



MR. OMAR ASHMAWY
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OFFICE OF CONGRESSIONAL ETHICS
425 3RD STREET, S.W.
SUITE 1110
WASHINGTON, DC 20024

RE: VIOLATIONS OF LAW AND HOUSE RULES BY U.S. REP. DEVIN NUNES (R-CA)

DEAR MR. ASHMAWY:

ON BEHALF OF MOVEON.ORG CIVIC ACTION, A CALIFORNIA NONPROFIT ORGANIZATION, I AM WRITING PURSUANT TO RULE 3(A) OF THE OCE RULES FOR THE CONDUCT OF INVESTIGATIONS TO BRING TO THE ATTENTION OF THE OFFICE INFORMATION STRONGLY INDICATING THAT REP. DEVIN NUNES (R.-CA), CHAIRMAN OF THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, HAS VIOLATED THE ESPIONAGE ACT AND THE RULES OF THE HOUSE BY DISCLOSING CLASSIFIED INFORMATION WITHOUT THE AUTHORIZATION REQUIRED BY HOUSE RULES OR ANY OTHER PROPER AUTHORIZATION. MOVEON REQUESTS THAT OCE INVESTIGATE THIS INFORMATION AND, IF IT DOES FIND SUBSTANTIAL REASON TO BELIEVE THESE ALLEGATIONS, REFER THE MATTER TO THE HOUSE ETHICS COMMITTEE.

• **FACTUAL BACKGROUND**

AS HAS BEEN WIDELY REPORTED, IN A SERIES OF TWEETS ON SATURDAY, MARCH 4, 2017, PRESIDENT TRUMP CLAIMED THAT FORMER PRESIDENT OBAMA HAD “WIRETAPPED” TRUMP TOWER AND “TAPPED” PRESIDENT TRUMP’S “WIRES” PRIOR TO THE 2016 GENERAL ELECTION. AT A PUBLIC HEARING ON MARCH 20, 2017 BEFORE THE HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE, FBI DIRECTOR JAMES COMEY TESTIFIED THAT, “WITH RESPECT TO THE PRESIDENT’S TWEETS ABOUT ALLEGED WIRETAPPING DIRECTED AT HIM BY THE PRIOR ADMINISTRATION, I HAVE NO INFORMATION THAT SUPPORTS THOSE TWEETS, AND WE HAVE LOOKED CAREFULLY INSIDE THE FBI.” (SEE POLITIFACT, A TIMELINE OF DONALD TRUMP’S FALSE WIRETAPPING CHARGE, [HTTP://WWW.POLITIFACT.COM/TRUTH-O-METER/ARTICLE/2017/MAR/21/TIMELINE-DONALD-TRUMPS-FALSE-WIRETAPPING-CHARGE/.](http://www.politifact.com/truth-o-meter/article/2017/mar/21/timeline-donald-trumps-false-wiretapping-charge/))

ON MARCH 22, 2017, CHAIRMAN NUNES PUBLICLY DISCLOSED THE CONTENTS AND NATURE OF CLASSIFIED ELECTRONIC SURVEILLANCE. A PUBLIC STATEMENT RELEASED BY THE HOUSE

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INTELLIGENCE COMMITTEE STATED THE FOLLOWING:

I RECENTLY CONFIRMED THAT, ON NUMEROUS OCCASIONS, THE INTELLIGENCE COMMUNITY INCIDENTALLY COLLECTED INFORMATION ABOUT U.S. CITIZENS INVOLVED IN THE TRUMP TRANSITION. DETAILS ABOUT U.S. PERSONS ASSOCIATED WITH THE INCOMING ADMINISTRATION—DETAILS WITH LITTLE OR NO APPARENT FOREIGN INTELLIGENCE VALUE—WERE WIDELY DISSEMINATED IN INTELLIGENCE COMMUNITY REPORTING. I HAVE CONFIRMED THAT ADDITIONAL NAMES OF TRUMP TRANSITION TEAM MEMBERS WERE UNMASKED.

TO BE CLEAR, NONE OF THIS SURVEILLANCE WAS RELATED TO RUSSIA OR ANY INVESTIGATION OF RUSSIAN ACTIVITIES OR OF THE TRUMP TEAM.

