

WHITE HOUSE DAILY BRIEFING TRANSCRIPT

Tuesday, March 1, 2016

EARNEST:

Good afternoon, everybody. Nice to see you all. I do not have any remarks at the top, so we can go straight to questions. Darlene, do you want to start?

QUESTION:

Sure. Thank you.

(LAUGHTER)

QUESTION:

I predicted you'd call on her first.

(LAUGHTER)

QUESTION:

What more can you tell us about the meeting the president had with the leaders from Congress over the Supreme Court? Senator Reid said that a lot of time was spent talking about basketball and other stuff, and he said the meeting didn't last very long. How long did it last? Is he accurate? Was there any substance discussed?

EARNEST:

I don't have a sense of exactly how long it lasted. We can -- we can look into that for you. I did have an opportunity to visit with the president after the meeting concluded, and the president's -- the president's view of this situation is that any president has a responsibility to consult intensively with Congress before making a nomination to a lifetime appointment on the Supreme Court.

And when the two previous vacancies have arisen during his presidency, the president, after a couple of weeks, invited the chair and ranking member of the Senate Judiciary Committee and the Democratic and Republican leaders in the Senate to come and have a discussion about the process, about the way the president was thinking about whom to choose for this important appointment. And the president felt it was important, even in an election year, to continue that consultation.

And the meeting was pretty straightforward. There was no -- no one represented that he was about to change his position on something, but the president did use the opportunity to lay out his thinking, and he gave everyone in the room, Democrats and Republicans, the opportunity to put forward their own suggestions for potential Supreme Court nominees. The president didn't

guarantee that he would choose that person, but the president did indicate that he would take seriously any recommendations that either Democrats or Republicans had to put forward.

After all, we're talking about a group in the Oval Office that collectively maybe even has a century of experience of considering Supreme Court nominees and confirming them. That when you sort of add up everybody's role here, there's a lot of history. In fact, that history dates back to 1988, the last time that the United States Senate voted to confirm a Supreme Court nominee, and both Senators McConnell and Grassley supported Justice Kennedy's nomination, and Vice President Biden presided over that process as chair of the Judiciary Committee.

So we certainly know how this process has worked in recent history, we know how it worked the last time that this situation occurred, that the president of the United States was asking a Senate that was led by the other party to confirm a nominee in an election. And that resulted in Justice Kennedy's overwhelming confirmation with bipartisan support, and we believe that this process should conclude the same way.

QUESTION:

You mentioned that the president gave both sides an opportunity to suggest names. Were any names suggested from either side?

EARNEST:

Well, I'll let the individual senators read out their sides of the meeting. I can tell you that the offer was not a one-time-only offer, that if there are individual members of the Senate who after a good night's sleep wake up tomorrow morning with a good suggestion and a desire to genuinely engage in the process, then they certainly know how to reach the White House and they know how to get the president on the phone. And if they want to come back down to the Oval Office and talk about it in person, I'm confident we could arrange another meeting.

EARNEST:

The president is serious about this consultation. And we'd like to see Republicans engage in it seriously, too.

QUESTION:

So, you have a vacancy on the court, the president cannot say he is going to nominate, Republicans said, we're not going to do anything. You've now had this meeting today.

What is the next move in this process, and who is responsible for making it?

EARNEST:

Well, the -- the next move would be for Republicans to avail themselves of the opportunity to continue consulting with the president, if they choose to do so. They will have that opportunity, and that is an opportunity that will endure.

Meanwhile, the president and his team will continue with the process that has been running here at the White House, now, for more than a week, for the president to consider the background and record of potential Supreme Court nominees. And the president will continue to do that work, with the goal of eventually putting forward a nomination.

QUESTION:

I wanted to ask you about one other thing that happened yesterday, late yesterday after the briefing. A magistrate judge in New York City ruled that the Justice Department cannot force Apple to provide the FBI with access to data on an iPhone in a drug case in New York City.

Is there any reaction from the White House to that judge's ruling, and any concerns about how it might influence the bigger debate that is going on between DOJ and the Justice Department over the San Bernardino -- phone in the San Bernardino terrorist attack?

EARNEST:

I don't have a reaction to the ruling in that specific case, I've obviously read the public reports about it. But I don't have a detailed knowledge of the facts of the case.

And we've made quite clear that the discussion that we've been having about the San Bernardino case applies specifically to this scenario, where a terrorist, who is no longer living, was using a phone that was owned by the local government, and in pursuit of their independent investigation, law enforcement professionals have concluded the information that may be contained in that phone could be useful for their investigation.

Now, the president has made clear that the investigation is a priority, because we want to learn as much as we possibly can about the individuals who carried out this terrorist attack. We want to learn as much as we possibly can about people that they may have been talking to or communicating with here in the United States or around the world.

We also want to learn as much as we possibly can about what may have prompted them to carry out these terrible attacks that resulted in the death of 14 innocent, patriotic Americans and cause the injury of a couple of dozen others.

So, we've been clear about what our interest is in this specific case. As a legal matter, my understanding is -- you should confirm this with the Department of Justice -- is that as a legal matter, there is no -- that this ruling in New York does not have any impact on the ongoing situation in San Bernardino.

But that's essentially our position.

OK? Aisha (ph).

QUESTION:

Going back to the Supreme Court, a quick question. Did President Obama put forward any names that he might be considering during this meeting?

And then also, I guess to the larger point, President Obama has said that he doesn't think that this position that the Republicans are taking, that they won't hold any hearings, they won't take any vote, that that won't be able to stand, that they won't be able to necessarily hold on to that position.

And I guess the idea is that they will face so much public pressure that they will have to back down.

QUESTION:

I guess, does the White House still feel that public pressure is going to be such that McConnell and Grassley will have to back down? And what -- what provides that confidence? And seemingly, is that the only option that you guys have is public pressure to -- to make them back down from their position?

EARNEST:

Well, Aisha (ph), I don't have more detail to read out than I've shared thus far. I don't know whether or not the president put forward any potential nominees in the context of that discussion. But even if he did, I probably wouldn't be in a position to float those names here publicly.

More generally, our intent is to continue to fulfill the president's constitutional responsibilities. The Constitution of the United States says that the president of the United States shall appoint someone to fill a vacancy on the Supreme Court. The president's going to fulfill that responsibility. The United States Senate also has a constitutional responsibility when it comes to vacancies on the Supreme Court. They have a responsibility to provide their advice and consent to the president of the United States.

It doesn't say that the members of the Senate should consider a nominee based on whether or not that person was at the top of their list of potential Supreme Court nominees. Rather, the Supreme Court suggests that they should consider their background and their record -- I'm sorry -- the Constitution suggests that they should consider their background and record to determine whether or not they could serve on the Supreme Court with -- in a way that lives up to the American peoples' expectations.

So as -- when it comes to our strategy, our strategy is simply that the president will fulfill his constitutional responsibility and we're going to appeal to members of the United States Senate that

they should put their constitutional responsibility ahead of any sort of political calculation that their party leaders may be making.

QUESTION:

So -- so it's a hope that they will just adhere to what you feel is their constitutional responsibility? It's not -- there's no plan to do anything beyond that?

EARNEST:

Well, it's more than my hope. I mean, it's what it says in the Constitution. It's also consistent with past precedent. The last time that the -- that there was a president of the United States that was challenging the -- calling on the United States Senate to confirm a Supreme Court nominee in an election year was 1988. He had a Republican House, Democrats were in charge of the Senate, and Justice Kennedy was confirmed with overwhelming Democratic support to a lifetime appointment on the Supreme Court.

And so there is recent precedent to consult. There certainly is the United States Constitution to consult. It's clear exactly what the Senate's responsibilities are. We've seen from Democrats that they intend to fulfill their responsibilities and it's up in the air about whether or not Republicans will follow through on their threat not to engage in their constitutional duties, not to fulfill those duties. And you know, ultimately, they'll have to decide their own course.

