

A Primer on Congressional Staff Clearances

Which Staff Can Obtain Security Clearances, at What Levels, and Who Decides?

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Daniel Schuman and Mandy Smithberger

Introduction

Security clearances govern access to classified information. While members of Congress are entitled to access classified information by virtue of the constitutional offices they hold and do not need security clearances, they must rely on their staff to sift through reams of information and brief them on issues. Those staff often do not hold sufficient clearances to access the requisite information, thereby undermining the support they can provide to their superiors and weakening Congress's ability to legislate or conduct effective oversight.

This primer is a review, to the extent possible with the available information, of how the processes for staff clearance operate in the House of Representatives and Senate (though not in congressional support offices and agencies), who is able to obtain a clearance, and at what level a clearance can be obtained.

This primer specifically focuses on "SCI," or Sensitive Compartmented Information, which is information concerning or derived from sensitive intelligence sources, methods, or analytical processes.¹ Access to classified information is controlled by several parallel systems, two of which are relevant here.² The first is the division of clearances into confidential, secret, and top secret. The second imposes additional controls on eligibility and access to information, such as by requiring additional background checks and approval. Access to SCI information requires completion of a Single Scope Background Investigation and eligibility adjudication by the Department of Defense Consolidated Adjudications Facility or by the Intelligence Community. Classified information that requires both a top-secret clearance and SCI eligibility is often abbreviated as "TS/SCI" to denote the clearance level and additional access requirements.

A TS/SCI clearance does not give an individual access to all SCI information—that individual still must demonstrate a need to know a particular item or category of information. There is a tension between Congress and the executive branch on the question of who determines need-to-know. Congressional rules say that the relevant congressional office makes this determination, but according to the executive branch, the determination of need-to-know is made by the agency where the information originated.³

Access to TS/SCI information is important not just to aid Congress in addressing traditional national security concerns, such as military and intelligence matters, but also for election security and cyber threats. Heightened clearance requirements become a significant hurdle for Congress, however, because a majority of members of Congress do not have a single staff member with a TS/SCI clearance. There is no publicly available data that shows which congressional offices have staff with clearances or the timeline to process a clearance,⁴ although top-line numbers on personnel with access to classified information are known for the Senate and comparable information is publicly available concerning executive branch agencies.

The current congressional clearance system evolved over the last few decades. As the legislative branch's trust in the executive branch declined in the 1960s and 1970s amid revelations of widespread abuses by members of the intelligence community, Congress began playing a more active role in oversight of the intelligence community in the mid-1970s.⁵ Over the ensuing decades, the government has increasingly classified information at more restrictive levels. This is the result of overclassification⁶ and the changing manner in which the government generates and obtains classified information. Overclassification occurs because executive branch personnel are incentivized to classify information unnecessarily or at a higher level than is required.⁷ Moreover, the predominant sources and methods through which the government obtains classified information have changed through its reliance on advanced technology. The security clearance levels generally available to congressional staff, however, have not kept up with these changes.

This primer includes recent proposals in both chambers to improve those processes and the Senate resolution creating staff designees in the Senate Select Committee on Intelligence.

The primer does not address the public release of classified information held by Congress—public release by either chamber of Congress does not result in the declassification of that information. Declassification of congressional records is addressed in Section 5 of a report prepared by the Information Security Oversight Office in 2007.⁸ Nor does it address the process by which Congress releases classified records that have not been declassified, which is summarized in a 2016 report issued by four civil society organizations.⁹ Nor does it discuss how Congress uses intelligence and the rules governing intelligence sharing.¹⁰

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The House of Representatives

Authority for and oversight of staff clearances

The House of Representatives has a central office responsible for clearances and classified materials in the House, the Office of House Security/House Security Division (OHS), which is a component of the Sergeant at Arms (SAA). It was established in 2003 via two letters—one dated February 25, 2003, from the Sergeant at Arms to the Chairman of the Committee on House Administration, and a response dated March 28, 2003—granting approval to establish the office.¹¹ Those letters do not appear to be publicly available. The office's director is William McFarland and its assistant director is Richard Wilson.¹²

Resources for House staff include two web pages, available for House staff only, that contain significant information about the Office of House Security. For people on the House intranet, the OHS website is available at <http://saa.house.gov/ohs>, and its explainer on security clearances is available at <http://saa.house.gov/ohs/security-clearances>. There is also a staff "Security Policy Manual" that contains a compilation of security practices and standards, written as guidance for members and staff.¹³ The House Permanent Select Committee on Intelligence (HPSCI) and the Appropriations Committee have additional rules and regulations governing the handling of classified material.¹⁴

