

WHITE HOUSE PROCEDURES FOR SAFEGUARDING CLASSIFIED INFORMATION

HEARING

BEFORE THE

COMMITTEE ON OVERSIGHT
AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

MARCH 16, 2007

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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, DC.

The committee met, pursuant to notice, at 10:16 a.m., in room 2154, Rayburn House Office Building, Hon. Henry A. Waxman (chairman of the committee) presiding.

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

Staff present: Phil Schiliro, chief of staff; Phil Barnett, staff director and chief counsel; Kristin Amerling, general counsel; Karen Lightfoot, communications director and senior policy advisor; David Rapallo, chief investigative counsel; Roger Sherman, deputy chief counsel; Theo Chuang, deputy chief investigative counsel; Michael Gordon, senior investigative counsel; Susanne Sachsman, counsel; Molly Gulland, assistant communications director; Earley Green, chief clerk; Teresa Coufal, deputy clerk; Caren Auchman, press assistant; Zhongrui "JR" Deng, chief information officer; Bonney Kapp, fellow; David Marin, minority staff director; Larry Halloran, minority deputy staff director; Jennifer Safavian, minority chief counsel for oversight and investigations; Anne Marie Turner and Steve Castor, minority counsels; Christopher Bright, minority professional staff member; Nick Palarino, minority senior investigator and policy advisor; Patrick Lyden, minority parliamentarian and member services coordinator; Brian McNicoll, minority communications director; and Benjamin Chance, minority clerk.

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

In June and July 2003, one of the Nation's most carefully guarded secrets, the identity of a covert CIA agent, Valerie Plame Wilson, was repeatedly revealed by White House officials to members of the media.

This was an extraordinarily serious breach of our national security. President George W. Bush's father, the former President Bush said, "I have nothing but contempt and anger for those who exposed the names of our sources. They are, in my view, the most insidious of traitors."

Today we'll be asking three questions. One, how did such a serious violation of our national security occur? Two, did the White House take the appropriate investigative and disciplinary steps

after the breach occurred? And three, what changes in White House procedures are necessary to prevent future violations of our national security from occurring?

For more than 3 years Special Prosecutor Patrick Fitzgerald has been investigating the leak for its criminal implications. By definition, Mr. Fitzgerald's investigation had an extremely narrow criminal focus. It did not answer the broader policy questions raised by the release of Mrs. Wilson's identity. Nor did it seek to ascribe responsibility outside of the narrow confines of the criminal law.

As the chief investigative committee in the House of Representatives, our role is fundamentally different than Mr. Fitzgerald's. It is not our job to determine criminal culpability. But it is our job to understand what went wrong and to insist on accountability, and to make recommendations to avoid future abuses. We begin that process today.

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

My staff has also worked with the Agency to assure these remarks do not contain classified information.

I have been advised by the CIA that even now after all that has happened, I cannot disclose the full nature, scope, and character of Mrs. Wilson's service to our Nation without causing serious damage to our national security interests.

But General Hayden and the CIA have cleared these following comments for today's hearing.

During her employment at the CIA, Mrs. Wilson was undercover.

Her employment status with the CIA was classified information, prohibited by disclosure under Executive Order 12958.

At the time of the publication of Robert Novak's column on July 14, 2003, Mrs. Wilson's CIA employment status was covert. This was classified information.

Mrs. Wilson served in senior management positions at the CIA in which she oversaw the work for other CIA employees and she attained the level of GS-14, step 6 under the Federal pay scale. Mrs. Wilson worked on some of the most sensitive and highly secretive matters handled by the CIA. Mrs. Wilson served at various times overseas for the CIA.

Without discussing the specifics of Mrs. Wilson's classified work, it is accurate to say that she worked on the prevention of the development and use of weapons of mass destruction against the United States.

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

The disclosure of Mrs. Wilson's employment with the CIA had several serious effects. First, it terminated her covert job opportu-

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

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

Some have suggested that Mrs. Wilson did not have a sensitive position with the CIA or a position of unusual risk. As a CIA employee, Mrs. Wilson has taken a life-long oath to protect classified information even after her CIA employment has ended. As a result, she cannot respond to most of the statements made about her.

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

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

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

Once again our actions did not match our rhetoric. I want to thank Mrs. Wilson for the tremendous service she gave to our country and recognize the remarkable personal sacrifices that she and countless others have made to protect our national security.

You and your colleagues perform truly heroic work and what happened to you not only should never have happened, but we should all work to make sure it never happens again. Thank you very much.

[The prepared statement of Chairman Henry A. Waxman follows:]

**Statement of Rep. Henry A. Waxman
Chairman, Committee on Oversight and Government Reform Hearing
on Disclosure of CIA Agent Valerie Plame Wilson's Identity and White
House Procedures for Safeguarding Classified Information
March 16, 2007**

Today, the Committee is holding a hearing to examine how the White House handles highly classified information.

In June and July 2003, one of the nation's most carefully guarded secrets — the identity of covert CIA agent Valerie Plame Wilson — was repeatedly revealed by White House officials to members of the media.

This was an extraordinarily serious breach of our national security. President George W. Bush's father, the former President Bush, said — and I quote — “I have nothing but contempt and anger for those who ... expos[e] the name of our sources. They are, in my view, the most insidious, of traitors.”

Today, we will be asking three questions: (1) How did such a serious violation of our national security occur? (2) Did the White House take the appropriate investigative and disciplinary steps

after the breach occurred? And (3) what changes in White House procedures are necessary to prevent future violations of our national security from occurring?

For more than three years, a special prosecutor, Patrick Fitzgerald, has been investigating the leak for its criminal implications. By definition, Mr. Fitzgerald's investigation had an extremely narrow criminal focus. It did not answer the broader policy questions raised by the release of Ms. Wilson's identity. Nor did it seek to ascribe responsibility outside of the narrow confines of the criminal law.

As the chief investigative committee in the House of Representatives, our role is fundamentally different than Mr. Fitzgerald's. It is not our job to determine criminal culpability. But it is our job to understand what went wrong, to insist on accountability, and to make recommendations to prevent future abuses.

We begin this process today.

This hearing is being conducted in open session. This is appropriate, but it is also challenging.

Ms. Wilson was a covert employee of the CIA. We cannot discuss all of the details of her CIA employment in open session.

I have met with General Hayden, the head of the CIA, to discuss what I can and cannot say about Ms. Wilson's service.

My staff has also worked with the agency to ensure these remarks do not contain classified information.

I have been advised by the CIA that even now, after all that has happened, I cannot disclose the full nature, scope, and character of Ms. Wilson's service to our nation without causing serious damage to our national security interests.

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This was classified information.

Ms. Wilson served in senior management positions at the CIA, in which she oversaw the work of other CIA employees, and she attained the level of GS-14, step 6 under the federal pay scale.

Ms. Wilson worked on some of the most sensitive and highly secretive matters handled by the CIA.

Ms. Wilson served at various times overseas for the CIA.

Without discussing the specifics of Ms. Wilson's classified work, it is accurate to say that she worked on the prevention of the development and use of weapons of mass destruction against the United States.

In her various positions at the CIA, Ms. Wilson faced significant risks to her personal safety and her life.

She took on serious risks on behalf of her country.

Ms. Wilson's work in many situations had consequences for the security of her colleagues, and maintaining her cover was critical to protecting the safety of both colleagues and others.

The disclosure of Ms. Wilson's employment with the CIA had several serious effects.

First, it terminated her covert job opportunities with CIA.

Second, it placed her professional contacts at greater risk.

And third, it undermined the trust and confidence with which future CIA employees and sources hold the United States.

This disclosure of Ms. Wilson's classified employment status with the CIA was so detrimental that the CIA filed a crimes report with the Department of Justice.

As I mentioned, Ms. Wilson's work was so sensitive that even now, she is still prohibited from discussing many details of her work in public because of the continuing risk to CIA officials and assets in the field and to the CIA's ongoing work.

Some have suggested that Ms. Wilson did not have a sensitive position with the CIA or a position of unusual risk.

As a CIA employee, Ms. Wilson has taken a life-long oath to protect classified information, even after her CIA employment has ended.

As a result, she cannot respond to most of the statements made about her.

I want to make clear, however, that any characterization that minimizes the personal risk Ms. Wilson accepted in her assignments is flatly wrong.

There should be no confusion on this point.

Ms. Wilson has provided great service to our nation and has fulfilled her obligation to protect classified information admirably.

We are confident that she will uphold it again today.

That concludes the characterizations that the CIA is permitting us to make today.

To those comments, I want to add a personal note

For many in politics, praising the troops and those who defend freedom is second nature.

Often it's heartfelt ... sometimes it's cynical.

Almost always, we don't really know who they are ... we know they're out there, but they are abstract heroes.

Two weeks ago, we finally met some of them face to face when our committee visited Walter Reed. Every member was appalled at what we learned ... our treatment of the troops didn't match our rhetoric.

Thankfully, Mrs. Wilson hasn't suffered physical harm and faces much more favorable circumstances now than some of the soldiers we met.

But she too has been one of those people fighting to protect our freedom. And she, like thousands of others, was serving our country bravely and anonymously.

She didn't ask to have her identity revealed. But it was...repeatedly. And that was an inexcusable breach of the responsibility our country owes her. Once again our actions haven't matched our rhetoric.

I want to thank Mrs. Wilson for the tremendous service she gave to our country and recognize the remarkable personal sacrifices that she and countless others have made to protect our national security.

You and your colleagues perform truly heroic work and what happened to you not only should never have happened, but we should all work to make sure it never happens again.

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

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

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

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

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

Let's say, for example, a committee staff is told to identify a CIA witness for a hearing on security practices. He or she calls the Agency and asks to speak with official A. Official A is not in so the call is routed to official B, who identifies him or herself by name and title and answers the staffer's question. Thinking official B would be a fine witness, the staff then calls the Congressional Research Service or a friend at another committee to find out more about official B, but official B happens to be a covert agent. In passing the name, title and CIA affiliation around, has the staff member violated the law against disclosure? Probably not. But you would have to be looking through a pretty thick political prism to see an intentional unauthorized disclosure in that context, and that happened.

In the case of Mrs. Wilson, the majority stresses the fact the disclosure of her status triggered a crimes report by the CIA and the Justice Department. Allegations against White House officials and reporters were thoroughly vetted, but after spending 6 months and millions of dollars, the special counsel charged no one with violations of the Intelligence Identities Protection Act. The lack of pros-

ecution under the act show those disclosures probably occurred in a similarly nonintentional context, lacking the requisite knowledge of covert status or the intention to disclose that status without authorization.

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

The same law meant to protect secret identities also requires an annual report to Congress on the steps taken to protect the highly sensitive information. But we're told few if any such reports exist from the CIA. Who knows what information needs to be protected and how they are told. Is there a list officials can check against? Do CIA briefers know when material given to executive branch officials references a covert agent, or are they cautioned not to repeat the name? How is it made known, and to whom, when the 5-year protection period for formerly covert agents has elapsed?

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

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

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

[The prepared statement of Hon. Tom Davis follows:]

HENRY A. WAXMAN, CALIFORNIA
CHAIRMAN

TOM DAVIS, VIRGINIA
RANKING MINORITY MEMBER

ONE HUNDRED TENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
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WASHINGTON, DC 20515-6143

Majority (2007-2008) 5051
Minority (2007-2008) 5074

Statement of Rep. Tom Davis
Ranking Republican
Committee on Oversight and Government Reform
Hearing: *White House Procedures for Safeguarding Classified Information*
March 16, 2007

I want to begin by commending Chairman Waxman on the passage of important reform legislation this week. The House adopted bipartisan bills crafted in this Committee to strengthen the Freedom of Information Act, disclose donors to presidential libraries, expand access to presidential records and fortify whistleblower protections. Given those accomplishments, it seems sadly ironic we end Sunshine Week - the annual observance of open government -- with a partisan hearing on how best to keep secrets.

I have to confess, I'm not sure what we're trying to accomplish here given all the limitations the Chairman just described. Ostensibly called to examine White House procedures for handling and protecting classified information, this hearing's lead witness never worked at the White House. If Valerie Plame Wilson knows about security practices there, she certainly can't say much, if anything, about them in a public forum. But we do know she worked at the Central Intelligence Agency. That now well known fact raises some very different questions about how critical, but difficult, it is to protect the identity of individuals with covert status. But again, those are questions we probably can't say much about here without violating the very security safeguards the majority claims to be worried about at the White House.

Under these circumstances, perhaps a hypothetical case is the best way to describe the futility of trying to enforce the Intelligence Identity Protection Act in this decidedly non-judicial venue. Let's say a member of the committee staff is told to identify a CIA witness for a hearing on security practices. He, or she, calls the Agency and asks to speak with Official A. Official A is not in, so the call is routed to Official B, who identifies him or herself by name and title, and answers the staffer's questions. Thinking Official B would be a fine witness, the staff member then calls the Congressional Research Service, or a friend at another committee, to find out more about Official B. But Official B happens to be a covert agent.

*Statement of Rep. Tom Davis
March 16, 2007
Page 2 of 2*

In passing the name, title and CIA affiliation around, has the staff member violated the law against disclosure? Probably not. You'd have to be looking through a pretty thick political prism to see an intentional unauthorized disclosure in that context.

In the case of Mrs. Wilson, the majority stresses the fact that disclosure of her status triggered a "crimes report" by the CIA to the Justice Department. Allegations against White House officials and reporters were thoroughly vetted. But after spending six months and millions of dollars, the Special Counsel charged *no one* with a violation of the Intelligence Identities Protection Act. The lack of prosecutions under the Act shows those disclosures probably occurred in a similarly non-intentional context, lacking the requisite knowledge of covert status or the intention to disclose that status without authorization. No process can be adopted to protect classified information that no one knows is classified. Just as no one can be prosecuted for unauthorized disclosure of information that no one ever said was protected.

So this looks much more like a CIA problem than a White House problem. If the Agency doesn't take sufficient precautions to protect the identity of those engaged in covert work, no one else can do it for them. The same law meant to protect secret identities also requires an annual report to Congress on the steps taken to protect that highly sensitive information. We're told few, if any, such reports exists. Who knows what information needs to be protected and how are they told? Is there a list officials can check against? Do CIA briefers know when material given to executive branch officials references a covert agent, and are they cautioned not to repeat the name? How is it made known, and to whom, when the five year protection period for a formerly covert agent has elapsed? Those are the questions that need to be asked about the safeguards on classified information. But we won't hear from the CIA today in this open forum.

Given all that, I suspect we're going to waste considerable time today talking about all the things we can't talk about. It's unfortunate. Unfortunate an individual possibly still in a covert status was publicly identified. Unfortunate executive branch officials got anywhere near this media maelstrom rather than focus on more serious problems. And unfortunate this has become so politicized. On this side, we're not here to defend or attack anyone. In an open session, we hope to shed some sunshine on the workings of government. I have to say again, I'm not sure that's going to happen today, but I thank our witnesses for trying.

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

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

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

[Witness sworn.]

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

Mrs. Wilson, we're pleased to have you here. Thank you very much for coming to our committee today. And I want to recognize you for an opening statement. There is a button on the base of the mic. Be sure to press it in and pull it closely enough to you so you can be heard.

**STATEMENT OF VALERIE PLAME WILSON, FORMER
EMPLOYEE, CENTRAL INTELLIGENCE AGENCY**

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

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

Today I can tell this committee even more. In the run-up to the war with Iraq, I worked in the Counterproliferation Division of the CIA, still as a covert officer whose affiliation with the CIA was classified. I was to discover solid intelligence for senior policymakers on Iraq's presumed weapons of mass destruction programs. While I helped to manage and run secret worldwide operations against this WMD target from CIA headquarters in Washington, I also traveled to foreign countries on secret missions to find vital intelligence.

I loved my career because I love my country. I was proud of the serious responsibilities entrusted to me as a CIA covert operations officer, and I was dedicated to this work. It was not common knowledge on the Georgetown cocktail circuit that everyone knew where

I worked. But all of my efforts on behalf of the national security of the United States, all of my training, all of the value of my years of service were abruptly ended when my name and identity were exposed irresponsibly.

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

The CIA goes to great lengths to protect all of its employees, providing at significant taxpayer's expense painstakingly devised covers for its most sensitive staffers. The harm that is done when a CIA cover is blown is grave, but I can't provide details beyond that in this public hearing. But the concept is obvious. Not only have breaches of national security endangered CIA officers, it has jeopardized and even destroyed entire networks of foreign agents who, in turn, risk their own lives and those of their families to provide the United States with needed intelligence. Lives are literally at stake.

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

Within the CIA it is essential that all intelligence be evaluated on the basis of its merits and actual credibility. National security depends upon it. The trade craft of intelligence is not a product of speculation. I feel passionately as an intelligence professional about the creeping insidious politicizing of our intelligence process. All intelligence professionals are dedicated to the idea that they would rather be fired on the spot than distort the facts to fit a political view, any political view or any ideology.

