

not into divisions and brigades. They are sons and daughters, husbands and wives, fathers and mothers. Their love for their families are matched only by their devotion to our country, but many more bear the scars of war.

Some families have a loved one who served in Iraq or Afghanistan and were returned home, but who were one of the more than 49,000 who were wounded. We must not overlook the unusually high percentage of Iraq and Afghanistan veterans who have died since returning home, whether from a drug overdose or suicide or the effects of combat. Thousands of American families continue to pay a terrible price for the courage and dedication of their family members who gave life and limb for this country.

We have much to think about, not only on this day, but, of course, in this season—this season of hope, this season of gratitude, this season of our time together with our families back home, but we should especially remember those families who have loved and lost, those who have lost someone in combat, those who have lost someone who served so nobly, served on behalf of the rest of us.

At this time, Mr. President, I know you have personal experience with this, having served yourself, and I know that you understand this. It is an important time to remember those who have given so much for our country, with the spirit of gratitude for their service, hope that we don't have more losses in the coming year, and with confidence that they have set a great example for us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRAUN). Without objection, it is so ordered.

#### RUSSIA INVESTIGATION

Mr. CORNYN. Mr. President, the chaos in Washington, DC, precipitated by impeachment mania or our inability to get what should be relatively straightforward work done, like the appropriations process and all the gymnastics over the USMCA, the U.S.-Mexico-Canada Trade Agreement—in fact, we are coming down to a deadline on Friday, the 20th of December, when the current continuing resolution runs out.

Because of everything that is going on, many people may not have been able to pay that much attention—and I think attention is deserved—to the testimony of Department of Justice Inspector General Michael Horowitz, who testified in front of the Senate Judiciary Committee yesterday. I know there was some news coverage of it, but I

wanted to give some reflections on the testimony Mr. Horowitz gave.

First of all, the Office of Inspector General is a very important one. They are a watchdog to make sure the laws Congress passes and the rules of the various agencies—in this case, the Department of Justice—are complied with. It is really very, very important.

With everything else going on, it is important to have an impartial inspector general to conduct that kind of investigation and to hold people accountable—something that doesn't happen enough here in Washington, DC.

Inspector General Horowitz, along with his team, was widely praised for producing an outstanding report this time on the counterintelligence investigation of the Trump administration by the Obama-era Justice Department and the FBI.

This is a 480-page report. I have a copy of it right here. It is redacted for public release. If you look at it online—you can look at it through the Department of Justice website—you can see that some of it is redacted or black marks are drawn through parts of it to protect certain classified information.

But there is more than enough information contained in this report to know that the Crossfire Hurricane investigation into the Trump administration by the Obama Justice Department, including Comey and the FBI, was an unmitigated disaster.

Mr. Horowitz highlighted some of the truly disturbing and alarming facts about how this Russia investigation was conducted—how it was initiated and how it was conducted. There were mistakes made, including some intentional misconduct, which has now been referred to the Justice Department for potential investigation and even charging and prosecution. This was a troubling report, identifying at least 17 different areas of concern.

The report is full of legal jargon, government acronyms, and a long list of names most Americans probably don't recognize. The bottom line is, beneath all of this is a pattern of concerning behavior that ought to concern everyone who cares about civil liberties.

At the core of these issues is, under Director Comey, the FBI's abuse of the Foreign Intelligence Surveillance Act, or FISA. I know people have heard the reference to FISA, and that is short for Foreign Intelligence Surveillance Act. In other words, when our intelligence services, including the FBI, gather information, they can't do that on American citizens absent a showing of probable cause in front of a court. That is a protection of our civil liberties. When it comes to foreign intelligence, there is a different court—the Foreign Intelligence Surveillance Court—that has to assess and judge whether they have met the appropriate legal standards.

The inspector general found that the Comey FBI failed to file accurate applications to surveil an American citizen by the name of Carter Page.

There are very exacting requirements, very technical but very important requirements that the FBI has to put together, in consultation with the National Security Division at the Department of Justice, in order to go to court—the Foreign Intelligence Surveillance Court—and justify issuance of the authority to gather intelligence on an individual.

In this case, they claimed that Carter Page, who was for a time associated with the Trump campaign—they claim that they suspected him to be an agent of a foreign power—in other words, Russia.

The way these documents were prepared and the way in which this matter was pursued was hardly a stellar performance by the Comey FBI, and I will mention that here in a moment. Once that FISA warrant is issued, as it was on an American citizen—Carter Page—that individual's private communications then come into the hands of the FBI as part of their investigation of a potential agent of a foreign power.