I don't expect that there will -- that -- that they're going to change their minds just because I said so. They made clear in their meeting with the president that they're not going to change the mind just because the president says so. Rather, they will change their mind if they do based on an appeal to their constitutional duties, and that's certainly the appeal that we're making.

QUESTION:

On North Korea, the U.N. is supposed to be taking a vote on those sanctions that the U.S. and China have agreed to. Does -- does the White House have any concerns about the vote or any expectations about the vote? And then also, when you talk about these sanctions, I know you've talked about them before, what is it about these sanctions that you think will kind of reign in North Korea where other sanctions have not?

EARNEST:

These are all good questions. Let me -- I got the -- I got a short briefing on where things stand in the process. My understanding is that the United States has put forward a formal request -- yesterday put forward a formal request for a Security Council vote on a draft sanctions resolution. They -- the United States yesterday called for that to be -- to take place today.

EARNEST:

As a part of sort of a matter of routine, any member of the council can request a 24-hour review, meaning they can essentially say, "Let's wait 24 hours, postpone the vote for 24 hours so that we can get a chance to review the -- the resolution." That's what the Russians did yesterday.

So at this point, the Security Council appears to be on track for a vote on Wednesday.

Now, as it relates to the substance of the sanctions themselves, as we've noted, and as we discussed a little bit yesterday, this package of sanctions goes farther than previous packages have. And it goes farther in a variety of ways. One is it would ensure the, and require the inspection of all cargo going into and out of North Korea. For the first time, it would prohibit all small arms and other conventional weapons from being sold to the North Koreans. It would for the first time impose broad sectoral sanctions on sectors -- particular sectors of the North Korean economy, such as it is.

We know that the North Korean economy is not particularly advanced because of other sanctions that they have, that have been imposed on them. It means that they are particularly reliant on sectors like coal, iron, gold, titanium and rare earth materials. Those are exactly the sectors of their economy that would be subjected to these broader sanctions.

The reason -- this is important for two reasons. One is we know that the North Korean government uses revenue from these sectors of their economy to bankroll their nuclear and missile programs. So that certainly is one way that we can counter their destabilizing activities. The other thing that we know is that -- that it's the North Korean ruling elite that benefits financially from these sectors.

And imposing these sanctions will have an impact on the financial well being of the North Korean elite. Will that be enough to get them to start changing their behavior and change their strategic calculations? That remains to be seen, but certainly applying more pressure to the North Korean elite is one reasonable suggestion for trying to do that.

We surely know that the North Korean people have suffered for far too long because of the decisions that are made by the North Korean government; that their pursuit of nuclear weapons and their willingness to isolate that country from the rest of the international community has had a devastating impact on the North Korean population.

And that's why this sanctions regime is targeted more specifically at the North Korean elite.

EARNEST:

OK? April?

QUESTION:

Josh, I want to take another (inaudible) Supreme Court issue (inaudible). Since this is a constitutional issue, the fact that the Republicans are refusing to meet the potential nominee and also have a hearing, what is the White House counsel's (inaudible) as it relates to this? How are they handling (inaudible)?

EARNEST:

Well, the -- Neil Eggleston is the president's counsel here at the White House. He's got a whole team of lawyers who are engaged in the process of providing the president information that's relevant to his search for a Supreme Court nominee. As a part of this process, the president, you know, will consider and take a look at the public writings, the public record of individuals who could be Supreme Court nominees.

And there's a lot of legwork involved, and lawyers here at the White House are involved in making sure that the president can have access to this information, and that he has all the information that he needs in a timely fashion to make a decision about who is the best person to serve on the Supreme Court.

QUESTION:

(OFF-MIKE) looking at that (ph), tell me about how the counsel's office is also looking at possible punishments or being penalized for not following the Constitution? Because I've asked Harry Reid -- Senator Harry Reid, if the Constitution isn't followed -- you know, what next?

He said, "you know, the American people will vote." But (inaudible) the White House finding there could be a possible punishment or -- or a way to get around this?

EARNEST:

Well, April (ph), again, as I -- as I mentioned to Ayesha (ph), our -- our case to Senate Republicans is that they should allow their constitutional responsibilities to supersede their political calculations.

They -- though -- in effect, they should do what the Constitution tells them to do, not what party leaders tell them to do. And that's the -- that's the case that we'll be making to them, and that is consistent with the reading -- with anybody's reading of the Constitution.

It's -- it's consistent with past precedent. After all -- you know, every Supreme Court nominee since 1875 has gotten either a hearing or a vote, unless of course the president withdrew that nominee.

That's why it would be unprecedented for President Obama to put someone forward and have Republicans refuse to meet with that person, refuse to host that person for a courtesy visit, to refuse to hold hearings.

All of that would fly in the face of decades of tradition. Most importantly, it would fly in the face of their constitutional responsibilities.

QUESTION:

Remembering that a couple of months, maybe years (ph) ago we were hearing on the Hill about possibilities of a lawsuit against the president -- from Republicans to the -- against the president for his appointments.

Now, some of the things...

EARNEST:

They've filed so many lawsuits it's hard to keep track.

QUESTION:

... now -- OK, and with that, is this administration -- is the counsel office looking at possible litigation when it comes to this issue -- the Constitution not being followed?

EARNEST:

I'm not aware of any work in that -- in that regard. I don't -- I don't know, frankly, if that's even an option.

OK? Mary.

QUESTION:

Just to be clear -- you mean they clear everyone's responsibilities (ph) here, but is the president still optimistic that Republicans will ultimately have a change of heart and consider his nominee?

EARNEST:

Well, I think the president's realistic that there is -- there are a lot of politics being played here right now. And it's a presidential election year, so that's not particularly surprising to anybody who works in this building.

The question, I think, really is about -- and it's an open one -- about whether or not Republicans will put their constitutional duties ahead of their political calculations.

And -- you know, it's clear what the Constitution says they should do. If they want to consider precedent, it's clear what they should do. If they want to consider what can be done to protect the long-term health of the Supreme Court, it's clear what they should do, because what they are

promising to do right now would in an unprecedented way escalate the degree to which the Supreme Court is imbued with partisan politics.

And the truth is the framers of our Constitution designed a system that would insulate the Supreme Court from those kinds of politics, to a large degree, and the president doesn't believe that that kind of escalation is in the -- is in the best interest of the republic.

QUESTION:

And on another topic, a member of the Secret Service yesterday got into quite a physical altercation with a Time photographer at a Trump rally, grabbing his neck, slamming him to the ground.

Are you aware of this incident, and do you feel this response was appropriate?

EARNEST:

Well, I've seen some of the footage and, obviously, the news coverage of this incident. I haven't been briefed on the details, and I know that the Secret Service and local law enforcement are actually working to learn more about what exactly transpired there.

But I think what I can say just generally is that all of us on a regular basis benefit from the courage and professionalism of the men and women of the Secret Service. After all, they keep us safe, they certainly keep the president safe, they protect our workplace and we all benefit from the professional way that they do their jobs day in and day out. That doesn't get a lot of attention, and that's OK because that's their responsibility.

They hold themselves to an extraordinarily high standard, we certainly hold them to a high standard, and far more often than not, the men and women of the Secret Service live up to that standard. And, you know, we're certainly grateful for their service for that reason, but I know that the Secret Service has also indicated that they'll take a look at this particular situation and they'll take appropriate action once the facts have been gathered.

QUESTION:

I guess, more broadly, on this, there seems to be a big difference between how the press is treated here and at the president's events versus on the campaign trail. I mean, at Trump events, the press is forced to stay physically in a pen. Are you at all concerned that First Amendment rights are being violated here?

