

**Congress of the United States**  
**House of Representatives**

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM  
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September 25, 2018

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to respectfully request that you place 11 motions for subpoenas on the agenda for our Committee's upcoming business meeting on September 27, 2018. For each of these requests, we and other Members previously sent you detailed letters setting forth the specific bases for the motions, but you have not responded. Our requests are summarized below.

We understand that you personally may disagree with these requests, but our Committee Members deserve the opportunity to debate and vote on these motions, rather than you blocking their consideration. House rules provide for subpoenas to be issued by a vote of the full Committee, and we have repeatedly asked for the opportunity to do so. Many Members believe that we must use the full force of the Committee to uphold our Constitutional obligation to conduct rigorous oversight of the executive branch. We ask that you allow us to offer these motions, debate them, and hold votes.

**(1) Departments of Justice, Homeland Security, and Health and Human Services  
Withholding Documents on Trump Administration Child Separation Policy:**

On July 5, 2018, Ranking Member Elijah Cummings joined with Government Operations Subcommittee Chairman Mark Meadows sending letters to Attorney General Jeff Sessions, Secretary of Homeland Security Kirstjen M. Nielsen, and Secretary of Health and Human Services Alex M. Azar requesting 11 categories of documents and information relating to the status of children separated from their parent or other accompanying adults as a result of the Trump Administration's child separation policy announced by Attorney General Jeff Sessions on April 6, 2018.<sup>1</sup> These agencies have refused to comply with this bipartisan request for

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<sup>1</sup> Letter from Chairman Mark Meadows, Subcommittee on Government Operations, and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Kirstjen M. Nielsen, Department of Homeland Security, Secretary Alex M. Azar II, Department of Health and Human Services, and Attorney General Jeff Sessions, Department of Justice (July 5, 2018) (online at [democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Meadows-](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Meadows-)

documents. Instead, they provided a briefing for Committee Members and staff on July 18, 2018, which provided none of the requested information and raised serious questions about the Administration's refusal to heed warnings from its own officials.<sup>2</sup> On September 17, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the production of these documents, or allow a vote.<sup>3</sup>

(2) **Secretary of Commerce Wilbur Ross Withholding Testimony on Census 2020 Citizenship Question:**

On August 3, 2018, 45 Democratic Members of Congress sent a letter to Secretary of Commerce Wilbur Ross requesting that he provide answers regarding his misleading testimony before multiple Committees of Congress in the House and Senate.<sup>4</sup> Secretary Ross testified before Congress that when he decided to add an untested citizenship question to the 2020 Census he was "responding solely to the Department of Justice's request" in December 2017. However, newly disclosed documents directly contradict Secretary Ross' testimony and indicate that he engaged in a secretive, behind-the-scenes campaign to enlist several agencies in his own effort to orchestrate the addition of the citizenship question. Secretary Ross has not responded to our request for answers regarding his misleading testimony. On September 24, 2018, we wrote to request that you issue a subpoena to Secretary Ross to compel his testimony before our Committee at a hearing, or allow a vote.<sup>5</sup>

(3) **Department of Veterans Affairs Withholding Documents Relating to Reports that Mar-a-Lago Members Influencing Department Decisions:**

On August 14, 2018, Ranking Member Cummings wrote to the Department of Veterans Affairs requesting documents after a report that three Mar-a-Lago members with no positions

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Cummings%20Letter%20Requesting%20Info%20on%20Separated%20Children.pdf).

<sup>2</sup> Briefing by Commander Jonathan D. White, Ph.D., Federal Health Coordinating Official for the 2018 UAC Reunification Effort, Department of Health and Human Services; Joseph Edlow, Deputy Assistant Attorney General, Department of Justice; Matt Albence, Executive Associate Director for Enforcement and Removal Operations, Immigration and Customs Enforcement; and Matthew Rogow, Acting Law Enforcement Operations Directorate Deputy Chief, Customs and Border Protection, to House Committee on Oversight and Government Reform (July 18, 2018).

<sup>3</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 17, 2018) (online at [democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-17.EEC%20to%20Gowdy-OGR%20re%20Child%20Separation.pdf](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-17.EEC%20to%20Gowdy-OGR%20re%20Child%20Separation.pdf)).