As I said yesterday and reiterated to Inspector General Horowitz this morning—or yesterday morning—spying on an American citizen is not something to be taken lightly. None of us should view this as a trivial matter. That is why there are such strong protections in place to prevent an abuse of power.

One of those backstops is the Foreign Intelligence Surveillance Court—a specialized court appointed by Chief Justice Roberts, Chief Justice of the Supreme Court of the United States, that sits in rotation for a time to look at the government's applications for these warrants under the Foreign Intelligence Surveillance Act. You can imagine that when that court makes important decisions involving the national security of the United States or the civil liberties of an American citizen, they need to have a full picture. They need to have the utmost candor exercised by the FBI of all the details and information surrounding the issue at hand. Again, this is no trivial matter. The court is determining whether the government has a compelling case to secretly spy on an American's communications.

Unfortunately, as we heard from Mr. Horowitz, the FBI, under Director Comey, fell dramatically short of that goal. The application for something as serious as a foreign intelligence surveillance warrant should be free from error, let alone intentional lies. Unfortunately, Inspector Horowitz found 17 different instances where the FBI agents involved in securing this FISA warrant failed that standard.

First of all, the inspector general identified 7 mistakes in the original application and an additional 10 in 3 renewals, for a total of 4 separate warrants under the Foreign Intelligence Surveillance Act. These applications weren't put together and examined by rank-and-file agents; these errors came from three handpicked teams that didn't raise any red flags for high-level

senior officials—something that Mr. Horowitz said made him deeply concerned, which is a feeling I share.

One of the most glaring errors was the applications' reliance on a deeply flawed private intelligence report—opposition research paid for by the Clinton campaign and the Democratic National Committee—on Donald Trump. This is called the Steele dossier, as people have heard that reference. Mr. Steele is a former intelligence officer who worked for the British Government, the British intelligence services, but he had long since retired from his government service, and now he was out for hire to dig up information—in this case, on a political candidate in the Presidential election in 2016.

One of the biggest concerns we have all had since the 2016 election is Russian interference in our elections. Sometimes this is called active measures, where they merely try to sow discord and dissent by social media use, by propaganda, and by intelligence services leaking information.

I asked Attorney General Barr, before the Judiciary Committee earlier this year, whether he could state with confidence that the Steele Dossier, which we know was paid for by the Democratic National Committee and the Clinton administration, was not a part of this Russian disinformation campaign, whether he could say it was not. The Attorney General said no, he could not.

FBI attorneys assisting in the Crossfire Hurricane investigation called it a “close call” on whether they had sufficient justification to ask the Foreign Intelligence Surveillance Court to issue a warrant so they could collect intelligence on an American citizen, Carter Page. What made that a close call? What turned a close call into the granting of that authority? Well, it was the Steele dossier. It was a hit piece, really—called that by one of our intelligence agencies—based on internet rumor, not based on verified information. That was used by the Crossfire Hurricane team to apply to the Foreign Intelligence Surveillance Court to get a warrant issued to surveil and spy on an American citizen.

Although I know that taking a look at the real source of the Steele dossier was outside the realm of the inspector general's duties, it is worth investigating because it played a central and essential role in the FBI's FISA applications. That is what Mr. Horowitz found.

Mr. Horowitz found on one occasion serious and intentional misconduct on the part of an FBI lawyer, and he now has referred that lawyer for criminal prosecution. But the explanations they offered for the other errors were completely unsatisfactory, and they should not be overlooked or excused. Attorney General Barr echoed that in a TV interview earlier this week. I trust him and Mr. Durham to get to the bottom of it. They have more authority than the inspector general to compel the

production of evidence in testimony—much like a grand jury, as opposed to what the inspector general had, which was basically a voluntary willingness of witnesses to come forward and to look at the FBI's internal files.

To make matters worse, even as new and exculpatory information—information that tended to show innocence—came to light on Carter Page, this information was not reflected in what the FBI filed when they requested a foreign intelligence surveillance warrant from the court.

You have to wonder—if this level of mishandling is occurring in a high-profile investigation of a Presidential candidate, someone who would later become the leader of the free world, what kind of protections are in place for average American citizens?

We place an enormous amount of trust in the U.S. Government to keep us safe and also to respect and uphold our constitutional rights. So seeing these types of errors, intentional and unintentional, slipping through the cracks in such a sensitive investigation doesn't give me much confidence that it is not happening in other cases.

