

March 9, 2017

The Honorable Ed Royce, Chairman  
The Honorable Eliot Engel, Ranking Member  
U.S. House Committee on Foreign Affairs  
423 Dirksen Senate Office Building  
Washington, DC 20510

**RE: Hearing on Undermining Democratic Institutions and Splintering NATO:  
Russian Disinformation Aims**

Dear Chairman Royce and Ranking Member Engel:

We write to you regarding the hearing on “Undermining Democratic Institutions and Splintering NATO: Russian Disinformation Aims” on Thursday, March 9, 2017. EPIC has an active interest in the challenge of protecting democratic institutions against cyber attack.<sup>1</sup> We welcome your leadership on this critical issue and look forward to opportunities to work with you and your staff.

EPIC is a public interest research center established in 1994 to focus public attention on emerging privacy and civil liberties issues.<sup>2</sup> EPIC is also a leading advocate for civil liberties and democratic values in the information age. EPIC is currently pursuing two Freedom of Information Act lawsuits to learn more about the Russian interference in the 2016 Presidential election.<sup>3</sup>

In *EPIC v. FBI*, we seek to understand the FBI's response to the Russian threat. The FBI is the lead federal agency for investigating cyber attacks by criminals, overseas adversaries, and terrorists.<sup>4</sup> Nonetheless, questions were raised about the failure of the FBI to investigate the attacks on the nation's political institutions.<sup>5</sup> EPIC is therefore pursuing FBI records to help the “public. . . evaluate the FBI response to the Russian interference, assess threats to American

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<sup>1</sup> See Democracy and Cybersecurity: Preserving Democratic Institutions, EPIC, <https://epic.org/democracy/>.

<sup>2</sup> See *About EPIC*, EPIC.org, <https://epic.org/epic/about.html>.

<sup>3</sup> *EPIC v. ODNI*, No. 17-163 (D.D.C. Jan. 25, 2017); *EPIC v. FBI*, No. 17-121 (D.D.C. Jan. 18, 2017).

<sup>4</sup> *What We Investigate, Cyber Crime*, FBI.gov, <https://www.fbi.gov/investigate/cyber>; Directive on United States Cyber Incident Coordination (“PPD 41”), 2016 Daily Comp. Pres. Doc. 495 (July 26, 2016) (setting forth the FBI's legal authority for cybersecurity threat response).

<sup>5</sup> Ellen Nakashima & Adam Entous, *FBI and CIA Give Differing Accounts to Lawmakers on Russia's Motives in 2016 Hacks*, Wash. Post (Dec. 10, 2016), [https://www.washingtonpost.com/world/national-security/fbi-and-cia-give-differing-accounts-to-lawmakers-on-russias-motives-in-2016-hacks/2016/12/10/c6dfadfa-bef0-11e6-94ac-3d324840106c\\_story.html](https://www.washingtonpost.com/world/national-security/fbi-and-cia-give-differing-accounts-to-lawmakers-on-russias-motives-in-2016-hacks/2016/12/10/c6dfadfa-bef0-11e6-94ac-3d324840106c_story.html).

democratic institutions, and to ensure the accountability of the federal agency with the legal authority to safeguard the American people against foreign cyber attacks.”<sup>6</sup>

In *EPIC v. ODNI*, EPIC is seeking the release of the complete ODNI report on the Russian interference with the 2016 election. The declassified ODNI report stated that Russia carried out a “multi-pronged attack” on the 2016 U.S. Presidential Election to “undermine public faith in the US democratic process.”<sup>7</sup> EPIC is seeking the release of the complete ODNI report as “there is an urgent need to make available to the public the Complete ODNI Assessment to fully assess the Russian interference with the 2016 Presidential election and to prevent future attacks in democratic institutions.”<sup>8</sup>

The urgency of understanding the full scope of the Russian threat to democratic elections is clear. There are upcoming federal elections in Europe. The Dutch election takes place next Wednesday. Concerns about the vulnerability of online voting systems have led the government to take the unprecedented step of adopting paper ballots after having established a system for electronic voting.<sup>9</sup> The French national election is scheduled for April 23, 2017. The German national election is September 24, 2017. Russian attacks on democratic institutions are expected to continue.<sup>10</sup> The U.S. Intelligence community has reportedly shared the classified ODNI report with European governments to help limit Russian interference with their elections.<sup>11</sup> The public need to understand Russian efforts to influence democratic elections cannot be overstated.

We will keep the Committee apprised of the documents we receive in EPIC’s FOIA cases and we look forward to working with you on the cybersecurity risks to democratic institutions.

Sincerely,

/s/ Marc Rotenberg  
Marc Rotenberg  
EPIC President

/s/ Caitriona Fitzgerald  
Caitriona Fitzgerald  
EPIC Policy Director

Enclosures

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<sup>6</sup> Complaint at 7, *EPIC v. FBI*, *supra* note 2.

<sup>7</sup> Office of the Dir. of Nat’l Intelligence, *Assessing Russian Activities and Intentions in Recent US Elections* (2017), [https://www.dni.gov/files/documents/ICA\\_2017\\_01.pdf](https://www.dni.gov/files/documents/ICA_2017_01.pdf) [hereinafter *Declassified ODNI Assessment*].

<sup>8</sup> Complaint at 3, *EPIC v. ODNI*, *supra* note 2.

<sup>9</sup> Sewell Chan, *Fearful of Hacking, Dutch Will Count Ballots by Hand*, N.Y. Times (Feb. 1, 2017), at A4.

<sup>10</sup> *Declassified ODNI Assessment*, *supra* note 7, at 5.

<sup>11</sup> Martin Matishak, *U.S. shares hacking intel with Europe as Russia shifts focus*, POLITICO Pro (Feb. 6, 2017).