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

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

The Congress has a constitutional duty to defend our national security and that includes safeguarding our intelligence. That is why

I am grateful for this opportunity to appear before this committee today and to assist in its important work.

Thank you. And I welcome any questions.

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

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

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

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

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

Mr. YARMUTH. Without destroying—or disclosing classified information, what does covert mean?

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

Mr. YARMUTH. And as you said and my understanding is that your work was classified for purposes of many regulations in the laws, and we're talking about your work was classified on that day, July 13.

Mrs. PLAME WILSON. That's correct.

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

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

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

Mrs. PLAME WILSON. That is correct.

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

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

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

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

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

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

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

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

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

Mrs. PLAME WILSON. I think it was—it had a very negative effect. If our government cannot even protect my identity, future foreign agents who might consider working with the Central Intelligence Agency and providing needed intelligence would think twice. Well, they can't even protect one of their own. How are they going to protect me? As well as the Agency is working very hard to attract highly talented young people into its ranks, because we do have profound challenges facing our country today. And I can't think that helped those efforts.

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

Chairman WAXMAN. You have 9 seconds.

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

Chairman WAXMAN. Thank you Mr. Yarmuth.

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

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

Our job on this committee is to find out how the breach happened. Now, I would like to show you a chart that we prepared on the committee. You will see it up on the screens, and we're putting it up here on paper. That chart is a graphic depiction of all the ways that your classified CIA employment was disclosed to White House officials and then to the press. Every colored block on that chart is an individual, and every arrow shows a disclosure of classified information. That classified information was your CIA employment status. And the arrows are based on the testimony in Mr.

Libby's criminal case and press reports. This chart shows over 20 different disclosures about your employment.

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

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

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

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

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

Mrs. PLAME WILSON. Absolutely not.

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

Mrs. PLAME WILSON. No.

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

Mrs. PLAME WILSON. No.

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

Mrs. PLAME WILSON. No.

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

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

Mrs. PLAME WILSON. Yes.

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

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

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

Mrs. PLAME WILSON. Yes, I do.

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

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

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

Mrs. PLAME WILSON. No, Congressman.

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

Chairman WAXMAN. Thank you, Mr. Hodes.

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

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

Mrs. PLAME WILSON. No, Chairman.

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

Mrs. PLAME WILSON. No.

Chairman WAXMAN. Thank you. Mr. Davis.

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

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

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

Mr. DAVIS OF VIRGINIA. But you don't have—I think one of the issues here was not that you worked for the CIA, because that was obviously widely known in the administration, but for the crime to have been committed, they had to have known you were covert, and you don't have any direct linkage that they knew you were covert at that point.

Mrs. PLAME WILSON. Again, Congressman. I am not a lawyer, but as I said—

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

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

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

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

Mr. DAVIS OF VIRGINIA. I mean,—look, the CIA is supposed to report to Congress each year on the steps taken to protect this highly sensitive information. And I am told few, if any, reports are even filed. So I think there is a responsibility from the CIA, and I think

what is missing and I think from—at least from a criminal perspective, not from a policy but from a criminal perspective, that the special prosecutor in this case looked at that and found that the people who may have been saying this didn't know that you were covert, and you didn't have any evidence to the contrary?

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

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

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

Mr. DAVIS OF VIRGINIA. The Intelligence Identities Protection Act makes it a crime to knowingly disclose the identity of a covert agent, which has a specific definition under the act. Did anyone ever tell you that you were so designated?

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

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

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

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

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

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

Mrs. PLAME WILSON. No.

Mr. DAVIS OF VIRGINIA. OK. Since the disclosure of your identity, have you been offered other positions within the CIA?

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

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

Mrs. PLAME WILSON. No.

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

Mrs. PLAME WILSON. Yes.

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

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

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

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

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

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

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

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

Mr. DAVIS OF VIRGINIA. OK. Would they have known that you were—would they have had any reason to have known you were undercover or—

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

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

Mrs. PLAME WILSON. I understand.

Let me just ask, try to put some of the speculation to rest and give you an opportunity to answer. In January 2004, Vanity Fair published an article, not always known for great accuracy, touching on your role in the Niger uranium affair. It said—this is what they said: In early May, Wilson and Plame attended a conference sponsored by the Senate Democratic Policy Committee at which Wilson spoke about Iraq—one of the other panelists was New York Times journalist Nicholas Kristof—over breakfast the next morning. It was Kristof and his wife Wilson told about his trip to Niger and said Kristof could write about it but not name him. Is that account accurate?

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

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

Mrs. PLAME WILSON. Briefly. Yes, Congressman.

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

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

Mr. DAVIS OF VIRGINIA. OK. What about your husband? Would he have been one of the sources?

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

Mr. DAVIS OF VIRGINIA. OK. Was any of that information classified to your knowledge?

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

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

Chairman WAXMAN. Thank you very much.

Mr. CUMMINGS for 5 minutes.

Mr. CUMMINGS. Thank you very much.

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

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

Mrs. PLAME WILSON. Congressman, thank you for the opportunity. I know I am here under oath, and I am here to say that I was a covert officer of the Central Intelligence Agency. Just like a general is a general whether he is in the field in Iraq or Afghanistan, when he comes back to the Pentagon, he is still a general. In the same way, covert operations officers who are serving in the field, when they rotate back for a temporary assignment in Washington, they too are still covert.

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

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

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

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

The CIA cleared these statements. I emphasize all of this because I know that there are people who are still trying to suggest that what seems absolutely clear isn't really true and that you weren't covert. And I think one of the things we need to do in this hearing is make sure there isn't any ambiguity on this point.

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

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

Mr. CUMMINGS. No. 2, the Identities Protection Act refers to travel outside the United States within the last 5 years. Let me ask you this question. Again, we don't want classified information, dates, locations or any other details. During the past 5 years, Ms. Plame, from today, did you conduct secret missions overseas?

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

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

Mrs. PLAME WILSON. That is correct, Congressman.

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

Chairman WAXMAN. Thank you very much Mr. Cummings. Mr. Westmoreland.

Mr. WESTMORELAND. Thank you, Mr. Chairman. And I am glad Mr. Cummings asked those questions because I was going to ask them, too.

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

Mrs. PLAME WILSON. I have never testified before.

Mr. WESTMORELAND. I'm sorry?

Mrs. PLAME WILSON. I have never testified under oath before.

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

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

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

Mr. WESTMORELAND. Now, did you just discuss this among yourself if you were classified or covert? Because I am assuming that you couldn't discuss it with anybody outside the Agency. So was it kind of like y'all sat around the break room and said, I am covert or I am classified? Or if I was going to tell somebody, what I would tell somebody?

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

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

Mrs. PLAME WILSON. Oh, absolutely, absolutely.

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

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

Mr. WESTMORELAND. OK. And I'm assuming one of those was your husband.

Mrs. PLAME WILSON. That's—yes, he did know.

Mr. WESTMORELAND. Did he know if you were covert or classified or—

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

Mr. WESTMORELAND. OK. And this is the one last—are we going to have another round of questions, Mr. Waxman, do you think? Or—

Chairman WAXMAN. Well, we do have other panels. I guess if Members wish them.

Mr. WESTMORELAND. I mean, I'm just trying—

Chairman WAXMAN. You have a minute and 48 seconds.

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

Mrs. PLAME WILSON. Yes, Congressman. At the time that picture came out, my covert status was long gone. And I will say this: Having lived most of my life very much under the radar, my learning curve was steep, and it was more trouble than it was worth.

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

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

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

Mrs. PLAME WILSON. Congressman, I attended that conference simply as a spouse of my husband, who was invited to speak. He

had been invited to speak because he had quite a bit of experience on Iraq, having served the first President Bush as the Chargé D’Affairs at our Embassy in Baghdad during the first Gulf war and negotiated the release of the hostages with Saddam Hussein and so forth. And he was asked to attend in that capacity. I had no discussions other than purely social in nature.

Chairman WAXMAN. Thank you, Mr. Westmoreland. Your time has expired. Mr. Kucinich.

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

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

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

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

Mr. KUCINICH. Because, Mr. Chairman, you know, do leaks occur of agents’ identities? It does happen?

Mrs. PLAME WILSON. I’m sorry, Congressman?

Mr. KUCINICH. Have there been in the past leaks of an agent’s identity?

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

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

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

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

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

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

Mrs. PLAME WILSON. Absolutely.

Mr. KUCINICH. And one of the things that keeps running through my mind is why, why did this happen to you? Was it an unintentional mistake or is it part of a larger pattern? In recent weeks we’ve learned that U.S. attorneys in all parts of the country were fired despite exemplary service, and several of these attorneys tes-

tified to Congress that they were being pressured to pursue cases against Democratic officials. Others believe that they were fired because they were pursuing cases against Republican officials. Have you followed this issue?

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

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

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

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

Mrs. PLAME WILSON. I believe I have read that. Yes, sir.

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

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

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

Mrs. PLAME WILSON. Yes, I was.

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

Now according to the book, Joe Wilson was upset and said he regarded the leak as a warning to others. "Stories like this are not intended to intimidate me, since I have already told my story. But it is pretty clearly intended to intimidate others who might come forward. You need only look at the stories of intelligence analysts who say they've been pressured. They may have kids in college who may be vulnerable to these types of smears." Is this what you think was going on here?

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

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

Mrs. PLAME WILSON. Yes, it is.

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

Mr. KUCINICH. Thank you very much.

Chairman WAXMAN. Ms. Watson.

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

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

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

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

Let me give you an actual example.

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

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

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

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

Is it your understanding that the Executive order governing the safeguarding of classified information prohibits the disclosure of classified information to persons who are not authorized to receive this information?

Mrs. PLAME WILSON. Yes. Correct.

Ms. WATSON. "Yes" is the answer?

Mrs. PLAME WILSON. Yes, Congresswoman.

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

Mrs. PLAME WILSON. Yes, it is.

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

Mrs. PLAME WILSON. No, Congresswoman.

Ms. WATSON. So I think your testimony underscores the efforts to minimize the significance of the disclosure of your employment status or, in effect, minimizing the importance of the classified information, rules designed to protect our national security. And I am infuriated to continue to hear, “She just had a desk job,” because I understand, I have been there, I have had the training, and I want to thank you sincerely for the work that you have done in regards to the protection of Homeland Security and showing the love for this country.

Thank you very much.

Mrs. PLAME WILSON. Thank you, Congresswoman.

Chairman WAXMAN. Thank you, Ms. Watson.

Mr. Lynch.

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

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

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

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

And going to those couple of issues, first of all, the integrity of the process by which we get our information was affected greatly, I think, in the terms of other agents may have been very disheartened and troubled by what happened to you. And in an effort to discount your husband’s credibility, the question was raised, and it has been continually raised, of whether you were involved in the decision by the CIA to actually send your husband, Ambassador Joseph Wilson, to Niger in February 2002 to obtain information on the allegations that Iraq sought uranium from Niger—they sort of said, “Oh, her. His wife sent him,” like my wife sends me out to

put out the trash, you know—tried to discount the import of that. At least I admit it.

Now I want to ask you, the suggestion that you were involved in sending your husband seemed to drive the leaks in an effort to discount his credibility. I want to ask you now under oath, did you make the decision to send Ambassador Wilson to Niger?

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

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

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

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

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

She came to me, and as she was telling me this, what had just happened, someone passed by. Another officer heard this. He knew that Joe had already—my husband had already gone on some CIA missions previously to deal with other nuclear matters. And he suggested well, why don't we send Joe?

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

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

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

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

Mr. LYNCH. If I could followup because—just 30 seconds.

Chairman WAXMAN. Without objection.

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

There were three Republican Senators who included a more definitive statement, it said, "The plan to send the former Amba-

sador to Niger was suggested by the former Ambassador's wife, a CIA employee."

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

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

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

Chairman WAXMAN. Thank you, Mr. Lynch.

Mr. Yarmuth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. VAN HOLLEN. Thank you.

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

The unclassified Senate report asserts that the Counterproliferation Division report officer told the committee staff that the former Ambassador's wife, you, offered up his name. Are you familiar with that statement in the unclassified—

Mrs. PLAME WILSON. Yes, I am.

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

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

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

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

Mrs. PLAME WILSON. Absolutely. Yes, sir.

Mr. VAN HOLLEN. Mr. Chairman, it seems to me that this committee should ask for that memo. It bears directly on the credibility of the Senate report on this very, very important issue that they have attempted to use to discredit Ambassador Wilson's mission.

Chairman WAXMAN. I think the gentleman makes an excellent point, and we will insist on getting that memo.

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

Chairman WAXMAN. Mr. Hodes, you are next.

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

Chairman WAXMAN. Mr. Sarbanes.

Mr. SARBANES. Thank you, Mr. Chairman.

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

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

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

And to me what you have experienced is really the result of the syndrome that has developed in this administration which reflects the arrogance of power run amok.

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

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

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

Mr. SARBANES. OK. But at the point that they were prepared to surrender your covert status to the public, I mean, what was to be gained by that? I mean, can you—was it to apply further leverage? I mean, really it was sort of after the fact at that point, right?

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

Mr. SARBANES. It strikes me as petulant behavior on their part. Second, there is a suggestion being made that your status could have been divulged sort of accidentally. But you have described efforts, structural efforts, that are designed to make sure that this doesn't happen accidentally. And so could you comment on that?

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

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

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

Mr. SARBANES. And then last, again, I'm trying to get—because this is more than—it's more than a story about Valerie Plame Wilson and what happened to you, as devastating as it has been to your life over these last period of months. It's about our Intelligence Community. And you spoke yourself to how this kind of conduct can affect the integrity and effectiveness of our intelligence apparatus.

Can you comment on the chilling effect, if you will, on what the message it sends to people, to those, for example, who would be sent on a mission to collect intelligence about a subject that the White House might already have a very strong opinion about. How would it affect the way that agent, the way that person would check that information and get that information back up the chain?

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

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

Thank you very much.

Chairman WAXMAN. We have gone back and forth, and, rather than a second round, Mr. Davis and I have agreed that we will have 5 minutes wrap-up on each side; 5 minutes will be controlled by the chairman and the ranking member.

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

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

Mr. WESTMORELAND. Thank you, Mr. Chairman.

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

But Ms. Wilson, the Counterproliferation Division of the CIA, that seems like a pretty important place where a bunch of smart

people would work and keep good records. Would that—would I be OK in thinking that?

Mrs. PLAME WILSON. Yes, Congressman.

Mr. WESTMORELAND. But in the Senate Intel report that I have that says some CPD officials could not recall how the Office decided to contact the former Ambassador, was this a voluntary lack of memory or were there no notes kept on it? Is it—how could they forget how they came about a name that they were fixing to send to a foreign country to check on the intelligence of Iraq getting material to build nuclear bombs? That seems a little bit far-fetched to me.

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

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

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

Mrs. PLAME WILSON. Congressman, I believe one of the pieces of evidence that was introduced in the Libby trial was an INR memo of that meeting where it states, in fact, my husband was not particularly looking forward to—he didn't think it was necessary. There had been, I believe, at least two other reports, one by a three-star general and one by the Ambassador there on the ground who said there wasn't really much of this allegation. And the INR folks that attended the meeting also said well, we are not sure that this is really necessary.

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

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

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

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

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

Mrs. PLAME WILSON. What I would say that's most accurate is most of the employees at the Counterproliferation Division are undercover of some sort.

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

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

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

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

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

Mrs. PLAME WILSON. Congressman, I am not sure that is—

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

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

Mr. WESTMORELAND. You are a Democrat.

Mrs. PLAME WILSON. Yes, I am.

Mr. WESTMORELAND. So the Vice President, who is a Republican, who evidently thought from his CIA briefing that he had gotten 1 day, felt like that this needed to be looked at further, the report that Niger was selling this yellow cake uranium to Iraq, that he would get some further intel on it. They called the Counterproliferation—or at least somebody in the CIA—and then we had a Democrat or at least supposedly someone who may be affiliated on the Democratic side—represent her, or present or supposedly present or at least vouch for her husband who was—who had come from a good Republican family that had lost his way and became a Democrat.

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

Mrs. PLAME WILSON. That is correct, Congressman.

Chairman WAXMAN. The gentleman's time has expired.

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

Mr. WESTMORELAND. No.

I guess, Mr. Chairman, my last comment would be to you that I still think it is a shame that—we have Ms. Wilson here and all of the press came and all of these good people came to witness all of this, and it's been quite a spectacle—that we wouldn't get to ask all of the questions that we had.

Mr. DAVIS OF VIRGINIA. I think what is clear here is, first of all, it is a terrible thing that any CIA operative would be outed. But

what is difficult, I think, what we haven't been able to establish is who knew who was undercover and who was in a covert status. And I think we would have to look at that. But if there is no evidence here that the people that were outing this and pursuing this, had knowledge of the covert status—And so I just wanted to make that point.