Another question I asked the inspector general was on something called defensive counterintelligence briefings. This is a little bit arcane, but let me explain.

There are two different types of investigations by the FBI. One is of a potential criminal prosecution. We are all familiar with that. But the second role that the FBI plays is conducting counterintelligence investigations—in other words, protecting the American people and our national security from the attempts by foreign actors, malign foreign actors to gain intelligence on the U.S. Government and the American people, to our detriment and to the detriment of our national security.

One of the things Loretta Lynch, who was Attorney General under Barack Obama, said is that in a counterintelligence investigation, defensive briefings are routine. In other words, if the Presiding Officer were a target of a Russian intelligence operation—somebody had bumped into you at the grocery store or shown up at your kid's soccer game or perhaps shown up at your work, and you began to wonder, who this person and why have they taken such interest in me?—well, if the FBI discovers information that indicates this is part of an effort to recruit an American citizen to become an asset for the Russian intelligence services, what the FBI is obligated to do is to give a defensive briefing where they might tell the Presiding Officer or me or anybody else who might be targeted “This is what is happening to you, so be on your guard. Don't think this is innocent. Protect yourself,” and in so doing, protect the national security of the United States.

These briefings, we learned from Loretta Lynch, are routine. They are given routinely to political candidates, to individuals, and to companies that

hear from the FBI about those potential threats so they can take steps to protect themselves.

We know that both Presidential candidates of 2016—Donald Trump and Hillary Clinton—received some kind of defensive briefing in August of 2016, but the so-called defensive briefing for the Trump campaign was unique in a number of aspects.

At the time the FBI believed the Russians were trying to infiltrate the Trump campaign, you would think that would have been a prime opportunity to share that information with Candidate Trump and his campaign so he could tell the people on his campaign: Be on your guard, and don't engage in any unnecessary contact with people whom you don't know and who might have malign motives.

The FBI could have advised the Trump campaign about these potential threats and given them their professional advice on how to mitigate the concerns, but that didn't happen in the case of the Trump campaign. Instead of warning the Trump campaign about possible Russian efforts, they actually inserted—the FBI inserted a case agent into the briefing and used that as an opportunity to collect information in support of their own criminal investigation of GEN Michael Flynn.

It is not only unfair to insert an FBI agent into an otherwise benign setting in order to collect information on an American citizen in a criminal investigation, obviously General Flynn did not know the FBI was trying to do this under a pretext, so he couldn't say: I would like to talk to a lawyer. I would like to know that what I say can't be used against me in a court of law. In other words, all of the normal protections under the Bill of Rights that would be given to somebody under a criminal investigation were not afforded because of this pretextual defensive briefing where the FBI agent slipped in in order to collect information.

Here is the bottom line: This defensive briefing of the Trump campaign lasted a whopping 13 minutes—hardly enough time to convey the sort of information you would want to a political campaign. I can tell you that if the FBI came to me and told me that some foreign actor was trying to infiltrate my campaign, I would want to know about it, and I would want to tell the people who volunteered in the campaign to knock it off. But President Trump, when he was a candidate, was not given that information or the opportunity to shut it down, which he should have been.

Director Wray, to his credit, after hearing about that, has accepted the recommendations of the inspector general and has moved quickly to try to rectify some of these practices, and he has already issued corrective action on them. This doesn't negate the fact that the American people's trust in their government to protect them has been harmed by the Comey FBI.

We need the American people's confidence in the laws the Congress passes, the constitutional rights they enjoy under our Constitution, and the oversight that Congress performs and that the FBI and the intelligence community are going to be required to play by the rules of the road and not jeopardize the civil liberties of any American, much less a candidate for the U.S. Presidency. This is something I will talk about more at another time.

Chairman GRAHAM of the Judiciary Committee assures me that yesterday's very important hearing, at which Inspector Horowitz testified, will not be the last hearing on this matter but merely the first. There is more to come, as there well should be.

I yield floor.

The PRESIDING OFFICER. The majority leader.

#### NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2020—CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I ask that the Chair lay before the Senate the conference report accompanying S. 1790.

The PRESIDING OFFICER. The Chair lays before the Senate the conference report, which will be stated by title.

The senior assistant bill clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1790) to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes, having met, have agreed that the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment and the House agree to the same, signed by a majority of the conferees on the part of both Houses.

Thereupon, the Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 9, 2019.)

#### CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant bill clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany S. 1790, an original bill to authorize appropriations for fiscal year 2020 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes.

