

# **EXHIBIT D**

Plaintiffs' Motion for a Temporary Restraining Order

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INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY  
WASHINGTON, D.C. 20511

September 9, 2019

**VIA ELECTRONIC TRANSMISSION**

The Honorable Adam Schiff  
Chairman  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

The Honorable Devin Nunes  
Ranking Member  
Permanent Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Schiff and Ranking Member Nunes:

(U//FOUO) On August 12, 2019, the Office of the Inspector General of the Intelligence Community (ICIG) received a disclosure from an individual (hereinafter "the Complainant") regarding an alleged "urgent concern," pursuant to 50 U.S.C. § 3033(k)(5)(A).<sup>1</sup> The term "urgent concern" is defined, in relevant part, as:

(U) A serious or flagrant problem, abuse, violation of the law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information, but does not include differences of opinions concerning public policy matters.<sup>2</sup>

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<sup>1</sup> (U) 50 U.S.C. § 3033(k)(5)(A) provides that an "employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor to the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information" to the ICIG.

<sup>2</sup> (U) 50 U.S.C. § 3033(k)(5)(G)(i).

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(U//FOUO) After receiving the Complainant's disclosure, the ICIG was required within 14 calendar days to determine whether the information alleged by the Complainant with respect to an urgent concern appeared credible.<sup>3</sup> During that 14-day time period, the ICIG conducted a preliminary review of the disclosure. As a result of that preliminary review, I determined that the Complainant's disclosure met the definition of an urgent concern, *i.e.*, a "serious or flagrant problem, abuse, violation of the law or Executive order, or deficiency relating to the funding, administration, or operation of an intelligence activity within the responsibility and authority of the Director of National Intelligence involving classified information."<sup>4</sup> I also determined that there were reasonable grounds to believe that information relating to the urgent concern appeared credible.<sup>5</sup>

(U//FOUO) On August 26, 2019, I forwarded the Complainant's disclosure and accompanying materials, along with my determination that the Complainant's information appeared credible, to the Acting Director of National Intelligence (Acting DNI). Pursuant to the urgent concern statute, upon receipt of the ICIG's transmittal, the Acting DNI within seven calendar days is required to forward such transmittal to the congressional intelligence committees along with any comments he considers appropriate.<sup>6</sup>

(U//FOUO) It is my understanding that the Acting DNI has determined that he is not required to transmit my determination of a credible urgent concern or any of the Complainant's information to the congressional intelligence committees because the allegations do not meet the definition of an "urgent concern" under the statute, and has not made the transmission as of today's date. Although I believe and appreciate that the Acting DNI is acting in good faith, the Acting DNI's treatment of the Complainant's alleged "urgent concern" does not appear to be consistent with past practice. As you know, the ICIG has on occasion in the past determined that, for a variety of reasons, disclosures submitted to the ICIG under the urgent concern statute did not constitute an urgent concern. In those cases, even though the ICIG determined that those disclosures did not meet the definition of an urgent concern, the DNI nevertheless provided direction to the ICIG to transmit the ICIG's determination and the complainants' information to the congressional intelligence committees. In each of those cases, the ICIG followed the DNI's direction and transmitted the ICIG's determination along with the complainants' information to the congressional intelligence committees. That past practice permitted complainants in the Intelligence Community to contact the congressional intelligence committees directly, in an authorized and protected manner, as intended by the urgent concern statute.

(U//FOUO) I am continuing my efforts to obtain direction from the Acting DNI regarding how the Complainant may bring the Complainant's concerns to the congressional intelligence

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<sup>3</sup> (U) *Id.* at § 3033(k)(5)(B).

<sup>4</sup> (U) *Id.* at § 3033(k)(5)(G)(i).

<sup>5</sup> (U) *Id.* at § 3033(k)(5)(B).

<sup>6</sup> (U) *Id.* at § 3033(k)(5)(C).

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committees in an authorized and protected manner, and “in accordance with appropriate security practices.”<sup>7</sup> I intend to reach back out to you in the near future to discuss my attempts to resolve outstanding issues relating to this matter.

(U) Please contact me if you have any questions.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'M.K.A.', is written over the typed name.

Michael K. Atkinson  
Inspector General  
of the Intelligence Community

cc: The Honorable Joseph Maguire  
Director of National Intelligence (Acting)

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<sup>7</sup> (U) *Id.* at § 3033(k)(5)(D)(ii).

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