2128 knowledge of the breach of Mrs. Wilson's identity?

2129 Mr. KNODELL. No, Mr. Chairman.

2130 Chairman WAXMAN. No, no action was taken, or no, you  
2131 don't know?

2132 Mr. KNODELL. No action was taken.

2133 Chairman WAXMAN. Thank you. Mr. Davis.

2134 Mr. DAVIS OF VIRGINIA. Mr. Knodell, you just found out  
2135 you were coming here yesterday, is that correct?

2136 Mr. KNODELL. Actually had word of it earlier in the  
2137 week but found out definitively yesterday, yes, sir.

2138 Mr. DAVIS OF VIRGINIA. Generally committee rules about  
2139 advance notice and consultation to protect both the majority  
2140 and minority rights, we get notice of these, and requires  
2141 that Members be informed in writing of witnesses and the  
2142 likely scope of their testimony 3 days prior to a hearing.

2143 We were informed only yesterday of the addition of two

2144 witnesses to today's, which doesn't generally allow us the  
2145 time to prepare that we would ordinarily like.

2146 Do you know, was the possibility of a subpoena discussed  
2147 with you or with Mr. Fielding in terms of your coming here  
2148 today?

2149 Mr. KNODELL. I understand that there was talk of a  
2150 subpoena.

2151 Mr. DAVIS OF VIRGINIA. Just for the record, the  
2152 minority was not consulted on that at all.

2153 Chairman WAXMAN. Would the gentleman yield? As I  
2154 understand it, Mr. Knodell was expected to come here and that  
2155 information was out there a week prior to today and it was  
2156 shared with the minority staff. We found out yesterday that  
2157 Mr. Knodell was not going to be permitted to testify. I  
2158 called the White House Counsel and suggested that we might  
2159 have to issue a subpoena unless Mr. Knodell was made  
2160 available. I was told the subpoena would not be necessary.  
2161 Mr. Knodell is here.

2162 Mr. DAVIS OF VIRGINIA. My understanding was that the  
2163 invitation had come but we weren't notified until yesterday  
2164 he would appear.

2165 Let me just start. When an agency creates classified  
2166 material, let's say the CIA, and then shares it with another  
2167 agency, what obligations and responsibilities does the  
2168 originator have to convey the classification status to the

2169 recipient?

2170 Mr. KNODELL. If it's a document, it will be clearly  
2171 marked on that document.

2172 Mr. DAVIS OF VIRGINIA. How about an individual?

2173 Mr. KNODELL. They should be told that it's classified  
2174 material that's being passed.

2175 Mr. DAVIS OF VIRGINIA. To your knowledge there was no  
2176 knowledge at the White House of Mrs. Plame's covert status.  
2177 Or can you not comment on that?

2178 Mr. KNODELL. I can't comment, I don't have any  
2179 knowledge of it.

2180 Mr. DAVIS OF VIRGINIA. Mr. Leonard, let me just ask  
2181 this, does the burden generally fall on the agency that has  
2182 the classification or that would have an employee in a covert  
2183 status to convey that? How else would another agency know?

2184 Mr. LEONARD. With respect to conveying classification  
2185 status, the burden or the responsibility--clearly the  
2186 preferred way is immediate notice to the recipient of  
2187 classified information. That can happen either by markings  
2188 on a document if it's written notification, or if it's oral  
2189 notification, it would be something along--

2190 Mr. DAVIS OF VIRGINIA. In this case there were  
2191 briefings; there were briefings from individuals and names on  
2192 briefings but there would not be any documentation, would  
2193 there, to say this person is covert or not covert, as a

2194 | general rule?

2195 |         Mr. LEONARD. When disclosure is oral, normally it would  
2196 | be preceded by something along the lines what I'm about to  
2197 | tell you is classified such and such a level. Another way to  
2198 | disclose or the provide classification guidance is to again  
2199 | have a written classification that have would provide  
2200 | specifics as to what's classified at what level or to convey  
2201 | the substance of a classification guide through the course of  
2202 | briefings and whatever. And then lastly, all cleared  
2203 | individuals have an affirmative responsibility by virtue of  
2204 | signing a nondisclosure agreement that if there is any  
2205 | question in their mind as to the true classification of  
2206 | status of information they are provided, they are obligated  
2207 | to seek clarification before the disclosure.

2208 |         Mr. DAVIS OF VIRGINIA. Is there an obligation to ask?

2209 |         Mr. LEONARD. If there was uncertainty in the mind of  
2210 | the recipient by virtue of the nondisclosure agreement.

2211 |         Mr. DAVIS OF VIRGINIA. The difficulty we have in this  
2212 | situation is there are a lot of people that work for CIA and  
2213 | are not under cover or in a covert operation. In fact, they  
2214 | fill it out on applications publicly. Everybody knows they  
2215 | work there.

2216 |         I'm just wondering what is the obligation of a recipient  
2217 | agency at that point to ask appropriate questions, or should  
2218 | the obligation be on the CIA affirmatively to protect their

2219 employees. That's really the question here. Because we have  
2220 heard no testimony in the first panel that there was any  
2221 knowledge on the part of anybody who was passing this  
2222 information that Mrs. Plame was in a covert status. Had  
2223 there been, I think we would have seen the investigation turn  
2224 out differently at this point.

2225 Mr. LEONARD. There is an affirmative obligation on the  
2226 part of the party who's disclosing the information. If there  
2227 is uncertainty in the mind of the recipient, there is  
2228 likewise an affirmative responsibility.

2229 Mr. DAVIS OF VIRGINIA. Let me ask you both this, this  
2230 was a situation it's clear Mrs. Plame appeared to have  
2231 handled this appropriately, but if a newspaper is getting  
2232 ready to out an operative or a top secret memo or something  
2233 and there are penalties attached, what do you do at that  
2234 point to let them know they are violating the law, to let  
2235 them know that they are going out with top secret information  
2236 or in this case outing an agent? What would be the  
2237 obligation at that point of the CIA to go forward and notify  
2238 the individuals that are suspected of outing or on the verge  
2239 of doing this that are exploring this?

2240 Mr. KNODELL. I think clearly if they know the  
2241 classified information is going to be released it's incumbent  
2242 upon them--

2243 Mr. DAVIS OF VIRGINIA. How would they do it; say don't

2244 do this? Because when you say don't do this to the press--

2245 Mr. KNODELL. Because they have the classified  
2246 information, they can have them sign a nondisclosure  
2247 agreement barring them from--

2248 Mr. DAVIS OF VIRGINIA. Would it be appropriate to say  
2249 this is classified information, will hurt national security?  
2250 They should do that, shouldn't they?

2251 Mr. LEONARD. They do.

2252 Mr. DAVIS OF VIRGINIA. We don't know what the facts  
2253 were in this, but I hope to work with Mr. Waxman to get the  
2254 facts in this particular case.

2255 Mr. Leonard, would you agree with that?

2256 Mr. LEONARD. It's a judgment call, Mr. Davis. There  
2257 certainly will be circumstances where it is prudent to  
2258 intercede along those lines. There will be other  
2259 circumstances where it may not be because they could serve to  
2260 confirm something that we don't want to confirm, and quite  
2261 frankly, just because something is in the media doesn't mean  
2262 it's accurate.

2263 Mr. DAVIS OF VIRGINIA. But if you're the CIA or with an  
2264 agency that has that and you know they have the information  
2265 and they are going to come out with it, at that point that  
2266 argument goes out the window.

2267 Mr. LEONARD. Again, it depends upon what the nature.

2268 Mr. DAVIS OF VIRGINIA. If it's true.

2269 Mr. LEONARD. Right. It depends on what the nature of  
2270 the information. Your example of the identity of a covert  
2271 officer, that would be prudent.

2272 Mr. DAVIS OF VIRGINIA. I think one of the issues here,  
2273 aside from all the political sideshow, is the fact that once  
2274 the agency knew one of their operatives, covert operatives  
2275 were going to be outed, what steps did they take at that  
2276 point they knew a story was pending. Mrs. Plame has  
2277 testified here under oath that they knew this story was  
2278 coming, in fact her husband said he did it. Obviously there  
2279 were some conversations. And exactly what did the CIA do to  
2280 protect their operative? At that point the obligation  
2281 doesn't go to the White House who we weren't even sure was in  
2282 that particular chain with the outing of that story, but what  
2283 do they or should they have done? I hope that we can explore  
2284 that further.

2285 Thank you.

2286 Chairman WAXMAN. Thank you, Mr. Davis.

2287 Mr. Cummings.

2288 Mr. CUMMINGS. Thank you very much, Mr. Chairman. I  
2289 want to thank the gentlemen for testifying.

2290 Mr. Knodell, let me--is it Knodell?

2291 Mr. KNODELL. Yes.

2292 Mr. CUMMINGS. Let me ask you a few questions because in  
2293 answering some of the chairman's questions you left me



2294 | shocked. I want to make sure I heard you right.

2295 | Are you saying with regard to this case; that is, the  
2296 | outing of Valerie Plame Wilson, there is no report?

2297 | Mr. KNODELL. Not in my office, there is not.

2298 | Mr. CUMMINGS. Are you also saying that there was no  
2299 | investigation?

2300 | Mr. KNODELL. Not by my office.

2301 | Mr. CUMMINGS. Not by your office. And so I could  
2302 | conclude then that there were no sanctions, is that correct?  
2303 | No sanctions within your office?

2304 | Is it one of your jobs, part of your job to recommend  
2305 | sanctions where you find that there has been a breach?

2306 | Mr. KNODELL. Correct. But there was already an outside  
2307 | investigation that was taking place, criminal investigation.  
2308 | That's why we took no action.

2309 | Mr. CUMMINGS. Now one of your main objectives for being  
2310 | in the White House is to make sure that you--make sure that  
2311 | these kinds of things don't happen, is that right?

2312 | Mr. KNODELL. Correct.

2313 | Mr. CUMMINGS. I would assume if anyone took the job you  
2314 | took, that one of--and considering what happened before you  
2315 | got there, that this would be something that would be on the  
2316 | minds of everybody because, again, this is like bells  
2317 | ringing, alarms going off. This is the kind of thing that  
2318 | you don't want to do because this could end up in your lap.

2319 Is that right?

2320 Mr. KNODELL. In this particular case you're absolutely  
2321 right. This started long before my tenure in this position.  
2322 By the time I took the position, the criminal investigation  
2323 was already under way.

2324 Mr. CUMMINGS. But did you look into it at all, just so  
2325 that you could make sure you did your job right and didn't  
2326 allow this to happen again?

2327 Mr. KNODELL. We didn't want to have collateral  
2328 investigations going on at the same time, sir.

2329 Mr. CUMMINGS. So if there is a criminal investigation  
2330 and you have got--and you're trying to make sure it doesn't  
2331 happen again, so you don't even look into it at all. In  
2332 other words, you are the guy who is responsible for guarding  
2333 all this and making sure that everything goes right. So it  
2334 sounds to me like we had a breach on top of a breach. We had  
2335 one situation where Mrs. Valerie Plame Wilson's identity and  
2336 covert status was disclosed and then within the very office  
2337 within the White House there is no report, there is no  
2338 investigation, and there are no sanctions?

2339 Mr. KNODELL. Sir, again, any reporting would have taken  
2340 place prior to my arriving into the office.

2341 Mr. CUMMINGS. Now--

2342 Chairman WAXMAN. Will the gentleman yield because I  
2343 just want to pin this point down.

2344 Do you know whether there was an investigation at the  
2345 White House after the leaks came out?

2346 Mr. KNODELL. I don't have any knowledge of an  
2347 investigation within my office.

2348 Chairman WAXMAN. Ever.

2349 Mr. KNODELL. I do not.

2350 Chairman WAXMAN. Because the President said he was  
2351 investigating this matter, was going to get to the bottom of  
2352 it. You're not aware that any investigation took place?

2353 Mr. KNODELL. Not within my office.

2354 Chairman WAXMAN. If there was an investigation, what  
2355 were you referring to, Mr. Fitzgerald's investigation?

2356 Mr. KNODELL. Yes, the outside investigation.

2357 Chairman WAXMAN. That didn't start until months and  
2358 months later and that had the purpose of only narrowly  
2359 looking to see whether there was a criminal law violated.  
2360 But there was an obligation for the White House to  
2361 investigate whether classified information was being leaked  
2362 inappropriately, wasn't there?

2363 Mr. KNODELL. If that was the case, yes.

2364 Chairman WAXMAN. Thank you.

2365 Mr. DAVIS OF VIRGINIA. Could I ask for one very quick  
2366 question?

2367 Mr. CUMMINGS. I yield.

2368 Mr. DAVIS OF VIRGINIA. Would the initiative of a

2369 | criminal investigation relieve those who made these  
2370 | disclosures of the obligation to report to you that by  
2371 | forcing them to disclose could violate their fifth amendment  
2372 | rights?

2373 |         Mr. LEONARD. Actually, in regards to security  
2374 | violations we encourage self-reporting. We would encourage  
2375 | them to contact our office.

2376 |         Mr. CUMMINGS. Reclaiming my time, if Mr. Rove, for  
2377 | example, the number one adviser to the President of the  
2378 | United States, received this information or had anything to  
2379 | do with the disclosing of a covert agent's identity and now  
2380 | we have a situation where it appears that the criminal trial  
2381 | is over, would your agency have anything, I mean your office  
2382 | have anything to do now or do you just close the books and  
2383 | say it's over?

2384 |         Mr. KNODELL. I have got no indication from the  
2385 | Department of Justice or any other agency.

2386 |         Mr. CUMMINGS. Would Mr. Rove have had a duty to report  
2387 | any kind of breach?

2388 |         Mr. KNODELL. Yes.

2389 |         Mr. CUMMINGS. Even today.

2390 |         Mr. KNODELL. At the time of the occurrence.

2391 |         Mr. CUMMINGS. I'm sorry?

2392 |         Mr. KNODELL. At the time of the occurrence, when the  
2393 | violation took place.

2394 Mr. CUMMINGS. All right. Thank you.

2395 Chairman WAXMAN. Thank you. Before I recognize the  
2396 next witness I want to clarify this point, that the  
2397 investigation by Mr. Fitzgerald didn't take place for months  
2398 and months and months after it was well known that there had  
2399 been a leak of the identity of a covert CIA agent.

2400 Now as I understand it, there was an obligation for the  
2401 White House to conduct an immediate investigation to find out  
2402 whether they needed to suspend security clearances of  
2403 somebody who had leaked this information, to maybe take  
2404 disciplinary action against an individual who might have been  
2405 involved; thirdly, to find out who divulged it.

