

OPEN HEARING WITH DHS SENIOR OFFICIAL PERFORMING
THE DUTIES OF THE UNDERSECRETARY JOSEPH B. MAHER,
OFFICE OF INTELLIGENCE AND ANALYSIS

Friday, October 2, 2020

U.S. House of Representatives,
Permanent Select Committee on Intelligence,
Washington, D.C.

The committee met, pursuant to call, at 10:01 a.m., in the Capitol Visitor Center Auditorium, the Honorable Adam Schiff (chairman of the committee) presiding.

Present: Representatives Schiff, Himes, Sewell, Carson, Speier, Quigley, Swalwell, Castro, Heck, Welch, Maloney, Krishnamoorthi, Nunes, Conaway, Wenstrup, Stewart, Stefanik, and Hurd.

The Chairman. The committee will come to order. Without objection, the chair is authorized to recess the hearing at any time.

Before we turn to the substance of today's hearing, let me address a housekeeping matter.

First, let me remind all present that by direction of the Speaker and pursuant to guidance issued by the Sergeant at Arms, members should during these proceedings, with the exception of when they are speaking, take precautions in light of COVID-19, including by wearing a face cover, such as a mask. We are also limiting staff attendance at the hearing. So, again, I would encourage and urge that, unless you are speaking, to please be wearing your mask.

We are also conducting this hearing in the Capitol Visitor Center Auditorium, which affords additional space for those present to remain physically distant from another.

Before I get into the other housekeeping matter, let me just express my best wishes to the President and the First Lady for a speedy recovery from COVID-19. I know we were all quite shocked and distressed this morning to learn of their illness, and we hope for a very speedy recovery. They will be very much in our thoughts.

All right. The Department of Homeland Security and today's witness, Mr. Joseph Maher, who leads DHS' Office of Intelligence and Analysis, or as we will refer to that office throughout the hearing, O&A, left the committee no choice but to issue a subpoena on Tuesday for his appearance at this hearing today. The Department has persistently slow walked security clearance requests from counsel for their client, Mr. Brian Murphy, a lawful whistleblower and the former acting head of I&A, the Intelligence Community element within DHS, in proceedings before this committee.

The committee repeatedly offered to DHS that it would withdraw the subpoena for Mr. Maher's appearance if the Department authorized the attorney clearances in time for Mr. Murphy's often rescheduled deposition. Unfortunately, DHS refused to do so. Therefore, we are going forward today with this testimony.

I now recognize myself for an opening statement.

On August 3, amid public reporting of American citizens being snatched off the streets of Portland by law enforcement officials from the Department of Homeland Security, this committee launched an investigation into serious allegations that DHS' Intelligence and Analysis Office, or I&A, an element of our Nation's Intelligence Community, may also have played a role in the apparent abuses documented in Portland.

The specter of domestic surveillance activities by the Nation's intelligence apparatus, which is supposed to be focused outside the country, has set off alarm bells.

Soon after the committee began its review, additional serious and credible allegations emerged that senior officials at DHS had engaged in efforts to politicize intelligence assessments and reports produced by I&A. And so the committee expanded its investigation to examine whether DHS' intelligence unit had withheld intelligence reporting about Russian interference in our elections and sought to downplay the threat posed by White supremacist violence.

Our investigation is still in its early stages, but already, the Trump administration has engaged in the now familiar strategy of obstruction.

Despite those efforts, over the past 2 months a deeply disturbing picture has come into sharper focus. Time and again, DHS' Office of Intelligence and Analysis faced pressure by the Trump administration to deploy its resources in a way to politically benefit the President of the United States and his reelection campaign at the expense of our national security.

Specifically, the committee has information that, number one, Trump administration officials sought to influence the production of election threat intelligence by elevating and emphasizing activity by China and Iran despite acute, ongoing interference operations by Russia.

The committee has also learned that DHS leaders sought to influence the production of classified and unclassified intelligence assessments related to foreign threats to our election by encouraging I&A to report more on China, even though the Intelligence Community's public statements indicate that only Russia is engaged in active measures to denigrate one candidate and support another and sway the outcome of the Presidential election.

Treating these three actors of differing intent and capability, Russia, China, and Iran, as equal threats to our election creates a false equivalency. It dilutes the fact that the most significant threat to our election is, in fact, from Russia, which is aggressively seeking to denigrate Vice President Biden and boost President Trump.

These politicized changes did nothing to serve our national security but would serve to avoid embarrassing the President with a focus on the dangerous facts of Russia's interference on behalf of his campaign.

Number two, similarly, DHS officials have sought to modify the unclassified Homeland Threat Assessment, which has yet to be released to this day. Specifically, the committee has learned that senior DHS officials have pressed for the assessment to elevate the threat to our election posed by China and Iran, which would have the effect of misleading the American public, but, again, bolster efforts by the administration to downplay the severity of the most significant and active foreign election threat coming from Russia.

Number three, the committee has also confirmed that DHS' I&A sent personnel to

Portland at the height of DHS' response to protests in the city and that I&A, as an element of the Intelligence Community, was asked to engage in activity that raises profound civil liberties concerns.

Specifically, the committee has learned that I&A participated in questioning protesters who were detained by other DHS officers and issued intelligence reports on reporters.

We have learned that the Federal Protective Service, another component of DHS, seized phones from protesters and asked I&A, a member of the Intelligence Community, to extract data from those phones. Thankfully, that request appears not to have been ultimately fulfilled.

I&A's presence and activities in Portland were also in the service of the President's preferred law and order narrative for which he deployed the Federal Government in response to domestic protests in an effort to benefit himself politically.

The committee is also examining allegations that DHS officials sought to modify assessments related to domestic security threats in service of President Trump's preferred narrative that Antifa and so-called left-wing anarchists are the most important domestic threat. This is despite evidence to the contrary and testimony just last week by FBI Director Christopher Wray that White supremacist violence now makes up a significant share of domestic terrorism, and this is also in the wake of the President's refusal to fully and forcefully condemn White supremacists.

It is a very dark hour when some of our leadership in the Intelligence Community is commandeered into the service of a President's desired political narrative rather than speaking truth to power.

This isn't the first time the Intelligence Community has been used to serve political interests of the person in the Oval Office. Forty-five years ago, the Church and Pike

Committees in Congress investigated the abuses of another corrupt administration, abuses that included not only secret attempts to assassinate foreign leaders, but also efforts by our Intelligence Community to spy on Americans exercising their constitutional rights by monitoring their political activities. Nineteen seventy-five seems like a long time ago, but some of those abuses seem all too familiar today.

The Church and Pike Committees produced a series of recommendations, including to create standing permanent congressional committees that would act as a check on the Intelligence Community. These committees are a direct outgrowth of Richard Nixon's abuse of the Intelligence Community.

Our job today and every day on this committee is to ensure that those abuses do not happen again. That is why we have called you here to testify, Mr. Maher.

Joseph Maher is the current Senior Official Performing the Duties of Under Secretary, Office of Intelligence and Analysis, at the Department of Homeland Security. Mr. Maher is here pursuant to a subpoena issued by the committee earlier this week.

The committee did not wish to subpoena Mr. Maher, but it became necessary when DHS continued to slow walk the security clearances for the whistleblower, Mr. Murphy, for his attorney.

Mr. Maher, the committee always expects hearing witnesses to answer its members' questions, but today the issuance of the subpoena compels you to answer them fully and completely.

In opening our investigation on August 3, the committee requested a series of documents from the Department, including finished intelligence and raw intelligence reports produced by I&A.

On August 19, we requested additional documents, as well as testimony from senior DHS I&A officials.

On September 9, the committee released the whistleblower complaint filed by your immediate predecessor, the former head of DHS' Intelligence and Analysis Office, Brian Murphy, who alleged serious misconduct related to our ongoing investigation.

Following substantial back and forth, the Department agreed to make available a number of witnesses for transcribed interviews and to provide some, only some, of the documents we requested. However, the Department is still withholding the vast majority of documents relevant to this committee's ongoing investigation and oversight of the Intelligence Community.

Moreover, we are dismayed that the Department has slow walked the reauthorization of a security clearance for Mr. Murphy's attorney, thereby denying him the right to have counsel present for a deposition where we could learn additional details of his classified allegations, allegations that the committee has a duty to independently investigate.

Some of those allegations may prove accurate, others may not, but we have a duty to find out, given their seriousness. And given that some of these allegations involve a threat to the upcoming election, we need to find out now and without delay.

Because some of Mr. Murphy's allegations are classified, and particularly those regarding the politicization of intelligence related to Russian threats to our upcoming election, it will be necessary for you, Mr. Maher, to testify, at least in part, in closed session.

Mr. Maher is also here today to explain in open session the Department's obstructive efforts and to testify to matters under investigation by the committee.

We will hold a classified session with Mr. Maher following this open hearing so he may further testify about the allegations of misconduct that we are investigating.

Finally, Mr. Maher, we may ask you broader questions in today's open hearing

about the nature of the threats facing our country. That is because you represent an element of the Intelligence Community whose responsibility is to keep Congress fully and currently informed of the threats to our Nation and because the Director of National Intelligence has refused to appear publicly before this committee or to the Senate Intelligence Committee to discuss these threats, responsibilities his predecessors respected on an annual basis.

Instead, Director Ratcliffe has chosen to selectively declassify and publish unverified material, which he admits may be fabricated, undertaking a domestic political errand for the President before an election only weeks away, an errand that even John Durham seems unwilling to perform. The American people deserve better.

Mr. Maher, we expect you to level with the American people today and to speak truth to power.

Thank you.

And I now recognize Mr. Nunes for his opening remarks.

Mr. Nunes. Welcome to another hearing of the Trump impeachment committee. This committee used to be formerly known as the House Intelligence Committee.

I will begin by noting there is no reason for this hearing to be held in public except to stir up media interest in the Democrats' latest publicity stunt: their attack on the leadership of the Department of Homeland Security. The only reason Mr. Maher is here and subpoenaed here today is leverage. It is meant to force DHS to rush through top secret security clearances without the appropriate background checks.

In fact, there was no reason for the Democrats to make this whistleblower complaint public at all. But, of course, handling whistleblower complaints with discretion, as this committee had always done before this Congress, is not helpful for

publicity stunts. So here we go again.

Let's recall the Democrats on this committee were at the forefront of the Russian collusion hoax. For years, they falsely claimed they had found secret evidence of Trump's conspiracy with Russia. They issued memos defending the FISA warrant to spy on Trump associates, and they even tried to get nude pictures of Trump from Russian pranksters.

They also touted the credibility of the Steele dossier that they had paid for themselves, the Democratic National Committee and the Clinton campaign. They even read the Steele dossier into this committee's Congressional Record during hearings in the past.

After a 2-year investigation, however, Special Counsel Mueller failed to find the secret collusion evidence the Democrats claimed to secretly possess. And since then, we have learned that the Steele dossier the Democrats championed was a mix of fake stories, rumors, barroom gossip, and jokes collected by a suspected Russian spy at the behest of the Democratic National Committee and the Hillary Clinton campaign.

Furthermore, the Department of Justice inspector general found the FISA warrant application that the Democrats defended for years was riddled with mistakes, omissions, even withheld exculpatory evidence, and relied on a doctored email hiding a Trump associate's past cooperation with a U.S. intelligence agency.

