

CONGRESSIONAL PRIORITIES FOR DEFENSE INTELLIGENCE AGENCY: TAKE MORE MONEY, DISCREDIT SNOWDEN

Today marks the two year anniversary of the first Snowden disclosures. The anniversary was marked not just with a Snowden op-ed published by the *New York Times* titled “The World Says No to Surveillance,” but also a major new *Vice* story on the government’s damage assessment based on documents FOIAed by Jason Leopold.

As *Vice* notes, the FOIAed documents show how the government provided talking points to members of Congress – some of whom emphasized in briefings they were looking to discredit Snowden – which were then leaked to the press.

After the DIA completed a damage assessment report about how Snowden apparently compromised US counterterrorism operations and threatened national security on December 18, 2013, leaks from the classified report immediately started to surface in the media. They were sourced to members of Congress and unnamed officials who cast Snowden as a “traitor.”

On December 18, the *Washington Post*’s Walter Pincus published a column, citing anonymous sources, that contained details from the Snowden damage assessment. Three days earlier, *60 Minutes* had broadcast a report that was widely condemned as overly sympathetic to the NSA. *Foreign Policy* and Bloomberg published news stories on January 9, 2014, three days after the damage assessment report was turned over to six

congressional oversight committees. Both of those reports quoted a statement from Republican congressional leaders who cited the DIA's classified damage assessment report and asserted that Snowden's leaks endangered the lives of US military personnel.

The documents also show that these assessment reports had really basic errors, in one report even getting the date of the first leaks wrong, dating them to June 7 rather than June 5, 2013.

(U) As you all no doubt know, on 07 June 2013 the media began publishing classified information related to NSA operations. On 09 June 2013, we learned

Such errors ought to raise questions about the other claims from the report, such as that Snowden took 900,000 documents pertaining to DOD issues. After all, if analysts can't even copy a public date from a newspaper correctly, how accurate are their more difficult calculations?

Perhaps the most interesting detail in the FOIAed documents, however, pertains to discussions of funding tied to mitigation of the leaks. In part because Defense Intelligence Agency briefers were meeting with appropriations committees on this topic as often as oversight committees, members wanted to know whether DOD needed more money to respond to the leaks (which, after all, happened because DOD had not installed the insider threat software Congress had ordered it to install years before). Thus, even as members were demanding more information to discredit Snowden in this February 5, 2014 briefing, a few were asking what all this would cost.

Bottom Line: HASC Members were most interested in information that could damage Edward Snowden's credibility in the press and in the court of public opinion.

Members from both sides (Reps. Nugent, Scott, Johnson, and Davis) repeatedly pressed the briefers for information from the report to be made releasable to the public. [redacted] explained the restrictions were to [redacted] but the members appeared unmoved by this argument.

Reps. Nugent and Gallego were interested in why Snowden had the access that he did and why intelligence information isn't protected by "need to know". Reps. Davis and Peters were also interested in the total cost of the compromise and any ongoing efforts to mitigate the leaks. Rep. Peters noted that the committee this data in advance of marking up the FY15 Defense bill.

At one level that makes sense: if Snowden really

took as much as they claimed he had, it would have required a lot more money to respond to. But according to the documents, DOD didn't need anything beyond what had already been appropriated, at least as late as February 6, 2014.

[redacted] Staff also asked whether there were any changes to the FY15 budget request as a result of the disclosures. [redacted] said that the IRTF-2 activities and mitigation thus far has been taken out of the current budget, and they will not see any budget adjustments due to the latest disclosures. Any changes in the counterintelligence or insider threat budgets were already programmed.

But as time went on, and particularly after DOD delayed three months before sharing a second, June 2014 report, with Congress, staffers warned that Members of Congress were getting antsy, as in a September 9, 2014 briefing when House and Senate Armed Services Committee staffers warned that DIA had better focus more on what it would take to mitigate Snowden's leaks and how much it would cost.

Members would be frustrated if the MOTF could not show progress and provide specific examples of steps taken to mitigate damage done to capabilities, plans, and partnerships by the breach. They recommended focusing less on process and more on mitigation efforts and anticipated costs. SASC PSM

Clearly, the House staffers knew their boss, because in what appears to be the September 11, 2014 hearing that the September 9 staff briefing prepared for, House Armed Services Committee Chair Mac Thornberry said "it was hard to think of something that has happened in the world that is more deserving of a response and can affect future funding" than the Snowden leaks.

~~(S//NF)~~ Discussion: Chairman Thornberry opened up by indicating that despite his tardiness, this was a briefing he did not want to miss as it has been a long time since he received an update on what information was compromised and the impact to U.S. national security. He also mentioned that it was hard to think of something that has happened in the world that is more deserving of a response and that can affect future funding. Furthermore, he highlighted he was aware there was a new IRTF-2 report

After several more briefings at which Members asked why DIA was stalling on their latest report, the government finally provided the June report later in September, 2014. Unlike the earlier report, there was no blitz of leaks associated with it, making exaggerated claims about the damage.

We can't tell what happened here: whether DOD simply had nothing to report and so delayed telling that to Congress, whether they hadn't started doing the work of mitigating the leaks,

or whether – as Snowden has suggested –
DIA vastly overestimated what he had taken and
therefore didn't have as much to mitigate as
originally claimed.

But one thing is clear: Members of Congress
wanted bad news about Snowden to leak, even as
they wanted to throw more money at the people
reporting any bad news about Snowden.