Mrs. PLAME WILSON. Thank you, Congressman.

Chairman WAXMAN. Thank you, Mr. Davis.

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

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

I am trying to understand the effect of the Executive order, because there is an Executive order that is Executive Order 12958. It is an Executive order, a Presidential Executive order, that indicates what authorized—what the requirements are to prevent unauthorized disclosures.

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

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

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

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

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

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

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

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

Mrs. PLAME WILSON. Absolutely, Congresswoman.

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

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

Mrs. PLAME WILSON. Yes, it has.

Ms. NORTON. If, in fact, an official of any kind did not have an official reason to know your status, in your view would that be a

violation of the Executive order which lists official need to know as a reason for having classified information?

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

Ms. NORTON. So you think it would be.

Mrs. PLAME WILSON. It would be a violation.

Ms. NORTON. One of my colleagues questioned you regarding the accusation that over and over again was repeated in the press, and, for that matter, by a number of public officials, that it was you who was responsible for your husband's being selected to go on the controversial trip at issue.

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

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

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

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

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

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

Chairman WAXMAN. Mr. Davis.

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

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

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

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

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

Mrs. PLAME WILSON. I have no idea.

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

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

Mrs. PLAME WILSON. That is correct.

Mr. DAVIS OF VIRGINIA. Thank you.

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

Facts are not Republican or Democratic. Your husband revealed the falsehood of the reason the President gave to go to war against Saddam Hussein in Iraq. And the reason he gave, even in his State of the Union address, was that the weapon of mass destruction that Saddam Hussein had, or would soon have, is a nuclear bomb. That was very sobering, but it was false.

Mrs. PLAME WILSON. Uh-huh.

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

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

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

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

Either way, I don't think it speaks well for all of those people in the White House to have gone out of their way to let the press know this information which was the only, I guess, the only thing they had to say.

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

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

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

Ms. WATSON. A question to the Chair.

Chairman WAXMAN. Yes.

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

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

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

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

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

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

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

Mr. DAVIS OF VIRGINIA. In the President's speech—and I have to say this—in the President's speech when he mentioned the uranium, those words were cleared by the CIA. It may not have been in accordance with what Mr. Wilson found, but Ms. Plame's boss approved that. And I think the record should reflect that.

Chairman WAXMAN. Before I call on anybody else.

Yes, Mr. Hodes.

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

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

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

I thank all of the Members for their participation. I wish we had all of the Members here to participate, but all of those Members were invited and had adequate notice, but this is a Friday.

Thank you so much for being here.

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

Chairman WAXMAN. We are going to recess for 4 or 5 minutes just so we can settle down and get the next witnesses up and take care of whatever pressing matters that need to be attended to.

[Recess.]

Chairman WAXMAN. The committee will come back to order.

I am pleased to welcome our next two witnesses. Dr. James Knodell is the security officer for the Executive Office of the President. According to GAO, this position is, "responsible for formulating and directing the execution of security policy, reviewing and evaluating Executive Office of the President security programs, and conducting security indoctrinations and debriefings for agencies of the Executive Office of the President."

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

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

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

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

[Witnesses sworn.]

Chairman WAXMAN. The record will indicate that the witnesses answered in the affirmative.

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

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

STATEMENT OF JAMES KNODELL

Mr. KNODELL. Thank you, Mr. Chairman.

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

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

OSEP works closely with the U.S. Secret Service, National Security Council, and the White House Military Office as well as EOP managers and all personnel assigned to the EOP to ensure their security measures are well coordinated and that required controls are consistently and fully implemented.

OSEP provides a variety of services that ensure the proper protection of EOP resources including information, people, and facilities. These services include prescreening candidates for employment based on security guidelines, monitoring the background in-

vestigation process, briefing employees on requirements and guidelines for the handling and storage of classified material.

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

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

Executive Order 12958, Classified National Security Information, dated April 17, 1995, prescribes a uniform system for classifying, safeguarding, and declassifying national security information.

OSEP staff members brief all new EOP employees on the responsibilities for handling and securing classified information consistent with these Executive orders. Additionally, mandatory annual refresher security briefings are provided to those EOP employees holding security clearances. In the event that an EOP employee fails to follow applicable guidelines resulting in a security violation, a member of the EOP office to which the individual's assigned should report the matter to OSEP.

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

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

Thank you.

Chairman WAXMAN. Mr. Leonard.

STATEMENT OF J. WILLIAM LEONARD

Mr. LEONARD. Thank you, Mr. Chairman.

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

I direct the Information Security Oversight Office [ISOO]. Under Executive Order 12958, as amended, we have substantial responsibilities with respect to the classification, safeguarding, and declassification of information by agencies within the executive branch. Included is the responsibility to develop and promulgate a directive implementing the order.

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

In delegating classification authority, the President has established clear parameters for its use and certain burdens that must be satisfied.

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

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

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

The order and directive go on to establish requirements for access to classified information, such as the need for a favorable access eligibility determination by an agency, as well as the execution of an approved nondisclosure agreement.

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

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

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

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

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

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

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

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

Chairman WAXMAN. Thank you very much.

[The prepared statement of Mr. Leonard follows:]

FORMAL STATEMENT

J. William Leonard

Director, Information Security Oversight Office

National Archives and Records Administration

before the

Committee on Oversight and Government Reform

U.S. House of Representatives

March 16, 2007

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

By section 5.2 of Executive Order 12958, as amended, "Classified National Security Information" (the Order), the President established the organization I direct, the Information Security Oversight Office, often called "ISOO." We are within the National Archives and Records Administration and by law and Executive order (44 U.S.C. 2102 and sec. 5.2(b) of E.O. 12958) are directed by the Archivist of the United States, who appoints the Director of ISOO, subject to the approval of the President. We also receive policy guidance from the Assistant to the President for National Security Affairs. Under the Order and applicable Presidential guidance, ISOO has substantial responsibilities with respect to the classification, safeguarding, and declassification of information by agencies within the executive branch. Included is the responsibility to develop and promulgate directives implementing the Order. We have done this through ISOO Directive No. 1 (32 CFR Part 2001) (the Directive).

It is the Order that sets forth the basic framework and legal authority by which executive branch agencies may classify national security information. Pursuant to his constitutional authority, and through the Order, the President has authorized a limited number of officials to apply classification to certain national security related information. In delegating classification authority the President has established clear parameters for its use and certain burdens that must be satisfied.

Specifically, every act of classifying information must be traceable back to its origin as an explicit decision by a responsible official who has been expressly delegated original classification authority. In addition, the original classification authority must be able to identify or describe the damage to national security that could reasonably be expected if the information was subject to unauthorized disclosure. Furthermore, the information

must be owned by, produced by or for, or under the control of the U. S. Government; and finally, it must fall into one or more of the categories of information specifically provided for in the Order.¹

The President has also spelled out in the Order some very clear prohibitions and limitations with respect to the use of classification. Specifically, for example, in no case can information be classified in order to conceal violations of law, inefficiency, or administrative error, to restrain competition, to prevent embarrassment to a person, organization, or agency, or to prevent or delay the release of information that does not require protection in the interest of national security.

It is the responsibility of officials delegated original classification authority to establish at the time of their original decision the level of classification (Top Secret, Secret, and Confidential), as well as the duration of classification, which normally will not exceed ten years but in all cases cannot exceed 25 years unless an agency has received specific authorization to extend the period of classification.

In order to ensure the proper identification and protection of classified information, the Order and Directive prescribe standard markings to be applied to classified information, as well as the preparation and use of classification guides to facilitate the proper and uniform derivative classification of information.

The Order and Directive go on to establish requirements for access to classified information, such as the need for a favorable access eligibility determination by an agency as well as the execution of an approved nondisclosure agreement. The Order and Directive also promulgate minimum standards for the safeguarding of classified information addressing such issues as its storage, reproduction, transmission and destruction. They also establish actions to take in the event of the loss, possible compromise or unauthorized disclosure of classified information. This includes the prompt reporting and investigation of such instances in order to implement appropriate corrective actions and to ascertain the degree of damage to national security.

While, as stated earlier, it is the responsibility of the original classification authority to determine the duration of classification, a fundamental principle of the Order is that classified information shall be declassified as soon as it no longer meets the standards for classification. In addition, while the Order presumes that information that continues to

¹ Pursuant to § 1.4 of the Order, information shall not be considered for classification unless it concerns: (a) military plans, weapons systems, or operations; (b) foreign government information; (c) intelligence activities (including special activities), intelligence sources or methods, or cryptology; (d) foreign relations or foreign activities of the United States, including confidential sources; (e) scientific, technological, or economic matters relating to the national security, which includes defense against transnational terrorism; (f) United States Government programs for safeguarding nuclear materials or facilities; (g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism; or (h) weapons of mass destruction.

meet the standards for classification requires continued protection, it provides for exceptional cases in which the need to protect such information may be outweighed by the public interest in disclosure of the information. In such circumstances, an agency head or designated agency official may, as an exercise of discretion, declassify the information.

In addition to the above, classified information can become declassified in one of three ways: i) by implementing the instructions set forth in a classification/declassification guide; ii) following review by an authorized official; and iii) automatically without benefit of review. Automatic declassification occurs either based upon a specific date or event determined by the original classification authority or based upon the expiration of the maximum time frame (i.e. either 25 years or more, if properly exempted).

Finally, the Order and Directive establish specific responsibilities for agencies in establishing an effective classification management program, which touch on a number of key concepts relating to classification, safeguarding, and declassification of information relating to the national security.

Again, I thank you for inviting me here today, Mr. Chairman, and I would be happy to answer any questions that you or the committee might have.

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

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

Mr. KNODELL. That is correct.

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

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

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

Mr. KNODELL. Yes, it is.

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

Mr. KNODELL. Yes, sir.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. KNODELL. I am not.

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

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

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

Mr. KNODELL. Since August 2004.

Chairman WAXMAN. Two and a half years. Were you aware in the last 2½ years that this was an issue for which there was a lot of concern?

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

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

Mr. KNODELL. Through the press.

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

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

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

Chairman WAXMAN. So if you were notified, a report would be on file. Is that right?

Mr. KNODELL. Correct.

Chairman WAXMAN. You don't know if there's one on file. Is that correct, you don't even know there's one on file?

Mr. KNODELL. There is not one on file.

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

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

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

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

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

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

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

Mr. KNODELL. No, Mr. Chairman.

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

Mr. KNODELL. No action was taken.

Chairman WAXMAN. Thank you. Mr. Davis.

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

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

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

We were informed only yesterday of the addition of two witnesses to today's, which doesn't generally allow us the time to prepare that we would ordinarily like.

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

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

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

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

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

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

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

Mr. DAVIS OF VIRGINIA. How about an individual?

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

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

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

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

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

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

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

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

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

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

I'm just wondering what is the obligation of a recipient agency at that point to ask appropriate questions, or should the obligation be on the CIA affirmatively to protect their employees. That's really the question here. Because we have heard no testimony in the first panel that there was any knowledge on the part of anybody who was passing this information that Mrs. Plame was in a covert status. Had there been, I think we would have seen the investigation turn out differently at this point.

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

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

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

Mr. DAVIS OF VIRGINIA. How would they do it; say don't do this? Because when you say don't do this to the press—

Mr. KNODELL. Because they have the classified information, they can have them sign a nondisclosure agreement barring them from—

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

Mr. LEONARD. They do.

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

Mr. LEONARD. Would you agree with that?

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

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

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

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

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

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

Thank you.

Chairman WAXMAN. Thank you, Mr. Davis.

Mr. Cummings.

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

Mr. Knodell, let me—is it Knodell?

Mr. KNODELL. Yes.

Mr. CUMMINGS. Let me ask you a few questions because in answering some of the chairman's questions you left me shocked. I want to make sure I heard you right.

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

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

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

Mr. KNODELL. Not by my office.

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

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

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

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

Mr. KNODELL. Correct.

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

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

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

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

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

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

Mr. CUMMINGS. Now—

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

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

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

Chairman WAXMAN. Ever.

Mr. KNODELL. I do not.

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

Mr. KNODELL. Not within my office.

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

Mr. KNODELL. Yes, the outside investigation.

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

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

Chairman WAXMAN. Thank you.

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

Mr. CUMMINGS. I yield.

Mr. DAVIS OF VIRGINIA. Would the initiative of a criminal investigation relieve those who made these disclosures of the obligation to report to you that by forcing them to disclose could violate their fifth amendment rights?

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

Mr. CUMMINGS. Reclaiming my time, if Mr. Rove, for example, the No. 1 adviser to the President of the United States, received this information or had anything to do with the disclosing of a covert agent's identity and now we have a situation where it appears that the criminal trial is over, would your agency have anything, I mean your office have anything to do now or do you just close the books and say it's over?

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

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

Mr. KNODELL. Yes.

Mr. CUMMINGS. Even today.

Mr. KNODELL. At the time of the occurrence.

Mr. CUMMINGS. I'm sorry?

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

Mr. CUMMINGS. All right. Thank you.

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

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

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

Am I stating things correctly, Mr. Leonard?

Mr. LEONARD. Mr. Chairman, as you point out, whenever there is suspected an unauthorized disclosure or compromise, there is an affirmative responsibility to do an inquiry at the very least to im-

plement corrective actions so that subsequently additional and similar violations do not continue to occur and also to be able to ensure that any potential damage to national security is assessed. Part of the assessment of corrective action is also the assessment of the need for sanctions.

Chairman WAXMAN. Right after the Novak column appeared there was an outrage that this was disclosing a covert agent. Not only that, the CIA was so angered by it that they wrote a letter to the Justice Department demanding an investigation. And in light of this, which took place immediately after the information that the leak was disclosed, the White House still has not initiated an investigation.

Am I correct in that statement, Mr. Knodell?

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

Chairman WAXMAN. Thank you. Ms. Watson.

Ms. WATSON. Thank you.

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

Mr. KNODELL. Yes, ma'am.

Ms. WATSON. Executive Office of the President?

Mr. KNODELL. Yes, ma'am.

Ms. WATSON. The White House.

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

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

Mr. KNODELL. I started this position in August 2004.

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

The investigation that was led by Special Counsel Patrick Fitzgerald revealed that a number of White House officials, including former Chief of Staff of the Vice President, Lewis Scooter Libby, Senior Adviser to the President, Carl Rove, and the White House Press Secretary Ari Fleischer, discussed and disclosed information concerning Ms. Wilson's CIA employment status.

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

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

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

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

Mr. KNODELL. I cannot.

Ms. WATSON. You have been on since when?

Mr. KNODELL. August 2004.

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

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

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

Mr. KNODELL. That's correct.

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

Mr. KNODELL. That's correct.

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

Mr. KNODELL. That's correct.

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

I think the reason why the intelligence was so faulty and we went to war against a sovereign nation was because of the failure in your office and the CIA to have accurate information.

Thank you, Mr. Chairman, for this time.

Chairman WAXMAN. Thank the gentlelady.

Mr. Van Hollen.

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

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

Mr. KNODELL. We would not run a collateral investigation.

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

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

Mr. VAN HOLLEN. What is the case?

Mr. KNODELL. An investigation should be done.

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

Mr. KNODELL. Correct.

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

Mr. KNODELL. That's correct.

Mr. VAN HOLLEN. Clearly the standard in the criminal investigation like this one, one of the questions was whether people had knowledge of whether there was a covert—someone was a covert operative. But the standard as I understand for your purposes is

simply a question of whether classified information was disclosed. Isn't that right?

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

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

Mr. KNODELL. Correct.

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

Mr. KNODELL. That's right.

Mr. VAN HOLLEN. My question, and I understand a little time has lapsed, but given what you just testified to, why aren't you undertaking an investigation today? These are all now publicly disclosed information, publicly disclosed classified information by officials in the White House. You have said it is not the policy to suspend an administration proceeding pending a criminal investigation. It is very possible that people, and it looks very likely that people clearly leaked classified information. Why aren't we taking an investigation today?

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

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

Mr. KNODELL. No, sir.

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

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

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

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

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

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

Mr. KNODELL. That's right.

Mr. VAN HOLLEN. I know other Federal officials have routinely lost their security clearances pending investigations into potential leaks of classified information and without even the case when criminal charges were not filed.

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

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

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

Thank you, Mr. Chairman.

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

Mr. DAVIS OF VIRGINIA. To clarify, my understanding is the leak occurred on July 13th, and within the month, I don't know if it was July 14th but certainly in July, we know the CIA made their referral to the Justice Department. So it was immediately under investigation by the Justice Department.

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

Mr. KNODELL. That's my understanding.

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

Mr. KNODELL. Correct.

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

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

Mr. LEONARD. That would be correct.

Mr. DAVIS OF VIRGINIA. Thank you.

