

DEPARTMENT OF HEALTH AND HUMAN SERVICES
OFFICE OF NATIONAL SECURITY

Testimony before the Senate Committee on Finance
Hearing
Foreign Threats to Taxpayer Funded Research: Oversight Opportunities and Policy Solutions

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Good morning Mr. Chairman, Ranking Member Wyden, and distinguished Members of the Committee. It is an honor to appear before you today to discuss the U.S. Department of Health and Human Services' (HHS) efforts to address foreign threats. My testimony today will focus on the threats foreign governments and foreign agents present to U.S. Government-funded medical research, the efforts undertaken by HHS to detect the threats and protect the integrity of medical research—an area that is critical for our Nation's ability to provide healthcare and for biodefense; and the role of HHS' Office of National Security (ONS), formerly known as the Office of Security and Strategic Information (OSSI), and its capabilities.

My name is Captain Michael Schmoyer, the Assistant Deputy Secretary for National Security and Director of HHS' ONS. ONS is headed by the Assistant Deputy Secretary for National Security, who reports directly to the Department's Deputy Secretary and also serves as the Secretary's Senior Intelligence Official on intelligence and counterintelligence issues. ONS' vision is for HHS personnel to successfully accomplish missions worldwide in a security-informed manner and with the actionable intelligence needed for operational and policy decisions. ONS' responsibilities include: integrating intelligence and security information into HHS policy and operational decisions; assessing, anticipating, and warning of potential security threats to HHS and national security in general; and providing policy guidance on and managing the implementation of the Department's national security, intelligence, and counterintelligence programs.

ONS' programs include handling national security clearances for employees, classified national security information management, secure area (i.e., Sensitive Compartmented Information Facilities) management, communications security, safeguarding and sharing of classified information, cyber threat intelligence, insider threat, and counterintelligence. In coordination with the Director of National Intelligence, ONS has been designated since 2012 as the Department's Federal Intelligence Coordination Office and I serve as the Department's Federal Senior Intelligence Coordinator. ONS has responsibilities

to establish implementing guidance, provide oversight, and manage the Department's policy for the sharing, safeguarding, and coordinated exchange of information relating to national or homeland security with other federal departments and agencies, including law enforcement organizations and the Intelligence Community, in compliance with the HHS policies and applicable laws, regulations, and Executive Orders.

The Threats Foreign Governments and Foreign Agents Present to Taxpayer-funded Research

ONS has an important mission that focuses on supporting HHS' ability to conduct research that will lead to the development of treatments, diagnostics, and vaccines to address public health needs, including medical countermeasures to address the ever-evolving threat of newly emerging and re-emerging infectious disease caused by pathogens, including those that are select agents and other biological threats to the homeland. While appreciating the value of scientific advancement, HHS has an equal interest in maintaining the integrity of the Department's scientific enterprise. Similarly, HHS embraces the contributions that foreign partnerships have made to expanding scientific knowledge that protects, promotes, and advances public health and medical pursuits worldwide.

Through work with our national security partners over the past two years, ONS became aware of threats to the grant process and intellectual property that is a cornerstone of the Department's, including the National Institutes of Health (NIH), core values and biomedical research integrity. After becoming aware of foreign entities' systematic approaches to influence NIH researchers and peer reviewers, ONS quickly worked with NIH, the Office of the Inspector General (OIG), the Federal Bureau of Investigation (FBI), and the National Counterintelligence and Security Center (NCSC) to identify steps to mitigate these threats to U.S. biomedical research.

ONS is a supporter of NIH's initiative to stand up a working group of the Advisory Committee to the NIH Director that addresses ways to mitigate risks to intellectual property as well as measures to

protect the peer review process. In fact, ONS provided a briefing to the Director's working group on the risks that U.S. Government-funded partners face as well as strategies that we are using, together, to mitigate those risks.

The Role of HHS' Office of National Security and its Capabilities to Detect Threats and Protect the Integrity of Medical Research

As mentioned previously, a large part of the ONS mission is to counter foreign intelligence entity threats. ONS does this in three fundamental ways:

- identification of foreign intelligence threats and sharing of threat information with our agencies (including NIH), the FBI, and the broader Intelligence Community;
- safeguarding HHS' sensitive information, relationships, property, and activities; and
- prevention and detection of insider threats.