EARNEST:

Well, I haven't had the privilege of attending a campaign event hosted by the Trump campaign, so -- I understand they're pretty entertaining.

Look, I -- you know, each campaign will have to sort of make their own decisions about how they want to handle press access to their events. Generally, my limited experience in campaigns is that the reason that you hold public events is so that the public can have an opportunity to be informed about your message and what's being discussed, and an important part of that is not just inviting a big crowd, but also inviting the news media to capture what happens so that that can be -- so people can be educated about what happens.

You know, I understand the need to keep order, but I also understand that most candidates are pretty proud of the people who are showing up at their events, and they're eager for those who are attending the event to actually talk to the news media and talk about why they're attending that event and why they're supporting that candidate. And I'm not sure why a -- why a candidate might be embarrassed by his or her supporters or embarrassed by who might be attending his event. But you should check with them.

OK, Michelle?

QUESTION:

So aside from the basketball talk, it sounds like this meeting went pretty poorly or maybe horribly is a better word.

EARNEST:

I wouldn't say that at all. I think -- again, I think the meeting was actually pretty straightforward. No one represented that they were on the verge of changing their opinion, but the president takes quite seriously the responsibility that he has to consult with members of Congress in both parties as he makes a really important decision.

The Constitution vests with the president of the United States the authority -- in fact, the president -- the Constitution says the president shall appoint a nominee to fill a vacancy in the Supreme Court. And the president believes that it's his responsibility to work with the legislative branch to do that, and that's why the White House has contacted every -- the office of every single member that serves on the Judiciary Committee.

I also feel like it merits pointing out this isn't the first time that the president has talked to Leader McConnell and Chairman Grassley about this vacancy. In fact, this is the second time in just a couple of weeks that they've had this conversation, and I certainly wouldn't rule out additional conversations. And in fact, if Leader McConnell or Chairman Grassley want to have an additional conversation or more conversations, particularly with regard to potential nominees, we're open to those conversations as well.

EARNEST:

So this is -- this is part of the process. I will -- just to go more directly to your question, though, Michelle, we certainly would have liked Republicans to have handled the meeting differently, we

certainly would welcome greater engagement on the part of Republicans, a greater, clearer willingness to put their constitutional duties first at the top of their list of priorities, and resist the urge to allow this process to be so deeply infected and corrupted by partisan, political gamesmanship.

That doesn't advance the process. And look, the last thing I'll say about this is, we know that both Chairman Grassley and Leader McConnell have decades of experience of handling Supreme Court nominees and Supreme Court confirmations.

So, they understand the role that the Senate has to play in this process; they also understand how important it is. They -- we have heard from them on a number of occasion, over the course of the last 7 years, we've seen those two men speak publicly about a range of Supreme Court decisions.

Some they agreed with, some they vigorously disagreed with. But all of them, in each situation, both men understood the stakes, here. They also understand that it would be unprecedented for the modern Supreme Court to go for more than a year with a vacancy waiting to be filled.

So, they understand the stakes, they understand the situation, they understand the debates, and they certainly understand what happened last time that Congress was asked to vote on a Supreme Court nominee in a presidential election year. In fact, they both voted yes.

QUESTION:

But given that they were so adamant, going into this meeting, they have both written more than one op-eds stating their case.

Senators Reed and Leahy seemed pretty frustrated coming out of there.

EARNEST:

Yeah.

QUESTION:

Did the president think that he was going to change their minds, or was this...

EARNEST:

No.

QUESTION:

OK.

EARNEST:

The president did not -- the goal -- the president's goal, in the context of this discussion was to continue to consult the United States Senate about who should fill the vacancy on the Supreme Court.

The president believes that that consultation is important, it's a priority for him, it has been a priority for him the last two times that he has filled these -- had to fill a vacancy on the Supreme Court, and it's important to him this time.

QUESTION:

But in this case, it seems pretty perfunctory, though, given that the two Republicans that he is consulting with are absolutely adamant and have been.

EARNEST:

Well, again, that is a choice that is made by Republicans.

The president came to the meeting and showed up today with the intent to have a serious conversation, and the president did lay out, in some detail, his thinking about how this process should play out.

He laid out, in some detail, how he will -- how he is thinking about who should be appointed to fill this vacancy. And he continues to welcome input from Democrats and Republicans on that process.

And look, I'll just point out, in 2009, the first time that the president had to fill a Supreme Court vacancy, the president took very seriously his responsibilities to consult with members of Congress, and Senator Grassley is quoted publicly saying that, after serving in the United States Senate for decades, it was the very first time he could remember a United States president asking him for a suggestion about who should be nominated to serve on the Supreme Court.

So, then, Senator Grassley, I think said that, I think, said that as a compliment to Senator Obama. Look, if -- I don't know whether he intended it that, you can ask him.

But the point is, I think that's an indication that Chairman Grassley understands how important this consultation is. And he appreciates the fact that President Obama had reached out to him then, and the president was doing exactly the same thing today.

QUESTION:

I mean, not -- he doesn't hold it important enough, obviously, to even bring this potential nominee up for hearings.

But the president described Republicans' stance -- last week, I think it was -- as sheepish when he talked to them one-on-one in these phone conversations that he had.

QUESTION:

Would he -- or you still describe them as sheepish, you know, given this meeting that happened today?

EARNEST:

Well, I -- I don't have a more detailed readout of the discussion that I had today, I don't want to leave you with the impression that the president was necessarily talking about Leader McConnell or Chairman Grassley. He may have been, I don't know. The reason we don't know that is because the president has actually had the opportunity to talk to a number of Republicans about the vacancy on the Supreme Court. So I wouldn't automatically assume that the president was referring either just to or -- or included Leader McConnell and Chairman Grassley in that comment.

QUESTION:

Last week, when I asked you if you felt like there was -- given everything that's been said already, do you think there is still a chance that this -- this will make it to the hearing stage? You said absolutely. Do you still feel that there is a chance of that?

EARNEST:

Absolutely. There -- this -- it's pretty clear, based on what the Constitution says, based on recent precedent, based on the obligations that Leader McConnell and Chairman Grassley are intimately familiar with. So you know, we will continue to appeal to their -- to the notion that they have a constitutional duty to move forward. It's clear.

QUESTION:

I guess why -- I would say then why do you feel like these guys are going to change their minds now after they've come out (ph)? You know, I guess from your -- you see their stanza (ph) as somewhat damaging and that the public is going to be opposed to that, but they've -- they've already done that damage, then, by saying, we refuse to do this.

Why do you think that there is some chance that they're going to change their tune?

EARNEST:

Well, again, I think most of my confidence rests in the clarity of the Constitution, the clarity of the precedent and the clarity of Leader McConnell and Chairman Grassley's own knowledge of their responsibilities. I think it's too early to tell at this point exactly what sort of impact the public debate is going to have on this.

My guess is it'll play differently in different states, but we've heard comments from others who value the institution of the United States Senate and who value the institution of the Supreme Court who have expressed concern about this process and about the court, in particular, being politicized. And if Republicans follow through on what they're promising to do right now, it would escalate in an unprecedented way the degree to which the Supreme Court is politicized, and that's not good for the country.

It's not good for Democrats or Republicans, it's inconsistent with the Constitution, it's inconsistent with past precedent, it's inconsistent with the way that Leader McConnell and Chairman Grassley have handled their responsibilities in the past. So that's -- again, that's the case that we'll make and it'll be up to Senate Republicans to decide how they react to it.

QUESTION:

Thanks.

EARNEST:

OK. Dave?

QUESTION:

Thanks, Josh. Senator Reid said (inaudible) that the vice president made reference in this meeting to his 1992 speech, what they're calling the so-called Biden Rule and that he actually read passages of his speech to the Republicans. Can you shed any light on that? Did that happen?

