



*Congress of the United States  
House of Representatives  
Washington, D.C. 20515*

*Anna G. Eshoo  
Eighteenth District  
California*

August 28, 2020

The Honorable John Ratcliffe,  
Director  
Office of the Director of National  
Intelligence  
Washington, D.C. 20511

The Honorable Paul M. Nakasone,  
Director  
National Security Agency  
9800 Savage Road, Suite 6272  
Fort George G. Meade, Maryland 20755

Dear Director Ratcliffe and Director Nakasone,

Our system of government is premised on the fundamental idea of separation of powers. Three co-equal branches of government with constitutionally prescribed checks and balances maintain independent spheres of government. I'm writing today to express my deep concern regarding recently released allegations that Edward Snowden, while a contractor at the National Security Agency (NSA), searched classified surveillance databases for communications of Congress.

Barton Gellman published a book on May 29, 2020, about his experience as one of the three journalists to whom Mr. Snowden leaked classified material. The book includes a previously unpublished revelation: Mr. Snowden used XKEYSCORE, an NSA surveillance tool, to search for communications associated with a publicly listed, official email address of a Member of the House of Representatives.<sup>1</sup> The book states that the email address was "Something in the @mail.house.gov domain."<sup>2</sup> The very fact Mr. Snowden was even able to use an IC tool to search for emails of a Member of Congress is deeply concerning. While Mr. Snowden may have believed that the emails contained "Nothing of special interest,"<sup>3</sup> a Member of Congress' publicly listed email is often used by constituents to raise issues that require the utmost privacy and are generally treated with confidentiality.<sup>4</sup>

The book also states that Mr. Snowden claimed to have "wiredtapped the internet communications of Congress' current Gang of Eight and the Supreme Court."<sup>5</sup> This claim was false but only because Mr. Snowden could not easily find the private email addresses of Members of Congress and Supreme Court Justices.<sup>6</sup> The fact that the only thing that stopped Mr. Snowden from wiredtapping Members of Congress and Supreme Court Justices was his inability to determine their private email addresses is frightening.

The surveillance of Congressional and judicial communications by the executive branch seriously threatens the separation of powers principles of our Constitution. While no Member of Congress, Supreme Court Justice, or any other individual is above the law, their communications, like those of all Americans, should only be collected by the government pursuant to a specific warrant authorized by an independent court as part of a criminal or intelligence investigation.

Sadly, this most recent allegation isn't the first time the intelligence community (IC) has surveilled a Member of Congress. In March and June of 1975, hearings at the Government and Individual Rights Subcommittee of the House Committee on Government Operations revealed that the Central Intelligence Agency (CIA) collected or maintained files of information on 75 Members of Congress,<sup>7</sup> including then Subcommittee Chairwoman Bella S. Abzug.<sup>8</sup> Hearing records show that a CIA officer even covertly participated in campaign events with a candidate for Congress.<sup>9</sup>

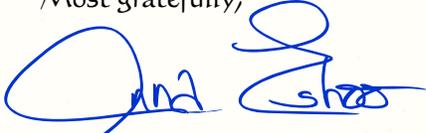
In order to help Congress understand the implications of the troubling allegations in Mr. Gellman's book, please provide answers to the following questions by September 28, 2020:

1. In each of the last 10 years, how many times has an IC employee or contractor collected contents of communications, metadata, or any other information linked to any Member of Congress, federal judge, Supreme Court Justice, or other employee of the legislative or judicial branches of the federal government, whether associated with personal or official government accounts or devices? For each case, please describe the following and provide all existing documentation for each:
  - a. Purpose of the collection
  - b. Legal authority enabling the collection (including any legal opinions, memos, or analyses)
  - c. Number of times the records were retrieved
  - d. Scope of collection, including duration of data collection, number of records collected, and types of data collected
2. How many Members of Congress, federal judges, Supreme Court Justices, and other employees of the legislative and judicial branches of the federal government has the IC collected information – contents of communications, metadata, or any other information – about in each of the last 10 years?
3. In each of the last 10 years, how many times has an IC employee or contractor searched databases the IC maintains or has access to for contents of communications, metadata, or any other information linked to each of the following email domains (including any encoded or hashed versions of such domains or email addresses associated with such domains)?
  - a. @mail.house.gov and other domains related to the House of Representatives
  - b. @senate.gov, @\_\_\_\_\_.senate.gov (including subdomains operated by Senate offices) and other domains or subdomains related to the Senate
  - c. @supremecourt.gov and other domains related to the Supreme Court
  - d. @uscourts.gov, @\_\_\_\_\_.uscourts.gov (including any subdomains operated by federal courts) and any other domains or subdomains operated by the judicial branch of the federal government
  - e. @gao.gov, @cbo.gov, @aoc.gov, @crs.gov, @loc.gov, and any other domains or subdomains operated by the legislative branch of the federal government
4. In the last 10 years, how many times has an employee or contractor of the IC searched for contents of communications, metadata, or any other information linked to known personal information, including email addresses and phone numbers, of Members of Congress, federal judges, Supreme Court Justices, or any other employee of the legislative or judicial branches of the federal government?

5. Do technical safeguards exist to prevent IC employees and contractors from querying databases, without express legal authorization or as part of a court-approved investigation, for information about any Member of Congress, federal judge, Supreme Court justice, or any other employee of the legislative or judicial branches of the federal government?

I thank you in advance for your cooperation and your timely response to this highly important and constitutionally significant matter.

Most gratefully,



Anna G. Eshoo  
Member of Congress

- cc: The Honorable Nancy Pelosi, Speaker of the House  
The Honorable Kevin McCarthy, House Minority Leader  
The Honorable Mitch McConnell, Senate Majority Leader  
The Honorable Charles Schumer, Senate Minority Leader  
The Honorable Adam Schiff, Chairman of the House Permanent Select Committee on Intelligence  
The Honorable Devin Nunes, Ranking Member of the House Permanent Select Committee on Intelligence  
The Honorable Marco Rubio, Acting Chairman of the Senate Select Committee on Intelligence  
The Honorable Mark Warner, Vice Chairman of the Senate Select Committee on Intelligence

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<sup>1</sup> Barton Gellman, *Dark Mirror: Edward Snowden and the American Surveillance State* (New York: Penguin Press, 2020), 331.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> See, House Committee on Ethics, "Congressional Standards," <https://ethics.house.gov/casework/congressional-standards> ("...communications between Members and constituents have been considered confidential and should generally not be made public without the constituent's consent."). See also, Congressional Management Foundation, "Casework 101," <https://www.congressfoundation.org/citizen-resource-center/how-to-communicate-with-congress/term/summary/132> ("...most offices assume privacy as an important safeguard for constituent's safety and trust, and so treat casework materials as sensitive documents.").

<sup>5</sup> Gellman, *Dark Mirror*, 326.

<sup>6</sup> *Id.* at 331.

<sup>7</sup> Hearings on "Central Intelligence Agency Exemption in The Privacy Act of 1974," Government and Individual Rights Subcommittee of the Committee on Government Operations, U.S. House of Representatives (March 5, 1975 and June 25, 1975), 137.

<sup>8</sup> *Id.* at 10-12.

<sup>9</sup> *Id.* at 138-139.