

EXHIBIT N



August 20, 2020

National Security Agency
ATTN: FOIA/PA Office
9800 Savage Road, STE 6932
Ft. George G. Meade, MD 20755-6932

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, regarding the electronic surveillance of members of Congress conducted by the National Security Agency under the Foreign Intelligence Surveillance Act of 1978, P.L. 95-511, 92 Stat. 1783 (“FISA”), as amended by the FISA Amendments Act of 2008, P.L. 110-261, 122 Stat. 2436. This request is filed on behalf of the Project for Privacy and Surveillance Accountability, Inc. (“PPSA”).

Specifically, this request concerns circumstances where the identities of United States Senators or Congressmen whose communications were collected by FISA surveillance may have been “unmasked” —that is, their identities were revealed when the products of FISA surveillance were disseminated within the government. *See, e.g.*, National Security Agency, United States Signals Intelligence Directive 18, § 7 (January 25, 2011); Federal Bureau of Investigation, *Minimization Procedures Used by the Federal Bureau of Investigation in Connection with Acquisition of Foreign Intelligence Information* at 9, 19–20, 31 (July 10, 2015). A broad variety of governmental appointees are apparently authorized to request unmasking of names masked in intelligence reports. This request also concerns “upstreaming” — that is, the process of extracting certain data from the electronic sources for analysis. *See, e.g.*, National Security Agency, *NSA Stops Certain Section 702 “Upstream” Activities* (press release April 28, 2017). In the past, the intelligence community has been unwilling to disclose—even to individual Senators or Congressmen themselves—whether their identities had been unmasked or upstreamed.¹ That lack of disclosure is especially troubling because federal intelligence agencies have already demonstrated a willingness to abuse their surveillance powers against American citizens charged with overseeing those same agencies.²

¹ *See, e.g.* Katie Bo Williams, *Graham Gets Frustrated in Public ‘Unmasking’ Debate*, The Hill (June 27, 2017), <https://thehill.com/policy/national-security/339670-graham-gets-emotional-in-public-unmasking-debate>.

² *See, e.g.*, Mark Mazzetti and Carl Hulse, *Inquiry by CIA Affirms it Spied on Senate Panel*, The New York Times (July 31, 2014), *available at* <https://www.nytimes.com/2014/08/01/world/senate-intelligence-committee-cia-interrogation-report.html>.



Using these understandings of the relevant terms, we respectfully request that you produce:

1. All documents, reports, memoranda, or communications regarding the unmasking—including all unmasking requests—of any person listed below from January 1, 2008 to January 15, 2020:

- a. Rep. Adam Schiff
- b. Rep. Jim Himes
- c. Rep. Terri Sewell
- d. Rep. Andre Carson
- e. Rep. Jackie Speier
- f. Rep. Mike Quigley
- g. Rep. Eric Swalwell
- h. Rep. Joaquin Castro
- i. Rep. Denny Heck
- j. Rep. Peter Welch
- k. Rep. Sean Patrick Maloney
- l. Rep. Val Demings
- m. Rep. Raj Krishnamoorthi
- n. Rep. Devin Nunes
- o. Rep. Mike Conaway
- p. Rep. Michael Turner
- q. Rep. Brad Wenstrup
- r. Rep. Chris Stewart
- s. Rep. Rick Crawford
- t. Rep. Elise Stefanik
- u. Rep. Will Hurd
- v. Rep. John Ratcliffe
- w. Sen. James Risch
- x. Sen. Marco Rubio
- y. Sen. Susan Collins
- z. Sen. Roy Blunt
- aa. Sen. Tom Cotton
- bb. Sen. John Cornyn
- cc. Sen. Ben Sasse
- dd. Sen. Diane Feinstein
- ee. Sen. Ron Wyden
- ff. Sen. Martin Heinrich
- gg. Sen. Angus King
- hh. Sen. Kamala Harris
- ii. Sen. Michael Bennet
- jj. Sen. James Lankford