The Democrats have not called a single hearing to investigate any of these issues, even though this committee is supposedly dedicated to overseeing the Intelligence Community and investigating abuses. They have held a hearing on global warming, but don't care about documented corruption of the FISA process or suspected Russian agents compiling political dirt for the Democratic Party.

After Mueller testified to this committee and again failed to expose the mythical

collusion conspiracy, the Democrats suddenly switched tracks and impeached President Trump based on an anonymous whistleblower complaint from a bureaucrat who we later learned had coordinated his attack with the Democratic staff of -- you guessed it -- this very committee, despite the Democrats insisting they had never had any contact with this whistleblower.

Although the Democrats brought our oversight work to a halt for months and completely transformed this committee into an impeachment committee, even holding ridiculous secret depositions that were leaked nightly to their media stooges, followed by public show trials with the witnesses they found most useful, the impeachment in the House was such a transparent fraud that not a single Republican voted for it.

After the collapse of the Russian collusion hoax and the failure to oust President Trump via impeachment, the Democrats suddenly ginned up a new investigation, issued their usual slew of press releases, and have now forced us into an open hearing.

And it is certainly amusing that, although this complaint is supposed to be handled by the inspector general first, the Democrats have dispensed with the IG as an unnecessary middleman, probably because the IG investigations take time and the Democrats are operating on an election deadline.

This all has a familiar ring to it. Almost all the Democrats are following a playbook. I would note that usually you don't follow a playbook from a game that you have lost multiple times, but once again they are pushing into the limelight a complaint by a whistleblower. Small world.

It may seem that the whistleblower has some credibility problems. After all, the whistleblower sent an email directly contradicting his allegations. Furthermore, the Democrats themselves called him a liar just a few weeks before he filed his complaint, even threatened to criminally refer the whistleblower. But now, suddenly, he is their

star witness.

Nevertheless, I doubt my Democratic colleagues will breeze right past these contradictions and that the media mouthpieces won't draw any attention to these awkward problems, just like they will ignore the testimony of multiple career officials delivered during the interviews that we have scheduled and conducted over the last few months which directly contradicts their new whistleblower's claims.

So here we go again, indulging the Democrats' dream that they will find the holy grail of scandals that finally gets rid of Trump without beating him in the election.

Of course, foreign threats and intelligence challenges don't grind to a halt while they pursue these sick fantasies. And this one is clearly sick. We have had violence all over this country, and it involves a bizarre sympathy for Antifa that have been burning down many of our country's major cities. I know some view Antifa as an idea. Thankfully, the Trump administration does not.

Yield back.

The Chairman. We will now proceed to questions on the 5-minute rule.

Mr. Maher, the allegations leveled against your office are credible, serious, and wide ranging. They cover everything from abuse of authority and mismanagement of intelligence programs to the politicization of intelligence. We are going to review these allegations during the course of the hearing, and I want to give you a chance to respond as well to other important issues under your purview.

Let me start with a few what should be fairly easy questions.

Is Russian interfering in our election, yes or no? You will have to turn your mike on, sir.

Mr. Maher. Yes.

The Chairman. Is Russia actively spreading disinformation about our elections?

Mr. Maier. I would defer to the Director of National Intelligence statement in August he made public about election interference, and there it specifically does talk about Russia's efforts.

The Chairman. Well, those statements outline that Russia is spreading disinformation. Do you have any reason to quarrel with that?

Mr. Maier. I have no reason to quarrel with it.

The Chairman. Is Russia actively amplifying disinformation about mail-in ballots and voter fraud, yes or no?

Mr. Maier. That I don't think I can answer in open session, but --

The Chairman. Have you issued a bulletin on this subject?

Mr. Maier. We issued a number of bulletins on Russia's malign foreign influence, and so we have -- those are usually issued not for public consumption. And so we have issued a number of bulletins on foreign influence by Russia.

The Chairman. Is Russia actively trying to denigrate Joe Biden?

Mr. Maier. Yes.

The Chairman. And I am sure you saw recently Director Wray's testimony: "The Intelligence Community's consensus is that Russia continues to try to influence our elections. We certainly have seen very active efforts by the Russians to influence our elections in 2020." He also said that the Russians were trying to, quote, "denigrate Vice President Biden and what the Russians see as a kind of anti-Russian establishment."

You agree with Director Wray, do you not?

Mr. Maier. I do agree.

The Chairman. That makes it hard to explain a September press report that DHS leadership delayed publication of an intelligence bulletin in July that warned of Russian efforts to denigrate Joe Biden. The DHS bulletin was at one point during the drafting

process titled, quote, "Russia Likely to Denigrate Health of U.S. Presidential Candidates to Influence 2020 Election."

Do you recall that bulletin, Mr. Maher?

Mr. Maher. I am familiar with the bulletin, yes.

The Chairman. Was the title of that bulletin later changed to remove the word Russia?

Mr. Maher. I am not going to discuss internal deliberations about products, but I can tell you that the product was issued in early September, and I&A stands behind the contents of that product, including its title.

The Chairman. So you will not answer the question of whether Russia was deliberately removed from the title of that product?

Mr. Maher. I am not going to discuss internal deliberations.

The Chairman. So there was an internal deliberation about changing the title?

Mr. Maher. On that product there were internal deliberations about a number of aspects. But, again, I am not going to comment on internal deliberations.

I think the committee has that product in its possession, and, like I said, the Intelligence and Analysis Office stands behind the content of it from its title to its substance.

The Chairman. Why would the title be changed, Mr. Maher, when the ODNI issued a public statement during that same period that, quote, "Russia is using a range of measures to primarily denigrate former Vice President Biden"?

Mr. Maher. Again, to discuss the content of it, it is a nonpublic document that was issued by our Intelligence Office. I am happy to discuss it more in closed session. But, again, I am not going to discuss internal deliberations, but we do stand behind the product.

The Chairman. So when we go into closed session, Mr. Maher, will you explain to us why the title was changed?

Mr. Maher. Again, I am not going to be able to discuss internal deliberations, but the committee can read the document. It speaks for itself and discusses a number of threats.

The Chairman. Is it your position, Mr. Maher, that if you were given improper political instructions, or others were, to alter the intelligence analysis and work product, that you would somehow decline to answer our questions about it because it would be considered internal discussions?

Mr. Maher. If I was given improper political direction on an intelligence product, I would need to alert various officials, the inspector general and possibly others, but I have not been given political direction on any intelligence product.

The Chairman. Well, you are not drafting the intelligence products, Mr. Maher, but if you are aware of others who are exerting political interference to change the content, title, withhold materials, you will answer those questions in closed session, will you not?

Mr. Maher. Well, I will clearly tell you that I will not have anybody taking political directions on any intelligence products within I&A while I am in my current position. I have not seen that while I have been the head of I&A, of Intelligence and Analysis, and if I did, I would alert the correct officials.

The Chairman. And how long have you been in your position?

Mr. Maher. Since early August.

The Chairman. And if you became aware and you have become aware of evidence of politicization of intelligence, are you going to decline to answer those questions?

Mr. Maier. I will be glad to talk about decisions or actions of the agency, but I am not going to talk about internal deliberations. I feel that those --

The Chairman. Even if those internal deliberations involve the politicization of intelligence to suit a Presidential political narrative?

Mr. Maier. At this point today, I am not free to talk about internal deliberations. I will note, however, that the inspector general of both the Intelligence Community and the Department of Homeland Security is aware of the allegations regarding politicization. They have full access to any documents or any communications within DHS to look at those allegations.

The Chairman. Well, Mr. Maier, do you want to tell the American people who are watching why it is you won't be able to tell Congress, and through Congress tell the American people, whether you are privy to evidence of discussions of the politicization of intelligence about an upcoming American election?

Mr. Maier. I have not been involved in discussions about politicization.

The Chairman. I am not asking if you have been involved in discussions. But if you become aware of evidence that intelligence reports were altered, withheld for political reasons, are you telling the American people you will not share that information with the Congress?

Mr. Maier. No. I am telling them that if I become aware of evidence of that, I would disclose it to the appropriate authorities, including the inspector general, if that happened.

The Chairman. Well, I am asking about -- I am asking about Congress. You are under subpoena. We are asking you the questions. Are you telling the American people you are not going to answer them?

Mr. Maier. No, I am not saying that.

The Chairman. So when we go into closed session, you will tell us whether evidence has come to your attention that intelligence products were withheld or altered to suit a political narrative?

Mr. Maier. I am not free to discuss internal deliberations about intelligence products. If I am aware of things being directed to change things for a political narrative, I would -- I will tell you that.

The Chairman. Mr. Maier, you are aware that a -- of the public press reports that a bulletin about foreign -- Russian foreign interference in our election produced in July was withheld from distribution, are you not?

Mr. Maier. I am aware of the press reports, yes.

The Chairman. Are those press reports accurate?

Mr. Maier. The activities it discusses occurred before I got to the Intelligence and Analysis directorate.

The Chairman. Well, let me just ask you, was that bulletin withheld from publication to those law enforcement agencies?

Mr. Maier. I don't believe it was withheld. It was actually published in early September. There was additional work that was done on the bulletin, on the intelligence product, and it was released in early September.

The Chairman. But it was finished in July. Did Chad Wolf, the President's political appointee, intervene to withhold the distribution of that document?

Mr. Maier. I don't have firsthand knowledge of what happened to the document before I got to the Intelligence and Analysis Office in August.

The Chairman. Well, what is your understanding of why it was withheld?

Mr. Maier. Well, my understanding is that there were concerns raised about tradecraft concerns with respect to the report in particular. It was reviewed and

reworked by intelligence professionals, and a product that is consistent with intelligence standards was the product that was produced in early September.

The Chairman. And that was the tradecraft concerns that were raised by Chad Wolf? Is that correct?

Mr. Maher. I don't know exactly who all raised them. I know that there were some raised, but I don't have firsthand knowledge, so I don't want to speculate.

The Chairman. So you haven't looked into this issue enough to know who withheld the document for a period of months?

Mr. Maher. No. I know that it was reworked within the Office of Intelligence and Analysis. I know there were concerns raised at some point. I don't know the details of who and when and what exactly, so I don't want to speculate. I can tell you that intelligence professionals looked at the intelligence report that was actually reworked and produced and stands behind the product that was produced.

The Chairman. And when was that reworking done?

Mr. Maher. I don't know exactly. I became aware of it -- I don't know exactly when I became aware of it, but I would say sometime late August is my guess. I don't know to what extent reworking was done on it before that.

The Chairman. And was that reworking done because it became public that the document was withheld?

Mr. Maher. Not to my knowledge. I became aware of it around the time of the -- the articles came out, was told what the status was, and it subsequently was sent to me to review, and it was published.

The Chairman. Mr. Maher, do you commit right here and now, on behalf of I&A, to never withhold, delay, or change intelligence bulletins due to political pressure or suspected political preferences by DHS leadership or the White House?

Mr. Maher. Yes, I do.

The Chairman. Mr. Maher, let me turn now to the delay that has brought you here.

We have repeatedly sought to schedule Brian Murphy the whistleblower's deposition and the clearance for his attorney has been continually delayed. What are you doing to make that witness available to Congress?