2406 The White House had that obligation because this was a  
2407 matter of important, highest order national security.

2408 Am I stating things correctly, Mr. Leonard?

2409 Mr. LEONARD. Mr. Chairman, as you point out, whenever  
2410 there is suspected an unauthorized disclosure or compromise,  
2411 there is an affirmative responsibility to do an inquiry at  
2412 the very least to implement corrective actions so that  
2413 subsequently additional and similar violations do not  
2414 continue to occur and also to be able to ensure that any  
2415 potential damage to national security is assessed. Part of  
2416 the assessment of corrective action is also the assessment of  
2417 the need for sanctions.

2418 Chairman WAXMAN. Right after the Novak column appeared

2419 | there was an outrage that this was disclosing a covert agent.  
2420 | Not only that, the CIA was so angered by it that they wrote  
2421 | a letter to the Justice Department demanding an  
2422 | investigation. And in light of this, which took place  
2423 | immediately after the information that the leak was  
2424 | disclosed, the White House still has not initiated an  
2425 | investigation.

2426 | Am I correct in that statement, Mr. Knodell?

2427 | Mr. KNODELL. That's correct, my office has not.

2428 | Chairman WAXMAN. Thank you. Ms. Watson.

2429 | Ms. WATSON. Thank you.

2430 | Mr. Knodell, are you the Director of the Office of  
2431 | Security?

2432 | Mr. KNODELL. Yes, ma'am.

2433 | Ms. WATSON. Executive Office of the President?

2434 | Mr. KNODELL. Yes, ma'am.

2435 | Ms. WATSON. The White House.

2436 | Mr. KNODELL. I work for the Office of Administration,  
2437 | but, yes.

2438 | Ms. WATSON. How long have you been on the job?

2439 | Mr. KNODELL. I started this position in August of 2004.

2440 | Ms. WATSON. 2004, and this is March of 2007. I just  
2441 | want to establish that for the record.

2442 | The investigation that was led by Special Counsel  
2443 | Patrick Fitzgerald revealed that a number of White House

2444 officials, including former Chief of Staff of the Vice  
2445 President, Lewis Scooter Libby, Senior Adviser to the  
2446 President, Carl Rove, and the White House Press Secretary Ari  
2447 Fleischer, discussed and disclosed information concerning Ms.  
2448 Wilson's CIA employment status.

2449 With respect to some of these officials, the Fitzgerald  
2450 proceedings, and how they attained the information was  
2451 discussed and Mr. Libby, for example, received information  
2452 about Ms. Plame's CIA employment from the State Department,  
2453 the Central Intelligence Agency, the Vice President, and  
2454 another aide to the Vice President. What is not publicly  
2455 known, however, is how Mr. Carl Rove learned of Ms. Wilson's  
2456 employment status.

2457 So, Mr. Knodell, under the requirements governing  
2458 classified information, the White House should have conducted  
2459 an investigation. Would that be you?

2460 Mr. KNODELL. Yes, ma'am, it would be my office.

2461 Ms. WATSON. Of the breach regarding Ms. Wilson's CIA  
2462 employment status, can you tell us how Mr. Rove learned about  
2463 Ms. Wilson's employment status at the CIA?

2464 Mr. KNODELL. I cannot.

2465 Ms. WATSON. You have been on since when?

2466 Mr. KNODELL. August of 2004.

2467 Ms. WATSON. And you cannot tell us if you investigated  
2468 how that information was leaked. Loudly for the record,

2469 | please.

2470 |         Mr. KNODELL. There was no investigation from the Office  
2471 | of Security and Emergency Preparedness, that's correct.

2472 |         Ms. WATSON. Isn't that unusual? That's why I wanted  
2473 | you to establish your position. You are the Director of the  
2474 | Office of Security and you did no investigation of how this  
2475 | information was out there?

2476 |         Mr. KNODELL. That's correct.

2477 |         Ms. WATSON. Okay. Has there been any investigation by  
2478 | your office into how Mr. Rove would have obtained the  
2479 | information? Apparently your answer is no.

2480 |         Mr. KNODELL. That's correct.

2481 |         Ms. WATSON. It seems to me that there is some  
2482 | dereliction of duty if you are the Director and you are to  
2483 | oversee the security from the White House and you're telling  
2484 | me there was no investigation.

2485 |         Mr. KNODELL. That's correct.

2486 |         Ms. WATSON. Mr. Chairman, I think we ought to further  
2487 | investigate why the Director's office, whether it was the  
2488 | person who preceded him and now he falls into this and he is  
2489 | the witness here, but I want us to get to the truth as to why  
2490 | the Office of Security did not do an investigation. This  
2491 | goes to the core of the security in this country and our  
2492 | operatives abroad.

2493 |         I think the reason why the intelligence was so faulty



2494 | and we went to war against a sovereign nation was because of  
2495 | the failure in your office and the CIA to have accurate  
2496 | information.

2497 |         Thank you, Mr. Chairman, for this time.

2498 |         Chairman WAXMAN. Thank the gentlelady.

2499 |         Mr. Van Hollen.

2500 |         Mr. VAN HOLLEN. Thank you, Mr. Chairman. I thank the  
2501 | witnesses for their testimony. I think you can hear that the  
2502 | members of the committee are pretty stunned that no  
2503 | investigation was undertaken into these breaches.

2504 |         My question, I just want to understand, is it a matter  
2505 | of White House security policy that if there is a criminal  
2506 | investigation into a leak out of the White House that the  
2507 | security office does not undertake its own investigation or  
2508 | administrative action?

2509 |         Mr. KNODELL. We would not run a collateral  
2510 | investigation.

2511 |         Mr. VAN HOLLEN. Let me make sure I understand this.  
2512 | You have somebody who's accused of leaking, there's a court  
2513 | proceeding that may go on for years and years and years, the  
2514 | alleged leaker continues to be in the White House, continues  
2515 | to be potentially there to leak information, and it's the  
2516 | policy of the White House to take no action to ask any  
2517 | question of the alleged leaker to determine whether or not  
2518 | that person's security clearance at the very least should be

2519 | revoked.

2520 | Mr. KNODELL. No, that is not the case.

2521 | Mr. VAN HOLLEN. What is the case?

2522 | Mr. KNODELL. An investigation should be done.

2523 | Mr. VAN HOLLEN. An investigation should be done, right?

2524 | Mr. KNODELL. Correct.

2525 | Mr. VAN HOLLEN. But an investigation was not done?

2526 | Mr. KNODELL. That's correct.

2527 | Mr. VAN HOLLEN. Clearly the standard in the criminal  
2528 | investigation like this one, one of the questions was whether  
2529 | people had knowledge of whether there was a covert--someone  
2530 | was a covert operative. But the standard as I understand for  
2531 | your purposes is simply a question of whether classified  
2532 | information was disclosed. Isn't that right?

2533 | Mr. KNODELL. Can you rephrase that for me, please?

2534 | Mr. VAN HOLLEN. In other words, as I understand the  
2535 | regulations, your office has an obligation to undertake an  
2536 | investigation when classified information has been disclosed.

2537 | Mr. KNODELL. Correct.

2538 | Mr. VAN HOLLEN. There's not as a preliminary matter any  
2539 | question of whether it was intentional disclosure, you're  
2540 | supposed to look into any disclosure, isn't that right?

2541 | Mr. KNODELL. That's right.

2542 | Mr. VAN HOLLEN. My question, and I understand a little  
2543 | time has lapsed, but given what you just testified to, why

2544 aren't you undertaking an investigation today? These are all  
2545 now publicly disclosed information, publicly disclosed  
2546 classified information by officials in the White House. You  
2547 have said it is not the policy to suspend an administration  
2548 proceeding pending a criminal investigation. It is very  
2549 possible that people, and it looks very likely that people  
2550 clearly leaked classified information. Why aren't we taking  
2551 an investigation today?

2552 Mr. KNODELL. Mr. Congressman, I will take this back,  
2553 we'll review this when I get back to the office, I'll review  
2554 this with senior management. We need to ensure that all  
2555 criminal investigations have been concluded, and we will  
2556 certainly look into it.

2557 Mr. VAN HOLLEN. If I can just stop you on that; I  
2558 understand the criminal investigation is being concluded but  
2559 I understood your testimony a minute ago to say that you  
2560 would conduct an administrative investigation even during the  
2561 pending criminal investigation.

2562 Mr. KNODELL. No, sir.

2563 Mr. VAN HOLLEN. So then it is the policy of the White  
2564 House not to undertake any administrative investigation as  
2565 long as there are criminal investigations going. Is that  
2566 written down somewhere?

2567 Mr. KNODELL. D-SKID 6.8, I believe where there will not  
2568 be a collateral investigation. I believe. I believe that's

2569 | the case.

2570 |       Mr. LEONARD. Can I clarify something, Mr. Congressman?  
2571 | Clearly when there is a need for an administrative inquiry  
2572 | and a criminal investigation you have a situation where there  
2573 | are in fact competing priorities and so at the very least it  
2574 | can be awkward.

2575 |       So I'm not too sure we can say that there's a hard fast  
2576 | rule one way or the other because quite frankly there could  
2577 | be situations where someone can make a case that an  
2578 | administrative inquiry while there's a criminal investigation  
2579 | going on can amount to obstruction of justice. So those  
2580 | types of things have to be sorted out and there is no  
2581 | clear-cut issue.

2582 |       From a classification point of view I would submit that  
2583 | the immediate concern should first and foremost be let's make  
2584 | sure that we're not going to have any additional security  
2585 | violations that would result in additional compromises, and  
2586 | that should not wait.

2587 |       Mr. VAN HOLLEN. Let me if I may, Mr. Chairman, the GAO  
2588 | has looked into this issue and it's clear, as I understand,  
2589 | the rules of the White House are supposed to be similar to  
2590 | the rules that apply in any agency, is that right, with  
2591 | respect to how you treat these?

2592 |       Mr. KNODELL. That's right.

2593 |       Mr. VAN HOLLEN. I know other Federal officials have

2594 routinely lost their security clearances pending  
2595 investigations into potential leaks of classified information  
2596 and without even the case when criminal charges were not  
2597 filed.

2598 For example, Sergeant Samuel Provence had a security  
2599 clearance revoked after he talked to several media outlets  
2600 about the mistreatment of a 16-year-old boy and other abuses  
2601 by interrogators at Abu Ghraib prison in Iraq. He was not  
2602 indicted or accused of criminal wrongdoing.

2603 Here's someone who made a statement, a public statement  
2604 about abuses at Abu Ghraib and his security clearance was  
2605 temporarily suspended, and yet you have got clear evidence of  
2606 top officials in the White House having disclosed classified  
2607 information and no action was taken.

2608 I have to ask you to go back and take a look at whether  
2609 or not there's really a prohibition on moving forward.  
2610 Clearly now that the criminal investigation is over, it seems  
2611 one should be launched even if in fact that did prohibit an  
2612 investigation from going forward before.

2613 Thank you, Mr. Chairman.

2614 Chairman WAXMAN. Thank you, Mr. Van Hollen. That  
2615 certainly appears to be a double standard.

2616 Mr. DAVIS OF VIRGINIA. To clarify, my understanding is  
2617 the leak occurred on July 13th, and within the month, I don't  
2618 know if it was July 14th but certainly in July, we know the

2619 CIA made their referral to the Justice Department. So it was  
2620 immediately under investigation by the Justice Department.

2621 Now it took Attorney General Ashcroft several months  
2622 before he recused himself and got someone else on board, but  
2623 there was an immediate criminal investigation, isn't that  
2624 correct?

2625 Mr. KNODELL. That's my understanding.

2626 Mr. DAVIS OF VIRGINIA. That would change the dimensions  
2627 in terms of whether you would do your own investigation.

2628 Mr. KNODELL. Correct.

2629 Mr. DAVIS OF VIRGINIA. Or leave it to the professionals  
2630 at the Justice Department.

2631 Let me just ask, in terms of an individual who may have  
2632 inadvertently outed an operative or a memorandum or something  
2633 during that time, once the criminal side gets kicked in, at  
2634 that point they have the right to allow that to move forward,  
2635 protect themselves, and at that point I don't know if it  
2636 relieves them of the obligation but they certainly have fifth  
2637 amendment rights at that point that could lead them to not go  
2638 forward with that, is that correct?

2639 Mr. LEONARD. That would be correct.

2640 Mr. DAVIS OF VIRGINIA. Thank you.

2641 Chairman WAXMAN. Before I recognize Mr. Hodes, the  
2642 President of the United States made statements when this hit  
2643 the press that he was outraged and he was going to be

2644 | conducting an investigation and heads would roll. He said if  
2645 | anybody in the White House disclosed this information about a  
2646 | covert agent, that person would be fired. Later he modified  
2647 | and said they would have to be convicted of a crime. But it  
2648 | turns out that the President didn't even ask anybody to do an  
2649 | investigation. If he wanted to get the truth all he had to  
2650 | do was call Carl Rove and Ari Fleischer and Scooter Libby and  
2651 | all these people into his office and say, hey, how did this  
2652 | information get out, who did it?

2653 |         If he thought it was a problem, he could have said  
2654 | you're not going to get access to other security information.  
2655 | Isn't that why the White House can do it contemporaneously  
2656 | with ay criminal investigation, Mr. Leonard?

2657 |         Mr. LEONARD. As I indicated, Mr. Chairman, when you  
2658 | have those competing priorities or competing interests, it  
2659 | can make an awkward situation, but those are the types of  
2660 | things that would have to be worked out.

2661 |         Chairman WAXMAN. Sounds like the competing priority was  
2662 | not to allow his administration and top personnel to be  
2663 | embarrassed by the truth.

2664 |         Mr. Hodes.

2665 |         Mr. HODES. Thank you, Mr. Chairman. Gentlemen, you  
2666 | both agree that the national security of the United States is  
2667 | the most important thing we have got to consider,  
2668 | notwithstanding competing priorities. Would you both agree

2669 | to that?

2670 | Mr. LEONARD. Yes, sir.

2671 | Mr. Knodell. Yes, sir.

2672 | Mr. HODES. Mr. Knodell, you came in in August of 2004  
2673 | to the White House, is that correct?

2674 | Mr. KNODELL. Correct.

2675 | Mr. HODES. You serve how, sir, at the pleasure of the  
2676 | President?

2677 | Mr. KNODELL. No, sir, I'm a career employee.

2678 | Mr. HODES. I'm sorry?

2679 | Mr. KNODELL. Career employee.

