

**Rep. Susan A. Davis**  
**Written Testimony**  
**House Select Committee on Modernization**  
**Tuesday, March 12, 2019**

Chairman Kilmer and Vice Chairman Graves, and Members of the Select Committee, it is a pleasure to join you today. I am a strong proponent of modernizing Congress and am excited for the work this committee will undertake. We all look forward to your report.

As Chairwoman of the House Franking Commission, I will use most of my time to share some Franking recommendations.

Outside of Franking, I would like to share proposals related to modernizing how the House handles classified information, co-sponsorships and caucuses.

**Franking**

First, we must make franking rules more fitting for modern communications.

The Franking Commission sees all of our Members' unsolicited mass communications and mailers from emails to glossy mailers, digital advisements, flyers, robocalls, text messages and more.

We work with practically every House office and often hear frustrations about some of the archaic franking rules.

Members should be able to communicate in more effective ways, that help build trust and humanize our efforts in Congress.

People want to have better access to their representatives and engage in the legislative process. They do not want to be spoken to – they want two-way conversations.

The rules are important, and protect taxpayer resources from being used for campaign, personal, and political purposes.

These rules, however, have not seen any comprehensive updates since 1998 - not since the internet was just beginning to hit the mainstream, and long before social media and smart devices ever became a part of everyday life.

Right now it can be difficult to tell Members what is frankable and what is not because we often have to rely on precedent rather than rules designed for modern communication.

The rules are there, but they are sometimes nit-picked into oblivion, and other times, made completely open-ended.

With updates to “political” ad disclosures on Facebook, and video prioritization across all social media, we should find ways to enable cost-effective approaches to optimize ad targeting and promotion, and bolster the ways Members can generate comprehensive content relative to their representational duties.

We are in the process of updating the rules and we ask for your support with that.

Second, we are behind the times when it comes to transparency. In an era when constituents can follow our actions online and Google our financial disclosures, campaign reports and office spending online, they should be able to access our franked mail and communications too.

We built an electronic approval system for franked material, and while it is technically available to the public, you can only see it if you come to Washington, go to the Clerk's office and pay 10 cents a page to print.

Even worse, the current user interface requires people viewing public records to identify themselves and list their address and organization. I believe it is simply good government to let the public view the franked materials they've paid for without being asked for personal information about themselves.

In 2011, the Franking Commission voted to make advisory opinions public but there have been delays with implementation. I will soon announce that franked materials will be available online and I hope the Select Committee will support that action.

Third, we would like to see the Modernization Committee, the House Administration Committee, and the Ethics Committee work with us to find better ways to develop and use Members' outreach programs and contact lists. Constituents and new Members are very confused about how to stay in touch.

We should find opportunities to develop modern, real-world standards for opt-in programs, and identify ways to maintain good contact list hygiene.

Fourth, we have the opportunity to get out of the business of sending massive amounts of spam emails, and move toward a better, more strategic opt-in approach. We should address the challenges of verified contact list acquisition, protect the integrity of our email distribution IPs, and minimize the approval tasks for more timely outreach.

I look forward to further discussion about these and other Franking modernization topics.

#### **Personal Staff Access to Classified Information**

I serve on the Armed Services Committee, which, as you know, is responsible for overseeing the Department of Defense and portions of the Department of Energy. Without putting too fine a point on it, we oversee a number of matters that are highly classified.

Like all of you, I have the obligation to keep abreast of all issues brought before Congress and, inevitably, I must rely on staff to assist me with my work, conduct research for me, and act as a sounding board. When it comes to the classified work of the Armed Services Committee, however, there are times when I cannot rely on help from my personal office staff.

The problem arises from the nature of security clearances for staff. For reasons not entirely clear, the highest level of clearance personal office staff can receive is “Top Secret.” Holding this level of clearance isn’t all that unusual for government

employees: approximately one million people have clearance at this level, half of whom are contractors.<sup>1</sup> However, a fair amount of the Armed Services Committee's work requires access to Top Secret "Sensitive Compartmented Information," or TS/SCI, which is, in effect a higher level of clearance. While no personal office staffer is allowed to obtain it, select committee staff, leadership staff, and tens of thousands of executive branch employees and contractors are allowed. TS/SCI information is often shared with foreign partners and cannot be shared with our staff who are U.S. citizens and have been vetted and granted a security clearance. Of course, Members of Congress, as constitutional officers, are not required to have a security clearance, but our access is often restricted as well.