The SAA House Security Division maintains a list of House staff whose level of clearance has been properly established, broken out by their identity, level of clearance, and need-to-know.¹⁵

Who can receive a clearance?¹⁶

- Each member of the House is afforded no more than two personal office cleared staff.
- Members determine which staff positions in their personal offices require clearances; committee chairs determine which staff positions in their committees require clearances.
- To receive a clearance, staff must be on the payroll of the member or committee requesting the clearance. Shared staff are considered to be on the personal staff.
- No personal office staff of a retiring member can be processed for a clearance during the final year of the member's term.
- Interim clearances are not granted for House staff.
- The SAA can help with the appeal of a denial of clearance but cannot appeal on the applicant's behalf.

Who has received a clearance?

As of February 2020, there is no public accounting for the number of clearances held in the House of Representatives. An amendment to the House Appropriations Committee's Legislative Branch report for fiscal year 2020 includes language¹⁷ requesting an unclassified report from the

SAA, due on March 1 for the next two years, on the length of time to obtain a clearance (for more detail on this, see the Appendix).

The Office of House Security maintains a current list of all staff who are cleared.

Historically, clearances for House staff were not structured as described in this primer, although it is not clear to us what formal processes were in place. In the late 1970s, the CIA director reached an agreement with the Speaker of the House to alter the number of personal office staff who have clearances as part of a government-wide effort to *reduce* the total number of people with clearances.¹⁸ Subsequently, however, the number of executive branch staff with clearances has increased, not decreased.

According to the correspondence, in 1978 a total of 431 congressional staff (including staff at support agencies such as the Congressional Research Service and Government Accountability Office) had compartmented security clearances, and an additional 591 staffers had secret or top-secret clearances.¹⁹

How clearances are obtained

To obtain a clearance, the member must send a letter requesting clearance for a particular staff person to the SAA. (If the request is for a committee staff person, the committee chair must send the letter.)²⁰ The applicant must complete the clearance paperwork within 30 days and meet with the SAA. After the relevant executive branch agency grants the clearance, the SAA schedules an initial security briefing. The briefing must take place before staff may access classified material.

This process means that the SAA may be able to track how long it takes for staff to receive clearances. For transfers of clearances from outside agencies, another form must be submitted, but it is unclear how the SAA tracks this process. If an individual with a clearance is reassigned, their clearance is automatically deactivated until it is determined that their new assignment requires access to classified information.

Special clearances and approvals are granted on a need-to-know basis. The special clearances or approvals that can be granted include:

- **SCI** (Sensitive Compartmented Information): Applies to information about or derived from particularly sensitive intelligence methods, only given to full-time committee staff, leadership staff, and House office staff. Personal office staff may not obtain or hold an SCI clearance on the basis of their employment in a personal office.
- **SAP** (Special Access Programs): Specific class of classified information that imposes safeguarding and access requirements that exceed those normally required for information at the same classification level.

- **DOE** (Department of Energy): Granted in accordance with Department of Energy regulations (likely granted in accordance with the Atomic Energy Act of 1954²¹). Staff must provide a written justification of the need for access—e.g., committee work or the existence of a nuclear facility in the member’s district.
- **CUI** (Controlled Unclassified Information): Governs how the executive branch handles information that is controlled but unclassified.²² (Note: Access to CUI requires approval but not a clearance.)

It is our understanding that the costs of clearances for congressional staff are paid for by the agency granting the clearance and not by Congress. There are additional costs for maintaining the SAA office that come out of the legislative branch appropriation.

Ideas to reform who may receive clearances have been discussed at some length in congressional proceedings and in the media.²³

The Senate

Authority for and oversight of staff clearances

The Office of Senate Security (OSS), housed inside the Office of the Secretary of the Senate, was created in 1987, preceding its House equivalent by 17 years. The OSS was created by a Senate rule, S. Res. 243 (100th Congress),²⁴ and the text of that resolution, including a description of its roles and purposes, is available in the *Congressional Record*.²⁵ As of September 30, 2019, Mike DiSilvestro is the director and Ronny Howard is the deputy director of the OSS.²⁶

What does the OSS do?

- It processes security clearances and renewals for officers and employees of the Senate.
- It maintains a centralized record of security clearances held by officers and employees of the Senate.
- It has an up-to-date Senate Security Manual.