(HOUSE INTELLIGENCE COMMITTEE WEBSITE, PRESS RELEASE, CHAIRMAN NUNES COMMENTS [HTTP://INTELLIGENCE.HOUSE.GOV/NEWS/DOCUMENTSINGLE.ASPX?DOCUMENTID=774](http://intelligence.house.gov/news/documentsingle.aspx?documentid=774))

IN REMARKS TO REPORTERS OUTSIDE THE WHITE HOUSE, CHAIRMAN NUNES SAID THAT HE HAD SEEN INTELLIGENCE REPORTS DISSEMINATED AFTER THE ELECTION THAT MADE REFERENCES TO U.S. CITIZENS AFFILIATED WITH TRUMP AND THAT, “WHAT I’VE READ SEEMS TO ME TO BE SOME LEVEL OF SURVEILLANCE ACTIVITY—PERHAPS LEGAL, BUT I DON’T KNOW THAT IT’S RIGHT.” (G. MILLER, K DEMIRJIAN AND D BARRETT, “HOUSE INTELLIGENCE CHAIR SAYS TRUMP CAMPAIGN OFFICIALS WERE ENSNARED IN SURVEILLANCE OPERATIONS,” *THE WASHINGTON POST*, [HTTPS://WWW.WASHINGTONPOST.COM/POWERPOST/HOUSE-INTELLIGENCE-CHAIR-SAYS-ITS-POSSIBLE-TRUMPS-COMMUNICATIONS-WERE-INTERCEPTED/2017/03/22/F45E18BA-0F2D-11E7-9B0D-D27C98455440_STORY.HTML?UTM_TERM=.8EA790E160EB](https://www.washingtonpost.com/powerpost/house-intelligence-chair-says-its-possible-trumps-communications-were-intercepted/2017/03/22/f45e18ba-0f2d-11e7-9b0d-d27c98455440_story.html?utm_term=.8ea790e160eb)—MARCH 22, 2017). CHAIRMAN NUNES FURTHER STATED, “IN THE DOZENS OF REPORTS I WAS ABLE TO SEE, I WAS ABLE TO DETERMINE THAT IT LOOKS LIKE IT WAS LEGAL COLLECTION, INCIDENTAL COLLECTION, THAT MADE ITSELF INTO INTELLIGENCE REPORTS. IT HAS TO DO WITH FISA, AND THERE ARE MULTIPLE FISA WARRANTS THAT ARE OUT THERE, . . .” (LAWFARE, [HTTPS://WWW.LAWFAREBLOG.COM/WHAT-HECK-DEVIN-NUNES-TALKING-ABOUT-GUIDE-PERPLEXED](https://www.lawfareblog.com/what-heck-devin-nunes-talking-about-guide-perplexed)—MARCH 22, 2017).

YESTERDAY, IT WAS REPORTED THAT THE CLASSIFIED INFORMATION REVIEWED AND THEN DISCLOSED BY CHAIRMAN NUNES HAD COME FROM A SOURCE WITH WHOM THE CHAIRMAN MET ON THE WHITE HOUSE GROUNDS. “THE REVELATION THAT MR. NUNES HAD VIEWED INTELLIGENCE MATERIALS ON WHITE HOUSE GROUNDS THE DAY BEFORE BOLSTERING THE ADMINISTRATION’S CASE FUELED DAMAGING SPECULATION THAT HE WAS ACTING AT THE INSTRUCTION OF THE PRESIDENT.” (M. ROSENBERG & E. HUETTEMAN, “HOUSE DEMOCRATS ASK DEVIN NUNES TO RECUSE HIMSELF FROM RUSSIA INQUIRY,” *THE NEW YORK TIMES*, [HTTPS://WWW.NYTIMES.COM/2017/03/27/US/POLITICS/DEVIN-NUNES-HOUSE-INTELLIGENCE-COMMITTEE-WHITE-HOUSE-WIRETAP.HTML?_R=0](https://www.nytimes.com/2017/03/27/us/politics/devin-nunes-house-intelligence-committee-white-house-wiretap.html?_r=0)—MARCH 27, 2017).

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- **VIOLATIONS OF LAW AND HOUSE RULES**

THE DISCLOSURE OF THIS INFORMATION BY CHAIRMAN NUNES WAS EVIDENTLY INTENDED TO TRY TO LEND SOME CREDENCE TO PRESIDENT TRUMP’S CLAIMS THAT FORMER PRESIDENT OBAMA HAD TRUMP TOWER WIREAPPED—CLAIMS THAT HAVE BEEN REPEATEDLY SHOWN TO BE ABSOLUTELY BASELESS, AS CONFIRMED BY FBI DIRECTOR COMEY IN HIS TESTIMONY BEFORE CHAIRMAN NUNES’ OWN COMMITTEE. IN HIS QUEST TO ASSIST PRESIDENT TRUMP POLITICALLY, HOWEVER, IT APPEARS THAT CHAIRMAN NUNES HAS COMMITTED SERIOUS VIOLATIONS OF LAW AND HOUSE RULES.

