

# Revue de presse américaine

**Ambassade de France aux États-Unis**  
Service de presse et de communication



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**RÉPUBLIQUE FRANÇAISE**

**Vendredi 24 mars 2017, réalisation : Joanna Bosse-Platiere**

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"I'M SURE THERE'S PLENTY TO EAT IN THERE, IF YOU DIG AROUND A LITTLE BIT."

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## THE WALL STREET JOURNAL

Jenny Gross in London and Joshua Robinson in Birmingham

### British-Born Khalid Masood Identified as London Attacker (UNE)

London police identified the suspected Islamist terrorist who carried out the deadly rampage outside Parliament as Khalid Masood, a 52-year-old British-born man who had previous convictions but wasn't the subject of any current investigations.

Though born southeast of London, police said, Masood had been living most recently in the Birmingham area, which quickly became a focus of the investigation. Police detained seven people in the city, the U.K.'s second-largest, on suspicion of preparing terrorist acts. A 39-year-old woman was also detained in London, police said. They didn't disclose the suspects' identities or what connection they may have to the London attack.

Police say Masood on Wednesday mowed down pedestrians on a crowded bridge before crashing his car near the gates of Parliament and stabbing a policeman, leaving three dead, including an American; a fourth victim, a 75-year-old man, died of his injuries on Thursday.

Masood was shot to death, authorities said. Dozens were injured in the deadliest act of terror in the U.K. since 2005, when coordinated bombings by Islamist extremists on buses and subway trains claimed 52 lives.

While U.K. authorities had no prior intelligence about Masood's intent to mount a terrorist attack, he was known to police and had been convicted on a range of offenses unrelated to terror, police said, most recently in 2003 for possession of a knife. Police said he was known by a number of aliases, but wouldn't give further information.

In a speech to Parliament on Thursday, Prime Minister Theresa May said the perpetrator had been investigated years earlier over extremist concerns but that authorities viewed him as a "peripheral figure."

Islamic State claimed responsibility for the attack, saying in a statement on its affiliated Amaq news agency that it was a response to U.S.-led coalition strikes against the

extremist group. The group has often claimed responsibility for such attacks but the nature and scope of its involvement—or whether it was involved at all—remains unknown.

On Thursday evening, throngs of Londoners and tourists descended on Trafalgar Square for a candlelight vigil commemorating the victims of Wednesday's attack and projecting defiance in the wake of Wednesday's attack.

"People have tried to tear this city apart with acts of terror many times before," Acting Metropolitan Police Commissioner Craig Mackey told the vigil. "They have never succeeded and they never will."

Meanwhile, forensics officers in latex gloves were still taking photographs and combing through a house on a dead-end street in Birmingham. Ciaran Molloy, who lives nearby, said he recognized Masood from his photo on television as the man who lived in the house with a woman and small children for about three years before moving out in December.

"I probably spoke to him twice and he was polite as ever," Mr. Molloy said.

Mark Rowley, the U.K.'s top counterterror policeman, told reporters authorities believe "the attacker acted alone and was inspired by international terrorism." Detectives were searching additional addresses in London, Birmingham and Wales, police said.

Birmingham, which lies about 120 miles northwest of London, has seen waves of immigration from Ireland, South Asia and elsewhere. Its Muslim community tends to be relatively well integrated, prosperous, and represented in local government, says Steve Hewitt, a University of Birmingham terrorism expert. But the city has a history of ties to radicalism as well.

The car used in the attack was rented in the Birmingham area, Enterprise Rent-A-Car said. The company said an employee identified the vehicle based on a license plate from an image of the attack, and the company alerted authorities after running another check.

"We are cooperating fully with the authorities and will provide any assistance that we can to the investigation," Enterprise said.

Amid heightened security at the Houses of Parliament, a landmark that has endured for centuries, lawmakers were returning to business, vowing to remain strong in the face of terrorist violence.

"Today we meet as normal, as generations have done before us and as future generations will continue to do, to deliver a simple message: We are not afraid and our resolve will never waver in the face of terrorism," Mrs. May said. "And we meet here in the oldest of all parliaments because we know that democracy and the values it entails will always prevail."

After saying late Wednesday that four people had been killed by the attacker—who rammed a vehicle into pedestrians and stabbed a police officer—police lowered the death toll to three early Thursday, then raised it again to four after the death in the hospital of the 75-year-old man. Twenty-eight people were hospitalized, seven of them in critical condition.

Mrs. May spent 40 minutes speaking with some of the victims and staff at a London hospital, a government spokesman said.

Mrs. May said that in addition to 12 Britons admitted to the hospital, those injured included one American, three French children, two Romanians, four South Koreans, one German, one Pole, one Irish, one Chinese, one Italian and two Greeks.

Witnesses to Wednesday's assault said the attacker drove a sport-utility vehicle into people on Westminster Bridge before hitting a fence surrounding Parliament. The assailant ran at a police officer guarding the complex and stabbed him, authorities said, before being shot and killed by police.

The police officer who was stabbed to death was identified as Keith Palmer, a 48-year-old husband and father, who tackled the attacker as he rushed toward Parliament.

"He was every inch a hero," Mrs. May said. "And his actions will never be forgotten."

Among the gravely injured was a 29-year-old Romanian architect visiting London to celebrate her boyfriend's birthday. She was knocked into the Thames, where a nearby boat rescued her. She was in critical condition after intensive brain surgery to remove a blood clot, her country's ambassador to the U.K., Dan Mihalache, told Romanian TV.

The threat level in the U.K. remained unchanged at "severe," meaning an attack is highly likely. The highest level, "critical," means authorities have specific intelligence that an attack is imminent.

At Parliament, the British flag flew at half-staff. Lawmakers returned to work largely as usual, though it was slower than normal, with limited access and the immediate area still closed off to traffic. The surrounding area, typically bustling with tourists taking selfies, was quieter than usual.

Nick Thomas-Symonds, a U.K. lawmaker, said it was an important symbol that Parliament was in session as normal.

"The attack yesterday was not just on individuals but on our whole system of democracy and on our system of values," Mr. Symonds said, as he walked toward Parliament, taking an alternative route because the primary entries were cordoned off.

Around the capital, there was an increased security presence, as police said they had increased hours and canceled leave for officers.

The style of the attack, the third in Europe in less than a year in which a vehicle was used as a tool of terrorism, presents a special challenge to security officials.

"We're not going to be in a position where we can ban knives, ban cars and trucks," said Jonathan Russell, head of policy at Quilliam, a London-based counterterrorism think tank. "These are the weapons that people are using."

Defense Secretary Michael Fallon said security would be reviewed to see whether arrangements at Parliament were adequate and whether police at the front gates should be armed.



## What Donald Trump Jr. doesn't get about London

By Angela Pupino

Walking home from my 5:00 class in London on Wednesday night, I expected to see a city paralyzed by fear and uncertainty. I expected the normally crowded high street on the way my dorm to be quiet. After all, a terrorist attack had happened only a few hours before and only a mile or so away from my study abroad center near Russell Square.

But I did not see a paralyzed city. The high street was still crowded. I saw all of the regular things: Couples eating together, old men sitting together in pubs, parents swinging a laughing child between their arms, students coming out of coffee shops. The buses that drove past were still full of passengers. And there was still rush-hour traffic. The only visible sign that a terrorist attack, much less the deadliest in the city in 12 years, had occurred was a digital timetable on a bus stop alerting passengers that service to Westminster had been suspended.

To be honest, I was confused by what I saw. I had never been in the same city as a terrorist attack before, much less within walking distance of one. I had spent all afternoon receiving messages and calls from my family and friends back home.

My study abroad program, my university's study abroad office, and the US State Department -- I'm studying abroad on a State Department-administered scholarship -- had messaged me requesting an urgent response about my location and physical and mental health. Some students in program had even been at or near Parliament when the attacks occurred. I was anxious and shocked.

I expected the city around me to reflect my own anxiety and shock.

It didn't.

When I woke up the next day, I was surprised to see headlines describing the city's anger and fear. I was shocked to see the city described as a war zone or as "shaken." I wondered what London they were talking about. The London I saw Wednesday and Thursday is unshaken. It is brazenly unafraid. It refuses to treat today differently than any other day. It refuses to hate its neighbors. It is "carrying on," returning to everyday life, with its head held high.

Of course there is anger, fear, trauma and great sadness. Innocent lives were lost and dozens injured. Somewhere in the city, victims still lay in hospital beds. Families, friends, and co-workers are still mourning. Witnesses are still coping with the things they've seen. There are people for whom waking up this

morning was unbelievably difficult. There will be memorials and funerals. There are questions about national security that need to be asked.

But it strikes me that many of the characterizations of London as a shattered city, many of the angriest posts, and many of the nastiest comments didn't originate from London at all. Most prominent among these: Donald Trump, Jr.'s tweet -- "You have to be kidding me?!" -- in response to London Mayor Sadiq Khan's 2016 comment to The Independent newspaper that terror attacks are "part and parcel" of living in a major city.

Khan's response to questions about the tweet a day later: "I've been doing far more important things for the past 24 hours." And rightly so.

But heated conversations about what London's response to the attacks should be are in full swing. Already migration, guns, Muslims, and even Brexit are being pulled into the debate. People all over the world have a lot to say about what happened. I'm not convinced that many Londoners would say the same things.

The people of New York City, Arlington, Virginia and Somerset County, Pennsylvania, knew better than any keyboard warrior how they should respond to September 11. The people of Paris knew better than anyone how they should

respond to the attacks in 2015. The people of Brussels knew better than any pundit how they should respond to the attacks a year ago Wednesday. And the people of London know better than anyone else in the world how they should be responding right now.

These places know how they should respond to terror because their communities, and their communities alone, must pick up the pieces. These are the communities that must come together, grieve, and continue living long after the news cameras have left and the comment sections quieted.

It's true that I'm only an American college student living in London. I was not born and raised here. I am only a temporary guest. I might be oblivious to the places where the city is broken, quivering in fear, or seething with anger. I might be completely misunderstanding the reactions of those around me.

And that's exactly the point. If you don't believe me, ask someone else who lives in London. Ask someone who is British. Ask someone who grew up in London. Ask someone who works at Westminster. Ask someone who was there yesterday. These are the people whose perspectives matter most.

The people of London are unshakable. We should all be listening.



## London Carries On

Feargus O'Sullivan

In the wake of another terrorist attack on a major capital city, the citizens of London have chosen to shrug and carry on. You should, too.

Last night in London, bars and restaurants near Britain's Parliament at Westminster were just as packed as ever. Walking to meet a friend just across across the river in Waterloo last night, I saw office workers spilling out of pubs and lined up as usual at bus stops; if you didn't know better, it'd seem improbable that a terrorist attack had occurred hours before, just minutes' walk away.

This was not, perhaps, the atmosphere that the attacker was dreaming of when he planned the horrific attack he carried out Wednesday afternoon. Three people were killed and 29 others sent to the

hospital after Khalid Masood, a 52-year-old man from just outside London, drove a car into pedestrians and stabbed a police officer outside the U.K. Parliament before he was killed. The terrorist organization ISIS has claimed responsibility for the attack.

It's not just that Londoners are keeping calm and carrying on—that's what they do in a crisis by default. It's more that there's little open acknowledgement in people's behavior that this is a crisis at all. Going out into the streets, everything is so utterly normal that it's almost disconcerting. Public transit has continued running without a hitch, shops stayed busy, and people seemed to be going on about their business without any apparent fear of peril.

There is a strain of relief in this show of strength. This in no way prevents it from being tragic, especially as the

heartbreaking photos and profiles of the victims are emerging, smiling at us from some happy-looking place. But, in many ways, the attack could have been so much worse, and Londoners are taking comfort in the effectiveness of the city's security measures. Thanks to swift, effective policing, the attacker never got into Parliament itself, only through its outermost cordon. And a far worse casualty toll could certainly have been possible. Indeed, the relative inability of the attacker to create the sort of carnage that terrorism thrives on has been seen by some experts as tentative confirmation that ISIS has failed to recruit many adherents in Britain.

There's something else behind the calm. After Paris, Brussels (exactly a year ago), Berlin, Istanbul, and other cities, terrorist attacks and their aftermath are something that Londoners and other city-dwellers have become grimly familiar with.

Now shock in itself has become something we expect. There's a grin-and-bear-it quality to many reactions, as well as a strange sort of meta-reaction where people are commenting on their own and others' first reactions.

Many people on social media, for example, have been sharing this photo, apparently showing one of the signs commonly written up at the entrances of Tube stations

Almost as frequent, however, are posts pointing out that this is actually a fake created by a meme generator.

This suggests people are feeling compelled both to draw together and show cheerful solidarity, but also to draw back from responses that package this feeling too neatly, to replace genuine if less pithy expressions of solidarity with their simulation.



That doesn't mean Londoners don't care, or aren't sad. But we are familiar with terrorist mayhem in a way that many other Western cities aren't. This is a place where, just between 1971 and 1997, there were more than 135 bombings, attempted

bombings, and terrorist shootings planned by the I.R.A. In 2005, 56 people died after attacks by fanatical Islamist terrorists, while London's neighboring capital cities, Paris and Brussels, have also experienced terrorist violence. You can't just fall

to pieces in the face of this sort of threat, surrender yourself to hatred, or let yourself get riled by inaccurate, trashy comments by an American president's nitwit son.

Perhaps there's something sad about this city's skill and facility with managing threat and grief. It's still the best thing Londoners can do right now.

## BREITBART // Keep Calm And Carry On In The Face Of Muslim Terror? No Thanks.

By Delingpole

Whatever the BBC says I know for certain that the right view to take is the exact opposite.

And so it was last night on BBC News. A policeman had been stabbed to death; three passers-by had been deliberately mown down by a car on London's Westminster Bridge, and another 29 injured, some very seriously. Clearly, this was yet another Islamic-State-inspired terrorist attack whose main aim was to inflict as much carnage as possible to as many innocent victims as possible until the perpetrator got shot.

Or so you might have thought, till you watched the BBC, which knew exactly what the real story was. Apparently, the tragedy of those dead and injured people, including at least one mother and several schoolchildren, was a relatively minor detail...

No, what the story was really about was that it was an assault on the heart of parliamentary democracy, a narrowly averted disaster which could have seen an actual MP get hurt and which, almost worst of all, meant that MPs and parliamentary staff and reporters and other inhabitants of the Westminster Bubble including the BBC's own Laura Kuenssberg were forcibly cooped up inside the Parliament buildings for a few hours.

We knew this because one of the lead sections of the BBC's coverage comprised amateurish footage that had been shot of Kuenssberg looking confused and trapped, wondering what was going outside. She was shown asking some other people trapped with her what was going on. They didn't know, either.

But we did. That's because by the time the news bulletin was broadcast at 10pm – seven hours after the incident – the story had moved on. We knew about the dead policeman. About the woman who'd jumped off the bridge into the river. About the poor chap who'd jumped over the parapet and fell 18 feet onto concrete. About the bearded assailant who'd died of his injuries

not long after being shot by plain clothes police.

All of this was far more compelling and important and dramatic than anything Laura Kuenssberg might have experienced, hours earlier, during her unfortunate moment of temporary inconvenience under lockdown.

You could argue that this was simply a case of poor editorial judgement. Kuenssberg is, for better or worse, one of the BBC's star reporters. Perhaps some cowed editor felt that her geographical proximity to the story – even though she hadn't witnessed it or been able to do any useful reporting on it – justified giving her such prominence.

My own view, though, is that this was no accident. In fact the BBC's coverage was emblematic of everything which is wrong with the liberal elite's approach to Islamic terrorism. It promoted yet again, the tired, dishonest and counterproductive narrative that our liberal democratic values are more than enough to cope with grim but occasionally unavoidable attacks like this. And that all we need to do is keep calm and carry on: just like our brave parliamentarians.

Well no disrespect to MP Tobias Ellwood – the one parliamentarian (an ex-army officer whose brother was murdered by terrorists in the 2002 Bali bomb) did acquit himself well when he administered CPR to the dying policeman yesterday. But it really doesn't take that much heroism to go to work one of the most heavily guarded buildings in Britain.

The idea that MPs or parliament were under any kind of threat yesterday would require you wilfully to ignore the levels of security you have to pass through before you can actually enter the inner sanctum. It takes more than one bloke with one car and a couple of knives to get through that.

Sure, an MP might have been hurt if he or she had been unlucky enough to be passing by at the moment the terrorist entered that first gate into New Palace Yard guarded by the unfortunate unarmed policeman

Keith Palmer. But let's just examine the casualty list of yesterday's atrocity and see who the real victims were.

Yes, one policeman – killed doing his job.

And thirty other people, young and old, childless and single, from a rainbow hue of nations, as celebrated approvingly by the editor of the impeccably right-on *New Statesman*.

All of them were just innocent people, going about their business on a sunny March afternoon in London. All will now have had their lives shattered in one way or another. And all – if we believe the narrative currently being promoted by the BBC, by all the usual lefty-liberal suspects on Twitter, and also in parliament and city hall – must just accept that they were merely collateral damage in an unfortunate spot of business with one or two rogue citizens which we're better off forgetting about just as soon as we decently can.

Keep Calm And Carry On is the message that is supposed to sustain us over the coming decades as – in a shopping centre here, a concert hall there, on an aeroplane, in a tube train, at an airport etc – the odd few dozen of us is picked off here and there by bearded men with knives, guns, bombs, trucks and speeding 4 x 4s. Like those wildebeeste unfortunate enough to stray to the edges of the herd, we're supposed to accept that lions and crocodiles are just one of those things.

Well I'm not sure that personally I want to just accept this counsel of despair. I'm with Katie Hopkins – who wrote this must-read piece yesterday and has ever since been derided for it by the usual suspects as some kind of air-headed, unBritish coward who has surrendered in the face of terrorism.

First, Katie Hopkins is definitely not a coward – as anyone who has read her reportage from the Muslim ghettos of Calais and Sweden can testify.

Second, her position is the exact opposite of surrendering to terrorism: what she's arguing for is that we should confront it – and its root causes – rather than carrying on with current policy which is to cover our eyes, stick our fingers in our ears and go "lalala not listening. Religion of Peace."

There is lots and lots of stuff we can do to reduce the incidence of atrocities like yesterday's – very little of which we are currently doing.

As one example of precisely where we're going wrong you only had to listen to the statement made on the BBC News by a senior officer from the Metropolitan Police. Two things stood out. One was his firm warning that the police would be on the look out any kind of backlash from "right-wing extremists"; the other was his assurance that all the victims of the atrocity could be sure of access to state-of-the-art counselling services.

Since when did the police become a branch of the therapy industry? Since when, for that matter, did it acquire the duty to pursue imaginary crimes – those not committed by largely made-up "right-wing extremists" – with the same vigour as it pursued real, actual crimes like the one that had happened just a few hours earlier on Westminster Bridge? Sure I can accept that the police are understaffed. But no wonder they can't keep up with terrorism if they're wasting half their resources on politically correct anti-Islamophobia drives or doing stuff like harassing young men who had sex with drunken women who decided the morning after that actually it was 'rape.'

The current policy of the police, of the government, of local government, of social services, of schools, of universities, of the judiciary – heavily endorsed by the liberal elite's propaganda arms at the BBC and the Guardian – is that nothing can be done to resolve this mess because that might make the "Muslim community" feel got at.

Well it might. But there are worse things than being got at. Being deliberately mowed down and killed



## Westminster attack was long overdue and couldn't have been prevented

By Jonathan Russell and Joshua Stewart

Wednesday's attack on London was expected, planned for, and in the view of many, a long time coming.

The UK terror threat has stood at "severe" for more than two years now, meaning that the response to this kind of attack in such a high-profile location had been extensively rehearsed.

This was amply reflected in the way in which London, its security services and the public responded: rapid first responders, clear public information dissemination and a narrative of resistance.

In many ways, we could not have hoped for a more effective response -- from both the police and members of the public.

Such full-spectrum, whole-of-society reactions are the only way to mitigate and dilute the effect of unsophisticated, "lone wolf" acts of terror.

Equally, the elasticity with which the police were able to absorb the shock of attack, contain the threat and then coordinate simultaneous raids across the country on known suspects -- without causing

substantial fear or disruption to public life -- is remarkable.

Despite this, there is, of course, room for us to assess the current security and intelligence picture; evaluate our strengths, limitations and what we can learn from this.

"He was not part of our current intelligence picture," British Prime Minister Theresa May read Thursday morning to a reconvened Parliament.

Though not part of the "current picture," the attacker had been investigated by MI5 and was known for his links to violent extremism.

From this language, it is possible that the attacker had proactively gone "dormant" in his overt extremist activities, so as to reduce the "threat to life" assessments from security services -- meaning they would turn their attention and resources elsewhere.

At this stage, it is hard to say whether this was deliberate. If so, then it is extremely likely that other would-be attackers will be doing exactly the same thing.

In the UK, there are an estimated 3,000 to 4,000 "violent Islamist" extremists leading to hundreds of

"live" counterterrorism investigations at any one time.

Digital and signals intelligence can only go so far. To carry out human surveillance on just one target requires several human officers.

In short, prioritization is essential. This is where "lone wolf" terrorists, who usually operate outside of a command and control pattern, become immensely difficult to stop: The more sophisticated and preplanned the plot, the more likely security services can detect, deter and disrupt.

Terrorists always look for the path of least resistance. This is why they fill post-conflict vacuums. But it is also why we have seen a proliferation of unsophisticated attacks in Europe. Trucks in Nice, France, and Berlin, cars and knives in London. Security services simply cannot prevent these in all cases.

So where does this leave us? However tempting it is, we should avoid hinging our response around hard security measures. Counterintuitively, our best way of responding is to innovate and enhance our soft power and preventative approaches, so that would-be lone actors become less

likely to slip through the net of society.

Counter-extremism initiatives fill this gap. If extremist recruiters seek to manipulate grievances, teachers and youth workers must develop programs to address them through promoting democratic responses.

As radicalizers identify the vulnerable experiencing identity crises and promote a ready-made group identity as a quick fix, we must proactively show them alternative pathways, preventing these people from becoming radicalized.

Because ISIS promotes its fantasies so effectively online, we must enlist communications firms and social media experts to counter such narratives -- and moderate imams to challenge their pernicious Islamist ideology while also distinguishing it from Islam.