Who can receive a clearance?

As of January 1990, the number of cleared staff are limited as follows.²⁷

A senator is afforded:

- Two cleared employees on their personal staff.
- One additional executive branch fellow or detailee who holds a clearance.
- A system administrator with a secret clearance.
- An additional cleared employee to help with committee work if the senator sits on one of the following committees: Armed Services; Foreign Relations; Homeland Security and Governmental Affairs; Appropriations Subcommittee on Defense; or Appropriations Subcommittee on State, Foreign Operations, and Related Programs.

Further notes:

- In exceptional circumstances, the senator may request from the majority or minority leader a waiver of the staff clearance limitation for a fixed period and a specific purpose.
- No member of a retiring senator's personal staff may be granted a clearance during the last year of a senator's term of office.

For committees, there is no published list on how many staff may obtain a clearance, but clearances are tied to staff positions on the committees. (We do not know the number of such positions.)

There are no interim clearances. Also note that personal office staff are not eligible to receive access to SCI information or to Special Access Program (SAP) information on the basis of their

employment in a personal office. Committee staff may receive SCI eligibility and access to SAPs as determined by the chair and ranking member of the committee in coordination with the Intelligence Community.

Consultants, fellows, contract personnel, and other non-Senate employees are allowed access to classified material, subject to the same security requirements as Senate staff.

Who has received a clearance?

As of 2019, the Senate has 637 staff with active security clearances, with 353 having secret or top-secret clearances and 284 having TS/SCI clearances as of April 2019. There are 37 senators with staff who are able to access SCI materials.

How clearances are obtained

To obtain a clearance, the member/committee chair/officer sends a letter to the OSS. The OSS provides an application to the named applicant, which is returned to the OSS and is then filed by the OSS with the appropriate agency. When a clearance is granted, the employing office is informed, and the OSS provides an initial security briefing for the staff member. The briefing must take place before staff may access classified material.

Other aspects of the OSS

Each member of the Senate Select Committee on Intelligence (unlike its House counterpart) is afforded one staffer (a staff designee that they hire and fire) with TS/SCI clearance.²⁸ In other words, members of the Senate Select Committee on Intelligence have staff who are personally responsible to them with TS/SCI clearances, although technically they are committee staff.

Executive Branch Clearances

According to the most recent publicly available data²⁹ from October 2017, the total number of people who hold U.S. security clearances is in excess of 4 million. Of those 4 million people, 2.8 million federal employees and contractors not only hold security clearances but are “in access” to classified information.³⁰ Of those who hold clearances and are in access to classified information, 1.19 million people hold top-secret clearances. Prior reports suggest a roughly even split between federal employees and contractors. In addition, tens of thousands of foreign politicians, civilians, military members, and contractors have access to shared SCI information under the 1946 UKUSA agreement.³¹ There is reason to believe that hundreds of thousands of people hold TS/SCI clearances.

The director of national intelligence (DNI) conducts an annual report on security clearance determinations, required by the Intelligence Authorization Act for Fiscal Year 2010.³² While the Obama administration required the DNI to provide more comprehensive public data in 2015, the DNI has released less detail about clearances in 2016 and afterward.^{33 34}

The Intelligence Authorization Act for FY 2010 required an annual report to Congress on the number of employees and contractors who hold security clearances, the levels at which they hold them, the breakdown by executive branch agency, and an accounting for how long it took to obtain determinations on whether the clearances were granted or denied.

The Intelligence Authorization Act for FY 2020, enacted as part of the National Defense Authorization Act for FY 2020, undermined some public reporting under the FY 2010 law.³⁵ It did not strike language concerning government-wide reporting on the number of employees and contractors who hold security clearances and the levels at which they are held. However, it ended public reporting of the agency-by-agency breakdown of the number of employees and contractors who held security clearances and the levels at which they are held as well as information concerning processing times and the results of adjudications. The reports will be made available to select congressional committees in an unclassified form.

There is no parallel accounting provision for Congress. Accordingly, there is no public report for how many staff hold clearances, at what levels, and how long they must wait to reach results on the clearances. It is also worth noting that, unlike in the executive branch, there are no interim clearances for congressional staff.³⁶

Appendix

The following is a selection of legislative materials related to security clearances in the legislative and executive branches, including proposals that would reform how clearances function within the House and Senate.