EARNEST:

Well, I -- I don't have a detailed understanding of the exchange, but it sounds like what you're describing is that, you know, Vice President Biden read the same passage that I've read from here a couple of times about how in 1992, you know, he made clear that if the president was willing to consult with him, that he'd be open to supporting the president's nominee. He was saying that about a Republican president, President George H. W. Bush. That was relevant because at the time, then Senator Biden happened to serve as the chair of the Judiciary Committee.

EARNEST:

So that's the -- but look, I think the relevant precedent here is for us to consider what happened the last time that a president of the United States was asking the United States Senate to confirm a Supreme Court nominee in a presidential election year.

That year was 1988. There was a Republican in charge of the White House. There were Democrats in charge of the Senate. And the Senate followed through in bipartisan fashion with confirming Justice Kennedy to the Supreme Court. The precedent is crystal clear.

And we're just asking Republicans to do exactly the same thing. I raise all that because at the time, Senator Biden was also the chair of the Judiciary Committee. So he had an important role in terms of presiding over that process. He ensured that Justice Kennedy got a fair hearing. He participated and actively supported a timely yes or no vote, and he voted yes.

Again, we're just asking Republicans to do exactly what then- Senator Biden did.

QUESTION:

(inaudible) confirming that that did occur in that meeting? Or you don't know?

EARNEST:

I don't know the -- I don't know whether or not that occurred or not. OK?

Paul?

QUESTION:

Thank you, Josh.

Two -- two different things. (inaudible) cybersecurity client asks if the president feels the U.S. is fully prepared for, quote, "a massive attack" on our power grid, financial network, and such, with emphasis on the phrase "fully prepared."

EARNEST:

The -- as you will note from our budget proposal that we rolled out just a few weeks ago, it includes a substantial enhancement of programs and funding to strengthen our cybersecurity in this country. There are a variety of steps that can be taken that relate to protecting government networks, to working with the private sector to fortify key private networks. There are also some common sense steps that American citizens can take to protect their own cyber -- to protect their own privacy and to protect their own cybersecurity.

So there surely is more that we need to do in this country. Unfortunately, as I've pointed out, Republicans before this budget proposal was even put forward, basically canceled hearings. They said that they wouldn't meet with the president's budget director to discuss a budget that included a significant ramping up of our cyber defenses. That's rather unfortunate.

I think it reflects a lack of seriousness on the part of Republicans in Congress for confronting this issue. And again, as I promised, I mentioned this a couple of weeks ago, at some point some time in the next 11 months that I'm doing this job, somebody out there is going to ask me about a specific cyber intrusion incident that either had consequences for the government or for a significant private sector company, maybe even a media company. And what I will observe is that while the president

and his team put forward a thoughtful proposal for how we can improve cyber defenses in this country, Republicans refused to even discuss it.

QUESTION:

Shifting the gears, I'm not sure Mr. Trump understands that president's can't change laws on their own, but this talk from him about the weakening of libel laws so we can better control the press. Does the White House have a reaction to that?

EARNEST:

I -- I think my reaction is the same as yours, which has no idea what he's talking about.

(LAUGHTER)

QUESTION:

The other thing about that -- about the press, you know, the independent group of Reporters Without Borders says that in terms of press freedom, the United States has now fallen to 49th out of 180 nations. And it actually lays the blame for some of that, not all of it, but some of it on the Obama White House for what it calls harassment, government harassment of journalists, and cites James Risen and the New York Times case, and such.

Does the White House bear any (inaudible) for the fall -- in what appears to be a fall in press freedom, et cetera?

EARNEST:

Obviously, I strenuously disagree with the argument that Journalists Without Borders have made in that report. I've observed on many occasions that it's the responsibility of the independent media in this country to press those who are in positions of authority for more access and for more transparency, and that's part of the process and I respect that role. In fact, it's critical to the success of our democracy for independent professional journals to play that role. It sounds to me that's -- that that's exactly what Reporters Without Borders is doing by, you know, putting forward a provocative analysis like this to -- to challenge and put pressure on the -- on those who are in power.

And I certainly respect their desire to do that, but I think on the merits, when you consider the climate and the environment in this country in which independent journalists have the opportunity to do their work, I just don't think that withstands much scrutiny.

QUESTION:

It's also been noted, though, reporters continue to not have protection under federal shield laws that have (inaudible) eight whistle blower cases they -- that the administration has prosecuted for that reason. Should reporters have protection under federal (inaudible)?

EARNEST:

I'll admit, Paul, it's been a while since I've reviewed our -- our position on that particular -- on that particular policy question, but let me take a look into it and we can get -- we can certainly get you an answer. OK?

Ron?

QUESTION:

(inaudible) Donald Trump, you were a little dismissive about the question about what he said about (inaudible).

EARNEST:

Yes.

QUESTION:

And I wonder, do you -- are you concerned that Democrats may still be very dismissive of Donald Trump? Do you -- do you take him seriously as a potential nominee and a potential opponent in November?

EARNEST:

Well, it certainly is -- again, you guys have written about this -- all the information I get about this is from what I read from all of you...

QUESTION:

Well, no. You get much more information from (inaudible).

EARNEST:

About Donald Trump's campaign? I don't -- I don't mean to disappoint you all, but I don't really have any -- I don't know anybody that works on the Donald Trump campaign. I don't have any special sources over there at all.

But look, to go to your point, it's clear that he has built a large following in the Republican Party and he's getting a lot of support and again, based on the results from the states that have hosted

elections so far and based on the way that he appears to be lining up support from members of -- at least some members of the Republican establishment, that he does have the inside track to be the Republican nominee.

And it certainly requires thinking back to the amount of time and energy that this president devoted to becoming the Democratic nominee in 2008. That's no easy task to win the party's nomination, and so certainly, we are keenly aware of the success that Mr. Trump has had out on the campaign trail. But he's done it in a way that, you know, has raised concerns that I've discussed quite extensively in the past, and I have no doubt that if he is the Republican nominee and when we get to the general election, we'll have an opportunity to have a rather robust political debate about about the stark difference in values, in tone and priorities that Mr. Trump presents.

QUESTION:

On the Supreme Court thing, have -- has there been any -- have you got any indication from any Republicans that this wall that the leadership has put up -- there's any softening behind that -- that -- that wall? Have you done any -- in the president's communications -- White House communications with the other members of the committee, for example, is it -- have you been told anything that suggested there's a possibility that the leadership is not (inaudible)?

EARNEST:

Well, Ron, as I've alluded to, there have been a lot of conversations, not just at the presidential level with people on Capitol Hill, but many more conversations that have taken place at the staff level. I don't think I can account for all of those conversations, but I think what I can do is sort of point to some public statements that we've seen from people like Senator Kirk and Senator Collins who've indicated an openness to giving the nominee a fair hearing and a timely yes or no vote.

EARNEST:

You know, there are other members who have indicated their reflexive opposition to anybody the president puts forward. But at least in some cases, they've said that they didn't mind holding a vote on it. So, that's at least -- I mean, as unreasonable as that position is, to basically turn down anybody that the president may consider, at least they're indicating a willingness to engage in the process.

But we haven't seen that from Leader McConnell or Chairman Grassley yet. And, you know, and they haven't shown that willingness, despite the fact that they have a constitutional obligation; despite the fact that there is a clear precedent here; despite the fact that they know exactly how important this is.

But ultimately, they'll have to decide.

QUESTION:

Everyone knows how important this is. And everyone knows why the Supreme Court issue is such a big deal and why following the precedents are somewhat perhaps not relevant because of the ideological (inaudible).

