



NATIONAL SECURITY AGENCY  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

FOIA Case: 109360A  
21 June 2021

AMERICAN OVERSIGHT  
ATTN: AUSTIN EVERS  
1030 15<sup>TH</sup> ST NW, SUITE B255  
WASHINGTON DC 20005

Dear Austin Evers:

Enclosed with this letter is a partial response to your Freedom of Information Act (FOIA) request of 28 February 2020 for:

1. All records (including email communications, handwritten notes, memoranda, and other document types) reflecting any directive, order, or guidance from the White House to NSA directing the agency not to produce or share documents, intercepts, intelligence, analytic assessments, or any other material--or directing that such production or sharing be limited--with the House of Representatives Permanent Select Committee on Intelligence (HPSCI) or other congressional committees. To be clear, American Oversight requests records *reflecting* such directives, orders, or guidance, so emails, handwritten notes, memoranda, or other documents reflecting directives received from the White House are responsive to this request.

2. Any NSA directive, order, guidance, or decision memoranda determining or directing that NSA personnel not produce or share documents, intercepts, intelligence, analytic assessments, or any other materials--or determining or directing that such production or sharing be limited--with HPSCI or other congressional committees.

As stated in our previous letter, dated 12 March 2020, this request was assigned FOIA Case Number 109360. This request subsequently formed the basis for civil complaint 1:20-cv-01008.

Per an agreement facilitated by the Department of Justice and counsel for American Oversight, the scope of the request was limited to records regarding the impeachment proceedings that took place in late 2019 and early 2020.

In addition to the enclosed materials, our search for responsive material has identified documents that contain the equities of other agencies. Because we are unable to make determinations as to the releasability of the other agencies' information, this material will require external consultations. We will provide material to you on a rolling basis as our internal and external reviews are completed.

For this response, we have completed our review and processing of 2 documents (10 pages) and they are enclosed. Certain information has been protected in the enclosures, as explained below.

Some of the withheld information has been found to be currently and properly classified in accordance with Executive Order 13526. The information meets the criteria for classification as set forth in Subparagraph (c) of Section 1.4 and remains classified SECRET as provided in Section 1.2 of Executive Order 13526. The information is classified because its disclosure could reasonably be expected to cause serious damage to the national security. Because the information is currently and properly classified, it is exempt from disclosure pursuant to the first exemption of the FOIA (5 U.S.C. Section 552(b)(1)).

Additionally, this Agency is authorized by various statutes to protect certain information concerning its activities as well as names of its employees. Accordingly, those portions are exempt from disclosure pursuant to the third exemption of the FOIA, which provides for the withholding of information specifically protected from disclosure by statute. The specific statutes applicable in this set of documents are Title 18 U.S. Code 798; Title 50 U.S. Code 3024(i); and Section 6, Public Law 86-36 (50 U.S. Code 3605).

Finally, personal information regarding individuals has been protected in the enclosures in accordance with the sixth exemption of the FOIA, 5 U.S.C. 552 (b)(6). This exemption protects from disclosure information that would constitute a clearly unwarranted invasion of personal privacy. In balancing the public interest for the information you request against the privacy interests involved, we have determined that the privacy interests sufficiently satisfy the requirements for the application of the (b)(6) exemption.

Please be advised that we continue to process additional documents and will address those in future responses to you.

FOIA Case: 109360A

If you have any questions, your counsel may contact Department of Justice Trial Attorney Serena Orloff at (202) 305-0167 or [serena.m.orloff@usdoj.gov](mailto:serena.m.orloff@usdoj.gov). Please refer to civil action number 1:20-cv-01008 (United States District Court for the District of Columbia).

Sincerely,

*for Kimberly Beall*

RONALD MAPP  
Chief, FOIA/PA Office

Encls:  
a/s

To: [redacted]  
DL gc\_leg (ALIAS) D2 [redacted]  
Cc: [redacted]  
From: [redacted]  
Sent: 2019-12-16T15:19:21Z  
Subject: (U) Status Update  
Received: 2019-12-16T15:19:24Z  
[LAO Letter to HPSCI 13Dec19.pdf](#)

Classification: ~~SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36

Good morning,

I wanted to provide an update on the status of the [redacted] On Friday, 13 December, we sent the attached letter to HPSCI.

