

Statement from Senator Chris Murphy on Challenging the Classification of the January 6, 2020 War Powers Notification

Based on my 13 years on Congressional Foreign Relations Committees in the House and the Senate, I do not believe the information included in the January 6, 2020 War Powers Notification ("the Notification"), which I reviewed as an authorized clearance holder on a need-to-know basis, meets the standards for national security classification outlined in Executive Order 13526. I believe it was irregular to classify this type of document, that it was classified to limit public debate rather than for valid national security reasons, and that its contents were already part of the public record.

On February 26, 2020, I sent a letter to the White House challenging the classification of the Notification and on June 26, following 120 days of non-response, I appealed this challenge to the Interagency Security Classification Appeals Panel (ISCAP). Please find below additional information on the basis for this challenge:

1. **It is irregular to classify these types of documents:** Although there is no requirement for War Powers Notifications to be unclassified, legal experts have asserted that there is nothing inherently classified about these notifications and I am not aware of a single instance in the past when these Notifications have not been provided in unclassified form. (References: <https://www.lawfareblog.com/what-new-resource-says-about-value-war-powers-reporting>; <https://www.wsj.com/articles/democratic-senators-want-soleimani-document-declassified-11578331185>)
2. **I suspect the Notification was classified to restrict debate, rather than for national security reasons:** Executive Order 13526 was designed to ensure that access to information is restricted for specific national security purposes only, not to prevent public scrutiny or limit the ability of Congress to openly debate or share information that an agency would prefer not to disclose. Based on the classified briefing provided to Senators explaining the contents of the Notification on January 8, 2020, I have reason to believe that the classification on the Notification was based on a desire to restrict public debate on the appropriateness of the action in question, rather than to protect sensitive national security information. (References: <https://www.lee.senate.gov/public/index.cfm/ops?ID=593BA14C-4006-48C3-80BF-EA1BBB20BFC4>; <https://thehill.com/homenews/senate/477424-rand-paul-mike-lee-rip-administration-over-insulting-and-demeaning-iran>; https://www.youtube.com/watch?v=P3S1_u4-d70; <https://www.washingtonpost.com/opinions/2020/01/09/why-dont-mike-lee-rand-paul-have-support/>)
3. **The information included in the Notification was public record:** Review of the Notification revealed that the information included was all publicly disclosed information. Since the information was already part of the public record, it is difficult to fathom that disclosure of this information would rise to the level of "grave" or "serious" consequences to our national security, the criteria delineated in Executive Order 13526, hence it should not have been classified. The elapsed time since the notification, and

frequent discussion by Administration officials, further highlights that disclosure poses no significant national security risk. Relevant public statements:

1. President Trump statement on rationale for attack: <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-iran/>
2. Pompeo statements on rationale for attack: <https://www.cnbc.com/2019/12/11/us-slaps-sanctions-on-irans-biggest-airline-and-shipping-group.html>
3. Tweets on Iran plotting: <https://twitter.com/realDonaldTrump/status/1213096351296299017?s=20>
4. Previous statements telegraphing retaliation against Iran: https://twitter.com/realDonaldTrump/status/1213919480574812160?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1213919480574812160%7Ctwgr%5E&ref_url=https%3A%2F%2Fwww.militarytimes.com%2Fflash-points%2F2020%2F01%2F05%2Ftrump-says-tweet-serves-as-notification-to-congress-that-us-may-quickly-fully-strike-back-against-iran%2F, <https://www.washingtonpost.com/news/the-fix/wp/2018/07/23/trumps-oldest-militaristic-fixation-going-to-war-with-iran/>

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