Chairman WAXMAN. Before I recognize Mr. Hodes, the President of the United States made statements when this hit the press that he was outraged and he was going to be conducting an investigation and heads would roll. He said if anybody in the White House disclosed this information about a covert agent, that person would be fired. Later he modified and said they would have to be convicted of a crime. But it turns out that the President didn't even ask anybody to do an investigation. If he wanted to get the truth all he had to do was call Carl Rove and Ari Fleischer and Scooter

Libby and all these people into his office and say, hey, how did this information get out, who did it?

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

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

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

Mr. Hodes.

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

Mr. LEONARD. Yes, sir.

Mr. Knodell. Yes, sir.

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

Mr. KNODELL. Correct.

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

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

Mr. HODES. I'm sorry?

Mr. KNODELL. Career employee.

Mr. HODES. Are you an attorney?

Mr. KNODELL. I am not.

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

Mr. KNODELL. Jeffrey Thompson.

Mr. HODES. Where is he now?

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

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

Mr. KNODELL. No, sir.

Mr. HODES. Let me ask you this, what discussions, if any have you had with the President of the United States about initiating an investigation into the now clear, obvious security breaches that have occurred?

Mr. KNODELL. None.

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

Mr. KNODELL. None.

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

Mr. KNODELL. None.

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

Mr. KNODELL. I have had no conversations.

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

Mr. KNODELL. That's correct.

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

Mr. KNODELL. Yes, sir, I am.

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

Mr. KNODELL. I report to several people.

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

Mr. KNODELL. I report to Tom Dryer.

Mr. HODES. Who is he?

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

Mr. HODES. For what?

Mr. KNODELL. For the Office of Administration.

Mr. HODES. Do you report to anybody else?

Mr. KNODELL. He's my direct report.

Mr. HODES. Who does he report to?

Mr. KNODELL. He reports to Sandra Evans.

Mr. HODES. Who's Sandra Evans?

Mr. KNODELL. Operations Officer. I'm sorry, within OA. And then the COO reports to Mr. Allen Swindeman, he's the Director of OA.

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

Mr. KNODELL. Mr. Swindeman is our Director.

Mr. HODES. He reports to the White House?

Mr. KNODELL. He is a political appointee.

Mr. HODES. Do you agree with me, Mr. Knodell, that the NIE is a classified document?

Mr. KNODELL. Pardon me?

Mr. HODES. Do you agree that the National Intelligence Estimate before it is declassified is a classified document?

Mr. KNODELL. Yes, sir.

Mr. HODES. Are there procedures for declassifying the National Intelligence Estimate?

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

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

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

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

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

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

Mr. KNODELL. Yes.

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

Mr. KNODELL. Yes.

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

Mr. KNODELL. It could be, certainly.

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

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

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

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

Can you explain to this panel how if Mr. Libby had authority from the President or the Vice President to declassify the NIE on July 8th, the administration continued to claim that it was classified for 10 days and then apparently declassified it again on July 18th.

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

Mr. KNODELL. Nor do I.

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

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

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

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

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

Chairman WAXMAN. Ms. Norton.

Ms. NORTON. Mr. Knodell, I'm looking at your title, Director, Office of Security. I'm trying to establish whether you have any authority. Do you regard yourself as having any independent or inde-

pendent authority apart from others who report directly to the President of the United States? Do you have any ability to initiate investigations or other action on your own?

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

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

Mr. KNODELL. In essence, yes.

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

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

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

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

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

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

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

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

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

[Video shown.]

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

Mr. KNODELL. Yes, he does.

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

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

Ms. NORTON. I'm very disturbed by what went back and forth on criminal and administrative responsibilities here because you seem to testify that even if a matter that could risk the security of the United States or of a covert agent is involved, that the administrative process ought to stand back until a process with a much higher level or standard of proof is required has finished its course.

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

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

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

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

Ms. NORTON. I can't hear you.

Mr. KNODELL. We are protecting the classified—

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

Mr. Knodell, I'm suggesting that at your level you could plug leaks even while the criminal process is under way and under investigation. And I want you to look at the very same set of employees. If I could have up the White House—

Chairman WAXMAN. Ms. Norton, your time has expired. Members have said they want a second round. We do have another panel waiting to testify. I don't want to deny Members opportunities to ask questions. What I would like my colleagues to do is I will recognize Members for a second round. Could we limit to 3-minute second rounds? Does anybody find a problem with that?

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

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

During Ms. Wilson's testimony the ranking member, Mr. Davis, kept making a point that a key issue in whether Mr. Rove and other White House officials knew Ms. Wilson was a covert agent. I do agree that this is relevant. If the White House knowingly disclosed a covert agent, that would obviously be a very serious matter. My understanding is that the regulations do not prohibit only intentional disclosures, they also prohibit negligent disclosures.

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

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

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

Mr. KNODELL. A briefing in regards to?

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

Mr. KNODELL. Congressman, yes, we do. We supply an indoctrination security briefing for people when they first come on board and then their first anniversary date and every year after we have annual refreshing briefs.

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

Mr. KNODELL. No, sir.

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

Mr. KNODELL. No, sir.

Mr. LEONARD. I can tell you, Mr. Congressman, in November, December 2005, maybe even a little bit of 2006, there were a series of special briefings for all cleared personnel in the Executive Office of the President, mandatory briefings for senior management on down, and these types of issues were in fact covered during the course of those briefings, and this was publicly—the public was made aware of these.

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

Mr. KNODELL. That's correct.

Mr. CUMMINGS. So basically the President set up some rules and then he said I'm going to make sure that if anybody violated these rules, they're going to have major problems and they're going to have to go, and then the next thing you know there is apparently a violation but no action, is that right?

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

Mr. CUMMINGS. Thank you.

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

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

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

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

Mr. KNODELL. Yes, ma'am.

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

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

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

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

Ms. WATSON. But the criminal procedure is over.

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

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

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

For example, journalist and author Bob Woodward wrote in the introduction of his 2002 book, *Bush at War*, that the book was based in part on, "contemporaneous notes taken during National Security Council and other meetings where the most important decisions were discussed and made," and that, "written record, both classified and unclassified."

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

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

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

Mr. KNODELL. I have no knowledge of that.

Chairman WAXMAN. Well, so when the administration, however, is concerned that there are questions about the disclosure of sensitive information by administration critics, there seems to be different results. For example, January 2004, within 1 day of former Secretary of Treasury Paul O'Neill's television interview in which he voiced criticism of the Bush administration, the administration publicly announced it was investigating whether Secretary O'Neill had improperly disclosed confidential information. OK. They didn't like what he had to say but they're going to immediately investigate him.

On June 20, 2002, an irate Vice President Cheney reportedly told congressional leaders that the President had deep concerns about

media accounts from just 1 day earlier when it got out that the National Security Agency on September 10, 2001 had communication intercepts with cryptic references to possible attacks the next day. The report cited congressional sources and congressional leaders. Immediately requested a Justice Department investigation of the matter.

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

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

Mr. Davis.

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

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

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

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

Mr. DAVIS OF VIRGINIA. So they can do it on the spot. Can they declassify for limited purposes?

Mr. LEONARD. Absolutely, sir.

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

Mr. LEONARD. I have no firsthand information.

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

Mr. KNODELL. No, I do not.

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

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

Mr. DAVIS OF VIRGINIA. That's my understanding as well, within the month. It might have been a day, I don't know what that time period was, and I hope the committee can find out. Once that criminal investigation is underway with the referral that sends it

to Justice, now Mr. Fitzpatrick didn't come in until the Attorney General recused himself sometime later, but an investigation was already underway. What does that do to the obligations to disclose at that point? Does that put employees in a position of having to decide if they're going to exercise fifth amendment rights and the like and does the purpose of the Executive order at that point really become pointless if you have an investigation this?

You haven't thought that through?

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

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

Mr. LEONARD. Yes, sir.

Mr. DAVIS OF VIRGINIA. Thank you very much.

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

Mr. VAN HOLLEN. Thank you. Thank you, Mr. Chairman. Mr. Leonard, let me just note that after this information was first disclosed in the Novak column on or about July 26, 2003, White House press spokesman McClellan stated: Let me make it very clear, that's not the way this White House operates.

Two months later and still before they'd even called for an investigation by the Justice Department, on September 29, 2003, Mr. McClellan addressed the White House Press Corps and over 30 times stated that they had no information regarding the involvement of any White House officials.

I think we understand today why there was no information. No investigation was done.

You talked about competing national priorities. Clearly in this 2-month period there weren't competing priorities, were there? In other words, before the criminal investigation was authorized there were no competing priorities?

Mr. LEONARD. To my knowledge, that's correct.

Mr. VAN HOLLEN. Yet based on your understanding of the regulations in the statute and the information that was out in the press, which clearly raised suspicions of unauthorized disclosure of information, wouldn't that have triggered an investigation in your view?

Mr. LEONARD. Again, in circumstances like that, even if it was just an inadvertent, out of ignorance disclosure, you would want to find out why it happened so you could preclude it from happening again, even if it's by ignorance.

Mr. VAN HOLLEN. Not just that you would want to but you have an obligation?

Mr. LEONARD. Yes, sir.

Mr. VAN HOLLEN. With respect to the pendency of the criminal proceedings, as I understand your testimony, there is nothing in the statute or the regulations that prohibits you from doing this other investigation under the regulations and revoking a security clearance, isn't that correct?

Mr. LEONARD. Concomitantly while there is an investigation going on? You're absolutely right.

Mr. VAN HOLLEN. You're absolutely free to do that; nothing prohibits you from undertaking an investigation, an administrative action?

Mr. LEONARD. The directive is very clear that when there is evidence of potential criminality, that there would be the requirement to coordinate with legal counsel and the requirement to coordinate with the Department of Justice with the expectation that again those issues would be worked out.

Mr. VAN HOLLEN. Worked out in coordination.

Mr. LEONARD. Yes, sir.

Mr. VAN HOLLEN. Mr. Knodell, if I could just ask you, do you know of any, and this doesn't mean you are personally privy to the conversations, but have you heard of communications within the White House that bear on the question of whether or not an investigation of security breaches should have been conducted?

Mr. KNODELL. No, I have not.

Mr. VAN HOLLEN. You don't know, whether it's direct communications or hearsay, since you have been there. Have you had any conversations with anybody in the White House about the disclosures that have been—

Mr. KNODELL. No, I have not.

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

Chairman WAXMAN. Thank you, Mr. Van Hollen. Mr. Hodes.

Mr. HODES. Thank you, Mr. Chairman. Mr. Knodell, do employees sign nondisclosure agreements agreeing not to disclose classified information in connection with your briefings of them?

Mr. KNODELL. Yes, they do. At the time they they're issued a clearance they sign a nondisclosure agreement.

Mr. HODES. Am I correct that those nondisclosure agreements and security clearances are reviewed every 5 years?

Mr. KNODELL. That's correct.

Mr. HODES. I understand that Mr. Rove came into service in the White House in 2001, is that correct?

Mr. KNODELL. I believe so.

Mr. HODES. So in 2006 you would have conducted review of Mr. Rove's security clearance?

Mr. KNODELL. We would have initiated a reinvestigation, that's correct, with the FBI. The FBI conducts our background investigations.

Mr. HODES. Are you aware that has in fact happened with Mr. Rove?

Mr. KNODELL. I don't have first-hand knowledge now, but I could very easily go back and check.

Mr. HODES. So there would be documents which someone in the Federal Government has about whether or not Mr. Rove, for example, ought to still have his security clearance.

Mr. KNODELL. Correct.

Mr. HODES. And do you agree with me that, under the regulations, whether a person is truthful and complete in their answers to questions and whether or not they are—the person is disposed toward candor is an important factor in determining whether someone continues to have access to classified action?

Mr. KNODELL. That is considered in the adjudication process, yes.

Mr. HODES. And if someone lied about what they did, that would be important, wouldn't it?

Mr. KNODELL. Yes, it would.

Mr. HODES. You have now heard and seen on this video Mr. McClellan say that Mr. Rove told him he had nothing to do with security leaks, but we know that Mr. Rove did leak classified information. Does that indicate to you that such a lack of candor should lead to a reexamination of Mr. Rove's security clearance?

Mr. KNODELL. I clearly don't know the content of their conversation.

Mr. HODES. Is it something that—anything you have heard today or read in the press or read anywhere else raises a question in your mind as the senior security officer in the White House about whether or not you ought to go and ask some questions about it?

Mr. KNODELL. Yes, we could do that.

Mr. HODES. Will you do it?

Mr. KNODELL. I will discuss that with senior management.

Mr. HODES. And will you get back to us and let us know what senior management and you discuss and what you conclude, sir?

Mr. KNODELL. Yes, I will.

Mr. HODES. Does Mr. Libby still have his security clearance as of this date?

Mr. KNODELL. No, he does not.

Mr. HODES. When was that removed?

Mr. KNODELL. The day he resigned, I believe it was.

Mr. HODES. Thank you.

Thank you, Mr. Chairman.

Mr. VAN HOLLEN [presiding]. Thank you.

Ms. Norton.

Ms. NORTON. Could I have back the White House chart?

I ask Mr. Knodell to look at the middle row; and I would like your view, Mr. Knodell, given the Executive order which you are charged to enforce in 12958, whether you think any of those officials or any officials in the White House, besides the President, would meet the standards of the Executive order which, as you know, are informational if you are conducting an investigation, if there is an official need to know.

What if you need to verify information concerning security? Would any of those officials have had a need to know the name of a covert agent?

Mr. KNODELL. I really wouldn't know.

Ms. NORTON. You are the man charged with enforcing the Executive Order 12958 and your answer is what?

Mr. KNODELL. I don't know if they would have a need to know. I don't have enough information.

Ms. NORTON. Because that depends on what they say? Isn't that a matter of regulation and law? I am saying based on their position.

Mr. KNODELL. People do have to have a need to know for someone with classified information to pass classified information. They also have to make sure that there is a non-disclosure agreement.

Ms. NORTON. So the need to know the name of a covert agent, you can think of a circumstance where an official, one of those officials, would need to know the name of a covert agent, and I have just given you the basis.

Mr. KNODELL. Yes, ma'am. I don't know what the White House does day to day in their operations and who they're staying in contact with.

Ms. NORTON. So day-to-day operations, that could change; and how can anyone find out the name of a covert agent, given changes in day-to-day operations in the White House?

Mr. KNODELL. No, ma'am. I don't know if any of those folks would have a need to know.

Ms. NORTON. Let me say frankly you to you, Mr. Knodell, I don't think you need—I think that—I congratulate you on your willingness to be here. I know you wouldn't have been here if the White House hadn't sent you. I am interested in remedy, because national security is involved in this.

Normally, the notion of the White House investigating itself is perfectly understandable where there is not a national security matter involved. But if I may say so, I really do think, given what you have testified concerning your office, that you are truly the fall guy here. I say that because you have testified that you felt a virtual injunction as an administrative agent without coordinating with your superiors, all of whom—obviously, the high-level support to the President of the United States. You clearly don't think you could do an independent investigation. Do you think that this investigation should lie with someone more independent than you?

Chairman WAXMAN. The gentlelady's time has expired, but if the gentleman wants to respond.

Mr. KNODELL. I am good.

Ms. NORTON. Mr. Chairman, you gave him the option to respond.

Chairman WAXMAN. You don't want to respond to the question?

Mr. KNODELL. No.

Chairman WAXMAN. Well, I want to thank the two of you very much for being here. You have been very helpful, Mr. Knodell. You came here on short notice, and it's not been an easy time for you. However, I guess you sense the frustration of the members of this committee when we hear of a breach of national security and we were told the President was going to do an investigation and the White House has virtually done nothing, not even to take away the security clearances pending any other investigation by anyone else. But those are my comments, and I want to thank both of you for being here.

We have a third panel waiting to come up.

For panel No. 3, the Chair would like to call forward Mr. Mark Zaid, an attorney with the extent of experience representing government employees accused of mishandling classified information; and Ms. Victoria Toensing, an attorney in private practice and a former Senate staffer.

I want to welcome you both to our hearing today. Your prepared statements will be in the record in their entirety. I would like to ask you for your oral presentation to be limited to 5 minutes.

It is the practice of this committee to ask all witnesses to take an oath. So if you would please stand and raise your right hands [Witnesses sworn.]

Chairman WAXMAN. The record will reflect the witnesses answered in the affirmative.

Mr. Zaid, why don't we start with you.

STATEMENTS OF MARK ZAID, ESQUIRE; AND VICTORIA TOENSING, ESQUIRE

STATEMENT OF MARK ZAID

Mr. ZAID. Thank you, Mr. Chairman, members of the committee. It's my pleasure to testify again before this body.

For nearly 15 years, I have been among a handful of attorneys nationwide who regularly handle civil litigation and administrative matters involving national security claims. This includes all aspects of security clearance suspensions, denials, revocations, statutory and first amendment challenge to classification decisions, leak investigations and general employment disputes that may arise within the Intel, military and law enforcement communities. In the exercise of my legal responsibilities, I often have authorized access to classified information.