2680 | Mr. HODES. Are you an attorney?

2681 | Mr. KNODELL. I am not.

2682 | Mr. HODES. Who was your predecessor at the White House.

2683 | Mr. KNODELL. Jeffrey Thompson.

2684 | Mr. HODES. Where is he now?

2685 | Mr. KNODELL. I don't know. Last I heard, he had moved  
2686 | to Georgia.

2687 | Mr. HODES. When you came into your position, did Mr.  
2688 | Thompson brief you on the situation in the White House and  
2689 | what had or had not occurred with respect to investigations  
2690 | into the potential breach of classified information?

2691 | Mr. KNODELL. No, sir.

2692 | Mr. HODES. Let me ask you this, what discussions, if  
2693 | any have you had with the President of the United States



2694 | about initiating an investigation into the now clear, obvious  
2695 | security breaches that have occurred?

2696 |         Mr. KNODELL. None.

2697 |         Mr. HODES. What discussions, if any, have you had with  
2698 | the Vice President of the United States?

2699 |         Mr. KNODELL. None.

2700 |         Mr. HODES. What discussions have any of you had with  
2701 | Carl Rove?

2702 |         Mr. KNODELL. None.

2703 |         Mr. HODES. What discussions, if any, have you had with  
2704 | anyone about whether or not you should or should not  
2705 | institute an investigation into the security breaches that  
2706 | are the subject of this hearing today?

2707 |         Mr. KNODELL. I have had no conversations.

2708 |         Mr. HODES. You haven't talked to anybody?

2709 |         Mr. KNODELL. That's correct.

2710 |         Mr. HODES. So when you say you're going to go back to  
2711 | the White House and take it up with senior management, you're  
2712 | senior management, aren't you?

2713 |         Mr. KNODELL. Yes, sir, I am.

2714 |         Mr. HODES. So you're going to go back and talk to  
2715 | yourself about whether or not you're going to conduct an  
2716 | investigation; is that what you want this panel to believe?

2717 |         Mr. KNODELL. I report to several people.

2718 |         Mr. HODES. Who do you report to, sir?

2719 Mr. KNODELL. I report to Tom Dryer.

2720 Mr. HODES. Who is he?

2721 Mr. KNODELL. He is the Deputy Chief Operations Officer.

2722 Mr. HODES. For what?

2723 Mr. KNODELL. For the Office of Administration.

2724 Mr. HODES. Do you report to anybody else?

2725 Mr. KNODELL. He's my direct report.

2726 Mr. HODES. Who does he report to?

2727 Mr. KNODELL. He reports to Sandra Evans.

2728 Mr. HODES. Who's Sandra Evans?

2729 Mr. KNODELL. Operations Officer. I'm sorry, within OA.

2730 And then the COO reports to Mr. Allen Swindeman, he's the

2731 Director of OA.

2732 Mr. HODES. Does anybody report back to the White House?

2733 Mr. KNODELL. Mr. Swindeman is our Director.

2734 Mr. HODES. He reports to the White House?

2735 Mr. KNODELL. He is a political appointee.

2736 Mr. HODES. Do you agree with me, Mr. Knodell, that the

2737 NIE is a classified document?

2738 Mr. KNODELL. Pardon me?

2739 Mr. HODES. Do you agree that the National Intelligence

2740 Estimate before it is declassified is a classified document?

2741 Mr. KNODELL. Yes, sir.

2742 Mr. HODES. Are there procedures for declassifying the

2743 National Intelligence Estimate?

2744 Mr. KNODELL. I'm not familiar with specific  
2745 declassification for that document.

2746 Mr. HODES. Mr. Leonard, are their procedures in place  
2747 for declassifying the National Intelligence Estimate?

2748 Mr. LEONARD. Yes, sir. As with any classified  
2749 information, it can become declassified pursuant to the  
2750 original decisions as to when it becomes declassified. It  
2751 can be become declassified under the authorization of an  
2752 authorized official and then it can also become declassified  
2753 just by the mere passage of time.

2754 Mr. HODES. If classified information is revealed  
2755 without having been properly declassified, that's considered  
2756 a leak, correct, Mr. Leonard?

2757 Mr. LEONARD. That's an unauthorized disclosure, yes,  
2758 sir.

2759 Mr. HODES. Mr. Knodell, you agree with that, it's  
2760 considered a leak if it's not properly declassified?

2761 Mr. KNODELL. Yes.

2762 Mr. HODES. Leaking classified information is a crime,  
2763 is it not, Mr. Knodell?

2764 Mr. KNODELL. Yes.

2765 Mr. HODES. And if two or more persons agree to leak  
2766 classified information and one of those persons takes  
2767 affirmative steps to do something pursuant to that agreement,  
2768 that could be considered a criminal conspiracy, is that

2769 correct?

2770 Mr. KNODELL. It could be, certainly.

2771 Mr. HODES. Now it's my understanding that Mr. Libby  
2772 testified that he was specifically authorized in advance to  
2773 disclose key judgments of the classified National  
2774 Intelligence Estimate to reporter Judy Miller because Vice  
2775 President Cheney believed it important to do so. Mr. Libby  
2776 also testified that the Vice President told him that the  
2777 President had given the authorization to disclose portions of  
2778 the National Intelligence Estimate.

2779 In your experience, gentlemen, in government, have you  
2780 ever seen such selective declassification before?

2781 Mr. LEONARD. I'm not aware of any similar type of  
2782 action such as that, no, sir.

2783 Mr. HODES. Do you know of any legal basis for there to  
2784 be selective declassification to a few reporters of the  
2785 National Intelligence Estimate? And I want to tell you on  
2786 the date that that was supposedly disclosed by Mr. Libby,  
2787 July 8th, in the following 10 days administration officials  
2788 told folks that the NIE was still classified, and it was  
2789 formally declassified on July 18th.

2790 Can you explain to this panel how if Mr. Libby had  
2791 authority from the President or the Vice President to  
2792 declassify the NIE on July 8th, the administration continued  
2793 to claim that it was classified for 10 days and then

2794 | apparently declassified it again on July 18th.

2795 |         Mr. LEONARD. I don't have any firsthand knowledge to  
2796 | address any of that, sir.

2797 |         Mr. KNODELL. Nor do I.

2798 |         Mr. HODES. Does it raise any questions for you?

2799 |         Mr. LEONARD. The provisions of the Executive order, as  
2800 | I had indicated, clearly provides for instances where  
2801 | classified information can be declassified even when it  
2802 | otherwise meets the standards for continued classification.  
2803 | And then ultimately the exercise of classification and  
2804 | declassification authority is the President's absolute  
2805 | authority. It's not derived from any law or regulation or  
2806 | Executive order, it's his Article II constitutional authority  
2807 | to be used absolutely.

2808 |         Mr. HODES. Assuming that to be the case, is it your  
2809 | testimony that the President could choose to selectively  
2810 | declassify the National Intelligence Estimate and give  
2811 | directions that it could be declassified to be used with  
2812 | three reporters but then still retain--and that document is  
2813 | still classified?

2814 |         Chairman WAXMAN. The gentleman's time has expired, but  
2815 | we do want an answer.

2816 |         Mr. LEONARD. Sir, it's my testimony that it is the  
2817 | President's absolute authority when it comes to the  
2818 | classification and declassification of information.

2819 Chairman WAXMAN. Ms. Norton.

2820 Ms. NORTON. Mr. Knodell, I'm looking at your title,  
2821 Director, Office of Security. I'm trying to establish  
2822 whether you have any authority. Do you regard yourself as  
2823 having any independent or independent authority apart from  
2824 others who report directly to the President of the United  
2825 States? Do you have any ability to initiate investigations  
2826 or other action on your own?

2827 Mr. KNODELL. I would coordinate that through our legal  
2828 counsel within the Office of Administration and the Director  
2829 of the Office of Administration.

2830 Ms. NORTON. You are testifying that you would not  
2831 initiate any action on your own without in fact reporting up  
2832 through some chain of command. This is not in any way an  
2833 independent office, and you essentially are someone who makes  
2834 recommendation to somebody else about investigations?

2835 Mr. KNODELL. In essence, yes.

2836 Ms. NORTON. You have to get a sign-off from someone to  
2837 do an investigation?

2838 Mr. KNODELL. Not initially, no. Not initially. We can  
2839 start an investigation. We start security violations if  
2840 security violations come in.

2841 Ms. NORTON. Without reporting it, that's what you're  
2842 doing?

2843 Mr. KNODELL. I would report it once we started the

2844 investigation.

2845 Ms. NORTON. You could be stopped from doing that?

2846 Mr. KNODELL. That's never been the case in the past.

2847 Ms. NORTON. You haven't apparently done such, at least  
2848 in respect to this controversy?

2849 Let me ask you a question about what we do know. We do  
2850 know that Mr. Rove spoke to two reporters, and we know who  
2851 they were, Robert Novak and Matthew Cooper. We do know that  
2852 he denied he had spoken with any employers--excuse me, with  
2853 any reporters. Indeed he claimed he wasn't involved at all.

2854 I'm going to ask that a video clip be rolled from a  
2855 press conference, White House press conference, involving the  
2856 spokesman Scott McClellan addressing the Press Corps.

2857 [video shown.]

2858 Ms. NORTON. Mr. Knodell, can you explain why Mr. Rove  
2859 still has a security clearance today, or does he?

2860 Mr. KNODELL. Yes, he does.

2861 Ms. NORTON. Given the admissions that apparently are  
2862 clear, why does he have that security clearance today?

2863 Mr. KNODELL. It's my understanding that the criminal  
2864 investigation didn't find any criminal wrongdoing.

2865 Ms. NORTON. I'm very disturbed by what went back and  
2866 forth on criminal and administrative responsibilities here  
2867 because you seem to testify that even if a matter that could  
2868 risk the security of the United States or of a covert agent

2869 | is involved, that the administrative process ought to stand  
2870 | back until a process with a much higher level or standard of  
2871 | proof is required has finished its course.

2872 |         Wouldn't that risk security not to even begin an  
2873 | investigation to see whether there is anything that can be  
2874 | begun to protect whatever might be the security breach quite  
2875 | apart from whether there's been a criminal violation?

2876 |         Mr. KNODELL. I think as a result of the criminal  
2877 | investigation it clearly didn't show, that I have seen in the  
2878 | press, I have not seen the criminal investigative reports,  
2879 | that there was no criminal wrongdoing.

2880 |         Ms. NORTON. Mr. Knodell, my question is: Does the  
2881 | security of the United States depend upon the outcome of a  
2882 | criminal proceeding or is there not in your office a duty to  
2883 | proceed as far as you can to protect security using the  
2884 | administrative or civil process?

2885 |         Mr. KNODELL. Yes, ma'am, absolutely. It's not that  
2886 | we're just not protecting the White House complex and the  
2887 | classified materials.

2888 |         Ms. NORTON. I can't hear you.

2889 |         Mr. KNODELL. We are protecting the classified--

2890 |         Ms. NORTON. Even without an investigation, so that you  
2891 | might even plug the leak while the U.S. Attorney is trying to  
2892 | find out using his processes who done it?

2893 |         Mr. Knodell, I'm suggesting that at your level you could



2894 | plug leaks even while the criminal process is under way and  
2895 | under investigation. And I want you to look at the very same  
2896 | set of employees. If I could have up the White House--

2897 | Chairman WAXMAN. Ms. Norton, your time has expired.

2898 | Members have said they want a second round. We do have  
2899 | another panel waiting to testify. I don't want to deny  
2900 | members opportunities to ask questions. What I would like my  
2901 | colleagues to do is I will recognize members for a second  
2902 | round. Could we limit to 3-minute second rounds? Does  
2903 | anybody find a problem with that?

2904 | So then we'll do that. Members will now be recognized  
2905 | for further questioning. And, Mr. Cummings, I'm going to  
2906 | start with you if you have further questions.

2907 | Mr. CUMMINGS. Thank you very much, Mr. Chairman. We up  
2908 | here, Mr. Knodell, we have an obligation to try to make sure  
2909 | that we uphold the laws of this country and try to make sure  
2910 | those laws are enforced, and protecting the identity of a  
2911 | covert agent is very important to us, and I hope you  
2912 | understand that, and protecting classified information.  
2913 | We're trying to help you do your job.

2914 | During Ms. Wilson's testimony the ranking member, Mr.  
2915 | Davis, kept making a point that a key issue in whether Mr.  
2916 | Rove and other White House officials knew Ms. Wilson was a  
2917 | covert agent. I do agree that this is relevant. If the  
2918 | White House knowingly disclosed a covert agent, that would

2919 obviously be a very serious matter. My understanding is that  
2920 the regulations do not prohibit only intentional disclosures,  
2921 they also prohibit negligent disclosures.

2922 Mr. Leonard, is my understanding accurate that the  
2923 Executive order governing the handling of classified  
2924 information prohibits knowing, willful or negligent  
2925 disclosures of classified information, is that right?

2926 Mr. LEONARD. Yes, sir, that's absolutely right.  
2927 Regardless of the intent, the damage is still the same.  
2928 Again, the first objective would be to make sure we don't  
2929 have recurrences, and if just people are ignorant we would  
2930 like to brief them and what have you, and then if there is  
2931 intent or culpability, that can be taken up by means of  
2932 sanctions.

2933 Mr. CUMMINGS. By the way, Mr. Knodell, has there been  
2934 any briefing as referred to by Mr. Leonard with regard to Mr.  
2935 Rove or anybody else in the White House since this happened,  
2936 since this disclosure took place?

2937 Mr. KNODELL. A briefing in regards to?

2938 Mr. CUMMINGS. He just said one of the things you want  
2939 to do is brief people about the rules and regulations so it  
2940 doesn't happen again. Did you brief anybody?

2941 Mr. KNODELL. Congressman, yes, we do. We supply an  
2942 indoctrination security briefing for people when they first  
2943 come on board and then their first anniversary date and every

2944 | year after we have annual refreshing briefs.

2945 |       Mr. CUMMINGS. Did you use this as an example, by the  
2946 | way? This is like out there, I mean it's here.

2947 |       Mr. KNODELL. No, sir.

2948 |       Mr. CUMMINGS. You didn't say, look, this is what  
2949 | happened and we don't want this to happen again. You never  
2950 | did that?

2951 |       Mr. KNODELL. No, sir.