EARNEST:

Well, again, I -- I disagree with that premise. I apologize for interrupting you. But I -- I think it is important to note that there is plenty of speculation about what impact the president's nominee could have on the ideological balance of the court. But there's no reference in the United States Constitution for a separate process if there is the perception of a conclusion reached by some senators that this could have an impact on the ideological balance of the Supreme Court.

In the same way that there's no exception written into the Constitution for if this discussion is taking place in an election year. The president has very clear responsibilities and the Senate has very clear responsibilities.

QUESTION:

So, in terms of what the president is going to do, given the stakes, would you anticipate that there will be a very public campaign by the president directly to the American people to get his point across? Because clearly he hasn't, as you said, no lines were changed, no positions were changed in this meeting with the leadership. And perhaps sooner rather than later, you know, you've said he's not going to endorse a candidate and so on and so forth.

But given the stakes, given where we are, wouldn't that -- I'm sure a lot of people out there who are advocating, the president's supporters want him to be out there doing something sooner rather than later. Do you think they -- that they will see that? Or will we see the traditional role the president plays in reelections after the conventions and so on and so forth?

EARNEST:

Well, when it comes to the -- when it comes to the Supreme Court, I would anticipate that the president will make a public case for his nominee. But at this point, the stage in the process is the president's committed to consulting with the United States, both Democrats and Republicans, and the president is carefully considering the record of potential nominees. That's the stage in this process.

As we move forward, I certainly wouldn't rule out the president playing a more high profile role in advocating for his nominee and calling on the Senate to put their constitutional obligations ahead of their political considerations.

When it comes to the general election, though, I certainly think you can expect the president over the course of the summer and fall campaigning in support of the Democratic nominee, whoever that is, and it will be -- his advocacy will be rooted in highlighting the difference in values, in

priorities, in principles of a Democratic nominee who is committed to continuing the progress that we've made over the last seven years of digging out of the worst economic downturn since the Great Depression, and comparing that to the agenda put forward by Republicans to actually roll back that progress by going back to the rules that were in place in advance of the last economic downturn.

And that will be the substance of -- the essence of the debate and it's one, frankly, that the president looks forward to engaging in.

QUESTION:

Can you tell us anything more about some of these various advocacy groups that are trying to push for one nominee or the other? Or to be involved in the process -- nomination process for the Supreme Court. What -- to what extent -- what's happening (inaudible) between the White House and those groups? And how transparent is the White House going to be about what you're doing with these other groups? I know that former officials were involved and so on and so forth, but is there intensive planning underway? Are the meetings underway? What is the extent of that activity?

EARNEST:

Well, Ron, the truth is, the engagement on the part of the White House with outside organizations that are interested in being involved in the political processes is something that happens everyday on a wide variety of issues. Obviously, the Supreme Court is different and unique because it's not something that comes up every year, it only comes up every once in a blue moon. And sometimes, like this year, it can come up unpredictably, without any advance warning.

And obviously, the way in which that situation is resolved has significant consequences for our country, so it's natural that there would be lots of outside observers keenly interested in how the process moves forward, and consistent with the way that we engage with outside groups on issues like immigration reform, on -- on cyber security, on the Trans-Pacific Partnership, you know, we're going to engage with outside groups as the president makes a decision about who to put forward for the nomination of the Supreme Court. But we'll also continue to those engage in those conversations even after that nominee has been put forward in terms of making the case that this - - the Senate should fulfill its constitutional obligations.

OK. Byron (ph)?

QUESTION:

Thanks, Josh. Today is Super Tuesday. Voters in more than a dozen states will cast ballots or attend caucuses. It also means that two days from today, voters in Illinois are going to (inaudible). Do you have any guidance on how the president will participate in the election? Will that be in person or absentee? And will we know his choice in the Democratic primary on or before or after that date?

EARNEST:

The -- the president will cast an absentee ballot, that's what he has done in previous primaries and I don't know whether or not that ballot has been submitted at this point. But that's how -- that's how he will participate. At this point, there is no plan to make the president's preference public, but if that changes, we'll be sure to let you know.

QUESTION:

One more on the Secret Service incident yesterday, you (ph) seem to take a dig at the Trump campaign for finding journalists at their rallies, but if the reports are correct, what appears to have happened here is that an agent in the government and an employee of your administration acted to keep a journalist out of an area where the public at large was generally allowed.

I mean, if Trump security wants to ban journalists from walking around, that's sort of their business. But should an agent in the government be acting in this way? And should there be a review about the rules governing Secret Service in campaign settings?

EARNEST:

Well, Byron (ph), I'll tell you that the -- that the current situation that attracted so much attention yesterday is under investigation, and the Secret Service is working with local law enforcement to try to get to the bottom of what exactly happened. And the leadership of the Secret Service has indicated that they'll take appropriate steps based on the conclusion of that investigation, so that's -- that's appropriate.

As it relates more generally to the policies that are a put in place by the -- by the Secret Service, I'd refer you to them for what role they have to play here. You know, there are a variety of considerations. You know, some of those considerations, Byron (ph), relate to journalists are often screened prior to entering a large event like that, and that means that because they are screened, they are then given special access. For example, they're allowed to go either close to the stage, or in some cases, even up on stage at the time.

EARNEST:

That would explain the need to not allow them to mix regularly with the crowds, that we can make sure that -- that the proper security precautions have been (inaudible). I frankly do not know whether or not that was relevant to yesterday's situation, but that would be an explanation for why, in some circumstances, a Secret Service officer would have to limit the movements, or at least limit the -- the press's interactions with the public, to ensure that -- that future special access that they get to the candidate or other protectees can still take place.

OK? Jordan.

QUESTION:

Thanks, Josh. I want to ask about a different issue, which is the transition. Congress passed a bill yesterday that requires the administration to set up some counsels (ph) within six months of the election to help the staff and agencies turn over.

I'm wondering if the president's gonna sign that law, and if you can give us just a general update on the transition plan that's going on here.

EARNEST:

Well, Jordan, I -- I have -- we'll take a look at the legislation and we'll get you a -- a firm answer on that once we've had a chance to review it.

I'll just say, in general, that as President Obama was preparing to take office in late 2008 and in -- in early 2009, we worked quite effectively with -- with the Bush White House that had made a smooth transition a priority.

The American people were quite well served by the Bush White House's commitment to that principle, and I can tell you that that is a principle that this administration expects to continue, if not even further enhance.

There are significant consequences for our national security, it certainly positions the next president to hit the ground running and that's important when doing the people's business.

So we recognize that the previous administration made that a priority, and I'll point out, and particularly when we're talking about bipartisan cooperation the context of the Supreme Court, the Bush -- the Bush White House did that even though they were coordinating with an incoming Democratic president.

They recognized that the responsibility that they had to ensure a smooth transition superseded any narrow political consideration that they had to make, and they understood that that's because that's a constitutional duty of the president, that, after serving two terms, they and the reins on to somebody else.

And ensuring that smooth transition was in the best interest of the country. We certainly intend to fulfill that -- that precedent, that commitment, and -- you know, there's probably a lesson in there somewhere for Senate Republicans.

All right? Jim.

QUESTION:

Hi, Josh. The People's Daily -- I don't know if you read it...

EARNEST:

I don't. I've heard of it, though.

QUESTION:

... their lead story today says that the president will meet shortly with the president of China. Wondering -- is that true? When will the meeting take place if it is true?

EARNEST:

I don't have any updates for the president's schedule at this point. The -- obviously President Obama has an opportunity to talk to President Xi at least a couple of times, just in the first couple of months of this year, usually in -- in response to provocations from the North Koreans.

And that kind of consultation has been fruitful, as we see with the package of sanctions that will be voted on, hopefully, by the U.N. Security Council tomorrow. But I don't have any additional meetings that -- to tell you about this point. But we'll certainly keep you tuned (ph).

