

TIME

Under Scrutiny for Stock Sales, Senator Richard Burr to Set Aside Intel Committee Gavel

BY PHILIP ELLIOTT

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Sen. Richard Burr announced plans to step aside as chairman of the powerful Senate intelligence committee on Thursday, just hours after the FBI seized his cell phone, won access to his data and added another layer of anxiety to an already tense Washington struggling to respond to a pandemic.

Investigators at the Department of Justice and the Securities and Exchange Commission are looking at whether Burr, a Republican from North Carolina, took advantage of his role as chairman of the U.S. Senate Select Committee on Intelligence by using spies' dispatches to inform his decision to sell stocks ahead of the economic crash created by the coronavirus. The Los Angeles *Times* first reported the FBI had secured a warrant on Wednesday for Burr's cell phone and data, and that Burr turned over his phone to FBI agents at his home in Washington.

"This is a distraction to the hard work of the committee and the members, and I think the security of the country's too important to have a distraction," a mask-wearing Burr told reporters at the Capitol, according to video recorded by C-SPAN. Earlier in the day, Senate Majority Leader Mitch McConnell released a statement that Burr would temporarily step down from his position, effective Friday evening.

It was not immediately clear who would take over the sensitive post on a nominally interim basis. Senators Tom Cotton and Ben Sasse are the only Republican members on the current intelligence panel who do not already chair

a committee. McConnell's announcement did not name a successor, nor did it say that Burr would leave the panel altogether.

It was a series of rapid-fire developments in a city that usually drags out its scandals until the facts are muddy and the public is weary and indifferent. The swift action speaks to the seriousness with which investigators consider suggestions that the nation's elected leaders used inside information to dodge a financial loss that has hit millions of Americans. But it has also fueled critics complaints about the increasingly uneven application of justice in the federal government when it comes to public figures like Burr, who have openly defied Trump.

The publicly known facts of the FBI's case don't look good for Burr. He participated in a closed-door briefing from the intelligence community on Feb. 4 about the looming pandemic. On Feb. 7, he and Senate Health, Education, Labor and Pensions Chairman Lamar Alexander published an **opinion piece with Fox News** arguing "the United States today is better prepared than ever before to face emerging public health threats, like the coronavirus."

But on days later, on Feb. 13, Burr and his wife then sold 33 different stock holdings, valued between \$628,033 and \$1.72 million, as reported on his financial disclosure forms on Feb. 27. As **first reported** by ProPublica and the Center for Responsive Politics, several of those divestments were in sectors that the pandemic has hit hard, including hotels and shipping companies. ProPublica also reported Burr's brother-in-law also sold stocks on Feb. 13.

Burr, who receives daily briefings on the coronavirus' outbreak, has denied any wrongdoing and has asked the Senate's ethics panel to investigate him. His defenders have argued that anyone with an Internet connection could see the coronavirus' early effects in China and make a reasonable guess that it would not be contained to one province there. Burr himself credits reporting from CNBC's bureaus in Asia for informing his decisions.

But his critics say his access to intelligence gave him a leg up and may have lured him to engage in insider trading, a crime under a 2012 law banning

investments based on information gleaned in government posts.

Any charges, should they be brought, could be tough to prove without concrete evidence, such as text messages or emails with explicit links between the sales and the pandemic.

Burr has earned high marks for his role leading the Senate's intelligence team. He and his Democratic counterpart, vice chairman Mark Warner of Virginia, have kept politics largely at an arm's length as they have spent more than three years dealing with Russia's interference in the 2016 election. Whereas their peers on the House intelligence committee have churned out reports on partisan lines, the Senate committee has been largely of one voice in agreeing with the intelligence agencies that Russia did, in fact, meddle in the 2016 election and favored Donald Trump. The panel is in the final stages of preparing a comprehensive report on Russia's activities that could further embarrass Trump, who was impeached by the House but acquitted by the Senate for obstructing the investigation into Russia.

Burr announced during his 2016 re-election that he wouldn't seek a third term in 2022. Because his political future has never been contingent on Trump or his supporters, Burr has enjoyed a good measure of freedom in his final term — and an annoyance to the White House and its allies who see Russia's election meddling as a challenge to Trump's legitimacy. Burr has been critical of his fellow Republicans on the House intelligence panel for selective leaks of materials to buttress the White House's talking points. "I cease to be amazed by how much stuff we release publicly now," Burr told CNN in 2018.

That independence, some suggested, may have been what landed him with the FBI on his Washington doorstep on Wednesday. "Burr has not always done Trump's bidding the way McConnell and others have," says former CIA analyst Ned Price, who resigned after Trump visited the agency's headquarters in 2017 and bragged about the size of his inauguration crowds the day before. "Burr's Justice Department isn't blind. In fact, it is laser focused on Trump's perceived enemies," says Price, who backed former South Bend, Ind., Mayor Pete Buttigieg during the Democratic presidential primary.

The FBI's move against a sitting Senator, which would typically require some degree of sign-off from top members of the Administration, has bolster critics' argument that the Justice Department is becoming increasingly politicized. In the last week, the Justice Department has attempted to walk away from its prosecution of former Trump adviser Michael Flynn, who pleaded guilty to lying to the FBI. The department's Bureau of Prisons also approved former Trump campaign chairman Paul Manafort to be granted home confinement due to coronavirus health concerns behind bars, though **other prisoners** who have made similar requests have not been granted early release.

Burr was not alone in selling stocks as the coronavirus spread, but he so far has been the only one with a known warrant in the picture. Sen. Kelly Loeffler, Republican lawmaker from Georgia, also sold stocks after a closed-door briefing for lawmakers about coronavirus. She wasn't Trump's preference for the spot but she has fallen in line behind him and offered praise. She has said in the past that her outside financial advisers arranged the moves, but on Thursday, after Burr's phone was seized, declined to discuss the matter with reporters at the Capitol. The office of Sen. Dianne Feinstein, a California Democrat, on Thursday said she had answered the FBI's questions and handed over files.

Singled out or not, Burr may have a serious legal fight ahead of him. Warrants for cell phones aren't routinely granted without some degree of supporting evidence. The case is also almost certain to ignite problems between the FBI, the Justice Department's main offices, Congress' and Burr's lawyers, as well as the vast intelligence community, about keeping classified materials reviewed by Burr from becoming compromised.

The case could even end up at the Supreme Court, according to watchdog groups, given the lack of certainty over what protections sitting lawmakers enjoy under the Constitution's Speech and Debate Clause, which **insulates** Congress from being held responsible for most actions they undertake in the course of their job. As with so much in Washington these days, there is little telling the ricochet's effect.

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