

Grassley Seeks Clarification of DNI Clapper Testimony Before Senate Judiciary Committee

Written by Grassley Press
Friday, 04 October 2013 15:25

- [Download Eyeon Fusion 6 \(32 bit\)](#)
- [Download Adobe Creative Suite 5.5 Web Premium MAC](#)
- [Buy Cheap Adobe Photoshop Elements 10 & Adobe Premiere Elements 10](#)
- [9.95\\$ Lynda.com - 3DS Max 2013 Essential Training cheap oem](#)
- [Download Infinite Skills - Learning Bootstrap 2](#)
- [Buy Pixologic ZBrush 4R6 MAC \(en\)](#)
- [Discount - Adobe Creative Suite 5 Web Premium](#)
- [19.95\\$ MacGourmet Deluxe 3 MAC cheap oem](#)
- [Download Arobas Music Guitar Pro 6 MAC](#)
- [359.95\\$ GraphiSoft ArchiCAD 13 cheap oem](#)
- [179.95\\$ Autodesk Mudbox 2011 \(32-bit\) cheap oem](#)
- [Discount - Adobe Prelude CC \(Full LifeTime License\)](#)

WASHINGTON – Senator Chuck Grassley, Ranking Member of the Senate Judiciary Committee, is pressing Director of National Intelligence James Clapper for further explanation as to why employees who are needed to ensure the national security of the United States were furloughed.

In testimony before the Senate Judiciary Committee earlier this week, Clapper said that the partial shutdown of the federal government will increasingly jeopardize the safety and security of the country.

Grassley said that the law allows flexibility for the intelligence community to “except” employees from furloughs who are needed to ensure national security.

In the letter to Clapper, Grassley wrote, “There appears to be no reason why the fundamental national security of the Nation should be compromised during the partial government shutdown.”

Here is a copy of the text of Grassley’s letter to Clapper. A signed copy can be [found here](#) .

October 4, 2013

Grassley Seeks Clarification of DNI Clapper Testimony Before Senate Judiciary Committee

Written by Grassley Press
Friday, 04 October 2013 15:25

Via Electronic Transmission

The Honorable James R. Clapper

Director of National Intelligence

Washington, DC 20511

Dear Director Clapper:

I write today to follow up on your recent testimony to the Senate Judiciary Committee concerning the effects of the partial government shutdown on the Intelligence Community (“IC”).

During your testimony, you asserted that the legal standard governing whether personnel are engaged in excepted activities under the Antideficiency Act, and therefore may continue to work in the absence of appropriations, is whether their activity is “necessary to protect against imminent threat to life or property.” [\[1\]](#) As a result of the furloughs affecting the IC, you stated that you could not guarantee that the Nation remains as safe as it was before the shutdown began. “As each day goes by,” you maintained, “the impact and jeopardy to the safety and security of this country will increase.”

Respectfully, for the reasons stated below, your testimony appears to reflect both a misreading of the law and a failure of leadership.

Grassley Seeks Clarification of DNI Clapper Testimony Before Senate Judiciary Committee

Written by Grassley Press
Friday, 04 October 2013 15:25

There is longstanding authority for the proposition that the necessary national security functions of the federal government are excepted under the Antideficiency Act as “authorized by law,” [2] even if their suspension does not imminently threaten the safety of human life or the protection of property. [3] Indeed, a previous Attorney General concluded that the President has the inherent authority to obligate funds to carry out specific powers granted to him by the Constitution, such as those related to national security, on this basis.

[4]

As far back as 1981, executive departments and agencies were advised that excepted activities include those that “[p]rovide for the national security.”

[5]

The non-partisan Congressional Research Service has concluded that “[n]ational security-related activities, may, then, be among those for which obligations in advance of appropriations are considered to be ‘authorized by law’ . . . and are permitted independently of

. . . whether or not they protect [against imminent threats to] life or property.” [6]

Guidance documents prepared by the Administration relating to the current shutdown appear to reflect this common sense interpretation of the law. The furlough notice reportedly received by NSA employees on October 1, 2013 listed as excepted functions “[a]ctivities required for national security,” including – but not limited to – those involving “the safety of human life or the protection of property.” [7] In addition, the contingency plan guidance issued in September 2013 by the Deputy Secretary of Defense, on which you were copied, lists the following as excepted activities: “[c]ommand, control, communications, computer, intelligence, surveillance, and reconnaissance activities required to support national or military requirements necessary for national security.” [8]

In light of the above authority and guidance, there appears to be no reason why the fundamental national security of the Nation should be compromised during the partial government shutdown. [9] In fact, it is your role as Director of National Intelligence to ensure that the work the IC performs that is necessary for the Nation’s security continues uninterrupted. You asserted during your testimony that you were considering recalling certain employees from furlough status. However, under the law, those IC employees necessary to maintain our national security should never have been furloughed in the first place.

In any event, if for whatever reason you believe that the shutdown is interfering with the necessary national security functions of the IC, it is incumbent upon you, as the leader of the IC, to press the President and Congress to work together to pass emergency legislation to adequately fund the IC during the shutdown without delay.

Grassley Seeks Clarification of DNI Clapper Testimony Before Senate Judiciary Committee

Written by Grassley Press
Friday, 04 October 2013 15:25

Sincerely,

Charles E. Grassley

Ranking Member