I believe the last time that President Obama had an opportunity to meet with President Xi was in Paris during the U.N. climate talks there back in December, so it's been a few months since they've had an opportunity to get together.

And we'll let you know when another meeting's on the books.

QUESTION:

The same -- the same newspaper has an accompanying article which says that, if the U.S. deploys the B-21 Stealth Bomber to Okinawa, it intimates that China would attack that plane on the ground.

QUESTION:

I'm wondering, in light of that kind of saber rattling, how would you describe the relationship between China and the U.S. today? I mean, is it that tense?

EARNEST:

Well, I didn't see that specific report. So it's hard to respond to -- with a lot of specificity about that. I'll just say in general that we have been pretty clear that there have been some important areas where the United States and China have been able to effectively coordinate our efforts.

Certainly, compiling a package of sanctions to respond to North Korean provocations is one good example of that. The United States and China, by working together, did serve as a catalyst for the process that eventually resulted in the historic climate agreement in Paris. That would not have

been possible without the world's two largest economies coming together and demonstrating a clear commitment to the success of that process.

But at the same time, we've been no -- we've not attempted to paper over our differences in other areas, most notably I guess I would cite the current situation in the South China Sea, that China is -- has a pretty clear difference of opinion with a number of other countries in the South China Sea who have competing claims on certain land features in that part of the world.

And while the United States is not a claimant to any of those features, we have encouraged all sides and all parties to try to come together and resolve their differences diplomatically, without escalating the potential for a military confrontation. That doesn't serve anybody's interest. There's important commerce that flows through the South China Sea and it would have a bad impact the U.S. economy and on the global economy if that flow of commerce were somehow interrupted by a military conflict.

So --, you know, we're going to continue to work with the Chinese and hopefully we'll try to bridge our differences there. But I think that's a decent summation of where things stand with the Chinese right now.

OK? Kevin?

QUESTION:

Thanks, Josh.

Would it be accurate to say you believe that the attorney general is highly qualified?

EARNEST:

Well, again, I think the fact that she was confirmed less than a year ago by a bipartisan majority of the United States Senate would be an indication that it's not just the president who believes that she's highly qualified, it's that Democrats and Republicans in the United States Senate believe that she's highly qualified.

QUESTION:

Then you're also aware it's accurate that count was 56-43, (inaudible) a pretty big swing toward not to be a followup confirmation based on, if nothing else, the (inaudible). Is that accurate -- that number 56-43, based on your memory?

EARNEST:

I haven't -- I haven't looked at the vote totals, but it sounds about right to me.

QUESTION:

(inaudible) 56-43.

EARNEST:

OK. I believe you.

QUESTION:

(inaudible) going with this. In other words, if you're talking about someone who's highly qualified, has already been confirmed by the Senate 56-43, would it be fair to say that you believe she would say an outstanding nominee for the high court? Wouldn't the president believe that to be so?

EARNEST:

Well, I wouldn't speculate at this point about who the president is considering. But I think there's no denying that she is somebody who brought to her confirmation process last year a set of impressive legal credentials that earned bipartisan support in the Senate. She also is somebody who over the course of about a year on the job has served the American people quite well as the top law enforcement official in the country.

So, the president's certainly proud of the important work that she has done, but, you know, whether that has any impact on his thinking about the Supreme Court, we'll just have to wait and see.

QUESTION:

Would it surprise you if he were to nominate her?

EARNEST:

Look, I think the president is going to consider -- cast a pretty wide net in his...

(CROSSTALK)

QUESTION:

(inaudible) blog that we read the other day, it seems that she sort of checks every box.

EARNEST:

Well, I wouldn't deny that. I think that she probably does fit a lot of the criteria that we have discussed. But I think there are other people who fit that criteria too, and the president's committed to consulting people with a wide range of experiences and credentials.

And he'll follow through on that commitment and he'll give -- he'll give this all careful consideration. I don't know whether or not she will be part of that process or not.

QUESTION:

She was on Fox News last night and she was asked about a comment that you made about a month ago when I asked you about the Hillary Clinton Benghazi emails...

EARNEST:

I saw that.

QUESTION:

... yeah. And in particular, you remarked in your answer to me, you know, was the confidence that you felt like she would not be indicted. And you said at the time, you know, based on what some people at DOJ are saying, that's not likely to happen. She refuted that last night, and I just want to kind of figure out or square what she said based on...

EARNEST:

Yeah, she didn't refute it. It's a good thing I read the transcript. She didn't refute it, she said that...

QUESTION:

Well, I can tell you what she said...

EARNEST:

OK, let's pull it out.

QUESTION:

All right. So here's what she said...

EARNEST:

Because I think this is -- this is a worthy discussion for both...

QUESTION:

Yeah, absolutely.

EARNEST:

Here's the thing. We should also give some scrutiny to what Mr. Baer said, too.

QUESTION:

OK, absolutely. This is what Bret said. He said, OK, how about this. Press Secretary Josh Earnest said this about Hillary Clinton's investigation from the White House briefing room. He said, quote, "Some DOJ officials have said Hillary Clinton is not the target of the investigation"...

EARNEST:

They said that publicly.

QUESTION:

... so are...

EARNEST:

As reported by news organizations in the room, including Fox News.

QUESTION:

... so are officials briefing Josh Earnest. And she said "I can tell you unequivocally that no one outside DOJ has been briefed on this. And in any case, it's not our policy and it's not happened in this matter."

EARNEST:

That's right.

QUESTION:

So you said some DOJ officials had made that comment.

EARNEST:

They have.

QUESTION:

So you...

EARNEST:

They said...

QUESTION:

... were they making this comment to you specifically? Did you talk to someone? Did someone brief you in particular...

EARNEST:

No one has briefed me, I have not talked to anybody at the Department of Justice...

QUESTION:

OK.

EARNEST:

... with (inaudible) knowledge about this situation.

QUESTION:

So you took...

EARNEST:

I was -- my comments from that briefing were rooted specifically and entirely on public comments as reported by all of you, including by Fox News.

QUESTION:

Was there a particular person that you're quoting from -- that you saw on Fox News from DOJ?

EARNEST:

We can -- we'll send you the reports. We can send you that report.

QUESTION:

Because I don't -- I didn't recall, and I looked.

EARNEST:

OK.

QUESTION:

I didn't see any particular DOJ official tell Fox News that they told you or that they have said...

EARNEST:

No, no, no. I'm not -- no one has told me anything.

QUESTION:

OK.

EARNEST:

I'm talking about what Department of Justice officials have told media outlets. All of you have reported this. It was on the front page of many leading newspapers across the country. And it was included in discussions on Fox News. So there's no -- there's no secret here, it's quite clear exactly what has happened.

And as the attorney general said, and as I said at the time and as I'll say again right now, this is an independent investigation, and this is something that is being led by independent investigators at the Department of Justice, and they are making decisions based on the facts and they're making decisions based on where the facts tell them to go.

They're not doing that based on any consultation with me or anybody else at the White House, they're doing this based on an ongoing independent investigation that will be guided by the facts. That's what they should do.

QUESTION:

OK, so just so I'm clear, you have no independent knowledge of anything that has to do with this investigation, and you were only making a broad statement based on what you'd read in media accounts.

EARNEST:

I think I was making a very specific statement based on what I had read in a wide variety of media accounts, and that is in no way predicated on any secret conversations that I've had with the Department of Justice because I haven't had any secret conversations with the Department of Justice.

QUESTION:

OK, one more. I want to ask you about Ash Carter. He said that the White House does not or would not move with executive action to transfer detainees. Has the president made specific comments that he will not use executive action to close the prison at Guantanamo Bay and, therefore, try to move detainees to the U.S.?

EARNEST:

I haven't heard the president say that publicly either. The president has been asked on a number of occasions whether or not he would consider using executive action, and what he has said when asked that question is that right now, we are focused on trying to work with Congress to get them to remove the obstacles that they have erected to prevent the closing of the prison at Guantanamo Bay.