2952 |       Mr. LEONARD. I can tell you, Mr. Congressman, in  
2953 | November, December of '05, maybe even a little bit of '06,  
2954 | there were a series of special briefings for all cleared  
2955 | personnel in the Executive Office of the President, mandatory  
2956 | briefings for senior management on down, and these types of  
2957 | issues were in fact covered during the course of those  
2958 | briefings, and this was publicly--the public was made aware  
2959 | of these.

2960 |       Mr. CUMMINGS. So even if Carl Rove or any other White  
2961 | House official did not know that Ms. Wilson's employment  
2962 | status was classified, the disclosure of such information to  
2963 | an individual not authorized to receive it could have been a  
2964 | violation of the Executive order, and that is an Executive  
2965 | order of the President of the United States, is that right?

2966 |       Mr. KNODELL. That's correct.

2967 |       Mr. CUMMINGS. So basically the President set up some  
2968 | rules and then he said I'm going to make sure that if anybody

2969 | violated these rules, they're going to have major problems  
2970 | and they're going to have to go, and then the next thing you  
2971 | know there is apparently a violation but no action, is that  
2972 | right?

2973 |         Mr. KNODELL. Other than the criminal proceedings, no  
2974 | action from my office.

2975 |         Mr. CUMMINGS. Thank you.

2976 |         Chairman WAXMAN. I'm sorry we don't have clips of the  
2977 | President making statements about how he was going to do an  
2978 | investigation and heads would roll, but I guess we will have  
2979 | to leave that to the Daily Show for their presentation.

2980 |         Ms. Watson, I'm going to call on you next if you have  
2981 | additional questions.

2982 |         Ms. WATSON. Yes. Thank you so much, Mr. Chairman.

2983 |         Mr. Knodell, this oversight hearing is called the "White  
2984 | House Procedures for Safeguarding Classified Information."

2985 |         Mr. KNODELL. Yes, ma'am.

2986 |         Ms. WATSON. In the first round I asked you what your  
2987 | position was. You clearly said that you have not held any  
2988 | investigation and your role is the Director of Office of  
2989 | Security. Have you or do you feel that you have carried out  
2990 | your duties?

2991 |         Chairman WAXMAN. Could I ask the gentlelady not to ask  
2992 | a harsh question of Mr. Knodell? He's here and I think he's  
2993 | been asked some tough questions, but let's try to keep them a

2994 | little bit less personal.

2995 |       Ms. WATSON. I just want to know, I want to have some  
2996 | clarity as to what the responsibility of your position in  
2997 | your office is. There's a gap for me that you have this  
2998 | position but there's been no investigation.

2999 |       Mr. KNODELL. Congresswoman, like I said, and I say with  
3000 | all due respect, the reason we did not initiate an  
3001 | investigation is because there was a criminal proceeding that  
3002 | was already underway. There was already an investigation  
3003 | underway.

3004 |       Ms. WATSON. But the criminal procedure is over.

3005 |       Mr. KNODELL. I have not been notified that it is  
3006 | officially over.

3007 |       Ms. WATSON. Thank you. I have no other questions, Mr.  
3008 | Chairman.

3009 |       Chairman WAXMAN. Thank you, Ms. Watson. I'm going to  
3010 | recognize myself because I want to point out that there seems  
3011 | to be interesting other examples where we've had disclosures  
3012 | of leaks. This is not the only time questions have arisen  
3013 | about how the Bush administration White House handles  
3014 | classified information.

3015 |       For example, journalist and author Bob Woodward wrote in  
3016 | the introduction of his 2002 book, *Bush at War*, that the book  
3017 | was based in part on, quote, contemporaneous notes taken  
3018 | during National Security Council and other meetings where the

3019 | most important decisions were discussed and made, end quote,  
3020 | and that, quote, written record, both classified and  
3021 | unclassified, end quote.

3022 |         Mr. Woodward also stated war planning and war making  
3023 | involves secret information. I have used a good deal of it  
3024 | trying to provide new specific details without harming  
3025 | sensitive operations or relationships with foreign  
3026 | governments. This is not a sanitized version, and the sense  
3027 | is if we had them in the United States, thank God we don't,  
3028 | no doubt would draw the line at a different, more restrictive  
3029 | place than I have, end quote.

3030 |         Mr. Knodell, Mr. Woodward's statements indicate he had  
3031 | remarkable classified information of the most sensitive  
3032 | information. Were Mr. Woodward's circumstances unique or  
3033 | were White House disclosures of classified information to him  
3034 | and to journalists in the case of Mrs. Wilson part of a  
3035 | broader pattern of White House disclosures or of classified  
3036 | information to selected journalists and authors? We see now  
3037 | this is not unique to get classified information to people.

3038 |         It's noteworthy the administration--let me ask you to  
3039 | respond to that. Looks like Mr. Woodward had information  
3040 | that was classified. He seems to admit it.

3041 |         Mr. KNODELL. I have no knowledge of that.

3042 |         Chairman WAXMAN. Well, so when the administration,  
3043 | however, is concerned that there are questions about the

3044 disclosure of sensitive information by administration  
3045 critics, there seems to be different results. For example,  
3046 January 2004, within one day of former Secretary of Treasury  
3047 Paul O'Neill's television interview in which he voiced  
3048 criticism of the Bush administration, the administration  
3049 publicly announced it was investigating whether Secretary  
3050 O'Neill had improperly disclosed confidential information.  
3051 Okay. They didn't like what he had to say but they're going  
3052 to immediately investigate him.

3053 On June 20th, 2002, an irate Vice President Cheney  
3054 reportedly told congressional leaders that the President had  
3055 deep concerns about media accounts from just one day earlier  
3056 when it got out that the National Security Agency on  
3057 September 10th, 2001 had communication intercepts with  
3058 cryptic references to possible attacks the next day. The  
3059 report cited congressional sources and congressional leaders.

3060 Immediately requested a Justice Department investigation of  
3061 the matter.

3062 The administration seems to be inconsistent in their  
3063 approach in these cases, and it's troubling. They raise very  
3064 serious questions about whether White House policies on  
3065 sensitive information is driven by political considerations.  
3066 If it's a critic they are going to investigate, they're going  
3067 to really stop it. When it comes to people in-house, people  
3068 they like, people they trust, well, the investigation hasn't

3069 | even started with regard to those people.

3070 |       I'm not asking a question, but just making this part of  
3071 | the record.

3072 |       Mr. Davis.

3073 |       Mr. DAVIS OF VIRGINIA. Mr. Chairman, I think it goes  
3074 | both ways in terms of selective oversight and selective  
3075 | investigations. This committee ought to also be looking at  
3076 | the NIE leaks on the Iraq war, National Intelligence  
3077 | Estimates which were leaked. It can do damage. The NSA  
3078 | collection and monitoring of certain phone information, which  
3079 | was leaked, classified secret information. The East European  
3080 | CIA detention facilities leaks. The intelligence activities  
3081 | toward Iran leaks.

3082 |       We can all be selective on this and we all understand  
3083 | the partisanship and everything else that goes on with this,  
3084 | which has been thoroughly vetted and investigated. We do of  
3085 | course have a responsibility to take a look at what the  
3086 | procedures are to make sure these things don't occur again.  
3087 | That's really the purpose of oversight, not as much as to  
3088 | look back but look forward to make sure these things do not  
3089 | happen again.

3090 |       Mr. Leonard, let me ask, does the President or the Vice  
3091 | President have authority to declassify on the spot?

3092 |       Mr. LEONARD. As I mentioned earlier, Mr. Davis, the  
3093 | President's authority in this area is absolute pursuant to



3094 | the Constitution.

3095 |       Mr. DAVIS OF VIRGINIA. So they can do it on the spot.

3096 | Can they declassify for limited purposes?

3097 |       Mr. LEONARD. Absolutely, sir.

3098 |       Mr. DAVIS OF VIRGINIA. Once again the leak to Novak,  
3099 | which is I think what started this whole thing, is there any  
3100 | evidence that anyone in the White House had any knowledge  
3101 | that Valerie Plame was a covert operative? Does anybody have  
3102 | any evidence of that?

3103 |       Mr. LEONARD. I have no firsthand information.

3104 |       Mr. DAVIS OF VIRGINIA. Do you, Mr. Knodell?

3105 |       Mr. KNODELL. No, I do not.

3106 |       Mr. DAVIS OF VIRGINIA. In terms of the obligation to  
3107 | disclose once it became apparent that she was a covert  
3108 | operative, a criminal investigation was initiated almost  
3109 | immediately by the CIA, with a referral to the Justice  
3110 | Department. Is that correct?

3111 |       Mr. KNODELL. That's my understanding, yes.

3112 |       Mr. DAVIS OF VIRGINIA. That's my understanding as well,  
3113 | within the month. It might have been a day, I don't know  
3114 | what that time period was, and I hope the committee can find  
3115 | out. Once that criminal investigation is underway with the  
3116 | referral that sends it to Justice, now Mr. Fitzpatrick didn't  
3117 | come in until the Attorney General recused himself sometime  
3118 | later, but an investigation was already underway. What does

3119 | that do to the obligations to disclose at that point? Does  
3120 | that put employees in a position of having to decide if  
3121 | they're going to exercise fifth amendment rights and the like  
3122 | and does the purpose of the Executive order at that point  
3123 | really become pointless if you have an investigation this?

3124 |       You haven't thought that through?

3125 |       Mr. LEONARD. I have, sir, and I would submit that the  
3126 | Executive order is not pointless at that point in time.  
3127 | Again, this is an instance where you have competing national  
3128 | interests. I had over 30 years in the Department of Defense  
3129 | and there were many times where senior leadership in the  
3130 | Department of Defense did battle with the Department of  
3131 | Justice, the FBI, where there were instances where the  
3132 | national security issues at risk far outweighed whatever  
3133 | criminal investigative priorities the Bureau or the Justice  
3134 | Department had. These are things that have to be worked out  
3135 | on a case-by-case basis. This is one instance where there is  
3136 | no absolutes.

3137 |       Mr. DAVIS OF VIRGINIA. So we're in some gray areas at  
3138 | this point?

3139 |       Mr. LEONARD. Yes, sir.

3140 |       Mr. DAVIS OF VIRGINIA. Thank you very much.

3141 |       Chairman WAXMAN. Thank you, Mr. Davis. Mr. Van Hollen.

3142 |       Mr. VAN HOLLEN. Thank you. Thank you, Mr. Chairman.

3143 | Mr. Leonard, let me just note that after this information was

3144 first disclosed in the Novak column on or about July 26th,  
3145 2003, White House press spokesman McClellan stated: Let me  
3146 make it very clear, that's not the way this White House  
3147 operates.

3148 Two months later and still before they'd even called for  
3149 an investigation by the Justice Department, on September  
3150 29th, 2003, Mr. McClellan addressed the White House Press  
3151 Corps and over 30 times stated that they had no information  
3152 regarding the involvement of any White House officials.

3153 I think we understand today why there was no  
3154 information. No investigation was done.

3155 You talked about competing national priorities. Clearly  
3156 in this 2-month period there weren't competing priorities,  
3157 were there? In other words, before the criminal  
3158 investigation was authorized there were no competing  
3159 priorities?

3160 Mr. LEONARD. To my knowledge, that's correct.

3161 Mr. VAN HOLLEN. Yet based on your understanding of the  
3162 regulations in the statute and the information that was out  
3163 in the press, which clearly raised suspicions of unauthorized  
3164 disclosure of information, wouldn't that have triggered an  
3165 investigation in your view?

3166 Mr. LEONARD. Again, in circumstances like that, even if  
3167 it was just an inadvertent, out of ignorance disclosure, you  
3168 would want to find out why it happened so you could preclude

3169 | it from happening again, even if it's by ignorance.

3170 |       Mr. VAN HOLLEN. Not just that you would want to but you  
3171 | have an obligation?

3172 |       Mr. LEONARD. Yes, sir.

3173 |       Mr. VAN HOLLEN. With respect to the pendency of the  
3174 | criminal proceedings, as I understand your testimony, there  
3175 | is nothing in the statute or the regulations that prohibits  
3176 | you from doing this other investigation under the regulations  
3177 | and revoking a security clearance, isn't that correct?

3178 |       Mr. LEONARD. Concomitantly while there is an  
3179 | investigation going on? You're absolutely right.

3180 |       MR. VAN HOLLEN: You're absolutely free to do that;  
3181 | nothing prohibits you from undertaking an investigation, an  
3182 | administrative action?

3183 |       Mr. LEONARD. The directive is very clear that when  
3184 | there is evidence of potential criminality, that there would  
3185 | be the requirement to coordinate with legal counsel and the  
3186 | requirement to coordinate with the Department of Justice with  
3187 | the expectation that again those issues would be worked out.

3188 |       Mr. VAN HOLLEN. Worked out in coordination.

3189 |       Mr. LEONARD. Yes, sir.

3190 |       Mr. VAN HOLLEN. Mr. Knodell, if I could just ask you,  
3191 | do you know of any, and this doesn't mean you are personally  
3192 | privy to the conversations, but have you heard of  
3193 | communications within the White House that bear on the

3194 | question of whether or not an investigation of security  
3195 | breaches should have been conducted?

3196 |         Mr. KNODELL. No, I have not.

3197 |         Mr. VAN HOLLEN. You don't know, whether it's direct  
3198 | communications or hearsay, since you have been there. Have  
3199 | you had any conversations with anybody in the White House  
3200 | about the disclosures that have been--

3201 |         Mr. KNODELL. No, I have not.

3202 |         Mr. VAN HOLLEN. Thank you, Mr. Chairman.

3203 |         Chairman WAXMAN. Thank you, Mr. Van Hollen. Mr. Hodes.

3204 |         Mr. HODES. Thank you, Mr. Chairman. Mr. Knodell, do  
3205 | employees sign nondisclosure agreements agreeing not to  
3206 | disclose classified information in connection with your  
3207 | briefings of them?

3208 |         Mr. KNODELL. Yes, they do. At the time they they're  
3209 | issued a clearance they sign a nondisclosure agreement.

3210 |         Mr. HODES. Am I correct that those nondisclosure  
3211 | agreements and security clearances are reviewed every 5  
3212 | years?

3213 |         Mr. KNODELL. That's correct.

3214 |         Mr. HODES. I understand that Mr. Rove came into service  
3215 | in the White House in 2001, is that correct?

3216 |         Mr. KNODELL. I believe so.

3217           Mr. HODES. So in 2006 you would have conducted review  
3218 of Mr. Rove's security clearance?

3219 RPTS THOMAS

3220 DCMN MAGMER.

3221 Mr. KNODELL. We would have initiated a reinvestigation,  
3222 that's correct, with the FBI. The FBI conducts our  
3223 background investigations.

