

March 24, 2017

Donald F. McGahn II  
Assistant to the President and White House Counsel  
The White House  
1600 Pennsylvania Avenue N.W.  
Washington, D.C.

Dear Mr. McGahn:

I represent Sally Quillian Yates and write in reference to the attached correspondence.

Ms. Yates has been invited to testify before the House Permanent Select Committee on Intelligence (HPSCI). The Committee has indicated that its investigation will cover topics including the following: “Russian cyber activities directed against the U.S. election, potential links between Russia and individuals associated with political campaigns, the U.S. Government’s response to these Russian active measures, and related leaks of classified information.”

In addition, Committee staff has informed me that questioning will focus on January 2017 communications regarding concerns about the conduct of a senior White House official.

As I have informed the Committee and the Department of Justice, Ms. Yates is willing to appear voluntarily with two other former intelligence officials. In answering the Committee’s questions, Ms. Yates obviously will not disclose any classified information, nor will she provide any information that she believes could interfere with any ongoing criminal or intelligence investigations.

In the attached correspondence to the Department of Justice, I indicated that Ms. Yates is not, and should not be, obligated on privilege or other grounds to refuse to provide non-classified facts about the Department’s notification to the White House of concerns about the conduct of a senior White House official. I noted further that requiring Ms. Yates to refuse to provide such information is particularly untenable given that multiple current senior administration officials have publicly described the same events.

The Department of Justice indicated in the attached response that any confidentiality equity in this information belongs to the President and that Ms. Yates does not need separate consent from the Department.

It is unclear whether the presidential communications or deliberative process privileges could apply to the referenced information. In any event, any claim of privilege has been waived as a result of the multiple public comments of current senior White House officials describing the January 2017 communications. Nevertheless, I am advising the White House of Ms. Yates' intention to provide information in the manner described above.

If I do not receive a response by Monday, March 27, at 10 am EDT, I will conclude that the White House does not assert executive privilege over these matters with respect to the hearing or other settings.

Regards,

A handwritten signature in black ink, appearing to read "David A. O'Neil". The signature is written in a cursive style with a large, stylized initial "D".

David A. O'Neil

Enclosures

March 23, 2017

Samuel R. Ramer  
Acting Assistant Attorney General  
U.S. Department of Justice  
Office of Legislative Affairs  
Main Justice Building, Room 1145  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Mr. Ramer:

I represent Sally Quillian Yates in connection with the attached letter from the House Permanent Select Committee on Intelligence (HPSCI) inviting Ms. Yates to testify at a public hearing on March 28, 2017.

As you know, Ms. Yates served the Department of Justice with distinction for over twenty seven years, rising through the ranks from Assistant United States Attorney to First Assistant United States Attorney, and then to United States Attorney, Deputy Attorney General, and most recently Acting Attorney General. Throughout her career, Ms. Yates has unfailingly honored her professional and ethical responsibilities.

The Committee has indicated that the hearing will cover topics including the following: "Russian cyber activities directed against the U.S. election, potential links between Russia and individuals associated with political campaigns, the U.S. Government's response to these Russian active measures, and related leaks of classified information." In addition, Committee staff has indicated that questioning will focus on January 2017 communications regarding concerns about the conduct of a senior government official.

As communicated to Committee staff, Ms. Yates is willing to appear voluntarily at the hearing on a panel with two other former intelligence officials. In answering the Committee's questions, Ms. Yates obviously will not disclose any classified information, nor will she provide any information that she believes could interfere with any ongoing criminal or intelligence investigations.

The Department of Justice has advised that it believes there are further constraints on the testimony Ms. Yates may provide at the HPSCI hearing. Generally, we understand that the Department takes the position that all information Ms. Yates received or actions she took in her capacity as Deputy Attorney General and Acting Attorney General are client confidences that she may not disclose absent written consent of the Department.