This arrangement places me and other members at a distinct disadvantage. It is not unusual for the executive branch to brief Congress at the TS/SCI level, which means my personal office staff cannot assist me. And, no matter how wonderful, committee staff are responsive to the committee chair and ranking member, and necessarily reflect their priorities and their perspectives. I need someone who can help me, who can reflect my interests and my priorities.

This problem isn't unique to the Armed Services Committee. Roughly half of the Members of the House Intelligence Committee signed a letter asking for TS/SCI

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<sup>1</sup> "Fiscal Year 2017 Annual Report on Security Clearance Determinations, Office of the Director of National Intelligence, available at [https://fas.org/irp/congress/2016\\_cr/hpsci-hac.pdf](https://fas.org/irp/congress/2016_cr/hpsci-hac.pdf). As of October 1, 2017, 1,194,962 individuals were "in access" to top secret clearance. The more comprehensive Fiscal Year 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](https://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/2015-Annual_Report_on_Security_Clearance_Determinations.pdf), reported 622,549 federal employees in access, 428,069 contractors in access, and 170,060 others.

clearances for one of their personal office staff.<sup>2</sup> Considering that we all have to vote on legislation that concerns highly classified matters, and often have to review materials and be briefed accordingly, it may make sense for every member of Congress to have the option to designate one staffer at the TS/SCI level. But for now, we should at least provide this level of support to members who serve on committees that routinely deal with national security matters.

I do believe any change in this space should be accompanied by proper safeguards. All staff who receive clearances should be provided appropriate counter-intelligence and information management training. I don't believe there's an additional cost to Congress for upgrading a staffer's clearance from TS to TS/SCI, and, in fact, many of our staff come from the executive branch and are already cleared at this level, then lose this higher clearance when they come to work for Congress. Additionally, it makes sense for committees to have a say in who can access the materials they oversee, and I would be open to allowing the committee's normal processes for managing classified materials in their control to apply to personal office staff. However, increased responsibility over access controls might require additional resources for the committees in the form of staff and space.

The second issue I would like to address is the finite space and storage available to receive information of a sensitive nature. Members and staff must be afforded the space and resources to engage in proper oversight. When handling material or being briefed, Congress--like any other part of government--must use secure rooms and

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<sup>2</sup> See, e.g., this March 2016 letter from eight members of HPSCI concerning clearances, available at [https://fas.org/irp/congress/2016\\_cr/hpsci-hac.pdf](https://fas.org/irp/congress/2016_cr/hpsci-hac.pdf). There is a more recent non-public letter, discussed in this Roll Call story from Nov. 27, 2018, available at <http://www.rollcall.com/news/policy/democrats-security-clearances-house-intel-aides>.

secure storage. With few secure rooms that mostly rely on paper document storage across campus, we have fallen decades behind the rest of the government.

Most of the executive branch operates in buildings that are closed to the public and free of personal electronic devices, which is not the case for us. Many common sense security measures are simply not feasible on Capitol Hill. As this committee looks at ways to modernize our operations, I believe we should look to increase available secure facilities and to increase the use of electronic document management to facilitate our routine oversight work. We should no longer rely on document couriers and locked filing cabinets in 2019.

The third issue is the relatively small staff and resources dedicated to managing member and staff access to classified information. Currently, the Office of House Security, the Office of Senate Security, the Congressional Research Service, the Government Accountability Office, and committees who handle classified materials all operate separate, ad hoc systems centered around Executive Orders and executive branch guidelines for the control of classified information. These staffs are responsible for a wide variety of tasks, from managing clearances to accepting and storing documents. When staff travels, proof of their security clearance must be faxed--yes, faxed--by the Office of House Security to the facility being visited. Time-consuming and outdated processes should be updated and support staff should be increased in order to ensure members and staff have access to the information they need, when they need it. This increased staff could help manage the access to SCI compartments, provide additional training, coordinate the increase of secure space and storage, as well as manage new electronic systems.