- kk. Sen. Mark Warner
- ll. Rep. Peter King
- mm. Former Rep. Frank LoBiondo
- nn. Former Rep. Trey Gowdy
- oo. Former Rep. Tom Rooney
- pp. Former Rep. Ileana Ros-Lehtinen
- qq. Former Rep. Jeff Miller
- rr. Former Rep. Lynn Westmoreland
- ss. Former Rep. Joe Heck
- tt. Former Rep. Mike Pompeo
- uu. Former Rep. Luis Gutierrez
- vv. Former Rep. Patrick Murphy

2. All documents, reports, memoranda, or communications regarding the upstreaming—including all requests for upstreaming—of any individual listed in Question 1 above, from Jan. 1, 2008 to Jan. 15, 2020.

Rather than physical production of any responsive records, we ask that you please provide each record in electronic form. If a portion of responsive records may be produced more readily than the remainder, we request that those records be produced first and that the remaining records be produced on a rolling basis. Further, we recognize the possibility that some responsive records may be exempt. **To the extent possible, if redaction under 5 U.S.C. § 552(b) can render a responsive but exempt record nonexempt, please produce any such record in redacted form.** We believe that any redaction should foreclose the need to issue a Glomar response, as anonymized and redacted production would neither (1) reveal intelligence sources or methods nor (2) disclose the agency’s interest (or lack thereof) in any particular individual. Indeed, as the Office of the Director of National Intelligence has recently and emphatically confirmed, the disclosure of unmasking information “poses absolutely no risk of compromise of either sources or methods.”³

We are prepared to pay up to \$2000 for the material in question. Please contact me if the fees associated with this request exceed that figure, or if you have any other questions about this request.

Thank you in advance for your speedy attention and assistance.

³ ODNI Letter to Senator Mark Warner, May 25, 2020 (Attachment A). *See also id.* (reiterating that Section 1.7 of Executive Order 13526 forbids maintaining information as classified “to conceal violations of law” or “prevent embarrassment to a person, organization, or agency”).



Sincerely,

Gene C. Schaerr
PPSA, Inc.
General Counsel

MAY 25 2020

The Honorable Mark R. Warner
Vice Chairman
Select Committee on Intelligence
United States Senate
Washington, DC 20510

Vice Chairman Warner:

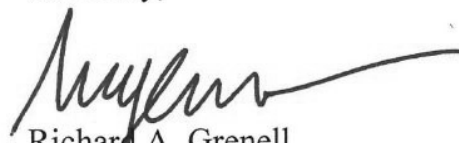
I write in response to your letter of 20 May 2020. My declassification determination was made in the interests of full transparency and public accountability given serious unanswered questions about the potential misuse of intelligence for partisan purposes following the 2016 election.

The protection of intelligence sources and methods is always at the fore of any declassification decision which I might make. As you well know, the decision to declassify the names of individuals who sought to unmask the identity of General Flynn poses absolutely no risk of compromise of either sources or methods. Additionally, far from undermining the credibility of the Intelligence Community (IC), the utmost transparency in this matter builds public trust and confidence in the Community and ensures the IC will not conceal potential abuse behind unnecessary security classification. I appreciate your reference to Executive Order 13526. I remind you that this Order makes clear in Section 1.7 that “in no case shall information...continue to be maintained as classified, or fail to be declassified in order to conceal violations of law...(or) prevent embarrassment to a person, organization, or agency.”

I find it puzzling that your letter initially complains about the declassification of the identities of unmaskers, a declassification that posed no conceivable risks to sources or methods, only to then request the declassification of actual intelligence reports. Cherry picking certain documents for release, while attacking the release of others that don't fit your political narrative, is part of the problem the American people have with Washington DC politicians. I would appreciate it if you would explain your philosophy on transparency as it appears to be based solely on political advantage.

Lastly, I should add, I gladly would have discussed this and other intelligence matters with you directly had you not chosen to cancel our planned call and then ignored subsequent requests by my office to reschedule.

Sincerely,


Richard A. Grenell
Acting Director

Cc: The Honorable Marco Rubio

UNCLASSIFIED