EARNEST:

The reason that this is important is the president and his national security team, including the leadership at the Pentagon, have concluded that our national security interests would be advanced, that our country would be safer if we took away the symbol of the prison at Guantanamo Bay that terrorist organizations are using to recruit terrorists.

We also know, based on the plan that was put forward by the Department of Defense, that we could actually save some money. We can actually better use taxpayer dollars by closing the prison at Guantanamo Bay, which is prohibitively expensive, and actually detaining suspected terrorists in the same way that we're detaining convicted terrorists in the United States right now.

There are dozens of individuals who been convicted of terrorism inside the United States who are currently being held on American soil in American prisons. That doesn't actually pose a threat to our national security. That doesn't make us more vulnerable. If anything, it actually makes us safer because those individuals are not out walking around planning terrorist attacks. And we've demonstrated to the world that we can live up to our values and that we can prosecute our values, bring people to justice, keep the American people safe in a way that is consistent with the kinds of principles that we hold dear.

QUESTION:

And a couple nuggets (ph) on that. You did say that, you know, 20 years out, we could save up to \$1 billion if we were to close it, comparatively speaking, and we talked about super max in Colorado, for example, where there are a number of ex-terrorists, shoe bomber, underwear bomber, 9/11 conspirators. So that is true, but my question was would the president rule out using executive action to close it?

And I guess the second part of that would be would it be possible, then, if that facility were closed that they could be transferred to another U.S. military facility in other location if gitmo itself were closed?

EARNEST:

Well, I think for the potential of using the military facility, I'd -- I'd refer you to the Department of Defense. They obviously are in charge of administering those facilities. What the plan

contemplated was -- they took a look at the kind of criteria that they would use for any facility to serve this purpose, and there are a variety of considerations.

Obviously, we're dealing with people who do pose a threat to the public, so we need to make sure that the -- that the facility is secure. We also need to make sure that we're holding a very high standard when it comes to protecting their basic human rights. In some cases, those individuals who are being detained would be going through a military commissions process, and so it would be more efficient if there is a place on-site or relatively nearby place, a place that's secure where those proceedings could take place.

We didn't want to be in a position where every time that an individual has a court appearance that we have to fly them to another location, but if we can just move them to a different part of the building or drive them down the street, we can ensure that those processes, those -- those legal proceedings are carried out more efficiently.

QUESTION:

Right.

EARNEST:

And -- so those are the kinds of considerations that they consider. I don't know whether or not they have ruled in or ruled out potential military facilities. I think what they'll probably tell you is that we need to see Congress remove some more restrictions so that we can spend more money and devote more time to considering potential facilities and actually implementing this plan.

QUESTION:

I just want to be fair (inaudible). So (inaudible) the president hasn't ruled out executive action, he just hasn't said yea (ph) or nay?

EARNEST:

That's correct.

QUESTION:

And is it lawful to go from military facility to another one if that facility is on U.S. soil? That's the only thing I'm not sure about because going from facility to facility would seem to be, under the DOD auspices -- I'm not sure if that's lawful if that particular facility, say Leavenworth for example, is on U.S. soil. Do you -- is -- are you aware if that lawful or have they determined...

EARNEST:

Why don't we check on your line of questioning. We'll see if we can get you a better answer. OK.

QUESTION:

If I can just (inaudible).

EARNEST:

Sure.

QUESTION:

Ash Carter said yesterday that -- that it's not possible to close gitmo without Congress acting. Loretta Lynch had said something similar, the Joint Chiefs have also come out in pretty clear language to say that.

But when you've been asked about it, you said you're not going to take anything off the president's -- basically, you're not going to take it out of the president's hands, that you're going to leave the president the option of potentially using executive action in the future.

So are all of these other administration officials off-message when they're basically doing what you said you're not going to do and taking it basically off the president's table in terms of executive action?

EARNEST:

Well look. When it comes to the president wielding his executive action, the person that has the final word on it is the president of the United States. And he certainly will do that in consultation with his attorneys because he's committed to following the law. And that's exactly what he will do.

What that means for the way that he could use executive action with regard to this specific matter, I'm not going to speculate on that. The president will ultimately make that decision, but that's not a decision that he's focused on right now. Right now, the decision that he's focused on is a decision that Congress needs to make to remove obstacles that prevent us from doing the right thing.

And by doing the right thing, I mean closing the prison at Guantanamo Bay, following the advice of the Pentagon leadership, following through on the steps that even Republican national security officials acknowledge would make us safer and also taking steps that would save taxpayer dollars.

So, you know, I've compared this before to the kind of decision tree that Republican presidential candidates have set up for themselves, that when they're laying out their criteria and they're laying out their leadership principles, they're suggesting that they would protect the country, that they would follow the advice of our military leadership and that they would cut wasteful government spending.

Well, by implementing this policy, we can certainly pursue and make progress against all three of those objectives, and that's the case that we're making to Republicans in the United States Senate.

After all, I think that's why a number of Republican national security experts have come out in favor of this approach.

QUESTION:

And I want to ask about how will the case in New York basically block the government from doing what you want to do in San Bernardino. I know there are differences between the two cases, but one of the things that the judge said that -- because I want to quote from his ruling -- is that...

EARNEST:

OK.

QUESTION:

... the government has made the considered decision that it's better off securing such crypto-legislative authority from the courts rather than taking the chance on -- in legislative debate that might produce a result less to its liking. And that was specifically about using this archaic All Writs (ph) Act to try to get into these phones, a law from, like, the 1700s.

So I'm wondering should you all be more involved in the legislative debate to come up with something that's modern to focus on encryption and come up with a law that sort of gets -- threads the needle on this that, you know, protects both security and privacy.

EARNEST:

Well with all due respect to the -- to the judge in New York, a judge considering a similar, but different, set of facts in California came to a different conclusion, and concluded that the government was -- that it was entirely appropriate for the government to pursue the action that we have laid out.

You know, but ultimately, this is something that will go through the courts, and these are probably not the only two judges that will have the opportunity to weigh in on this particular set of policy questions.

EARNEST:

But look, you know, we talked about this a little last week, too. When it comes to Congress, asking them to do even easy things doesn't often result in a prompt progress, and I think all of us would agree that dealing with issues related to encryption are rather complicated. And I think the likelihood that Congress would be able to successfully and efficiently handle this matter is rather unlikely. But look, we'll have to see how this plays out in the -- in the courts and, you know, we'll have to see if legislation is eventually required.

But again, if it is, I don't think that there would be a lot of optimism that this is something that Congress would be able to do quickly or successfully.

QUESTION:

Just one more on the SCOTUS meeting today. The Republican leaders last week said that they would also use the opportunity of the meeting to bring up other issues like (inaudible) opioid legislation. I'm wondering did any other legislation come up besides the Supreme Court nominee?

EARNEST:

Yes. I understand that there was a brief discussion both of -- of opioid legislation and of criminal justice reform legislation. That's relevant because the Senate Judiciary Committee is the jurisdiction for those two bills. So there was a brief discussion of those issues, but the president's focus in the meeting and at the top president's agenda was the discussion about his constitutional duty about -- to fill a vacancy on the Supreme Court. OK?

Mark?

QUESTION:

On the meeting, I'm curious why President Obama didn't use the photo op at the start to make a statement, as he so often does. And certainly, there were questions asked that, you know, could have let him make the case about which he feels so strongly.

EARNEST:

Well, Mark, to be blunt about this one, the -- you know, in previous pool sprays (ph) in these settings when the president had invited the leaders after Supreme Court vacancies, on one occasion, the president did speak to the pool and another one he didn't. I think in this instance, given the pretty stark difference of opinion about how to proceed, the president felt like it would be more courteous to withhold his comments and allow the discussion to take place in private.