Investing in modern techniques to manage access to classified information and enabling Members of Congress to have the support they need to oversee the U.S. government's \$78 billion intelligence budget will strengthen the legislative branch's ability to securely supervise the expenditure of taxpayer dollars. It may also bring increased efficiencies to Congress's internal classified operations. Some of these efforts will initially be costly, but by reducing time spent transporting, auditing, and destroying physical documents; faxing clearance forms, sweeping unsecured spaces to be used for classified discussions, and many other inefficiencies, we will be able to save costs across government.

While the safeguarding of this information is critical, Congress is unique and we will have to work out a number of details with the executive branch. The sixteen agencies of the Intelligence Community are fastidious guardians of the information they deem classified, and with good reason. Properly classified information must be controlled or it has the potential to inflict great harm upon our nation. This does not mean that we should allow the executive branch to make decisions about what Members and staff are allowed to see.

A few closing thoughts. Many of the rules around congressional oversight were put in place in the 1970s. I have included with my testimony a series of letters between then Speaker of the House Tip O'Neill and Director of the CIA, Stansfield Turner, and between Director Turner and the Department of Defense. In one of the letters, Director Turner wrote:

*“As you know, staff personnel of our Congressional oversight committees have been granted access to highly sensitive compartmented intelligence information. However, due to the broadening of interest in foreign intelligence within the Congress, access has been granted to staffs of other committees....*

*Where there is a clearly justifiable need, Members of Congress are given access to sensitive intelligence information. Personal staff of Members, however, are denied such access and I have reaffirmed that policy. The only exception, which I am initiating at this time, is to grant selected key staff members serving in the offices of the Leadership of the Congress access since their principals receive sensitive intelligence on a regular basis and require staff assistance. This will include designated personal staff members from the staffs of your offices, the President Pro-Tempore of the Senate, and Majority and Minority Leaders of both the House and Senate.”*

A lot has happened since then, but little has changed in Congress. It is time for Congress to modernize its approach to access to classified information, especially as matters that the executive branch has deemed classified are central to many of our public debates. Far too often, the processes we have placed on ourselves get in the way of efficiency. Concerns about space, support staff, and processes are all issues that can be resolved. When we do resolve them, Congress can more vigorously and responsibly exercise its constitutional oversight duties.

### **Co-Sponsorship Process**

On another topic, my staff has brought to my attention that much legislative and Clerk's Office staff time could be saved if we modernize the way we add cosponsors to bills.

Many of us sign onto the same bills over and over every Congress and our legislative staff spend countless hours collecting many of the same names. Staff and interns are constantly running cosponsor sheets to the Capitol, when they could be doing other work.

Processing the lists of names takes hours, as the cosponsor sheets are handwritten and can be easily misread. Members with similar or identical last names are often signed onto the wrong bills because the cosponsor sheet was not clear.

There is no good reason for our co-sponsorship process to be like this in 2019. It is neither efficient nor secure. Considering all the bills and all the cosponsors every Congress, saving time here could free up thousands of hours of legislative staff and Clerk staff hours.

I propose that we give the Clerk's Office the charge and funds to come up with a new system that might provide offices with a checklist of bills they were previously signed on to so they may sign on again. The ideal system would also give bills sponsors updates when they get cosponsors.

An online system to do this would not be hard to create, could increase efficiency and could increase accountability.

Currently, we use Members' signatures as the marker of approval and even security for co-sponsorships. However, we all know many times junior staff and even interns are permitted to sign those forms with no real accountability. If offices could designate specific staff to sign off on co-sponsorship via an online system with a secure login it would increase accountability and improve record keeping.

The ideal solution might look like a menu of bills with check boxes. Sponsors could put their bills on a system that would automatically alert users that a bill is open for cosponsors.

Offices would then get regular lists of newly introduced bills with an indicator that the author is looking for cosponsors and an indicator that they have signed on before.

If an authorized staffer checks the box for a bill, the clerk and sponsor would be electronically notified and the Member would be automatically signed on with no paperwork, but a with traceable electronic record.

I hope the Select Committee will consider creating an online system like this for co-sponsorship.

### **Caucus Sign-Up Process**

I believe we could also do something similar with the way we sign up for Caucuses. It could be more easily done through a website than through emails and phone calls. Members could follow a link to a list of caucuses and simply check the ones they

want to join. Caucus Co-chairs would then be notified and could immediately start engaging with their Members.

Thank you again for your time today and for all you're doing to make Congress work better for the American people.