

Congress of the United States
Washington, DC 20515

March 23, 2018

The Honorable Gerónimo Gutiérrez
Ambassador of Mexico to the United States
1911 Pennsylvania Ave NW
Washington, DC 20006

Dear Ambassador Gutiérrez:

We write to express our profound concern regarding recent reports on the lack of progress in the Government of Mexico's investigation into the illegal use of government spyware technology against prominent activists and journalists in Mexico, some of whom were citizens of the United States or residing in the U.S. at the time. We believe that it is imperative that the Government of Mexico carry out a serious, transparent, thorough, and impartial investigation into the illegal use of spyware, and bring to justice any public official or government agency involved in the matter.

As you are aware, in 2017, Mexican and Canadian cybersecurity and digital rights groups revealed in a series of reports that three Mexican federal agencies--the Ministry of Defense (SEDENA), the federal Attorney General's Office (PGR), and the Central Intelligence and National Security Agency (CISEN)--had spent more than \$80 million on a sophisticated surveillance tool, available only to government entities, known as *Pegasus*. This technology was purchased under the explicit condition that it only be used to track suspected terrorists and criminals; however, these reports showed that it had been used to spy on some of the government's most outspoken critics by infiltrating their smartphones. The known targets of the spyware include, among others, prominent human rights lawyers, anti-corruption activists, journalists who have reported on high-profile corruption scandals involving President Enrique Peña Nieto's administration, as well as members of the Interdisciplinary Group of Independent Experts (GIEI) appointed by the Inter-American Commission on Human Rights (IACHR) to provide technical assistance in the case of the disappearance of the 43 students from Ayotzinapa. The spying against the GIEI took place while the experts were preparing a report that criticized Mexican officials for obstructing their work in the investigation.

It is our understanding that after the *New York Times* broke the story in June 2017, the Government of Mexico opened an investigation into the illegal surveillance. However, on February 20, eight months into the inquiry, the *New York Times* reported that little to no substantive progress has been made. Further, it was reported that U.S. officials had rejected the Government of Mexico's requests for assistance in the investigation, allegedly out of concern that Mexican authorities were not committed to resolving the case, and that the U.S. government's participation in the inquiry would only serve to give the appearance of credibility to an investigation that does not appear to be implemented in a serious manner.

In a joint statement on February 20, victims of the spyware attacks and the civil society organizations accompanying them expressed similar concerns, highlighting several important lines of investigation that the PGR has yet to pursue. For example, despite records indicating that Mexico's Criminal Investigation Agency (AIC), a unit within the PGR, purchased and operated the *Pegasus* software, the PGR has not carried out a single investigative action against the AIC to identify the public officials responsible for handling the surveillance tool, or to visit the facilities where the software was operated. Victims of the *Pegasus* spyware attacks and their lawyers have also formally requested that the PGR carry out 17 specific actions related to alleged links between a public official within the PGR and the company that sold the *Pegasus* software.

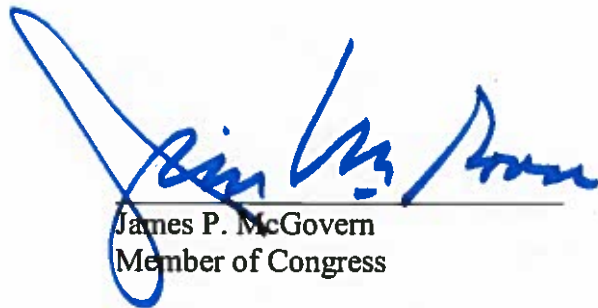
While prosecutors insist they would need to examine the phones of the spyware victims in order to proceed with the investigation, forensic experts and NSO Group—the Israeli cyberarms manufacturer that makes the *Pegasus* software—claim this is unnecessary, as the servers used to operate *Pegasus* should include detailed records of every time it is used against a target. We understand that the PGR has not yet analyzed these servers, nor examined the contract or technical annex signed by Mexican authorities upon purchasing the software.

We respectfully request that you provide us with information regarding the Government of Mexico's plans to address the concerns of the spyware victims, guarantee that all lines of investigation outlined above are exhausted, and ensure that victims and their lawyers are kept informed of the progress in the case. As an important neighbor and ally, we thank you for your ongoing efforts to make human rights and the freedom of expression top priorities and we look forward to working with you to continue to strengthen the U.S.-Mexico relationship.

Sincerely,



Alan Lowenthal
Member of Congress



James P. McGovern
Member of Congress



Barbara Lee
Member of Congress



Mark Pocan
Member of Congress



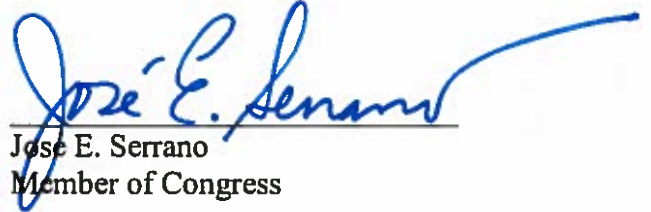
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