<sup>4</sup> Letter from Carolyn Maloney et al., Member of Congress, to Wilbur Ross, Secretary of Commerce, Department of Commerce (Aug. 3, 2018) (online at <https://maloney.house.gov/sites/maloney.house.gov/files/2018%200803%20Letter%20to%20Secretary%20Ross.pdf>).

<sup>5</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Gerald E. Connolly, Subcommittee on Government Operations, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 24, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-24.EEC%20Connolly%20to%20Gowdy-OGR%20re%20Ross%20Subpoena%20Request.pdf>).

within the Department exercised unprecedented control over personnel and policy decisions.<sup>6</sup> On September 14, 2018, the Department responded and declined to produce any documents citing ongoing litigation and stating that the documents are “not appropriate for release at this time.” On September 24, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the Department to produce these documents, or allow a vote.<sup>7</sup>

(4) **White House Withholding Report and Documents on Security Clearance Process Required by Law:**

On July 19, 2017, our Committee passed on voice vote H.R. 3210, the SECRET Act. During the business meeting, Rep. Raja Krishnamoorthi offered an amendment requiring the Director of the National Background Investigations Bureau of the Office of Personnel Management to submit to Congress a report within 90 days of the law’s enactment that explains the process for conducting and adjudicating security clearance investigations for personnel of the Executive Office of the President, including White House personnel. President Trump signed the bill into law on May 22, 2018, and the deadline for the White House to submit its report to Congress was August 20, 2018. The White House missed this deadline and failed to submit its report. Our staff have inquired with White House officials about when they plan to submit the report, but have received no answer. On September 20, 2018, all of the Democratic Members of this Committee wrote to request that you issue a subpoena to compel the White House to produce documents related to its security clearance process, or allow a vote.<sup>8</sup>

(5) **White House Withholding Documents on Revocation of John Brennan Security Clearance:**

On August 16, 2016, following the President’s revocation of the security clearance of former CIA Director John Brennan, Ranking Member Cummings wrote to White House Chief of Staff John Kelly requesting an immediate briefing and documents about the process the White House followed—pursuant to existing Executive Orders on the revocation of security clearances—to investigate whether Mr. Brennan had compromised classified information or was otherwise unsuitable for continued access to classified information. He also requested information about other individuals for whom the White House had revoked or suspended

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<sup>6</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Robert Wilkie, Department of Veterans Affairs (Aug. 14, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-14.EEC%20to%20Wilkie-VA%20re%20improper%20influence%20doc%20and%20briefing%20request.pdf>).

<sup>7</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 24, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-24.EEC%20to%20Gowdy-OGR%20VA%20Subpoena%20Request.pdf>).

<sup>8</sup> Letter from Ranking Member Elijah E. Cummings, et al., to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-09-20.OGR%20Dems%20to%20Gowdy-OGR%20re%20SECRET%20Act.pdf>).

security clearances.<sup>9</sup> The White House did not respond. On September 18, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the White House to produce these documents, or allow a vote.<sup>10</sup>

**(6) White House Withholding Documents on John Bolton Security Clearance:**

On August 20, 2018, Ranking Member Cummings and Rep. Stephen Lynch, Ranking Member of the National Security Subcommittee, wrote to White House Chief of Staff John Kelly to request documents relating to the foreign contacts sections of National Security Advisor John Bolton's security clearance application and information that Mr. Bolton provided the White House about his prior contacts with foreign nationals. In that letter, they noted that Mr. Bolton was appointed to head the NRA's Subcommittee on International Affairs in 2011. They also noted that in 2013, Mr. Bolton appeared by video at a roundtable organized by a Russian citizen known as Maria Butina, who has since been indicted for acting as a Russian agent inside of the United States.<sup>11</sup> The White House did not respond. On September 18, 2018, Ranking Members Cummings and Lynch wrote to request that you issue a subpoena to compel the White House to produce these documents, or allow a vote.<sup>12</sup>

**(7) State Department Withholding Documents on Retaliation:**

On August 22, 2018, Ranking Member Cummings joined with Ranking Member Eliot Engel of the House Committee on Foreign Affairs to request that Secretary Mike Pompeo provide information and documents about reported acts of retaliation against career employees, as well as about measures the State Department has taken to investigate and stop retaliation against career employees.<sup>13</sup> Documents obtained by Democratic staff showed that the retaliation

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<sup>9</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to John Kelly, White House Chief of Staff (Aug. 16, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-16.EEC%20to%20Kelly-WH%20re%20Brennan%20Clearance.pdf>).