THE EXISTENCE OF AN APPLICATION FOR FOREIGN INTELLIGENCE SURVEILLANCE UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT, 50 U.S.C. §§1801 *ET SEQ.*—WHAT CHAIRMAN NUNES REFERRED TO AS “WARRANTS”—IS, OF COURSE, CLASSIFIED, AND DISCLOSURE OF THE INFORMATION ITSELF CAN BE MADE ONLY IN COURT PROCEEDINGS UNDER CAREFULLY PRESCRIBED PROCEDURES. (50 U.S.C. §1806). AS FBI DIRECTOR COMEY TESTIFIED BEFORE CHAIRMAN NUNES’ OWN COMMITTEE, “ALL FISA APPLICATIONS REVIEWED BY THE COURT AND COLLECTION BY US PURSUANT TO OUR FISA AUTHORITY IS CLASSIFIED.” FURTHER, THE EXISTENCE AND CONTENTS OF ANY INFORMATION ACQUIRED FROM ELECTRONIC SURVEILLANCE AUTHORIZED UNDER FISA IS FORBIDDEN EXCEPT UNDER PROCEDURES SET OUT IN THAT ACT, 50 U.S.C. §1806(A). U.S. SENATOR RON WYDEN (D-OR), A MEMBER OF THE SENATE COMMITTEE ON INTELLIGENCE, STATED THAT CHAIRMAN NUNES’ STATEMENTS “APPEAR TO REVEAL CLASSIFIED INFORMATION, WHICH IS A SERIOUS CONCERN.” (G. MILLER, K. DEMIRJIAN AND D. BARRETT, “HOUSE INTELLIGENCE CHAIR SAYS TRUMP CAMPAIGN OFFICIALS WERE ENSNARED IN SURVEILLANCE OPERATIONS,” *THE WASHINGTON POST*, [HTTPS://WWW.WASHINGTONPOST.COM/POWERPOST/HOUSE-INTELLIGENCE-CHAIR-SAYS-ITS-POSSIBLE-TRUMPS-COMMUNICATIONS-WERE-INTERCEPTED/2017/03/22/F45E18BA-0F2D-11E7-9B0D-D27C98455440_STORY.HTML?UTM_TERM=.8EA790E160EB](https://www.washingtonpost.com/powerpost/house-intelligence-chair-says-its-possible-trumps-communications-were-intercepted/2017/03/22/f45e18ba-0f2d-11e7-9b0d-d27c98455440_story.html?utm_term=.8ea790e160eb)—MARCH 22, 2017)

UNDER THE ESPIONAGE ACT, IT IS A FEDERAL FELONY FOR ANYONE TO MAKE “AVAILABLE TO AN UNAUTHORIZED PERSON, OR PUBLISHES ... ANY CLASSIFIED INFORMATION ... CONCERNING THE COMMUNICATION INTELLIGENCE ACTIVITIES OF THE UNITED STATES ... ” 18 U.S.C. §798(A)(3). WHILE CHAIRMAN NUNES IS, OF COURSE, ROUTINELY AUTHORIZED TO OBTAIN AND REVIEW CLASSIFIED INFORMATION, NOTHING IN THAT STATUTE OR ANY OTHER LAW AUTHORIZES HIM TO RELEASE SUCH INFORMATION PUBLICLY, PARTICULARLY IN HIS OFFICIAL CAPACITY BUT FOR BLATANTLY POLITICAL PURPOSES.

TO THE CONTRARY, HOUSE RULE X, CLAUSE 11(G)(1) PROVIDES THAT THE HOUSE INTELLIGENCE COMMITTEE MAY PUBLICLY DISCLOSE CLASSIFIED INFORMATION IN ITS POSSESSION ONLY AFTER A DETERMINATION BY THE COMMITTEE ITSELF—AFTER A VOTE OF THE FULL COMMITTEE— “THAT THE PUBLIC INTEREST WOULD BE SERVED BY SUCH DISCLOSURE.” THAT CLAUSE FURTHER PROVIDES THAT “A MEMBER OF THE SELECT COMMITTEE MAY NOT MAKE SUCH A DISCLOSURE BEFORE A VOTE BY THE SELECT COMMITTEE ON THE MATTER, OR AFTER A VOTE BY THE SELECT COMMITTEE ON THE MATTER, EXCEPT IN ACCORDANCE WITH” THE RULE. *ID.* CLAUSE (G)(1)(B). THE RULE DOES NOT PERMIT PUBLIC DISCLOSURE EVEN AFTER A VOTE UNTIL NOTIFICATION OF THE

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PRESIDENT OF THE VOTE, AND EXPIRATION OF A FIVE-DAY PERIOD. *Id.* CLAUSE 11(G)(2). THERE IS NO EXCEPTION FOR THE CHAIRMAN OR ANY OTHER MEMBER OF THE COMMITTEE.