It is incumbent on all parts of civil society to support this common cause to prevent terrorism. First responders and the security services do a wonderful job, but there are simply some things they cannot do alone.



## Europeans Struggle With Elusive Terror Threat

Jenny Gross in London, Bertrand Benoit in Berlin and Sam Schechner in Paris

European officials say they are having trouble monitoring a growing roster of suspected extremists as they try to zero in on which radicals pose the greatest threat and prevent them from committing terrorist acts.

Authorities have thwarted a number of potential attacks in recent years but have failed to detect several others by assailants who were known to law enforcement but had loose if any ties to terror groups. U.S. officials face similar challenges.

Thousands of people have been flagged as potential threats, according to European authorities, including more than 3,000 in Britain and 16,000 in France.

Adding to the difficulty for authorities, a number of the recent attackers have used cars and trucks as deadly weapons, as did the man who drove into pedestrians in London on Wednesday and as others did last year in Berlin and Nice, France. The London attacker, who had a criminal record, then got out of the vehicle and fatally stabbed a police officer.

"The striking feature here is that the means of destruction were apparently so limited and basic: a man, a car and a knife," said Timothy Wilson, a terrorism expert at the University of St. Andrews in Scotland.

In response, officials are shifting tactics. France has expanded surveillance powers for the intelligence services and police, and assigned as many as 10,000 armed soldiers to patrol potential terrorist targets.

German authorities have ramped up the vetting of refugees and deployed new software aimed at determining which of the thousands of suspected extremists they are monitoring are most likely to turn to violence.

For example, German authorities dropped surveillance of Anis Amri, who rammed a truck into a Christmas market in Berlin in December, killing 12, before his attack because he was taking drugs and drinking and had stopped talking about wanting to commit an attack, which they saw as a sign that he was becoming less dangerous. Now, such a change in behavior will be given a different weight in the risk assessment.

The U.K. has overhauled its online surveillance capabilities and substantially increased security spending.

At the same time, authorities trying to get a handle on the threat say the

circle of people they are trying to track is growing.

British authorities have flagged more than 3,000 potential extremists as a concern, a British intelligence official said. "At any one time, we're only watching a small percentage with any great resources," the official said.

British Prime Minister Theresa May told Parliament on Thursday that U.K. security, police and intelligence agencies have successfully disrupted 13 separate terrorist plots in Britain since June 2013.

The suspect in the London attack, Khalid Masood, 52, was shot dead by police. Given limited resources, security officials could have concluded that a man of that age who hadn't launched prior attacks wasn't a serious threat, according to Raffaello Pantucci, director of international security studies at the Royal United Services Institute.

As of late January, France had more than 16,000 residents on a registry created in 2015 to keep track of people who may have been radicalized, the country's then-interior minister said. Among them, 11,500 were actively monitored, he said.

This month, a Paris-born man who had been in prison for non-terrorist crimes in the past managed to grab a soldier's assault rifle at Orly airport near Paris before being shot dead. French police had searched the man's home after the Nov. 13, 2015, attacks in Paris that killed 130 people, but found nothing suspicious, and didn't follow up,

France's top antiterror prosecutor said over the weekend.

Last summer, a 31-year-old man known to police as an unstable criminal barreled in a 21-ton truck through throngs of revelers on Bastille Day in Nice. It was only after the attack that investigators found that the man—who hadn't been deemed a terror threat—had been preparing the attack for months.

In Germany, the number of Islamist extremists has risen from 100 in 2013 to 1,600 today, the country's domestic intelligence agency said last month. Some 570 of those were considered capable of carrying out

attacks, agency chief Hans-Georg Maassen said.

The inflow of more than a million refugees, mostly from the Middle East, since early 2015—many without background or even identity checks—has given authorities an additional challenge.

German officials say they are barely managing to monitor a growing pool of suspected radicals who can't be arrested because they aren't known to be planning an imminent attack. Deporting foreign radicals has proven difficult, in part because of the high hurdles set by German law.

Attackers who have no known links to terror groups sometimes betray common characteristics, such as "leaking violence" before an attack—getting into fights or having run-ins with the law, experts say.

But others can be relatively law-abiding, and even avoid trouble when they are under surveillance. Omar Mateen, who killed 49 people in 2016 in a shooting spree at an Orlando nightclub, had been investigated by the Federal Bureau of Investigation in 2013 and 2014, but the probes were closed after it was determined he wasn't a threat.



## Flushing Out Terror, From Molenbeek to Birmingham

Therese Raphael

In the aftermath of the Belgian terrorist attack a year ago, the world learned of the Brussels district of Molenbeek. After Wednesday's attack in the heart of London, we may hear more about Birmingham.

The London attacker, identified by U.K. police as a 52-year-old career petty criminal named Khalid Masood (but apparently born Adrian Russell Ajao), rented the Hyundai he used to mow down pedestrians on Westminster Bridge in Birmingham, where he apparently resided.

The Birmingham connection isn't a big surprise. A report released this month called it one of Britain's terrorist capitals. Between 1998 and 2015, there were 269 people convicted of offenses related to Islamic terrorism or killed in suicide bomb attacks in the U.K. Nearly a fifth came from the West Midlands, which includes Birmingham, and 39 came from Birmingham itself. The city's Hall Green area is well-known to police and counter-terrorism officials.

Birmingham isn't Molenbeek. The Belgian district is a down-at-the-heels neighborhood with an unemployment rate of around 40 percent. Birmingham is a major British city that contributes billions of pounds to the national economy. But

both contain well-known centers of Islamic radicalism, and a year from the Brussels attacks, local media report that the number of radicalized young people in Molenbeek is rising. Police have identified 51 organizations in Molenbeek with suspected terrorist ties.

All governments endorse strategies to counter extremism, of course, but actual tactics vary widely. Some amount to little beyond talk, while others involve comprehensive multi-agency cooperation with strong local leadership. Because it's difficult to measure effectiveness, there is often a fair amount of skepticism. Quality control is also a challenge. Community-based programs are only as good as the people who run them and their local relationships. They face a fleet-footed opponent, with established networks and the ability to recruit quickly. Some aren't up to the challenge or don't have the resources. The most enlightened use forums such as the Strong Cities Network to share experiences and get ideas.

Britain's counter-terrorism efforts have received a lot of criticism, some of it valid. But after more than a decade of programming and experimentation they are further advanced than those in France or Belgium, two countries that have experienced larger-scale terrorist attacks. It's clear that the multi-layered, multi-agency approach that

has taken hold in the U.K. makes sense. In Birmingham, officials have praised the work of community groups that go to mosques to hand out booklets challenging radical propaganda and provide support to vulnerable groups.

"There is a granularity of engagement at the local level that you see in Britain, which is nowhere near as well-funded or evolved on the continent," says Sasha Havlicek, chief executive officer of the Institute for Strategic Dialogue in London. And, of course the U.K. has better control of its borders. However, where the country's capabilities remain meager, she says, is in the ability to construct counter-extremist narratives online.

The local approach is born of necessity. There is no way that national-government security services can keep tabs on thousands of potential offenders, or even those on their radar screen. More than three-quarters of those convicted of terrorism-related offenses in the U.K. were already known to the authorities, and more than a quarter had previous criminal convictions, according to the March report. (Britain's internal intelligence service was aware of the London attacker, too.)

"When we think about people on the security radar, the public imagines these people are under surveillance," Havlicek says. "They

are not. It's an elaborate dance that happens around who to prioritize." The U.K. has been on "severe" threat alert for two years now -- which means a terrorist attack is considered "highly likely." Earlier this month, Britain's top cop Mark Rowley revealed that 13 potential terrorist attacks had been thwarted in less than four years; and that at any given time there are more than 500 counter-terrorism investigations underway.

The fact that the U.K. hadn't had a major terrorist attack in over a decade before Wednesday's perhaps says something about the measures that have been put in place since Sept. 11, 2001 and especially after the 2005 London attacks. But that's small comfort. The threat is still at severe, so the clock has simply been reset.

There are many questions that need answering about Wednesday's attacker. How was he radicalized? What was the state of his mental health (often an issue with lone-wolf attacks)? What Internet sites did he visit? What did family or friends and acquaintances know about him? The answers should help the authorities resist future attacks. For now, there's more security in London and, as a Londoner, I'm grateful for that.



James Marson

MOSCOW—A former Russian lawmaker who fled to Ukraine and received citizenship there was

## Former Russian Lawmaker Who Fled to Ukraine Is Shot and Killed

gunned down in central Kiev in what Ukraine's president called "an act of state terrorism" by the Kremlin.

The slaying on Thursday of Denis Voronenkov, an ex-policeman and prosecutor who was wanted in

Russia on fraud charges, comes amid heightened tensions between the two neighboring countries over Russia's support for a three-year insurgency in Ukraine's east.

Mr. Voronenkov, a former Communist Party lawmaker, was

leaving the upscale Premier Palace hotel in central Kiev with a bodyguard Thursday morning when an unknown assailant opened fire with a pistol, Kiev police said. The bodyguard was wounded but managed to injure the attacker, and both were taken to the hospital,



police said. The unidentified assailant later died, officials said.

Mr. Voronenkov's defection to Kiev was a potential embarrassment to Moscow. A former high-ranking official in Russia's now-defunct Federal Drug Control Service, he had intimate knowledge of corruption schemes of Kremlin-connected elites. In an interview last month, he said he had retained bodyguards because he feared for his life.

He was a personal acquaintance of security-service veteran Alexander Litvinenko, who was killed in London when British police say undercover Russian agents slipped a fatal dose of radioactive polonium into his tea during a meeting in a restaurant. The Kremlin ordered his killing, Mr. Voronenkov said, because Mr. Litvinenko was helping British authorities investigate Russian mafia networks in Spain. Russian officials have denied involvement.

Opponents of the Kremlin say they are targets of Russian security services. A lawyer representing the family of a dead Russian whistleblower fell from a window late Tuesday under unclear circumstances. Vladimir Kara-Murza, an opposition activist, says

he has been poisoned twice in recent years. His ally Boris Nemtsov, an opposition leader, was gunned down near the Kremlin in 2015.

In a statement Wednesday referring to the lawyer, Senators John McCain and Ben Cardin denounced "the culture of brutality that [Russian President] Vladimir Putin has created in Russia, where those who speak the truth about corruption and tyranny are persecuted, attacked, and killed, and no one is ever held responsible."

Mr. Voronenkov, 45 years old, left Russia for Kiev last fall with his wife, an opera singer and former lawmaker. Russia's Investigative Committee announced fraud charges against Mr. Voronenkov in February this year over the alleged misappropriation of a Moscow building in 2011.

Mr. Voronenkov received Ukrainian citizenship and gave evidence to Ukrainian authorities in the treason case against former Ukrainian President Viktor Yanukovich, who fled to Russia in February 2014 amid street protests against his rule.

As a member of Russia's parliament, Mr. Voronenkov voted for the annexation of Crimea in

March 2014 and authored legislation that restricted foreign ownership of Russian media. But after moving to Ukraine, he became a strident critic of Mr. Putin, calling the annexation of Crimea a mistake and decrying Russia's Federal Security Service, or FSB, as all-powerful.

Ukrainian President Petro Poroshenko called a meeting with his security chiefs over the murder. "It's an act of state terrorism by Russia," Mr. Poroshenko's spokesman quoted him as saying. He noted "the clear handwriting of Russian special forces, which has repeatedly appeared in various European capitals."

A Kremlin spokesman described the accusations of Russia's involvement as absurd.

Mr. Poroshenko said the timing of the murder was no coincidence, linking it to the blowing up of a warehouse storing tank ammunition in the east of the country on Thursday morning. Ukrainian officials said that incident looked like sabotage by Russian forces or the separatists that the Kremlin is supporting in Ukraine's east.

Ukrainian General Prosecutor Yuriy Lutsenko told reporters that the murder was a contract killing by a

professional. Mr. Voronenkov was hit by two bullets in the neck, one in the face and one in the stomach, he said.

Mr. Lutsenko said the killing was most likely connected with his status as a witness in the treason case against Mr. Yanukovich or his role exposing a contraband ring in Russia run by the FSB.

Mr. Voronenkov is the latest high-profile murder victim on the streets of Ukraine's capital. Journalist Pavel Sheremet was killed in a car bombing in July last year, and pro-Russian writer Oles Buzyna was shot dead in April 2015.

Video footage from the immediate aftermath of the killing Thursday showed Mr. Voronenkov's lifeless body lying in a pool of blood on the sidewalk as police helped away an injured man clutching his stomach, likely Mr. Voronenkov's bodyguard. Another man, apparently the assailant, lay motionless a few meters away in a hooded tracksuit.

## Murder in Kiev

Julia Ioffe

MOSCOW—As he was entering a ritzy Kiev hotel, a shower of bullets descended on former Russian parliament member Denis Voronenkov and his bodyguard, who returned fire, injuring the shooter. In a matter of minutes, Voronenkov lay dead in the street, photographers snapping pictures of his splayed and bloodied body, still in its expensive blue suit. The shooter has not been identified, but the Ukrainian president has accused the Kremlin of orchestrating the killing. If that proves true, the assassination would fit a pattern, and serve as a symbol of how far the Russian government seems to be willing to go to make its message unmistakably clear.

It was a remarkable dénouement to a remarkable story. Voronenkov was first elected to the Russian parliament, the Duma, in the controversial parliamentary elections of 2011. He represented the Russian Communist Party, a loyal, Kremlin-funded and largely moribund party that is part of the so-called "loyal opposition" in the Duma. He served only one five-year term, during which he pushed a law that banned foreigners from owning more than a quarter of a Russian media company. This forced the

owners of some of the last bastions of the free press in Russia—like the business daily *Vedomosti*, a joint project of the *Financial Times* and *Wall Street Journal*—to sell their properties to local, and presumably more loyal owners. According to an excellent summary in *Meduza*,

Voronenkov was a defendant in at least two criminal cases. In 2014, the Investigation Committee, suspecting Voronenkov of being guilty of corporate raid, could not get the deputy deprived of parliamentary immunity despite its efforts. In the early 2000s, Voronenkov was investigated on accusations of bribery. In addition, entrepreneur Anna Atkin accused him of being involved in the murder of her business partner Andrei Burlakov.

He was also accused by Russian opposition leader Alexey Navalny of using ill-gotten wealth to buy extensive property and automotive holdings, which his parliamentary salary—Voronenkov had only ever worked in the Russian government—could scarcely have afforded him.

But this was all fine because Duma members get immunity from prosecution, which is why one of Voronenkov's colleagues was Andrey Lugovoy, who was accused by British authorities of poisoning

former KGB agent Andrey Litvinenko in London in 2006. Which is ironic, because Voronenkov, like Litvinenko, died in the same way and for the same reason: killed abroad, where they had sought refuge after turning against the very system that had created them. They were traitors.

Litvinenko fled to London, where he proceeded to accuse Putin of having bombed several apartment buildings in Russia in 1999—and killing hundreds—in order to start a war in Chechnya and make himself popular as he inherited the throne from Boris Yeltsin.

In December, Voronenkov, accused of being party to a corporate raid, fled to Kiev, where he proceeded to criticize Putin for taking Crimea—even though Voronenkov had voted for its annexation while in the Parliament. (He claimed later that someone had voted using his MP's card without his knowledge.) He also said Russia had "lost its mind in a pseudo-patriotic frenzy" similar to that of Nazi Germany. But most importantly, he testified in a Ukrainian criminal case against former Ukrainian president Viktor Yanukovich, who had been ousted in the 2014 revolution. Shortly thereafter, he was given Ukrainian citizenship. After serving in the parliament of a country with whom

Russia is now in its third year of an unofficial, but very hot war, Voronenkov sought refuge there, became its citizen, and publicly criticized his motherland.

"Traitors meet their end the same way they got their start, either by drinking themselves to death, or by using drugs, lying in a ditch."

And if Putin respects, however grudgingly, enemies, he does not abide traitors. When, in the summer of 2010, the so-called "Illegals"—10 Russian spies living deep under cover in the U.S.—were exchanged by the Obama administration for four alleged American spies in prison in Russia, Putin greeted the Illegals shortly after they had come home and been debriefed. He led them in singing his favorite song—"Where Does the Motherland Begin"—and afterward told the press that he had a word for the person who gave them up in the States. "I've already said that this is the result of treason, and traitors meet their end the same way they got their start, either by drinking themselves to death, or by using drugs, lying in a ditch," he said. "One of them recently met his end about the same way." A few months later, he was even sharper. "These are officers, you understand?" he said. "Someone betrayed his friends, his comrades in arms, people who put their lives

on the altar of the fatherland. And then you get some animal who is willing to betrays people like this. How will he look into his children's eyes after this? Pig!"

It was a fate Voronenkov knew he was inviting. After his move, his wife

Maksakova lost her opera job and was heavily criticized. In a recent TV interview that was played on loop on Ukrainian TV today, Vornenkov said, "The central Russian TV channels are already screaming: 'we need to exchange Voronenkov for [Ukrainian journalist Roman] Sushchenko [who

was arrested in Russia and accused of being a Ukrainian spy], and if we can't, then kill him.'" The Kremlin has denied involvement in Voronenkov's assassination, saying talk of a "Russian footprint" was "absurd." While we won't know for a while who killed Voronenkov, two

things are for sure: that the investigation and its results will become yet another political football in the vicious stand-off between Kiev and Moscow, and that Voronenkov met his end much like Putin said a man like him would, in a ditch, unable to look his son in the eye.



## Days before his death, Putin critic said in interview he knew he was in danger (UNE)

KIEV — In the plush, crimson-decked lobby bar of Kiev's five-star Premier Palace Hotel, Denis Voronenkov, a Russian lawmaker who had defected to Ukraine, knew he was in danger.

"For our personal safety, we can't let them know where we are," he said Monday evening as he sat with his wife for an interview with The Washington Post.

Less than 72 hours later, he was dead, shot twice in the head in broad daylight outside the same lobby bar. It was a particularly brazen assassination that recalled the post-Soviet gangland violence of the 1990s. His wife, dressed in black, sobbed as she stooped down to identify Voronenkov's body, which lay beneath a black tarp in a pool of blood.

Ukrainian President Petro Poroshenko, just hours later, called the attack an "act of state terrorism by Russia." As of Thursday evening, police had not identified the assailant, who died in police custody after being shot by Voronenkov's bodyguard. Dmitry Peskov, a spokesman for Russian President Vladimir Putin, called the accusation a "fabrication."

In the weeks before his death, Voronenkov, a former member of Russia's pliant Communist Party, had told friends he was being targeted. Hackers had been trying to pry into his Twitter account and his wife's email. He had received threatening text messages, and the police had recently assigned him a bodyguard. There were rumors he was under surveillance.

"It's a totally amoral system, and in its anger it may go to extreme measures," he said as he sat next to his wife, Maria Maksakova, a fellow parliamentarian who defected with him. "There's been a demonization of us. It's hard to say what will happen. The system has lost its mind. They say we are traitors in Russia."

He said he could return only "when Putin is gone."

At a time when the question of Russian influence dominates U.S. politics, Voronenkov's death will add further scrutiny to the extent, and potential lethality, of Russia's reach abroad. It remained unclear who might have wanted to kill Voronenkov — theories include Russian agents, Ukrainian nationalists or business interests — but the fact remains that he is just the latest Kremlin opponent to wind up dead.

The most famous among them include Alexander Litvinenko, the former Russian FSB agent who was poisoned with a radioactive isotope in London in 2006. Political opponents of the Kremlin in Moscow have also been targeted, including Boris Nemtsov, the opposition politician who was gunned down in sight of the Kremlin in 2015.

In Kiev in 2012, before the Russian annexation of Crimea drove a wedge between Russia and Ukraine, a leftist Russian activist named Leonid Razvozhayev, who was fleeing an investigation into whether he was plotting a revolution, was kidnapped off a city street, shortly after applying to the Office of the U.N. High Commissioner for Refugees for asylum status.

He reappeared days later in a Moscow court, claiming he had been kidnapped and tortured.

Yet Voronenkov, who only recently began criticizing Putin, may be something of a different case: A former investigator turned loyal lawmaker in Russia's State Duma, Voronenkov fled Moscow for Kiev with his wife in October amid a corruption investigation against him and suddenly became one of Putin's most vocal critics, a thorn in Moscow's side comparing the current wave of patriotic sentiment in Russia to Nazi Germany.

His complicated past, including an appearance in the Panama Papers and a Duma vote in favor of the annexation of Crimea, raises the possibility that others may have had motive to kill him. (He claimed in the interview that he was absent during the Duma vote and that his vote was recorded by fellow party members.)

"Yes, some people are pouring dirt on us," he said during the interview, one of his last. "Sure there are nationalists here who are unhappy. But that's the same everywhere. What am I, going to judge Ukraine because of them? There are a lot more sick people in Russia than here."

He and Maksakova, an opera singer, wanted to show that they were enthusiastic about their new life: She was planning to tour Ukrainian cities and sing local folk songs, she said, while he was giving testimony against former Ukrainian president Viktor Yanukovich, who fled to Russia after being overthrown in the country's 2014 revolution.

Voronenkov was granted Ukrainian citizenship in December, a process that was said to be expedited by his growing ring of contacts. He also wanted to share information about Russian smuggling with Ukrainian prosecutors, friends said.

In the three years since Ukraine's pro-Western revolution, Kiev has become something of a refuge for Russian opponents of the Kremlin. In a way, the city has taken on the role of a modern Casablanca or post-revolutionary Paris. Just 500 miles southwest of Moscow, members of Russia's liberal, leftist and nationalist opposition mingle with refugee journalists, renegade Russian fighters battling Russian-backed separatists in southeast Ukraine, hipster entrepreneurs seeking to escape a tightly controlled political landscape in Moscow — all in a city that offers relative safety and protection from Moscow's reach.

"He was coming to meet me," tweeted Ilya Ponomarev, another former member of the Russian parliament and Putin critic wanted by the Kremlin and hiding in Kiev. "There are no words."

In an interview before Voronenkov's death, Ponomarev said that he had helped persuade Voronenkov and Maksakova to come to Kiev and said that Voronenkov was in talks with the Ukrainian prosecutor's office to try to continue his career.

"Voronenkov was not a thief, but an investigator," he said in a Facebook post, "and fatally dangerous for Russian officials in law enforcement."