Mr. Maher. Let me just kind of explain for the committee. The security clearance process is run and managed by the Security Office within the Under Secretary for Management, so it is not an Intelligence and Analysis Office responsibility. But my understanding is that that process has actually been expedited quite a bit. That office is currently working on doing the professional work that it takes to grant a high-level security clearance to those officials -- those individuals.

The Chairman. Well, we have never seen a problem like this and delays like this for the simple matter of clearing an attorney to be present with his client during a hearing.

Who is making this decision? And is the politically appointed general counsel, to your knowledge, intervening, discussing, involved in any way with the attorneys that would normally be doing the clearance?

Mr. Maher. I have not been involved in any discussions about how the clearance is going to run or how it should run. The decision is made for granting security clearances by the Chief Security Officer at the Department and/or the Deputy Under Secretary for Management, and I believe that is the process.

The Chairman. Has the politically appointed general counsel been in contact with those that are doing the security clearance?

Mr. Maher. I don't know.

The Chairman. When we met a couple weeks ago, Mr. Maher, and asked for your cooperation, and you committed to providing that cooperation, I asked you whether you were the decisionmaker. And as I recall, the answer wasn't particularly clear.

The decision to provide documents, or in this case withhold documents, the decision to withhold a security clearance, are those decisions made -- being made by others, or are you taking responsibility for them?

Mr. Maher. Those are not decisions that are ultimately made by me. The leadership of the Department decides decisions about release of documents.

With respect to the security clearance issue, that is decided by the Chief Security Officer and the Deputy Under Secretary for Management and not by me.

The Chairman. So the document production decisions are not made by you. They are made by political appointees at DHS headquarters?

Mr. Maher. Yes, as has been the case for every administration, yes.

The Chairman. And the decision as to make this witness available through a clearance for his counsel, that is being made by the internal Security Office of DHS, but you don't know whether the political appointees have been in communication with them. Is that correct?

Mr. Maher. That is correct.

The Chairman. Mr. Nunes, you are recognized.

Mr. Nunes. Welcome, Mr. Maher. How are you doing today?

Mr. Maher. Thank you, sir.

Mr. Nunes. I don't know what you are doing here, to be honest with you. You have been on the job a couple months, a month and a half?

Mr. Maher. Yes, sir, a little less than 2 months.

Mr. Nunes. So this committee, as I said in my opening statement, we have

had -- unfortunately, the last couple of years, we have brought many people like yourself before this committee. We have ruined a lot of people's lives. And I want to try to make sure that doesn't happen to you here today.

You have no business being here. You don't know any of these facts in these supposed allegations.

But I want to take you back.

First of all, where were you in 2016? I don't -- I know you just came over to I&A.

What were you doing in 2016?

Mr. Maher. I was in the General Counsel's Office at the Department of Homeland Security.

Mr. Nunes. Department of Homeland Security. Were you read into any intelligence products or anything at that time?

Mr. Maher. In the course of my job, I am read into some intelligence activities, yes.

Mr. Nunes. Okay. Are you a Russian expert of any --

Mr. Maher. No.

Mr. Nunes. Okay. And are you familiar with any of the history of what Russia or the old Soviet Union has done throughout the last 70 years?

Mr. Maher. I wouldn't describe myself as an expert in that area, no.

Mr. Nunes. Okay. I didn't think so. But you are aware of generally press reports, and you have followed the news, I am assuming, the last 4 years?

Mr. Maher. To some extent, yes.

Mr. Nunes. Did you read -- and this is not a trick question, and I know it is really boring -- but did you read our committee's report on Russian active measures, by any chance?

Mr. Maier. I have not, no.

Mr. Nunes. Okay. It is great reading. You should maybe read it at some point.

But in that report we found -- you know, for many decades we kept intelligence very, very quiet. It was classified. But what we put in that report essentially is that we knew that the Russians, and before that the Soviet Union, were always actively involved in election interference.

In fact, during the Obama administration, the Russians did a whole bunch of election interference in other countries.

And then, of course, they were doing what they usually do to this country. It was nothing new. We always knew about it. That intelligence was shared with this committee.

But in early 2016, the Republicans on this committee had become so concerned about the inaction by the Obama administration on Russia, it became so peculiar and odd that Russia was essentially doing whatever they wanted -- they would march into Ukraine, take Crimea, they would be involved in Syria, they would be involved in Libya, all over the globe -- and consistently the Obama administration didn't do a damn thing about it.

This committee made very clear statements, at least the Republicans did, that the largest intelligence failure since 9/11/2001 was our intelligence agencies' inability to understand Putin's plans and intentions. That was the Republicans in 2016.

The media will ignore it. They continue to ignore it. They even ignored the work that we did, because what we ultimately found was that during that same timeframe, in 2016, the Clinton campaign and the Democrats were up to some really nasty, nasty stuff that they have continued to hide from the American public.

They developed and paid for a series of dossiers. They hired a former British

agency -- through cutouts, no less. Those cutouts, they went through a law firm. They laundered money to a company that then hired this former British spy who then went and actually claimed he was working with a Russian, but it actually ended up being a Russian that was only a few miles from here, had previously worked for the Brookings Institute. And now we find out, in just recent days, he was suspected of being a Russian spy at one time.

So they put together these dossiers that are -- I don't know. They are called the Steele dossiers. Have you heard of the Steele dossiers?

Mr. Maier. Yes.

Mr. Nunes. Okay. So did you read those Steele dossiers when they came out, when all those were published in early 2017?

Mr. Maier. I think I have read accounts of them, but I haven't read them specifically.

Mr. Nunes. They were fairly salacious, weren't they?

Mr. Maier. Yes. Yeah.

Mr. Nunes. You have been a career official for how many years now?

Mr. Maier. Seventeen.

Mr. Nunes. Seventeen years DHS public servant.

Mr. Maier. Yes.

Mr. Nunes. Not a political appointee.

Mr. Maier. Correct.

Mr. Nunes. Were you surprised that the FBI and the Department of Justice would use these dossiers that were salacious and unverified -- not my words, the words of the former FBI Director -- that they would use them to get a FISA warrant?

Mr. Maier. That is an area that I am not an expert in. I don't have the

particular details of it. So I, you know, I would defer to the committee in what it found.

Mr. Nunes. But the dossiers, you do know, were written -- were paid for by the Democratic National Committee and the Clinton campaign?

Mr. Maher. That is what I have read.

Mr. Nunes. So, you know, so here we are, now 4 years later, where you have the Democrats continuing to try to cover up and blame Russia for something that we knew that Russia had been doing for the last 70 years. But they decided to make it public.

But you know who really interfered in the election? They did, the Democrats. They interfered in our 2016 election. They interfered in the 2018 election. They poisoned the minds of millions of Americans with their vile lies and dirt and cover-up of what the Democratic national party had paid for and fed into our intelligence services.

They used it to raise money in the 2018 election, claiming wild conspiracies, that Trump is doing something with Russia. Even the other night -- even the other night in the debate -- I don't know, did you have a chance to watch the debate, Mr. Maher?

Mr. Maher. Portions of it.

Mr. Nunes. Joe Biden, their candidate, who was in the room when they began investigating Trump officials based on anonymous dirt that they had paid for, General Flynn, three-star general, former head of the Defense Intelligence Agency, paid for dirt on him, fed it into the FBI, got FISA warrants on Trump campaign officials. They poisoned the minds of millions of Americans.

Joe Biden the other night still made the claim, even though he was in the room back in 2016, that Trump had something nefarious -- some nefarious dealings with Russia.

You know what question he didn't answer and what the moderator didn't even ask? Why would Joe Biden's son get \$3.5 million from a Russian oligarch closely tied with Putin?

It is almost like we live in a fantasyland here where they accuse you, the Democrats accuse you of whatever they are doing themselves. The media will ignore it. They will continue to ignore it.

I have no idea how you would have the son of the Vice President receiving millions of dollars, not just from people with ties to Putin, Kazakhstan, Ukraine, even China. The FBI didn't seem interested in investigating any of that. They took the Democrats' dirt and the Clinton dirt and they opened up an investigation into the Trump campaign and the Republican Party, their adversaries.

This committee has met with countless countries, all of us on this dais, intelligence services all over the world, allies, adversaries, people in the middle. We are always concerned about whether or not there is any election interference, especially by the country's intelligence services and intelligence agencies.

I have sat in so many meetings with senior intelligence officials around the world, and it is one of the first things you always talk about: I hope that you are speaking truth to power, that you are not getting involved in elections, that you are trying just to gather intelligence and protect your own country, and hopefully we can work with you.

Yet, here we are, shiny city on a hill, and the Democratic Party corrupted our intelligence services.

And I am really sad that you are here today, Department of Homeland Security, which, you know, we have -- granted, we have some small jurisdiction over you. But, I mean, we are really supposed to be making sure that our intelligence agencies are protecting this country.

And, look, I don't have all the details yet. I mean, we have been doing lots of transcribed interviews from your employees and officials that work for you.

But I know this much: Cities are burning all over this damn country, and Antifa is

not an idea. And I expect the Department of Homeland Security to do what they can to protect our Federal property. Statues in this city just a mile from here torn down, all over the country torn down, even of African-American leaders were torn down.

This is the Department of Homeland Security, Mr. Maher, and it is a simple question, but I am going to state the obvious here. Don't you have a responsibility to protect Federal property?

Mr. Maier. Yes, we do. Under Title 40, we have a specific statutory responsibility to do that.

Mr. Nunes. So you were doing that. You were providing intelligence in Portland, Seattle. You are feeding these reports, I know, that go out around the country. Correct?

Mr. Maier. Correct. Yes.

Mr. Nunes. We have even seen some foreign involvement in these protests around the country. It is pretty alarming.

Antifa is not an idea, Mr. Maher, it is a radical group, and there are a lot of groups like them. And I have no idea why the Democrats would be protecting Antifa. This is a bizarre, bizarre, strange events that we are witnessing right here. And hopefully someone in the media will cover this, but I doubt it.

Yield back.

The Chairman. Mr. Himes.

Mr. Himes. Thank you, Mr. Chairman.

Thank you, Mr. Maher.

What is truly bizarre is the ranking member's statement that any Democrat would protect Antifa. That has never happened. It has never been alleged. It is truly bizarre. But what we are here to talk about is not Antifa or myriad conspiracy theories,

but quite serious allegations of violation of American civil liberties.

And so, Mr. Maher, I would like to ask you about allegations that DHS intelligence personnel pressed to extract information from the cell phones of detained protesters in Portland, Oregon.

As you are probably aware, The Washington Post on September 10 detailed the stories of individuals with no history of violence who were targeted by Federal agents from DHS, including the Homeland Security Investigations Division within ICE.

One of those innocent citizens told The Post, and I quote, "I didn't know if I was going to be seen again." Another U.S. citizen detained by DHS was wrongly classified as a foreign national.

We understand that many individuals who were detained had their cell phones confiscated. Committee interviews with DHS officials have corroborated that at least some of those protesters had not had their phones returned months later. Those phones appear to have been in the possession of the Federal Protective Services without a search warrant. Again, without a search warrant.

