



April 26, 2017

The Honorable Jeff Sessions
Attorney General of the United States
Department of Justice
950 Pennsylvania Ave
Washington, DC 20005

Dear Attorney General Sessions:

The Project On Government Oversight (POGO) urges the Justice Department to immediately investigate and consider for prosecution the failure of Michael Flynn, the former National Security Advisor, to disclose payments he received from foreign entities on his SF-86 security clearance questionnaire, and to report his activities in a timely manner as required by the Foreign Agents Registration Act.

The SF-86 questionnaire makes it clear that omitting material information can result in criminal penalties up to five years in prison and a \$10,000 fine under 18 U.S. Code § 1001, the section of the criminal code addressing false statements.¹ General Flynn, as a former flag officer in the US military and former head of the Defense Intelligence Agency, should have been more familiar than most incoming administration officials with the need to be fully upfront about his financial and other relationships with foreign entities. The false statements statute covers any “materially false, fictitious, or fraudulent statement or representation” and also includes “material facts” that a person “conceals.”

The Russian government paid \$45,000 to General Flynn for a speaking engagement in December 2015, and a pro-Turkish government consulting firm paid him more than \$500,000 for lobbying in 2016. In both cases, General Flynn did not disclose information about these foreign payments on his SF-86, which asks a number of detailed questions on foreign contacts and foreign business dealings, including whether an applicant has received a “benefit from a foreign country.”

His omissions were significant since the payments he received were large, recent, and from countries in which the United States has an especially high national security interest.

The bipartisan leadership of the House Oversight and Government Reform Committee have stated that General Flynn may have broken the law based on their review of documents obtained from the Defense Department. “Personally I see no evidence or no data to support the notion that

¹ Office of Management and Budget, “Questionnaire for National Security Positions,” December 2010, p 2. https://www.opm.gov/forms/pdf_fill/sf86-non508.pdf (Downloaded April 26, 2017)

General Flynn complied with the law,” said Representative Jason Chaffetz (R-UT), Chairman of the Committee, at a press briefing.²

General Flynn also failed to report his Turkish lobbying activities in a timely manner pursuant to the Foreign Agents Registration Act (FARA).³

This administration has an opportunity to turn around a bipartisan record of lax enforcement of the foreign lobbying law. POGO’s investigations have found several loopholes in the law and a history of poor compliance, leaving the public in the dark about how foreign entities attempt to influence US policies.⁴ POGO hopes DOJ will increase enforcement, deter future violations, and recommend publicly to Congress any additional authorities or resources necessary to enforce the law, including levying civil fines. Increased DOJ enforcement of FARA would be consistent with the special emphasis President Trump’s ethics pledge for political appointees puts on barring foreign lobbying by former Trump appointees after they leave public service.⁵ We also note that General Flynn did not sign President Trump’s ethics pledge before he resigned.⁶

It defies logic to think that General Flynn, who served at the highest levels in the national security bureaucracy, would have simply forgotten to disclose more than half a million dollars in payments from a foreign entity he received in the last year. His conduct demands a Justice Department investigation into both his failure to disclose these foreign payments on his security clearance questionnaire as well as his very belated foreign lobbying disclosure required by FARA.

Sincerely,



Danielle Brian
Executive Director

² Karoun Demirjian, “Flynn probably broke the law by failing to disclose foreign payments, House Oversight leaders say,” *The Washington Post*, April 25, 2017. https://www.washingtonpost.com/powerpost/flynn-likely-broke-the-law-by-failing-to-disclose-foreign-payments-house-committee-says/2017/04/25/249fc22c-29cc-11e7-a616-d7c8a68c1a66_story.html?utm_term=.69cbc71b390f (Downloaded April 26, 2017)

³ Foreign Agents Registration Act Registration Unit, “Flynn Intel Group Registration,” March 7, 2017. <https://www.fara.gov/docs/6406-Registration-Statement-20170307-1.pdf> (Downloaded April 24, 2017)

⁴ Project On Government Oversight, *Loopholes, Filing Failures, and Lax Enforcement: How the Foreign Agents Registration Act Falls Short*, December 16, 2014. <http://www.pogo.org/our-work/reports/2014/loopholes-filing-failures-lax-enforcement-how-the-foreign-agents-registration-act-falls-short.html>

⁵ White House, “Executive Order: ETHICS COMMITMENTS BY EXECUTIVE BRANCH APPOINTEES,” January 28, 2017. <https://www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees> (Downloaded April 26, 2017)

⁶ Lachlan Markay, “Former National Security Adviser Michael Flynn Didn’t Sign Trump’s Ethics Pledge,” *The Daily Beast*, March 21, 2017. <http://www.thedailybeast.com/articles/2017/03/22/former-national-security-adviser-michael-flynn-didn-t-sign-trump-s-ethics-pledge.html> (Downloaded April 26, 2017)