## Anti-Putin Exile Gunned Down in the Streets of Ukraine

against Russian security services. Now he's dead.

MOSCOW — Ukraine has been shaken by a new Russia-related assassination. A former member of the Russian parliament, Denis Voronenkov, was shot dead in the

heart of Kiev, on the corner of Shevchenko and Pushkin streets.

Voronenkov, a colonel in the Russian military, escaped to Ukraine together with his wife, Maria Maksakova, who is also a former State Duma member. A few weeks ago, Voronenkov told The Daily

Beast about his plans to testify at the trial for treason, in absentia, of former Ukraine President Victor Yanukovich, who fled to exile in 2014.

Voronenkov, a Russian army colonel, told The Daily Beast in our interview that he felt himself much

Anna Nemtsova

Denis Voronenko was once part of the Moscow elite. Then he fled Russia and started to speak out



happier in Ukraine than in Moscow, where federal special services agents were trying to prosecute him for corruption.

When asked whether he was worried about his safety in Ukraine, Voronenkov responded with a smile that any attempt to deport or harm him and his wife "would spoil Ukraine's international reputation."

Voronenkov spent his days giving interviews to local and foreign publications, criticizing the Kremlin's policy and Russian President Vladimir Putin.

Ukrainian President Petro Poroshenko called Voronenkov's murder "an act of state terrorism ordered by Russia." Poroshenko

also cited what he called the obvious "handwriting of Russian special services" behind the murder.

Witnesses heard at least seven shots Thursday outside the Premiere Palace Hotel. Voronenkov's assassin was reportedly wounded and hospitalized.

The Ukrainian news agency UNIAN reported that the assassin shot Voronenkov when the Russian whistleblower was heading to a meeting with another exiled member of the State Duma, Sergei Ponamarev, the only Russian parliament member who did not vote for the Crimea annexation in 2014.

For weeks, Russian state news had condemned Voronenkov for betraying his country. Most people who knew the colonel, including family members, blamed the ex-official for switching sides and running to Ukraine.

Shortly after news of the murder reached Moscow, Voronenkov's mother-in-law, a famous Russian stage and movie actress, reportedly commented the assassination: "Oh, thank God. What else to do with him?"

In the past three years of Ukraine's conflict with Russia, news about assassinations in Ukraine has not been rare. Among the mysterious murders were the assassination of

noted journalist Pavel Sheremet—blown up in his car near Kiev's opera house—and the murder of a well-respected attorney, Yury Grabovsky. But this time Ukrainian investigators may have a much better idea who the murderer was: at 3 p.m. local time, the wounded assassin of Voronenkov was at Kiev's hospital.

Officially, Moscow immediately insisted that it had nothing to do with the murder. President Vladimir Putin's ruling party United Russia declared that Voronenkov's assassination was an internal issue for Ukraine.

## Russian Defector's Murder Sends a Chilling Message

Leonid Bershidsky

Denis Voronenkov, a former Russian legislator, was shot dead in broad daylight in downtown Kiev on Thursday. This is almost certainly a political murder ordered by the Kremlin in the long-standing KGB tradition of executing traitors -- and a chilling statement of intent from Russian President Vladimir Putin to the Ukrainian government.

Ever since Ukraine's 2014 anti-corruption revolution, crime has been on the rise in Kiev. In January 2017, 15 people were murdered in the Ukrainian capital, compared with 6 in the prior January. Voronenkov, however, was no average victim. Last fall, he became exposed to criminal charges of illegally seizing a Moscow building after his term in the Russian parliament expired. With his wife, also a former Russian legislator as well as a well-known opera singer, he fled to Ukraine, where Voronenkov promptly received citizenship -- a rare feat in Ukraine -- presumably because the government saw him as a star witness in a high-profile investigation of former President Viktor Yanukovich.

I wrote about Voronenkov's defection last month, after the former legislator started giving colorful interviews to Ukrainian media. He compared Russia to Nazi Germany, swore he'd been a Putin opponent during the failed 2011 protests in Moscow (though it was the Kremlin-rigged election that year that brought him into parliament) and praised the Ukrainian

revolution. I knew him to be insincere. Throughout his tenure in parliament, Voronenkov was a faithful servant to the Kremlin, sponsoring one of the worst bills on Putin's third presidential term -- the one that banned foreign ownership of Russian media and forced Western publishers to dump their Russian assets at fire sale prices, mostly to Kremlin loyalists. Parliament speaker Sergei Naryshkin, who now heads Russia's foreign intelligence service, sang at Voronenkov's wedding.

Despite always having worked for the government, Voronenkov somehow managed to amass a fortune. He was typical of the Putin generation of civil servants and politicians -- unprincipled, willing to say whatever's required to get ahead, intimately familiar with the shady business side of the regime. It's hardly fair to call him a "Putin critic" or a "whistleblower," as some U.S. news outlets have done. Rather, he defected after developing problems working in the fuzzy zone between Russian government and business.

Putin is often accused of having his political opponents killed. In most of these cases, there is little or no evidence of Kremlin involvement. But people like Voronenkov, who served the system before betraying it, are a completely different matter.

Vengeance against such people is built into Putin's DNA as a former intelligence officer. Ever since the Bolshevik revolution, its intelligence service, the Cheka, and all its

successor organizations -- including the KGB and the modern Russian intelligence services -- have sought to liquidate "traitors," and they have often succeeded, unless rival services took special care to protect the defectors. Alexander Litvinenko, the former Russian state security operative poisoned with polonium in London, was probably one target of Putin's revenge.

Voronenkov, a former Russian military lawyer, seemed to know the risks of cooperating with a Ukrainian investigation into Yanukovich, a Kremlin ally. In one of his Kiev interviews, indeed, he exhibited a peculiar fatalism. Asked why he'd stayed so close to Russia if he was trying to avoid the Russian intelligence services who chased him out of the country, as he claimed, he replied:

I'll tell you as a former employee of the special services, a former colonel in the justice and police systems: That won't help. The world is open and transparent now, believe me. If someone wants to do it, it won't be hard at all, whether you're in New Zealand, Australia or America.

Ukraine's Security Service said on Thursday that it did not guard Voronenkov in Kiev. He had a private bodyguard, who mortally wounded the former legislator's shooter. The former legislator was an easy target.

The shooting took place on the fourth anniversary of the apparent suicide of Boris Berezovsky, an

oligarch who helped Putin come to power in 2000 before fleeing to London when the relationship soured.

The Kremlin, of course, denied that it had anything to do with the "tragedy" in Kiev. But the Ukrainian government got the message. After the murder, President Petro Poroshenko called together his security chiefs and told them it was "an act of state terrorism on the part of Russia."

Voronenkov was the first high-level defector to choose Kiev over Western Europe and the U.S., and the route may have seemed promising to others. Now, that's probably not the case.

Relations between Ukraine and Russia, dismal since the latter annexed Crimea in 2014, are now at a nadir. Ukraine has ceased trading with its eastern territories, held by pro-Russian separatists. It has also imposed sanctions on Russian banks, which hold a significant share of assets in the Ukrainian banking system. Ukraine, which is hosting the Eurovision song contest this year, has even banned the Russian participant from entering the country because she had given a concert in occupied Crimea. The final severing of the remaining economic and cultural ties looks like preparation for an all-out war. Whether or not that's the case, the high-profile murder in Kiev is a direct warning from the Kremlin, which is showing that it can operate anywhere in Ukraine as though it were its own turf.



## 'Last Dictator of Europe' Earns His Title, Cracks Down on Protests

Emily Tamkin

"There are more people detained in #Belarus. My friends and colleagues. #Lukashenka reminds the world there are people who can't change."

So wrote Hanna Liubakova, a Belarusian journalist based in London, on Twitter on Thursday. Her tweet was a reference to Aleksandr Lukashenko, the so-called last dictator of Europe and Belarusian president, who has responded to this month's protests in his country — some of the largest in its recent history — by lashing out against foreigners and detaining his own citizens.

Also on Thursday, two days before another large planned protest, Belarusian state television said the country's security services, which are literally still called the KGB, had detained an unspecified number of people under suspicion of plotting mass disorder.

It was only last month there was renewed speculation Lukashenko was moving away from Russia and

toward Europe. He had been playing the two off each other for years, and redoubled his efforts to move out of Moscow's shadow after the 2014 annexation of Crimea.

Flirting with the West to make sure Russia's influence is measured is a strategy Lukashenko's long used, Matthew Rojansky of the Kennan Institute at the Wilson Center told Foreign Policy. "That is why Lukashenko has consistently denounced Russia's annexation of Crimea, and has tried to reopen ties with the West over the past several years."

Case in point: In January of this year, Belarus announced visa-free travel for citizens from 80 countries, including the United States, to Belarus effective Feb. 9. And when Russia threatened to cut oil exports to Belarus by half and establish a security zone on what was previously virtually open border with Belarus, Lukashenko responded by saying his country's ties with Russia were deteriorating because Russia is afraid of Belarus turning toward the West.

But it seems Lukashenko himself is afraid of the same. Since Mar. 1,

over 150 have been arrested for protesting the "parasite tax" on the unemployed. It was, per Lukashenko, intended to crack down on "social parasitism." But, somewhat unexpectedly, masses took to the streets in response, and continued even after the Mar. 9 announcement that the tax would be suspended until 2018.

In between arresting at least three protest leaders last Sunday and rounding up more ahead of this Saturday's planned protest, Lukashenko said on Tuesday that authorities had arrested members of a so-called fifth column of foreign fighters trained in Ukraine and likely also in Poland and Lithuania. "There are some people bent on blowing up the situation in the country. I call them the fifth column. They are not an opposition. They want to stage a rebellion in the country," he said.

A spokesperson for Lithuania's foreign ministry dismissed Lukashenko's statement. Lithuania's Foreign Minister Linas Linkevičius "has not heard any well-grounded statement from the side of Belarus," the spokesperson told FP. He advises "the Belarusian

administration to stop looking for enemies in foreign countries and within the state who could be blamed for the tense situation in Belarus," she added. The Foreign Ministries of Ukraine and Poland did not immediately respond to request for comment.

That Lukashenko is blaming foreign provocateurs does not come as a surprise, Rojansky said. "That has been his message regarding protest movements going back more than a decade—that this reflects an outside, usually western, plot to destabilize Belarus."

And that Lukashenko shifted from his pro-Western rhetoric toward blaming his neighbors "suggests Lukashenko continues the policy of balancing in real time reaction to pressures and opportunities from all sides," Rojansky said.

But that those being detained are, in fact, Belarusian protest organizers and journalists suggests the side from which Lukashenko is receiving the most pressure this time around is neither Russia nor the West, but Belarus itself.



## The Greek God of Populism

Alexander Clapp

ATHENS — In September 2012, as the European economic crisis entered its third autumn, a plump Greek man from the port city of Patras came to Athens and put on a press conference at the President Hotel, a few blocks away from the Acropolis. Few in the audience had heard of him, but he brought an astonishing charge against the Greek state. "Artemis Sorras here," he began mildly. "You should know that your government is in league against you. Now is the time for them to come clean with it!" Sorras went on to explain that he was the inheritor of bonds from the Bank of Anatolia, which had been acquired — and, it was generally thought, incorporated into — the National Bank of Greece in the 1920s. Nonsense, Sorras said. Anatolia's bonds, far from expired, had in fact accrued tremendous value. Just two of them could more than pay off the Greek national debt. Sorras claimed to possess 40 — a fortune of 145 trillion euro.

Few took notice, at first. Greek government spokesmen dismissed the story; Athens talk radio mused how a man missing three teeth could possess more wealth than the rest of Greece combined. Sorras waved off the critics, doubled down on his claims — he said he also possessed bonds in Montreal-based banks and would be willing to bail out the personal debt of all his supporters, as well as that of Cyprus and Jefferson County, Alabama — and watched as a following of thousands gathered behind him, carrying him to the brink of being elected into Greece's parliament. Now those thousands of followers are clinging desperately to the latest saga in the Sorras story: a warrant for his arrest stemming from an old case in which Sorras was caught illegally exchanging expired Kuwaiti dinars for his best man's used luxury car. Summoned to court, Sorras fled — to the innards of the Peloponnese, some now claim; to Italy, allege others; to Central America, runs still another rumor. He remains at large.

In an age of post-truth politics, Greece's Artemis Sorras is at the forefront of something else — a

movement that disavows any connection to reality's most basic underpinnings. In the last year, he has turned his claims about Greece's lost bonds into the basis for an upstart political party called Assembly of Greeks. It is an omnium-gatherum for the strays on Greece's swelling ideological fringe — anti-Semites, astrologists, conspiracy addicts, and neo-pagans who speak of Atlantis as if it's just another Greek island. Every week, some 12,000 Sorrites convene at meetings in one of 300 party offices located in nearly every mid-sized town in Greece as well as a handful of Greek diaspora enclaves. Sorras has addressed them in more than 4,000 public speeches and leads them on regular excursions to various classical ruins, where they don bed sheets as makeshift togas and re-enact ancient religious rites. Assembly of Greeks boasts a secret party handshake, a collection of manifestos demonstrating Sorras's claims in meticulous detail, and a forthcoming party weekly, *Assembly of Greeks*. Ask them if they will enter parliament in the next elections and most Sorrites claim they will almost certainly secure a majority. "If I am wrong about what I say," Sorras tells

them with characteristic bravado, "then hang me in the middle of Syntagma Square."

Assembly of Greeks sees itself as the lone beacon of truth in a vast wilderness of disinformation and intrigue. Part personality cult, part nationalist throng, and part protest movement, it insists there is no such thing as the nation-state; there is Greece and a collection of scattered land masses masquerading as something other than Greece. "There is Greece and only Greece," Sorras likes to say. Jews control all other political parties in Greece — the neo-Nazi Golden Dawn party included — as well as ballot machines and, naturally, the banks. "Jews control the Orthodox Church," Vassilis Theodoropoulos, the party spokesman, informed me in Athens. The crisis, the austerity, the unemployment: These are fictions that Sorras will dispel upon taking up residency at Maximos Mansion as Greece's prime minister whenever the next elections are held — this year, perhaps. Trillions of euros will be released to the public, the debt will dissipate, and every Greek will be entitled to a 20,000 euro deposit in his or her

debit account. *Zitw i Ellada!* Long live Greece!

Seven years into an economic crisis that has decimated the national economy by one-third and destroyed the two political machines that traded power in Greece for 40 straight years, a cynical quip is hardening into a fact of life in Greek politics: It doesn't matter which party you vote for, because the results are always the same — debt-ridden, internationally monitored economic austerity. This remains the pitiful lesson of Syriza, a party that climbed to power after years of vowing to put an end to it, only to inflict greater doses of austerity than any ruling party before it.

Artemis Sorras doesn't even bother suggesting that debt relief is on the way. He's the only Greek politician to have recognized that opposition to austerity is at the center of national politics but that it is now essentially a matter of rhetoric, not policy. Sorras doesn't speak of negotiating with Brussels elites, reducing the public sector, showing humanitarianism toward refugees in exchange for political goodwill, or mass privatization. To do so is to engage in a more conventional sort of post-truth politics that Greeks have gotten used to since the crisis began — that is, campaign fictions that have been promised by one ruling party after another, to no effect.

Instead, in his bid for power, Sorras focuses on provoking and indulging Greeks' deepening mistrust of the state, their firmly rooted predilection for conspiracy theory, paranoia about great-power intrusion, and pedestrian anti-Semitism.

Greeks already sense their current predicament is dire; Sorras persuades them that matters are so dire that they require a savior — and that he, as the world's wealthiest man, stands ready and able. Some Greeks — and, judging by a few recent opinion polls, just enough to send Sorras to parliament — are willing to take the gamble on Assembly of Greeks. In Sorras, we get a glimpse of what happens when a decade of politics on both the left and right fails people completely and utterly: From the ashes emerges a post-truth world, in which citizens are willing to suspend all grasp of common sense if it might offer some relief, however improbable, from their misery.

"The potential reward is enormous," a Sorrite named Petros told me in Athens. "The risk? What risk? Could our situation really get any worse than it is already?"

Anarchists had set the Assembly of Greeks office on fire a few days before I arrived in Thessaloniki. Swaths of ash still lay encrusted around the doorway. Inside, walls were painted white with blue trim. There were murals of ancient ruins and charts displaying the ancient Greek value system. "Virtue: It is the great knowledge reflected in all the world's events and decisions."

"Sorras's people burned the door," the local chapter head, Niki Sinoglou, said. "That's Sorras, mind you, not Sorras." Sinoglou, a middle-aged woman with her hair wrapped neatly in a bun, had run a hairdressing studio in Thessaloniki for 30 years until it collapsed with the crisis. "I was never a very political person," she told me. "But I found myself with a lot of free time to start doing some research. Who was against us? How did the banks actually operate? I found Artemis on YouTube. He was the first Greek who told us, 'This is who you are, this is our plan.' And you know, the state has still never denied his claims."

Those claims have accumulated over the last five years. Whenever one myth threatens to be dispelled, Sorras pivots to still more brazen terrain. Along with being the world's wealthiest man, he now claims to have served as Athens's liaison to the CIA, that he may or may not have spent a few seasons in the NBA, and that he helped broker NASA's acquisition of ancient Greek spacefaring technology. But the claim Sorras stands most steadfastly by, the one for which he remains a gadfly to parties whose electorates he is now undermining, remains a version of his original one: Greece is owed 145 trillion euros in "heritage funds" that will become available as soon as he takes power. "He'll get the money," Sinoglou said. "Trust me, he'll get the money."

Sinoglou had never been political before; now she was running her own campaign office. But the process took time. First, she had to attend a handful of meetings. After a month, she sanctified her commitment to Sorras by swearing upon the "Oath of the Fighter," a rambling declaration in which one vows never to leave Assembly of Greeks: "I am dedicated to the word of the benevolent Prince of Light." After, Sinoglou drank a glass of the party's holy water. "If I violate my oath, all my cellular tissue will dissolve into mud!" She paid a 60 euro initiation fee and now 10 euros in dues every month. She estimated that she had given hundreds of euros to Assembly of Greeks. If Sorras wasn't rich before, his detractors like to say, he certainly is now.

The source of Sorras's appeal is not so much his charisma — he possesses next to none — as his own murky biography. In a country that has been chronically misgoverned by dynasties of political elites, stemming from the same lineages, for decades, there can be something peculiarly refreshing about a figure whose most basic life details are subject to dispute. Few Sorrites know anything about the man on whose behalf most have stopped filing their taxes. (When confronted by authorities, many hand over Sorras's business card and coyly refer any questions to their leader.) Rumors have it that Sorras used to work in a marble quarry in the Peloponnese before coming to Athens with his claims. Many Sorrites insist that he was responsible for developing a technology that allows airplanes to fly an unlimited number of hours in the sky without refueling.

There are, of course, other sources of his allure. In Thessaloniki, Sinoglou, the campaign office head, handed me a pamphlet detailing Sorras's arguments. She and other Sorrites spend their weekends handing them out to pedestrians on the street. It read:

HERITAGE FUNDS, the "FUNDS," from the INTERNATIONAL COMBINED COLLATERAL ACCOUNTS OF THE GLOBAL DEBT FACILITY, THAT ARE BLOCKED IN INSTITUTIONAL PARENT REGISTRATION ACCOUNTS of the FEDERAL RESERVE SYSTEM for the INTERNATIONAL SETTLEMENTS, through the CENTRAL GREYAND/OR BLACK SCREENS AND/OR IMLS SYSTEM or OTHER SIMILAR AND/OR RELATED SYSTEM.

Travel around Greece and you'll find hundreds of Assembly of Greeks offices, each filled with dozens of phone book-sized manifestos, all packed with pages of such prose — thousands of references to Bretton Woods, the gold standard, international creditors, and banking regulations, many seemingly verified with papal seals and the signatures of U.N. dignitaries. These pages say something not just about how far Sorras has gone to lend credibility to his claims, but why a surprising number of Greeks are willing to take him seriously in the first place: Sorras has hijacked the same intricate language of global finance that has been ruling their lives for the last seven years now. The economic alchemy that has been ruining their lives throughout the crisis — maybe they can use it to resolve the crisis as well.

Sorras arrived late to the Assembly of Greeks headquarters in Kallithea, a working-class neighborhood of Athens. The night before our meeting, it had been spray-painted with Celtic crosses. "Fascists!" read a line in all caps on the sidewalk. "You think Greece is broke?" Sorras grunted as we entered. "The politicians have enough money to pay anarchists to attack my offices." A lapel bearing the star of Macedonia, indicating that Macedonia is the name of a Greek territory, studded the pocket of his black button-down. His hair was a shiny mat of gelled-back black. His goatee, a strip of stubble extending toward his ears in two peppery wings, has become a popular style among Sorrites.

"You should know that I didn't actually play in the NBA," he began, taking out a cigarette. "I couldn't possibly have. I'm too short. But the World Academy did recently award me 'Most Dangerous Economic Mind on the Planet.' They gave me a golden star." He lifted a medal out of a drawer.

"[Barack] Obama himself thanked me for not suing the United States," he continued with affected weariness. "The Americans have been withholding my trillions for a long time."

The first thing you notice when talking to Sorras is that he is unusually adept at deflecting his critics. He answers questions with an exasperating onslaught of details, tantalizing his interviewer with conspiratorial tidbits, registering their curiosity, and then sneering audibly at their ignorance. "What? You don't know about the 13 Families?" he asked me. "The families which rule the world? Just print that and certain readers of your magazine will know what I'm talking about. Now, about the IMF. You should know that Greece's wealth predates the IMF, and the foundation of Brussels, by many, many years." Our meeting lasted almost two hours, during which time Sorras smoked lazily and sketched asterisks onto a piece of scrap paper. He was conspicuously bored by my presence.

"What did your parents do, Mr. Sorras?"

"What do you mean? What are parents? I had no parents. My parents are Greece. Parents? Whoever speaks of parents—"

"Sure, but I'm just asking—"

"No, it's your turn to answer this one for me. What is a nation? Is England a nation? How about Uganda? Tell me. What, other than Greece, is a nation? America is not a nation. It's not even close to a nation."



I asked Sorras what would happen if his revelations turned out to be false. Thousands of Greeks are literally banking on them being true. Last winter, one Sorrite murdered another in the town of Lamia, allegedly under Sorras's order. Did

he have misgivings about parading these fantasies before his followers? No, he answered emphatically and then hastily bid me adieu. The next day, when Sorras appeared on primetime TV and was asked a similar question by his interviewer,

he threatened to kick him for his impudence.