Witnesses have testified to the committee that the Federal Protective Service seized phones of protesters and discussed with I&A the extraction and exploitation of data from those phones in order to identify connections between protesters. Those requests apparently came down to DHS' high-tech office, whose director testified that they did not ultimately accede to the request to exploit the data because there was no search warrant.

Now, law enforcement regularly reviews the contents of electronics taken from criminals. They do network analysis on those criminals, for example, if they are part of organized crime or a gang of some kind.

What I am concerned about here is that this is a situation where an element of the

United States Intelligence Community, not law enforcement personnel, is being asked to use tools meant for counterterrorism or national security threats against Americans who were exercising their constitutional rights.

So my question to you, sir, is did DHS I&A, the unit you now lead, receive a request to exploit and conduct network analysis on the phones of protesters in Portland?

Mr. Maher. Congressman, my understanding is that we have not exfiltrated or exploited any cell phones of private individuals.

Mr. Himes. Sir, with due respect, that wasn't my question. My question was, did I&A receive a request to exploit those phones?

Mr. Maher. I have heard that, but let me also kind of say that the inspector general of our Department is investigating activities in Portland. He has specifically asked me not to interview individuals within I&A about things that are under investigation, so I have not spoken to, you know, all the people that one might normally speak to if you were investigating that, out of deference.

Mr. Himes. But you -- so, you just said that you had heard that, those were your words, that you had heard that. From who had you heard that I&A had received such a request?

Mr. Maher. I don't recall.

Mr. Himes. You said you heard it. You repeated it here today. Do you believe that there is credibility to what you heard?

Mr. Maher. Well, I didn't repeat it, but I did say I heard it. And I just -- I can't remember which -- who told me that within the office. I don't recall.

Mr. Himes. Okay. But you don't have reason, as evidenced by the fact that you reported it here to us today, you don't have reason to doubt that there was a request to exploit the phones of American citizens?

Mr. Maier. I don't have reason to doubt that. I didn't report it today, but I don't have reason to doubt it.

Mr. Himes. Okay. Would I&A, an Intelligence Community unit, typically or commonly look at personal information of protesters, or would you characterize that as rare and maybe even unprecedented?

Mr. Maier. Well, the authorities for our Intelligence Office are different than law enforcement's. They are different than other intelligence agencies which operate outside of the United States in that we do not have authority to covertly collect information like that. We collect information overtly and through open source means.

Mr. Himes. Right. And for that reason it would be pretty legitimate, in fact maybe even shocking, if an Intelligence Community element, for precisely the reason you just outlined, were in fact asked to exploit the phones of American citizens, especially without a warrant. Is that correct?

Mr. Maier. I suppose someone who is not familiar with our authorities may ask that. I don't know. I don't know the specifics of what those conversations were.

Mr. Himes. So you have said that you have heard that those discussions occurred. Did you hear who the people were or what the elements were that were asking I&A to exploit those phones?

Mr. Maier. No. I don't know those details.

Mr. Himes. Okay. I yield back. I yield back my time.

The Chairman. Mr. Conaway.

And let me just mention, if I could, the votes have started, but as we are voting in shifts, we are just going to work through the vote. I would suggest that members that have already had a chance to ask questions go vote and come back. Or those of you that won't have a chance to ask questions for some time in the order might want to go

vote now.

Mr. Conaway.

Mr. Conaway. Thank you, Mr. Chairman.

Mr. Maher, I am not sure why you are here either.

The previous questioner may have trapped you into saying something that I don't think you wanted to say. I actually heard about the allegations that I&A was asked to exploit telephone -- those telephones from the questioner. And so your question -- your answer could have been that you heard it from him. So just be careful when you are asking -- answering questions.

The background check process is important to our Nation, right?

Mr. Maher. It is.

Mr. Conaway. Would you agree?

Mr. Maher. It is very important.

Mr. Conaway. Who has access to TS/SCI information that doesn't go through a background check other than Members of Congress?

Mr. Maher. Nobody.

Mr. Conaway. Nobody. Is there something about the law profession -- and I know you are lawyer, I am a CPA, there is a bit of -- is there something about the law profession, some oath that they take, that makes a lawyer more or less likely to be a risk to misuse classified information that would exempt them from a background check?

Mr. Maher. No. And our practice is at the Department it doesn't matter what your profession is. You need to go through a background check.

Mr. Conaway. This committee, I have been on it a long time. Maybe the only person longer is our chairman. And we have had constant conversations about the length of time it takes to do background checks.

It is a constant thorn in the side of every agency out there, because they have got good people that they need into place, they have got good folks that need to go to work, and they can't get the background check done.

And the system has worked to try to shorten that timeframe, not for purposes like this, but for purposes of getting people employed. So it is not an unusual circumstance that it does take some time to do that.

You wear two hats today, Deputy -- Principal Deputy Chief General Counsel and Acting Under Secretary of I&A. Just to be clear, under either one of those hats, do you have the authority to waive a background check?

Mr. Maher. I do not.

Mr. Conaway. Do you have the authority to grant a background check?

Mr. Maher. I --

Mr. Conaway. A conclusion of a background check.

Mr. Maher. No. The Chief Security Officer exercises the authority.

Mr. Conaway. And does he work for you?

Mr. Maher. He does not.

Mr. Conaway. Okay. So you look like to me to be a hostage. The chairman mentioned it in his opening statement. You are here simply because the majority could not bully the agency into doing something that the agency should not do, and that is grant a security clearance to somebody who hasn't gone through the background check, who hasn't had to answer the questionnaire that is appropriate for anyone who is requesting a background check.

The committee majority is wanting to circumvent that to the detriment of our Nation. And I know they think it is for their purposes because they can get this attorney in and get the -- you know, Mr. Murphy in here.

This is an open session. Mr. Murphy could be here today. He could be sitting right there.

And so is it your professional judgment that it would be appropriate to waive background checks in these circumstances?

Mr. Maier. No, it is not.

Mr. Conaway. Are you aware of any -- or any conversation among folks at DHS to use the background check as obstruction to slow down Mr. Murphy's testimony in front of this committee?

Mr. Maier. No, I am not.

Mr. Conaway. Nobody is playing games that you are aware of?

Mr. Maier. No.

Mr. Conaway. Mr. -- you have been in government service for a long time?

Mr. Maier. I have.

Mr. Conaway. Is the Trump administration the first administration to have political appointees at your agency?

Mr. Maier. No. Every administration has political appointees.

Mr. Conaway. Oh, really? From the sounds of the questions earlier about the political appointee's role at an agency, it sounds as if it is almost unique and somehow untoward for the Trump administration.

So what I am hearing you say is the Obama administration had political appointees at DHS?

Mr. Maier. Yes, sir.

Mr. Conaway. Were they simply figureheads? Did they sit in an office and collect a salary and just hang out or did they have a role to play?

Mr. Maier. No. Political appointees always take a significant role on issues

of --

Mr. Conaway. And that role is inappropriate, in your mind?

Mr. Maher. It is not inappropriate for political appointees to take a serious role.

Mr. Conaway. Okay. It was hard to tell that from questioning that you got earlier that somehow political appointees are automatically, you know, bad -- you know, a risk to our Nation and are doing things that they shouldn't do without any evidence to that fact.

Let's see, the -- how long is the -- the documents that you fill out to start the background check process, how many pages is that?

Mr. Maher. It is quite a few pages, and a lot of it, the length of what has to be reviewed depends on things like how much foreign travel you have done, the individuals you have interacted with, things of that nature.

Mr. Conaway. Okay. So if a lawyer has been extensively involved in lots of those kinds of things, that the packet could be rather extensive and the review of that packet could take some time?

Mr. Maher. It could, yes.

Mr. Conaway. Thanks for being here, Mr. Maher. I apologize on behalf of our half -- our side of the committee. You should not be here.

I yield back.

The Chairman. I would just point out, Mr. Maher, we are not talking about a background check for the purposes of a new hire in an intelligence agency. We are talking about a background check for the purposes of sitting in on a deposition or an interview. Those are normally conducted in 24 hours, at the most a few days. During the 2 hours that Mr. Nunes chaired the Russia investigation, we never had a delay of this kind, so this is unprecedented.

Ms. Sewell.

Ms. Sewell. Thank you, Mr. Chairman.

I would like to turn to the disturbing allegations that DHS has tried to minimize the threat posed by violent White supremacist groups and play up the threat from Antifa and radical -- what is perceived as radical left-wing groups in a bid to support President Trump's political narrative.

On September 17, Director Wray testified that White supremacists pose the greatest domestic security threat. He said, and I quote, "Within the domestic terrorism bucket, the category as a whole, radically motivated violent extremism is, I think, the biggest bucket within that larger group. And within that radically motivated violent extremist bucket, people subscribing to some kind of White supremacist-type ideology is certainly the biggest chunk of that."

Sir, do you concur with Director Wray's assessment regarding the fact that White supremacist groups are the largest, quote, "chunk of" in that bucket?

Mr. Maher. I agree with him, yes.

Ms. Sewell. Do you have any reason to question the accuracy of Director Wray's recent testimony that racially motivated violent extremism, mostly from White supremacists, makes up the majority of the domestic threats?

Mr. Maher. No.

Ms. Sewell. Earlier this week, President Trump seemingly ignored his FBI Director and refused during the Presidential debate to denounce White supremacy. In fact, he did just the opposite. He told the Proud Boys, a notorious violent White supremacist group to, quote, "stand down and stand by." They interpreted the President's remarks as an endorsement.

Equally disturbing, your predecessor acknowledges that in May and June of this

year he met with Acting Director -- Deputy Secretary Cuccinelli to ask about the release of a DHS intelligence assessment on domestic terror threats.

Mr. Cuccinelli is alleged to have ordered that the assessment be modified to make the threat of White supremacy appear less severe and include information on violent left-wing groups and Antifa.

In addition, Mr. Cuccinelli and Acting Secretary Wolf allegedly directed your predecessor, Mr. Murphy, to change other intelligence briefings that were shared with Federal and State and local enforcement agencies to ensure that they match President Trump's description of the danger posed by Antifa.

Mr. Maher, did Mr. Wolf and Mr. Cuccinelli direct Mr. Murphy to modify DHS' intelligence assessment to play down the threat of White supremacists?

[11:02 a.m.]

Mr. Maier. I have not been involved in any of those conversations. So I don't want to speculate.

Ms. Sewell. So you can neither confirm nor deny that such an assessment was done, a downgrade was made in assessment?

Mr. Maier. I would say that is correct, although I would say it is out of character for -- I have never been asked by Mr. Wolf to change an intelligence assessment to minimize anything.

Ms. Sewell. But you are not saying that Mr. Murphy would not have been asked by them. You don't know whether or not that is true or not?

Mr. Maier. I was not at those conversations, so I can't speak to them.

Ms. Sewell. Earlier, you acknowledged that part of the authority of DHS is to protect Federal buildings, irrespective of who actually damages them. Is that correct?

Mr. Maier. That is correct.

Ms. Sewell. So do you commit to ensuring that DHS does produce intelligence assessments and would treat any extremist group that violates the law or damages the -- any Federal building the same?

Mr. Maier. Yes. I think our department is committed to protecting the Federal facilities, regardless of who is committing the violence.

Ms. Sewell. Do you also commit to ensuring that DHS producing intelligence assessments that are based on intelligence and other information, and not based on the opinions and thoughts of President Trump --

Mr. Maier. Yes. That is correct.