I am the designated senior official within the Department who is responsible for countering threats from foreign intelligence entities. Utilizing the resources and authorities that we currently have, ONS builds interdisciplinary partnerships throughout HHS, including NIH, in a variety of areas that include, but are not limited to, physical security, chief information officers, human resources, and acquisition/procurement. We have worked with partners, both internally and externally, to conduct assessments of HHS' sensitive information, property, and activities; we have found that these periodic risk assessments are the cornerstone for all of our corresponding security and counter-threat activities.

We have also developed measures and strategies that are commensurate with the risk assessment-identified threats to HHS and have specifically focused on elements such as information security measures, personnel security practices, foreign contact and visitor vetting, supply chain risk management, Committee for Foreign Investment in the U.S. proposed acquisitions, and prevention of unauthorized disclosures. Specific examples of these measures and strategies include: 1) implementing long-standing policies relating to distribution of badges, vetting visitors, coordination with the

Intelligence Community, and addressing insider threats; 2) regularly evaluating the application of adjudication suitability standards relating to onboarding new personnel (civil service, contractors, detailees and fellows); 3) utilizing existing mechanisms to share threat and vulnerability information across the enterprise; 4) continually promoting workforce awareness of the threat from foreign intelligence entities and providing awareness and reporting instructions to HHS personnel; and 5) implementing specific measures to detect intrusions.

The Efforts Undertaken by HHS and NIH to Vet Researchers

ONS works closely with the Department of Justice, including the FBI; with other HHS components, including the OIG, and NIH, and with the broader Intelligence Community to identify NIH-employed researchers who may have engaged in problematic practices with foreign entities that may have unduly influenced and capitalized on U.S.-conducted research. ONS has access to a variety of databases that enable us to vet employees, as well as visitors, to HHS facilities (including NIH). These database results are linked with National Security partners to ensure the results we have are both reliable and valid.

Our conversations relating to vetting for derogatory information occur with the FBI and others (both in and outside of the Intelligence Community) on a daily basis. In addition, we share our results with other Departments which often have similar missions to HHS. Currently, HHS vets new civilian employees, U.S. Public Health Service Commissioned Corps officers, contractors, research fellows, interns, and foreign national visitors to HHS properties. We have had both onboarding-related policies as well as a foreign visitor policy in place since at least 2011; these policies are updated as needed. HHS does not vet funded research partners who are not employees, or contractors, of HHS (for example, NIH-funded university principal investigators).

Additionally, we have initiated a new focus within ONS that will be dedicated to working with universities to empower their programs to, among other things, conduct vetting similar to what we do for employees/contractors within HHS. We have been excited to work with NIH, FBI, OIG, and NCSC to see this new national security-related effort comes to fruition. With this focus we are better able to address potential threats of foreign influences on research integrity at the grantee level.

The Role the FBI Plays in Assisting HHS and its Sub-agencies in Detecting and Combatting Foreign Threats

Over the past two years, all of the efforts undertaken by ONS to prevent, detect, and mitigate threats to the integrity of medical research have been done in conjunction with national security partners across the government. We have worked especially closely with the FBI, including instituting a formalized full-time detailing of a Supervisory Special Agent to our office.

Since the spring of 2017, ONS became acutely aware of specific challenges relating to the threat of foreign influences on HHS, and specifically NIH, research integrity. We became involved in two whole-of-government working groups, led by the FBI, to address the challenges since some foreign governments have initiated systematic programs to unduly influence and capitalize on U.S.-conducted research, including that funded by NIH. We became aware that some HHS-funded scientists had not been disclosing foreign grant support, affiliation with laboratories outside of the U.S., or even faculty appointments with foreign nations. Additionally, we learned about threats to the NIH grant peer review process where confidentiality was compromised and information shared that attempted to alter the NIH funding decision process.

While the relationship with FBI and ONS had existed since the early 2000s, our work in early 2017 with the FBI surrounding the threats posed to the NIH campus and its extramural grant process galvanized our relationship even further. HHS quickly became even more active with the Baltimore FBI Field Office and the Washington Field Office's counterintelligence programs. Together, in close

coordination with our OIG, NIH, and NCSC colleagues, we quickly worked on a strategy to address the threat of foreign nontraditional counterintelligence collection. Our main focus was to ensure that our national security-related efforts continued to support successful relationships with foreign scientists in all countries supporting the research enterprise while simultaneously protecting the nation's, and HHS's research integrity.

In closing, thank you for the opportunity to review the national security role and work of the HHS ONS and our efforts to address foreign threats in research.