Senator Murphy's Amendment

Senator Chris Murphy (D-Conn.) offered and then withdrew the following amendment to the FY 2020 Legislative Branch Appropriations bill. It would have provided one personal office staffer with TS/SCI clearance to each member of the Senate who serves on a committee that oversees sensitive classified activities and programs.

Sensitive Compartmentalized Information Access for Senators' Personal Staff

On page 10 of the report, insert the following at the end of the section of the heading "Salaries, Officers, and Employees—Office of the Secretary":

Access to Classified Information—The Committee directs the Office of Senate Security (OSS) to amend the Senate Security Manual to establish a procedure, within 30 days of enactment of this Act, through which Senators whose duties include oversight of sensitive classified activities and programs may submit a maximum of one Top Secret-cleared employee per Senate personal office through the OSS for adjudication of eligibility to access Sensitive Compartmented Information (SCI) by the Department of Defense Central Adjudication Facility. Senators whose duties include the oversight of sensitive classified activities and programs and require additional SCI-cleared staff are defined as members of one of the following Senate Committees: Committee on Appropriations, Subcommittee on Defense; Committee on Appropriations, Subcommittee on State, Foreign Operations, and Related Programs; Committee on Armed Services; Committee on Foreign Relations; and Committee on Homeland Security and Governmental Affairs. This shall not alter the established precedence of a "need-to-know" determination made by the Executive Branch department or agency in possession of the classified information or material sought.

Representatives Kilmer and Davis's Amendment

Representatives Susan Davis (D-Calif.) and Derek Kilmer (D-Wash.) offered the following amendment to the Intelligence Authorization Act for 2020, but it was not ruled in order.³⁷ It would have required reporting on clearances in Congress, to parallel the reporting on the executive branch.

Strike section 2609 and insert the following new section:

SEC. 2609. REPORTS ON SECURITY CLEARANCES.

(a) Congressional Employees.—Subsection (a)(1) of section 506H of the National Security Act of 1947 (50 U.S.C. 3104) is amended—

- (1) in subparagraph (B)(ii), by striking “; and” and inserting a semicolon;
- (2) in subparagraph (C)(vii)(IV), by striking the period and inserting “; and”; and
- (3) by adding at the end the following new subparagraph:

“(D) the number of employees of Congress, in total and for each of the House of Representatives, the Senate, the Government Accountability Office, the Congressional Budget Office, the Library of Congress, and any other element of Congress, who—

“(i) held a security clearance at such level as of October 1 of the preceding year; and

“(ii) were approved for a security clearance at such level during the preceding fiscal year.”.

(b) Public Availability.—Such section is further amended—

- (1) in subsection (a)(1), in the matter preceding subparagraph (A), by inserting “, and make publicly available,” after “submit to Congress”; and
- (2) in subsection (b), by adding at the end the following new sentence: “Any such classified annex shall be made publicly available in redacted, unclassified form at the same time as the report pursuant to subsection (a)(1).”.

(c) Information Relating to Intelligence Community.—

(1) Employees.—Subsection (a)(1)(A) of such section is amended by inserting “, in total and for each element of the intelligence community,” after “employees of the United States Government”.

(2) Contractors.—Subsection (a)(1)(B) of such section is amended by inserting “, in total and for each element of the intelligence community,” after “contractors to the United States Government”.

Security Clearance Language from FY 2020 House Legislative Branch Appropriations Committee Report

The following language was included in the FY 2020 House Legislative Branch Appropriations Committee report.³⁸ The underlying legislation was enacted into law. The provision requires the House Sergeant at Arms to report on March 1, for the following two years, on the average and median length of time it takes for congressional staff to receive clearances.

Security Clearance Report: The Committee requests an unclassified report from the Sergeant at Arms on March 1 of each of the next two years on the average and median length of time from open to close of all security clearance requests, to help determine whether Legislative Branch security clearances are being finalized and adjudicated consistent with executive branch timelines. This unclassified report may contain a classified annex which includes the average and median length of time from open to

close of all security clearance requests broken down by level of security clearances (confidential, secret, top secret, and TS/SCI) so as to better provide context of timelines to Members and cleared staff.

Executive Branch Reporting Requirement from the FY 2010 Authorization

The following language was adopted as part of the Intelligence Authorization Act for FY 2010, which was enacted into law.³⁹ It requires the president to provide an annual report on the number of people who are granted clearances in the executive branch and how long it takes to receive those clearances.