Ms. Sewell. -- or his political appointees?

Mr. Maier. Yes.

Ms. Sewell. Thank you for appearing before us today. I know that you have a very tough job. I think the American people deserve to make sure that the assessments that are given by the Intelligence Community, whatever component, whether it is within the 17 agencies or within DHS, are based on intelligence and not on conjecture.

Thank you, sir.

The Chairman. Dr. Wenstrup.

Dr. Wenstrup. Well, thank you.

And thank you, Mr. Maier, for being here. I want to correct something my colleague from Connecticut said. Two career INA officials testified that a formal request to exploit phones was never received. Phones were taken from people arrested for Federal crimes. That is normal procedure for law enforcement. INA determined a warrant was required before they would ever exploit the phones.

Moving from there, I, again, want to thank you for being here, and understand that many on this committee have aspirations outside of the work here. This committee should never be used as a platform for fictional playwriting, but here we are, again. You know, in 2018, we went to the minority. We lost seats. They went to the majority and gained seats. And I look down. I see some of my colleagues here and I feel badly because I don't know that they are ever going to know what this committee should be doing and how it should function and that is a shame.

And to go back to the point about foreign influence on elections, Russia and others, we know this has been happening for decades. They try to sway our elections. They try to disrupt our society. That is not news, but it is our role to prevent it. That is what we should be doing for the American people, trying to prevent it so that we have free and fair elections without outside influence.

And, frankly, to me, as I have sat here for the last few years, there is nothing more revolting, however, than the idea of a political campaign paying Russians, or any other foreign adversary, for misinformation against their opponent.

But let me get to the point at hand, Mr. Murphy. We know that Mr. Murphy was reassigned to DHS Management Directorate when an IG investigation was launched into allegations about his department and his actions.

Is that correct?

Mr. Maier. Yes, sir.

Dr. Wenstrup. Do you know if Acting Secretary Wolf was concerned that the IG investigation could not be done in a fair and unbiased manner, if Mr. Murphy remained as head of INA and continued to direct or manipulate staff during the investigation?

Mr. Maier. I know the Secretary was concerned about some of the reports that were issued and wanted to make sure that the inspector general was able to look at the situation, and provide a report to him.

Dr. Wenstrup. Are you aware of any efforts by Mr. Murphy to contact INA employees since he filed his reprisal complaint on September 8?

Mr. Maier. I am aware of that, yes.

Dr. Wenstrup. Because we wouldn't want him to try to explain away any inconsistencies from things that he said or did in their presence that his complaint expressly contradicts, would we, or would you?

Mr. Maier. I am sorry. Can you rephrase the question?

Dr. Wenstrup. Well, I just I have the concern that he may be going back to -- to staff to try and explain away the inconsistencies that have been presented to us from the things that he said or did in their presence, and that his complaint expressly contradicts.

Mr. Maier. I agree that that is not a good course of action.

Dr. Wenstrup. That would be a concern.

Do you know if Mr. Murphy tried to ask for his former subordinates to support the allegations he made, or to try to explain away the inconsistencies about things he said or did in their presence that his complaint expressly contradicts?

Mr. Maher. I don't know the specifics of the conversations. I know it was somewhat disconcerting to a number of people to basically have their former boss call them about this and for, you know, their knowledge, he may be their future boss. So it is dis -- it was disconcerting, I think, to some people.

Dr. Wenstrup. Did any of those staff members come forward to you to express their concerns with this taking place?

Mr. Maher. I heard from a number of people that calls like that had happened

Dr. Wenstrup. You heard from them directly or indirectly? From someone else?

Mr. Maher. I heard it from some directly, some indirectly.

Dr. Wenstrup. It sounds like concerns that he might be inclined to direct or manipulate INA staff are pretty reasonable. Would you agree with that?

Mr. Maher. I would rather not characterize it. I think that the people at INA are somewhat distracted by a lot of this. I think that they have a passion to focus on the work of securing the country and producing excellent intelligence products, and so, I think they will be more than glad when this chapter has passed. But I think that they as a workforce are focused on protecting our homeland and that is what they want to be doing.

Dr. Wenstrup. And that is has we want them to be doing as well.

Listen, I want to thank you for your time here today and appreciate your service to the country.

Mr. Maher. Thank you.

The Chairman. Mr. Quigley.

Mr. Quigley. Thank you, Mr. Chairman.

Thank you, Mr. Maher.

Let me ask you, sir, about the creation of intelligence products on journalists; two, that you are aware of, in particular, Mike Baker of The New York Times and Ben Wittes of Lawfare. Why were these products created?

Mr. Maher. I don't know the details of why they were created. As I mentioned, the inspector general is doing a review and has asked me not to interview particular employees about them. So I don't know why they were created. But they have been rescinded and they shouldn't have been created.

Mr. Quigley. And they what?

Mr. Maher. They should not have been created.

Mr. Quigley. Are you aware of any other reports, intel products, created on any other journalist?

Mr. Maher. Not that I can think of. There are a number of other reports. So after I came in, we had a -- we are having two reviews done. We had an initial review done of all the reports that were created since May. There were a number that we found that were inappropriately issued. Those have been rescinded. We had a subsequent review done by a different part of the office that is independent, and that is ongoing. So there are a number of other reports that were issued that shouldn't have been issued. I don't recall any of them being about reporters specifically but --

Mr. Quigley. Is it that you don't know if they were about a specific reporter or you don't know whether they were about any other journalist or not?

Mr. Maher. I don't think that they were about journalists specifically. There

were other reasons why the reports were not appropriate under intelligence trade craft.

Mr. Quigley. Yeah, the Acting Secretary put out a statement condemning the activity and, as you say, said there would be an open investigation. We all hope he is, we assume, sincere about that. My understanding is that some of the information on these two reporters related to what was called baseball cards that INA has created on protestors.

Are you are familiar with this term?

Mr. Maher. I am familiar with the term, yes.

Mr. Quigley. These cards gather information on protestors, correct? They were, in this case.

Mr. Maher. I don't know the specifics, again, because the inspector general is doing a review of that. So I don't know the specifics of the ones you are mentioning.

Mr. Quigley. Well, not about these two reporters. But to your knowledge, were these baseball cards used to collect information on peaceful protestors, or any protestors?

Mr. Maher. Not to my knowledge with the caveat, again, I have not specifically delved into that in the way you would if there was not another investigation going on.

Mr. Quigley. Typically, they are used on terrorists, correct?

Mr. Maher. Correct. They are usually used by someone who has been convicted or arrested for violence or terrorism.

Mr. Quigley. So in a sense, using the baseball cards in this manner is equating anyone out there protesting as a terrorist, correct?

Mr. Maher. Again, I don't know specifically that any were created about people who were just protesting. There should not be reports created about people who are only exercising First Amendment-protected activities.

Mr. Quigley. Could you restate that?

Mr. Maher. Sure. I don't know specifically about the reports you are mentioning, but intelligence reports should not be generated about Americans who are just exercising First Amendment-protected activities.

Mr. Quigley. And baseball cards are part of that, correct, in the manner of collecting and using it in that fashion?

Mr. Maher. Well, like I said, my understanding of that term is it is typically used by -- to identifying people who are either terrorists or have been convicted of violent activity.

Mr. Quigley. But does -- at this point, does the agency believe that protestors in Portland are akin to terrorists?

Mr. Maher. No, there are a lot of protestors who are simply exercising First Amendment-protected activities. There are other people who are committing violence in those circumstances, but there are a lot of people who are just exercising First Amendment-protected activity.

Mr. Quigley. And you are agreeing that we shouldn't be creating files on American citizens, correct?

Mr. Maher. Correct, unless they are terrorists or other -- committing other Federal crimes.

Mr. Quigley. But the assumption is that the fact that they are out there protesting doesn't make them a candidate to be a terrorist, correct?

Mr. Maher. Correct. The fact that someone is just protesting in Portland, or anywhere in the United States, is not a basis for intelligence officials to be collecting information on them or reporting on them.

Mr. Quigley. Thank you.

My time is complete. I yield back.

Mr. Himes. [Presiding.] Mr. Stewart.

Mr. Stewart. Welcome again, sir. We are grateful again. I think I speak, I hope, for all of us. Thank you for your 17 years of service.

But I got to echo something that I think the ranking member said, and that is, in many ways, I am sorry you are here. You are part of what this committee unfortunately has proven that they can do so well, and that is, to seek to destroy the reputations and the lives of innocent people. And sometimes it appears that they do there with ease. They do it with false accusations, malicious accusations, everything from treason to working with foreign agents, to cohorting with prostitutes. And every single one of these malicious accusations made for years, every one of them is untrue.

And I got to tell you. I have -- it appears to me you have little firsthand knowledge of the primary concerns here. You have been weeks on the job. As I said, you appear to have no firsthand knowledge. You wouldn't expect to have firsthand knowledge. It is outside of your responsibility.

I think I could put my boot up there behind that microphone and it would have as much information as you have regarding these, and that is unfortunate, that you would be here and drug before a committee in open session which is nothing but a political exercise, to be asked questions for which you have no responsibility.

And I don't mean to minimize your role but, honestly, sir, this isn't about you. You are, unfortunately, a prop, because it allows this committee to hold hearings and to rail against the President, once again, over nonsense, and you get a front row seat to what some hope is Impeachment 2.0.

And I think this hearing is another example, and some of the absurd accusations that have already been made is another example of why this committee has lost its way,

and why this committee no longer does its job of providing credible, honest oversight of important intelligence at work.

And it is another example of why this committee, what used to be the crown jewel of bipartisanship, what used to be the reason that most of us wanted to be on this committee, I would hope the reason every one of us wanted to be on this committee, was because of the important work we did in a bipartisan manner. And now, it has become the most partisan, untrusted, and minimalized committee in all of Congress, because we have watched what is happening to you happen for years now, again and again and again, to innocent people. And it is why so many of us who are on this committee who came here to do serious intelligence work are so disappointed that, once again, we are doing this bit of a television drama.

And I want to correct the record on a couple of things in the time I have left, and then ask you something I think is important. In this hearing, there are a number of things that have been said that we know are untrue, and I am not going to spend any of the time I have reviewing them, but I want to hit a couple of them very quickly, because they are relevant and they are important.

It has been said, only Russia is using active measures to influence this campaign to support one candidate over another. We know that is not true. Every one of us have been to the hearings. Every one of us have seen the analysis. We know that is not true. China is doing the same thing. So are another -- other countries.

It has been said -- and this is just so absurd to me. It has been said the President continues to refuse to condemn White supremacy. What nonsense. He has done so again and again and again. He did so as recently as two nights ago.

Now if you are a Washington Post or a CNN reporter, I can understand why they keep going with that story, but this committee shouldn't be involved in nothing but

political hackery like that, making accusations and saying things that we know are not true. But it is not the first time that is happened.

In the little less than a minute I have for you, I have a question I think is very relevant. What would happen to our national security if we set the precedent that all you have to do is have a whistleblower complaint, and we will waive all national security concerns and read in any attorney that that individual chooses, and waive all of our standard procedures as background checks? What would that do to our national security if we did what this committee is asking to be done now?

