

United States Senate

WASHINGTON, DC 20510

August 3, 2016

Senator Ted Cruz
Chairman, Subcommittee on Oversight,
Agency Action, Federal Rights and Federal Courts
U.S. Senate Committee on the Judiciary
Russell Senate Office Building, Room 404
Washington, DC 20510

Dear Chairman Cruz:

We write to express our concern regarding recent remarks made by presidential nominee Donald Trump and the threat of foreign influence in U.S. elections. On July 27, reporters asked Mr. Trump several questions regarding the cyber breach of the Democratic National Committee and potential Russian involvement.¹ When asked if he would call on Russian President Vladimir Putin to stay out of the United States' presidential election, Mr. Trump stated: "Russia, if you're listening, I hope you're able to find the 30,000 e-mails that are missing. . . . I think you will probably be rewarded mightily by our press."² Mr. Trump's apparent encouragement of a foreign cyberattack on presidential nominee Hillary Clinton, a U.S. citizen and former Secretary of State, is dangerous and irresponsible. We ask that you conduct an oversight hearing to determine whether existing federal criminal statutes and federal court jurisdiction sufficiently address conduct related to foreign entities that could undermine our elections.

As two dozen national security experts stated in a recent letter calling for a congressional investigation, this is "not a partisan issue" but rather "an assault on the integrity of the entire American political process."³ The "hacking of a political party's email system by Russian intelligence agencies would, if proven, constitute unprecedented foreign interference in an American presidential campaign."⁴

Mr. Trump's encouragement of a Russian cyber incursion of a U.S. presidential candidate represents an unprecedented call for a foreign government to spy on a U.S. citizen and interfere with a U.S. election. The threat Russia poses to cybersecurity has long been recognized as a national security issue, with a 2009 National Intelligence Estimate warning that Russia had the most "robust, longstanding program that combines a patient, multidisciplinary approach to computer network operations with proven access and tradecraft."⁵ Recent Russian attempts to influence foreign elections – in Ukraine, Georgia, and France, for example – by engaging in

¹ Ashley Parker & David E. Sanger, *Donald Trump Calls on Russia to Find Hillary Clinton's Missing Emails*, NEW YORK TIMES, July 27, 2016; see David E. Sanger & Eric Schmitt, *Spy Agency Consensus Grows That Russia Hacked D.N.C.*, NEW YORK TIMES, July 26, 2016.

² Parker & Sanger, *supra* note 1.

³ *Open Letter: Congress Must Investigate Russian Interference in the Presidential Election*, July 29, 2016, available at <http://warontherocks.com/2016/07/open-letter-congress-must-investigate-russian-interference-in-the-presidential-election/> (last visited Aug. 1, 2016).

⁴ *Id.*

⁵ David E. Sanger, *U.S. Wrestles With How to Fight Back Against Cyberattacks*, NEW YORK TIMES, July 30, 2016.

cyberwarfare and orchestrated leaks are well documented.⁶ Mr. Trump's comments implicate U.S. criminal laws prohibiting engagement with foreign governments that threaten the country's interests, including the Logan Act and the Espionage Act. They threaten the privacy of a U.S. citizen and former government official, inviting Russia to engage in conduct that would violate the Computer Fraud and Abuse Act and, if performed by the U.S. government, would contravene the Fourth Amendment. Finally, Mr. Trump has invited foreign interference with the presidential election, which we believe should be carefully guarded against under U.S. law.

To ensure the integrity of the presidential election and its insulation from Russian cyber threats, we ask that you conduct an oversight hearing to consider whether existing federal criminal statutes and federal court jurisdiction sufficiently address conduct related to foreign entities that could undermine our elections. Specifically, we ask that you consider whether requests for foreign entities to conduct cyber attacks on political opponents violate existing federal criminal statutes, and whether there are obstacles to the federal courts asserting jurisdiction to protect the integrity of our nation's elections.

Sincerely,



Christopher A. Coons
United States Senator



Sheldon Whitehouse
United States Senator

⁶ Margaret Coker & Paul Sonne, *Ukraine: Cyberwar's Hottest Front*, WALL STREET JOURNAL, Nov. 9, 2015; Melik Kaylan, *Russia's Continuing Cyber Warfare*, FORBES, July 26, 2016; Lucy Draper, *Hackers Leak Messages 'Between Kremlin and France's Front National'*, NEWSWEEK, Apr. 13, 2015.