- (b) REPORT ON SECURITY CLEARANCE DETERMINATIONS—(1) Not later than February 1 of each year, the President shall submit to Congress a report on the security clearance process. Such report shall include, for each security clearance level—
- (A) the number of employees of the United States Government who—
 - (i) held a security clearance at such level as of October 1 of the preceding year; and
 - (ii) were approved for a security clearance at such level during the preceding fiscal year;
 - (B) the number of contractors to the United States Government who—
 - (i) held a security clearance at such level as of October 1 of the preceding year; and
 - (ii) were approved for a security clearance at such level during the preceding fiscal year; and
 - (C) for each element of the intelligence community—
 - (i) the total amount of time it took to process the security clearance determination for such level that—
 - (I) was among the 80 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and
 - (II) took the longest amount of time to complete;
 - (ii) the total amount of time it took to process the security clearance determination for such level that—
 - (I) was among the 90 percent of security clearance determinations made during the preceding fiscal year that took the shortest amount of time to complete; and
 - (II) took the longest amount of time to complete;
 - (iii) the number of pending security clearance investigations for such level as of October 1 of the preceding year that have remained pending for—
 - (I) 4 months or less;
 - (II) between 4 months and 8 months;
 - (III) between 8 months and one year; and
 - (IV) more than one year;

(iv) the percentage of reviews during the preceding fiscal year that resulted in a denial or revocation of a security clearance;

(v) the percentage of investigations during the preceding fiscal year that resulted in incomplete information;

(vi) the percentage of investigations during the preceding fiscal year that did not result in enough information to make a decision on potentially adverse information; and

(vii) for security clearance determinations completed or pending during the preceding fiscal year that have taken longer than one year to complete—

- (I) the number of security clearance determinations for positions as employees of the United States Government that required more than one year to complete;
- (II) the number of security clearance determinations for contractors that required more than one year to complete;
- (III) the agencies that investigated and adjudicated such determinations; and
- (IV) the cause of significant delays in such determinations.

(2) For purposes of paragraph (1), the President may consider—

- (A) security clearances at the level of confidential and secret as one security clearance level; and
- (B) security clearances at the level of top secret or higher as one security clearance level.

(c) Form—The results required under subsection (a)(2) and the reports required under subsection (b)(1) shall be submitted in unclassified form, but may include a classified annex.

S. Res. 445 (108th Congress) Creating SSCI Staff Designees

The following language was adopted by the United States Senate as S. Res. 445 in October 2004 by a roll call vote of 79–6.⁴⁰ Section 201(g) created staff designees within the Senate Intelligence Committee.⁴¹

(g) Staff.—Section 15 of S. Res. 400 is amended to read as follows:

“Sec. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member’s designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

“(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee.

The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

“(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

Abbreviations

CRS	Congressional Research Service
CUI	Controlled Unclassified Information
DNI	Director of National Intelligence
DOE	Department of Energy
GAO	Government Accountability Office
HPSCI	House Permanent Select Committee on Intelligence
OHS	Office of House Security
OSS	Office of Senate Security
SAA	Sergeant at Arms
SAP	Special Access Programs
SCI	Sensitive Compartmented Information
SSCI	Senate Select Committee on Intelligence
TS/SCI	Top Secret/Sensitive Compartmented Information

About the Authors

Daniel Schuman is policy director at Demand Progress and Demand Progress Education Fund. Daniel leads the organization's efforts on a range of policy issues, with a particular focus on transparency and civil liberties. He co-founded the Congressional Data Coalition with Zach Graves. Daniel is also co-founder and director of the Advisory Committee on Transparency, an assortment of transparency groups that provide advice to the Congressional Transparency Caucus. Prior to joining Demand Progress, Daniel served as policy director for Citizens for Responsibility and Ethics in Washington (CREW), as policy counsel with the Sunlight Foundation, and at a number of other civil society organizations. He also worked for the Congressional Research Service as a legislative attorney. He is a nationally recognized expert on federal transparency, accountability, and capacity and has testified before Congress and appeared on NPR, C-SPAN, and other news outlets. Daniel graduated cum laude from Emory University School of Law.

