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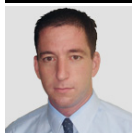
Members of Congress denied access to basic information about NSA

Documents provided by two House members demonstrate how they are blocked from exercising any oversight over domestic surveillance

- [Morgan Griffith's requests for NSA information](#)
- [Alan Grayson's requests for NSA information](#)

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Members of Congress are increasingly frustrated at their inability to obtain even basic information about the NSA and FISA court. Photograph: Alex Wong/Getty Images

Members of Congress have been repeatedly thwarted when attempting to learn basic information about the National Security Agency (NSA) and the secret FISA court which authorizes its activities, documents provided by two House members demonstrate.

From the beginning of the NSA controversy, the agency's defenders have insisted that Congress is aware of the disclosed programs and exercises robust supervision over them. "These programs are subject to congressional oversight and congressional reauthorization and congressional debate," President Obama said the day after the first story on NSA bulk collection of phone records was published in this space. "And if there are members of Congress who feel differently, then they should speak up."

But members of Congress, including those in Obama's party, have flatly denied knowing about them. On MSNBC on Wednesday night, Sen. Richard Blumenthal (D-Ct) was asked by host Chris Hayes: "How much are you learning about what the government that you are charged with overseeing and holding accountable is doing from the newspaper and how much of this do you know?" The Senator's reply:

The revelations about the magnitude, the scope and scale of these surveillances, the metadata and the invasive actions surveillance of social media Web sites were indeed revelations to me."

But it is not merely that members of Congress are unaware of the very existence of these programs, let alone their capabilities. Beyond that, members who seek out basic information - including about NSA

programs they are required to vote on and FISA court (FISC) rulings on the legality of those programs - find that they are unable to obtain it.

Two House members, [GOP Rep. Morgan Griffith of Virginia](#) and [Democratic Rep. Alan Grayson of Florida](#), have provided the Guardian with numerous letters and emails documenting their persistent, and unsuccessful, efforts to learn about NSA programs and relevant FISA court rulings.

"If I can't get basic information about these programs, then I'm not able to do my job", Rep. Griffith told me. A practicing lawyer before being elected to Congress, he said that his job includes "making decisions about whether these programs should be funded, but also an oath to safeguard the Constitution and the Bill of Rights, which includes the Fourth Amendment."

Rep. Griffith requested information about the NSA from the House Intelligence Committee six weeks ago, on June 25. He asked for "access to the classified FISA court order(s) referenced on Meet the Press this past weekend": a reference to my raising with host David Gregory the [still-secret 2011 86-page ruling from the FISA court](#) that found substantial parts of NSA domestic spying to be in violation of the Fourth Amendment as well as governing surveillance statutes.

In that same June 25 letter, Rep. Griffith also requested the semi-annual FISC "reviews and critiques" of the NSA. He stated the rationale for his request: "I took an oath to uphold the [United States](#) Constitution, and I intend to do so."

Almost three weeks later, on July 12, Rep. Griffith requested additional information from the Intelligence Committee based on press accounts he had read about [Yahoo's unsuccessful efforts in court](#) to resist joining the NSA's PRISM program. He specifically wanted to review the arguments made by Yahoo and the DOJ, as well as the FISC's ruling requiring Yahoo to participate in PRISM.

On July 22, he wrote another letter to the Committee seeking information. This time, it was prompted by [press reports](#) that that the FISA court had renewed its order compelling Verizon to turn over all phone records to the NSA. Rep. Griffith requested access to that court ruling.

The Congressman received no response to any of his requests. With a House vote looming on whether to defund the NSA's bulk collection program - it was scheduled for July 25 - he felt he needed the information more urgently than ever. He recounted his thinking to me: "How can I responsibly vote on a program I know very little about?"

On July 23, he wrote another letter to the Committee, noting that it had been four weeks since his original request, and several weeks since his subsequent ones. To date, six weeks since he first asked, he still has received no response to any of his requests (the letters sent by Rep. Griffith can be seen [here](#)).

"I know many of my constituents will ask about this when I go home," he said, referring to the August recess when many members of Congress meet with those they represent. "Now that I won't get anything until at least September, what am I supposed to tell them? How can I talk about NSA actions I can't learn anything about except from press accounts?"