RULE X CLAUSE 11(G)(3) PROVIDES THAT INFORMATION “IN THE POSSESSION OF THE SELECT COMMITTEE RELATING TO THE LAWFUL INTELLIGENCE OR INTELLIGENCE-RELATED ACTIVITIES” OF ANY FEDERAL AGENCY “THAT HAS BEEN CLASSIFIED” AND THAT THE COMMITTEE HAS NOT DETERMINED SHOULD BE DISCLOSED CANNOT BE DISCLOSED TO ANY MEMBER OR EMPLOYEE OF THE HOUSE EXCEPT PURSUANT TO COMMITTEE RULES. NO COMMITTEE RULE AUTHORIZES PUBLIC DISCLOSURE OF CLASSIFIED INFORMATION BY THE COMMITTEE CHAIRMAN ACTING ALONE. (SEE RULES OF PROCEDURE FOR THE PERMANENT SELECTION COMMITTEE ON INTELLIGENCE, U.S. HOUSE, RULE 14, PROCEDURES RELATED TO HANDLING OF CLASSIFIED INFORMATION.)

HOUSE RULE X, CLAUSE 11(G)(4), REQUIRES THE HOUSE ETHICS COMMITTEE TO “INVESTIGATE ANY UNAUTHORIZED DISCLOSURE OF INTELLIGENCE OR INTELLIGENCE-RELATED INFORMATION BY A MEMBER . . . OF THE HOUSE . . . IN VIOLATION OF SUBPARAGRAPH (3) . . . ” THE RULE DEFINES “INTELLIGENCE AND INTELLIGENCE-RELATED ACTIVITIES” TO INCLUDE “THE COLLECTION, ANALYSIS, PRODUCTION, DISSEMINATION OR USE OF INFORMATION THAT RELATES TO A FOREIGN COUNTRY, . . . AND THAT RELATES TO THE . . . NATIONAL SECURITY, OR RELATED POLICIES OF THE UNITED STATES AND OTHER ACTIVITY IN SUPPORTS OF THE COLLECTION, ANALYSIS, PRODUCTION, DISSEMINATION OR USE OF SUCH INFORMATION.” HOUSE RULE XI, CLAUSE 11(J)(1).

THE DELEGATION TO THE HOUSE ETHICS COMMITTEE OF AN INVESTIGATION OF UNAUTHORIZED DISCLOSURE OF INTELLIGENCE INFORMATION BY A MEMBER OF THE HOUSE WOULD SEEM TO PLACE THE MATTERS RAISED IN THIS LETTER SQUARELY WITHIN THE JURISDICTION OF OCE.

FOR THE REASONS SET OUT ABOVE, THE UNAUTHORIZED DISCLOSURE OF CLASSIFIED INFORMATION BY CHAIRMAN NUNES FOR WHAT APPEAR TO BE BLATANTLY POLITICAL PURPOSES IS NOT MERELY A POLICY MATTER OR A MATTER ABOUT THE CHAIRMAN’S IMPARTIALITY IN CONDUCTING THE BUSINESS OF HIS COMMITTEE. IT IS A MATTER THAT IMPLICATES THE INTEGRITY OF THE HOUSE AND ITS PROCEDURES AND ROLE IN THE PROPER HANDLING OF CLASSIFIED INFORMATION THAT IS, OF COURSE, CRITICAL TO ENABLE THE HOUSE AND ITS COMMITTEES TO PERFORM THEIR LEGISLATING AND OVERSIGHT FUNCTIONS IN NATIONAL SECURITY. WE URGE THE OFFICE TO INVESTIGATE THIS MATTER PROMPTLY.

SINCERELY YOURS,



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I HEREBY DECLARE THAT I ACKNOWLEDGE THAT 18 U.S.C. §1001 APPLIES TO THE INFORMATION I AM PROVIDING.

Anna Galland

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