Mr. Maier. I think if you dispense with the professional checks that are done, to do that, I think it can present a grave danger. Top secret information is information that, if it is disclosed, is reasonably expected to cause exceptionally grave damage to national security. So there are reasons why the professionals who are experts in conducting background checks and granting security clearances spend a lot of time on that.

Mr. Stewart. And I will conclude -- my time has expired -- that it doesn't take a genius to figure that out. This endangers our national security if we do what this committee has asked you and others to do.

The Chairman. Mr. Swalwell.

Mr. Swalwell. Thank you, Mr. Maier.

Thank you, Chairman.

I want to correct something that --

The Chairman. Is your microphone on?

Mr. Swalwell. Thank you.

I want to correct something that my colleague from Utah just said. Mr. Maier, it is not the view of the Intelligence Community that China and Russia are equally acting in

this election. In fact, Mr. Maher, the Intelligence Community, and you have cited the ODNI assessment earlier, says Russia has a preference for Donald Trump, is seeking to denigrate Joe Biden, and is seeking to help President Trump. Is that correct?

Mr. MaHer. Right. I would agree with the statements of the Director of National Intelligence on this.

Mr. Swalwell. So when my colleague from Utah says China is doing exactly the same thing, has a preference for a candidate. And is actually actively seeking to help a candidate, and seeking to tear down a candidate, that is not accurate. Is that right?

Mr. MaHer. I think any kind of conversation I would have on that should be done in closed session.

Mr. Swalwell. Okay. Well, I can say in open session that is false, and it is false for the American people to walk away and believe there is any equivalence between what Russia and China are doing.

In fact, yesterday the national security advisor for the President, former national security advisor for the President, McMaster, said, Donald Trump is aiding and abetting Putin's efforts. This is the President's former national security advisor. He went on to say that the sustained campaign of disruption, disinformation, and denial is aided by any leader who doesn't acknowledge it.

Do you agree with the former national security advisor?

Mr. MaHer. I am not going to comment on political statements like that.

Mr. Swalwell. Mr. Maher, is it your understanding that beginning in March 2020, that DHS stopped providing Congress certain products on the threat from Russia?

Mr. MaHer. I am not familiar with that. That was before I joined the Intelligence and Analysis Office.

Mr. Swalwell. Is it your understanding that DHS continued to produce

intelligence products internally on Russia's attack on our election between March and September 2020?

Mr. Maher. We have produced a number of products for -- that go to the Intelligence Community, as well as the committee on Russia's influence.

Mr. Swalwell. But nothing was sent to Congress during that period. Is that right?

Mr. Maher. I am not familiar with that.

Mr. Swalwell. Do you agree that, if internally you were producing products on Russia between that time period, Congress should be made aware?

Mr. Maher. My understanding is that this committee, in particular, has access to our finished intelligence. So there are a number of finished intelligence products we have on topics like that.

Mr. Swalwell. Are you aware of an alleged direction by National Security Advisor O'Brien to DHS to stop producing intelligence assessments on Russia's election interference, and instead, to focus on China and Iran?

Mr. Maher. I am not aware of that.

Mr. Swalwell. Are you aware of the same allegation regarding Acting DHS Secretary Wolf passing the same instruction to your predecessor?

Mr. Maher. I am aware of the allegation. I am not aware of that as a fact.

Mr. Swalwell. Do you know whether former Acting DNI Richard Grenell directed, or requested, that the Intelligence Community, including DHS, report more on China and Iran, despite Russia being the most direct threat?

Mr. Maher. I am not aware of that.

Mr. Swalwell. And I am not asking if you were directly told that. Are you aware from others that former Acting DNI Grenell instructed your colleagues to focus more on

China or Iran?

Mr. Maier. I have never been told that by my -- people who work in my office.

Mr. Swalwell. According to testimony provided to our committee, are you aware that Mr. Wolf and Mr. Ken Cuccinelli both told intelligence and analysis leadership to expand the scope of election interference intelligence reporting to China, even though the Intelligence Community's public statements indicate that the only -- that only Russia is engaged in active measures to denigrate one candidate and support another?

Mr. Maier. I am not aware of that.

Mr. Swalwell. I will yield to the chairman if he has any questions.

The Chairman. I do not.

Let's see. I don't see Mr. Hurd.

Mr. Castro.

Mr. Heck.

Mr. Heck. Thank you, Mr. Chairman.

Mr. Maier, I am sure you would agree that the southern border has been a preoccupation of the administration for some time. It was obviously a campaign issue in 2016, leading to the chants of "Build That Wall." In fact, during the last 4 years, funds were illegally diverted for that purpose. All of this, of course, to keep foreigners out of our country.

You will recall that in 2017 and 2018, the President rallied for the hardening of our borders to purportedly protect the country from migrant caravans coming from Central America. At the time, there were all kinds of conspiracy theories floating around about who was funding the caravans. And on October 17th, 2018, one of my colleagues made accusations that George Soros, or U.S.-backed NGOs, offered cash to migrants to encourage them to join the caravan.

Mr. Maher, are you aware of any efforts by NGOs or George Soros to secretly give out cash to migrants to encourage them to join a caravan?

Mr. Maier. I am not, but I think the officials within Customs and Border Protection are probably much more closer --

Mr. Heck. You are personally not aware of any information to that effect?

Mr. Maier. Correct.

Mr. Heck. The day after that, by the way, the President suggested on Twitter that Democrats were somehow supporting the caravans, no surprise. I am sad to say that this whole issue has raised its ugly head again during the course of our investigation. We have learned that individuals at INA, individuals in leadership positions, discussed whether the Intelligence Community should collect and report on the funding sources of these migrant caravans. These INA employees, not just at one ill-advised meeting, but over the course of numerous conversations, discussed the possible plan to collect and report on NGOs who might be assisting migrant caravans. We learned that INA engaged with other intelligence agencies about this idea of tracking funding sources for migrant caravans.

Mr. Maher, were you aware of any discussions about collecting intelligence or reporting on NGOs who were purportedly assisting migrant caravans?

Mr. Maier. No.

Mr. Heck. As an attorney in the ISC and in your current role as Senior Official Performing the Duties of Under Secretary, do you believe the INA should be conducting intelligence activities with respect to NGOs?

Mr. Maier. I would have to know a lot more details. I think the mission of the intelligence office is spelled out in Executive Order 12333, and the guidelines that go along with that executive order. And so, when you -- whenever you are looking at

whether it is an appropriate activity for our intelligence office to be collecting and reporting on various activities, you need to look to see whether that activity fits within the mission set that is laid out there.

Mr. Heck. So you think it is possible that it is appropriate to spy on American NGOs?

Mr. Maher. You never -- one, our office doesn't spy. Two, it is not appropriate to collect information on an organization just because they are a non-governmental organization.

Mr. Heck. I hope not.

Mr. Chairman, with your indulgence, I don't know how many more times I am going to have an opportunity to speak in this committee, certainly in open session, but the truth is I have about had it, and there are a lot of parts of this place I am going to miss considerably. It is a privilege to be here and an honor to be here.

When I was in the State legislature, we had a rule against impugning the motives of other members of the body, and yet today, I have sat here and listened to our members be accused of vial lies and malicious accusations. And, again, I have had it. The fact of the matter is this institution cannot function if as a course of regular diet we impugn the motives of our colleagues. We should keep our arguments to the subject matter at hand, to the policy at hand, and not impugn the motives of one another. We can't function that way. We can't craft legislation. We can't reach principled compromises. And we sure as hell can't exercise our constitutional responsibility and obligation to conduct oversight. And I apologize, but that has been boiling up in me for quite some time.

I yield back, Mr. Chairman.

The Chairman. I thank you, Mr. Heck.

And we are going to deeply, deeply miss you on this committee and in this Congress.

And I am sorry, Mr. Castro. I didn't see where you were seated. We will now recognize Mr. Castro.

Mr. Castro. Thank you, Chairman.

I want to follow up on some of the questions that Mr. Heck was asking and give you some context first.

On January 11, 2019, Chairman Schiff wrote a letter on behalf of the committee to Mick Mulvaney, Dan Coats, and then head of INA, David Glawe, concerning efforts by the White House to exaggerate the threat from alleged caravans of migrants in South and Central America who were heading toward the U.S. southern border. At the time, President Trump was attempting to convince Congress to fund the border wall.

The letter noted that the White House and DHS had repeatedly claimed that in 2017, DHS had prevented 3,755 known or suspected terrorists, KSTs, from entering the country in fiscal year 2017, when making its case for Congress to fund the border wall. But DHS and the White House misleadingly failed to disclose how many of those so-called KSTs had tried to cross the southern border.

In Mr. Murphy's whistleblower complaint, he claims that DHS leadership, at the time, was potentially aware of the misleading KST statistics DHS and the White House were citing to support President Trump's argument for a border wall. What was not disclosed is that the number of alleged terrorists who attempted to cross the southern border was nowhere near the 3,755 figure the administration was using. In fact, according to Mr. Murphy, it was less than 10.

So here is my question: Were you involved in the discussions in late 2018 or early 2019 with DHS leadership or the White House about the number of alleged

terrorists crossing the southern border? Yes or no?

Mr. Maier. No.

Mr. Castro. Since then, has there been any pressure or request from the White House, DHS leadership, or anyone else, to modify or underplay DHS intelligence assessments to support President Trump's continued crusade to build a border wall on the southern border?

Mr. Maier. Not that I am aware of.

Mr. Castro. Are you aware of anybody else's activities in the Department that would fit that bill?

Mr. Maier. No.

Mr. Castro. Okay. Have you heard any complaints about that, any allegations, anybody else in the Department who made a comment to you, or an offhand remark that would suggest this?

Mr. Maier. No. I mean, I read newspaper reports, just like you guys do, but I am not familiar with specifics on anything like that.

Mr. Castro. In those reports, if you have seen that alleged in news reports, have you followed up with anyone who was quoted, or tried to figure out who an anonymous source was within the Department, for example?

Mr. Maier. No. I mean, I -- we are getting a little bit away from the specific details, but that I can think of, off the top, as I have sitting here, no.

Mr. Castro. Okay. As we sit here today, can you tell us how many known or suspected terrorists were stopped at the southern border in 2017, 2018, and 2019?

Mr. Maier. I don't have that information right with me right now. I am sure the Department has statistics on things like that.

Mr. Castro. Will you provide us that information?

Mr. Maier. I will take it back to Customs and Border Protection, which is the body that would have information like that.

Mr. Castro. The efforts by this administration to manipulate intelligence and deceive the American people about the real threats facing this Nation are beyond disturbing. The President's efforts to justify his inhumane and wasteful wall on the southern border by misleading the American people about the number of alleged terrorists trying to cross the border is just one more example of that. It is not just cynical, but it does real damage to our national security. When our intelligence agencies begin falsifying information in order to appease the President, or allowing the President to use their work product to mislead the American people, we have truly gone the way of authoritarianism.

And then, I also want to say, Mr. Maier, as chair of the Congressional Hispanic Caucus, that over the last few years, the Department of Homeland Security and some of the people who work there, have committed, encouraged, or ignored severe human rights abuses that will be a stain on the history of this Nation for many years to come. And the records and the reputations of the people who contributed to that work will also not be forgotten beyond these years.