Contact: daniel@demandprogress.org | (240) 237-3930

Mandy Smithberger rejoined the Project On Government Oversight as the director of the Straus Military Reform Project at the Center for Defense Information in December 2014. Previously she was a national security policy adviser to U.S. Rep. Jackie Speier (D-Calif.), with whom she worked on passing key provisions of the Military Whistleblower Protection Enhancement Act into law, which expands protections by increasing the level of Inspector General review for complaints, requiring timely action on findings of reprisal, and increasing the time whistleblowers have to report reprisals. Previously an investigator with POGO, she was part of a team that received the Society of Professional Journalists' Sunshine Award for contributions in the area of open government.

Ms. Smithberger received her B.A. in government from Smith College and her Master's in Strategic Studies and International Economics from Johns Hopkins University's School of Advanced International Studies. She also served as an analyst at the Defense Intelligence Agency and U.S. Central Command.

Contact: msmithberger@pogo.org | (202) 347-1122

Notes

1. "Security Clearance Process: Answers to Frequently Asked Questions," Michelle D. Christensen, Congressional Research Service, R43216 (October 7, 2016), p. 2, available at <https://fas.org/sqp/crs/secretcy/R43216.pdf>.
2. For ease of explanation, we touch only briefly on who grants clearances, the statutory regime set up under the Atomic Energy Act, and Special Access Programs.
3. See, e.g., "Classified Information Nondisclosure Agreement: Briefing Booklet," Information Security Oversight Office (Spring 2001), p. 5, which says the holder of the information determines need-to-know, available at https://www.wrc.noaa.gov/wrso/forms/standard-form-312_booklet.pdf.
4. We have heard anecdotally that many staffers experience lengthy delays in obtaining their clearances. A Sergeant at Arms report due in March 2020 may shed some light on this issue in the House of Representatives.
5. See "Congress as a User of Intelligence: Sharing Secrets with Lawmakers," L. Britt Snider, CIA Center for the Study of Intelligence (1997), available at <https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol41no5/pdf/v41i5a02p.pdf>.
6. We do not address the issue of overclassification in this primer, but it may indeed be worth considering. Overclassification is a feature of the current clearance system, and the long-term efforts underway to resolve that issue should not preclude more immediate efforts to ensure that members of Congress have access to the information they need.
7. See "Reducing Overclassification through Accountability," Elizabeth Goitein and David Shapiro (2011), available at https://www.brennancenter.org/sites/default/files/2019-08/Report_Reducing_Overclassification.pdf; and "Examining the Costs of Overclassification on Transparency and Security: Hearing before the Committee on Oversight and Government Reform," 114th Cong. (December 7, 2016), Serial No. 114-174, available at https://fas.org/irp/congress/2016_hr/overclass.pdf.
8. "Executive Branch Classified National Security Information and Congress," Information Security Oversight Office (2007), available at <https://www.archives.gov/files/declassification/pidb/meetings/06-22-07-carpenter.pdf>. In summary, according to the report, to release classified records held by Congress: (1) Congress may initiate a special declassification program; (2) Researchers may file a Mandatory Declassification Review request for applicable records held in physical custody by the Center for Legislative Archives; and (3) Congressional records may be systematically reviewed for declassification in a manner similar to the procedure followed by executive branch records.
9. "Strengthening Congressional Oversight of the Intelligence Community," Demand Progress, the R Street Institute, FreedomWorks, and EFF (September 2016), available at https://s3.amazonaws.com/demandprogress/reports/Strengthening_Congressional_Oversight_of_the_IC_White_Paper_Sept_2016.pdf.
10. See "Congress as a User of Intelligence: Sharing Secrets with Lawmakers," L. Britt Snider, CIA Center for the Study of Intelligence (1997), available at <https://www.cia.gov/library/center-for-the-study-of-intelligence/kent-csi/vol41no5/pdf/v41i5a02p.pdf>; "Congress as a Consumer of Intelligence Information," Alfred Cumming, Congressional Research Service Report R40136 (December 13, 2011), available at <https://www.everycrsreport.com/reports/R40136.html>; and "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," Michael E. DeVine, Congressional Research Service Report R45421 (December 4, 2018), available at <https://www.everycrsreport.com/reports/R45421.html>.
11. "Protection of Classified Information by Congress: Practices and Proposals," Congressional Research Service Report RS20748 (August 2011), footnote 6, available at <https://www.everycrsreport.com/reports/RS20748.html#ifn6>. Efforts to obtain the letters have been unsuccessful. CRS no longer has a copy, and if the House Administration Committee has a copy, they cannot find it. The letters are not in the *Congressional Record* and we could not find them listed in the annual report for the House Administration Committee.
12. "Statement of Disbursements of the House" (October 4, 2019), p. 149, available at https://www.house.gov/sites/default/files/uploads/documents/SODs/2019q3_singlevolume.pdf.

