

The Honorable John Boehner
H-232, The Capitol
Washington, DC 20515

The Honorable Nancy Pelosi
H-204, The Capitol
Washington, DC 20515

December 17, 2014

RE: Congressional Oversight of National Security

Dear Speaker Boehner and Minority Leader Pelosi:

We write to express our concerns about congressional oversight of intelligence activities. Congress is responsible for authorizing, overseeing, and funding these programs. In recent years, however, the House of Representatives has not always effectively performed its duties.

The time for modernization is now. When the House convenes for the 114th Congress in January and adopts rules, the House should update them to enhance opportunities for oversight by House Permanent Select Committee on Intelligence (“HPSCI”) members, members of other committees of jurisdiction, and all other representatives. The House should also consider establishing a select committee to review intelligence activities since 9/11. We urge the following reforms be included in the rules package.

HPSCI Modernization

1. Modernize HPSCI Membership. Intelligence matters are relevant to all Members of Congress and fall into the jurisdiction of many committees. The current structure of HPSCI does not always reflect the interests of the House.

HPSCI membership must be modernized. The Speaker and the Minority Leadership should continue to designate the chair and ranking member. Chairs and ranking members of other committees with intelligence jurisdiction—Appropriations, Armed Services, Foreign Affairs, Homeland Security, Oversight and Government Reform, and Judiciary—should each have a designee on HPSCI. For the remaining committee members, each party conference should have an inclusive process for choosing them (4 for the majority, 3 for the minority).

2. Staff Designees for HPSCI Members. Each HPSCI member must be able to designate a staffer to represent his or her interests on the Committee, as their Senate counterparts do.

3. Availability of Unclassified Intelligence Reports. Unclassified intelligence reports that HPSCI receives must be made public with minimal delay.

4. Improve Responsiveness to House Membership. HPSCI must quickly and transparently respond to Member requests for information or meetings. Information in HPSCI's custody must be available to House Members and cleared staff upon request unless restricted by statute. HPSCI must respect Members' constitutional prerogatives, provide an opportunity for Members to be heard, and provide a full accounting of votes on Member access to information.

5. Increase HPSCI Transparency. HPSCI must increase transparency while protecting secret information. We recommend it:

- Notify Members of the House of the subject and witnesses for upcoming closed hearings, and make that information public unless it would cause significant, articulable harm;
- Provide public notice of markups and promptly release text and amendments unless classified;
- Give Members sufficient notice of classified briefings;
- Conduct prompt declassification reviews of closed session transcripts and publish them;
- Permit HPSCI staff to discuss committee procedures, but not substance, without prior authorization;
- Publish current and historical information on committee activities online;
- Ensure the executive branch provides all requested information;
- Permit Members and staff to keep notes from briefings on classified matters in a secure but easily accessible location;
- Permit Members and staff to discuss the substance of closed hearings with other cleared Members and staff in secure locations. HPSCI should be notified when classified matters are discussed.

Empower All Members of Congress

1. Member Access to Executive Branch Communications. Communications from the executive branch must be available to all Members unless the sender explicitly indicates otherwise.

2. Discussion of Public Information. Members of Congress must be able to access, review, and publicly discuss materials already available to the public, even if deemed classified by the executive branch, without fear of reprimand by the Ethics Committee. If the executive branch does not acknowledge the materials as official, however, Members may be required to indicate the material has not been authenticated.

3. Provide Members with Sufficient Staff Assistance. All Members must be allowed one staff member with Top Secret/Special Compartmented Information (TS/SCI) clearance to attend briefings on behalf of and to provide counsel to the Member. Members need informed staff to be able to conduct proper oversight. Staffers must first be vetted, of course, in a timely fashion.

4. Congressional Option for Whistleblowers. Federal employees and contractors who blow the whistle must be able to speak to any Members of Congress or staff designee without fear of reprisal.

5. Improve Training for Members and Staff. Members and staff must be able to access training for handling classified information and on conducting effective congressional oversight of classified matters.

In addition to the above reforms, we urge you to consider establishing a distinct, broad-based review of the activities of the Intelligence Community since 9/11, modeled after the 9-11 Commission or the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Committees.

Background information on our recommendations are available in the white paper *Congressional Oversight of National Security: Reform Agenda*, published contemporaneously with this letter.

Thank you for your service to our nation and for your attention to our request. We welcome the opportunity to discuss this with you further. Please contact Daniel Schuman, policy director, Citizens for Responsibility and Ethics in Washington (CREW), at 202-759-4926 or dschuman@citizensforethics.org; Zach Graves, policy fellow, R Street, at 202-525-5717 or zgraves@rstreet.org, or Sean Vitka, federal policy manager, the Sunlight Foundation, at 202-742-1520 or svitka@sunlightfoundation.com.

Sincerely,

Access
Bill of Rights Defense Committee
Brennan Center for Justice at New York University School of Law
Campaign for Digital Fourth Amendment Rights
Center for Arms Control and Non-Proliferation
Center for Democracy and Technology
Center for Effective Government
Center for Financial Privacy and Human Rights
Citizens for Responsibility and Ethics in Washington (CREW)
Competitive Enterprise Institute
Computer & Communications Industry Association
Constitutional Alliance
Council for a Livable World
CREDO Mobile
Defending Dissent Foundation
Demand Progress
Electronic Frontier Foundation
Electronic Privacy Information Center
Fight for the Future
Government Accountability Project
International Association of Whistleblowers
Just Foreign Policy
Liberty Coalition
Media Alliance

National Priorities Project
National Security Counselors
National Whistleblower Center
New America's Open Technology Institute
OpenTheGovernment.org
Participatory Politics Foundation
Progressive Change Campaign Committee
Project on Government Oversight
Public Citizen
R Street Institute
Restore the Fourth
The Rhode Island Coalition to Defend Human & Civil Rights
RootsAction.org
Sunlight Foundation
T.M. Guyer & Friends, PC
TechFreedom
X-Lab

Carol Czarkowski
Coleen Rowley
Daniel Ellsberg
Diane Roark
Edward Loomis
Elaine Mittleman
J. Kirk Wiebe
Marcy Wheeler
Matthew Fay, The Niskanen Center*
Rev. Dr. George Hunsinger, Princeton Theological Seminary*
Todd E. Pierce, JA, MAJ, USA (Ret.)
Kevin Downing
William Binney

* for affiliation purposes only