

March 28, 2017

Doc Hastings, Chairman
David Skaggs, Co-Chairman
Office of Congressional Ethics
U.S. House of Representatives
425 3rd Street, S.W.
Suite 1110
Washington, DC 20024

Re: Request for Inquiry into whether Rep. Nunes violated House Ethics Rules

Dear Chairman Hastings and Co-Chairman Skaggs:

We request the Office of Congressional Ethics (OCE) to conduct a preliminary inquiry into whether Representative Devin Nunes, Chairman of the House Intelligence Committee, disclosed classified information to the public on March 22, 2017 in violation of House ethics rules.

The request is being sent by Fred Wertheimer, President, Democracy 21, Ambassador (Ret.) Norman Eisen, Chair, Citizens for Responsibility and Ethics in Washington and former chief White House Ethics lawyer, 2009-2011, Richard Painter, Vice Chair, Citizens for Responsibility and Ethics in Washington and former chief White House ethics lawyer, 2005-2007 and Noah Bookbinder, Executive Director, Citizens for Responsibility and Ethics in Washington.

In particular, we ask OCE to review the recent activities of Rep. Nunes and determine if there is a reasonable basis to believe that Rep. Nunes has violated House Rule 23, clause 13. That provision of the House ethics rules states:

Before a Member, Delegate, Resident Commissioner, officer, or employee of the House may have access to classified information, the following oath (or affirmation) shall be executed: "I do solemnly swear (or affirm) that I will not disclose any classified information received in the course of my service with the House of Representatives, except as authorized by the House of Representatives or in accordance with its Rules.

According to published reports, Rep. Nunes on March 22, 2017 said that "American intelligence agencies monitoring foreign officials may have 'incidentally' picked up communications of [President] Trump transition team members."¹ Rep. Nunes did not disclose the source for his information.

¹ E. Huetteman and M. Schmidt, "Nunes Puts Credibility of House Panel He Leads in Doubt," *The New York Times* (March 23, 2017).

A report in *Politico* on March 23 stated:

On Wednesday, Nunes held a news conference and then briefed Trump on evidence he had been shown by a “source” that, following November’s election, Trump transition team members were caught up in incidental surveillance of foreign targets. He said the identities of some of these transition team members had been “unmasked,” even though U.S. persons typically have their identities shielded when caught up in inadvertent surveillance, and that intelligence reports about the Trump transition were widely disseminated across the U.S. intelligence community.²

On March 23, 2017, the day following the disclosures he made, Rep. Nunes appeared to walk back his statements. According to a report in *Talking Points Memo*:

The office of Rep. Devin Nunes (R-CA) now concedes that the House Intelligence Committee chair is not sure that the intelligence community ever incidentally collected communications from President Donald Trump or members of his transition team.

“He said he’ll have to get all the documents he requested from the [intelligence community] about this before he knows for sure,” a Nunes spokesperson told ABC News on Thursday.³

According to a report in *The Washington Post* on March 23, “Nunes said the information was classified, but he argued that disclosing the existence of the report and the nature of it did not reveal any classified information.”⁴

Thus, Rep. Nunes has admitted that the information in the report he reviewed was classified.

The question for OCE’s preliminary inquiry is whether there is reasonable basis to believe that the statements made by Rep. Nunes to the public, based on the classified information in the report he reviewed, publicly revealed classified information in violation of Rule 23, Clause 13.

Thank you for your consideration of this matter.

² A. Wright and N. McCaskill, “Nunes apologizes for going directly to White House with monitoring claims,” *Politico* (March 23, 2017).

³ A. Kirkland, “Nunes Apparently Unsure If Trump Staffers Were Surveilled After All,” *Talking Points Memo* (March 23, 2017).

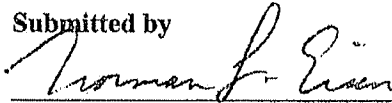
⁴ K. Demirjian and El Nakashima, “Intelligence Chair Nunes apologizes for disclosing surveillance information to the White House,” *The Washington Post* (March 23, 2017).

Verification

The individuals submitting this information are listed below and acknowledge that section 1001 of title 18 United States Code applies to the information being provided.

Submitted by

Fred Wertheimer
President, Democracy 21
2000 Massachusetts Ave. NW
Washington, D.C. 20016
202-355-9600
fwertheimer@democracy21.org

Submitted by

Ambassador (ret.) Norman Eisen
Chair, Citizens for Responsibility and Ethics in Washington
chief White House ethics lawyer, 2009-2011
455 Massachusetts Ave., NW
Washington, D.C. 20001
202-408-5565
Norman.eisen@gmail.com

Submitted by

Richard Painter
Vice Chair, Citizens for Responsibility and Ethics in Washington
chief White House ethics lawyer, 2005-2007
455 Massachusetts Ave., NW
Washington, D.C. 20001
202-408-5565
rpainter@umn.edu

Submitted by

Noah Bookbinder
Executive Director, Citizens for Responsibility and Ethics in Washington
455 Massachusetts Ave., NW
Washington, D.C. 20001
202-408-5565
nbookbinder@citizensforethics.org