3224 Mr. HODES. Are you aware that has in fact happened with  
3225 Mr. Rove?

3226 Mr. KNODELL. I don't have first-hand knowledge now, but  
3227 I could very easily go back and check.

3228 Mr. HODES. So there would be documents which someone in  
3229 the Federal Government has about whether or not Mr. Rove, for  
3230 example, ought to still have his security clearance.

3231 Mr. KNODELL. Correct.

3232 Mr. HODES. And do you agree with me that, under the  
3233 regulations, whether a person is truthful and complete in  
3234 their answers to questions and whether or not they are--the  
3235 person is disposed towards candor is an important factor in  
3236 determining whether someone continues to have access to  
3237 classified action?

3238 Mr. KNODELL. That is considered in the adjudication  
3239 process, yes.

3240 Mr. HODES. And if someone lied about what they did,  
3241 that would be important, wouldn't it?

3242 Mr. KNODELL. Yes, it would.

3243 Mr. HODES. You have now heard and seen on this video

3244 Mr. McClellan say that Mr. Rove told him he had nothing to do  
3245 with security leaks, but we know that Mr. Rove did leak  
3246 classified information. Does that indicate to you that such  
3247 a lack of candor should lead to a reexamination of Mr. Rove's  
3248 security clearance?

3249 Mr. KNODELL. I clearly don't know the content of their  
3250 conversation.

3251 Mr. HODES. Is it something that--anything you have  
3252 heard today or read in the press or read anywhere else raises  
3253 a question in your mind as the senior security officer in the  
3254 White House about whether or not you ought to go and ask some  
3255 questions about it?

3256 Mr. KNODELL. Yes, we could do that.

3257 Mr. HODES. Will you do it?

3258 Mr. KNODELL. I will discuss that with senior  
3259 management.

3260 Mr. HODES. And will you get back to us and let us know  
3261 what senior management and you discuss and what you conclude,  
3262 sir?

3263 Mr. KNODELL. Yes, I will.

3264 Mr. HODES. Does Mr. Libby still have his security  
3265 clearance as of this date?

3266 Mr. KNODELL. No, he does not.

3267 Mr. HODES. When was that removed?

3268 Mr. KNODELL. The day he resigned, I believe it was.



3269 Mr. HODES. Thank you.

3270 Thank you, Mr. Chairman.

3271 Mr. VAN HOLLEN. [presiding.] Thank you.

3272 Ms. Norton.

3273 Ms. NORTON. Could I have back the White House chart?

3274 I ask Mr. Knodell to look at the middle row; and I would  
3275 like your view, Mr. Knodell, given the Executive order which  
3276 you are charged to enforce in 12958, whether you think any of  
3277 those officials or any officials in the White House, besides  
3278 the President, would meet the standards of the Executive  
3279 order which, as you know, are informational if you are  
3280 conducting an investigation, if there is an official need to  
3281 know.

3282 What if you need to verify information concerning  
3283 security? Would any of those officials have had a need to  
3284 know the name of a covert agent?

3285 Mr. KNODELL. I really wouldn't know.

3286 Ms. NORTON. You are the man charged with enforcing the  
3287 Executive Order 12958 and your answer is what?

3288 Mr. KNODELL. I don't know if they would have a need to  
3289 know. I don't have enough information.

3290 Ms. NORTON. Because that depends on what they say?  
3291 Isn't that a matter of regulation and law? I am saying based  
3292 on their position.

3293 Mr. KNODELL. People do have to have a need to know for

3294 | someone with classified information to pass classified  
3295 | information. They also have to make sure that there is a  
3296 | non-disclosure agreement.

3297 |         Ms. NORTON. So the need to know the name of a covert  
3298 | agent, you can think of a circumstance where an official, one  
3299 | of those officials, would need to know the name of a covert  
3300 | agent, and I have just given you the basis.

3301 |         Mr. KNODELL. Yes, ma'am. I don't know what the White  
3302 | House does day to day in their operations and who they're  
3303 | staying in contact with.

3304 |         Ms. NORTON. So day-to-day operations, that could  
3305 | change; and how can anyone find out the name of a covert  
3306 | agent, given changes in day-to-day operations in the White  
3307 | House?

3308 |         Mr. KNODELL. No, ma'am. I don't know if any of those  
3309 | folks would have a need to know.

3310 |         Ms. NORTON. Let me say frankly you to you, Mr. Knodell,  
3311 | I don't think you need--I think that--I congratulate you on  
3312 | your willingness to be here. I know you wouldn't have been  
3313 | here if the White House hadn't sent you. I am interested in  
3314 | remedy, because national security is involved in this.

3315 |         Normally, the notion of the White House investigating  
3316 | itself is perfectly understandable where there is not a  
3317 | national security matter involved. But if I may say so, I  
3318 | really do think, given what you have testified concerning

3319 | your office, that you are truly the fall guy here. I say  
3320 | that because you have testified that you felt a virtual  
3321 | injunction as an administrative agent without coordinating  
3322 | with your superiors, all of whom--obviously, the high-level  
3323 | support to the President of the United States. You clearly  
3324 | don't think you could do an independent investigation. Do  
3325 | you think that this investigation should lie with someone  
3326 | more independent than you?

3327 | Chairman WAXMAN. The gentlelady's time has expired, but  
3328 | if the gentleman wants to respond.

3329 | Mr. KNODELL. I am good.

3330 | Ms. NORTON. Mr. Chairman, you gave him the option to  
3331 | respond.

3332 | Chairman WAXMAN. You don't want to respond to the  
3333 | question?

3334 | Mr. KNODELL. No.

3335 | Chairman WAXMAN. Well, I want to thank the two of you  
3336 | very much for being here. You have been very helpful, Mr.  
3337 | Knodell. You came here on short notice, and it's not been an  
3338 | easy time for you. However, I guess you sense the  
3339 | frustration of the members of this committee when we hear of  
3340 | a breach of national security and we were told the President  
3341 | was going to do an investigation and the White House has  
3342 | virtually done nothing, not even to take away the security  
3343 | clearances pending any other investigation by anyone else.

3344 | But those are my comments, and I want to thank both of you  
3345 | for being here.

3346 |         We have a third panel waiting to come up.

3347 |         For panel number three, the Chair would like to call  
3348 | forward Mr. Mark Zaid, an attorney with the extent of  
3349 | experience representing government employees accused of  
3350 | mishandling classified information; and Ms. Victoria  
3351 | Toensing, an attorney in private practice and a former Senate  
3352 | staffer.

3353 |         I want to welcome you both to our hearing today. Your  
3354 | prepared statements will be in the record in their entirety.  
3355 | I would like to ask you for your oral presentation to be  
3356 | limited to 5 minutes.

3357 |         It is the practice of this committee to ask all  
3358 | witnesses to take an oath. So if you would please stand and  
3359 | raise your right hand.

3360 |         [Witnesses sworn.]

3361 |         Chairman WAXMAN. The record will reflect the witnesses  
3362 | answered in the affirmative.

3363 STATEMENTS OF MARK ZAID, ESQUIRE; AND VICTORIA TOENSING,  
3364 ESQUIRE

3365 Chairman WAXMAN. Mr. Zaid, why don't we start with you.

3366 STATEMENT OF MARK ZAID

3367 Mr. ZAID. Thank you, Mr. Chairman, Members of the  
3368 committee. It's my pleasure to testify again before this  
3369 body.

3370 For nearly 15 years, I have been among a handful of  
3371 attorneys nationwide who regularly handle civil litigation  
3372 and administrative matters involving national security  
3373 claims. This includes all aspects of security clearance  
3374 suspensions, denials, revocations, statutory and first  
3375 amendment challenge to classification decisions, leak  
3376 investigations and general employment disputes that may arise  
3377 within the Intel, military and law enforcement communities.  
3378 In the exercise of my legal responsibilities, I often have  
3379 authorized access to classified information.

3380 We've heard of the operative documents that pertain to  
3381 this topic, Executive Order 12958, which was amended by  
3382 13292, and also Executive Order 12968. Agencies throughout

3383 | the Federal Government have adopted implementing regulations  
3384 | attuned to their specific situations. But those are the  
3385 | operative documents that we really rely on.

3386 |         Section 41 of EO 13292 deals with who actually grants or  
3387 | is accorded access to classified information. There has to  
3388 | be a favorable determination of eligibility. There has to be  
3389 | an executed, approved non-disclosure agreement; and there has  
3390 | to be a need-to-know determination.

3391 |         Each of these components is factually based. Indeed,  
3392 | whether a need to know exists is a question that is asked and  
3393 | answered by tens of thousands of Federal employees and  
3394 | contractors thousands of times every day as part of their  
3395 | routine responsibilities.

3396 |         However, the underlying premise of that first prong, the  
3397 | determination of eligibility, deals with a judgment  
3398 | determination, one of common sense that is often referred to  
3399 | as the "whole person concept."

3400 |         Unfortunately, the system is anything but uniform. The  
3401 | process by which clearances or where access is granted very  
3402 | significantly based on the level of clearance, interim  
3403 | clearances can be very easily granted with very little effort  
3404 | by an agency. Most agencies, as we have heard, will go  
3405 | through a periodic background investigation that usually  
3406 | extends 7 to 15 years for the individual; and periodic  
3407 | reinvestigations will reoccur between 5 and 10 years,

3408 | depending on the backlog of the agency involved and the level  
3409 | of clearance.

3410 |       To be blunt, we can discuss all day what the regulations  
3411 | state, what minimal due process might be required or expected  
3412 | in scenarios touching upon today's hearing topic and what  
3413 | outcome a reasonable person would apply in any specific case;  
3414 | and that would be an academically and legally fascinating  
3415 | discussion, at least for me. But the fact is the recitation  
3416 | of real-world anecdotal experiences by those who operate in  
3417 | this field will educate you with very different results.

3418 |       It is best to characterize any substantive discussion of  
3419 | security clearances and agencies, and procedures surrounding  
3420 | such determinations, as arbitrary and fraught with  
3421 | inconsistencies. Periodically, every agency derives its  
3422 | authorities from these operative documents. Implementation  
3423 | varies across the board. With some agencies, the process  
3424 | works very well. With others, it is particularly broken.  
3425 | Overall, the system works but with numerous flaws, many of  
3426 | which can be repaired through legislative oversight or  
3427 | correction, though, to be sure, it is likely that any such  
3428 | attempt will engender cries of constitutional overreach by  
3429 | any White House.

3430 |       Let me use this opportunity to go through a few  
3431 | observations from cases I have handled over the years.

3432 |       Whether the unauthorized disclosure of classified

3433 | information results in administrative, civil, or criminal  
3434 | sanctions against an individual is a very fact-based inquiry  
3435 | for which no general rule truly exists. The suspension of an  
3436 | individual's security clearance can arise from the receipt of  
3437 | unsubstantiated anonymous allegations or can occur after a  
3438 | thorough internal investigation. At what stage suspension  
3439 | occurs is up to the specific agency.

3440 |         Moreover, the type of suspension is not deemed to  
3441 | be--this type of suspension is not deemed to be an adverse  
3442 | personnel action and therefore does not afford the person the  
3443 | substantive challenge rights as soon as he is notified of the  
3444 | substantive challenges that exist.

3445 |         Again, a very fact-based inquiry for which no general  
3446 | rule exists.

3447 |         Some agencies will utilize a security suspension to  
3448 | suspend the employee's employment altogether, pending  
3449 | conclusion of an investigation which could take years. This  
3450 | may be paid administrative leave, this may be unpaid  
3451 | administrative leave, and if that clearance is reinstated at  
3452 | some point in the future there is no compensation given to  
3453 | that individual whatsoever.

3454 |         Again, a very fact-based inquiry for which no general  
3455 | rule truly exists.

3456 |         Punishment for an unauthorized disclosure can range from  
3457 | no action to something as merely administrative as a



3458 reprimand, oral or written, in the file. Could be more  
3459 serious, such as the revocation of a clearance or, depending  
3460 on the factual circumstances, criminal prosecution.

3461 Again, a very fact-based inquiry.

3462 Significant inconsistencies exist governing agencies'  
3463 determination of access to classified info. Significant  
3464 inconsistencies exist governing an individual's ability to  
3465 challenge a revocation or suspension or denial. Significant  
3466 inconsistencies exist as to how agencies' security  
3467 investigations are initiated or handled.

3468 Most agencies experience serious and harmful time delays  
3469 with respect to security investigations that seriously impact  
3470 an employee or contractor's life and, in fact, creates  
3471 additional security concerns that did not previously exist.

3472 An appeal of a clearance revocation is usually--or  
3473 denial--will take often 6 to 12 months; and if it is the CIA,  
3474 we may be talking 2 to 3 years. Investigations into the  
3475 leaks of classified information rarely result in either  
3476 discipline or prosecution for a variety of reasons, including  
3477 the failure of Federal agencies to cooperate with one  
3478 another.

3479 And the training for authorized holders of classified  
3480 info with respect to this need to know differs from the  
3481 positions the executive branch will espouse in adverse  
3482 litigation for judicial proceedings.

3483 In my testimony, I set forth a few recommendations that  
3484 the committee can look into implementing. I will leave that  
3485 in the record.

3486 I will just conclude by saying that this is an area that  
3487 cries out for vigorous legislative oversight, especially  
3488 given recent efforts by the executive branch to expand  
3489 criminal penalties governing disclosures of classified  
3490 information or unauthorized disclosure to beyond those under  
3491 any affirmative obligations which protect such info.

3492 I encourage this committee to remain steadfast in its  
3493 vision to ensure accountability, efficiency, and fairness  
3494 while combating opposition from the executive branch, no  
3495 matter which party may be in power.

3496 I am more than happy to provide an elaboration to any of  
3497 those points or anything to this hearing topic or during any  
3498 Q&A that is submitted later.

3499 Thank you.

3500 Ms. WATSON. [presiding.] Thank you.

3501 [Prepared statement of Mr. Zaid follows:]

3502 \*\*\*\*\* COMMITTEE INSERT \*\*\*\*\*

3503 Ms. WATSON. Now Ms. Victoria Toensing.

3504 STATEMENT OF VICTORIA TOENSING

3505 Ms. TOENSING. Madam Chairman, thank you for inviting me  
3506 to testify about safeguarding classified information. Since  
3507 you also invited Valerie Plame here, I had to assume you also  
3508 wanted to consider the protection of covert agents as  
3509 specified under the 1982 Intelligence Identities Protection  
3510 Act, the Act that was the basis for the Special Counsel's  
3511 investigation.