Congressman Grayson has had very similar experiences, except that he sometimes did receive responses to his requests: negative ones.

On June 19, Grayson wrote to the House Intelligence Committee requesting several documents relating to media accounts about the NSA. Included among them were FISA court opinions directing the collection of telephone records for Americans, as well as documents relating to the PRISM program.

But just over four weeks later, the Chairman of the Committee, GOP Rep. Mike Rogers, wrote to Grayson informing him that his requests had been denied by a Committee "voice vote".

In a follow-up email exchange, a staff member for Grayson wrote to the Chairman, advising him that Congressman Grayson had "discussed the committee's decision with Ranking Member [Dutch] Ruppersberger on the floor last night, and he told the Congressman that he was unaware of any committee action on this matter." Grayson wanted to know how a voice vote denying him access to these documents could have taken place without the knowledge of the ranking member on the Committee, and asked: "can you please share with us the recorded vote, Member-by-Member?" The reply from this Committee was as follows:

Thanks for your inquiry. The full Committee attends Business Meetings. At our July 18, 2013 Business Meeting, there were seven Democrat Members and nine Republican Members in attendance. The transcript is classified."

To date, neither Griffith nor Grayson has received any of the documents they requested. Correspondence between Grayson and the Committee - with names of staff members and email addresses redacted - can be read [here](#).

Denial of access for members of Congress to basic information about the NSA and the FISC appears to be common. Justin Amash, the GOP representative who, along with Democratic Rep. John Conyers, co-sponsored the amendment to ban the NSA's bulk collection of Americans' phone records, [told CNN on July 31](#): "I, as a member of Congress, can't get access to the court opinions. I have to beg for access, and I'm denied it if I - if I make that request."

It is the Intelligence Committees of both the House and Senate that exercise primary oversight over the NSA. But as I [noted last week](#), both Committees are, with the exception of a handful of members,

notoriously beholden to the NSA and the intelligence community generally.

Its members typically receive much larger contributions from the defense and surveillance industries than non-Committee members. And the two Committee Chairs - Democrat Dianne Feinstein in the Senate and Republican Mike Rogers in the House - are two of the most steadfast NSA loyalists in Congress. The senior Democrat on the House Committee is ardent NSA defender Dutch Ruppersberger, whose district not only includes NSA headquarters in Fort Meade, but who is also himself the second-largest recipient of defense/intelligence industry cash.

Moreover, even when members of the Intelligence Committee learn of what they believe to be serious abuses by the NSA, they are barred by law from informing the public. Two Democratic Committee members in the Senate, Ron Wyden and Mark Udall, spent years warning Americans that they would be "stunned to learn" of the radical interpretations of secret law the Obama administration had adopted in the secret FISA court to vest themselves with extremist surveillance powers.

Yet the two Senators, prohibited by law from talking about it, concealed what they had discovered. It took Edward Snowden's whistleblowing for Americans to learn what those two Intelligence Committee members were so dramatically warning them about.

Finally, all members of Congress - not just those on the Intelligence Committees - are responsible for making choices about the NSA and for protecting the privacy rights and other Constitutional guarantees of Americans. "I did not take an oath to defer to the Intelligence Committee," Rep. Griffith told me. "My oath is to make informed decisions, and I can't do my job when I can't get even the most basic information about these programs."

In early July, Grayson had staffers distribute to House members several slides published by the Guardian about NSA programs as part of Grayson's efforts to trigger debate in Congress. But, according to one staff member, Grayson's office was quickly told by the House Intelligence Committee that those slides were still classified, despite having been published and discussed in the media, and directed Grayson to cease distribution or discussion of those materials in the House, warning that he could face sanctions if he continued.

It has been widely noted that the supremely rubber-stamping FISA court constitutes NSA "oversight" in name only, and that the Intelligence Committees are captured by the agency and constrained to act even if they were inclined to. Whatever else is true, members of Congress in general clearly know next to nothing about the NSA and the FISA court beyond what they read in the media, and those who try to rectify that are being actively blocked from finding out.