13. Specifically, the *House of Representatives Security Policy Manual* (October 16, 2017); see also “Protection of Classified Information by Congress: Practices and Proposals,” Congressional Research Service Report RS20748 (August 2011), footnote 7, available at <https://www.everycrsreport.com/reports/RS20748.html#fn7>. The House Security Policy Manual outlines the role of the Sergeant at Arms House Security Division, but does not address the source of the office’s authority.
14. See, e.g., “Rules of Procedure for the Permanent Select Committee on Intelligence, United States House of Representatives, 116th Congress” (February 6, 2019), available at <https://docs.house.gov/meetings/IG/IG00/CPRT-116-HPRT-IG00-CommitteeRules.pdf>. The House Security Policy Manual states the Committee on Appropriations has additional rules and regulations for handling classified information, but those rules or regulations are not reflected in committee rules adopted for the 116th Congress. See “Committee Rules Effective for the One Hundred Sixteenth Congress,” Committee on Appropriations (January 30, 2019), p. 2, available at <https://appropriations.house.gov/sites/democrats.appropriations.house.gov/files/documents/116thRules.pdf>.
15. In addition, each office security manager is responsible for listing all persons who have access to secret or top-secret materials, with records periodically shared with the SAA House Security Division.
16. Source: House Security Policy Manual.
17. See “Legislative Branch Appropriations Bill, 2020” Report 116-64, p. 9, available at <https://congress.gov/116/crpt/hrpt64/CRPT-116hrpt64.pdf>. The provision became effective upon enactment of the Consolidated Appropriations Act, 2020, Pub. L. No. 116-93 (Dec. 12, 2019). Also see this primer’s Appendix.
18. See a series of letters between then-House Speaker Tip O’Neill and then-CIA Director Stansfield Turner (1978), available at https://s3.amazonaws.com/demandprogress/documents/1978_correspondence_on_clearances.pdf.
19. *Ibid.*, p. 5.
20. House Security Policy Manual.
21. “DOE Classification and Security,” Federation of American Scientists (1996), available at <https://fas.org/sqp/classdoe.htm>.
22. Per Exec. Order 13556, available at <https://www.govinfo.gov/app/details/CFR-2011-title3-vol1/CFR-2011-title3-vol1-eo13556/context>.
23. See, e.g., Testimony of Mandy Smithberger, Director of the Center for Defense Information, Project on Government Oversight, before the House Appropriations Committee Legislative Branch Subcommittee (April 2, 2019), available at <https://docs.house.gov/meetings/ap/ap24/20190402/109212/hhrg-116-ap24-wstate-smithbergerm-20190402.pdf>; Testimony of Rep. Susan Davis before the House Appropriations Committee Legislative Branch Subcommittee (April 2, 2019), available at <https://docs.house.gov/meetings/ap/ap24/20190402/109211/hhrg-116-ap24-wstate-d000598-20190402.pdf>; “Schiff’s First Order of Business for the House Intelligence Committee,” *Just Security* (January 2019), available at <https://www.justsecurity.org/62409/schiffs-order-business-house-intelligence-committee/>; “Improving Congress’s oversight of the intelligence community,” *The Hill*, available at <https://thehill.com/blogs/congress-blog/politics/315956-improving-congress-oversight-of-the-intelligence-community>; and Letter from 8 Members of the House Permanent Select Committee on Intelligence (March 2016), available at https://fas.org/irp/congress/2016_cr/hpsci-hac.pdf.
24. <https://www.congress.gov/bill/100th-congress/senate-resolution/243>.
25. Debate on S. Res. 243, *Congressional Record*, vol. 133 (July 1, 1987), pp. 18506–18507, <https://www.gpo.gov/fdsys/pkg/GPO-CRECB-1987-pt14/pdf/GPO-CRECB-1987-pt14-1-1.pdf>.
26. See Statement of Expenditures and Receipts of the Senate, S. Doc. No. 116-10 (November 13, 2019), B-140, available at <https://www.govinfo.gov/content/pkg/GPO-CDOC-116sdoc10/pdf/GPO-CDOC-116sdoc10.pdf>.
27. *United States Senate Security Manual* (January 2018).
28. For a thorough discussion of providing TS/SCI clearances to staff serving members on the House Permanent Select Committee on Intelligence and the House Armed Services Committee, see the testimony from Mandy Smithberger of the Project On Government Oversight before the House

Appropriations Committee's Legislative Branch Subcommittee (April 2019), available at <https://docs.house.gov/meetings/AP/AP24/20190402/109212/HHRG-116-AP24-Wstate-SmithbergerM-20190402.pdf>.