Thanks,

[redacted]

\*\*\*\*\*~~(U//FOUO)~~\*\*\*\*\*

[redacted]

Legislative Affairs Officer  
NSA Legislative Affairs Office [redacted]

[redacted]

[DropBox](#)

\*\*\*\*\*~~(U//FOUO)~~\*\*\*\*\*

(b) (1)  
(b) (3) - P.L. 86-36

Classified By: [redacted]

Derived From: NSA/CSSM 1-52

Dated: 20130930

Declassify On: ~~20441201~~

Classification: ~~SECRET//SI//NOFORN~~



~~SECRET//SI//NOFORN~~  
NATIONAL SECURITY AGENCY  
FORT GEORGE G. MEADE, MARYLAND 20755-6000

DEC 13 2019

The Honorable Adam Schiff  
Chairman, House Permanent Select Committee on Intelligence  
United States House of Representatives  
Washington, DC 20515

(b) (1)  
(b) (3)-18 USC 798  
(b) (3)-50 USC 3024 (i)  
(b) (3)-P.L. 86-36

Dear Chairman Schiff:

~~(S//SI//NF)~~ Thank you for your letter dated October 15, 2019, in which you requested that NSA produce documents pertaining to [redacted]. Specifically, the Committee, through its letter, sought NSA's assistance "[p]ursuant to the House of Representatives' impeachment inquiry and the oversight authorities and jurisdiction of the House Permanent Select Committee on Intelligence . . . ." In NSA's response on October 16, 2019, we indicated that the Agency would make foreign intelligence reports available for review in connection with the Committee's oversight function. Accordingly, three tranches of responsive foreign intelligence reports for specific date ranges negotiated with your staff were made available to Congress on an expedited basis. With the provision of the third tranche of reporting, NSA considers the Committee's October 15, 2019 oversight request closed. NSA fully recognizes the importance of the Committee's oversight function, and has at all times sought to fulfil its responsibilities in that regard and to make clear when it is acting in furtherance of those responsibilities.

~~(U//FOUO)~~ This letter does not foreclose any future response by NSA to additional or alternative Committee requests for the production of documents relating to the Ukraine (or other such requests that implicate impeachment-related topics). More specifically, the Agency understands that the Committee, in consultation with the House Committees on Foreign Affairs and Oversight and Reform, submitted a letter and subpoena to the Department of Defense on October 7, 2019, seeking, among other things, the production of fourteen categories of information. NSA is aware that the Department of Defense has informed the Committee of a number of legal and practical concerns with the subpoena, and that the Department's concerns have not been fully resolved. Accordingly, the Department has thus far been unable to comply with the Committee's October 7, 2019 request. NSA, as a component of the Department of Defense, and acting in a manner consistent with the Department's guidance, has taken steps to identify, preserve, and collect documents that are potentially responsive to the Committee's subpoena. Upon the appropriate resolution of this matter, and consistent with applicable Department guidance, NSA stands ready to work with the Committee.

[redacted]

TRUMBULL D. SOULE  
Director, Legislative Affairs

(b) (6)

~~SECRET//SI//NOFORN~~

~~SECRET//SI//NOFORN~~

Copy furnished:  
The Honorable Devin Nunes  
Ranking Member, House Permanent Select Committee on Intelligence

~~SECRET//SI//NOFORN~~

**Morris Paul F NSA D2 USA GOV**

**From:** Gerstell Glenn S NSA-D2 USA CIV  
**Sent:** Friday, December 20, 2019 5:53 PM  
**To:** [Redacted] Morris Paul F NSA-D2 USA CIV  
**Subject:** FW: (U) HSPCI Chair Schiff letter, 19 Dec - response to 13 Dec letter  
**Attachments:** HPSCI\_Schiff Letter to DIRNSA\_19Dec19.pdf; LAO Letter to HPSCI\_13Dec19.pdf

