

UNITED STATES FOREIGN
INTELLIGENCE SURVEILLANCE COURT
Washington, D.C.



Honorable Rosemary M. Collyer
Presiding Judge

February 15, 2018

Honorable Devin Nunes
Chairman
Permanent Select Committee on Intelligence
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Nunes:

I write in response to your letter of February 7, 2018, in which you request that the Foreign Intelligence Surveillance Court confirm whether “transcripts of relevant FISC hearings associated with” matters described in the letter exist and, if so, provide copies to the Committee. As you know, any such transcripts would be classified. It may also be helpful for me to observe that, in a typical process of considering an application, we make no systematic record of questions we ask or responses the government gives.

The Court appreciates the interest of the House Intelligence Committee in its operations and public confidence therein. Before 2018, the Court had never received a request from Congress for documents related to any specific FISA application. Thus, your requests – and others I have recently received from Congress – present novel and significant questions. The considerations involve not only prerogatives of the Legislative Branch, but also interests of the Executive Branch, including its responsibility for national security and its need to maintain the integrity of any ongoing law enforcement investigations.

While this analysis is underway, you may note that the Department of Justice possesses (or can easily obtain) the same responsive information the Court might possess, and because of separation of powers considerations, is better positioned than the Court to respond quickly. (We have previously made clear to the Department, both formally and informally, that we do not object to any decision by the Executive Branch to convey to Congress any such information.)

We have asked the Executive Branch to keep us informed regarding any information concerning the FISC that it provides to Congress. If you choose to present your request to the Executive Branch, we likewise request that you kindly let us know.

Sincerely,


Rosemary M. Collyer
Presiding Judge

cc: Honorable Adam Schiff
Honorable Jeff Sessions
Honorable Christopher Wray