3512 My first assignment as chief counsel for the Senate  
3513 Intelligence Committee for Chairman Barry Goldwater was to  
3514 get that law passed. He put me in charge of negotiating with  
3515 the parties, particularly with the press who vigorously  
3516 opposed the legislation because they claimed it would curtail  
3517 their ability to criticize the Intelligence Committee. It  
3518 would have a chilling effect, the press argued.

3519 In my prepared statement, I thoroughly discussed the  
3520 structure of the Act, but I want to now discuss how, because  
3521 it is important to the press arguments, how we divided the  
3522 types of persons who could be prosecuted into two classes:  
3523 journalists and government employees having authorized access  
3524 to classified information.

3525           We drafted such a high standard for journalists that it  
3526 is almost impossible for a working journalist like Bob Novak  
3527 in his column to have violated the law. But we also did not  
3528 want government employees to be chilled in reporting  
3529 wrongdoing or prosecuted for accidentally saying someone's  
3530 name without having the specific knowledge and intent to  
3531 "out" a covert person.

3532           That caution and respect for the mighty power of the  
3533 criminal law leads me to the main point of my testimony.

3534           It was Chairman Goldwater's grave concern in creating  
3535 the legislation, the great libertarian, that if Congress was  
3536 going to criminalize naming what in those days we referred to  
3537 as "undercover personnel," then the CIA better fulfill its  
3538 responsibility by protecting the cover of those employees.

3539           Chairman Goldwater was most displeased at that time, and  
3540 he characterized the CIA's cavalier treatment of protecting  
3541 its undercover--and that's how he referred to it before the  
3542 law--of protecting their cover. And you see that concern  
3543 when you study the law, and you see it in one of the seven  
3544 findings.

3545           But, more importantly, we created a rare approach in the  
3546 criminal statute. Usually in the criminal law, it is only  
3547 the conduct of the defendant that is at issue, but, in this  
3548 law, Congress required the CIA to take affirmative measures  
3549 to conceal the government's relationship to that covert

3550 agent. No one can be prosecuted under that law unless this  
3551 requirement is fulfilled by being proved beyond a reasonable  
3552 doubt.

3553 The statute also requires the CIA to report annually,  
3554 starting in February of 1983, to the House and Senate Intel  
3555 Committees on these--whatever their affirmative measures  
3556 were, whatever they created to protect the identities of  
3557 covert agents.

3558 I think you might all want to check to see whether they  
3559 have ever fulfilled that mandate by the law, that legislative  
3560 mandate.

3561 But it comes to mind in the course of this 3-year  
3562 investigation and listening to even the testimony today,  
3563 could the CIA produce immediately--meaning do they already  
3564 have it prepared and they can hurry and get it prepared at  
3565 your request--a list of all foreign assigned personnel that  
3566 it has designated covert under the Act? Does the CIA make  
3567 any list available like that to people like their  
3568 spokesperson who has to get on the telephone with people like  
3569 Bob Novak and confirm or deny that somebody works at the CIA?

3570 I have several other questions in my prepared statement,  
3571 but I want to go on to my last point, and--by turning to this  
3572 particular case where numerous persons were subpoenaed,  
3573 repeatedly, some of them, before a grand jury, threatened  
3574 with prosecution in a matter that, in my legal experience,

3575 | had no criminal basis.

3576 |         If Valerie Plame were really covert under the law--I am  
3577 | not saying whatever they say in the halls of the CIA. If she  
3578 | were really covert under the law, then why didn't Robert  
3579 | Grenier, the CIA briefer who talked to Scooter Libby and the  
3580 | Vice President about Wilson's wife working at the CIA, why  
3581 | didn't he tell them that her identity was covert? Why didn't  
3582 | Richard Armitage, who said he was the original leaker, of  
3583 | course, to Bob Novak, but he said, having seen Plame's name  
3584 | in a Department memo, he had never seen a covert agent's name  
3585 | in 28 years of government practice. So it was a surprise to  
3586 | him. He didn't know how Plame's identity was--that it wasn't  
3587 | to be revealed. Neither did Mark Grossman, the Under  
3588 | Secretary.

3589 |         If the CIA was really being careful and had guidelines  
3590 | for all of these covert agents, why did they allow Valerie  
3591 | Plame to contribute a thousand dollars to Al Gore's campaign  
3592 | and list her CIA cover business, Brewster, Jennings and  
3593 | Associates, as her employer?

3594 |         Why did the CIA not ask Joe Wilson to sign a  
3595 | confidentiality agreement about his mission to Niger? I can  
3596 | tell you I have to do it. I don't know, Mark, if you do it  
3597 | when you take a case, but I can't talk to someone for one  
3598 | hour without representation unless I sign a confidentiality  
3599 | agreement, and then they might permit him to write an op-ed

3600 piece in the New York Times about the trip, an act certain to  
3601 bring press attention when his wife's name is in that.

3602 I mean, this tradecraft is just appalling to me who has  
3603 spent a good deal of my life in government service having to  
3604 deal with classified material and with the CIA in an  
3605 oversight capacity.

3606 The CIA never sent its top personnel to Bob Novak, like  
3607 the director, and ask him, please, please don't print; don't  
3608 publish this name. What they said to him was, "Well, we  
3609 would rather you not do it, but she's not going to have  
3610 another foreign assignment," so--it was very cavalier.

3611 They certainly knew, the CIA, how to go and send the top  
3612 people when they didn't want--in December of 2005, when they  
3613 didn't want the New York Times to publish the NSA  
3614 surveillance program.

3615 I have--there's--why didn't CIA spokesman  
3616 Bill Harlow who, according to Wilson's autobiography--and you  
3617 spoke with Valerie Plame about it--and he had been alerted  
3618 that Bob Novak was sniffing around, why did he confirm for  
3619 Bob Novak that Valerie Plame worked at the CIA? Why did Bill  
3620 Harlow tell Vice Presidential Staffer Kathy Martin that  
3621 Wilson's wife worked at the agency but not warn her, "Oh, you  
3622 shouldn't be giving up this identity"?

3623 Why did the CIA give Plame a job at its headquarters in  
3624 Langley when it is mandated by the statute, quote, to conceal

3625 | a covert agent's intelligence relationship to the United  
3626 | States, unquote.

3627 |       And if this was really a violation of the Covert Agent  
3628 | Identities Bill, why did the CIA send to the Justice  
3629 | Department a boilerplate, 11-question criminal referral for  
3630 | classified information violation when its lawyers had to  
3631 | know--or pray that they knew--that merely being a classified  
3632 | person or the situation being classified did not fulfill the  
3633 | elements required by the Agent Identities Protection Act?

3634 |       Chairman WAXMAN. Thank you very much.

3635 |       [Prepared statement of Ms. Toensing follows:]

3636 | \*\*\*\*\* INSERT 4-1 \*\*\*\*\*



3637 Chairman WAXMAN. I want to recognize Mr. Davis to start  
3638 off.

3639 Mr. DAVIS OF VIRGINIA. Thank you. We didn't start with  
3640 going into the covert--taking Ms. Plame at her word--

3641 Ms. TOENSING. I am having a hard time hearing you.

3642 Mr. DAVIS OF VIRGINIA. We didn't go into extensively  
3643 whether it was covert or not. I asked her whether anybody  
3644 told her she was versus what she thought. But the question  
3645 was--clearly, there were no crimes committed.

3646 I'm going to ask each of you, can you name a leak case  
3647 that you have dealt with that has undergone more scrutiny or  
3648 investigation than this one? Mr. Zaid.

3649 Mr. ZAID. Not as much. Certainly nothing as public as  
3650 this.

3651 Mr. DAVIS OF VIRGINIA. Either with grand jury.

3652 Mr. ZAID. There are numerous grand juries, even ones  
3653 that are going on right now with leak investigations, and  
3654 they haven't received the amount of publicity that this case  
3655 has.

3656 Mr. DAVIS OF VIRGINIA. They have a special prosecutor  
3657 on this and you can look at the hours of testimony. This has  
3658 undergone as much scrutiny as any case you are aware of.

3659 Mr. ZAID. Sure.

3660 Ms. TOENSING. I used to tell Chairman Goldwater--he'd  
3661 say, I want those leakers--in much more crusty language than

3662 | that--I want those leakers prosecuted, and I would say, "It's  
3663 | the rule of 38. If 38 people knew about it, you are probably  
3664 | not going to get a prosecution," and so usually there is not  
3665 | a prosecution in the case.

3666 |         Mr. DAVIS OF VIRGINIA. I mean, the thing that strikes  
3667 | me through all of this is if the CIA fails to take  
3668 | affirmative steps to protect their own agents, how can you  
3669 | expect the recipients of information to know that the  
3670 | information is protected and take appropriate precautions?

3671 | Mr. Zaid--I'll ask you both.

3672 |         Ms. TOENSING. I mean, the whole reason that we put that  
3673 | into the law was because we didn't want employees to be  
3674 | chilled from reporting wrongdoing, that the person had to  
3675 | know, have knowledge that the CIA was taking these  
3676 | affirmative measures to protect the identity and the  
3677 | relationship of that person. So if nobody is telling  
3678 | anybody, it is like, who knew? How would you know that  
3679 | something was not to be repeated?

3680 |         Mr. DAVIS OF VIRGINIA. The majority is pointing the  
3681 | finger at the White House, but the leak didn't come from the  
3682 | White House. And, secondly, there is no evidence--presented  
3683 | here today at least--that anybody in the White House knew  
3684 | that she was a covert agent.

3685 |         Ms. TOENSING. Not one person told anybody in the White  
3686 | House. We have no evidence.

3687 Mr. DAVIS OF VIRGINIA. Let me--

3688 Chairman WAXMAN. Excuse me. You are saying that  
3689 conclusively. Do you know the facts? Or are you just saying  
3690 there is no evidence?

3691 Ms. TOENSING. I know what facts are out there. If  
3692 somebody wants to point to another fact, I will be glad to  
3693 listen.

3694 Chairman WAXMAN. So what you have heard, you can reach  
3695 that conclusion from. You don't know all of the information.

3696 Ms. TOENSING. From the testimony at trial.

3697 Mr. ZAID. I think we have to make a distinction between  
3698 criminality and what type of administrative sanctions could  
3699 possibly have been imposed. I have no personal information  
3700 with respect to this case, other than what everybody else  
3701 does in reviewing it with great interest, especially since  
3702 it's in my subject matter knowledge.

3703 And Ms. Toensing is absolutely correct with many of her  
3704 questions with respect to the Intelligence Identities Act,  
3705 which has a very exacting standard. Ms. Plame, as she  
3706 indicated, was covert. That is a distinction between  
3707 possibly under the Intelligence Identities Act and that  
3708 classified information was leaked and then the question then  
3709 is of a criminal magnitude versus something less than that.  
3710 And those could be any number of penalties.

3711 Mr. DAVIS OF VIRGINIA. But if you don't know she's

3712 | undercover, it is hard to put a penalty on somebody.

3713 |       Mr. ZAID. That would be something like the previous  
3714 | witness, where his office would have to investigate to see  
3715 | how the leak came about.

3716 |       Mr. DAVIS OF VIRGINIA. There is no question this should  
3717 | never be leaked. We should never "out" any undercover  
3718 | operative. I don't think anyone here can condone that in any  
3719 | way, shape, or form.

3720 |       The difficulty I am having, though, is we are focused  
3721 | today just on the White House. The CIA bears some  
3722 | responsibility.

3723 |       Ms. Plame's own testimony today talked about they knew  
3724 | the story was coming, and she did the appropriate thing in  
3725 | reporting to her superiors that the story was coming, a story  
3726 | that could end her career. And what did her bosses do? They  
3727 | obviously didn't persuade Mr. Novak, but the question is, did  
3728 | they send their A Team up there to talk to Mr. Novak? Did  
3729 | they let them know that an agent could be outed? That is the  
3730 | question.

3731 |       Ms. Toensing, what is contemplated under a statute in a  
3732 | case like that?

3733 |       Ms. TOENSING. The statute has very high standards.  
3734 | This is almost impossible for a journalist to be indicted  
3735 | under, just a regular working journalist, not somebody who  
3736 | has a specific intent.

3737 Mr. DAVIS OF VIRGINIA. No journalist in their right  
3738 mind would do this on purpose.

3739 Ms. TOENSING. But an employee would have to be aware  
3740 that the agency is taking affirmative measures to protect or  
3741 conceal this person's relationship to the United States. If  
3742 nobody even told the people who were being briefed--I mean,  
3743 the State Department didn't know. Dick Armitage didn't know.

3744 Mr. DAVIS OF VIRGINIA. But the question is, once it  
3745 gets to the press level, say someone inadvertently leaked  
3746 this to the press, what should the CIA do? And  
3747 notwithstanding the Act, from a policy perspective, what  
3748 should the CIA do or be able to do to protect their  
3749 operatives and what do you think they should do in this case?

3750 Ms. TOENSING. They didn't do anything in this case. To  
3751 anybody looking at it from--as I view it, as I see all of the  
3752 facts, I have no reason whatsoever to believe that Ms. Plame  
3753 was covert under the statute.

3754 I mean, they can call--I have represented a covert  
3755 officer. It is not an agent, actually. The statute uses  
3756 that term, but Ms. Plame was a covert officer. I have  
3757 represented a covert officer from the CIA; and let me tell  
3758 you, in the course of my representation, the New York Times  
3759 was going to print her name on its front page. And the New  
3760 York Times reporter, a wonderful reporter, Tim Weiner, called  
3761 me and said the CIA just called him and told him that they

3762 | were going to go after him criminally if they printed her  
3763 | name. No such threat was ever given to Bob Novak. And good  
3764 | for Tim Weiner. He went ahead and printed it anyway.

3765 | Mr. DAVIS OF VIRGINIA. Let me ask this. So the statute  
3766 | at this point gives press almost an immunity on those kinds  
3767 | of issues once they learn about it. Is that your reading of  
3768 | the law?

3769 | Ms. TOENSING. Yes.

3770 | Mr. DAVIS OF VIRGINIA. What should the CIA have done in  
3771 | this case if they wanted to protect an operative?

3772 | Ms. TOENSING. If this is a very big deal to the CIA,  
3773 | they should have brought in the DCI, at least the Deputy, and  
3774 | come in with Bob Novak and had a talk and say, "You cannot  
3775 | print this name. This would just be terrible. This is  
3776 | national security."

