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SEPTEMBER 21, 2016

Chairman Kirk, Ranking Member Heitkamp, members of the subcommittee. I am grateful to the subcommittee for inviting me to participate in this important hearing, which addresses the circumstances surrounding the payment in January 2016 of \$1.7 billion in cash – Euros and Swiss Francs -- to Iran, of which \$1.3 billion represented U.S. taxpayer funds – a payment said to have been in settlement of a \$400 million claim by Iran against the United States, plus interest. That claim, which was or is pending before the Iran claims tribunal in the Hague, relates to a deposit during the 1970's on a military equipment purchase in that principal amount by the Iranian government then headed by the Shah.

I know that this payment has generated a good deal of discussion, and of controversy, corresponding as it did with the release of four Americans unjustifiably imprisoned by Iran. Obviously, like most people, I have views about the payment of ransom and its long term effect on the security of Americans, and some knowledge of the unbearable pressure on families and on people unjustifiably held. I am not here to talk about those issues, but rather about the transfer of cash to Iran in the amounts at issue here, and under the circumstances present here, and the questions raised by such a

transfer, that we should know the answers to – and certainly that Congress should know the answers to, and that I think have not as yet been answered.

The reason why a cash payment raises serious questions should be obvious. Iran is a designated state sponsor of international terrorism. There is simply no legitimate reason why such an entity should want cash other than to pursue terrorism.

It has been said that Iran is in need of resources to pay for infrastructure projects. No doubt that is true. However, payments within Iran to contractors would be in Iranian rials, not in Euros or Swiss Francs. Payments outside Iran for equipment and the like would far more conveniently be made from banks located outside Iran, than in cash transported from Iran to other countries. The only reason to insist that cash in the form of Euros and Swiss francs be provided to Iran-- in Iran -- is to permit that money to be distributed outside its borders in a way that cannot be traced. The activity that Iran pursues outside its borders that requires untraceable funds is terrorism.

Indeed, there is a branch of the Iranian Revolutionary Guards Corps – the Quds Force – that focuses exclusively on promoting terrorism abroad. That is the unit that financed a plot in 2011 to assassinate the Saudi ambassador to the United States in Washington, DC, and has been responsible for numerous other violent acts.

The president said initially, when the only cash payment that was known was the \$400 million of principal, that a cash payment was necessary because the United States has no banking relationship with Iran. Indeed, he mocked those who suspected the cash

transfer as enthusiasts of adventure fiction. In recent days, we have learned that what was obvious at the time of the initial transfer -- that the United States could have made payments to Iran through conventional banking channels with the help of third parties that do have banking relationships with Iran -- in fact was done on other occasions.

Given Iran's record of financing deadly terrorist attacks in Latin America, Europe and the Middle East -- including but not limited to Israel, as well as the repeated statements by its leaders that their goal is to destroy Israel and cripple the United States and its allies, it is obvious that we have paid \$1.7 billion toward the destabilization of governments friendly to the United States in the Middle East and elsewhere, and the murder of many in those countries, in Europe, and in the United States.

The following questions, among others, present themselves. Was the settlement of this claim documented; if so, where are the documents? Was there any legal analysis of the claim and likely outcomes; is that analysis contained in a memorandum; where is that memorandum? Was there any factual analysis of the likely use of cash as opposed to other forms of payment? Was it the Iranians who insisted on cash? What consideration was given to other forms of payment? Who negotiated that settlement, and who in the chain of command up to and including the president approved it?

Funds for the settlement were taken in part from a settlement fund maintained by the Treasury Department that reflects that the settlement was certified by the Attorney General as in the interests of the United States; is there any documentation of that

certification; is there any writing setting forth the elements that led the Attorney General to reach that conclusion; with whom did the Attorney General consult in order to reach that conclusion?

I recognize that answers to some of these questions might conceivably elicit an objection based on executive privilege, which is a valuable and important governance tool for the executive. Nonetheless, the questions should be asked; if they elicit such an objection, it can be evaluated. Some of the information – including the fact of the Attorney General’s certification – has already been disclosed, which could impact the validity of any privilege claim.

Before the full extent of this payment became known, I wrote on this subject in a newspaper column and indicated at the time that I saw no reason to believe that any laws were violated in the making of this payment. I still believe that. I wrote also at the time that I thought the people of this country, some of whom may suffer the physical effects of Iranian terrorism, and all of whom will suffer its political effects, deserved an explanation of why such a payment was deemed to be in the national interest. That belief has been strengthened by the evidence that alternatives to cash payment existed but were not used.