I yield back, Chairman.

The Chairman. Mr. Hurd.

Mr. Hurd. Thank you, Chairman.

Very basic question. What is INA? Can you describe that? I think sometimes in these conversations, we make it sound like Department of Homeland Security, Intelligence and Analysis is like MI5, right? Can you give us what is INA?

Mr. Maier. Sure. The Office of Intelligence and Analysis is an element of Department of Homeland Security that was created in the wake of 9/11 and the attacks

there. Our office is a part of the larger Intelligence Community. Our office has limited authorities to collect information. We collect open-source information, and collect information overtly. We analyze that information, in addition to other classified and unclassified information, from both the Intelligence Community, as well as operators within the Department of Homeland Security, in order to provide analysis and intelligence so that not only Department of Homeland Security's operators in the field have that intelligence, but also, so that State and local officials have intelligence information for their operations.

Mr. Hurd. So you said you have limited authority to collect, and you collect information overtly. So do you run clandestine sources?

Mr. Maher. No.

Mr. Hurd. You have no authority to conduct human intelligence operations?

Mr. Maher. We do have some limited authority to do HUMINT. It is always non-covert. So, an example would be our officials can interview people, letting them know who they are, not obfuscating who they are, who they work for.

Mr. Hurd. As a former intelligence officer, it is hard for me to hear the word "intelligence" and then "overt," right? And so, sometimes we conflate the two. And so what is an OSIR, an open source intelligence report?

Mr. Maher. That is a raw intelligence report which is based on --

Mr. Hurd. When you say "raw," right, what does that mean?

Mr. Maher. It is not finished intelligence. So finished intelligence involves analysis that is analysis of the information that is looked at, and is a product that is a finished product, that is not subject to revision typically.

Mr. Hurd. But if Homeland Security, or an INA is doing an OSIR, would that raw intelligence be HUMINT or SIGINT that you all have collected?

Mr. Maier. It is possible that there is nonclassified human intelligence. For example, in the circumstance I -- in the example I gave, where it might involve even interviews of law enforcement officers that our officials might interview, get information about tactics that are being used, things like that. Those type of things could be put into an open source intelligence report or, more likely, finished intelligence.

Mr. Hurd. So is sending someone a newspaper article considered intelligence?

Mr. Maier. No. If you are referring to the three open-source intelligence reports that involved journalists, that is not an appropriate production of an intelligence report.

Mr. Hurd. But is it -- you know, I think government officials all the time send information about this reporter just wrote this thing about something that may have something to do with us.

Mr. Maier. Right.

Mr. Hurd. Is that considered espionage or collecting intelligence?

Mr. Maier. No. That is usually not -- that wouldn't be done in an intelligence report.

Mr. Hurd. I know these are very basic questions but I just want to make sure we --

Mr. Maier. Yeah.

Mr. Hurd. -- clarify all this.

Mr. Maier. Yes, sir.

Mr. Hurd. Because I still think of is the definition of intelligence. So this is new to me.

Are you aware of any politicization of intelligence in INA?

Mr. Maier. I am aware of some that is under review by the inspector general,

and that was the subject of news articles just before I came to INA.

Mr. Hurd. Got you.

And this whistleblower, he filed his complaint on September 8, and then had to file a corrected complaint 2 days later? Is that your understanding?

Mr. Maier. That is my understanding.

Mr. Hurd. Because it was to correct falsehoods potentially?

Mr. Maier. Yes. I am not sure about the specific dates, but I understand that happened.

Mr. Hurd. And are you aware that the whistleblower's own emails contradict his complaint?

Mr. Maier. I am aware of that.

Mr. Hurd. Got you.

Mr. Chairman, I yield back.

The Chairman. Mr. Welch.

Mr. Welch. Thank you, Mr. Chairman.

The committee's investigation, Mr. Maier -- and thank you for being here and thank you for your service -- revealed a fact that I find alarming and, it is that the INA intelligence officers debriefed protestors who were taken into custody in Portland. And as you know, INA is supposed to be in the business of intelligence gathering and analysis, not questioning U.S. persons arrested at a protest. And I worry that the recent report suggest that INA may have crossed a line in that questioning who are engaged -- citizens engaged in constitutionally protected activity.

The specific allegations are that witnesses have testified that during a protest, INA surged intelligence offices from its field operations division to Portland. And according to a former INA executive who testified on Wednesday, some of these people were

involved in questioning protestors when they were being held in Federal custody, and that person's testimony is corroborated by two other witnesses who previously testified before this committee.

Mr. Maher, would you clarify the record on this issue, please? Describe for us what role INA personnel played in responding to the protest in Portland?

Mr. Maher. So I don't know all the details. As I mentioned before, the inspector general is doing a review and investigation of activities in Portland. I assume that would include those activities. Generally, our office to the extent we are --

Mr. Welch. Not generally. Specifically in Portland?

Mr. Maher. I wasn't there. I wasn't at INA at the time that happened. So I can't speak to the specifics there.

Mr. Welch. But that is being investigated by the inspector general, you are saying?

Mr. Maher. That is my understanding.

Mr. Welch. Did INA personnel question any protestors directly?

Mr. Maher. I, again, I don't know the specifics because that is under investigation.

Mr. Welch. That is not specifics. It is just a specific question. If there was a surge in personnel to Portland, they something they were intending to do there, and normally, they try to get intelligence and intelligence includes questioning people. So were they there, and did they question protestors?

Mr. Maher. My understanding and, again, subject to the inspector general's ongoing investigation, was that INA officials were not there to be kind of milling around with protestors, collecting information in that fashion.

Mr. Welch. Why were they there?

Mr. Maher. Well, again, this is -- this is what happened before I came to the office. My understanding is they engaged in activities such as, like I said, interviewing law enforcement officials as they would come off-duty, or come off of their stands out there.

Mr. Welch. So let me -- I am just trying to get specific here and I understand you, quote, weren't there, but you now have a very important position. Do you have any information to corroborate what these witnesses have said, that INA personnel did, in fact, question, or were in the room during questioning, of protestors who were in custody?

Mr. Maher. I don't -- I am not trying to avoid the question. I don't know the specifics, because I haven't interviewed people. I haven't, kind of, gone to lengths to discover that because of the inspector general's role in his ongoing investigation.

Mr. Welch. So, I just want to understand this. You are now the acting head, but you are telling me, as I hear it, that you don't want to find out what happened?

Mr. Maher. That is incorrect. That is not correct. I do want to find out what happened, and I -- I will find out what happened when the inspector general conducts his investigation.

Mr. Welch. And will you tell us what happened?

Mr. Maher. I would have no problem with telling the committee what happened.

Mr. Welch. I mean, is it your understanding that it is improper for INA officials to be questioning protestors?

Mr. Maher. Generally --

Mr. Welch. Not your job.

Mr. Maher. Generally, yes. INA, as I said, does have the authority to, in an

open fashion, in a voluntary basis, talk to people, to collect information.

Mr. Welch. That would assume that the INA identified themselves to protestors?

Mr. Maher. Yes, they should be identifying themselves.

Mr. Welch. Did they do that?

Mr. Maher. I don't know the specifics. My understanding is that they did not just randomly interview protestors out there.

Mr. Welch. You know, what I am hearing is you don't know yet, but you will know at some point?

Mr. Maher. Yes.

Mr. Welch. And the reason you don't know is 'cause you weren't in your job at that time, correct?

Mr. Maher. Correct.

Mr. Welch. Do you know whether INA has any written regulations or policies that govern whether, and under what circumstances INA personnel can participate in questioning U.S. persons in Federal custody?

Mr. Maher. There definitely are written guidelines with respect to the conduct of human intelligence for INA, and it talks about the parameters under which that can be done.

Mr. Welch. All right. I yield back.

I see my time is up. Thank you, Mr. Chairman.

Thank you, Mr. Maher.

The Chairman. Mr. Maloney.

Mr. Maloney. Good morning.

Sir, let's get a couple of things straight, because some of my colleagues seem to be confused about why you are here today. Am I correct that you are now currently the

Acting Principal Deputy Under Secretary at the Department of Homeland Security Office of Intelligence and Analysis. Is that right?

Mr. Maher. Not quite right, but it is a long title.

Mr. Maloney. But you are filling that job, right?

Mr. Maher. I am filling -- I am performing the duties of the Under Secretary.

Mr. Maloney. And why -- and why are you doing that?

Mr. Maher. I am sorry?

Mr. Maloney. Why are you doing that?

Mr. Maher. The Secretary asked me to do that in early August.

Mr. Maloney. Well, was there an opening, sir?

Mr. Maher. No, no, there was not.

Mr. Maloney. Excuse me. But aren't you performing Mr. Murphy's duties at this time?

Mr. Maher. Yes.

Mr. Maloney. Right. That is what I am getting at.

Mr. Maher. Yes.

Mr. Maloney. Right?

And Mr. Murphy was the senior intelligence official at the Department of Homeland Security. Am I right?

Mr. Maher. He was, yes.

Mr. Maloney. And that office is the intelligence component of Homeland Security. Am I right?

Mr. Maher. Yes.

Mr. Maloney. Right. And when we refer to the Intelligence Community over which this committee has primary jurisdiction, that office is one of those 17 elements of

the Intelligence Community, correct?

Mr. Maher. It is.

Mr. Maloney. And the reason you are doing this job is because your immediate predecessor has been -- has been, he alleges, in a retaliatory way, dismissed, and he has filed a whistleblower complaint, in fact. And I think you and I could agree that that whistleblower complaint is -- is -- well, contains very serious allegations. Is that fair to say?

Mr. Maher. It contains serious allegations.

Mr. Maloney. And those allegations, those allegations include improper political interference in the reporting of Russian interference in an American presidential election, abuse of civil liberties of American protestors, and perjury before Congress. That is what is in that whistleblower complaint by the senior official in the intelligence component of the Department of Homeland Security. I think that is a fair summary, right? That is what he has alleged.

In fact, he has alleged violations of law. I mean, you are nodding your head, right? I mean, there is nothing controversial about what I am saying. So I am not trying to trap you.

Mr. Maher. Right.

Mr. Maloney. This is not a trick question.

Mr. Maher. Yes.

Mr. Maloney. That is what we are doing here, right?

Mr. Maher. Right. I --

Mr. Maloney. Right. And your department is also blocking, right now, your department is blocking your predecessor, who we just agreed is the senior intelligence official at the Department of Homeland Security, over which this committee has

jurisdiction, who has issued a whistleblower complaint alleging those serious allegations and violations of law, your department is, right now, blocking that official from testifying before this committee, before this Congress on those abuses. That is what we are doing here. That is not my question.

My question is, in case there is still confusion up here about why some of us are showing up for work today and doing our job to oversee serious violations, or allegations of violations, at the highest levels of the Intelligence Community. So my question for you is: Who is David Glawe?

Mr. Maher. He is the former Under Secretary For Intelligence and Analysis.

Mr. Maloney. Do you work with him?

Mr. Maher. I do not work with him now. He doesn't work for the Department anymore.

Mr. Maloney. And in the fall of 2018, he testified before the Department of Homeland Security, did he not, that Russia was -- he confirmed that Russia had interfered in the election, and he was subsequently dragged up in front of the senior leadership of the Department, we are told, from the whistleblower complaint, and he was told that Secretary Nielsen and Secretary of Staff John Kelly had convinced the President to give him another chance, even though the President wanted to fire him. Is that right? Are you familiar with those allegations?

