

CHUCK GRASSLEY, IOWA, CHAIRMAN

MIKE CRAPO, IDAHO
PAT ROBERTS, KANSAS
MICHAEL B. ENZI, WYOMING
JOHN CORNYN, TEXAS
JOHN THUNE, SOUTH DAKOTA
RICHARD BURR, NORTH CAROLINA
ROB PORTMAN, OHIO
PATRICK J. TOOMEY, PENNSYLVANIA
TIM SCOTT, SOUTH CAROLINA
BILL CASSIDY, LOUISIANA
JAMES LANKFORD, OKLAHOMA
STEVE DAINES, MONTANA
TODD YOUNG, INDIANA
BEN SASSE, NEBRASKA

RON WYDEN, OREGON
DEBBIE STABENOW, MICHIGAN
MARIA CANTWELL, WASHINGTON
ROBERT MENENDEZ, NEW JERSEY
THOMAS R. CARPER, DELAWARE
BENJAMIN L. CARDIN, MARYLAND
SHERROD BROWN, OHIO
MICHAEL F. BENNET, COLORADO
ROBERT P. CASEY, Jr., PENNSYLVANIA
MARK R. WARNER, VIRGINIA
SHELDON WHITEHOUSE, RHODE ISLAND
MAGGIE HASSAN, NEW HAMPSHIRE
CATHERINE CORTEZ MASTO, NEVADA

United States Senate

COMMITTEE ON FINANCE

WASHINGTON, DC 20510-6200

KOLAN DAVIS, STAFF DIRECTOR AND CHIEF COUNSEL
JOSHUA SHEINKMAN, DEMOCRATIC STAFF DIRECTOR

January 16, 2020

The Honorable William Barr
Attorney General
Department of Justice

The Honorable Christopher A. Wray
Director
Federal Bureau of Investigation

Dear Attorney General Barr and Director Wray:

On November 22, 2019, Senate Finance Committee Chairman Chuck Grassley and Senate Homeland Security and Government Affairs Committee Chairman Ron Johnson sent you a letter asking you to produce extensive personal information related to an American citizen, Alexandra Chalupa.¹ The Senators' request will have a chilling effect on the victims of nation-state cyber-attacks, and would discourage them from seeking law enforcement assistance, thereby jeopardizing our national security, limiting our ability to respond to sophisticated cyber-attacks, and undermining the civil liberties of American citizens.

Furthermore, the letter is part of a broader strategy by these Senators, along with Judiciary Committee Chairman Lindsey Graham, to pursue an investigation into purported Ukrainian interference in the 2016 election, allegations that are part of a Russian disinformation campaign.² I am deeply concerned at the Senators' attempt to obtain the personal information, including cellphone communications and computer files, of a U.S. citizen, as well as their efforts to enlist the FBI and Department of Justice in their efforts to legitimize Russian propaganda. The FBI is not a political weapon, and should not be pressured into violating a citizen's civil liberties for political gain.

In 2016, Alexandra Chalupa was a victim of a cyberattack coordinated by the Russian Federation's Main Intelligence Directorate of the General Staff (GRU), which hacked into the

¹ Letter from Sens. Chuck Grassley and Ron Johnson to Attorney General William Barr and Director Christopher Wray (Nov. 22, 2019), <https://www.grassley.senate.gov/news/news-releases/grassley-johnson-want-details-fbi-interactions-2016-dnc-contractor>.

² Opening Statement of Dr. Fiona Hill to the House of Representatives Permanent Select Committee on Intelligence (November 21, 2019). <https://www.youtube.com/watch?v=rIkQHqFBpU>.

computer networks of the Democratic Congressional Campaign Committee, the Democratic National Committee, and the Clinton Campaign.³ According to Special Counsel Robert Mueller's Report on the Investigation into Russian Interference in the 2016 Presidential Election, GRU hackers targeted hundreds of email accounts used by Clinton Campaign employees, advisors, and volunteers. The GRU then released stolen documents through fake online personas, timing the releases to interfere with the 2016 U.S. presidential elections and benefit the Trump campaign.⁴

Ms. Chalupa was a victim of this attack, and emails she authored were leaked as part of the Russian government's efforts to interfere in our elections. Ms. Chalupa also had genuine reason to believe her personal email had been further targeted by a state sponsored cyberattack and received warnings from her email provider that her account was being targeted by state-sponsored actors. Reports indicate that she informed the FBI of the cyberattack and the bureau then "imaged her laptop and smartphone – as part of a wide-ranging investigation into the Russian cyberattacks."⁵

In their letter, the Senators request all records relating to the imaging of Ms. Chalupa's laptop and smartphone. This request is outrageous. As I understand it, the "imaging" of a laptop or smartphone provides a complete copy of all of the information in the computer or phone; for example, in the case of a smartphone, it would include, among other things, the phone call log, text messages, and photographs. As the Supreme Court said, in holding that cell phones generally cannot be searched without a warrant, "Modern cell phones are not just another technological convenience. With all they contain and all they may reveal, they hold for many Americans 'the privacies of life.'"⁶

Furthermore, the Senators give no reasonable basis for their request. The Senators cite only two news articles in their letter, one by John Solomon in *The Hill*, and another by Ken Vogel and David Stern in *Politico*. *The Hill* has since acknowledged it would review and correct Solomon's purported "reporting," while *Politico* appears to have similarly distanced itself from Mr. Vogel's story, writing in November 2019 that "No evidence has emerged to support" the idea that Ukrainian officials coordinated with any American political campaigns.⁷

Ms. Chalupa voluntarily came forward and provided personal private information to the FBI in order to assist in the investigation of Russian hacking and interference in the 2016 election. To use her voluntary cooperation in order to weaponize her personal information against her in furtherance of a political attack based on unsupported claims and potential Russian

³ Report on the Investigation into Russian Interference in the 2016 Presidential Election, Special Counsel Robert S. Mueller, III, page 36.

⁴ *Id.*

⁵ Michael Isikoff, *16 People who shaped the 2016 election: Alexandra Chalupa*, Yahoo News (Oct. 24, 2016), <https://www.yahoo.com/news/16-people-who-shaped-the-2016-election-alexandra-chalupa-171541199.html>.

⁶ *Riley v. California*, 573 U.S. 373 (2014).

⁷ Justin Baragona, *The Hill: We are 'Reviewing' and 'Updating' John Solomon's Ukraine Columns*, *The Daily Beast* (Nov. 18, 2019), <https://www.thedailybeast.com/the-hill-we-are-reviewing-and-updating-john-solomons-ukraine-columns>; Natasha Bertrand and Andrew Desiderio, *Ukraine didn't interfere in 2016, Trump officials testified*, *Politico* (Nov. 8, 2019), <https://www.politico.com/news/2019/11/08/ukraine-interfere-elections-testimony-068095>.

propaganda would compromise public trust in our law enforcement, undermine Americans' rights, and damage our national security interests.

Ms. Chalupa already had her privacy violated once as the result of a cyber-attack by a foreign government. Her privacy should not be violated a second time by her own government. I expect the Justice Department and FBI to take appropriate steps to safeguard Ms. Chalupa's private personal records from improper use.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Ron Wyden". The signature is written in a cursive, flowing style.

Ron Wyden
Ranking Minority Member