We've heard of the operative documents that pertain to this topic, Executive Order 12958, which was amended by 13292, and also Executive Order 12968. Agencies throughout the Federal Government have adopted implementing regulations attuned to their specific situations. But those are the operative documents that we really rely on.

Section 41 of EO 13292 deals with who actually grants or is accorded access to classified information. There has to be a favorable determination of eligibility. There has to be an executed, approved non-disclosure agreement; and there has to be a need-to-know determination.

Each of these components is factually based. Indeed, whether a need to know exists is a question that is asked and answered by tens of thousands of Federal employees and contractors thousands of times every day as part of their routine responsibilities.

However, the underlying premise of that first prong, the determination of eligibility, deals with a judgment determination, one of common sense that is often referred to as the "whole person concept."

Unfortunately, the system is anything but uniform. The process by which clearances or where access is granted very significantly based on the level of clearance, interim clearances can be very easily granted with very little effort by an agency. Most agencies, as we have heard, will go through a periodic background investigation that usually extends 7 to 15 years for the individual; and periodic reinvestigations will reoccur between 5 and 10 years, depending on the backlog of the agency involved and the level of clearance.

To be blunt, we can discuss all day what the regulations state, what minimal due process might be required or expected in sce-

narios touching upon today's hearing topic and what outcome a reasonable person would apply in any specific case; and that would be an academically and legally fascinating discussion, at least for me. But the fact is the recitation of real-world anecdotal experiences by those who operate in this field will educate you with very different results.

It is best to characterize any substantive discussion of security clearances and agencies, and procedures surrounding such determinations, as arbitrary and fraught with inconsistencies. Periodically, every agency derives its authorities from these operative documents. Implementation varies across the board. With some agencies, the process works very well. With others, it is particularly broken. Overall, the system works but with numerous flaws, many of which can be repaired through legislative oversight or correction, though, to be sure, it is likely that any such attempt will engender cries of constitutional overreach by any White House.

Let me use this opportunity to go through a few observations from cases I have handled over the years.

Whether the unauthorized disclosure of classified information results in administrative, civil, or criminal sanctions against an individual is a very fact-based inquiry for which no general rule truly exists. The suspension of an individual's security clearance can arise from the receipt of unsubstantiated anonymous allegations or can occur after a thorough internal investigation. At what stage suspension occurs is up to the specific agency.

Moreover, the type of suspension is not deemed to be—this type of suspension is not deemed to be an adverse personnel action and therefore does not afford the person the substantive challenge rights as soon as he is notified of the substantive challenges that exist.

Again, a very fact-based inquiry for which no general rule exists.

Some agencies will utilize a security suspension to suspend the employee's employment altogether, pending conclusion of an investigation which could take years. This may be paid administrative leave, this may be unpaid administrative leave, and if that clearance is reinstated at some point in the future there is no compensation given to that individual whatsoever.

Again, a very fact-based inquiry for which no general rule truly exists.

Punishment for an unauthorized disclosure can range from no action to something as merely administrative as a reprimand, oral or written, in the file. Could be more serious, such as the revocation of a clearance or, depending on the factual circumstances, criminal prosecution.

Again, a very fact-based inquiry.

Significant inconsistencies exist governing agencies' determination of access to classified info. Significant inconsistencies exist governing an individual's ability to challenge a revocation or suspension or denial. Significant inconsistencies exist as to how agencies' security investigations are initiated or handled.

Most agencies experience serious and harmful time delays with respect to security investigations that seriously impact an employee or contractor's life and, in fact, creates additional security concerns that did not previously exist.

An appeal of a clearance revocation is usually—or denial—will take often 6 to 12 months; and if it is the CIA, we may be talking 2 to 3 years. Investigations into the leaks of classified information rarely result in either discipline or prosecution for a variety of reasons, including the failure of Federal agencies to cooperate with one another.

And the training for authorized holders of classified info with respect to this need to know differs from the positions the executive branch will espouse in adverse litigation for judicial proceedings.

In my testimony, I set forth a few recommendations that the committee can look into implementing. I will leave that in the record.

I will just conclude by saying that this is an area that cries out for vigorous legislative oversight, especially given recent efforts by the executive branch to expand criminal penalties governing disclosures of classified information or unauthorized disclosure to beyond those under any affirmative obligations which protect such info.

I encourage this committee to remain steadfast in its vision to ensure accountability, efficiency, and fairness while combating opposition from the executive branch, no matter which party may be in power.

I am more than happy to provide an elaboration to any of those points or anything to this hearing topic or during any Q&A that is submitted later.

Thank you.

Ms. WATSON [presiding]. Thank you.

Now Ms. Victoria Toensing.

STATEMENT OF VICTORIA TOENSING

Ms. TOENSING. Madam Chairman, thank you for inviting me to testify about safeguarding classified information. Since you also invited Valerie Plame here, I had to assume you also wanted to consider the protection of covert agents as specified under the 1982 Intelligence Identities Protection Act, the act that was the basis for the Special Counsel's investigation.

My first assignment as chief counsel for the Senate Intelligence Committee for Chairman Barry Goldwater was to get that law passed. He put me in charge of negotiating with the parties, particularly with the press who vigorously opposed the legislation because they claimed it would curtail their ability to criticize the Intelligence Committee. It would have a chilling effect, the press argued.

In my prepared statement, I thoroughly discussed the structure of the act, but I want to now discuss how, because it is important to the press arguments, how we divided the types of persons who could be prosecuted into two classes: journalists and government employees having authorized access to classified information.

We drafted such a high standard for journalists that it is almost impossible for a working journalist like Bob Novak in his column to have violated the law. But we also did not want government employees to be chilled in reporting wrongdoing or prosecuted for accidentally saying someone's name without having the specific knowledge and intent to "out" a covert person.

That caution and respect for the mighty power of the criminal law leads me to the main point of my testimony.

It was Chairman Goldwater's grave concern in creating the legislation, the great libertarian, that if Congress was going to criminalize naming what in those days we referred to as "undercover personnel," then the CIA better fulfill its responsibility by protecting the cover of those employees.

Chairman Goldwater was most displeased at that time, and he characterized the CIA's cavalier treatment of protecting its undercover—and that's how he referred to it before the law—of protecting their cover. And you see that concern when you study the law, and you see it in one of the seven findings.

But, more importantly, we created a rare approach in the criminal statute. Usually in the criminal law, it is only the conduct of the defendant that is at issue, but, in this law, Congress required the CIA to take affirmative measures to conceal the government's relationship to that covert agent. No one can be prosecuted under that law unless this requirement is fulfilled by being proved beyond a reasonable doubt.

The statute also requires the CIA to report annually, starting in February 1983, to the House and Senate Intel Committees on these—whatever their affirmative measures were, whatever they created to protect the identities of covert agents.

I think you might all want to check to see whether they have ever fulfilled that mandate by the law, that legislative mandate.

But it comes to mind in the course of this 3-year investigation and listening to even the testimony today, could the CIA produce immediately—meaning do they already have it prepared and they can hurry and get it prepared at your request—a list of all foreign assigned personnel that it has designated covert under the act? Does the CIA make any list available like that to people like their spokesperson who has to get on the telephone with people like Bob Novak and confirm or deny that somebody works at the CIA?

I have several other questions in my prepared statement, but I want to go on to my last point, and—by turning to this particular case where numerous persons were subpoenaed, repeatedly, some of them, before a grand jury, threatened with prosecution in a matter that, in my legal experience, had no criminal basis.

If Valerie Plame were really covert under the law—I am not saying whatever they say in the halls of the CIA. If she were really covert under the law, then why didn't Robert Grenier, the CIA briefer who talked to Scooter Libby and the Vice President about Wilson's wife working at the CIA, why didn't he tell them that her identity was covert? Why didn't Richard Armitage, who said he was the original leaker, of course, to Bob Novak, but he said, having seen Plame's name in a Department memo, he had never seen a covert agent's name in 28 years of government practice. So it was a surprise to him. He didn't know how Plame's identity was—that it wasn't to be revealed. Neither did Mark Grossman, the Under Secretary.

If the CIA was really being careful and had guidelines for all of these covert agents, why did they allow Valerie Plame to contribute \$1,000 to Al Gore's campaign and list her CIA cover business, Brewster, Jennings and Associates, as her employer?

Why did the CIA not ask Joe Wilson to sign a confidentiality agreement about his mission to Niger? I can tell you I have to do it. I don't know, Mark, if you do it when you take a case, but I can't talk to someone for 1 hour without representation unless I sign a confidentiality agreement, and then they might permit him to write an op-ed piece in the New York Times about the trip, an act certain to bring press attention when his wife's name is in that.

I mean, this tradecraft is just appalling to me who has spent a good deal of my life in government service having to deal with classified material and with the CIA in an oversight capacity.

The CIA never sent its top personnel to Bob Novak, like the director, and ask him, please, please don't print; don't publish this name. What they said to him was, "Well, we would rather you not do it, but she's not going to have another foreign assignment," so—it was very cavalier.

They certainly knew, the CIA, how to go and send the top people when they didn't want—in December 2005, when they didn't want the New York Times to publish the NSA surveillance program.

I have—there's—why didn't CIA spokesman Bill Harlow who, according to Wilson's autobiography—and you spoke with Valerie Plame about it—and he had been alerted that Bob Novak was sniffing around, why did he confirm for Bob Novak that Valerie Plame worked at the CIA? Why did Bill Harlow tell Vice Presidential Staffer Kathy Martin that Wilson's wife worked at the agency but not warn her, "Oh, you shouldn't be giving up this identity?"

Why did the CIA give Plame a job at its headquarters in Langley when it is mandated by the statute, "to conceal a covert agent's intelligence relationship to the United States."

And if this was really a violation of the Covert Agent Identities Bill, why did the CIA send to the Justice Department a boilerplate, 11-question criminal referral for classified information violation when its lawyers had to know—or pray that they knew—that merely being a classified person or the situation being classified did not fulfill the elements required by the Agent Identities Protection Act?

Chairman WAXMAN. Thank you very much.

[The prepared statement of Ms. Toensing follows:]

Chairman Waxman and Members of the Committee on Oversight and Government Reform, thank you for inviting me to speak this morning. I am informed that this hearing concerns “White House procedures for safeguarding classified information,” and that Valerie Plame has been invited to testify. Special Counsel Patrick Fitzgerald has characterized Plame’s employment status as “classified,” but conducted a three-year criminal investigation under the auspices of the 1982 Intelligence Identities Protection Act, which criminalizes only the disclosure of a “covert” intelligence officer or agent. Therefore, I must assume that one specific goal of this hearing is to understand the difference between the two terms – classified and covert – and the importance of our intelligence community protecting the identities of covert agents under the 1982 law. In that regard I would like to discuss the Congressional intent and clear mandates and prohibitions of that Act, and how it played a role in the investigation and indictment of Lewis “Scooter” Libby.

INTELLIGENCE IDENTITIES PROTECTION ACT

In late 1981, when I became Chairman Barry Goldwater’s chief counsel for the Senate Select Committee on Intelligence, my first assignment was to get the Intelligence Identities Protection Act passed. Chr. Goldwater was the ultimate manager, meaning that I was to come to him if there was a problem only he could resolve. Other than that situation, I was to negotiate whatever issues arose. Thus, I had hands-on everyday involvement with those for and against the bill.

Although there had been hearings and drafts prior to my coming to the Intelligence Committee, there remained throughout my months of negotiations a major

concern that had to be addressed. Opponents of the legislation considered the criminalization of publishing covert names to be unconstitutional. The media hired highly respected counsel, including the late Dick Schmidt, American Society of Newspapers Editors (ASNE), and Bruce Sanford, Baker & Hostetler, who represented a coalition of news organizations. They vigorously voiced the press' specific concern: specifically, that passing a bill that prohibits identifying an employee or agent of the CIA (or some other intelligence gathering agency) would have a "chilling effect" on criticizing the intelligence community. We were then in the wake of Watergate. The ability to criticize intelligence gathering and conduct of intelligence officers and agents was paramount to the media. I assume and hope it remains important.

Those who supported the concept of the law wanted the statute to pass constitutional muster. If a prosecution violated the First Amendment, it was useless as a deterrent to those who had the specific intent to "out" truly secret officers and agents. In reaction to both the strong lobbying by the media and ACLU, and Congressional concern for the First Amendment, two basic categories of persons subject to prosecution were created: 1) journalists and 2) those having authorized access to classified information, the latter being government personnel with clearances.

Congress wanted to make it nearly impossible to prosecute a journalist for criticizing the CIA because it wanted to "exclude the possibility that casual discussion, political debate, the journalistic pursuit of a story on intelligence, or the disclosure of illegality or impropriety in government will be chilled" by the law. S. Rep. 97-201, at 12. Therefore, any publication identifying a covert agent had to be done "in the course of a pattern of activities" with the specific intent to expose that agent, and "with reason to

believe that such activities would impair or impede the foreign intelligence activities of the United States.” Additionally, the journalist had to know the information so identified the covert agent and that “the United States was taking affirmative measures to conceal that individual’s classified intelligence relationship to the United States....” Under this definition, Robert Novak’s July 13, 2003, column does not come close to triggering the Act as to him.

The second category is government employees. In addition to a government employee having authorized access to classified information and disclosing it to a person without clearances (like a journalist), the following factors must be present for a government employee to violate the Act:

- The United States is taking affirmative measures to conceal a covert agent’s intelligence relationship to the United States;
- The person disclosing the identity knows that the government is taking affirmative measures to conceal the relationship;
- The person disclosing the identity knows that the information so identifies the covert agent;
- The covert agent whose identity was disclosed is an employee of an intelligence agency;
- The covert agent whose identity was disclosed has a relationship with such agency that is classified;
- At the time of the disclosure, the covert agent whose identity was disclosed was serving outside the United States or had done so within five years of the disclosure; and
- The disclosure is intentional.

In a prosecution, all these factors, which are called elements of the offense, must be proven beyond a reasonable doubt. Two of these factors were particularly important in drafting the law: 1) the definition of “covert agent,” including the requirement of

serving outside the country, and 2) the law's requirement that the government take "affirmative measures" to conceal the agent's intelligence relationship to the United States.

Covert Agent

Under the term "covert agent," two types of individuals are covered: an officer and an agent. A person working for the CIA is an "officer." A person who is an informant or source for the CIA is an "agent." The media often err in this distinction. To make the legislation simpler, the term "covert agent" was used by the drafters to refer to both officers and agents. The Senate Report, when relevant, distinguishes how the law applies to each.

Although a "'covert agent' is specifically limited to an individual whose identity as an intelligence agency employee 'is classified information,'" criminality does not turn on whether the information disclosed is classified. *Id.* at 15. There should only be prosecution "when the defendant has knowingly disclosed information that, in terms of its specificity, its sensitivity, and the effort expended to maintain its secrecy, is virtually the equivalent of classified information." *Id.* In other words, the definition of a covert agent is more than classified and less than classified. It clearly is not synonymous with classified. As the Committee stated, "The mere fact that an intelligence relationship appears in a document which is classified does not constitute evidence that the United States is taking affirmative measures to conceal the relationship." *Id.* at 19.

Significantly, the Senate Report makes clear Congressional desire to limit application of the criminal law to disclosure of selected intelligence officers:

[T]he Committee has carefully considered the definition of "covert agent" and has included only those identities which it has determined to be absolutely necessary to

protect for reasons of imminent danger to life or significant interference with vital intelligence activities. Undercover officers and employees overseas may be in special danger when their identities are revealed.... (Emphasis added).

Id. at 15.

Notably, the legislation limited coverage of U.S. citizen informants or sources (agents) also to situations where they “reside and act outside the United States.” *Id.* at 16.

This foreign assignment requirement developed from the impetus for the legislation: attacks on CIA personnel serving abroad. Renegade former CIA officer, Philip Agee, exposed over 1000 CIA officers, which was followed by the December 1975 assassination of CIA Athens Station Chief, Richard S. Welch. In 1980, Louis Wolf, co-editor of the Covert Action Information Bulletin, publicly claimed 15 U.S. officials in Jamaica were CIA. He provided addresses and telephone numbers, information not considered “classified.” Within a week two of those named were attacked. *Id.* at 8.

Early drafts of the legislation covered only those individuals stationed abroad. During my participation in the negotiations, the CIA brought up the issue that it was not unusual for CIA officers to be rotated back to the United States. Such period of time was for about two to three years. So we agreed to extend coverage for three years after a covert person left a foreign assignment. Then the issue arose that the protection of the Act was not intended just for the CIA officers, but also for their sources. “How long,” we asked, “would be a reasonable time to protect sources?” The CIA replied that five years would be sufficient. As a result of that round of negotiation, the criterion of the foreign assignment requirement for an employee to be a “covert agent” was drafted as follows:

[A] present or retired officer or employee of an intelligence agency...who is serving outside the United States or has within the last five years outside the United States.