Mr. Maher. I am familiar with the allegations. I am not familiar with that happening.

Mr. Maloney. You had no knowledge of that? Did you ever talk to him about it?

Mr. Maher. No.

Mr. Maloney. Did you ever talk to Mr. Murphy about it?

Mr. Maher. No.

Mr. Maloney. And can you -- would you agree with me that if an intelligence official testifies truthfully before Congress and then is threatened with termination for that, that that could create a chilling effect?

Mr. Maher. If an intelligence official testifies before Congress --

Mr. Maloney. Well, Mr. Glawe testified before the Homeland Security Committee. He apparently committed the sin of telling the truth. Was dragged in front of the chief of staff and the Secretary of Homeland Security and told, according to the whistleblower complaint, that the President wanted him fired for that, and they had convinced the President to, quote, "give him another chance."

It sounds like that is the kind of situation that could have a chilling effect on somebody testifying before Congress. Would you agree?

Mr. Maher. I don't know the specific facts related to that complaint. So I am not going to comment on those.

Mr. Maloney. I yield back, Mr. Chairman.

The Chairman. Mr. Krishnamoorthi.

Mr. Krishnamoorthi. Thank you, Mr. Maher, for your service.

You know, when Christopher Wray, the FBI Director, testified before the House Homeland Security, at that point he said that, quote, unquote, "Racially motivated violent extremist remains a top domestic threat in the United States or the U.S.," he said. And then he said "Within that racially-motivated violent extremism bucket, people ascribing to some kind of White supremacist type ideology is certainly the biggest chunk of that," Wray said.

You have no reason to doubt that testimony, correct?

Mr. Maher. That is correct.

Mr. Krishnamoorthi. Now, sir, do you condemn White supremacy?

Mr. Maher. Yes.

Mr. Krishnamoorthi. And why is White supremacy a threat?

Mr. Maher. Well, there are a lot of ideologies that people adhere to, many of which people would disagree with. It is when it is connected to violence that it becomes a concern for my department and other parts of the Federal Government.

Mr. Krishnamoorthi. So it is this ideology that is connected to violence that makes White supremacy especially threatening.

Now what is your -- do you interact with Acting Secretary Wolf about this particular issue?

Mr. Maher. I interact with him about a lot of issues.

Mr. Krishnamoorthi. Including this one, right?

Mr. Maher. Yes, on --

Mr. Krishnamoorthi. And what is your plan to deal with this particular threat that so many people are concerned about right now?

Mr. Maher. The Department has a number of activities associated with that threat. One is we, as part of the intelligence arm of the Department, put out a number of intelligence products to make sure that the audience for our intelligence products knows about situations. The Department has a grant program for organizations that work to counter that type of violent activity. There --

Mr. Krishnamoorthi. Have you heard Acting Secretary Wolf condemn White supremacy publicly?

Mr. Maher. I don't listen to all of his public comments. I --

Mr. Krishnamoorthi. It is just a yes or no, sir. Have you heard him say that publicly?

Mr. Maier. I am sure that he condemns the White supremacists.

Mr. Krishnamoorthi. Have you heard him say it publicly?

Mr. Maier. I can't recall it.

Mr. Krishnamoorthi. Yes or no?

Mr. Maier. I can't recall a time but --

Dr. Wenstrup. It is easy. Yes or no?

Mr. Maier. I said I cannot recall a time.

Mr. Krishnamoorthi. You cannot recall him saying it publicly.

Now, sir, let me ask you another question. The reason why we brought you on Capitol Hill is actually very simple: there is no mystery. It is because DHS, among other things, refuses to grant a security clearance to Mr. Murphy's attorney to facilitate him coming to our SCIF and testifying about his whistleblower complaint.

Now, sir, I am just going to ask you a couple of very easy questions. Have you interacted with anybody at DHS with regard to the issue of granting Mr. Murphy a security clearance?

Mr. Maier. I know generally that the office that handles those clearances is handling it. I have been told it is being done in an expedited fashion and --

Mr. Krishnamoorthi. Okay. Hold an second. Expedited fashion, when the average person watching at home hears you say "expedited fashion" --

Mr. Maier. Yes.

Mr. Krishnamoorthi. -- that usually means perhaps it is done in hours, perhaps it is done in days. But now it has been weeks, and it is approaching months. So why is it the case that this gentleman's attorney cannot receive a basic security clearance to be able to testify before us?

Mr. Maier. First of all, this is not a basic security clearance. He has asked for a

very high security clearance. Second, when you say -- I say "expedited," the ordinary course for these type of clearances does take months. It has not been months since it has been, the process has been started. When I say expedited --

Mr. Krishnamoorthi. So when you say expedited, it could be months. Is that what you are saying in this particular case?

Mr. Maher. That is not what I am saying.

Mr. Krishnamoorthi. What does "expedited" mean? When will he receive a security clearance under an expedited fashion?

Mr. Maher. You can't say when he will receive it because you don't know what is in his background until you look. So if there is nothing in the background that is a cause of concern, it goes faster than --

Mr. Krishnamoorthi. Okay. Well, what is in his background that --

Mr. Maher. I don't know that.

Mr. Krishnamoorthi. Is there something in his background that is precluding this attorney from receiving a security clearance?

Mr. Maher. I am not part of the organization of the Department --

Mr. Krishnamoorthi. But you just brought it up. You said that there could be something in his background that is precluding granting the security clearance.

Mr. Maher. No.

Mr. Krishnamoorthi. So I am just asking you not to identify what the problem is. I am just asking you: Is there something in this attorney's background that precludes him from getting security clearance to testify one month after we asked him to come here?

Mr. Maher. Okay. You are putting words in my mouth.

The answer is that as a general matter, to get the top secret security clearance it

takes months usually for that to happen. My understanding is that the process for these individuals is being expedited. What that -- what it probably means to me is that they put this ahead of some of the other ongoing work that they probably have there. They are probably trying to do it more quickly than they ordinarily would. You cannot prejudge how long it will take because you -- until you look. You don't know what concerns there may or may not be. I don't have any familiarity with these particular individuals or the status of what is being done on their particular cases.

Mr. Krishnamoorthi. I am not asking you to prejudge. It has been a month. Now you just have to judge whether or not there is something wrong with this guy's background. It is just that simple. I am not asking you to predict. I am not asking you to prejudge. I am not asking you to anticipate. I am asking you to just tell us: Is there something wrong that disqualifies this guy, the attorney, from showing up to defend his whistleblower client?

Mr. Maher. As I said, I am not involved in that process for these individuals. So I cannot tell you what may or may not be in his background.

Mr. Krishnamoorthi. Okay. Thank you.

The Chairman. Thank you.

We are going to take a brief recess in a moment to move to another secure room.

Before we wrap up, I just want to follow up on one question, Mr. Maher.

Mr. Hurd asked you if you were aware of any politicization of intelligence at your agency. I think he was a bit surprised when you said that you were aware of some politicization of intelligence. What are you referring to?

Mr. Maher. The email from Mr. Murphy that was sent to the workforce and was subsequently reported in the press.

The Chairman. And what does that email allege?

Mr. Maier. It -- the email instructed intelligence professionals to characterize activities of certain individuals in a certain way. So that -- my understanding is that that is under review by the inspector general.

The Chairman. And what individuals in what way?

Mr. Maier. My understanding -- and I would need to look back at the emails, but my understanding is there was an instruction to characterize certain individuals as anarchists or Antifa-affiliated, or something along those lines.

The Chairman. So you are aware of some evidence of an effort to politicize intelligence by accentuating a threat from Antifa, and downplaying the threat from White supremacists?

Mr. Maier. No, that is not what I said.

The Chairman. Then what are you saying?

Mr. Maier. I am saying that the word "politicization" as it is understood in the Intelligence Community involves trying to predetermine how intelligence report will be written, rather than based on the reasonable beliefs of the intelligence professionals that are gathering and analyzing the situation. And so, my understanding is that instruction went out, and that was a cause for concern. It is being looked at, as I understand it.

The Chairman. Mr. Nunes, do you have any final comments you want to make before we go to closed session?

Mr. Nunes. Yeah. Thank you, Chair.

Mr. Maier, we are going to submit questions for the record, both in the public portion of this, and then we may or may not send some classified questions, and hopefully, you will respond quickly on those. If you could turn those around quickly, we would appreciate that. Some members are voting, had other committee hearings. So I know there is additional questions for the record. Would you -- will you respond to

those?

Mr. Maier. Yes, sir.

Mr. Nunes. Thank you, Mr. Maier.

I yield back.

The Chairman. Thank you.

Before we break, I just want to underscore something that my colleague, Mr. Maloney, was pointing out, Mr. Maier, about why we take these issues so seriously.

There was a time when members of both parties took issues of politicization of intelligence seriously. There is a time when it would have gotten more than a passing bit of attention that a national security advisor for a sitting President said that President was aiding and abetting a foreign adversary in that foreign adversary's effort to interfere in our democracy. There was a time when that kind of thing would be of concern to both parties. Apparently that time has passed.

But for us, Mr. Maier, we are still concerned when we hear serious allegations that the President of the United States and political appointees at intelligence agencies, including DHS, are withholding intelligence because it would be embarrassing to the President if it were revealed that a foreign power was intervening on his behalf. Never mind what it means to the country or elections. We are going to withhold it because it is embarrassing. Those allegations we take seriously.

We take seriously allegations that intelligence agencies, to fit a political narrative, are hyping a threat at our sovereign border, or reporting falsely to Congress, whether it is the Homeland Committee, our committee, or any other committee. We take that seriously.

We take it seriously when a predominant domestic terror threat like White supremacy is politicized or buried or diminished or de-emphasized in favor of a political

narrative that would emphasize something else that would be more pleasing to the President, like Antifa. We take those allegations seriously.

And so, I am baffled when I get correspondence from your office saying you don't really have jurisdiction to look into a whistleblower complaint alleging these things. Of course, we do. And I also get concerned when I hear people make the disingenuous argument that it takes months to do a security clearance for a lawyer for a day, a lawyer, by the way, who already has a security clearance. In the 4 years, 2 chaired by Mr. Nunes, 2 chaired by myself, we have never seen a security clearance for a 1-day testimony of a whistleblower take so long.

And I guess you would ask us and ask the whole country to believe that these -- this is for a perfectly benevolent reason. There is too much history for us to take that for granted. I wish it were otherwise. There is just too much history of stalling and stonewalling and avoiding the necessity of responding to lawful requests from Congress, too much evidence. So that is why we are here. That is why we are here.

Now I hope, in closed session, you will feel able to be more forthcoming about what you have heard and what you know, and not simply defer to an inspector general investigation. You are for the moment, for however long the administration leaves you in that position, running the intelligence unit of one of our agencies. Given the seriousness of these allegations, you can't simply look away and say, I am just going to wait for the inspector general, any more than we can.

We will resume in half an hour in the secure HPSCI spaces for the classified portion of this hearing. Thank you.

[Whereupon, at 12:02 p.m., the committee was recessed, to reconvene in closed session.]