**Classification:** ~~SECRET//SI//NOFORN~~

More... in case it becomes relevant next week

(b) (3) - P.L. 86-36

Glenn

**From:** [Redacted]  
**Sent:** Friday, December 20, 2019 11:53 AM  
**To:** Nakasone Paul M GEN NSA-D USA USA; [Redacted] Barnes George C NSA-D USA CIV  
**Cc:** D DIR STAFF; [Redacted] Noble Wendy NSA-D USA CIV; [Redacted] DL ddir\_staff (ALIAS) S; [Redacted] DL EXDIR\_STAFF (ALIAS) D; [Redacted] Gerstell Glenn S NSA-D2 USA CIV; [Redacted] Anthony Teisha M NSA-D2 USA CIV; [Redacted] Soule Trumbull D NSA-P3 USA CIV  
**Subject:** (U) HSPCI Chair Schiff letter, 19 Dec - response to 13 Dec letter

**Classification:** ~~SECRET//SI//NOFORN~~

Sir,

Attached letter we just received this morning from Chairman Schiff (attached) in response to NSA's 13 Dec letter (also attached for reference).

Bottom line: "In light of NSA's decision to halt compliance with the Committee's information request - a step that simply cannot be explained by the reasons proffered in NSA's letter - I will no longer be able to affirm my faith in NSA's independence from political interference." AND "By **December 26**, please confirm that NSA will resume cooperation with the Committee. Please also provide a detailed explanation of the circumstances that led to NSA's December 13 letter, including a description of any directives or guidance that NSA receive regarding its cooperation with the Committee."

Standing by.

v/r

[Redacted Signature]

NSA Deputy Chief, Legislative, State, Local and Academic Engagement  
Engagement and Policy Directorate

[Redacted]

Classified By: [Redacted]



Derived From: NSA/CSSM 1-52  
Dated: 20130930  
Declassify On: ~~20441201~~

Classification: ~~SECRET//SI//NOFORN~~

(b) (3) - P.L. 86-36

Classified By: [redacted]  
Derived From: NSA/CSSM 1-52  
Dated: 20180110  
Declassify On: ~~20441201~~

Classification: ~~SECRET//SI//NOFORN~~

ADAM B. SCHIFF, CALIFORNIA  
CHAIRMAN  
TIMOTHY BERLEFFEN, STAFF DIRECTOR  
(202) 225-7690  
www.intelligence.house.gov



ONE HUNDRED SIXTEENTH CONGRESS  
DEVIN NUNES, CALIFORNIA  
RANKING MEMBER  
ALLEN SOUZA, MINORITY STAFF DIRECTOR

**Permanent Select Committee  
on Intelligence  
U.S. House of Representatives**

December 19, 2019

The Honorable Paul Nakasone  
Director, National Security Agency  
Commander, U.S. Cyber Command  
4409 Llewellyn Avenue  
Fort Meade, MD 20755

Dear General Nakasone:

I am profoundly concerned by the National Security Agency's ("NSA") December 13 letter informing the House Permanent Select Committee on Intelligence ("Committee") that NSA will no longer cooperate with the Committee's request for NSA signals intelligence reports regarding a list of non-U.S. Person foreign intelligence targets.

Following weeks of discussions and meetings between Committee Staff and NSA, in an October 15 letter, the Committee formally requested this information pursuant to the House of Representatives' impeachment inquiry and the oversight authorities and jurisdiction of the Committee. The next day, NSA began producing responsive documents. The Committee appreciated NSA's cooperation with the Committee's requests for information. Abiding by its legal obligations, NSA produced three tranches of documents to the Committee on a read-and-return basis, most recently on November 13.

NSA's cooperation throughout October and November stood in stark contrast to other executive branch agencies—including the Department of Defense (DoD)—which obeyed President Trump's categorical order to withhold every single document subpoenaed by the Committee in connection with the impeachment inquiry.

After weeks of follow-up regarding the fourth tranche—to which the Committee Staff received only one non-substantive response, confirming the request's receipt—Staff again requested a status update on December 13. NSA then sent a short letter announcing that it would no longer comply with the Committee's request.

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~~SECRET//SI//NOFORN~~

NSA cites two reasons for its decision to cease cooperation, both of which are logically incoherent. These pretextual arguments cannot possibly be the true cause of NSA's decision.

*First*, NSA claims that “[w]ith the provision of the third tranche of reporting, NSA considers the Committee’s October 15, 2019 oversight request closed.”