Mitch McConnell, John Boozman, Kevin Cramer, John Cornyn, Mike Crapo,

Shelley Moore Capito, Pat Roberts, John Thune, James Lankford, James E. Risch, Deb Fischer, Lamar Alexander, Richard Burr, John Barrasso, James M. Inhofe, Johnny Isakson, Steve Daines.

Mr. MCCONNELL. I ask unanimous consent that the mandatory quorum called be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from New Mexico.

#### AUTHORIZATION FOR USE OF MILITARY FORCE AND NATIONAL DEFENSE AUTHORIZATION ACT

Mr. UDALL. Mr. President, I rise to discuss Congress's ongoing failure to assert our constitutional war powers. This failure is the root cause of two pressing concerns that we currently face: first, the seemingly endless U.S. involvement in Middle East wars; and, second, the very real possibility that the Trump administration will involve us in more of them.

The Founders were clear in their intent. The Constitution squarely places the authority to "declare war"—that is the phrase in the Constitution—and places it clearly with Congress and Congress alone. The Founders did this for good reason. For centuries, European monarchs had drained royal coffers, levied heavy taxes, and lost countless lives in wars that benefited themselves and not the people.

As Elbridge Gerry from Massachusetts said during the Constitutional Convention, after another delegate suggested giving this war power to the President: "[I] never expected to hear in a republic a motion to empower the Executive alone to declare war."

The Founders vested this most consequential power in the legislative branch so that any decision to go to war would have broad public support. Since the Republic's beginning, there has been a tension between the Congress and the executive branch regarding the use of this power.

In the modern era, the balance has been upended. Our ability and willingness to effectively check the Executive on war powers is dangerously diminished. Congress has not declared war for any of our major conflicts since World War II. But after the bloody, prolonged, and politically divisive Vietnam War, Congress passed a War Powers Resolution of 1973, overriding the veto of President Nixon. That resolution requires Congress to issue an authorization for use of military force, or an AUMF.

Immediately after 9/11, a nearly unanimous Congress—myself included—authorized force against the perpetrators, al-Qaida and those who harbored them, by which we meant the Taliban government in Afghanistan. The 2001 AUMF authorized the United States' entering conflict in Afghanistan to root out al-Qaida.

The Taliban was then expelled from power. Al-Qaida in Afghanistan has been defeated. Osama Bin Laden is dead. And the now 18-year-old AUMF

has outlived its purpose, as a stunning Washington Post expose on the Afghan war has now made clear.

The war in Afghanistan is the longest in U.S. history, but it no longer has a clear purpose. The Washington Post successfully sued for access to previously undisclosed government documents, dubbed the "Afghanistan Papers." These 2,000 pages of interviews and memos from senior military, diplomatic, and White House officials tell a shocking and tragic story. Three separate administrations have had no well-formed mission for the war but fought on anyway and repeatedly misled the American people.

According to the head of the NATO command in Afghanistan in 2006, "there was no coherent long-term strategy there." The next NATO commander, Army LTG Dan McNeill said:

I tried to get someone to define for me what winning meant, even before I went over, and nobody could. Nobody would give me a good definition of what it meant. . . . There was no NATO campaign plan—a lot of verbiage and talk, but no plan.

A senior diplomat under President Obama said:

If I were to write a book, its [cover] would be: "America goes to war without knowing why it does."

Over and over, senior officials describe the lack of strategic goals. All the while, the government lied to the American people, claiming success when there was none.

This war has cost 157,000 lives, more than 775,000 American troops have been deployed, 2,300 American military personnel have been killed, and more than 20,000 have been wounded. It has cost the American people over \$2 trillion—\$2 trillion. These costs are tragic, inexcusable, and it is time for this war to end.

The executive branch isn't the only branch at fault. Congress has sat back and let the Executives stretch the AUMF to the point of breaking. We have ducked the debates. We have ducked the hard votes. We need to change that, and we can start with Afghanistan.

In March, Senator PAUL and I introduced the American Forces Going Home After Noble Service Act. This act would responsibly pull our troops out of Afghanistan. The act declares victory in Afghanistan, acknowledging that the original objectives have largely been met. It sets guidelines for the safe and orderly withdrawal of troops, and it repeals the 2001 AUMF once and for all. We should have a vote on this.

Afghanistan is just the largest of our ongoing Middle Eastern wars. The 9/11 AUMF has been used to justify military ventures all around the world—41 times to justify military action in 14 countries. I voted for this authorization, and I know full well that Congress did not intend that. More unauthorized conflicts are looming on the horizon.

I was encouraged earlier this year when the House passed—and a majority