Come next election, Sorrites will have to decide who Sorras is for themselves. By that time, he may be sitting in a Peloponnesian jail cell,

offering promises he is less capable of keeping than ever.



## Here's a Win-Win Deal for Trump: Cyprus

Emily Tamkin

The Trump administration has a golden opportunity to help resolve one of Europe's longest-frozen conflicts: Cyprus. Significant progress has been made over the last two years toward reunifying this long-divided island, but the window of opportunity to conclude an agreement appears to be closing. Negotiations are reaching a critical point that would benefit from an investment of American time and resources. The United States has a strong interest in seeing the conflict resolved, particularly given the regional and economic benefits of a deal.

In Cyprus, inter-communal violence in the 1960s resulted in the deployment of a U.N. peacekeeping mission; 10 years later a coup (supported by Greece in an attempt to unite with Cyprus) led to Turkish military action and the de facto division of the island. The Republic of Cyprus controls the southern two-thirds of the island, while the Turkish Cypriots administer the other third in the north (with only Ankara recognizing an independent state). Greek Cypriot and Turkish Cypriot leaders have engaged in intense negotiations, supported by United Nations Special Envoy Espen Barth Eide, to reunify the island as a bi-zonal, bi-communal federation.

These talks have resulted in agreement on governance and economic arrangements for a federation composed of two constituent states, the right of all Cypriots to live and work where they choose, and mechanisms to address property lost during the violence. Yet several contentious issues remain, including the territory controlled by each constituent state and security arrangements. Prospects looked promising in recent months: leaders met twice in Switzerland last November, then in January discussed security issues with the guarantor powers (U.K., Greece, Turkey) for the first time ever. However, talks broke down in February after the Republic of Cyprus parliament voted to commemorate in schools the 1950 "enosis" referendum that proclaimed Cyprus part of Greece.

Time is quickly running out to close a deal.

Time is quickly running out to close a deal. Aside from the fatigue of leaders and negotiators, external factors will limit the period of deliberation. Most notably, the Republic of Cyprus has presidential elections in February 2018. If leaders agree on a settlement, it will be put before both communities in a referendum; this should occur by fall at the latest to prevent it falling prey to party politics. The introduction of the enosis bill by the far-right party suggests campaigning may already be underway. Elections are also on the horizon for the Turkish Cypriot "parliament," likely in spring 2018, but potentially as early as this October.

Another factor is Turkey, which will be required in the closing round of negotiations to reach agreement on security measures. Ankara appears reluctant to engage in advance of the April 16 referendum on constitutional reforms that would strengthen the president's powers. The poll's results could have an impact on how the Turkish government will approach Cyprus talks. Unfortunately, Cypriot leaders are failing to use the intervening month to resolve Cyprus-specific issues (such as the boundaries of the constituent states). If a settlement cannot be reached by this summer, it seems unlikely the process will withstand a six-month hiatus during the Republic of Cyprus' election campaign.

An additional complication may be the resumption of energy exploration. The discovery of natural gas off the Cypriot coast was initially seen as an impetus for settlement. Furthermore, normalized relations with Turkey could make Cyprus a hub for energy companies and the most economically viable transit point for getting Mediterranean gas to the European market. Unfortunately, energy disputes have hindered negotiations. Following the start of Cypriot exploratory drilling in fall 2014, Turkey deployed a research vessel into the Republic of Cyprus' exclusive economic zone and the ensuing dispute interrupted talks for several months. Since the resumption of negotiations in spring 2015, there has been a hiatus in drilling. However, energy seems likely to heat up again. Last Friday,

Cypriot Energy Minister Georgios Lakkotrypīs announced the completion of contracts with bidders for the third offshore licensing round. In addition, Total is expected to resume drilling this summer and ENI is reviewing its future plans. Not coincidentally, press reports indicate Turkey is looking to resume its own research activities in the Mediterranean this year.

The U.S. administration can play a critical role in enhancing the prospects of a deal:

### Invest personal capital in supporting negotiations.

It is clear that Cypriot leaders must remain at the forefront of solving this conflict.

It is clear that Cypriot leaders must remain at the forefront of solving this conflict. Yet this process has shown the utility of American encouragement in wobbly moments, as sustained engagement by U.S. officials in recent years has helped keep negotiations on track. As the talks near a make or break point, leaders are facing the toughest issues and need courage to make difficult compromises. A well-timed phone call from the secretary of state or vice president can steady the nerves and right the course. Now is such a moment. The Trump administration should encourage Cypriot leaders to utilize precious time by returning to the negotiating table before the Turkish referendum and resolving outstanding issues among themselves. If leaders can reach agreement, the United States will be better placed to press Turkey to address security — including relinquishing its guarantee and drawing down troops. The return on American political investment would be a safer, more affluent region that extends from Turkey to Israel to Egypt.

There have been some encouraging signs of U.S. interest. Vice President-elect Mike Pence spoke to Cypriot President Nicos Anastasiades in December. Secretary of State Rex Tillerson called the Greek Cypriot and Turkish Cypriot leaders on February 28. Cyprus even got a shout-out in the State Department's first press briefing on March 7. And U.N. Envoy Eide recently met Tillerson's deputy and Pence's national security

advisor. However, it is unclear whether American leaders are personally committed to investing the weight of their offices in supporting talks or prepared to move beyond listening mode.

Tillerson's Exxon background makes him well versed in regional energy issues, which he discussed in a business context with the Cypriot president in New York last fall. Yet he didn't talk Cyprus with Greek Foreign Minister Nikos Kotzias in Washington on March 14 (who reportedly raised the topic with National Security Advisor H. R. McMaster) and his rumored trip to Turkey later this month is likely to focus primarily on Syria. Tillerson appears to be delegating the Cyprus file to his deputy, Tom Shannon, who saw the U.N. negotiator earlier this month and met Cypriot Foreign Minister Ioannis Kasoulides when he was in Washington on Monday. In addition, the lack of senior officials at the White House and State Department with overall responsibility for European policy precludes the added heft of hands-on shuttle diplomacy to prod leaders on all sides and brainstorm creative solutions.

### Start planning for business investment and financial support.

One of several reasons for the failure of past agreements (most notably the Annan Plan in 2004) was concern, particularly among Greek Cypriots, about the costs of settlement. Opponents of a deal, potentially influenced by Russia, could play upon such fears to undermine public support in a referendum. Thus, leaders will be looking to the United States and Europe for financial assistance to implement the agreement and for investments that provide tangible economic benefits.

Although expending foreign assistance funds and encouraging American investment abroad are not in keeping with Trump's "America First" approach, the administration should recognize that stability and prosperity in the Eastern Mediterranean — including better relations between NATO allies Greece and Turkey and enhanced cooperation between NATO and the EU — is in America's interest. The collapse of the process, which could increase tensions in the region, is not. The State Department may

need congressional help to allocate money as a tangible demonstration of American backing for an agreement (for example, contributions to a fund for those who lost property during the intercommunal violence). A short-term cash injection would provide significant bang for the buck, as solidifying peace is more cost effective than preventing or addressing conflict.

Relatedly, a strong economy that benefits all Cypriots would help secure the unification dividend. An estimated consumer market of 500 million people surrounds Cyprus, which is as equidistant from

Baghdad as from Athens. The return on American economic investment would be significant. For example, Cyprus has potential as an energy hub, including opportunities for equipment suppliers. Other firms may find potential in infrastructure, shipping, real estate, and resort markets. Business leaders (as well as the island's diaspora) should be thinking creatively about opportunities that would bolster support across the island for a settlement.

This week Cypriot President Anastasiades and three ministers are in New York with a host of business executives for the Invest in

Cyprus Forum organized by Capital Link. While a useful event, it would attract even greater attention after a settlement; studies already show the economic benefits of reunification. A deal would remove the political risk that currently dissuades some investors, open up new markets, provide investment opportunities (especially infrastructure projects with the rebuilding of Varosha, a beautiful resort town abandoned since the inter-communal violence), and create jobs and wealth for the entire population. American companies will find more openings — particularly amid likely European, Turkish, and Israeli interest — if Washington helps lead this effort.

Thus, the Commerce Department should begin preparations for a trade delegation to visit the island during the sweet spot between a deal and a referendum.

Reunification would first and foremost benefit the people of Cyprus. However, a settlement is also good for the United States. It would enhance regional security cooperation, inspire neighbors struggling to resolve their own intractable conflicts, ease the transit of natural gas and facilitate energy diversification, and provide ample business opportunities. That's a deal worthy of American investment.



## The EU Has a Lot to Celebrate (and Work to Do)

The Editorial Board

The thing about birthdays is that you can't choose when they fall. Europe's leaders might have that in mind as they arrive in Italy this weekend to celebrate the 60th anniversary of the Treaty of Rome, the founding act of the European Union. The timing of this party is less than ideal.

Next week the U.K. will formally announce its departure from the union -- the first such exit in the EU's history. Even putting Brexit aside, Europe has never faced so many different problems all at once: a slow and unbalanced economic recovery; surging populism in France and elsewhere; a revanchist Russia and an erratic, isolationist White House exposing the frailty of Europe's defenses; hundreds of thousands of

migrants arriving from the Middle East and Africa, testing the political limits of the free movement of people, one of the principles enshrined in the 1957 treaty.

And the EU's response to all this? So far, unimpressive.

Don't expect that to change this weekend. As well as celebrating the anniversary, Europe's leaders have approaching elections to contend with. France and Germany go to the polls within the next 12 months, and so might Italy. Voters have shown little appetite for the kinds of reforms that the EU needs to be contemplating. However, once those elections are over, Europe had better turn urgently to the repairs the EU needs. And the planning for those reforms can't start too soon.

Strengthening the monetary union ought to be a priority. Next year, the European Central Bank will need to

scale back its program of quantitative easing. This policy has helped to assure investors that euro-zone government bonds are relatively safe. As the central bank steps back, fears that the euro system might break up could come to the fore again, calling the safety of some public debts into question and jeopardizing the whole enterprise.

Dealing with this will demand a cautious measure of further integration. At a minimum this ought to include completing the banking union, especially by adopting a common guarantee of deposits; achieving a genuine capital-markets union as part of deepening the single market in goods and services; and closer coordination of fiscal policy, ideally with provision for fiscal transfers across the EU's internal borders to help relieve the stresses of the economic cycle.

Matching what is financially necessary to what is politically feasible won't be easy. Yet so long as the union remains a half-way house -- a single-currency area without the full array of supporting institutions -- popular discontent will remain, and could worsen.

Despite the bad timing, the EU does have much to celebrate. Building on the ruins of the second world war, never forget, the union has secured peace and prosperity for hundreds of millions of people. It was an extraordinarily ambitious undertaking -- and viewed in that light it has succeeded better than its founders had any right to expect. Yet its future success isn't guaranteed. If the EU is to survive, let alone thrive, for another 60 years, its governments will have to summon the will to rebuild.

## INTERNATIONAL



## Help North Koreans 'live in the truth'

The Christian Science Monitor

North Korea tested its first nuclear device in 2006 and may soon test a missile capable of reaching an American city with such a weapon. This rising threat has now led the United States to widen its options to include a preemptive strike on the North's weapon sites. The US and its allies remain frustrated that their main option, a tightening of economic sanctions, has not curbed the North's nuclear threat.

But there is one option -- casting a sharper spotlight on the massive

abuses in North Korea -- that has not been tried enough and yet seems to be having some effect.

The leaders in Pyongyang have become very outspoken ever since 2014 when the United Nations began to ratchet up its exposure of the North's many atrocities. The regime may be worried that the North Korean people, despite living under tight censorship, are learning that the world is standing up for their human rights.

The strategy behind this option is to make the regime more concerned about its people than about building

up its military threat. As Robert King, former US special envoy for North Korean human rights, recently explained: "A regime that puts the welfare and well-being of its own people well below its acquisition of nuclear weapons will not hesitate to use those nuclear weapons against others."

Many recent high-level defectors from the North attest to the increasing awareness among North Koreans for the world's concerns for them. The UN's special envoy on North Korean human rights, Tomás Ojea Quintana, has met with many defectors and come away

"impressed that they were well aware of their rights..."

The UN crossed an important threshold in 2014 when a special UN commission issued a 400-page report detailing the many abuses in North Korea, comparing them to atrocities committed by Nazi Germany. Then last year, the UN General Assembly recommended that North Korea be taken to the International Criminal Court for crimes against humanity. And this week, the UN Human Rights Council again took up a measure to condemn the country's abuses,

which include jailing more than 100,000 political prisoners.

A good precedent for this strategy is the West's highlighting of human rights violations in the Soviet Union starting in the 1970s. The 1975 Helsinki Final Act, which called for European countries to honor human rights, helped to empower dissidents behind the Iron Curtain to challenge

the regimes of the Soviet empire. The late Czech dissident Václav Havel said the West's actions empowered dissidents to "live in the truth" and stand up for basic rights.

Another useful tactic of that period was a US law, known as Jackson-Vanik, that gave special trading rights to the Soviet Union in return for it allowing Soviet Jews to

emigrate. The law tied human rights to Soviet economic interests, but it also sent a strong message to the Russian people about resisting their regime, which eventually collapsed in 1991.

Telling the truth about the wrongs of the North Korean regime has a way of dissolving its legitimacy, both with its own people and with its only ally,

China. As the North lobs more test missiles toward other countries, a good response from the rest of the world is to lob back more information to the North Korean people about the nature of their regime.



## China's Bailing Out Venezuela's Corrupt Regime. That's Got to Stop.

Martin Rodil

Things are so bad under the Maduro regime in Caracas, it's hard to figure out how it survives. Until you look at the bucks coming in from Beijing.

Socialist solidarity appears to be alive and well; Karl Marx would be oh so proud. China, whose one-party system has managed to successfully open up much of its economy in recent decades, has decided to prop up one of the worst socialist experiments in history: Venezuela. We believe this is dangerous, both for Venezuelans and for the region.

China's ultra-pragmatic actions should surprise no one. And let's be honest, this actually has nothing to do with socialism. China's global soft power projection is ubiquitous today, and its frantic search for sources of energy is entirely understandable. So while they may bully their Asian neighbors, its businessmen and state-run companies are all over Africa, and invest very heavily across the Americas. In fact, China today has provided more money to the region in recent years by way of loans than the Inter-American Development Bank and the World Bank combined.

As Americans, we voted in a president who understands the dangers of unchecked Chinese power. YouTube videos and memes mocked the then-candidate Donald Trump's perceived obsession with the "other" superpower. Yet as Venezuelan-Americans, we have internalized this concern which transcends economic nationalism or artificial islands in the South China Sea.

For almost two decades, China financed Venezuela when things appeared great under the two Hu's (Hugo Chavez and Hu Jintao), with repayment sent back to Asia in barrels of oil. And why not? It was, to use a Trumpism, a good deal. It made sense for both parties, especially as cheap Chinese mobile phones, motorcycles, and home-building materials helped Venezuela's populist government win support among the poor. Trade between the two countries was less than \$500 million per year before 1999 when Chavez came to power. Ten years later it had reached \$7.5 billion.

Indeed, Chavez's authoritarian regime had the good fortune of high oil prices to cover up its hopeless economic mismanagement. But today it's a different story. Venezuela is a mess. The corrupt and inept Maduro regime

rapes the economy in the midst of low oil prices. The result is hyperinflation, food and medicine shortages, and a country on the verge of becoming a failed state.

Yet China has not given up. Just like a bad gambler, it continues to double down, financing modernization projects in a desperate attempt to increase production and bail out the regime. Energy hungry China sees in Venezuela a long-term source of oil in which it is worth investing to modernize the infrastructure and increase oil extraction capacity. China is Venezuela's second largest oil consumer, and so far has loaned Venezuela some \$60 billion, \$20 billion of which Venezuela has yet to repay. With endemic corruption and mismanagement in PDVSA, the national oil company, the Chinese will be lucky to see this again, whether in cash or in oil.

In the meantime, Venezuela is entirely at the mercy of its Chinese creditors. Sovereignty has been surrendered for cheap credit. At least the Venezuelan people are benefitting from this, no? Unfortunately not. Alas, with the most corrupt regime in the history of Venezuela, the incoming cash merely fills the coffers of the regime and its cronies.

So, while Maduro and Chavez signed agreements with the Chinese to develop over 600 projects, the vast majority of them remain incomplete. Some never even started. They were apparently propaganda tools aimed at people with short memories. What ever happened to the railroads, the Chinese-funded housing projects, the scores of manufacturing plants? They were mere smokescreens for a corrupt socialist elite to maintain its own power at all costs while plundering the economy at the expense of the people.

Yet it still continues. While the people starve, president Maduro enriches his family and allies, and Vice President Tarek El-Aissami funds drug running, his close friends, and a bit of terrorism just for fun. All the while, the great financing dragon keeps breathing fresh fire into the engine; over \$20 billion since 2014.

So candidate Trump was right all along. China's actions are dangerous and irresponsible for America. But also for the Americas. Their continued double-down financing of the Venezuelan regime in return for cheap oil props up an illegitimate corrupt state, while the rest of the nation starves.



## Group of Nations Urges Venezuela to Return to Full Democracy

David Luhnow and José de Córdoba

MEXICO CITY—The U.S., Canada and 12 of Latin America's leading nations called on Venezuela's government of President Nicolás Maduro to release political prisoners and take other steps to return to full democracy, an unprecedented show of unity against the oil-rich regime.

The 14 nations, which included Mexico, Brazil and Argentina, issued a joint statement calling on Mr. Maduro's government to return full powers to Venezuela's opposition-dominated National Assembly,

which has repeatedly seen its decisions ignored by the government or overturned by pro-government courts.

It also called on Venezuela to hold regional elections that were scheduled for last year but were postponed by the government, which was losing badly in polls.

"We consider it urgent to address as a matter of priority the release of political prisoners, the recognition of the legitimacy of the National Assembly's decisions as provided in the Constitution and the establishment of an electoral calendar that includes the postponed elections," said the

statement, signed by the U.S., Canada, Brazil, Mexico, Argentina, Chile, Peru, Colombia, Uruguay, Paraguay, Guatemala, Honduras, Costa Rica and Panama.

The unusual joint statement reflects growing impatience in the region with the deepening crisis in Venezuela. The country is gripped by the worst economic collapse in Latin America in recent decades.

Mr. Maduro's government has launched a broad crackdown against the opposition, jailing political rivals like opposition leader Leopoldo López. The government also blocked an opposition-led recall referendum on the president, even

though the opposition had taken all the legal steps to holding the vote.

Putting pressure on Mr. Maduro is a big shift for the region, where most countries have long shied away from interfering in each other's internal affairs.

"It's an encouraging development," said Michael Shifter, president of the Inter-American Dialogue, a Washington-based think tank. "It's a very powerful coalition of nations in the hemisphere and ratchets up the pressure on Maduro to negotiate seriously."

The statement was a response to a recent report by the secretary-



general of the Organization of the American States, Luis Almagro, to get the 34 member nations of the hemispheric body to suspend Venezuela within a month if it doesn't take steps such as freeing political prisoners.

The 14 nations said that they supported diplomacy and dialogue as the right path to solve Venezuela's problems. But they said that suspending Venezuela out of the OAS was "a last resort," and that Venezuela should be given a reasonable time to respond to the demands. Still, the nations signaled that they wouldn't wait indefinitely.

"We will review the progress in addressing these challenges over

the coming weeks as we consider next steps," the joint statement said.

Suspension or expulsion from the OAS—still a long shot—would have little economic impact on Venezuela at present, but such a public shaming would be a blow to the regime, which prides itself as being an important player on the world stage.

Mexican Foreign Minister Luis Videgaray said the countries that signed the statement would attempt to get it passed as a resolution at the OAS, where it would need at least 18 countries to come to a vote and two-thirds support to pass.

In an interview, he said getting rid of the one-month time limit was done

in the hope of getting more countries to back the resolution.

The pressure on Venezuela reflects changing political dynamics in Latin America, where a string of once-populist, leftist governments have been thrown out of power. Countries such as Argentina, Brazil and Peru that were friendly to Venezuela have moved toward the center-right. And elections in Ecuador next month could cause a shift there, too.

Venezuelan Foreign Minister Delcy Rodríguez, in a series of messages on her official Twitter account, accused the U.S. government of orchestrating an attack on Venezuela.

"What is the purpose here? Assault Venezuela? We will denounce these actions country by country," she wrote. She also accused Mexico's Mr. Videgaray, who led the diplomacy in Latin America, of being "insolent" and "servile."

State Department spokesman Mark Toner said the U.S. shares the concerns about Venezuela laid out in the OAS secretary-general's report, which said Venezuela was in violation of the body's democratic principles.

"We're not pushing for Venezuela's expulsion from the OAS at this time, however we do think that the OAS is the appropriate venue to deal with the ongoing situation in Venezuela."



## In Venezuela's Toxic Brew, Failed Narco-State Meets Iran-Backed Terrorism

Emily Tamkin

As if the political and economic chaos wracking Venezuela wasn't worrying enough, a couple of recent stories underscore the potential national security threat brewing there. First, last month's designation of Venezuela's vice president, Tareck El Aissami, as a drug kingpin by the U.S. Department of Treasury. Second, a CNN investigative report revealing that Venezuela's embassy in Iraq was allegedly selling Venezuelan passports and identity documents to Middle Eastern nationals — raising the disturbing prospect that Caracas is facilitating the entry of Islamist militants to Latin America. Indeed, the CNN report echoed revelations from 2013 that the Venezuelan embassy in Syria was issuing passports to terrorists under the direction of Ghazi Atef Nassereddine, a Treasury-sanctioned, FBI-wanted Venezuelan diplomat who happens to be a key Hezbollah operative. Put all this together and what do you get? A rabidly anti-American failed state that appears to be incubating the convergence of narco-trafficking and jihadism in America's own backyard.

Venezuela's links to the drug trade are deep and well documented. Collusion with the cartels reaches the highest levels of the state. Two nephews of President Nicolás Maduro were arrested in Haiti and convicted on drug trafficking charges by a federal jury in Manhattan last November. General Néstor Luis Reverol Torres — Venezuela's current minister of interior and justice, and former head of its national anti-narcotics agency — was indicted in the United States last August on cocaine trafficking charges, along with a former captain in Venezuela's National Guard. The

list of officials implicated in narco-trafficking also includes a former minister of interior and justice, two senior intelligence officers who later became governors, and now Vice President El Aissami.