The Committee has taken no steps to close the request for information. To the contrary, on November 21, after the production of the third tranche, Committee Staff met with the Deputy Director of Legislative, State, and Local Affairs to discuss re-scoping a request for a fourth tranche of documents. The Committee submitted a revised request by email on November 25, then followed up by email or phone call on December 2, December 6, December 9, and December 13 seeking status updates from NSA regarding our request.<sup>1</sup>

Similarly, you and I spoke by phone on November 22. In that conversation, I gave no indication that the Committee was closing the request; indeed, I told you that this request is among the most important that NSA had outstanding from the Committee. You affirmed NSA’s commitment to cooperate. At no time on the call did you say that NSA believed the Committee’s request was closed or that NSA would not comply.

Moreover, in its December 13 letter, NSA claims that it “has at all times sought to fulfil its responsibilities in that regard and to make clear when it is acting in furtherance of those responsibilities.” As you know, NSA is obligated by statute to “furnish” to the Committee “any information or material concerning intelligence activities” within NSA’s “custody or control” when “requested by either of the congressional intelligence committees in order to carry out its authorized responsibilities.” *See* 50 U.S.C. § 3092(a)(2). Furthermore, NSA’s statutory obligation to keep the congressional intelligence committees “fully and currently informed of all intelligence activities” requires that NSA cooperate with the Committee’s request. *See* 50 U.S.C. § 3092(a)(1). In light of the gravity of this matter, it is incumbent upon NSA to furnish this information to the Committee in accordance with its legal obligations. The Committee took no step to rescind its request. So, as NSA apparently acknowledges in its letter, that statute requires NSA to continue to produce the requested information.

*Second*, NSA refers to an October 7 subpoena that the Committee issued to DoD. The existence of that subpoena cannot possibly explain NSA’s decision not to cooperate. The DoD subpoena was issued on October 7 and released to the public that same day; DoD unlawfully refused to comply on October 14. Separately, the Committee formally conveyed its request for documents to NSA on October 15, which followed a series of conversations between NSA staff and the Committee in order to ensure NSA would be in a position to fulfill expeditiously the Committee’s request; NSA made its first production on October 16. Every NSA production has been made *after* DoD unlawfully declined to comply with the Committee’s subpoena. Nothing about the subpoena issued to DoD—or about DoD’s response to that subpoena—has changed during the course of NSA’s productions.

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<sup>1</sup> During the November 21 meeting, NSA indicated that if the Committee re-scoped its next tranche in accordance with NSA’s suggestions, NSA would provide responsive information promptly and without additional delays.

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The arguments made in NSA's letter leave the Committee with no explanation other than that NSA has been subjected—and has succumbed—to pressure or direction from DoD, the White House, or both, to shirk its statutory obligations to this Committee in service of President Trump's personal political interest.

As Chairman of the Committee, I am frequently asked whether the President's political machinations have affected the Intelligence Community. Until today, with limited exception, I have been able to say confidently that I have not seen evidence of political interference in NSA's work, NSA's relationship with the Committee, or NSA's willingness to share information with Congress. In light of NSA's decision to halt compliance with the Committee's information request—a step that simply cannot be explained by the reasons proffered in NSA's letter—I will no longer be able to affirm my faith in NSA's independence from political interference.

If NSA does not resume production of responsive documents, I will consider expressing those concerns publicly. I cannot rule out viewing *all* of NSA's requests to the Committee—including reprogramming requests—against the backdrop of NSA's decision to disregard its legal obligations.

By December 26, please confirm that NSA will resume cooperation with the Committee. Please also provide a detailed explanation of the circumstances that led to NSA's December 13 letter, including a description of any directives or guidance that NSA received regarding its cooperation with the Committee.

Sincerely,

A handwritten signature in blue ink, appearing to read "Adam B. Schiff".

Adam B. Schiff

Chairman

~~SECRET//SI//NOFORN~~



~~SECRET//SI//NOFORN~~  
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The Honorable Adam Schiff  
Chairman, House Permanent Select Committee on Intelligence  
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[redacted]

TRUMBULL D. SOULE  
Director, Legislative Affairs

(b) (6)

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Copy furnished:  
The Honorable Devin Nunes  
Ranking Member, House Permanent Select Committee on Intelligence

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