We believe that the Department's position in this regard is overbroad, incorrect, and inconsistent with the Department's historical approach to the congressional testimony of current and former senior officials. In particular, we believe that Ms. Yates should not be obligated to refuse to provide non-classified facts about the Department's notification to the White House of concerns about the conduct of a senior official. Requiring Ms. Yates to refuse to provide such information is particularly untenable given that multiple senior administration officials have publicly described the same events.

In light of those public statements, it is unclear what confidentiality interests the Department believes may still exist concerning these events. To the extent the Department believes that consent is necessary to permit Ms. Yates to testify in the manner described above, we are hereby requesting it.

Regards,



David A. O'Neil

Enclosure

Michael Cassidy, Texas  
Peter A. King, New York  
Frank A. Lourenco, New Jersey  
Thomas J. Rooney, Florida  
Brian Rosenthal, Florida  
Michael R. Turner, Ohio  
Walt R. Barrow, Ohio  
Curtis Swanwick, Utah  
Rick Crawford, Arkansas  
Greg Gandy, South Carolina  
James M. McInnis, Tennessee  
Wendell L. Smith, Texas

U.S. House of Representatives  
Washington, DC 20541

U.S. House of Representatives  
Washington, DC 20541

Paul D. Ryan, Speaker of the House  
Washington, DC 20541

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U.S. HOUSE OF REPRESENTATIVES  
PERMANENT SELECT COMMITTEE  
ON INTELLIGENCE

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WASHINGTON, DC 20515  
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STANLEY GIBSON  
TERRY GIBSON  
MICHAEL BRYAN  
MINDY HARRIS-DREYER

March 14, 2017

The Honorable Sally Yates  
c/o David A. O'Neil  
Debevoise & Plimpton  
801 Pennsylvania Avenue N.W.  
Washington, D.C. 20004

Dear Ms. Yates:

As part of its bipartisan, ongoing investigation into the Russian active measures campaign targeting the 2016 U.S. election, the House Permanent Select Committee on Intelligence invites you to testify at an open hearing beginning at 10:00 a.m. on Tuesday, March 28, 2017.

The hearing may cover any topic within the publicly-announced parameters of the Committee's investigation, including Russian cyber activities directed against the U.S. election, potential links between Russia and individuals associated with political campaigns, the U.S. Government's response to these Russian active measures, and related leaks of classified information.

Please let the Committee know if you plan to participate no later than **Friday, March 17, 2017**. If you are able to attend, we will follow up with additional details regarding the location and format of the hearing. If you have any questions regarding this invitation, please contact Committee staff.

Sincerely,



Devin Nunes  
Chairman



Adam Schiff  
Ranking Member



U.S. Department of Justice

Office of the Deputy Attorney General

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Washington, DC 20530

March 24, 2017

Mr. David A. O'Neil, Esq.  
Debevoise & Plimpton LLP  
801 Pennsylvania Avenue, N.W.  
Washington, DC 20004

Re: House Permanent Select Committee on Intelligence request for testimony from  
former Deputy Attorney General Sally Quillian Yates

Dear Mr. O'Neil:

This responds to your letter of March 23, 2017, to Acting Assistant Attorney General Sam Ramer regarding the invitation of the House Permanent Select Committee on Intelligence (HPSCI) to former Deputy Attorney General Sally Quillian Yates to testify at a public hearing on March 28, 2017.

In particular, your letter pertains to Ms. Yates's potential disclosure to HPSCI of "non-classified facts about the Department's notification to the White House of concerns about the conduct of a senior official." We appreciate your meeting at the Department on March 23, 2017, to provide additional information about the details of these communications with the White House that you believe may be responsive to Committee inquiries.

Ms. Yates seeks authorization to testify about communications she and a senior Department official had with the Office of the Counsel to the President. Such communications are likely covered by the presidential communications privilege and possibly the deliberative process privilege. The President owns those privileges. Therefore, to the extent Ms. Yates needs consent to disclose the details of those communications to HPSCI, she needs to consult with the White House. She need not obtain separate consent from the Department.

Please let me know if you have any additional questions.

Sincerely,

Scott Schools

Associate Deputy Attorney General