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Congress of the United States

House of Representatives

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November 20, 2013

The Honorable Katherine Archuleta
Director
U.S. Office of Personnel Management
1900 E Street, NW
Washington, D.C. 20415

Dear Ms. Archuleta:

Two recent, yet seemingly unrelated events – Edward Snowden’s decision to leak classified information that permanently damaged our national security, and the senseless shootings by Aaron Alexis at the Navy Yard in Washington, D.C., on September 16, 2013, which claimed the lives of twelve people – share a common link. The security clearances that both Snowden and Alexis received from the federal government enabled them to carry out their heinous acts. The Office of Personnel Management orchestrated the process through which these two individuals obtained security clearances.

Congress and the American people rightly deserve detailed information about the policies and processes that allowed Aaron Alexis and Edward Snowden to obtain security clearances. What I have learned so far in our Committee’s investigation into these policies and processes is disheartening. Major gaps exist in the security clearance process. Moreover, legislative changes appear necessary to fix this broken process. It is crucial that Congress obtain complete access to the current policies, training materials, and other guidelines currently in place. Using this information to complete a thorough review, Congress will have a better understanding of how to fix the problem.

This is my fourth letter to OPM seeking information and documents relating to the federal security clearance process.¹ OPM’s offer to allow my staff to review responsive

¹ Letter from Hon. Darrell Issa, Chairman, H. Comm. on Oversight & Gov’t Reform (OGR), to Ms. Elaine Kaplan, Acting Dir., U.S. Office of Personnel Mgmt. (OPM) (Oct. 9, 2013); Letter from Hon. Darrell Issa, Chairman, OGR,

documents *in camera* is insufficient. You must produce these documents to the Committee. None of the documents Committee staff reviewed were labeled “confidential, sensitive, and privileged.”² OPM’s rationale that the subjects of OPM background investigations could use these documents “as a roadmap to falsifying case papers and interviews and compromising references and other sources”³ is not a sufficient reason to withhold them from Congress. Additionally, as you are undoubtedly aware, the Freedom of Information Act exemption discussed at length in OPM’s most recent letter to me does not apply to congressional oversight.⁴ It is also perplexing that OPM is refusing to produce information to Congress while having no qualms about issuing—electronically, no less—many of these exact same documents to thousands of federal and contract employees.

The Committee is entitled to receive the documents requested in my October 9 letter, and OPM’s failure to deliver them—citing irrelevant legal protections and threatening privileges it does not have the ability to assert—raises additional questions about the reasons why OPM does not want to produce them to the Committee. Perhaps OPM is simply embarrassed by the content of some of these documents.⁵ For example, one OPM training presentation reviewed *in camera* by Committee staffers discussed “how to complete a thirty day caseload in less than thirty days.” This same document offered other cavalier instructions, such as startling advice with respect to obtaining certain criminal records, namely that a local law enforcement office “either got ‘em, or they don’t.” Thus, OPM guidelines appear to encourage its investigative staff and contract employees to exert less than a full effort to obtain pertinent law enforcement records.

The Committee has also uncovered written and verbal OPM policies that directly resulted in an incomplete picture of Aaron Alexis available to the adjudicating agency before it granted him a security clearance. These policies include the failure to secure arrest records that would have alerted federal officials to his violent past.⁶ Perhaps most disconcerting, though, is OPM’s indifference to obtaining all the relevant information about individuals under review for a security clearance.

to Hon. Katherine Archuleta, Dir., OPM (Nov. 5, 2013); Letter from Hon. Darrell Issa, Chairman, OGR, to Hon. Katherine Archuleta, Dir., OPM (Nov. 14, 2013).

² Letter from Hon. Darrell Issa, Chairman, OGR, to Hon. Katherine Archuleta, Dir., OPM (Nov. 14, 2013).

³ Letter from Sharon M. McGowan, Acting General Counsel, OPM, to Hon. Darrell Issa, Chairman, OGR (Nov. 15, 2013).

⁴ See 5 U.S.C. § 552 (d) (“This section is not authority to withhold information from Congress.”).

⁵ See Memorandum for the Heads of Departments and Agencies regarding Freedom of Information Act, http://www.whitehouse.gov/the_press_office/Freedom_of_Information_Act/ (Jan 21, 2009) (“The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears.”).

⁶ Telephonic Interview of [Employee of OPM Contractor] by Committee Staff (Oct. 22, 2013).

The Honorable Katherine Archuleta

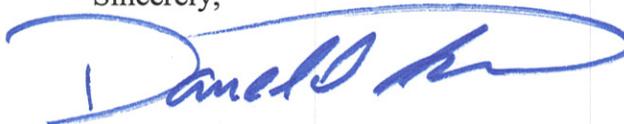
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In addition to being the principal oversight committee for the House of Representatives, this Committee has direct legislative jurisdiction over the federal security clearance process. As such, the Committee has substantial knowledge of this process, and is fully equipped to properly handle, review, and store any sensitive or classified documents that are pertinent to this inquiry.

Should OPM fail to electronically produce **all** responsive documents by noon on November 21, 2013, I will have no alternative but to use compulsory process to obtain them.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Issa", with a large, sweeping flourish above the name.

Darrell Issa
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member