§ 426 (4)(A).

In other words, the compromise language of “within five years” is intended to prohibit disclosure of the intelligence officer for five years for the purpose of protecting former sources, not protecting the person assigned back to this country.

There is a most recent example of a former covert officer bring named as such in the Washington Post. In John Kelly’s March 1, 2007 column, he described Clare Lopez having lost a class ring in the mid-1980’s while scuba diving off Mauritius. It was recovered recently by a German diver who returned it to her. Nice story.

However, Kelly also described Lopez as “stationed at the U.S. Embassy in Mauritius” and as a “former CIA officer who is now a private consultant on issues related to the Middle East, terrorism and weapons of mass destruction.” [App. A]. That story tells the public not only that Lopez was once covert but also that we have CIA presence in Mauritius. No one made a peep at such revelations. For Lopez, it is clear five years had passed.

In his own words, in an autobiography titled, “Politics of Truth,” Joseph Wilson, husband of Plame, reveals the timing of her return from foreign assignment as June 1997, some six years prior to Novak’s July 2003 column:

“In June of 1997, I arrived back in Washington to take my new job directing the African Affairs desk at the National Security Council. *** My move back to Washington coincided with the return to D.C. of a woman named Valerie Plame. I had first met her several months earlier at a reception in Washington....” pp.239-40 [App. B. pp1-2]

Affirmative Measures

There was great displeasure by certain Senators, especially Chr. Goldwater, that the CIA had been sloppy protecting its own. Indeed, one of the legislation's seven findings states:

(7) The policies, arrangements and procedures used by the Executive branch to provide for U.S. intelligence officers, agents and sources must be strengthened and fully supported.

S.Rep at 11.

Such concern was the reason the Act required the government to be "taking affirmative measures to conceal such covert agent's intelligence relationship to the United States" before there could be a prosecution.

Throughout the Senate Report, disappointment is expressed about the Executive branch's failure to provide adequate cover. As the Committee noted, "[P]art of the bill is designed to improve cover." "Without effective cover for U.S. intelligence officers abroad...the United States cannot collect the human intelligence" it needs. *Id.* at 10. (Emphasis added). In this regard, Section 423 of the Act requires the President, "after receiving information from the Director of Central Intelligence," to submit an annual report to both Intelligence Committees on "measures to protect the identities of covert agents, and on any other matter relevant to the protection of the identities of covert agents." Has the CIA done so?

Given this concern and mandate, additional basic managerial questions of good intelligence tradecraft come immediately to mind. I am aware that this Committee does not have oversight of the intelligence community so others, perhaps, must ask these questions:

- Could the CIA produce immediately a list of all foreign assigned personnel it has designated covert under the Act?
- Does the CIA make any such list available to selected few individuals who need to check whether to confirm or deny that person's "intelligence relationship to the United States," as required by the Act? (Think CIA spokesman who often confirms or denies to reporters whether certain people work at the Agency.)
- Has the CIA established guidelines for briefers of its Executive branch clients so they do not reveal names of "covert agents" without a caveat not to repeat the name or relationship?
- Has the CIA devised a tracking plan so that five years after a formerly covert employee returns to the United States, he or she knows the Act no longer applies and, just as importantly, other persons have notice, e.g. a briever?

No White House can prudently safeguard classified or otherwise non-disclosable intelligence information (such as covert status) unless its own intelligence agency follows the proper procedures to inform it and its Executive branch clients of that classification or status. If Plame was really covert in July 2003 (or within five years of covert), the CIA was required under the statute to take "affirmative measures" to conceal her relationship to the United States, particularly because the criminal law comes into play. If Plame was really covered by the Act in July 2003, why did:

- The CIA briever who said he discussed the fact of Wilson's wife working at the CIA with Libby and the Vice-president, not tell them Plame's identity was covert or classified;
- Richard Armitage, (who, having seen Plame's name in a State Department memo from which he gave the gossip to Robert Novak and later asserted, "I had never seen a covered agent's name in any memo...in 28 years of government") not know Plame's identity was not to be revealed;
- State Department Undersecretary, Marc Grossman, not know Plame's identity was not to be revealed;

- CIA spokesman Bill Harlow tell Vice-president staffer, Cathie Martin, that Wilson's wife worked at the Agency but not warn her Plame's identity was not to be revealed;
- CIA spokesman Bill Harlow (who, according to Wilson's autobiography, had been "alerted" by Plame about Novak's sniffing around, p. 346 [App. B, p3]) confirm for Novak that Plame worked at the CIA;
- The CIA not send its top personnel, like the Director, to Novak and ask the identity of Plame not be published just as the government does any time it really, really, really does not want something public, e.g. in December 2005 when the New York Times was about to publish the top secret NSA surveillance program;
- The CIA not ask Joe Wilson to sign a confidentiality agreement about his mission to Niger (a document all the rest of us have to sign when performing any task with the CIA) and then permit him to write an OpEd in the NYT about the trip, an act certain to bring press attention, when his Who's Who biography includes his wife's name;
- The CIA allow Plame to attend in May 2003 a Democratic breakfast meeting where Wilson was talking to New York Times columnist Nicholas Kristoff about his trip to Niger;
- The CIA allow Plame to contribute \$1000 to Al Gore's campaign and list her CIA cover business, Brewster-Jennings & Associates, as her employer;
- The CIA give Plame a job at its headquarters in Langley when it is mandated by statute "to conceal [a] covert agent's intelligence relationship to the United States";
- The CIA send to the Justice Department a boilerplate 11 questions criminal referral for a classified information violation when its lawyers had to know that merely being classified did not fulfill the required elements for exposing a "covert agent"?

Such questions reveal slipshod tradecraft, casting doubt on whether Plame's identity was even classified, much less covert.

In fact, in a curious twist, while the CIA was turning a blind eye to Wilson writing about his mission to Niger (Did he go through the pre-publication review process like the rest of us have to do?), it was sending to the Vice-president's office documents about that

same trip and these documents were marked classified. So the very subject Wilson could opine about in the New York Times was off-bounds for the Vice-president to discuss unless the person had a clearance.

CRIMINAL INVESTIGATIONS UNDER THE ACT

Criminal statutes are interpreted precisely. The rationale is that if a person is to be deprived of liberty, he or she should have sufficiently clear notice that specific conduct violates the law. For example, if the law protects a former covert officer for five years after leaving a foreign assignment, a person can be prosecuted for revealing the name within four years, eleven months and 30 days, but not five years and one day later.

For public policy reasons, it is important for the CIA to take “affirmative measures” to protect the identity of a covert agent because it appears that even the accidental mention of a name or relationship is sufficient to trigger a full-scale years long criminal investigation. (Two other statutes, 18 USC § 793 and 18 USC § 798, criminalize disclosing classified information, but not the names of employees or agents else we would not have needed the 1982 law.) Although Libby suffered the most severely, numerous other persons were negatively affected. They had to hire lawyers. Several had to endure the angst of being threatened with indictment or jail. Judith Miller, New York Times reporter, did go to jail. If Plame was covert and the CIA had been fulfilling its obligations, all involved would have had sufficient notice from the CIA. If she was not covert, there should not have been a CIA referral for Novak’s column because publishing a merely “classified” employee’s name is not covered by the 1982 Act or the other two criminal statutes.

Chairman WAXMAN. I want to recognize Mr. Davis to start off.
Mr. DAVIS OF VIRGINIA. Thank you. We didn't start with going into the covert—taking Ms. Plame at her word—

Ms. TOENSING. I am having a hard time hearing you.

Mr. DAVIS OF VIRGINIA. We didn't go into extensively whether it was covert or not. I asked her whether anybody told her she was versus what she thought. But the question was—clearly, there were no crimes committed.

I'm going to ask each of you, can you name a leak case that you have dealt with that has undergone more scrutiny or investigation than this one? Mr. Zaid.

Mr. ZAID. Not as much. Certainly nothing as public as this.

Mr. DAVIS OF VIRGINIA. Either with grand jury.

Mr. ZAID. There are numerous grand juries, even ones that are going on right now with leak investigations, and they haven't received the amount of publicity that this case has.

Mr. DAVIS OF VIRGINIA. They have a special prosecutor on this and you can look at the hours of testimony. This has undergone as much scrutiny as any case you are aware of.

Mr. ZAID. Sure.

Ms. TOENSING. I used to tell Chairman Goldwater—he'd say, I want those leakers—in much more crusty language than that—I want those leakers prosecuted, and I would say, "It's the rule of 38. If 38 people knew about it, you are probably not going to get a prosecution," and so usually there is not a prosecution in the case.

Mr. DAVIS OF VIRGINIA. I mean, the thing that strikes me through all of this is if the CIA fails to take affirmative steps to protect their own agents, how can you expect the recipients of information to know that the information is protected and take appropriate precautions? Mr. Zaid—I'll ask you both.

Ms. TOENSING. I mean, the whole reason that we put that into the law was because we didn't want employees to be chilled from reporting wrongdoing, that the person had to know, have knowledge that the CIA was taking these affirmative measures to protect the identity and the relationship of that person. So if nobody is telling anybody, it is like, who knew? How would you know that something was not to be repeated?

Mr. DAVIS OF VIRGINIA. The majority is pointing the finger at the White House, but the leak didn't come from the White House. And, second, there is no evidence—presented here today at least—that anybody in the White House knew that she was a covert agent.

Ms. TOENSING. Not one person told anybody in the White House. We have no evidence.

Mr. DAVIS OF VIRGINIA. Let me—

Chairman WAXMAN. Excuse me. You are saying that conclusively. Do you know the facts? Or are you just saying there is no evidence?

Ms. TOENSING. I know what facts are out there. If somebody wants to point to another fact, I will be glad to listen.

Chairman WAXMAN. So what you have heard, you can reach that conclusion from. You don't know all of the information.

Ms. TOENSING. From the testimony at trial.

Mr. ZAID. I think we have to make a distinction between criminality and what type of administrative sanctions could possibly

have been imposed. I have no personal information with respect to this case, other than what everybody else does in reviewing it with great interest, especially since it's in my subject matter knowledge.

And Ms. Toensing is absolutely correct with many of her questions with respect to the Intelligence Identities Act, which has a very exacting standard. Ms. Plame, as she indicated, was covert. That is a distinction between possibly under the Intelligence Identities Act and that classified information was leaked and then the question then is of a criminal magnitude versus something less than that. And those could be any number of penalties.

Mr. DAVIS OF VIRGINIA. But if you don't know she's undercover, it is hard to put a penalty on somebody.

Mr. ZAID. That would be something like the previous witness, where his office would have to investigate to see how the leak came about.

Mr. DAVIS OF VIRGINIA. There is no question this should never be leaked. We should never "out" any undercover operative. I don't think anyone here can condone that in any way, shape, or form.

The difficulty I am having, though, is we are focused today just on the White House. The CIA bears some responsibility.

Ms. Plame's own testimony today talked about they knew the story was coming, and she did the appropriate thing in reporting to her superiors that the story was coming, a story that could end her career. And what did her bosses do? They obviously didn't persuade Mr. Novak, but the question is, did they send their A Team up there to talk to Mr. Novak? Did they let them know that an agent could be outed? That is the question.

Ms. Toensing, what is contemplated under a statute in a case like that?

Ms. TOENSING. The statute has very high standards. This is almost impossible for a journalist to be indicted under, just a regular working journalist, not somebody who has a specific intent.

Mr. DAVIS OF VIRGINIA. No journalist in their right mind would do this on purpose.

Ms. TOENSING. But an employee would have to be aware that the agency is taking affirmative measures to protect or conceal this person's relationship to the United States. If nobody even told the people who were being briefed—I mean, the State Department didn't know. Dick Armitage didn't know.

Mr. DAVIS OF VIRGINIA. But the question is, once it gets to the press level, say someone inadvertently leaked this to the press, what should the CIA do? And notwithstanding the act, from a policy perspective, what should the CIA do or be able to do to protect their operatives and what do you think they should do in this case?

Ms. TOENSING. They didn't do anything in this case. To anybody looking at it from—as I view it, as I see all of the facts, I have no reason whatsoever to believe that Ms. Plame was covert under the statute.

I mean, they can call—I have represented a covert officer. It is not an agent, actually. The statute uses that term, but Ms. Plame was a covert officer. I have represented a covert officer from the CIA; and let me tell you, in the course of my representation, the New York Times was going to print her name on its front page. And the New York Times reporter, a wonderful reporter, Tim

Weiner, called me and said the CIA just called him and told him that they were going to go after him criminally if they printed her name. No such threat was ever given to Bob Novak. And good for Tim Weiner. He went ahead and printed it anyway.

Mr. DAVIS OF VIRGINIA. Let me ask this. So the statute at this point gives press almost an immunity on those kinds of issues once they learn about it. Is that your reading of the law?

Ms. TOENSING. Yes.

Mr. DAVIS OF VIRGINIA. What should the CIA have done in this case if they wanted to protect an operative?

Ms. TOENSING. If this is a very big deal to the CIA, they should have brought in the DCI, at least the Deputy, and come in with Bob Novak and had a talk and say, "You cannot print this name. This would just be terrible. This is national security."

Mr. DAVIS OF VIRGINIA. Let me ask you, from a policy perspective, notwithstanding where the law is today, that sets a very high standard for the press. What should we do—in future cases, what should the CIA do once—if you are going to have an operative outed, a top-secret memo that could damage national security, how should that be handled from a policy perspective?

Mr. ZAID. I wouldn't in any way divert blame from the CIA in this matter. There are many steps they could have taken, and Ms. Toensing has identified them, and it wouldn't have been the first time where a very senior official in the CIA would go to a member of the press.

I often represent covert officers. I mean, routinely. And I know the precautions that they try to impose on me, which I follow to protect them. Because if their identities are released it does put their lives in jeopardy; and, even more importantly, because when they are usually back here in the United States it puts everyone they ever had any contact with in their lives in jeopardy as well as operations.

I don't know why the CIA didn't do more. That is a good question. The CIA should be here to explain that.

Again, I would make a distinction between that we not only look at the criminality of this but we also look at the administrative disciplines that should have been meted out.

I had a client that was disciplined because he was acting as a courier with classified information and he left the bag locked up in his locked car while he went into McDonald's to get a burger with the car in sight. That was the violation. It took me a year to get his clearance back.

So the agencies will take it seriously when they wish to.

Mr. DAVIS OF VIRGINIA. Thank you.

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

I have questions, but I don't know whether I want to go into all of the time to ask questions.

But I am stunned, Ms. Toensing, that you would come here with absolute conclusions she was not a covert agent. The White House did not leak it. No one seemed to know in advance that she was a CIA agent. Do you know those facts from your own first-hand knowledge?

Ms. TOENSING. Well, let us take those one by one. As I said, I was there. I was the chief—

Chairman WAXMAN. I am not asking for your credentials. I am asking for how you reached those conclusions.

Ms. TOENSING. That's part of her credentials, because I know what the intent of the act was.

Chairman WAXMAN. I am not asking what the intent of the act was. Do you know she was not a covert agent?

Ms. TOENSING. She is not a covert agent under the act. You can call her anything you want to in the halls of the CIA.

Chairman WAXMAN. General Hayden, the head of the CIA, told me personally that she was—if I said that she was a covert agent, it wasn't an incorrect statement.

Ms. TOENSING. Does he want to swear that she was a covert agent under the act?

Chairman WAXMAN. I am trying to say this as carefully as I can. He reviewed my statement, and my statement was she was a covert agent.

Ms. TOENSING. He didn't say under the act.

Chairman WAXMAN. OK. So you're trying to define it exactly under the act.

Ms. TOENSING. That's what—

Chairman WAXMAN. No, no, no, no, no. I am not giving you—I am not yielding my time to you.

So that is your interpretation. Do you know that the White House—no one in the White House leaked this information?

Ms. TOENSING. Well, I don't know even know how to deal with the word "leak" here. I know that people in the White House—

Chairman WAXMAN. Well, Karl Rove admitted he leaked it. Do you think he is not telling us the truth?

Ms. TOENSING. Well, the words are important, and I'm not sure what—

Chairman WAXMAN. So you want to completely define the words that are so narrow in meaning that your statements can be credible but not honest. I am not asking about the statute. I am not asking about the statute. Evidently, if there were a criminal violation, the Special Inspector General investigating this matter might have brought criminal actions. Put that aside. Karl Rove said he leaked the information. Do you think he did not?

Ms. TOENSING. Let me give you an example.

Chairman WAXMAN. I want a yes or no. I am asking you a direct question that could be answered yes or no.

Ms. TOENSING. Well, it can't, but I will answer no then and explain—

Chairman WAXMAN. Do you have first-hand information that none of the people at the White House had knowledge that she was a covert agent?

