

July 24, 2018

Dear Democratic Leaders Schumer and Pelosi, Vice Chairman Warner, and Ranking Member Schiff:

We, the undersigned 24 organizations, write to share our deep concern that your July 12, 2018 letter to Director of National Intelligence Coats¹ undermines the House and Senate intelligence committees and weakens congressional oversight of the intelligence community.

In your letter, you criticize DNI Coats for sharing classified information with the House and Senate intelligence committees, expressing a concern that the communication “could put sources and methods at risk” and that you had previously requested he confine his communications to a “small group of designated members” — presumably, the so-called Gang of Eight.

As you know, the House and Senate intelligence committees were created in the wake of serious abuses by the intelligence agencies with the express purpose of overseeing and making continuing studies of the intelligence activities and programs of the United States government to assure that such activities are in conformity with the Constitution of the laws of the United States. They are intended to be Congress’s eyes and ears. The president is required by law to ensure the committees are fully and currently informed of intelligence activities, including covert actions and any significant intelligence failures.

In very limited instances that concern covert actions, the president (but not the Director of National Intelligence) may restrict access to certain information to the Gang of Eight, but he must provide a written statement of the reasons for doing so. In all other cases, the law accepts that members of these select committees may be trusted with sensitive information — as they must be, in order to conduct effective oversight.

In circumstances where there is concern that any member of Congress has inappropriately released information or intends to do so, both chambers have a robust ethics process of which you could avail yourself.²

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<https://www.democraticleader.gov/wp-content/uploads/2018/07/letter-to-Coats-re-Document-Access.pdf>

² In addition, because the committees are select committees, the leaders of each party in each chamber appoint and remove committee members of the same party, including the chair or ranking member. Accordingly, we expect that your appointees enjoy your full confidence.

Through your letter to DNI Coats, you sanction his bypassing Members of Congress who have specific oversight duties arising from their service on the intelligence committees. This has the effect of unduly narrowing the range of skills and perspectives that can be brought to bear on intelligence matters — especially as the committees are quite deliberately composed to include diverse perspectives. In addition, it sets a precedent for the executive branch to withhold information from the relevant oversight committees on its own initiative or at the behest of committee leaders. This course of action threatens to weaken congressional oversight and the legislative branch’s ability to serve as a proper check on the executive branch.

If you have concerns with the functioning of the intelligence committees or the behavior of its members, you should exercise your authority to address it, refer matters to the appropriate committee, or work to reform the operations of the committees. A broad coalition of organizations has endorsed recommendations to that effect.³ But it is counterproductive to urge the executive branch to limit the information it provides to the duly authorized oversight committees in accordance with the law and in furtherance of Congress’s role as the first branch of government.

Sincerely yours,

American Civil Liberties Union
American-Arab Anti-Discrimination Committee
Brennan Center for Justice at the NYU School of Law
Campaign for Liberty
Center for Human Rights and Privacy
Council on American-Islamic Relations
Defending Rights and Dissent
Demand Progress Action
DownsizeDC.org, Inc.
Freedom of the Press Foundation
Government Information Watch
Lincoln Network
Media Alliance
National Security Counselors
New America's Open Technology Institute
Oakland Privacy

Open Society Policy Center
Open the Government
Project On Government Oversight
Protect Democracy
R Street Institute
Restore The Fourth, Inc.
RootsAction.org
X-Lab

cc: Members, House Permanent Select Committee on Intelligence
Members, Senate Select Committee on Intelligence