The implications for Washington are extremely damaging and not simply in terms of the drugs and violence flowing across the southern border. In El Aissami's case, five of the 13 entities sanctioned were Miami-based LLC's. Their illicit activity compromises the integrity of the U.S. financial system.

Of no less concern is Venezuela's long history of collaboration with Iran, including sanctions evasion, terror finance, and ideological subversion. During the presidencies of Hugo Chávez and Mahmoud Ahmadinejad, Caracas was a key facilitator of Tehran's sanctions-busting efforts. The two regimes established business ventures and financial institutions in Venezuela, which they used to launder Iranian money, procure technology, and bribe senior Venezuelan officials.

Cooperation did not stop at banking and business. Caracas also helped Tehran promote virulent anti-Americanism across Latin America. Indeed,

Venezuela has increasingly become a center for Iran's revolutionary agitation in the Western Hemisphere.

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In 2004, Tehran established the Centro de Intercambio Cultural Iran LatinoAmerica, or CICIL, in Caracas. CICIL is run by Islam Oriente, a foundation based in the

Iranian religious center of Qom and headed by Mohsen Rabbani — the Iranian cleric implicated in the 1994 bombing of the Jewish cultural center in Buenos Aires that killed 85 people. Rabbani's emissaries use Venezuela as a forward operating base for their Latin American activities, which include exporting the Iranian revolution, radicalizing local Muslims, helping Hezbollah consolidate its foothold among Western Hemisphere Lebanese communities, and linking up to social and political movements that share Iran's anti-American agenda.

Less understood is the Venezuelan nexus between organized crime and Iran's radical Islamic network, especially its most dangerous terrorist proxy, Hezbollah. Hezbollah has used South America as a base for its terror-finance networks for decades, laundering money on behalf of criminal organizations and using the profits to finance its quest for power in Lebanon, military adventurism in Syria, and terrorism overseas. In turn, its criminal activities benefit the Venezuelan regime well.

A case in point is the recent discovery, by Paraguayan law enforcement agencies, of 25 tons of Venezuelan currency hidden in cloth sacks and stashed in the home of a weapons merchant in the frontier town of Salto del Guaira. Two of the suspects in the case have criminal records for arms smuggling. The money, mostly in 100 Bolivar notes, has been rendered worthless by hyperinflation. Venezuela suddenly announced it was withdrawing the bills from circulation last December, causing a run on the banks (their cutoff date has since been extended). Even before they cease being legal tender, the bills are only

worth a few U.S. cents apiece, but have one redeeming feature: they are made with the same quality paper produced by the supplier to the U.S. Bureau of Engraving and Printing and are therefore a favored choice for counterfeiting U.S. currency. If turned into \$100 bills, the useless Bolivars would suddenly be worth \$2 billion.

Early reports indicated that the money was destined to be traded on the black market in Ciudad Del Este, a Paraguayan frontier town in the Tri-Border Area (TBA) of Argentina, Brazil, and Paraguay, and the home of U.S.-designated Hezbollah counterfeiters. It is also possible that the money would first go through Bolivia's money houses, which still exchange Bolivars at Venezuela's fictitious official rate. Even if that were the case, Bolivian money changers would seek to make a profit from the worthless currency. The easiest way to do that would be to sell the cash to local counterfeiters.

Suspicious of a narco-Hezbollah connection have been validated by local sources. In communications with one of the authors, intelligence officials on the ground confirm that Hezbollah operatives in the area have been seeking Bolivars for months. They also have evidence of a link between those arrested in the smuggling plot and a local Hezbollah operative.

It remains to be seen if these connections will be proven out. But it's clear to see why Iran, Hezbollah, and Venezuela, would all benefit from such a scheme. Suffering from a self-inflicted economic disaster, Venezuela is running out of foreign currency reserves. Turning worthless currency into greenbacks helps address that problem.

Hezbollah gets a hefty commission for the job and gains political leverage in Venezuela in exchange for its help. Iran, as the key facilitator of the Venezuela-Hezbollah connection, favors the injection of billions of counterfeit dollars into the global economy

because such a step is damaging to the U.S. financial system.

The Bolívars seizure — one of many in the area since 2015 — illustrates the potential repercussions of paying insufficient attention to the roiling crisis in Venezuela. The

country is a failed narco-state run by a clique of greedy anti-American ideologues in cahoots with Islamic radicals beholden to Iran, the world's foremost state sponsor of terror. As long as the Maduro regime governs in Caracas, the crisis that is consuming Venezuela

will further strengthen Washington's enemies in the Western Hemisphere. Developing a coherent strategy to address this deadly convergence of threats should become a much higher priority for U.S. policymakers.

## **POLITICO** Iran sanctions bill unveiled by bipartisan Senate group

By Susan B. Glasser

Senate Foreign Relations Chairman Bob Corker (R-Tenn.) on Thursday unveiled a bipartisan bill to slap Iran with new sanctions because of the country's ballistic missile development, support for U.S.-designated terrorist groups and human rights violations.

Democratic co-sponsors, including Robert Menendez of New Jersey and Foreign Relations ranking member Ben Cardin of Maryland, emphasized that the measure was designed explicitly so as not to

undermine the 2015 Iran nuclear deal.

The bill is supported by more than a dozen senators, according to a news release, including Marco Rubio (R-Fla.), Tom Cotton (R-Ark.), Bob Casey (D-Pa.) and Chris Coons (D-Del.) — giving it a strong chance of being taken up in the Senate.

"This legislation demonstrates the strong bipartisan support in Congress for a comprehensive approach to holding Iran accountable by targeting all aspects of the regime's destabilizing actions," Corker said in a statement. "These steps will allow us to regain

the initiative on Iran and push back forcefully against this threat to our security and that of our allies."

The measure would impose mandatory sanctions on those involved in Iran's ballistic missile program. It would apply terrorism sanctions to Iran's Revolutionary Guard. And it is designed to strengthen other sanctions, including requiring "the president to block the property of any person or entity involved in specific activities related to the supply, sale, or transfer of prohibited arms and related material to or from Iran."

An aide to Cardin said the senator worked behind the scenes to strip from the bill anything that would harm the Iran nuclear deal — provisions the aide said would have been unpalatable to Democrats. Cardin stripped out language that would have prohibited the president from using the national security waiver to enter into international agreements with Iran, among other revisions, according to the aide, who spoke on the condition of anonymity.

"We felt it would be received in our caucus as antagonistic toward the Obama administration, even after the fact, and he agreed to keep it out," the aide said.



## **Libya Can't Save Itself**

Emily Tamkin

The new year seems to have brought one piece of bad news after another for Libya, threatening to mark a new phase in the country's endless slide into chaos. Hopes that last year's defeat of the Islamic State in its self-proclaimed "emirate" in Sirte would usher in a period of relative calm have been dashed, as fighting has escalated recently in four different parts of the country.

The "oil crescent" east of Sirte, where 60 percent of Libya's oil production transits, in March twice changed hands between the anti-Islamist Libyan National Army (LNA) of Field Marshal Khalifa Haftar — a former Qaddafi-era officer who turned against the dictator and whose forces currently dominate the east — and the U.N.-backed Presidency Council, a collective head of state that sits in the capital of Tripoli, where militias nominally loyal to the council fight against rival groups — and increasingly among themselves. In the south, Haftar's LNA has repeatedly clashed with armed groups from the coastal city of Misrata. And in the east, since 2014, fighting between the LNA and local Islamist Shura Councils in Benghazi and in Derna has never really ended.

Since 2014, the country has been split between rival governments: one

in the east and two in Tripoli. In May of that year, then-Gen. Haftar started Operation Dignity, an anti-Islamist insurgency that initially focused on the eastern city of Benghazi. A month later, a coalition of militias from cities in western Libya formed Libya Dawn and conquered Tripoli. The conflict between the forces that defeated Muammar al-Qaddafi has since devolved into a bitter struggle for power, resources, and control of the country's sprawling security sector.

In December 2015, the mediation of the U.N. mission in Libya (UNSMIL) led to the signing of the Libyan Political Agreement, which aimed to form a national unity government, by rival members of parliament from eastern and western Libya. But while UNSMIL is tasked with negotiating the implementation of the agreement, it is now effectively headless. The mandate of the current U.N. special representative for Libya, Martin Kobler, came to an end this month, and he lost the trust of key players in Libya long ago. U.N. Secretary-General António Guterres's attempts to appoint former Palestinian Prime Minister Salam Fayyad as his special representative came up against an 11th-hour veto from U.S. President Donald Trump's administration.

Rival negotiating tracks by regional powers, particularly Egypt and Algeria, have also failed to produce any breakthrough. As a result, most channels of communication between

eastern and western Libya have collapsed.

Russia is becoming increasingly involved, trying to fill the void left by the collapse of the U.N. track

Russia is becoming increasingly involved, trying to fill the void left by the collapse of the U.N. track and the disinterest of both the Trump administration and the Europeans. It is unclear what Moscow really wants in Libya, but it seems to be pursuing a strategy that acknowledges the de facto partition of the country, promising both political and military support for Haftar's battle in the east while signing contracts for oil and discussing business opportunities in commodities trading and future construction projects with the institutions in Tripoli. While there are reports that Russian special forces may be helping Haftar, there is still no evidence of decisive Russian military support for the LNA, and it is fair to say that the Kremlin is diversifying its political investment in the country by talking to all sides.

Russia's increasing political backing and the anti-Islamist winds blowing in Washington have strengthened Haftar's belief that there is no point in negotiating a political solution with the forces in western Libya. Despite heavy pressure from his Egyptian patrons, he refused to even meet the head of the Presidency Council, Prime Minister Fayez al-Sarraj, in Cairo on Feb. 14 to discuss a road map for negotiations. He has

instead rededicated himself to his main goal of "fighting extremism" by stepping up pressure on Misratan forces in the south and the district of Jufra and by announcing an imminent — albeit unlikely — "liberation" of Tripoli.

Western Libya, meanwhile, is at risk of ever greater fragmentation. The Presidency Council has effectively been reduced to two of its originally nine members — Sarraj and his deputy, Ahmed Maiteeq — and lacks any real control of dynamics on the ground. The capital is dominated by a syndicate of militias that are now fighting against armed groups loyal to a rival government. Outside of Tripoli, a similar archipelago of local armed groups controls events on the ground.

Given the lack of desire to compromise in the east and lack of credible interlocutors in the west, a political settlement reuniting the country will likely prove elusive. If Libya and the international community hope to avoid a bloody new chapter in the civil war, they should focus on three tracks to be pursued in the short term, in parallel to the bigger-picture negotiations.

First, Libya needs a de-conflicting mechanism to avoid escalation. If the U.N. envoy cannot do it, someone else in the West should. What better opportunity for Britain to show its continued relevance after Brexit than this? Or why not the French foreign minister, who could

beef up his legacy just weeks before leaving office? This should only be a temporary replacement for a fully functioning U.N. mission capable of working on reconciliation, local cease-fires, and monitoring human rights violations. Both a temporary negotiator and the U.N. could work on a number of confidence-building measures, such as establishing permanent channels of communication, liberating prisoners, reopening roads, and sharing humanitarian aid.

Second, the country needs what economist Hala Bugaighis calls a "Libyan Economic Agreement" on how to peacefully share its oil wealth. Libya sits on Africa's biggest hydrocarbon reserves: In the run-up to the 2011 war, it produced 1.6 million barrels per day and accumulated more than \$100 billion in reserves — a considerable

amount for a population of 6 million. Much of the fighting in the last few years has revolved around oil installations or smuggling hubs. Negotiating a new social contract may take some time, but in the meantime, two measures would represent a good start: The government in Tripoli should strengthen financial support for all of Libya's municipalities, including areas controlled by Haftar, and oil installations should be placed under the control of the independent National Oil Corporation in Tripoli, with attempts to establish parallel economic institutions punished by international sanctions.

Finally, Tripoli must be the heart of international efforts. The most pressing need is a plan to free the city of all heavy weapons, pushing militias to stock them outside of civilian-populated areas. This is an

important condition to allow the Libyan government to operate and to facilitate international assistance.

These tasks are very difficult. The alternative, however, is a new escalation that would destroy what little is left of Libya's institutions and create the conditions for the re-emergence of jihadi groups.

It will take a heavyweight like the United States to push Libya toward peace.

It will take a heavyweight like the United States to push Libya toward peace. Washington, with its enormous soft and hard power, could pressure all sides into an agreement while at the same time dissuading external actors from intervening in the country. The big question is whether the will exists in the Trump administration to get

involved in Libya. The National Security Council, in reviewing U.S. policy in different areas, should consider the levers that the United States has in Libya and the importance of the country in countering terrorism and instability.

During the most recent Republican administration, under President George W. Bush, the United States pursued a pragmatic policy in Libya that succeeded in peacefully eliminating the country's stockpiles of weapons of mass destruction. It is hard to believe that Trump will be able to duplicate that model. Without swift international action, however, Libya appears poised for another round of violence. It may well be that we will look back at this moment in Libya and say that the medicine was there but no doctor had the courage to use it.

## ETATS-UNIS

### *the Atlantic* The Big Populist Lie

Derek Thompson

President Donald Trump might be consumed by half-truths and conspiracy theories, but during the campaign he brought attention to a very real phenomenon: regional inequality. He promised not only a proper swamp-draining in Washington, D.C., but also a renaissance for the Rust Belt, Appalachia, and America's blighted heartland.

Even when his prognoses were fantasies—neither trade wars nor border walls will ever bring back 1950s-level manufacturing employment—the underlying diagnosis was pretty much right. For much of the 20th century, productivity in America's poorest regions actually grew faster than in rich metros. But decades of convergence have come to a screeching halt in the 2000s. Rich coastal cities have left the rest of the country behind. In 1980, the typical New York City worker earned 80 percent more than the national average. By 2013, he earned 172 percent more.

Trump racked up huge margins in Appalachia, the Rust Belt, and rural areas across the country. But his promises to improve these places have evaporated on contact with the

presidency. In the current budget blueprint and health-care bill—not to mention a forthcoming tax overhaul—the losers under Trump are the same people who were promised a long-awaited win (political theater surrounding the Carrier deal notwithstanding).

Regional inequality is a thorny problem. Inequality at the household level has some obvious fixes, such as taxing the rich and redistributing the wealth to the poor with tax credits and benefits like health care. But, while there is no unified economic consensus as to how to solve deindustrialization and regional blight, there are three broad ideas: government investments in local industry; investments in local colleges and research centers, which can also boost local innovation; and income transfers to the residents, whether in the form of tax credits or something more targeted, like moving vouchers.

So far, Trump's answer to this multiple choice question has been "none of the above." His policies don't merely ignore these ideas. They move swiftly in the opposite direction.

First, Trump's budget blueprint abolishes several programs that have directly helped the same regions he's promised to support.

The federal government has relatively few economic programs that specifically help the Rust Belt and Appalachia, but they include the Manufacturing Extension Partnership, which helps small- and medium-sized manufacturing companies; the Economic Development Administration, which provides bridge loans and other support for infrastructure in poor regions; and the Appalachian Regional Commission, which supports jobs in 13 states (of which Trump won 10). Under Trump's skinny budget, all three programs would be canceled. This has already elicited deep concerns, or even direct criticism from the governors of Kentucky, Alabama, Arkansas, and Maryland.

"A core piece of Trump's message was that he would have the backs of workers in struggling regions, in struggling industries, specifically in the Rust Belt and the Midwest," said Mark Muro, senior fellow and policy director at the Metropolitan Policy Program at the Brookings Institution. "But here, three programs directly relevant to that are zeroed out." As a candidate, Trump promised convergence; as president, he's entrenching divergence.

Second, America's research universities are critical for

productivity and job growth in many small and medium-sized cities away from the coastal behemoths. According to Muro, the metro areas with the fastest-growing productivity outside of tech hubs like San Jose and Seattle are anchored by major research universities, like Ames, Iowa, Blacksburg, Virginia, and State College, Pennsylvania. But Trump's policies would starve these areas for both resources and talent, a needless and counter-productive double-whammy. The White House proposal guts federal science funding, including a nearly 20 percent cut at the National Institutes of Health, which funds billions of dollars of research at universities and hospitals across the country. What's more, Trump's antagonism to immigration will dissuade the world's smartest people from conducting their research at American universities, in addition to starving struggling areas of population growth that might improve their economies.

Third, these cuts to community investment and scientific research are making way for tax cuts that will go the rich. According to analysis by the Tax Policy Center, the tax changes in the Republican replacement bill would be "very regressive." Low-income people in their early 60s could see their premiums rise by more than



\$10,000 and all households making less than \$50,000 would be net losers under the plan. Meanwhile, families making more than \$200,000 would save an average of \$5,000, on average. (Note: This article was written before any budget analysis of the latest House bill.) If you don't believe the TPC, just ask Trump. Told that this bill would hurt older Americans, particularly those living in rural areas, Trump responded, "Oh, I know."

What's remarkable, however, is that this might just be the start. The tax cuts in the health-care bill are nothing compared to the cuts featured in both House Speaker Paul Ryan's budget and Trump's campaign proposals. In the president's most recent tax plan, the richest 7 percent of the country would get 70 percent of the tax benefits.

Some economists argue that expensive efforts to reverse economic decline in areas like the Rust Belt are a waste, and the money would be better spent to just pay people to move to better areas. That is, to invest in people, not places.

But taken together, Trump's first 60 days do the opposite—disinvesting in Appalachia, starving research universities of the funds that often power local innovation, and redirecting money from health benefits for the poor and middle class toward tax cuts for the rich. To be fair, Trump is not abandoning all of his campaign's proposals targeted at the white working class. As pledged, he is cracking down on immigration, especially from Muslim-majority countries, and striking down financial and environmental regulations that he says have constrained job creation.

But as several economists have pointed out, deregulation alone won't be a windfall for manufacturing jobs. What's more, discouraging immigration could backfire for the U.S. economy, by constraining the growth of the labor force and keeping out the world's most entrepreneurial people. That these policies probably won't do much to promote regional convergence doesn't seem to matter to Trump supporters—yet. Trump's approval rating within his own party is still higher than 80 percent.

Fully addressing regional inequality is beyond the power of any one man, even the president. It may require a national effort to increase housing supply in productive cities, moving vouchers for low-income families trapped in generational poverty in the heartland, and an appetite for funding risky projects in

struggling regions that may turn out to be losing investments. One could argue that Trump's proposed military expansion may create jobs. But we don't know enough about the details to know whether it will go to, say, struggling Kentucky areas or simply enrich contractors in Arlington and Norfolk, Virginia.

It is tedious, perhaps, to say so again and again, but in a news cycle that feels like a permanent state of attention whiplash, it can take a bit of brute repetition to entrench a simple truth: Trump ran on a promise to transfer political power back to the forgotten and the downtrodden, but he is presiding over an effort to transfer economic power from the lower- and middle-classes to the rich. Populism might be an elastic term. But Trump has tugged, turned, and twisted the word until it has come to mean its opposite, or perhaps nothing at all.



The Editorial Board

The chairman of the House intelligence committee said Wednesday that the communications of Trump transition officials, possibly including President Donald Trump himself, may have been scooped up in legal surveillance and improperly distributed throughout the intelligence community.

During the Senate Watergate Committee investigation in 1973, one of the toughest inquisitors into Nixon administration wrongdoing was Republican Sen. Howard Baker, the committee's vice chairman. "What did the president know, and when did he know it?" Baker famously asked. It's almost inconceivable that the senator from Tennessee would have dropped everything to tip off the White House about some new piece of evidence.

Then there's Devin Nunes, R-Calif., chairman of the House Intelligence

## Take Devin Nunes off Russian case: Our view

Committee, which is investigating what could be the biggest political scandal since Watergate: Russian interference with the 2016 presidential election and whether Donald Trump's campaign colluded with, or was somehow compromised by, the Russians.

Nunes is no Howard Baker. Instead of dogged fact-finder, Nunes seems to see himself more as a surrogate for the Trump White House. He has been enlisted by the White House to rebut news reports, and he has appeared more focused on leaks than on getting to the bottom of Russia's meddling.

The latest evidence of this approach came Wednesday, after Nunes learned that communications involving members of Trump's transition team, and possibly Trump himself, had been picked up incidentally during U.S. surveillance of foreigners.

Did Nunes immediately brief the top Democrat on the panel, his fellow Californian Adam Schiff? No. Instead, he rushed over to the

White House and told Trump, who promptly said he felt "somewhat" vindicated about his widely refuted tweetstorm of March 4 accusing President Obama of wiretapping Trump Tower before the election.

Whether Nunes was trying to carry water for the White House, or he simply failed to understand the responsibilities of a committee investigation, doesn't really matter.

What's crucial is that Congress provide an honest, credible examination into the Russian connection. Nunes' bad instincts undermine public confidence that his panel can conduct such an inquiry.

There are better alternatives to having the House and Senate intelligence committees run the investigation.

Sen. John McCain, R-Ariz., has recommended the creation of a Watergate-style select committee, a panel of highly respected members of Congress from both chambers.

Alternatively, Congress could delegate investigative authority, with subpoena power, to a special bipartisan commission staffed by leading public figures and policy experts, similar to the one that investigated the 9/11 attacks.

Any evidence of criminal conduct uncovered by the investigation into the Russian connection, as well as the ongoing FBI inquiry confirmed Monday by Director James Comey, would be turned over to a special counsel appointed by a top-ranking career official at the Justice Department.

Congress must show it's capable of following this path of suspicion, whether it leads nowhere or to the Oval Office. That requires putting the inquiry in the hands of people with reputations for integrity and independence, not administration apologists.



## Trump Spying: FBI, NSA May Have Exceeded Their Authority

House Intelligence Committee chairman Devin Nunes told reporters yesterday that members of Donald Trump's presidential transition team — including Trump himself — may have been caught up in surveillance during the last days of the Obama administration. "I have seen intelligence reports

that clearly show that the president-elect and his team were, I guess, at least, monitored, and disseminated out . . . in intelligence channels," Nunes said. He stressed that the surveillance, by both the FBI and NSA, looked to be legal "incidental collection" that had

nothing to do with concerns over Russia collusion.