But you know, we had made a commitment to all of you that we'd give you an opportunity to enter the room, at least briefly, at the top of the meeting and get photographs and get a chance to evaluate the body language and all the other things. So that's why we followed through in -- in having a pool spray (ph) even though the president decided to reserve his comments.

QUESTION:

They were in agreement with the Republican leaders about no statement? I thought this is a this is a decision of the president of made on his own

EARNEST:

No. I think this was -- this was a decision that the president made on his own. Obviously, it's -- you know, it's his building, it's his office and he -- he called the meeting, so he certainly had the right to make a statement. But out of deference to his -- to the Republican senators that obviously vigorously disagree with his point of view, he decided to reserve his comments.

QUESTION:

And although no minds were changed, he still feels the meeting was worthwhile?

EARNEST:

Absolutely. Again, because of the importance of any president consulting with the United States Senate in advance of making a -- putting forward a Supreme Court nomination. And that consultation should occur, not long party lines, but actually across party lines. That's why Democrats and Republicans attended the meeting, and the president takes that responsibility quite seriously.

And it certainly is not the last conversation that the president will have with anybody in the Senate as he continues to contemplate his -- who would be the best person to fill the vacancy on the Supreme Court.

QUESTION:

Is his binder getting thicker?

(LAUGHTER)

EARNEST:

Well, presumably, some of the materials that he's reviewed can be removed from the binder, but it is true that there is information that is regularly being forwarded to him for his review. OK?

Mike?

QUESTION:

Thanks, Josh. Chairman Grassley, in explaining why he won't even allow a hearing on a Supreme Court nominee has said that the fact that this is taking place in a presidential election year gives us the unique opportunity to have a debate, not only about who the president should be in picking a nominee, but the role of the court itself.

Why is that not a -- a valid point of view? And wouldn't the president like to have a part in that debate?

EARNEST:

Well, I would say, Mike (ph), that we had that debate 2012, and that was a debate that the president won. He was reelected by a majority of the American people. And when he took office for a second term, he was given all of the rights and responsibilities that are vested with any president for four years.

He was not elected to a term of three years and one month, he was elected to a four-year term. And the president -- we have talked at some length, even prior to Justice Scalia's tragic and untimely death, about the president's intent to squeeze every bit of opportunity out of the time that he has remaining.

And that means doing everything that he can to fulfill his constitutional duty to serve the American people. And that includes being vested with the responsibility to nominate candidates to fill a vacancy in the Supreme Court, because, after all, it would be unprecedented in the modern court for a vacancy to last for more than a year.

Given the significant stakes surrounding the cases that will be evaluated by the Supreme Court, we should make sure that they aren't considering those cases shorthanded, and that they have the full complement of justices, that the Supreme Court can function the way that the founders of the court intended.

And that is what the president feels a responsibility to do. It's laid out in the Constitution. And there is a clear precedent dating back to President Reagan's final year in office when he was in a position to ask the United States Senate to confirm his nominee to the Supreme Court.

He did that in a presidential election year. He did that in his last year in office. He did that even though the other party was in charge of the Senate. But yet that other party, understanding the duty that they have under the Constitution, worked effectively with Republicans and with the Republican president to confirm Justice Kennedy to the Supreme Court.

QUESTION:

Super Tuesday and the presidential campaign, does the possibility or even the probability now that Donald Trump is going to be the Republican nominee affect the way that the White House is planning for the president's involvement in the fall campaign?

In other words, will he be more active, do more events in the campaign if it's a Donald Trump as the nominee versus what they would have done with a Marco Rubio or a Ted Cruz?

EARNEST:

No. I would anticipate that the president will be active on the campaign trail over the course the summer and the fall. He will have a case that he is eager to make about how important it is for the next president of the United States to build on the progress that we've made thus far.

And considering that all of the Republican candidates have run campaigns that I think can adequately be described as divisive, and vowing to roll back so much the progress that we've made over the last seven years, I think that's a reason for the president to be involved.

And, you know, obviously you'll hear from the president himself on this once we get to the general election, but that's the essence of the case that the president looks forward to making on the campaign trail later this year.

QUESTION:

Lastly, has there been any calls that the president makes on these primary nights to the Democratic candidates to congratulate them, to talk to them about how the campaign is going, or is there a point at which you expect that he will make the call to congratulate the presumptive nominee for any delegate threshold (OFF- MIKE)?

EARNEST:

The president has not been making calls over the course of these election nights. But I would anticipate that once a presumptive nominee has been chosen by Democratic voters across the country that the president will make a congratulatory call but also probably wish well the candidate who didn't win.

After all we've seen that both Secretary Clinton and Senator Sanders, regardless of the final outcome here, have succeeded in motivating a significant portion of the Democratic Party to support their campaign. And the unity of the Democratic Party will be critical to our success in the general election.

And while there are differences between the two Democratic candidates, those differences pale in comparison to the differences between the values put forward by the Democratic candidates and the values put forward by the Republican candidates.

OK?

All right. Fred (ph), I'll give you the last one.

QUESTION:

Thank you, Josh.

As far as the nomination goes, a Supreme Court confirmation process have been extremely brutal going back at least to 1987. But the (OFF-MIKE) the nominee has go to through has to go through has always been the light at the end of the tunnel.

Based on what's happening now, it just seems like there's a less than 50 percent chance of actual confirmation. Do you think it is going to be hard to -- we've seen even some Democratic

lawmakers, attorney general in California, Senator Booker even sort of waved off being considered for this.

Do you think it's going to be hard to get someone to step up to want this nomination? Is the nomination worth having?

EARNEST:

It absolutely is. And I do not anticipate having any trouble choosing the right person for the job and having that person accept the opportunity to go through the nomination process.

Look, the nomination process, as you point out, is rigorous and it should be. We're talking about a lifetime appointment to the highest court in America. It should be a rigorous process.

There should be lots of meetings, private and public. There should be days of hearings under oath where Democrats and Republicans ask of tough questions. And the nominee in front of the American people, on television, under oath, should answer those questions. That should be part of the process.

What's also true though is that the process shouldn't unnecessarily be drawn out. You can have a rigorous intensive process that isn't plagued by unnecessary delays. And, you know, since I believe that the mid-'70s, about the average amount of time it has taken for a Supreme Court justice, once nominated to be confirmed, is 67 days.

So we can spend about two months questioning and probing and evaluating the candidacy of whoever is put forward. But at that point a person should get a vote, a yes or no vote, about whether or not they deserve to -- or deserve to serve on the Supreme Court because they can serve the American people on the Supreme Court with honor and distinction.

And that certainly is the case that we make.

QUESTION:

(OFF-MIKE) confirmation process given (OFF-MIKE). Do you think it should more rigorous than a confirmation process for a cabinet position or a lower court position?

EARNEST:

Well, no, those -- that process for a cabinet nomination or anybody who gets a lifetime appointment to the federal judiciary, that should be a rigorous process too.

And I think we've seen that process function in a way that, frankly, over the last year or so has also been bogged down by Republicans. And that has been a source of quite a bit of disappointment, that the kind of obstruction that we're seeing around the Supreme Court gets a whole lot more attention, and it should.

But the fact is we have seen this obstruction from Republicans since they took the majority in January of 2015, block any number of very qualified nominees to district and appellate court positions. And that has been a source of some disappointment too.

So this obstruction that we see from Republicans is not unique, and is also -- that obstruction is also inconsistent with their constitutional duties.

But, look, I understand that everybody treats the Supreme Court nomination with special attention and special care. All the more reason that Republicans should pay special attention to the need to fulfill their constitutional duties.

OK? Thanks, everybody. We'll see you tomorrow.