3777 | Mr. DAVIS OF VIRGINIA. Let me ask you, from a policy  
3778 | perspective, notwithstanding where the law is today, that  
3779 | sets a very high standard for the press. What should we  
3780 | do--in future cases, what should the CIA do once--if you are  
3781 | going to have an operative outed, a top-secret memo that  
3782 | could damage national security, how should that be handled  
3783 | from a policy perspective?

3784 | Mr. ZAID. I wouldn't in any way divert blame from the  
3785 | CIA in this matter. There are many steps they could have  
3786 | taken, and Ms. Toensing has identified them, and it wouldn't

3787 | have been the first time where a very senior official in the  
3788 | CIA would go to a member of the press.

3789 | I often represent covert officers. I mean, routinely.  
3790 | And I know the precautions that they try to impose on me,  
3791 | which I follow to protect them. Because if their identities  
3792 | are released it does put their lives in jeopardy; and, even  
3793 | more importantly, because when they are usually back here in  
3794 | the United States it puts everyone they ever had any contact  
3795 | with in their lives in jeopardy as well as operations.

3796 | I don't know why the CIA didn't do more. That is a good  
3797 | question. The CIA should be here to explain that.

3798 | Again, I would make a distinction between that we not  
3799 | only look at the criminality of this but we also look at the  
3800 | administrative disciplines that should have been meted out.

3801 | I had a client that was disciplined because he was  
3802 | acting as a courier with classified information and he left  
3803 | the bag locked up in his locked car while he went into  
3804 | McDonald's to get a burger with the car in sight. That was  
3805 | the violation. It took me a year to get his clearance back.

3806 | So the agencies will take it seriously when they wish  
3807 | to.

3808 | Mr. DAVIS OF VIRGINIA. Thank you.

3809 | Chairman WAXMAN. Thank you very much, Mr. Davis.

3810 | I have questions, but I don't know whether I want to go  
3811 | into all of the time to ask questions.

3812 But I am stunned, Ms. Toensing, that you would come here  
3813 with absolute conclusions she was not a covert agent. The  
3814 White House did not leak it. No one seemed to know in  
3815 advance that she was a CIA agent. Do you know those facts  
3816 from your own first-hand knowledge?

3817 Ms. TOENSING. Well, let us take those one by one. As I  
3818 said, I was there. I was the chief--

3819 Chairman WAXMAN. I am not asking for your credentials.  
3820 I am asking for how you reached those conclusions.

3821 Ms. TOENSING. That's part of her credentials, because I  
3822 know what the intent of the Act was.

3823 Chairman WAXMAN. I am not asking what the intent of the  
3824 Act was. Do you know she was not a covert agent?

3825 Ms. TOENSING. She is not a covert agent under the Act.  
3826 You can call her anything you want to in the halls of the  
3827 CIA.

3828 Chairman WAXMAN. General Hayden, the head of the CIA,  
3829 told me personally that she was--if I said that she was a  
3830 covert agent, it wasn't an incorrect statement.

3831 Ms. TOENSING. Does he want to swear that she was a  
3832 covert agent under the Act?

3833 Chairman WAXMAN. I am trying to say this as carefully  
3834 as I can. He reviewed my statement, and my statement was she  
3835 was a covert agent.

3836 Ms. TOENSING. He didn't say under the Act.



3837 Chairman WAXMAN. Okay. So you're trying to define it  
3838 exactly under the Act.

3839 Ms. TOENSING. That's what--

3840 Chairman WAXMAN. No, no, no, no, no. I am not giving  
3841 you--I am not yielding my time to you.

3842 So that is your interpretation. Do you know that the  
3843 White House--no one in the White House leaked this  
3844 information?

3845 Ms. TOENSING. Well, I don't know even know how to deal  
3846 with the word "leak" here. I know that people in the White  
3847 House--

3848 Chairman WAXMAN. Well, Karl Rove admitted he leaked it.  
3849 Do you think he is not telling us the truth?

3850 Ms. TOENSING. Well, the words are important, and I'm  
3851 not sure what--

3852 Chairman WAXMAN. So you want to completely define the  
3853 words that are so narrow in meaning that your statements can  
3854 be credible but not honest. I am not asking about the  
3855 statute. I am not asking about the statute. Evidently, if  
3856 there were a criminal violation, the Special Inspector  
3857 General investigating this matter might have brought criminal  
3858 actions. Put that aside. Karl Rove said he leaked the  
3859 information. Do you think he did not?

3860 Ms. TOENSING. Let me give you an example.

3861 Chairman WAXMAN. I want a yes or no. I am asking you a

3862 | direct question that could be answered yes or no.

3863 | Ms. TOENSING. Well, it can't, but I will answer no then  
3864 | and explain--

3865 | Chairman WAXMAN. Do you have first-hand information  
3866 | that none of the people at the White House had knowledge that  
3867 | she was a covert agent?

3868 | Ms. TOENSING. There has no been no testimony. I can  
3869 | only go by that.

3870 | Chairman WAXMAN. You stated it so affirmatively and  
3871 | conclusively that I thought maybe you had access to  
3872 | information that we didn't have.

3873 | Ms. TOENSING. I have information to the testimony, and  
3874 | so because I know what the testimony is, that everybody--and  
3875 | I am sure that the Special Counsel would have brought in  
3876 | anybody who had anything to do with it in the trial--

3877 | Chairman WAXMAN. Maybe he would have. We thought the  
3878 | White House would have investigated the matter, and they  
3879 | didn't.

3880 | Mr. Zaid, in your experience with these kinds of cases,  
3881 | do agencies wait until a criminal investigation is complete  
3882 | before taking any action or do they sometimes say, while this  
3883 | is pending, we are going to take away the security clearance?

3884 | Mr. ZAID. They do not wait, Mr. Chairman. There is no  
3885 | requirement that they wait. I could understand in some cases  
3886 | there could be a need for coordination. But very often, in

3887 | my experience, by the time you got into a criminal matter,  
3888 | the employee or contractor clearance has already been  
3889 | suspended.

3890 | Chairman WAXMAN. And if an agency's goal is to prevent  
3891 | additional security violations and protect classified  
3892 | information, doesn't it make sense for the agency to do  
3893 | something right away rather than wait as long as 3 years?

3894 | I mean, this is 3 years now that the same people in the  
3895 | White House have had classified information given to them,  
3896 | even though they have already admitted in most cases that  
3897 | they disclosed that information.

3898 | I don't think they should--does it seem right to you  
3899 | that they would wait until not only the investigation is  
3900 | complete but all of the prosecution has been handled?

3901 | Mr. ZAID. I find it very disconcerting and inconsistent  
3902 | with what I have seen at other agencies. I have seen far  
3903 | less of a grave situation or clearance infraction that has  
3904 | been addressed far more quickly by an agency.

3905 | Again, I don't know personally besides what we all know,  
3906 | most part, publicly from what transpired, but from an  
3907 | administrative standpoint I am very surprised that something  
3908 | has not been done. If it were one of my clients, I am sure  
3909 | something would have been done.

3910 | Chairman WAXMAN. I am not sure if you are familiar with  
3911 | all of the administrative activities. You are knowledgeable

3912 | about the law, whether it's a criminal violation, but, in  
3913 | your experience, do you know whether agencies will sometimes  
3914 | suspend people's security clearances while there is an  
3915 | investigation going on?

3916 |         Ms. TOENSING. Some do and some don't. It would depend  
3917 | on--as was said by the panel before on a case-by-case basis  
3918 | because--and here, if I were the lawyer for a person making  
3919 | the decision whether to do so, I would really want the  
3920 | decisionmaker to weigh whether it would appear to be  
3921 | obstruction of justice. If you start calling in witnesses  
3922 | and you start interviewing the witnesses and you're not part  
3923 | of the Justice Department--

3924 |         Chairman WAXMAN. That would go to an investigation  
3925 | where you could simply say there is an investigation going on  
3926 | in the meantime. I think it's more prudent not to allow you  
3927 | to get more classified information. That's done frequently.

3928 |         Ms. TOENSING. I didn't understand what your question  
3929 | was.

3930 |         Chairman WAXMAN. Rather than do a whole investigation  
3931 | that might put somebody in a situation where they got two  
3932 | investigations going on and so they're represented in the  
3933 | investigation-type case, but, in the meantime, we will  
3934 | suspend your access to classified information.

3935 |         Ms. TOENSING. That sometimes happens. It depends on  
3936 | what the violation is. It can happen. It cannot happen as

3937 Mr.--

3938 Chairman WAXMAN. It's not unheard of. Thank you.

3939 Mr. Cummings.

3940 Mr. CUMMINGS. Thank you very much, Mr. Chairman.

3941 I was sitting here listening to this, and it's just  
3942 something I think is incredible to me, and I think we are  
3943 losing sight of what went on here.

3944 We had an American who simply wanted to serve her  
3945 country, who put her life, her life, on the line. And I  
3946 don't know what Goldwater--what he was doing, you know. But  
3947 one thing I do know is that we had a lady here who lost her  
3948 job, lost the opportunity to carry out the things that she  
3949 apparently wanted to do, it was her love, while risking her  
3950 life. And out of all of this testimony I hope we don't lose  
3951 sight of that.

3952 There is a reason why we have these rules, these laws  
3953 and these executive orders; and those reasons basically go to  
3954 trying to protect people, Americans, who want to go out there  
3955 and protect us and try to make sure that they are not harmed.

3956 Were you here, Ms. Toensing, when Ms. Valerie Plame  
3957 testified?

3958 Ms. TOENSING. Yes, I was.

3959 Mr. CUMMINGS. One of the things that she said--she said  
3960 two things that I know will be embedded in the DNA of every  
3961 cell of my body until I die. She said, I did not--I expected

3962 | other countries to try to reveal my identity, but never did I  
3963 | expect my own government to do it. And then she said  
3964 | something else that was very interesting. She said that, as  
3965 | a result of the disclosure, whole networks of agents have  
3966 | been placed in jeopardy.

3967 |       The reason why I say that is because it seems like to me  
3968 | all of us, as Americans, would want to make sure that we did  
3969 | every single thing in our power to protect those people who  
3970 | are going out there trying to protect us.

3971 |       Going back to the--you know, we have a situation here,  
3972 | too, where, you know, it wasn't just the law, it was the  
3973 | order, 12958, the President's order. And unlike the criminal  
3974 | statute which requires an intentional disclosure of  
3975 | classified information, the administrative rules prohibit not  
3976 | just intentional disclosures but reckless and negligent ones  
3977 | as well, isn't that correct?

3978 |       Ms. TOENSING. You are reading from it. I assume that  
3979 | you read it appropriately.

3980 |       Can I say a word in reaction to that? I have no  
3981 | problem. I have no problem with Ms. Plame. I respect the  
3982 | service that she contributed to this country.

3983 |       My complaint is two-fold, one against the CIA for not  
3984 | taking the proper precautions, as they had promised to do so  
3985 | when this Act was passed in the 1980s; and, secondly, with  
3986 | the application. Because I am a criminal defense lawyer, but

3987 I was also a prosecutor, and I don't like to see the law  
3988 abused. I don't like the application of the criminal law to  
3989 a situation that does not have the elements of it. I think  
3990 that is an abuse of prosecutorial power.

3991 Mr. CUMMINGS. I was a criminal lawyer, too. And, you  
3992 know, I am sure that, consistent with what you just said, you  
3993 believed the testimony should be accurate, did you not? That  
3994 seems consistent with what you just said, that you would want  
3995 anybody's testimony to be accurate. Wouldn't that be  
3996 correct?

3997 Ms. TOENSING. That is correct.

3998 Mr. CUMMINGS. I think you said a little earlier that  
3999 she had not been out of the country for 5 years. Didn't you  
4000 say that?

4001 Ms. TOENSING. No, the statute doesn't say that. It  
4002 says for an assignment.

4003 Mr. CUMMINGS. No, what did you say?

4004 Ms. TOENSING. I said for an assignment. I didn't  
4005 testify about that here today, here yet.

4006 Mr. CUMMINGS. I thought I read it in something that you  
4007 said to the press at some point. You didn't say that?

4008 Ms. TOENSING. I have always used the term "under the  
4009 statute."

4010 Mr. CUMMINGS. It says here, Washington Post, February  
4011 18th, just prior to the start of deliberations of the jury in

4012 | the Scooter Libby trial, and you said this as follows--it may  
4013 | be wrong. The Washington Post can check it out--but it says,  
4014 | quote, Plame was not covert, and you said that, today, going  
4015 | on with the quote, this is your quote: She worked at the CIA  
4016 | headquarters and had not been stationed abroad within 5 years  
4017 | of the date of Novak's column.

4018 | Ms. TOENSING. Right. That's the same concept as  
4019 | serving outside the United States. That was the whole  
4020 | concept that we had when we passed the law.

4021 | The first draft of the law--and I have it in my  
4022 | statement--was we only applied it to persons who are outside  
4023 | of the United States. We never applied it to anybody inside  
4024 | the United States. And then people wanted rotation people  
4025 | covered. The CIA said, you got to cover rotation people. So  
4026 | we said, how long is that? They said, 2 to 3 years. We  
4027 | said, okay, we'll change it.

4028 | "or within 3 years of coming back to the United States."

4029 | And then somebody said, oh, but people retire; and so we  
4030 | said, okay, CIA, how long do you need to protect those  
4031 | sources that the person had while serving abroad? And they  
4032 | told us 5 years. So that's why we have the 5-year  
4033 | requirement. But it was always intended, because of the  
4034 | assassinations abroad, to protect our personnel serving  
4035 | abroad.

4036 | Mr. CUMMINGS. I see my time is up. Thank you very



4037 much.

4038 Ms. TOENSING. Inside the United States.

4039 Chairman WAXMAN. I wanted to be very clear for the  
4040 record. I said earlier General Hayden and the CIA have  
4041 cleared the following comments: During her employment at the  
4042 CIA, Ms. Wilson was undercover. Her employment status with  
4043 the CIA was classified information prohibited from disclosure  
4044 under the Executive order 12958. And at the time of the  
4045 publication of Robert Novak's column on July 14th, 2003, Ms.  
4046 Wilson's CIA employment status was covert. This was  
4047 classified information.

4048 So I wanted to repeat it. I don't know if I misstated  
4049 it or not. But let no one misunderstand it, and I would just  
4050 use those words so we can clarify it for the record.

4051 Ms. Watson.

4052 Ms. WATSON. Thank you, Mr. Chairman.

4053 I want to kind of pursue this line of questioning, Ms.  
4054 Toensing, as well.

4055 It is reported, again, by the Washington Post on  
4056 February 18, 2007, that you said, and this is your quote, I  
4057 am going to read it. It was just read. "Plame was not  
4058 covert. She worked at CIA headquarters and had not been  
4059 stationed abroad within 5 years of the date of Novak's  
4060 column."