If true, this isn't the wiretapping of Trump Tower, as Trump claimed in his infamous tweet a few weeks ago, but it is spying in any commonly understood sense of the word. The NSA routinely listens to calls and reads e-mails of

Americans and collects other data "incidentally" from third parties, avoiding warrants. Section 702 of the Foreign Intelligence Surveillance Act, which has been found constitutional, states that government doesn't need a warrant to collect information on Americans

as long as the target of the collection is a foreigner.

That's one thing. But if we're to believe Nunes, the names of Trump associates were "unmasked," and "details with little or no apparent foreign intelligence value, were widely disseminated in intelligence community reporting." CNN reported that some of the communications picked up were of Trump transition officials talking about the president's family. What possible need was there for those details to be passed around in an intelligence report? Who ordered the unmasking of the people involved? Was the information properly minimized? If the investigation wasn't aimed at collusion with the Russians, what investigation ensnared the president-elect and his transition team?

While the answers might not vindicate Trump, they are legitimate questions. If it turns out intel wasn't properly minimized, this is the kind of abuse that civil libertarians have long warned undermines Americans' privacy, a Fourth Amendment right. Many Democrats (and a few Republicans) have been warning about the exploitation of 702 for years. Only last year, Minnesota senator Al Franken

admitted that "information that we get through 702 can be misused." The American Civil Liberties Union also opposes it ("We Must Rein In President Trump's Spying Powers" reads one headline. Right.).

Some Senate Democrats specifically worried that the NSA could spy on politicians. The case of former representative Jane Harman (D., Calif.) illustrates that it's probably easier to smear a politician than to blackmail one. But in 2014, Senator Bernie Sanders sent a letter to then-NSA director Keith Alexander asking him whether the NSA had spied on members of Congress "or other American elected officials." Spying, he wrote, gathers "any other data from a third party not made available to the general public in the regular course of business," among other things.

We can argue with this definition of spying if you like, but the NSA's public-affairs office answered: "NSA's authorities to collect signals intelligence data include procedures that protect the privacy of U.S. persons. Such protections are built into and cut across the entire process. Members of Congress have the same privacy protections as all U.S. persons."

Intelligence agencies cannot share details about American citizens with

no foreign-intelligence value. If Nunes is right, how were these procedures not broken?

Intelligence agencies cannot share details about American citizens with no foreign-intelligence value. If Nunes is right, how were these procedures not broken? If a Bush-era intelligence agency had engaged in "incidental collection" of Barack Obama's phone calls in 2008, and then disseminated that information, the Earth would have stopped in its orbit. (Senator Rand Paul claims Obama's phone calls were intercepted 1,227 times and then masked. Being caught up in surveillance doesn't necessarily mean you're guilty of anything.) Now, because the person involved is Donald Trump, journalists sprinted to the nearest media platform to push back against the story.

The top Democrat on the House Intelligence Committee, Representative Adam Schiff, said in a statement that he has "grave concerns with the chairman that a credible investigation cannot be conducted this way." It could very well be that Nunes is attempting to give the president cover. He's a partisan, after all. That doesn't make the incident potentially less

serious. For one thing, the idea that the president shouldn't be shown intelligence is nonsensical. But if partisanship is disqualifying, we might as well shut down Washington, D.C. I mean, the other day, Schiff tweeted that the Russians hacked our election.

When it comes to conspiracies about the NSA or FBI or collusion or wiretaps, my default position is hard skepticism. That goes for Nunes's claims as well. This, however, is not the default position of the media at large, especially on accusations against the administration.

Journalists, many of whom take every conspiracy about Russia and Trump seriously, have no reason to dismiss the potential abuses of the NSA. Even if intel agencies failed to minimize frivolous information, it is still an abuse. Nunes might be misleading Americans, but as far as I know, he has not made any bizarre allegations in the past. It's not implausible that information legally obtained about Trump was subsequently abused by a government agency. In fact, Democrats have been warning us for years that something like this would happen.

## THE WALL STREET JOURNAL

### Did Obama Abuse Raw Intelligence?

Peter Hoekstra

It was remarkable when Devin Nunes, chairman of the House Intelligence Committee, revealed Wednesday that Trump campaign officials were caught up in the inadvertent collection of intelligence. Read between the lines with a clear understanding of the intelligence community, and it's positively astonishing.

Starting with the premise of Mr. Nunes's announcement, there's evidence to show that communications involving people connected with the Trump transition were collected by America's intelligence apparatus. We don't know the particulars, but it could include conversations between Trump transition staff and foreign officials whose conversations were subject to intelligence monitoring.

Things begin to get a little frightening when we learn that this inadvertent collection of Trump staff conversations was followed up with

transcriptions of those conversations and the disclosure (or unmasking) of the persons involved in the conversation. These transcripts would be considered raw intelligence reports.

When I was chairman of the House Intelligence Committee, I was routinely involved in briefings as a member of the "Gang of Eight"—both parties' leaders in the House and Senate and on the intelligence committees. I cannot recall how many times I asked to see raw intelligence reporting and was refused because that stuff is just not made available to policy makers.

But according to Mr. Nunes, such information made its way to the Obama White House before Inauguration Day. Few if any people working in the White House would ever need to see raw intelligence. Like intelligence committee members, they are typically consumers of intelligence *products*, not raw intelligence.

The raw transcripts of masked persons—or unmasked persons, or U.S. persons who can be easily identified—making their way to the

White House is very likely unprecedented. One can only imagine who, at that point, might be reading these reports. Valerie Jarrett? Susan Rice? Ben Rhodes? The president himself? We don't know, and the people who do aren't talking at the moment.

Then we have the testimony earlier this week from FBI Director James Comey and National Security Agency Director Adm. Mike Rogers. Mr. Comey said there was no basis to support the tweet from President Trump that his "wires" had been tapped by Barack Obama. What he didn't say—and wasn't asked—was whether information was collected on Trump staff by other means. Mr. Trump was a little inarticulate in the context of Twitter's 140-character limit, but it seems he got the general picture right.

Then there's Mr. Comey's testimony that the FBI had been investigating Trump staff for eight months. It almost certainly included surveillance; an investigation without surveillance would approach farcical.

Adm. Rogers told the House Intelligence Committee that there are strict controls in place for masking and unmasking the identities of people caught up in the inadvertent collection of information and the distribution of this kind of material. It now appears he either misled the committee or doesn't know what's happening inside his own agency. If Mr. Nunes is right, the rules either weren't followed or were much less stringent than Adm. Rogers let on.

Last, and rather damningly, I believe that Mr. Comey and Adm. Rogers would have to have known that raw transcripts of captured conversations that included members of the Trump team were at the White House. It is inconceivable that people in those positions of power would not know. While this may not be criminal, it is at least a cause for them to be fired.

My greatest concern—the one that keeps me awake at night—is that the awesome powers of our intelligence community might have been corrupted for political purposes. While we're not

witnessing broad, Stasi-style surveillance of citizens, it's clear there have been serious errors of

judgment and action among our otherwise professional intelligence community. This is truly scary. We

have to learn the entire truth before anyone, in or out of Congress, can

again have confidence in our intelligence community.

**Bloomberg**

## In Defense of Devin Nunes

Eli Lake

One of the strangest turns in the story of Russia and the Trump campaign has been the recent outrage from Democrats over politicization of the investigation.

This all centers on Chairman Devin Nunes, the Republican who is leading the House Intelligence Committee's investigation. He was an adviser to the Trump presidential transition. The White House asked him last month to talk to a reporter to rebut news stories that alleged Trump associates had many contacts with Russian intelligence officers. On Wednesday, Nunes briefed the president about new information he had regarding dozens of widely disseminated intelligence reports on the Trump transition. He did this before he briefed his committee's Democrats.

All of this has prompted an outbreak of high dudgeon from the party of Clinton. Representative Adam Schiff, the ranking Democrat on the committee, says Nunes must choose whether he wants to lead a credible investigation or be a surrogate of the Trump White House. House Minority Leader Nancy Pelosi says Nunes is a "stooge."

Nunes on Thursday gave a half apology for all of this to the minority members of his committee. He told me: "The bottom line is I know it hurt some people's feelings, but I had a judgment call to make and I did what I felt was right. The commitment remains to keep the committee bipartisan." He added, "I appreciate their concerns, but I had

to do what I had to do." Translation: The chairman loves your passion, Democrats.

So why would Nunes brief President Donald Trump before Schiff? The answer is that the entire Russia-Trump investigation by Congress from the beginning has been a partisan fight. Leaks about who may be a target of the probe, press conferences on "what we know so far," pushback from the White House and other Republicans -- it's all evidence that the Trump-Russia probe is a political football.

So both parties have tried to spin the investigation for partisan advantage. Take the latest from Schiff. He told MSNBC on Wednesday that there is now "more than circumstantial evidence" of collusion between Russia and Trump associates, whatever that means. If this investigation was really about finding the facts wherever they lead, then what purpose does it serve to offer such a judgment in an inquiry that is likely to twist and turn if it follows the pattern of past counter-intelligence probes? Investigators have an interest in closely guarding their findings until they are ready to present their conclusion. To be sure, Nunes in this respect is no better. He has assured the press that there is zero evidence of collusion at this point, which places him ahead of his own probe.

In reality neither the House nor the Senate committee is equipped to find out what really happened. They don't have the staff or expertise to hunt for spies or monitor the communications of suspected collaborators with Russia. The FBI and the intelligence community are

in such a position. The job of the House and Senate panels is to perform oversight of the intelligence community that is doing the investigation.

In this respect, Nunes is doing his job. There has been a longstanding concern that communications picked up incidentally of U.S. citizens can be shared widely within the national security state, effectively short circuiting the strict rules for obtaining a wiretap from a court. The intelligence community is supposed to expunge the identities and identifying traits of U.S. citizens if not pertinent for foreign intelligence collection. But the track record is mixed.

Nunes and Schiff worked closely on this issue last year following an explosive Wall Street Journal story about how the identities of members of Congress and Jewish organizations were not properly masked in taps on the communications of the Israeli prime minister and his top aides. The two of them worked out a new protocol that would inform the chairman and ranking members as well as other congressional leaders when such incidental collection was picked up.

Something like this appears to have happened with regard to Trump advisers after the election and before Trump's inauguration. As Nunes told reporters Wednesday, the collection of the information appears to be legal. Dozens of reports were generated, including details of communications about and between Trump transition officials, and they were widely disseminated inside the intelligence community. Nunes said none of

these intelligence reports were about Russia.

That in and of itself is not necessarily a scandal. As Tim Edgar, who served in President Barack Obama's first term as director of privacy and civil liberties at the White House, told me, the names of U.S. persons can sometimes appropriately be unmasked. "If he is saying there was a bunch of information overheard in intelligence reports and it wasn't necessary for their names to be included for foreign intelligence purposes, that is a violation of intelligence oversight rules designed to protect the constitutional rights of Americans," he said. "That is the purpose of the House Intelligence Committee."

How this story will turn out depends on what the FBI eventually digs up on Trump and Russia. It could be that there was a very good reason to distribute intelligence picked up by government eavesdroppers about the Trump transition team, if it turns out there was real coordination between Trump's associates and Russia on interfering in the election. What other ties exist?

But it's also possible that all of this is just smoke and no fire, to borrow the phrase of former acting CIA director and Hillary Clinton campaign surrogate Michael Morell. In that case, it's very troubling that Obama's intelligence bureaucracy appears to have been distributing intelligence reports about his successor's team. We won't know unless Democrats and Republicans follow those facts wherever they lead.

**NATIONAL  
REVIEW  
ONLINE**

## Devin Nunes -- Trump Wiretap Allegation

Earlier this month, President Trump accused his predecessor of ordering the "wiretapping" of Trump Tower in the final weeks of the presidential campaign. Last week, Richard Burr (R., N.C.) and Mark Warner (D., Va.), respectively the leading Republican and Democrat on the Senate Intelligence Committee, together announced that there were "no indications that Trump Tower was the subject of surveillance by any element of the United States government either

before or after Election Day 2016." That conclusion was echoed this week by FBI director James Comey during testimony before the House Intelligence Committee, and by committee chairman Devin Nunes (R., Calif.).

This comes as little surprise. Rather than looking into the reports that exercised him, Donald Trump chose to air his outrage on Twitter, and throw his administration into chaos. The damage to the White House's credibility that has resulted is entirely self-inflicted.

But a further twist in the saga came Wednesday. At a press conference, Nunes provided an update that suggests that further serious investigation is in order:

First, I recently confirmed that on numerous occasions, the intelligence community incidentally collected information about U.S. citizens involved in the Trump transition. Second, details about U.S. persons associated with the incoming administration, details with little or no apparent foreign-intelligence value, were widely disseminated in intelligence-

community reporting. Third, I have confirmed that additional names of Trump transition-team members were unmasked. Fourth and finally, I want to be clear, none of this surveillance was related to Russia or the investigation of Russian activities or of the Trump team.

Trump and his allies in the media have interpreted Nunes's comments as confirmation of his accusation. They obviously aren't. It appears that the communications of Trump associates, and possibly Trump himself, were swept up as part of legitimate intelligence efforts.



However, Nunes's other points, if true, are deeply troubling. The intelligence community has a responsibility to "minimize" the identifying information of U.S. citizens whose communications are incidentally collected. Likewise, "unmasking" is only sometimes appropriate, and the power to do so is generally restricted to a small number of officials. Nunes seems to be suggesting that Obama-administration officials flouted those protocols. His fourth point — that none of this surveillance was related to Russia — raises the question of how the intelligence in question was collected, and

whether the results were classified. Leaking classified information is, of course, a crime.

This information would likely be getting a fairer hearing had Nunes not chosen to disclose it to the White House before he informed the other members of the House Intelligence Committee — a lapse in judgment he has since acknowledged. Of course, the committee's ranking member, California Democrat Adam Schiff, has shown interest primarily in making political hay of the whole inquiry; over the weekend, he declared that Russia "hacked the

election" — a claim for which there is precisely *no* evidence.

We have repeatedly encouraged the Senate and House intelligence committees to conduct a thorough and, to the extent possible, transparent investigation of the various allegations tying the Trump campaign to Russia, and into the leaks that have fueled those allegations. At this point, it seems that the Senate's committee may be better suited to conducting this probe than the House's. If it is not up to the task, Congress ought to form a Select Committee.

Late on Thursday, Fox News's James Rosen reported that investigators have recently become aware of "smoking gun" evidence that "is said to leave no doubt the Obama administration, in its closing days, was using the cover of legitimate surveillance on foreign targets to spy on President-elect Trump." The president's reckless accusation may have been discredited, but important questions clearly remain. There's no excuse for not getting to the bottom of them.



## Nunes' freelancing threatens an investigation into Russian meddling

The Times Editorial Board

Can this investigation be saved? That's a fair question to be asked about the House Intelligence Committee's probe of foreign meddling in last year's election after an extraordinary violation of protocol by its chairman, Rep. Devin Nunes (R-Tulare).

Nunes went public Wednesday with sensational assertions that U.S. surveillance operations aimed at foreign targets had collected communications involving several members of President-elect Trump's transition team, and that some of the U.S. citizens were identified or "unmasked" despite a requirement that their names be suppressed. He also claimed that details about transition team members "with little apparent foreign intelligence value" were widely disseminated in intelligence

community reporting, presumably to various agencies.

Nunes' preemptive disclosure (and his interpretation of the information) surprised and angered Democrats on his committee; he reportedly has apologized for not informing them beforehand. Some experts are also questioning whether Nunes himself improperly discussed classified matters in public.

That Americans — including members of the Trump transition — might be "incidentally" recorded as the result of lawful surveillance of foreign officials and diplomats wouldn't mean that any law was violated. It would be troubling only if their identities weren't "minimized" as required by law before the information was shared among intelligence agencies. But by publicizing this information on his own — and going to the White House to brief President Trump about it — Nunes brought his credibility as an impartial

investigator into question. He also assisted, even if unintentionally, in Trump's efforts to downplay questions about what the president has dismissed as the "ruse" of possible undue Russian influence on him or his associates.

Sure enough, Trump, who famously (and recklessly) accused former President Obama of ordering the wiretapping of Trump Tower during the election, said he felt somewhat vindicated by Nunes' revelations — even though FBI Director James Comey and Nunes himself have debunked that assertion.

This wasn't the first time that Nunes has come to Trump's assistance. At an Intelligence Committee hearing Monday at which Comey and National Security Agency Director Mike Rogers testified about Russian involvement in last year's presidential campaign, Nunes and other Republicans focused on leaks of classified information. Trump tweeted that same day: "The real

story that Congress, the FBI and all others should be looking into is the leaking of Classified information. Must find leaker now!"

Rep. Adam Schiff (D-Burbank), the ranking Democrat on the Intelligence Committee, complained that Nunes' decision to share information with the White House before he provided it to the committee was a "profound irregularity." He warned that Nunes "cannot conduct a credible investigation this way."

He's right: Nunes shouldn't be briefing the president whose election campaign his committee is expected to scrutinize. Unless the chairman can reassure the public and his colleagues, including the panel's Democrats, that his freelancing days are over, the public may look elsewhere — the Senate Intelligence Committee or a proposed 9/11-style independent commission — for a trustworthy account.



## Russia probe needs a special prosecutor right now

Page Pate

It's clear that Russia tried to influence the presidential election last year. What's not clear is whether President Donald Trump or anyone associated with his campaign or transition team were involved. I don't think we will ever know the truth unless a special prosecutor takes over the investigation.

Congress is making a mess of the investigation. Senior members of the House Intelligence Committee are at odds after the Republican chairman, Devin Nunes, announced he had found evidence that members of the Trump transition team, and perhaps Trump himself, were caught up in an intelligence

investigation during the Obama administration.

Nunes hasn't publicly said what information he has seen, or how he got it.

But he quickly ran to the White House to advise Trump of his concerns without consulting other senior members of his committee. This raises serious doubts about his integrity and credibility. He can't run a meaningful investigation if he is off briefing the person being investigated.

We can't rely on the Justice Department to save the day. It's run by Jeff Sessions, a Trump ally and campaign associate. Although Sessions has agreed to step aside,

that doesn't solve the problem. In Sessions' absence, the deputy attorney general would decide if criminal charges are appropriate. But the deputy attorney general can be removed and replaced by Trump at any time if Trump decides he doesn't like the direction of the investigation. I don't see how people who work for Trump can credibly investigate whether Trump committed a crime.

FBI Director James Comey on Monday disclosed an ongoing investigation into the Trump campaign's potential collusion with Russia. His job is far from secure. Not only did he publicly disclose this criminal investigation (a bombshell itself), but he also basically called

Trump a liar -- not just once, but twice.

First, he denied the existence of any evidence to support Trump's claims of being wiretapped by President Barack Obama. Then, in an incredible real-time rebuttal of a Trump tweet, Comey refuted a claim made by the White House that the FBI and National Security Agency had confirmed to Congress "that Russia did not influence electoral process."

And Comey has his own problems that may make it politically easier to remove him. His popularity is the lowest of any FBI director in history according to one recent poll, and he is facing an internal Justice Department investigation into

whether he violated policy by disclosing the investigation into Hillary Clinton's emails when he did.

It's easy to imagine Trump asserting that he has lost confidence in Comey and that the investigation that apparently started in July has gone on long enough with no measurable results. Trump could then replace Comey with someone

who would terminate the investigation.

Because Trump has the ability to terminate this investigation by firing the investigator, the only way to get to the truth is to appoint an independent special prosecutor. Ideally, this person would be appointed by a panel of federal judges and subject to removal only for good cause.

But the law that authorized this type of independent counsel expired long ago, so any special prosecutor would have to be chosen by someone in the Justice Department. That's not a perfect solution, but it's the best one available.

A special prosecutor, if competent and credible, would be able to dig through the available evidence and, ultimately, make an informed and

nonpartisan decision about bringing criminal charges. A special prosecutor is exactly what our country needs. And we need one now.



## Paul Ryan Is Trying to Save Himself

Jonathan Bernstein

As I write this, House Republicans and President Donald Trump are scrambling around to find some health care bill, any bill, that they can call "repeal and replace" and pass as scheduled on the House floor on Thursday.

What's really going on? Speaker Paul Ryan, 47, is desperately trying to avoid blame for the top Republican agenda item failing. And he's hooked a foolish, inexperienced president to go all-in with him.

The basic problem is that Republicans have spent years building up expectations for repealing Obamacare without coming up with two crucial parts of their solution: An alternative that they agree on, and the votes in the Senate to impose whatever they want-- if they could agree on what they want.

Today, the problem boils down to a simple numbers game in the House. With no Democrats voting to scrap Obamacare, Republicans can only afford to lose 22 of their own votes. And while most mainstream conservatives are apparently willing to go along with whatever Ryan produces, satisfying the radical

conservatives in the House Freedom Caucus threatens to lose too many votes from relatively moderate conservatives, and vice versa. As of now, they're losing votes from both sides.

It doesn't help that the bill that Ryan pushed through committee polls very badly. Or that the new president pushing the bill publicly is unpopular. Or that members of Congress probably don't trust that president.

And it surely doesn't help that the bill appears doomed in the Senate, despite Majority Leader Mitch McConnell's pledge to rush whatever comes out of the House straight to the Senate floor (perhaps with changes drafted by him), avoiding the committee process. That raises the possibility that individual House Republicans could wind up with a double whammy -- blamed by their constituents for failing to repeal and replace Obamacare, but also hit with attack ads because they will have voted against the many popular provisions of the Affordable Care Act.

No wonder New York Times columnist Ross Douthat suggested that whatever winds up in the bill, Republicans just oppose it.

So why is the bill still moving forward towards a vote as early as

Thursday night, even though there's no final version of the bill and even though there's no sign that anyone actually likes it?

As far as I can tell, it's because Ryan and the rest of the Republican leadership has a strong interest in ducking blame. Conservative activists, fueled by conservative media, are going to be furious if a unified Republican government can't manage to kill off Obamacare. And they're going to find scapegoats. If a bill never even comes up for a vote in the House, Ryan will be the most obvious target to choose.

If, however, the bill dies in the Senate, then partisans might be deflected towards blaming Democrats for filibustering, or at least (from Ryan's perspective) blaming McConnell for the failure. Or the Republican Senators who would vote against it. Anyone but him.