29. For an overview of the executive branch security clearance process, see "Security Clearance Process: Answers to Frequently Asked Questions," Congressional Research Service Report R43216, available at <https://www.everycrsreport.com/reports/R43216.html>.

30. "Fiscal Year 2017 Annual Report on Security Clearance Determinations," pp. 4–5, Office of the Director of National Intelligence (August 2017), available at <https://www.dni.gov/files/NCSC/documents/features/20180827-security-clearance-determinations.pdf>.

31. See "British-U.S. Communications Intelligence Agreement," National Security Agency (March 5, 1946), available at https://www.nsa.gov/Portals/70/documents/news-features/declassified-documents/ukusa/agreement_outline_5mar46.pdf. For more background, see "Not so secret: deal at the heart of UK-US intelligence," *The Guardian* (June 25, 2010), available at <https://www.theguardian.com/world/2010/jun/25/intelligence-deal-uk-us-released>.

32. See Intelligence Authorization Act for Fiscal Year 2010, Pub. L. No. 111-259, § 367, available at https://www.govtrack.us/congress/bills/111/hr2701/text/enr#link=III_E_367&nearest=HD09208F59D6A4316B20D6B17A8469975. Codified at 50 U.S.C. § 3104.

33. "Tackling the Security Clearance Backlog," *Secrecy News* (March 2018), available at <https://fas.org/blogs/secrecy/2018/03/clearance-backlog/>. "Release of the new report on security clearances was delayed because of internal disagreements about how much information to make public. In the end, the advocates of reduced disclosure won out and much of the specific information that had been contained in the previous years' reports is excluded from the latest report. Thus, a comparison with the FY 2015 report shows that the breakdown of the number of clearances held by contractors versus government employees was withheld from the new report, as was the timeliness of the clearance process in individual intelligence agencies that were formerly identified by name."

34. "FY 2015 Annual Report on Security Clearance Determinations," Office of the Director of National Intelligence, available at https://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual_Report_on_Security_Clearance_Determinations.pdf; "FY 2016 Annual Report on Security Clearance Determinations," Office of the Director of National Intelligence, available at <https://fas.org/sgp/othergov/intel/clear-2016.pdf>; and "FY 2017 Annual Report on Security Clearance Determinations," Office of the Director of National Intelligence, available at <https://www.dni.gov/files/NCSC/documents/features/20180827-security-clearance-determinations.pdf>.

35. National Defense Authorization Act for Fiscal Year 2020, § 6609, Pub. L. No. 116-92, available at <https://www.congress.gov/bill/116th-congress/senate-bill/1790/text> (amends 50 U.S.C. § 3104).

36. See, e.g., "How the White House Plays Hardball on Congressional Oversight of Security Clearances," *Lawfare* (March 27, 2019), available at <https://www.lawfareblog.com/how-white-house-plays-hardball-congressional-oversight-security-clearance>.

37. The full text of the amendment, Amendment to Rules Committee Print 116-22, offered by Davis, is available here: [https://amendments-rules.house.gov/amendments/DAVICA_024_xml\[2\]71019180323323.pdf](https://amendments-rules.house.gov/amendments/DAVICA_024_xml[2]71019180323323.pdf). For reasons that were not explained, it was not ruled to be "made in order" by the House Rules Committee. See <https://rules.house.gov/bill/116/hr-3494>.

38. "Legislative Branch Appropriations Bill, 2020" Report 116-64, p. 9, available at <https://congress.gov/116/crpt/hrpt64/CRPT-116hrpt64.pdf>.

39. Intelligence Authorization Act for Fiscal Year 2010, Pub. L. No. 111-259 (Oct. 7, 2010), available at <https://www.congress.gov/111/plaws/publ259/PLAW-111publ259.pdf>.

40. <https://www.congress.gov/bill/108th-congress/senate-resolution/445>.

41. A Congressional Research Service legislative history of S. Res. 400, which created the Senate Select Committee on Intelligence, is available in CRS Report 76-149 F (August 12, 1976), available at <https://fas.org/sgp/crs/intel/76-149.pdf>.