4061 You said you were here, and you heard Ms. Wilson's

4062 | testimony. I took notes on her testimony, and I quoted her.  
4063 | She said she was a covert agent, and that was her statement.

4064 | Now it seems to me that your remarks are contrary to  
4065 | that statement. So do you still maintain that on February  
4066 | 18, 2007, Ms. Wilson was not a covert CIA agent?

4067 | Ms. TOENSING. Not under the law. She didn't say she  
4068 | was under the law. In fact, she said several times that she  
4069 | was not a lawyer. I know what the law requires--

4070 | Ms. WATSON. Reclaiming my time.

4071 | You said--this is your statement from that date: "Plame  
4072 | was not covert." and my question directly is, do you still  
4073 | maintain that on that date she was not a covert CIA officer?

4074 | Ms. TOENSING. I was trying to answer. Yes, I still  
4075 | maintain that.

4076 | Ms. WATSON. Yes or no.

4077 | Ms. TOENSING. I still maintain it, yes.

4078 | Ms. WATSON. That she was not a covert agent.

4079 | Ms. TOENSING. Under the law. Completely.

4080 | Ms. WATSON. Ms. Plame was sworn.

4081 | Ms. TOENSING. And I am sworn. I am giving you my legal  
4082 | interpretation under the law as I know the law, and I helped  
4083 | draft the law. The person is supposed to reside outside of  
4084 | the United States.

4085 | And let me make one other comment--

4086 | Ms. WATSON. No. Reclaiming my time--because this is

4087 | being timed and members do have to leave--did you receive any  
4088 | information directly from the CIA or Ms. Wilson that supports  
4089 | your assertion that Ms. Wilson was not a covert officer?

4090 | Ms. TOENSING. I didn't talk to Ms. Wilson or the CIA.

4091 | Ms. WATSON. And do you have any information about the  
4092 | nature of Ms. Wilson's employment status that Director Hayden  
4093 | and Ms. Wilson don't have?

4094 | Ms. TOENSING. I have no idea--I don't know what he has  
4095 | that I don't have. You know, vice versa. I can just tell  
4096 | you what is required under the law. They can call anybody  
4097 | anything they want to do in the halls, but, under this  
4098 | statute, a criminal statute which is interpreted very  
4099 | strictly, all of these elements have to be proven beyond a  
4100 | reasonable doubt. That has been my concern.

4101 | Ms. WATSON. Your testimony is focusing on the criminal  
4102 | prohibition in the Intelligence Identities Protection Act.  
4103 | But I don't see any mention whatsoever of the administrative  
4104 | restrictions contained in Executive order 12958, which is  
4105 | what the invitation letter asks you to address.

4106 | As you note in your written statement--and we have  
4107 | copies of it--there are numerous elements that must be proven  
4108 | beyond a reasonable doubt in order to establish a crime under  
4109 | the IIPA.

4110 | In contrast, the administrative rules simply prohibit  
4111 | the disclosure of classified information to anyone not

4112 | authorized to receive it. Unlike the criminal statute, which  
4113 | requires an intentional disclosure of classified information,  
4114 | the administrative rules prohibit not just intentional  
4115 | disclosures but reckless and negligent ones as well. Is that  
4116 | right?

4117 | Ms. TOENSING. Of course.

4118 | Ms. WATSON. Okay. Therefore, an improper disclosure of  
4119 | classified information violates the Executive order, even  
4120 | though it does not violate the criminal statute; is that  
4121 | right?

4122 | Ms. TOENSING. I am just--

4123 | Ms. WATSON. Is that right?

4124 | Ms. TOENSING. I wasn't invited here to talk about--

4125 | Ms. WATSON. Excuse me. Reclaiming my time. Reclaiming  
4126 | my time. Is that right? Yes or no.

4127 | Ms. TOENSING. Would you repeat it, please?

4128 | Ms. WATSON. I will. Therefore, an improper disclosure  
4129 | of classified information violates the Executive order, even  
4130 | though it does not violate the criminal statute. Yes or no.

4131 | Ms. TOENSING. I take no issue with that. Yeah, that is  
4132 | right.

4133 | Chairman WAXMAN. Thank you, Ms. Watson. Your time has  
4134 | expired.

4135 | Mr. Van Hollen.

4136 | Mr. VAN HOLLEN. Thank you, Mr. Chairman. Let me thank

4137 both of our witnesses here today.

4138 Ms. Toensing, let me ask you, getting back to the  
4139 overall context in which this all happened, wouldn't you  
4140 agree that the reason the White House official disclosed this  
4141 information, leaked it quietly to the press, was in an effort  
4142 to discredit somehow Ambassador Wilson as a result of the  
4143 article he wrote in the New York Times?

4144 Ms. TOENSING. I have no idea why they gave out that  
4145 information. I do know that there was this allusion by Joe  
4146 Wilson that he was sent on the trip by the Vice President's  
4147 office. So it made sense to me, if you are sitting in the  
4148 Vice President's office, to say, "We didn't send him. We  
4149 didn't know what this is all about." and in the inquiry, as  
4150 I understand it, and you may have different facts, the  
4151 response was his wife sent him. And guess who did that? The  
4152 INR statement at the State Department.

4153 Mr. VAN HOLLEN. Do you know why Mr. Rove, after  
4154 disclosing some of this information to Mr. Cooper at Time  
4155 Magazine, would have concluded by saying I have already said  
4156 too much?

4157 Ms. TOENSING. I have no idea.

4158 Mr. VAN HOLLEN. It seems to me that that kind of  
4159 statement--of course, we can't all read Mr. Rove's mind, but  
4160 an ordinary interpretation of that may be to conclude that he  
4161 already provided him information that he knew he shouldn't be

4162 | providing.

4163 |           Let me just go back to the other statements made by the  
4164 | White House. We saw the clip here of their spokesman, Scott  
4165 | McClellan, stating that the White House had not been involved  
4166 | in the disclosure of Valerie Plame as somebody who worked at  
4167 | the CIA. Now you agree she worked at the CIA, right?

4168 |           Ms. TOENSING. Yeah. I didn't hear that statement, but  
4169 | that's okay. If you are going to say he said those words--I  
4170 | thought he said in giving off classified information, but--

4171 |           Mr. VAN HOLLEN. My understanding is what they were  
4172 | essentially saying, they were not involved in the disclosures  
4173 | that had been made and, clearly, the testimonies that were  
4174 | involved in the disclosures that had been made.

4175 |           Let me get back to, as I said, the purpose of the  
4176 | hearing. Part of the purpose of the hearing was to look at  
4177 | how the White House safeguards security information. That is  
4178 | the reason we had the second panel. And did you know before  
4179 | the testimony today that the White House itself had not  
4180 | undertaken any kind of investigation internally from the  
4181 | security office?

4182 |           Ms. TOENSING. I didn't know that, but I would have  
4183 | concurred with that with a massive criminal investigation  
4184 | going on. If I was a lawyer to the President, I would say  
4185 | don't you dare do a thing until this criminal investigation  
4186 | and prosecution is over.

4187 Mr. VAN HOLLEN. It was more than 2 months after this  
4188 initially broke that Scott McClellan in another statement  
4189 said, we have no information in the White House about any of  
4190 these disclosures. Before you made that kind of statement,  
4191 wouldn't you undertake some kind of investigation?

4192 Ms. TOENSING. Well, I am not here to answer for Scott  
4193 McClellan.

4194 Mr. VAN HOLLEN. There is one issue that has to do with  
4195 once the criminal investigation was started, but a long  
4196 period of time went by when no administrative action was  
4197 taken, and, as I understand your response to the question by  
4198 Ms. Watson, you would agree that that kind of sort of  
4199 investigation goes on routinely when there has been a  
4200 disclosure of classified information, does it not?

4201 Ms. TOENSING. It can, and it cannot. I mean, I  
4202 certainly wouldn't have done it in the brouhaha that occurred  
4203 within a week of Bob Novak's publication.

4204 By the way, Bob Novak was not the first person to say  
4205 she was covert. That was David Corn who printed that she was  
4206 covert. Bob Novak called her an operative.

4207 Mr. VAN HOLLEN. This is a period of 2 months when there  
4208 was lots of questions, everyone was trying to find out what  
4209 was going on. The CIA had said that this was an unauthorized  
4210 disclosure. The President of the United States said, and I  
4211 quote, this is a very serious matter, and our administration

4212 takes it seriously.

4213 Do you agree this was a serious matter?

4214 Ms. TOENSING. Well, I think an outing, if somebody's  
4215 career is being affected, is, of course, a serious matter.  
4216 The issue is whether it was--the outing was done  
4217 intentionally under the criminal law. That is what I have  
4218 written about always.

4219 Mr. VAN HOLLEN. I understand. I understand your point  
4220 under the criminal law.

4221 The other question, though, is why people didn't take  
4222 action under the non-criminal law as part of safeguarding  
4223 secrets at the White House. And I understand your focus is  
4224 on the other issue, but I have got to say it is stunning that  
4225 the White House would tell us they had no information about  
4226 this 2 months after the first disclosures and we hear today  
4227 that they never conducted any investigation. I mean--

4228 Ms. TOENSING. I would agree with you that it was a bad  
4229 situation that happened. But I say shame on the CIA, that  
4230 the briefer did not tell anybody at the White House that--

4231 Chairman WAXMAN. How do you know that? How do you  
4232 know?

4233 Ms. TOENSING. He testified to that at the Scooter Libby  
4234 trial.

4235 Chairman WAXMAN. Who was that briefer?

4236 Ms. TOENSING. Grenier. Robert Grenier.



4237 Chairman WAXMAN. And he was the briefer from the CIA?

4238 Ms. TOENSING. He said, I talked about Valerie Plame. I  
4239 talked about the wife with Scooter Libby and the Vice  
4240 President, but I didn't tell them that--this was on  
4241 cross-examination. He admitted that he had not said that her  
4242 status was either classified or covert.

4243 Mr. VAN HOLLEN. If I could, Mr. Chairman. Do you think  
4244 White House officials have any obligation at all to put aside  
4245 the legal obligation as stewards of our national security  
4246 when they find out that someone works for the Central  
4247 Intelligence Agency? Do you think they have any obligation  
4248 to citizens of this country to find out, before telling the  
4249 President about it, whether that disclosure would compromise  
4250 sensitive information? Do you think--as just citizens of  
4251 this country, wouldn't you want that to be the standard?

4252 Ms. TOENSING. I think the Press Secretary should always  
4253 tell what is accurate. The Press Secretary should always  
4254 tell what is accurate. I have no problem with that.

4255 Mr. VAN HOLLEN. Before somebody goes around saying this  
4256 person works for the CIA in a cavalier manner--obviously,  
4257 intentional manner to try to spread this information, don't  
4258 you think they have an obligation to the citizens of this  
4259 country to make--we are talking about the Iraq war, decisions  
4260 for going to war, whether or not Saddam Hussein was trying to  
4261 get nuclear weapons material. Before they disclosed the

4262 identity of somebody who works in the nuclear  
4263 nonproliferation area of the CIA, don't you think they have  
4264 some obligation for--and to demonstrate the good judgment to  
4265 find out if that would disclose sensitive information? That  
4266 is my question.

4267 Ms. TOENSING. Well, it could be, but I don't  
4268 particularly think that a red flag would go off. Because  
4269 those of us who work in government all the time know people  
4270 who work at the CIA and talk with people who are at the CIA,  
4271 so you wouldn't necessarily say--

4272 Mr. VAN HOLLEN. We don't all of us go around trying to  
4273 use that information with reporters for the purpose of  
4274 discrediting somebody.

4275 Ms. TOENSING. Let me say--do you want me to tell you my  
4276 experience? Because, as Mark has represented, people who are  
4277 covert--and I have asked them since all of this occurred,  
4278 well, would you ever have a desk job at being covert at  
4279 Langley? And they laugh at me. You know--I don't know. I  
4280 have never been covert. I have represented people, and this  
4281 is what they tell me.

4282 Chairman WAXMAN. The gentleman's time has expired.

4283 I want to thank both of you.

4284 Mr. Zaid, I had other questions for you. Let me ask you  
4285 one quick one.

4286 If you had clients like Fleischer and Martin and Libby

4287 | and Cheney and Rove, let s say they were worried because they  
4288 | disclosed information that they shouldn't have disclosed,  
4289 | wouldn't you tell them that they were treated a lot better  
4290 | than most people who disclosed classified information?

4291 |         Mr. ZAID. They are treated a lot better than many of my  
4292 | clients, some of whom who have testified before you like  
4293 | Lieutenant Colonel Anthony Shaffer, who did lose his security  
4294 | clearance and his job at the Defense Intelligence Agency for  
4295 | incurring \$67 in cellular phone bills and a couple of other  
4296 | petty issues like stealing pens from the U.S. Embassy when he  
4297 | was 14 years old 30 years ago. So, yes, I would say there is  
4298 | quite a number of people who have fared a great deal better  
4299 | than many of my clients. But if they want to hire me--I  
4300 | represent Republicans and Democrats--I don't have any  
4301 | problem.

4302 |         Chairman WAXMAN. As you should.

4303 |         Ms. TOENSING. Me, too.

4304 |         Chairman WAXMAN. Their double standard doesn't make any  
4305 | difference. You are counsel, and everything is entitled to  
4306 | representation.

4307 |         I want to thank you both for being here. Ms. Toensing,  
4308 | I have the pleasure to say we are pleased to accommodate the  
4309 | request of the minority to have you as a witness. Some of  
4310 | the statements you have made, without any doubt with great  
4311 | authority, I understand may not be accurate, so we are going

4312 | to check the information and we are going to hold the record  
4313 | open to put in other things that might contradict some of  
4314 | what you had to say.

4315 |         The only thing I will say is that when we heard from  
4316 | Mrs. Wilson and we have heard from Fitzgerald and I talked  
4317 | personally to General Hayden, they have a different view as  
4318 | to what is a protected agent than you do; and your knowledge  
4319 | is knowledge is based on writing the law 30 years ago.

4320 |         Ms. TOENSING. Don't date me that far. It was 25.

4321 |         Chairman WAXMAN. Well, we will check that fact out,  
4322 | also. But if I am incorrect, my apologies.

4323 |         The committee stands adjourned.

4324 |         [Whereupon, at 2:30 p.m., the committee was adjourned.]

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