Even if the bill winds up failing on the House floor, it's possible Ryan could pin the blame on Republicans who voted against it, although that's a tricky one given that they could turn against him -- and that he would be forcing every House Republican to take a tough vote. That's because key Republican groups are splitting for (Chamber of Commerce) and against (Heritage,

Club for Growth), which won't encourage House Republicans to have warm and cuddly thoughts about their Speaker.

(Will Trump, who is still popular among Republicans, save Ryan? Perhaps -- but it's also entirely possible that Trump, despite spending March trying to pass the bill, could turn around and claim he had always opposed the "Congress" bill and predicted it would fail, while touting his own soon-to-be-unveiled terrific bill that gives everyone perfect coverage at lower prices).

Whatever happens, the last few weeks have been strong evidence that Ryan has utterly failed to fix the dysfunction in the House Republican conference that plagued Speaker John Boehner. But perhaps Ryan can at least prevent himself from becoming Conservative Enemy #1. At least, that seems to be what he's trying to do.



## Opinion | The health-care vote delay gives Republicans an opportunity

The Editorial Board

DESPITE A frenzied campaign by the White House and Speaker Paul D. Ryan, House Republicans failed to vote on the American Health Care Act on Thursday. So much the better: A badly flawed bill that in its original conception would have done far more harm than good got steadily worse as the GOP leadership tried to buy conservative support.

The AHCA underwent several major revisions this week that lawmakers

had little time to process. Then, in their determination to keep to their vote schedule, Republican leaders discussed adding a massive health-care regulatory rollback designed to attract votes from the ultra-conservative House Freedom Caucus -- changes that the Congressional Budget Office (CBO), the nation's chief legislative scorekeeper, would have been unable even to fully analyze before a Thursday vote. In the process, GOP leaders threatened to commit the sort of legislative malpractice Republicans had accused Democrats of perpetrating in passing Obamacare seven years ago: rushing through a far-reaching

reform without any buy-in from the other party and without giving lawmakers, let alone the public, a fair chance to evaluate its effects.

House Republicans might still make irresponsible hypocrites of themselves by voting on the measure Friday or early next week. Instead, they -- and President Trump -- should take a deep breath.

The longer the GOP bill has been on the table, the clearer its disastrous implications have become. First was a CBO report on the initial draft, finding that it would result in 24 million more people without health coverage within a

decade -- and that it would concentrate the pain on the aging and the low-income. A rollback of Medicaid would have left many extremely vulnerable people at the mercy of a market that was unlikely to serve their needs. Meanwhile, upper-income people would have received a tax cut.

Though Republican leaders decided to devote more money to helping aging people purchase insurance, it was unclear as of Thursday whether that would increase enrollment, let alone the quality of insurance that older and poorer buyers would be able to afford.

Rather than waiting for the picture to clear up, GOP leaders discussed even larger changes aimed at mollifying House conservatives. One would have repealed Obamacare's "essential health benefits," which require that insurers cover things such as prescription drugs, preventative care, addiction treatment and maternity services. Without these

rules, the individual health-care market would return to its pre-Obamacare Wild West days — when insurers often sold flimsy policies designed to protect them from paying for their customers' major health problems — except under the GOP bill, the federal government would also subsidize the purchase of skimpy plans. People who wanted to buy

comprehensive coverage would struggle to find insurers willing to sell it to them, because no sane insurance company wants to attract sick patients. Even this desperate move failed to attract enough support in time for a Thursday vote.

Obamacare could use some reforms. But neither the public nor the actual state of the health system

demands a destabilizing repeal. Thursday's setback provides Mr. Trump with the opportunity to adopt a new course, moving away from intransigent conservatives and pragmatically working with Democrats as well as Republicans to improve the health-care system without depriving millions of people of coverage.



## Repair damage from Obamacare: Opposing view

Juanita Duggan

For decades, the National Federation of Independent Business (NFIB) has asked small business owners to rank the top challenges. For more than 30 years, their No. 1 problem has been the high cost of health care.

Obamacare turned this concern into a crisis for small businesses. It fails to deliver on its main promise to make health care more affordable. For small business owners, the law has made insurance more complicated, more restrictive and more expensive. Two-thirds of small businesses report higher premiums.

Sixty percent of them say their premiums have increased by double digits.

NFIB members saw this coming. Our members saw from the beginning that Obamacare would result in massive inefficiencies, fewer choices and higher costs. We fought it all the way to the Supreme Court, where it was upheld by a narrow 5-4 decision.

The American Health Care Act (AHCA), on which the House plans to vote Thursday, is the first step in repairing the damage. It would eliminate the mandates and taxes that hamper small business and

limit economic growth. It would provide flexibility by boosting health savings accounts. According to the Congressional Budget Office, it would decrease the cost of premiums over 10 years.

To be sure, there is much more to be done. For example, the administration is committed to scrapping or rewriting health care regulations that drive up costs, reduce options and create compliance headaches. Congressional leaders say they are committed to additional reforms to increase competition, expand choices, and drive down premiums. To get there, AHCA must pass, and

then Washington needs to follow through on other reforms to make health care affordable, flexible and predictable.

NFIB's Small Business Optimism Index has been at near-record levels for several months. Small business owners anticipate big changes in federal policies, including the repeal and replacement of Obamacare. If that effort stalls, small business optimism will fade, along with plans for hiring, expansion and other business activities that create economic growth.



## Delay on GOP health care vote: Bill 'too conservative' and 'not conservative enough'

The Christian Science Monitor

March 23, 2017 Washington—House Speaker Paul Ryan thought he had found the "sweet spot" in the Republican health care plan — a bill that would appeal to both GOP conservatives and moderates.

But on Thursday, sweet turned sour. Despite intense coordination with the White House and the president's personal involvement on the GOP bill to repeal and replace Obamacare, the speaker was forced to delay the bill for lack of Republican votes. A new vote is scheduled for Friday.

If Speaker Ryan is unable to forge a compromise that will bring him to victory, it will be a huge blow to the Republican agenda, to his speakership, and to President Trump.

Failure on such a high priority campaign promise would be "a very bad sign for Trump, Ryan, and the entire GOP agenda," writes John Pitney, a congressional expert at Claremont McKenna College in Claremont, Calif., in an email. "Trump has said that his next big priority is tax reform, but he will find that this issue is just as complicated

and contentious as health care reform."

It's unclear just how this will be resolved — or if it will be. Negotiations with the holdouts — mainly conservative members of the hard-line House Freedom Caucus, but also moderates — will continue.

"We're going to get to the finish line," Freedom Caucus leader Rep. Mark Meadows (R) of North Carolina, told reporters Thursday, saying negotiations are "making progress." Still, he said, the caucus is trying to get another 30 to 40 "no" votes to "yes." The speaker can afford to lose only 21 or 22 votes, depending on the number of people present.

But the factors that contributed to this embarrassing setback haven't changed: ideological divisions within the GOP, a rushed and unwieldy process to tackle a complex issue, and a piece of legislation that's not very popular.

Inability to bridge the divide in the House shows the bill "wasn't conservative enough, and it was too conservative" at the same time, says G. William Hoagland, a health-policy expert and senior vice

president of the Bipartisan Policy Center.

### 'Just so many questions'

"There's just so many questions" about the bill, called the American Health Care Act, Rep. Walter Jones (R) of North Carolina told reporters on Wednesday. He planned to vote "no," and said that emails and phone calls from his district totaled 800 in opposition to the bill, and only four in support. Voters oppose the GOP plan by a 3-to-1 margin, according to a Quinnipiac poll released Thursday.

The whole thing has been rushed, Congressman Jones complained, and said he's particularly worried about tripling insurance premiums for older Americans who don't yet qualify for Medicare. He has also received letters from the Paralyzed Veterans of America who have problems with the bill.

Republican House leadership beefed up financial assistance in their bill after moderate members — and some conservatives — were rattled by a nonpartisan Congressional Budget Office estimate that the GOP's plan would leave 24 million people without

coverage and significantly raise premiums on older Americans.

The report also estimated a cut of federal Medicaid dollars to the states by \$880 billion, as the plan radically restructured this federal-state program for the poor.

To satisfy conservatives, the leadership allowed states greater flexibility to manage Medicaid, including the option to add work requirements for childless, able-bodied adults. But the changes were not enough, and hard-right Freedom Caucus members — supported by a few like-minded senators — are holding out for more.

They want assurances that premiums will come down and reportedly asked for documentation to that effect when they met with President Trump on Thursday morning. Some of them also want to kill all regulations in the Affordable Care Act — including protection from pre-existing conditions and keeping young adults on their parents' plans, which Trump won't back down on.

What the president apparently did offer was to strike the "essential benefits package" required of all health insurance plans, which says minimal coverage must include



such things as mental health coverage, preventive care, and maternity care. That wasn't enough for the caucus members, who say killing all the regulations will allow more competition and choice and bring down premium prices.

If the House leadership moves too far to the right, however, it jeopardizes support from House moderates, as well as passage in the more moderate Senate – already a very steep climb.

"There is a lot of concern" about the House bill, says Sen. Susan Collins (R) of Maine, a moderate who opposes the bill.

While she would welcome more flexibility in the types of plans that could be sold, "we have to remember that the essential benefits include substance-abuse and mental-health treatment that are *critical* to retain for my state and

for many others given the opioid crisis," she says.

The nonpartisan Congressional Budget Office scored the revised bill Thursday and says it would result in \$150 billion less in savings, but still result in 24 million people losing health coverage.

Like several other Republican senators, Senator Collins believes the process needs to slow down.

#### Go-it-alone effort

Much of the debacle is due to the Republicans' go-it-alone effort, observers say.

Two transformative presidents, Democrat Lyndon Johnson and Republican Ronald Reagan, were able to pass major bills by putting together bipartisan coalitions.

"That option is not available to Donald Trump," explains Professor Pitney. "He has to pass it with

Republican votes only, and his party is just so deeply divided."

Republicans campaigned vigorously against President Obama's Affordable Care Act in the last four elections, vilifying it and promising to pull it out "root and branch." Democrats were not about to help them with this extraction, despite obvious problems with the law. They mounted a huge public campaign to defeat the GOP effort.

Republicans have "put themselves in a box canyon," says longtime congressional observer Norman Ornstein, of the American Enterprise Institute, a center-right think tank.

The GOP's do-it-yourself approach has forced the party to use an unwieldy budget process whose upside is that it only takes a majority vote in both houses to pass a bill – but whose downside is that the

legislation has to relate strictly to the budget.

It's therefore not possible to completely repeal Obamacare and all of its stipulations using this budget process, called reconciliation, Republican leaders have explained. That's a real problem for hard-liners who refer to the GOP bill as "Obamacare-lite." Now they are trying to find a way around that to meet Freedom Caucus demands.

What Republicans are discovering is how difficult it is to take away a health benefit – even an imperfect one – and how complex health policy is, says Amy Black, a political science professor at Wheaton College in Illinois. " 'Repeal and replace' is really catchy campaign rhetoric and works really well in that forum, but 'repeal and replace' is actually a very complicated path to take."



Asawin Suebsaeng and Jackie Kucinich

After trying to appease the Freedom Caucus, the White House broke off negotiations and issued an ultimatum: pass a bill Friday or never.

After a day of meetings on both ends of Pennsylvania Avenue, House Republicans and President Donald "The Closer" Trump appeared no closer to passing their unpopular health-care bill.

By Thursday evening, Trump pulled out the stops and sent his top lieutenants to make his homestretch pitch to congressional Republicans. Stephen Bannon, Mick Mulvaney (who was seen carrying a folder marked "Urgent Action"), and Reince Priebus convened in House Speaker Paul Ryan's office to try to convince still-skeptical members of the Freedom Caucus. The private meeting, which included a veal parm dinner, was hardly the slam dunk anyone wanted. When Freedom Caucus member Rep. Mo Brooks finally emerged from the hours-long gathering, The Daily Beast asked him if there was any change or new progress. Brooks replied, tersely, "none."

Subsequently, another Freedom Caucus source messaged The Daily Beast, "NO progress," following the private dinner with Ryan and the White House officials.

## President Trump to House GOP: It's My Way or Obamacare Stays

Next, the small gathering headed to the bowels of the Capitol, where House Republicans and White House officials (now joined by Kellyanne Conway), attended another closed-door meeting—this time to rally the troops and, in a way, deliver an ultimatum.

According to multiple people in the room, Mulvaney told the crowd that their president is demanding a vote on Friday, and that he's through negotiating. And if the AHCA tanks, Trump is moving on to working on tax reform, and everyone is "stuck with Obamacare," Mulvaney cautioned.

During their big, after-hours meeting, the House Republicans at times got loud and rowdy. One House Republican even stood up and started quoting Benjamin Franklin from the Constitutional Convention, to a crescendo of applause, Rep. Matt Gaetz told press. But for all the celebratory and fired-up antics, the bill's skeptics left Capitol Hill on Thursday as skeptics or hard-no's.

Meadows, for one, left the meeting assuring reporters that his mind hadn't changed, and that he had another meeting with his caucus that evening to discuss next steps. Bannon left the GOP House meeting saying, "vote, and we'll see," as he headed to the door mid-meeting. House Majority Leader Kevin McCarthy, when asked repeatedly by reporters if leadership has the votes tomorrow to pass Trumpcare shot back, "Of course

we have the votes," keeping his game face up.

The dramatic, sustained uncertainty heading into Friday's planned vote is in large part a direct result of the Freedom Caucus trying to draw every desired concession out of congressional leadership and Trump, and still not completely and absolutely getting the caucus's way.

As the bill grew more conservative overnight on Wednesday, leadership watched as moderate Republicans jumped ship—leaving them increasingly at the mercy of the House Freedom Caucus. A visibly frustrated Rep. Patrick McHenry, the chief deputy whip of the Republican Conference, hurried through the halls midday telling reporters that the Freedom Caucus had been presented with a deal and it was up to them to "accept or reject" it.

While leadership frantically plied the remaining moderates with pizza, the Freedom Caucus met at the White House in an attempt to woo more caucus votes for his Trumpcare legislation.

During the meeting, the White House offered nixing "essential health benefits" from the House bill—a proposal that would prove anathema to more moderate Republicans in both the House and Senate. The president, however, did not budge on Title I of the Affordable Care Act, which many members of the caucus deemed a dealbreaker.

Upon their return to the Hill, they huddled behind closed doors inside the Rayburn Office Building for two hours, before emerging to tell reporters very little had changed.

"We have not gotten enough of our members to get to yes at this point under what we're currently considering," Rep. Mark Meadows, chairman of the House Freedom Caucus, told reporters, emerging from a closed-door meeting in the Rayburn House Office Building, following his latest face-to-face with Trump.

He noted that "progress," however fruitless at this point, was being made with the president.

When asked by The Daily Beast if he agreed with some of his conservative colleagues that voting for the American Health Care Act, as is, would be worse than doing nothing, Meadows responded, "I think at this point, some of the provisions in here do not lower health-care costs enough... [but] the problem with doing nothing [is] I don't believe that that's an option."

The Daily Beast pointed out to Meadows that Michael Cannon, a Cato Institute health-care wonk who was invited to address the caucus yesterday, told members that doing so would be worse, Meadows replied, "Mike Cannon is certainly a learned individual when it comes to health care."

As the day progressed it became clear to that the math didn't work

out and that the bill would have to be pushed back.

But despite the increased travel between the White House and the Capitol on Thursday, apparently no one told the White House.

"The president's plan is to pass the bill tonight, get it on to the Senate, and then sign a bill once it goes through conference," a confident White House press secretary Sean Spicer confidently told reporters.

"That's the president's plan, and that's why the president has been fighting for it."

An hour later House Republican leaders, realizing their vote count

was still shy the 215 they need, postponed it until Friday.



## Schumer: Democrats will filibuster Gorsuch nomination (UNE)

Senate hearings on Supreme Court nominee Neil Gorsuch ended Thursday on a confrontational note, with the body's top Democrat vowing a filibuster that could complicate Gorsuch's expected confirmation and ultimately upend the traditional approach to approving justices.

Senate Minority Leader Charles E. Schumer (D-N.Y.) said he will vote no on President Trump's nominee and asked other Democrats to join him in blocking an up-or-down vote on Gorsuch.

Under Senate rules, it requires 60 votes to overcome such an obstacle. Republicans eager to confirm Gorsuch before their Easter recess — and before the court concludes hearing the current term of cases next month — have only 52 senators.

Republicans have vowed Gorsuch will be confirmed even if it means overhauling the way justices have long been approved. Traditionally, senators can force the Senate to muster a supermajority just to bring up the nomination of a Supreme Court justice. If that is reached, the confirmation requires a simple majority.

In a speech on the Senate floor, Schumer said: "If this nominee cannot earn 60 votes — a bar met by each of President Obama's nominees and George Bush's last two nominees — the answer isn't to change the rules. It's to change the nominee."

Judge Neil Gorsuch continued with his third day of Supreme Court nomination hearings on March 22, answering broad questions but rankling Democrats with his refusal to state specifics. Here are the highlights from the day. Judge Neil Gorsuch continued with his third day of Supreme Court nomination hearings on March 22, answering broad questions but refusing to state specifics. (Video: Jenny Starrs/Photo: Ricky Carioti/The Washington Post)

The Democrats' liberal base has been pressuring senators to block Trump's nominees across the

government. But Schumer stopped short of saying that his entire Democratic caucus would join him in opposition to Gorsuch, leaving political space for some Democrats to find ways to work with Republicans.

Democrats may not have the votes to block Gorsuch, 49, who has been on the Denver-based U.S. Court of Appeals for the last decade and was nominated to fill the Supreme Court seat left vacant since Justice Antonin Scalia died unexpectedly in February 2016.

Several Democrats, especially those facing upcoming reelection battles in states that Trump won, are facing opposition from conservative organizations bankrolling a multimillion-dollar ad campaign designed to bolster Gorsuch.

There are also competing views among Democrats about whether to filibuster Gorsuch's nomination — which could provoke the Republican majority to rewrite the rules — or instead avoid confrontation and preserve the filibuster threat for the future. Retaining the filibuster could force Trump to select a relatively moderate nominee if in the coming years he gets a chance to replace a second Supreme Court justice.

Among recent Supreme Court nominees, the 60-vote threshold has not caused a problem. President Barack Obama's choices of Sonia Sotomayor and Elena Kagan each received more than 60 confirmation votes. Samuel A. Alito Jr., chosen by President George W. Bush, was confirmed 58 to 42 in 2006, but 72 senators voted to defeat a possible filibuster and allow his confirmation vote to go forward. Indeed, only Alito — among the last 16 Supreme Court nominees — was forced to clear the supermajority hurdle to break a filibuster.

In announcing his confrontational approach, Schumer said that Gorsuch "was unable to sufficiently convince me that he'd be an independent check" on Trump. Schumer said later that the judge is "not a neutral legal mind but someone with a deep-seated conservative ideology," hand-picked

for Trump by conservative legal groups.

Thomas C. Goldstein, a Supreme Court practitioner and co-founder of SCOTUSblog, said that Democrats on the Senate Judiciary Committee did not present a compelling case that Gorsuch was either an illegitimate nominee or that he was outside the conservative mainstream.

White House press secretary Sean Spicer on March 23 said it was "truly disappointing" that Senate Minority Leader Charles E. Schumer (D-N.Y.) announced that he would seek to filibuster the nomination of Judge Neil Gorsuch, President Trump's Supreme Court nominee. White House press secretary Sean Spicer scolds Senate Minority Leader Charles E. Schumer (D-N.Y.) for vowing to filibuster Judge Neil Gorsuch's confirmation. (Reuters)

"None of the Democrats set the table" for a filibuster, Goldstein said. He speculated that one option for some Democrats would be to allow an up-or-down vote, and then to vote against confirmation.

In addition to Schumer, Sens. Thomas R. Carper (D-Del.), Robert P. Casey Jr. (D-Pa.) and Ron Wyden (D-Ore.) announced Thursday that they would filibuster Gorsuch. Casey is one of 10 Democratic senators running next year in a state that Trump won.

The Judicial Crisis Network, which is spending at least \$10 million on television ads to persuade Democratic senators to support Gorsuch, called Casey and other Democrats opposing Gorsuch "totally unreasonable" because "they will obstruct anyone who does not promise to rubber stamp their political agenda from the bench."

Senior Republicans have vowed that Gorsuch will be confirmed no matter what — a veiled threat to Democrats that they might use the nuclear option to change the way senators confirm Supreme Court justices.

"If Judge Gorsuch can't achieve 60 votes in the Senate, could any judge appointed by a Republican president be approved with 60 or more votes in the Senate?" Senate

Majority Leader Mitch McConnell (R-Ky.) said this week.

Much of the Democratic resistance to Gorsuch centers on the GOP's decision last year to block consideration of Judge Merrick Garland, Obama's choice to replace Scalia.

But moderate Democrats have said they are hoping that the two parties can come to an agreement that leads to Gorsuch's confirmation and the preservation of current Senate traditions.

Sen. Joe Manchin III (D-W.Va.), seen as the Democrat most likely to support Gorsuch, said he needed to hear more from the nominee but warned Democrats against risking the deployment of the nuclear option.

"I haven't completely made up my mind. I'm going to go talk to him next week; then I'll make my decision," Manchin said. "But I just think the Senate is on a slippery slope."

After two days of answering senators' questions, Gorsuch was not present on Thursday as civil rights leaders, conservative activists, professors, judges and former clerks debated whether he belonged on the high court.

On the final day, there were many empty seats in the hearing room, including on the dais as senators dropped in and out to cast votes.

Opponents expressed concern about Gorsuch's record on civil liberties, election laws and reproductive rights. Gorsuch's approach "reflects a narrow view of civil rights and a deep skepticism of protecting those rights in the courtroom," said Kristen Clarke, head of the Lawyers' Committee for Civil Rights Under Law.

Gorsuch's former law clerks and other attorneys countered criticism that as an appellate judge he has favored corporations and employers over individuals. They cited his sympathy and respect for litigants and rulings to protect the rights of religious minorities and prisoners.

Senior U.S. District Judge John L. Kane, also from Colorado, assured the committee that Gorsuch knows

that his social, political and religious views have no place on the bench.

"Gorsuch is not a monk, but neither is he a missionary or an ideologue," Kane said.