Ms. TOENSING. There has no been no testimony. I can only go by that.

Chairman WAXMAN. You stated it so affirmatively and conclusively that I thought maybe you had access to information that we didn't have.

Ms. TOENSING. I have information to the testimony, and so because I know what the testimony is, that everybody—and I am sure that the Special Counsel would have brought in anybody who had anything to do with it in the trial—

Chairman WAXMAN. Maybe he would have. We thought the White House would have investigated the matter, and they didn't.

Mr. Zaid, in your experience with these kinds of cases, do agencies wait until a criminal investigation is complete before taking any action or do they sometimes say, while this is pending, we are going to take away the security clearance?

Mr. ZAID. They do not wait, Mr. Chairman. There is no requirement that they wait. I could understand in some cases there could be a need for coordination. But very often, in my experience, by the time you got into a criminal matter, the employee or contractor clearance has already been suspended.

Chairman WAXMAN. And if an agency's goal is to prevent additional security violations and protect classified information, doesn't it make sense for the agency to do something right away rather than wait as long as 3 years?

I mean, this is 3 years now that the same people in the White House have had classified information given to them, even though they have already admitted in most cases that they disclosed that information.

I don't think they should—does it seem right to you that they would wait until not only the investigation is complete but all of the prosecution has been handled?

Mr. ZAID. I find it very disconcerting and inconsistent with what I have seen at other agencies. I have seen far less of a grave situation or clearance infraction that has been addressed far more quickly by an agency.

Again, I don't know personally besides what we all know, most part, publicly from what transpired, but from an administrative standpoint I am very surprised that something has not been done. If it were one of my clients, I am sure something would have been done.

Chairman WAXMAN. I am not sure if you are familiar with all of the administrative activities. You are knowledgeable about the law, whether it's a criminal violation, but, in your experience, do you know whether agencies will sometimes suspend people's security clearances while there is an investigation going on?

Ms. TOENSING. Some do and some don't. It would depend on—as was said by the panel before on a case-by-case basis because—and here, if I were the lawyer for a person making the decision whether to do so, I would really want the decisionmaker to weigh whether it would appear to be obstruction of justice. If you start calling in witnesses and you start interviewing the witnesses and you're not part of the Justice Department—

Chairman WAXMAN. That would go to an investigation where you could simply say there is an investigation going on in the meantime. I think it's more prudent not to allow you to get more classified information. That's done frequently.

Ms. TOENSING. I didn't understand what your question was.

Chairman WAXMAN. Rather than do a whole investigation that might put somebody in a situation where they got two investigations going on and so they're represented in the investigation-type case, but, in the meantime, we will suspend your access to classified information.

Ms. TOENSING. That sometimes happens. It depends on what the violation is. It can happen. It cannot happen as Mr.—

Chairman WAXMAN. It's not unheard of. Thank you.

Mr. Cummings.

Mr. CUMMINGS. Thank you very much, Mr. Chairman.

I was sitting here listening to this, and it's just something I think is incredible to me, and I think we are losing sight of what went on here.

We had an American who simply wanted to serve her country, who put her life, her life, on the line. And I don't know what Goldwater—what he was doing, you know. But one thing I do know is that we had a lady here who lost her job, lost the opportunity to carry out the things that she apparently wanted to do, it was her love, while risking her life. And out of all of this testimony I hope we don't lose sight of that.

There is a reason why we have these rules, these laws and these Executive orders; and those reasons basically go to trying to protect people, Americans, who want to go out there and protect us and try to make sure that they are not harmed.

Were you here, Ms. Toensing, when Ms. Valerie Plame testified?

Ms. TOENSING. Yes, I was.

Mr. CUMMINGS. One of the things that she said—she said two things that I know will be embedded in the DNA of every cell of my body until I die. She said, I did not—I expected other countries to try to reveal my identity, but never did I expect my own government to do it. And then she said something else that was very interesting. She said that, as a result of the disclosure, whole networks of agents have been placed in jeopardy.

The reason why I say that is because it seems like to me all of us, as Americans, would want to make sure that we did every single thing in our power to protect those people who are going out there trying to protect us.

Going back to the—you know, we have a situation here, too, where, you know, it wasn't just the law, it was the order, 12958, the President's order. And unlike the criminal statute which requires an intentional disclosure of classified information, the administrative rules prohibit not just intentional disclosures but reckless and negligent ones as well, isn't that correct?

Ms. TOENSING. You are reading from it. I assume that you read it appropriately.

Can I say a word in reaction to that? I have no problem. I have no problem with Ms. Plame. I respect the service that she contributed to this country.

My complaint is two-fold, one against the CIA for not taking the proper precautions, as they had promised to do so when this act was passed in the 1980's; and, second, with the application. Because I am a criminal defense lawyer, but I was also a prosecutor, and I don't like to see the law abused. I don't like the application of the criminal law to a situation that does not have the elements of it. I think that is an abuse of prosecutorial power.

Mr. CUMMINGS. I was a criminal lawyer, too. And, you know, I am sure that, consistent with what you just said, you believed the testimony should be accurate, did you not? That seems consistent

with what you just said, that you would want anybody's testimony to be accurate. Wouldn't that be correct?

Ms. TOENSING. That is correct.

Mr. CUMMINGS. I think you said a little earlier that she had not been out of the country for 5 years. Didn't you say that?

Ms. TOENSING. No, the statute doesn't say that. It says for an assignment.

Mr. CUMMINGS. No, what did you say?

Ms. TOENSING. I said for an assignment. I didn't testify about that here today, here yet.

Mr. CUMMINGS. I thought I read it in something that you said to the press at some point. You didn't say that?

Ms. TOENSING. I have always used the term "under the statute."

Mr. CUMMINGS. It says here, Washington Post, February 18th, just prior to the start of deliberations of the jury in the Scooter Libby trial, and you said this as follows—it may be wrong. The Washington Post can check it out—but it says, "Plame was not covert," and you said that, today, "She worked at the CIA headquarters and had not been stationed abroad within 5 years of the date of Novak's column."

Ms. TOENSING. Right. That's the same concept as serving outside the United States. That was the whole concept that we had when we passed the law.

The first draft of the law—and I have it in my statement—was we only applied it to persons who are outside of the United States. We never applied it to anybody inside the United States. And then people wanted rotation people covered. The CIA said, you got to cover rotation people. So we said, how long is that? They said, 2 to 3 years. We said, OK, we'll change it.

"Or within 3 years of coming back to the United States."

And then somebody said, oh, but people retire; and so we said, OK, CIA, how long do you need to protect those sources that the person had while serving abroad? And they told us 5 years. So that's why we have the 5-year requirement. But it was always intended, because of the assassinations abroad, to protect our personnel serving abroad.

Mr. CUMMINGS. I see my time is up. Thank you very much.

Ms. TOENSING. Inside the United States.

Chairman WAXMAN. I wanted to be very clear for the record. I said earlier General Hayden and the CIA have cleared the following comments: During her employment at the CIA, Ms. Wilson was undercover. Her employment status with the CIA was classified information prohibited from disclosure under the Executive Order 12958. And at the time of the publication of Robert Novak's column on July 14, 2003, Ms. Wilson's CIA employment status was covert. This was classified information.

So I wanted to repeat it. I don't know if I misstated it or not. But let no one misunderstand it, and I would just use those words so we can clarify it for the record.

Ms. Watson.

Ms. WATSON. Thank you, Mr. Chairman.

I want to kind of pursue this line of questioning, Ms. Toensing, as well.

It is reported, again, by the Washington Post on February 18, 2007, that you said, I am going to read it. It was just read. “Plame was not covert. She worked at CIA headquarters and had not been stationed abroad within 5 years of the date of Novak’s column.”

You said you were here, and you heard Ms. Wilson’s testimony. I took notes on her testimony, and I quoted her. She said she was a covert agent, and that was her statement.

Now it seems to me that your remarks are contrary to that statement. So do you still maintain that on February 18, 2007, Ms. Wilson was not a covert CIA agent?

Ms. TOENSING. Not under the law. She didn’t say she was under the law. In fact, she said several times that she was not a lawyer. I know what the law requires—

Ms. WATSON. Reclaiming my time.

You said—this is your statement from that date: “Plame was not covert.” And my question directly is, do you still maintain that on that date she was not a covert CIA officer?

Ms. TOENSING. I was trying to answer. Yes, I still maintain that.

Ms. WATSON. Yes or no.

Ms. TOENSING. I still maintain it, yes.

Ms. WATSON. That she was not a covert agent.

Ms. TOENSING. Under the law. Completely.

Ms. WATSON. Ms. Plame was sworn.

Ms. TOENSING. And I am sworn. I am giving you my legal interpretation under the law as I know the law, and I helped draft the law. The person is supposed to reside outside of the United States.

And let me make one other comment—

Ms. WATSON. No. Reclaiming my time—because this is being timed and Members do have to leave—did you receive any information directly from the CIA or Ms. Wilson that supports your assertion that Ms. Wilson was not a covert officer?

Ms. TOENSING. I didn’t talk to Ms. Wilson or the CIA.

Ms. WATSON. And do you have any information about the nature of Ms. Wilson’s employment status that Director Hayden and Ms. Wilson don’t have?

Ms. TOENSING. I have no idea—I don’t know what he has that I don’t have. You know, vice versa. I can just tell you what is required under the law. They can call anybody anything they want to do in the halls, but, under this statute, a criminal statute which is interpreted very strictly, all of these elements have to be proven beyond a reasonable doubt. That has been my concern.

Ms. WATSON. Your testimony is focusing on the criminal prohibition in the Intelligence Identities Protection Act. But I don’t see any mention whatsoever of the administrative restrictions contained in Executive Order 12958, which is what the invitation letter asks you to address.

As you note in your written statement—and we have copies of it—there are numerous elements that must be proven beyond a reasonable doubt in order to establish a crime under the IIPA.

In contrast, the administrative rules simply prohibit the disclosure of classified information to anyone not authorized to receive it. Unlike the criminal statute, which requires an intentional disclosure of classified information, the administrative rules prohibit

not just intentional disclosures but reckless and negligent ones as well. Is that right?

Ms. TOENSING. Of course.

Ms. WATSON. OK. Therefore, an improper disclosure of classified information violates the Executive order, even though it does not violate the criminal statute; is that right?

Ms. TOENSING. I am just—

Ms. WATSON. Is that right?

Ms. TOENSING. I wasn't invited here to talk about—

Ms. WATSON. Excuse me. Reclaiming my time. Reclaiming my time. Is that right? Yes or no.

Ms. TOENSING. Would you repeat it, please?

Ms. WATSON. I will. Therefore, an improper disclosure of classified information violates the Executive order, even though it does not violate the criminal statute. Yes or no.

Ms. TOENSING. I take no issue with that. Yeah, that is right.

Chairman WAXMAN. Thank you, Ms. Watson. Your time has expired.

Mr. Van Hollen.

Mr. VAN HOLLEN. Thank you, Mr. Chairman. Let me thank both of our witnesses here today.

Ms. Toensing, let me ask you, getting back to the overall context in which this all happened, wouldn't you agree that the reason the White House official disclosed this information, leaked it quietly to the press, was in an effort to discredit somehow Ambassador Wilson as a result of the article he wrote in the New York Times?

Ms. TOENSING. I have no idea why they gave out that information. I do know that there was this allusion by Joe Wilson that he was sent on the trip by the Vice President's office. So it made sense to me, if you are sitting in the Vice President's office, to say, "We didn't send him. We didn't know what this is all about." And in the inquiry, as I understand it, and you may have different facts, the response was his wife sent him. And guess who did that? The INR statement at the State Department.

Mr. VAN HOLLEN. Do you know why Mr. Rove, after disclosing some of this information to Mr. Cooper at Time Magazine, would have concluded by saying I have already said too much?

Ms. TOENSING. I have no idea.

Mr. VAN HOLLEN. It seems to me that kind of statement—of course, we can't all read Mr. Rove's mind, but an ordinary interpretation of that may be to conclude that he already provided him information that he knew he shouldn't be providing.

Let me just go back to the other statements made by the White House. We saw the clip here of their spokesman, Scott McClellan, stating that the White House had not been involved in the disclosure of Valerie Plame as somebody who worked at the CIA. Now you agree she worked at the CIA, right?

Ms. TOENSING. Yeah. I didn't hear that statement, but that's OK. If you are going to say he said those words—I thought he said in giving off classified information, but—

Mr. VAN HOLLEN. My understanding is what they were essentially saying, they were not involved in the disclosures that had been made and, clearly, the testimonies that were involved in the disclosures that had been made.

Let me get back to, as I said, the purpose of the hearing. Part of the purpose of the hearing was to look at how the White House safeguards security information. That is the reason we had the second panel. And did you know before the testimony today that the White House itself had not undertaken any kind of investigation internally from the security office?

Ms. TOENSING. I didn't know that, but I would have concurred with that with a massive criminal investigation going on. If I was a lawyer to the President, I would say don't you dare do a thing until this criminal investigation and prosecution is over.

Mr. VAN HOLLEN. It was more than 2 months after this initially broke that Scott McClellan in another statement said, we have no information in the White House about any of these disclosures. Before you made that kind of statement, wouldn't you undertake some kind of investigation?

Ms. TOENSING. Well, I am not here to answer for Scott McClellan.

Mr. VAN HOLLEN. There is one issue that has to do with once the criminal investigation was started, but a long period of time went by when no administrative action was taken, and, as I understand your response to the question by Ms. Watson, you would agree that kind of sort of investigation goes on routinely when there has been a disclosure of classified information, does it not?

Ms. TOENSING. It can, and it cannot. I mean, I certainly wouldn't have done it in the brouhaha that occurred within a week of Bob Novak's publication.

By the way, Bob Novak was not the first person to say she was covert. That was David Corn who printed that she was covert. Bob Novak called her an operative.

Mr. VAN HOLLEN. This is a period of 2 months when there was lots of questions, everyone was trying to find out what was going on. The CIA had said that this was an unauthorized disclosure. The President of the United States said, "this is a very serious matter, and our administration takes it seriously."

Do you agree this was a serious matter?

Ms. TOENSING. Well, I think an outing, if somebody's career is being affected, is, of course, a serious matter. The issue is whether it was—the outing was done intentionally under the criminal law. That is what I have written about always.

Mr. VAN HOLLEN. I understand. I understand your point under the criminal law.

The other question, though, is why people didn't take action under the non-criminal law as part of safeguarding secrets at the White House. And I understand your focus is on the other issue, but I have to say it is stunning that the White House would tell us they had no information about this 2 months after the first disclosures and we hear today that they never conducted any investigation. I mean—

Ms. TOENSING. I would agree with you that it was a bad situation that happened. But I say shame on the CIA, that the briefer did not tell anybody at the White House that—

Chairman WAXMAN. How do you know that? How do you know?

Ms. TOENSING. He testified to that at the Scooter Libby trial.

Chairman WAXMAN. Who was that briefer?

Ms. TOENSING. Grenier. Robert Grenier.

Chairman WAXMAN. And he was the briefer from the CIA?

Ms. TOENSING. He said, I talked about Valerie Plame. I talked about the wife with Scooter Libby and the Vice President, but I didn't tell them that—this was on cross-examination. He admitted that he had not said that her status was either classified or covert.

Mr. VAN HOLLEN. If I could, Mr. Chairman. Do you think White House officials have any obligation at all to put aside the legal obligation as stewards of our national security when they find out that someone works for the Central Intelligence Agency? Do you think they have any obligation to citizens of this country to find out, before telling the President about it, whether that disclosure would compromise sensitive information? Do you think—as just citizens of this country, wouldn't you want that to be the standard?

Ms. TOENSING. I think the Press Secretary should always tell what is accurate. The Press Secretary should always tell what is accurate. I have no problem with that.

Mr. VAN HOLLEN. Before somebody goes around saying this person works for the CIA in a cavalier manner—obviously, intentional manner to try to spread this information, don't you think they have an obligation to the citizens of this country to make—we are talking about the Iraq war, decisions for going to war, whether or not Saddam Hussein was trying to get nuclear weapons material. Before they disclosed the identity of somebody who works in the nuclear nonproliferation area of the CIA, don't you think they have some obligation for—and to demonstrate the good judgment to find out if that would disclose sensitive information? That is my question.

Ms. TOENSING. Well, it could be, but I don't particularly think that a red flag would go off. Because those of us who work in government all the time know people who work at the CIA and talk with people who are at the CIA, so you wouldn't necessarily say—

Mr. VAN HOLLEN. We don't all of us go around trying to use that information with reporters for the purpose of discrediting somebody.

Ms. TOENSING. Let me say—do you want me to tell you my experience? Because, as Mark has represented, people who are covert—and I have asked them since all of this occurred, well, would you ever have a desk job at being covert at Langley? And they laugh at me. You know—I don't know. I have never been covert. I have represented people, and this is what they tell me.