Human rights advocates raised concerns about Gorsuch's tenure at the Justice Department during Bush's presidency, when he worked on cases related to the detention of terrorism suspects. Gorsuch helped draft language designed to support

Bush's claims of executive authority on matters of torture and the treatment of detainees.

Gorsuch told the committee this week that he was merely acting as an attorney for his then-client.

But Jameel Jaffer, head of the Knight First Amendment Institute at Columbia University, said Gorsuch volunteered for the duty. "It is not the case ... that Judge Gorsuch happened to be a government

lawyer at a time when the government — his client — endorsed torture and a sweeping view of presidential power. The government endorsed those things first, very publicly, and then Judge Gorsuch chose his client."

The committee also heard a highly personal account directly from Jeff Perkins, the father of a child with autism whom Gorsuch ruled against in 2008. Perkins called the decision

by the U.S. Court of Appeals for the 10th Circuit "devastating," requiring one parent to move to another school district to get his son, Luke, the education he needed. Gorsuch's 2008 decision came under scrutiny on Wednesday after the Supreme Court unanimously ruled in another case that the standard Gorsuch applied for assessing the educational benefit for students with disabilities was too low.

## THE WALL STREET JOURNAL

### Schumer Urges Filibuster to Block Gorsuch Confirmation

Byron Tau

WASHINGTON—The Senate's top Democrat will oppose Judge Neil Gorsuch's confirmation to the Supreme Court and urged his Democratic colleagues to block the nomination.

On the Senate floor, Sen. Chuck Schumer of New York said that he couldn't support President Donald Trump's nominee, saying he feared he was insufficiently independent of the Trump administration and concerned about his testimony this week before the Senate Judiciary Committee and his history of decisions on the 10th Circuit Court of Appeals.

"I've thought long and hard about this nomination and what it means for the future of the Supreme Court and the future of our country," said Mr. Schumer, the Democratic minority leader. "What is at stake is considerable."

Mr. Schumer urged his Democratic colleagues to block the confirmation by using a procedural maneuver known as a filibuster, which takes 60 votes to overcome.

Mr. Schumer's decision sets up a quandary for Republicans in the Senate. Democrats will insist Judge Gorsuch meet the 60-vote threshold to end the filibuster, in a body where Republicans control only 52 seats.

The party will need either to win eight Democratic votes or change the rules to eliminate the 60-vote threshold. The Democrats, when they were in the majority in 2013, eliminated the 60-vote requirement on lower court judges and cabinet nominations but preserved it on Supreme Court nominees.

Republicans have enough votes to change the Senate rules, but such an action is considered drastic. It has drawn concerns from institutionalists in both parties concerned about the comity and working order of the Senate.

"The answer isn't to change the rules. It's to change the nominee," Mr. Schumer said.

Some within the Democratic caucus have discussed cutting a deal with some Senate Republicans to preserve the 60-vote threshold on Supreme Court nominees, according to a person familiar with the matter. Under the proposal, the Democrats would give Republicans

enough votes to confirm Judge Gorsuch in exchange for a commitment to vote against a rules change on future Supreme Court nominees.

Such a deal would take at least eight Democrats and three Republicans and could be cut independently of the Senate leadership of both parties. The idea is still tentative, a source familiar with the caucus said.

In addition to Mr. Schumer, Democratic Sen. Bob Casey of Pennsylvania also said he would oppose Judge Gorsuch's nomination. "I have serious concerns about Judge Gorsuch's rigid and restrictive judicial philosophy," said Mr. Casey on Thursday.

That brings the total number of Democratic "no" votes to eight, with many more in the caucus leaning against voting to confirm him to a lifetime appointment on the Supreme Court.

His nomination has drawn nearly unanimous support from Republicans in the Senate, who say he is unquestionably qualified.

"If you can't vote for somebody like Judge Gorsuch, you're not going to be able to vote for any nominee from a Republican president because there simply isn't anybody better qualified by virtue of his experience, his education, his training, and his temperament for this job," said Sen. John Cornyn, a Texas Republican.

Judge Gorsuch has been testifying all week in front of the Senate Judiciary Committee. In his testimony, he has stressed his independence and has portrayed himself as above the political fray and willing to give any litigant a fair shot in his courtroom.

"Putting on a robe reminds us that it's time to lose our egos and open our minds," Judge Gorsuch said. "Once in a while, of course, we judges do disagree. But our disagreements are never about politics—only the law's demands."

Judge Gorsuch vowed to one GOP senator that he would have "walked out the door" if Mr. Trump had asked him for a commitment to overturn abortion rights, an important priority for many Republicans.

## The Washington Post

### Opinion | Yes, Democrats should filibuster Gorsuch. His record shows why.

By James Downie

The Republican theft of the Supreme Court proceeded apace this week. By any rational measure, we should be in the middle of Merrick Garland's first year on the Supreme Court. Republicans' unprecedented refusal to even give Garland a confirmation hearing would be reason enough for Democrats to filibuster President Trump's nominee, Neil Gorsuch. But even if circumstances were

normal, Democrats should be eager to filibuster Gorsuch anyway. Judge Gorsuch's record suggests Justice Gorsuch would favor powerful interests over regular people — perpetuating a system that voters oppose.

A survey of Gorsuch's record shows that when he has broken with his colleagues, it is usually to favor businesses over workers. He dissented in the "frozen trucker" case, where the majority agreed that a company could not fire a

driver for unhitching his cargo to search for help in subzero temperatures. In his dissent, Gorsuch argued that protections for a worker "refusing to operate his vehicle" in unsafe conditions did not cover unhitching a trailer. In 2011, he dissented from a ruling to affirm a Labor Department fine of a company that had not offered adequate safety training to a worker, which resulted in the worker's death by electrocution. Just last year, he argued in a dissent that the National Labor

Relations Board could not order \$100,000 in back pay for hospital workers whose hours had been illegally reduced.

It's no surprise then that Gorsuch's writings show a broad preference for corporations over consumers and regulators. Not only would he overturn the *Chevron* decision — which requires courts to defer to agencies' interpretations of statutes — but he supports a return to 1930s-era limits on the power of those agencies. This would jump-



start Stephen K. Bannon's "deconstruction of the administrative state." He has also been critical of class-action lawsuits as a litigation method and appears to follow Justice Antonin Scalia's footsteps in favoring businesses' growing use of arbitration clauses in contracts and user agreements to sidestep consumer protection laws. Taken together, Gorsuch's views would strip away key protections for American workers and consumers, especially minorities and the poor.

Gorsuch's record cuts against Americans' civil rights as well. He was part of a ruling against a transgender woman whose employer had barred her from using the women's restroom for "safety

reasons." He dissented from a ruling blocking Utah's governor from withholding Planned Parenthood's federal funding. And a Stanford Law Review summary of his record on civil rights cases said, "Gorsuch has erected and heightened hurdles for civil rights plaintiffs."

Let there be no mistake: Despite his protestations that there are no Republican or "Democrat" judges, Gorsuch was deliberately chosen for his legal and political views. According to the New York Times, Trump gave "wide discretion" in building a list of Supreme Court nominees to leaders from the conservative Federalist Society and the Heritage Foundation. The "more public part of the push" for Gorsuch

has been run by Carrie Severino, chief counsel for the Judicial Crisis Network, which has ties to the Koch donor network. Gorsuch is "their first test case" for remaking the judicial branch.

*[Democrats are going to filibuster Gorsuch. It's the right thing to do.]*

If Senate Majority Leader Mitch McConnell wants to "go nuclear," Democrats should force him to do it on ground of their choosing. The 2016 election showed that voters on both sides are fed up with a system that they feel ignores their voices. Gorsuch would be another vote on the court to preserve that system. Democrats on the Judiciary Committee such as Al Franken and Amy Klobuchar of Minnesota have

done a good job attacking Gorsuch on his corporate-friendly record. Now it's up to the broader caucus to follow through.

There is no doubt that, by traditional standards, Gorsuch is qualified for the Supreme Court. But the "qualified" standard went out the window when Republicans ignored the even-more-qualified Merrick Garland. Moreover, a bad ruling's real-world impact is not lessened because justices had the right "qualifications." Simply put, Gorsuch on the Supreme Court will be bad for ordinary Americans. Democrats are right to want this fight.



## Could Justice Neil Gorsuch Become Conservatives' Next Worst Nightmare?

Jay Michaelson

If Gorsuch is telling the truth about his legal philosophy, he more closely resembles Kennedy than Scalia.

It's widely assumed that Judge Neil Gorsuch's refusal to answer any substantive questions about Supreme Court precedents is, basically, insincere. There's a reason the Heritage Foundation, the Judicial Crisis Network, and the religious right have lined up behind Gorsuch: because they know full well that his "originalism" inevitably restricts civil rights for minorities, strengthens the strongest, and weakens the modern regulatory state. Which is why he's not admitting what he believes.

But what if Gorsuch means it?

What if he actually means statements like "I'm not going to say anything here that would give anybody any idea how I'd rule in any case like that." Or, "How I'd apply this to a specific case, I can't talk about that." Or "I can't promise you how I'm going to rule in a particular case—I will exercise the care and consideration of precedent that a good judge is supposed to."

If he really means all of this, then Gorsuch could turn out to be not the next Justice Antonin Scalia, an ideologue to the end, but Justice Anthony Kennedy, whose case-by-case reasoning eventually led him to be the darling of the left and bitter enemy of the right.

Now, the smart money says that Gorsuch is being smart. He knows

the confirmation hearing is a political charade, that Republicans will vote for him and Democrats against him, and that this battle will come down to a filibuster or a compromise of some kind. So he's doing what liberal and conservative nominees have done for decades, which is refuse to say anything about controversial cases like *Roe v. Wade* or *Citizens United*, or issues like same-sex marriage or voting rights.

That is certainly how Gorsuch conducted himself this week. And that's why Sen. Dianne Feinstein (D-CA) told him, "You have been able to avoid specificity like no one I have ever seen before."

But let's entertain the possibility that he's telling the truth. That his version of originalism is simply that judges should "try to understand what the words on the page mean, not import words that come from us," as he said Wednesday.

And, even more importantly, that "as a judge, my job is to decide cases as they come to me. If I start suggesting that I prefer or dislike this or that precedent, I'm sending a signal—a hint, a promise, a preview about how I'd rule in a future case."

This is Kennedy's legal philosophy, not Scalia's. Since being appointed in 1987, Kennedy has consistently eschewed consistency. He has not enunciated any grand theory of law, save that there is no grand theory of law. (Indeed, the one time Kennedy really swung for the fences, in 2015's marriage-equality case of *Obergefell v. U.S.*, the soaring rhetoric had little to do with the

actual holding.) He is a pragmatist who searches for the middle ground, not an ideologue like Scalia (or, at times, Justice Ruth Bader Ginsberg) who stakes out positions well outside of the legal mainstream. He is a fan of balancing tests and case-by-case analysis.

This has often led to frustrating results. In the area of affirmative action, for example, Kennedy has rightly been accused of muddying the waters more than clarifying them. In last year's surprise decision that race could be factored into college admissions decisions, Kennedy wrote that race could be a factor, but not a primary factor; using it to promote diversity was allowable, but only as a last resort; and that a "holistic consideration" was acceptable, but quotas were not.

That split-the-baby approach saved the two affirmative-action programs at issue in the case, but it will surely lead to more lawsuits as litigants haggle over how primary is too primary, how holistic is holistic enough, and so on.

More relevant for Gorsuch, Kennedy's moderate approach has made him conservatives' least favorite justice—at least until Chief Justice John Roberts saved Obamacare (twice). Kennedy voted to preserve *Roe* when conservatives expected him to vote to overturn it. His civil libertarianism has protected flag burners and pornographers. James Dobson, leader of the Christian right group

Focus on the Family, called him "the most dangerous man in America."

Indeed, by the early 2000s, after Kennedy had turned away from his initial conservatism, he became a symbol for conservatives of the kind of nominee to avoid in the future. A *New York Times* report from 2005 was titled "In Battle to Pick Next Justice, Right Says, Avoid a Kennedy."

More recently, Kennedy's opinion on affirmative action, and his vote with the court's liberal wing on abortion, rejecting junk science as a pretext for abortion restrictions, have put him back in the crosshairs. John Podhoretz, for example, recently tweeted about Kennedy: "Everybody's upset about Brexit, but basically the United States is now being governed by one 80-year-old man."

But that's what you get from a non-ideological, case-by-case decisionmaker. The right gets *Citizens United* and a vote for an expansive Second Amendment in *D.C. v. Heller*, the left gets marriage equality and abortion rights. Republicans are busy crowing about Gorsuch's supposed lack of bias (in the process, confusing bias with ideology), but when Kennedy put that theory into practice, they've howled in anger.

Indeed, Kennedy is so widely regarded as a moderate today that rumors of his imminent retirement have prompted this writer and others to suggest a "grand compromise" in which Democrats allow the conservative Gorsuch to replace Scalia, and Republicans

agree to nominate a judicial moderate (like, say, Merrick Garland) to replace Kennedy.

Could a Justice Gorsuch turn out similarly? If he's telling the truth about his judicial philosophy, that would be the logical conclusion.

Now, it's still quite likely that Gorsuch is basically blowing smoke. Certainly, he has been far more disingenuous than his supposedly

upright image would suggest. Sen. Richard Blumenthal (D-CT) was certainly right when he said to Gorsuch, regarding core privacy cases from *Griswold* to the present, "I'm not asking you to talk about a future case or controversy. I'm asking whether you accept the basic core principles of right to privacy that are articulated in those decisions."

Obviously, Gorsuch understands that distinction as well as Blumenthal does, and he's refused to state a single philosophical position because his positions are as conservative as his backers say they are. He's fibbing, in other words, just like when he preposterously claimed not to recall an email he wrote on torture that was surely discussed at length in his hearing preparations. That claim

is ridiculous, as is his sudden inability to comment on legal principles.

But there really are only two options: Either Gorsuch isn't telling the truth about his judicial philosophy, or he could be conservatives' next worst nightmare.

NATIONAL  
REVIEW  
ONLINE

## Neil Gorsuch – Overcriminalization Opponent

What does the ongoing debate about the role of legislative history in judging have to do with overcriminalization? Just ask President Trump's SCOTUS nominee, Judge Neil Gorsuch, who was able — on the fly — to articulate brilliantly the interplay between these two issues. In the process, he displayed both his legal acumen and his regard for the principles of individual liberty.

On the third day of his confirmation hearings, in an exchange with Senator John Cornyn (R., Texas), Judge Gorsuch was asked to comment on the late Justice Scalia's outspoken opposition to the use of legislative history in judging. Here's what he said in relevant part:

There are some due-process and fair-notice considerations in this area that I take seriously. . . . Generally speaking, ignorance of the law is no excuse. We assume that it is reasonable for the people to be on notice of all 5,000 criminal laws that this body has passed. Is it also reasonable to expect them to know all the floor statements that have been issued about the law? . . . These aren't idle considerations, because, more often than not, we're talking about a criminal statute. . . . And I have concerns about relying on things that are not law and charging people with notice of things that are not law as a basis for putting them in federal prison.

As a self-described originalist who writes about overcriminalization, I find that my enthusiasm about Gorsuch's nomination just grew tenfold. Leaving aside the usual argument that legislative history is not law and therefore has little to no place in courtrooms, Judge Gorsuch makes a brilliant point. As he has pointed out on more than one occasion, there are about 5,000 federal criminal statutes. And, as my colleagues and I have pointed out, there are another 300,000 or so criminally enforceable federal regulations. Even in a world where citizens didn't also have to comply with state and local laws, it would be patently unfair to expect anyone to be familiar with even half of what constitutes a federal crime in America. While not legally operative, the fact of the matter is that ignorance of the law is now the rule.

The law's legitimacy depends on fair notice — something about which Judge Gorsuch has displayed a heightened awareness. Indeed, the injustice involved in imprisoning someone for breaking a rule he had no reason to know existed is obvious — which prompts the question of why the adage that ignorance of the law is no excuse is still persuasive in courtrooms. The phrase comes from a time during which the law was both intuitive and consumable by those governed by it. Two hundred years ago, criminal behavior was that which was intuitively wrong: murder, robbery, rape, trespass, fraud, etc. But the law has grown expansive and complicated to the point that legal scholars have posited that, on

average, Americans unknowingly commit three federal felonies per day. Those complications explain how a Florida fisherman, John Yates, was convicted under the Sarbanes-Oxley Act, a 2002 statute passed in the wake of the Enron scandal, for allegedly throwing fish back into the sea before authorities could measure them. While Yates's conviction was eventually overturned in a 5–4 decision by the Supreme Court, it illustrates both how confusing the criminal law can be, and how counterintuitively it is sometimes enforced.

Judge Gorsuch has a heightened awareness of the need for fair notice in the law.

Over time, there have been developments in the law to address the liberty concerns inherent in a system in which so much ordinary conduct (walking a dog on a leash longer than six feet in certain parks, for example) has been criminalized. There is the rule of lenity, which holds that courts should give criminal defendants the benefit of ambiguities in the laws under which they're charged. There is also the general practice of requiring prosecutors to show criminal intent, which the Left has actually come out against codifying in federal law. Despite these modest protections, many of us would argue that judges (particularly those on the left) have given too much deference to the state in some matters of criminal law, leaving individual defendants like Lawrence Lewis (who was convicted of violating an EPA regulation) vulnerable to imprisonment for the violation of

obscure rules buried in tens of thousands of pages of regulations criminalized by obscure statutes buried in tens of thousands of pages of legislation. That deference issue has reared its head during this week's confirmation hearings, during which Senate Democrats, including Dianne Feinstein (D., Calif.), have expressed concern about Gorsuch's position on the doctrine of *Chevron* deference (which requires courts to defer to federal regulators, who create thousands of criminally enforceable rules), as well as about whether he believes legislative history is persuasive on questions of statutory interpretation.

By giving so much weight to legislative history, the Left imposes the additional responsibility on citizens to become familiar with everything from the floor statements of lawmakers to documents entered into the legislative record — on top of the preexisting (and unreasonable) demand that we all familiarize ourselves with the entire body of criminally enforceable statutes and regulations that even trained lawyers (including yours truly) have a hard time understanding. That seems to fly in the face of the collective concern Senate Democrats have expressed for the "little guy" throughout the course of Gorsuch's confirmation hearings.

So three cheers for Judge Gorsuch. I look forward to having a justice on the Court who has such high regard for due process, and an awareness of how problematic overcriminalization is.

Bloomberg

## The Supreme Court Didn't Really Smack Down Gorsuch

Noah Feldman

It seems like a perfect storm: Democrats on the Senate Judiciary Committee were pounding Judge

Neil Gorsuch for an opinion he wrote denying assistance to an autistic child, and while he was testifying, the U.S. Supreme Court unanimously rejected the standard Gorsuch relied on to do it. The justices' opinion is the right one,

and the standard Gorsuch's court used was wrong. But unfortunately for Democrats, Gorsuch wasn't wrong to apply it: It was the binding legal rule in the 10th Circuit, established in 1996, long before he joined the U.S. Court of Appeals. So

don't believe the hype. The Supreme Court didn't smack down President Donald Trump's nominee for its empty seat. It just rejected the precedent created by his circuit.

At issue in these cases is the proper interpretation of the Individuals with Disabilities Education Act. That law requires states that get federal school funding to provide a "free appropriate public education" to disabled kids. To do so, the schools create individual education programs for each child. A family seeking private or at-home tutoring for its kids ordinarily argues that the public school isn't enabling the child to meet the goals set by the individual program.

In a 1982 case called *Board of Ed. v. Rowley*, the Supreme Court addressed the issue -- kind of. It said the law didn't impose a single substantive standard about the level of education. It added, among other things, that an appropriate education must confer "some educational benefit" to children. Yet the court also implied that the level of education must be "adequate."

The 10th Circuit interpreted the justices' guidance -- if that's what it was -- very narrowly. In 1996, in a case called *Urban v. Jefferson County*, it held that the benefit conferred on the child must only be "more than de minimis" -- that is, more than absolutely nothing. It relied especially on the idea that the Supreme Court had required "some" benefit. And "some," the court thought, meant "more than none."

It was this version of the court's standard that Gorsuch and his colleagues applied in 2008 in *Thompson v. National School Board Association*, the case for which he's being criticized. In doing so, Gorsuch had no choice. Panels of an appeals court have to follow circuit precedent. The only way appeals courts change that precedent is when the entire court sits en banc.

Of course, Gorsuch could have dissented and expressed his disagreement with the circuit precedent. But the fact that he didn't isn't especially remarkable. Neither did Judge Mary Beck Briscoe, an appointee of President Bill Clinton who was on the same panel. If federal appellate judges dissented every time they didn't like circuit precedent, they wouldn't have much time for anything else.

The opinion Gorsuch wrote in 2008 wasn't reviewed by the Supreme Court. The case handed down by the justices Wednesday, while Gorsuch's confirmation hearing was under way, was another 10th Circuit case raising pretty much the same issue.

Writing for the court, Chief Justice John Roberts rejected the "de minimis" standard. Clarifying slightly the vagueness of the *Rowley*

precedent, the court held that the educational plan must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances."

Roberts rejected the standard urged by the parents in the case, which would've demanded that the educational benefit put disabled children in a position to contribute to society in a manner "substantially equal" to children without. He wrote that the court wouldn't "attempt to elaborate on what 'appropriate' progress will look like from case to case."

That means there will still be debate in the lower courts about what exactly is required.

That's how the law sometimes works. The court made existing vague precedent a little more specific without making it altogether specific.

And the court got there by carving out space between two opposed positions, that of the 10th Circuit and that of the parents.

That's also how the system is supposed to work. The 10th Circuit's 1996 precedent is now officially wrong. But it played its part in advancing the ball, much like the parents' advocacy.

To be clear, I think the justices' decision is a good one. I criticized the 10th Circuit precedent in January when the case was argued, before Gorsuch was nominated and his opinion came to everyone's attention. It's good news that it's been rejected.

The key point is that the court's judgment repudiated the 10th Circuit. And it thereby repudiated the 2008 Gorsuch opinion applying the circuit's precedent.

But the court didn't repudiate Gorsuch, not by a long shot. His decision was correct as a matter of 10th Circuit law. That law was wrong. But Gorsuch didn't make it. He applied it -- which is what his job was.