Chairman WAXMAN. The gentleman's time has expired.

I want to thank both of you.

Mr. Zaid, I had other questions for you. Let me ask you one quick one.

If you had clients like Fleischer and Martin and Libby and Cheney and Rove, let's say they were worried because they disclosed information that they shouldn't have disclosed, wouldn't you tell them that they were treated a lot better than most people who disclosed classified information?

Mr. ZAID. They are treated a lot better than many of my clients, some of whom who have testified before you like Lieutenant Colonel Anthony Shaffer, who did lose his security clearance and his job

at the Defense Intelligence Agency for incurring \$67 in cellular phone bills and a couple of other petty issues like stealing pens from the U.S. Embassy when he was 14 years old 30 years ago. So, yes, I would say there is quite a number of people who have fared a great deal better than many of my clients. But if they want to hire me—I represent Republicans and Democrats—I don't have any problem.

Chairman WAXMAN. As you should.

Ms. TOENSING. Me, too.

Chairman WAXMAN. Their double standard doesn't make any difference. You are counsel, and everything is entitled to representation.

I want to thank you both for being here. Ms. Toensing, I have the pleasure to say we are pleased to accommodate the request of the minority to have you as a witness. Some of the statements you have made, without any doubt with great authority, I understand may not be accurate, so we are going to check the information and we are going to hold the record open to put in other things that might contradict some of what you had to say.

The only thing I will say is that when we heard from Mrs. Wilson and we have heard from Fitzgerald and I talked personally to General Hayden, they have a different view as to what is a protected agent than you do; and your knowledge is knowledge is based on writing the law 30 years ago.

Ms. TOENSING. Don't date me that far. It was 25.

Chairman WAXMAN. Well, we will check that fact out, also. But if I am incorrect, my apologies.

The committee stands adjourned.

[Whereupon, at 2:30 p.m., the committee was adjourned.]

[Additional information submitted for the hearing record follows:]

LYNN A. WESTMORELAND
3RD DISTRICT, GEORGIA

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REPUBLICAN POLICY COMMITTEE

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House of Representatives
Washington, DC 20515-1008
March 23, 2007

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The Honorable Henry A. Waxman
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Washington, D.C. 20515

The Honorable Tom Davis
Ranking Member
Committee on Oversight
And Government Reform
B-350A Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Waxman and Ranking Member Davis,

I am submitting the following documents to supplement the record of the March 16, 2007 hearing entitled "White House Administrative Procedures for Safeguarding Classified Information."

1. Four additional questions for one of the witnesses, Valerie Plame Wilson.
2. The July 16, 2003 article by David Corn where he opines whether "senior Bush officials blow the cover of a US intelligence officer working covertly...." It is the first time Ms. Plame is referred to as having covert status.
3. The September 2006 blog discussion of that article by another hearing witness, Victoria Toensing.

Additionally, I am requesting you to ask the Senate Select Committee on Intelligence to provide the following documents for the record:

1. Full text of Ms. Plame's February 12, 2002 email/memo to her boss regarding sending her husband, Joseph Wilson, to Niger.

2. Full text of Ms. Plame's interview with the Senate Intelligence Committee.

I would respectfully ask that the witness and the Committee respond in writing to my request within 30 days. Thank you very much and I look forward to your response.

Sincerely,



Lynn A. Westmoreland
Member of Congress

QUESTIONS FOR VALERIE PLAME WILSON

1. Did you provide the Senate Select Committee on Intelligence the full text of your February 12, 2002 email/memo concerning sending your husband to Niger?

2. List all the parties participating in the conversation you described in detail during the March 16, 2007 hearing including, but not limited to, who told you there was a query from the Vice-President's office and who suggested your husband for the trip to Niger because of his expertise in Africa?

3. Can you explain how the February 12, 2002 date of your email/memo is consistent with the fact that the Vice-President was not briefed until February 13, 2002, which was the date he asked for the assessment that Iraq was purchasing uranium from Africa?

4. Has any person from the CIA informed you that you were covert under the Agent's Identities Protection Act, as opposed to the fact that you merely had covert or classified status? If so, who?

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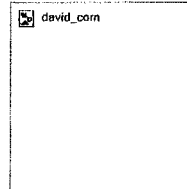
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Washington--a city of denials, spin, and political calculations. They may speak English there, but most citizens still need an interpreter to understand its ways and meanings. David Corn, the Washington editor of *The Nation* magazine, has spent years analyzing the policies and pursuing the lies that spew out of the nation's capital. He is a novelist, biographer, and television and radio commentator who is able to both decipher and scrutinize Washington.

Did senior Bush officials blow the cover of a US intelligence officer working covertly in a field of vital importance to national security--and break the law--in order to strike at a Bush administration critic and intimidate others?

It sure looks that way, if conservative journalist Bob Novak can be trusted.

In a recent column on Nigergate, Novak examined the role of former Ambassador Joseph Wilson IV in the affair. Two weeks ago, Wilson went public, writing in *The New York Times* and telling *The Washington Post* about the trip he took to Niger in February 2002--at the request of the CIA--to check out allegations that Saddam Hussein had tried to purchase uranium for a nuclear weapons program from Niger. Wilson was a good pick for the job. He had been a State Department officer there in the mid-1970s. He was ambassador to Gabon in the early 1990s. And in 1997 and 1998, he was the senior director for Africa at the National Security Council and in that capacity spent a lot of time dealing with the Niger government. Wilson was also the last acting US ambassador in Iraq before the Gulf War, a military action he supported. In that post, he helped evacuate thousands of foreigners from Kuwait, worked to get over 120 American hostages out Iraq, and sheltered about 800 Americans in the embassy

In his dispatches, he takes on the day-by-day political and policy battles under way in the Capitol, the White House, the think tanks, and the television studios. With an informed, unconventional

compound. At the time, Novak's then-partner, Rowland Evans, wrote that Wilson displayed "the stuff of heroism." And President George H. W. Bush commended Wilson: "Your courageous leadership during this period of great danger for American interests and American citizens has my admiration and respect. I salute, too, your skillful conduct of our tense dealings with the government of Iraq....The courage and tenacity you have exhibited throughout this ordeal prove that you are the right person for the job."

The current Bush administration has not been so appreciative of Wilson's more recent efforts. In Niger, he met with past and present government officials and persons involved in the uranium business and concluded that it was "highly doubtful" that Hussein had been able to purchase uranium from that nation. On June 12, *The Washington Post* revealed that an unnamed ambassador had traveled to Niger and had reported back that the Niger caper probably never happened. This article revved up the controversy over Bush's claim--which he made in the state of the union speech--that Iraq had attempted to buy uranium in Africa for a nuclear weapons program.

Critics were charging that this allegation had been part of a Bush effort to mislead the country to war, and the administration was maintaining that at the time of the speech the White House had no reason to suspect this particular sentence was based on faulty intelligence. "Maybe someone knew down in the bowels of the agency," national security adviser Condoleezza Rice said days before the *Post* article ran. "But no one in our circles knew that there were doubts and suspicions." Wilson's mission to Niger provided more reason to wonder if the administration's denials were on the level. And once Wilson went public, he prompted a new round of inconvenient and troubling questions for the White House. (Wilson, who opposed the latest war in Iraq, had not revealed his trip to Niger during the prewar months, when he was a key participant in the media debate over whether the country should go to war.)

Soon after Wilson disclosed his trip in the media and made the White House look bad, the payback came. Novak's July 14, 2003, column presented the back-story on Wilson's mission and contained the following sentences: "Wilson never worked for the CIA, but his wife, Valerie Plame, is an Agency operative on weapons of mass destruction. Two senior administration officials told me Wilson's wife suggested sending him to Niger to investigate" the allegation.

Wilson caused problems for the White House, and his wife was outed as an undercover CIA officer. Wilson says, "I will not answer questions about my wife. This is not about me and less so about my wife. It has always been about the facts underpinning the President's statement in the state of the union speech."

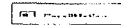
So he will neither confirm nor deny that his wife--who is the mother of three-year-old twins--works for the CIA. But let's assume she does. That would seem to mean that the Bush administration has screwed one of its own top-secret operatives in order to punish Wilson or to send a message to others who might challenge it.

The sources for Novak's assertion about Wilson's wife appear to be "two senior administration officials." If so, a pair of top Bush officials told a reporter the name of a CIA operative who apparently has worked under what's known as "nonofficial cover" and who has had the dicey and difficult mission of tracking parties trying to buy or sell weapons of mass destruction or WMD material. If Wilson's wife is such a person--and the CIA is unlikely to have many employees like her--her career has been destroyed by the Bush administration. (Assuming she did not tell friends and family about her real job, these Bush officials have also damaged her personal life.) Without acknowledging whether she is a deep-cover CIA employee, Wilson says, "Naming her this way would have compromised every operation, every relationship, every network with which she had been associated in her entire career. This is the stuff of Kim Philby and Aldrich Ames." If she is not a CIA employee and Novak is reporting accurately, then the White

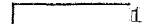
perspective, he holds the politicians, policymakers and pundits accountable and reports the important facts and views that go uncovered elsewhere.

Check out David Corn's new book, co-written with Michael Isikoff, *Hybris: The Inside Story of Spin, Scandal, and the Selling of the Iraq War*. (Crown Publishers). For information, visit his personal blog at davidcorn.com.

Photo Credit: Michael Lorenzini



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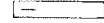
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House has wrongly branded a woman known to friends as an energy analyst for a private firm as a CIA officer. That would not likely do her much good.

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This is not only a possible breach of national security, it is a potential violation of law. Under the Intelligence Identities Protection Act of 1982, it is a crime for anyone who has access to classified information to disclose intentionally information identifying a covert agent. The punishment for such an offense is a fine of up to \$50,000 and/or up to ten years in prison. Journalists are protected from prosecution, unless they engage in a "pattern of activities" to name agents in order to impair US intelligence activities. So Novak need not worry.

 RSS is a format for distributing news headlines on the Web, via special "newsreader" software.

Novak tells me that he was indeed tipped off by government officials about Wilson's wife and had no reluctance about naming her. "I figured if they gave it to me," he says. "They'd give it to others...I'm a reporter. Somebody gives me information and it's accurate. I generally use it." And Wilson says Novak told him that his sources were administration officials.

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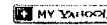
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So where's the investigation? Remember Filegate--and the Republican charge that the Clinton White House was using privileged information against its political foes? In this instance, it appears possible--perhaps likely--that Bush administration officials gathered material on Wilson and his family and then revealed classified information to lash out at him, and in doing so compromised national security.



Was Wilson's wife involved in sending him off to Niger? Wilson won't talk about her. But in response to this query, he says, "I was invited out to meet with a group of people at the CIA who were interested in this subject. None I knew more than casually. They asked me about my understanding of the uranium business and my familiarity with the people in the Niger government at the time. And they asked, 'what would you do?' We gamed it out--what I would be looking for. Nothing was concluded at that time. I told them if they wanted me to go to Niger I would clear my schedule. Then they got back to me and said, 'yes, we want you to go.'"

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Is it relevant that Wilson's wife *might* have suggested him for the *unpaid* gig. Not really. And Wilson notes, with a laugh, that at that point their twins were two years old, and it would not have been much in his wife's interest to encourage him to head off to Africa. What matters is that Wilson returned with the right answer and dutifully reported his conclusions. (In March 2003, the International Atomic Energy Agency concluded that the documents upon which the Niger allegation was based were amateurish forgeries.) His wife's role--if she had one--has nothing but anecdotal value. And Novak's sources could have mentioned it without providing her name. Instead, they were quite generous.

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"Stories like this," Wilson says, "are not intended to intimidate me, since I've already told my story. But it's pretty clear it is intended to intimidate others who might come forward. You need only look at the stories of intelligence analysts who say they have been pressured. They may have kids in college, they may be vulnerable to these types of smears."

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Will there be any inquiry? Journalists who write about national security matters (as I often do) tend not to be big fans of pursuing government officials who leak classified information. But since Bush administration officials are so devoted to protecting government secrets--such as the identity of the energy lobbyists with whom the vice president meets--one might (theoretically) expect them to be appalled by the prospect that classified information was disclosed and national security harmed for the purposes of mounting a political hit job. Yet two days after the Novak column's appearance, there has not been any public comment from the White House or any other public reverberation.

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The Wilson smear was a thuggish act. Bush and his crew abused and misused intelligence to make their case for war. Now there is evidence Bushies used classified information and put the nation's counter-proliferation efforts at risk merely to settle a score. It is a sign that with this gang politics trumps national security.



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Toensing vs David Corn

up

It's a shame David Corn chose to show his displeasure with my September 15, 2006 Wall Street Journal Op Ed about Richard Armitage's role in the Valerie Plame so-called leak by making a baseless personal attack against me. I wrote:

"The first journalist to reveal Ms. Plame was "covert" was David Corn on July 16, 2003, two days after Mr. Novak's column. The latter [Robert Novak] never wrote, because he did not know and it was not so, that Ms. Plame was covert. However, Mr. Corn claimed Mr. Novak "outed" her as an "undercover CIA officer," querying whether Bush officials blew "the cover of a U.S. intelligence officer working covertly in...national security." Was Mr. Corn subpoenaed? Did Mr. Fitzgerald subpoena Mr. Wilson to attest he had never revealed his wife's employment to anyone? If he had done so, he might have learned Mr. Corn's source."

Corn blogged,

"Toensing is flat-out wrong—sloppy wrong. Any intelligent lawyer who bothered to peruse the piece I wrote could discern that I was engaging in a thought exercise, not an act of disclosure."

I did indeed scrutinize Corn's piece. That's why I have a September 11, 2006 yellow-underlined copy of it in my file. (I had read it before, but not printed it.) Here's what made me add the above quote about Corn to my criticism of Special Counsel Fitzgerald.

- Corn praises Wilson and the CIA's choice of him for the trip to Niger. That was strange since every major journalist involved in this area was asking why Wilson was sent, as he had no WMD experience and had served in Niger as a very low-level government employee decades before. Even Armitage had responded to Novak's "Why Wilson?" by saying, "A lot of people are asking that question."

- Corn indeed starts his July 2003 article by asking, "Did senior Bush officials blow the cover of a US intelligence officer working covertly in a field of vital importance to national security—and break the law—in order to strike at a Bush administration critic and intimidate others?" He now says he was merely "speculat[ing]." Anyone familiar with press techniques knows journalists have different methods for getting information in the public domain and hiding their sources at the same time. The specificity of this so-called speculation told me the questioner—Corn—had information that was quite more than mere musing. Novak described Plame as a "CIA operative." To anyone familiar with national security, as Corn is, "operative" does not bring readily to mind the status "covert." Since Novak never wrote she was "covert," Corn had to get that information from somewhere else.

- Another method journalists use to hide their sources is to write they talked to X, but X refused to discuss the matter. Then they proceed to write all the information the source gave them. Corn admits talking to Wilson but claims, "Wilson says 'I will not talk about my wife.'" Corn then writes, "Without acknowledging whether [Plame] is a deep-cover CIA employee, Wilson says, 'Naming her this way would have compromised every operation, every relationship, every network with which she had been associated in her entire career.'" Without acknowledging? Really? One can picture Wilson, and Corn, going "wink, wink," with their fingers crossed behind their backs.

Corn claims today "I did not state as a fact the Valerie Wilson was a 'covert' officer or CIA employee of any kind." Yet he wrote in July 2003, "Wilson caused problems for the White House, and his wife was outed as an undercover CIA officer." Perhaps he should re-peruse his own article.

Beginning in July 2003 and through today in hyping his book, Corn uses the technique of interchanging various intelligence employee and agent status terms, presumably attempting to make them appear as synonyms to the uneducated in national security. This approach told me that for some reason he was attempting to obfuscate the issue. For example, Corn asks today, "[H]ow can you out a CIA operative who has already been identified as a CIA operative...?" Novak's use of the term "operative" to describe Plame had nothing to do with revealing a "covert" status, only that she worked for the CIA, two distinct concepts. On September 5, 2006, Corn wrote, "Plame was an operations officer working on a top priority" and that in the "early 1990s, she became what is known as a nonofficial cover officer. NOCs are the most clandestine of the CIA's frontline officers." A NOC is not necessarily "covert," and Corn's using them as synonyms does not make them the same. Whatever she was in the early 1990s, she was not covert within five years of Novak's 2003 column. "Covert" is a legal term requiring numerous factors, including a foreign assignment at time of publication or within five years. Another factor is that the CIA had to be taking affirmative measures to protect the covert person's identity. Hardly the situation here where Plame went daily to Langley, and where the CIA press person admitted to Novak she was employed by the agency.

Corn could have attempted to counter me on the merits but foolishly made up a fact that I had not read his article. I read it and others by him quite thoroughly, thank you.

At least Corn and I still agree on one fact. My daughter, Amy Toensing, is a wonderful photojournalist.