<sup>10</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 18, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-18.EEC%20to%20Gowdy-OGR%20re%20Brennan%20Security%20Clearance.pdf>).

<sup>11</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Stephen F. Lynch, Subcommittee on National Security, to General John Kelly, White House Chief of Staff (Aug. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-20.EEC%20Lynch%20to%20Kelly-WH%20re%20Bolton%20SF86%20Information%20Request.pdf>).

<sup>12</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Stephen F. Lynch, Subcommittee on National Security, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 18, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-18.EEC%20Lynch%20to%20Gowdy-OGR%20re%20John%20Bolton.pdf>).

<sup>13</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot Engel, House Committee on Foreign Affairs, to Secretary Mike Pompeo, Department of State (Aug. 22, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-22.EEC%20to%20Engel%20and%20Cummings%20to%20Pompeo%20Request%20for%20Information.pdf>).



was done by Brian Hook when he served as the Senior Policy Advisor and Director of Policy Planning. On August 16, 2018, Mr. Hook was promoted to lead the State Department's Iran Action Group as the Special Representative for Iran. The State Department did not respond to the request. On September 19, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to Secretary Pompeo to compel these documents, or allow a vote.<sup>14</sup>

**(8) OPM Refusing to Provide Briefing on Complying with Court Order:**

On August 31, 2018, Ranking Member Cummings wrote to OPM Director Jeff T.H. Pon and OMB Director Mick Mulvaney requesting a briefing about their plans to bring agencies into compliance with—and reverse actions that violate—an August 24, 2018, court order ruling that key provisions of three Executive Orders on collective bargaining are “an improper exercise of his statutory authority” and conflict directly with the laws Congress passed decades earlier.<sup>15</sup> Under the court's order, federal agencies are prohibited from implementing the invalidated provisions of the Executive Orders.<sup>16</sup> On September 17, 2018, Director Pon responded by refusing to provide a briefing, stating: “Due to the pending and ongoing litigation, a briefing on this issue would be premature at the present time.”<sup>17</sup> To date, the Trump Administration has not filed an appeal or a motion to stay the court's decision. On September 20, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel Director Pon to testify at a Committee deposition, or allow a vote.<sup>18</sup>

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[oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-22.EEC%20Engel%20to%20Pompeo-State%20re%20Hook%20Information%20and%20Document%20Request.pdf](https://democrats.oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-22.EEC%20Engel%20to%20Pompeo-State%20re%20Hook%20Information%20and%20Document%20Request.pdf)

<sup>14</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 19, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-19.EEC%20to%20Gowdy-OGR%20re%20Hook%20Subpoena%20Request.pdf>).

<sup>15</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Director Jeff T.H. Pon, Office of Personnel Management, and Director Mick Mulvaney, Office of Management and Budget (Aug. 31, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-31.EEC%20to%20Pon-OPM%20Mulvaney-OMB%20re%20Executive%20Orders.pdf>).

<sup>16</sup> *American Federation of Government Employees v. Trump*, No. 1:18-CV-1261, slip op. (D.D.C. Aug. 25, 2018).

<sup>17</sup> Letter from Director Jeff T.H. Pon, Office of Personnel Management, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (received on Sept. 17, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/RM%20Cummings%20Response%20-%2031AUG2018%20Letter.pdf>).

<sup>18</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-20.EEC%20to%20Gowdy-OGR%20re%20OPM%20Subpoena%20Request.pdf>).

(9) **Department of Health and Human Services and Centers for Medicare and Medicaid Services Withholding Documents on Medicaid Work Requirements:**

On August 23, 2018, Ranking Member Cummings and Rep. Krishnamoorthi, Ranking Member of the Subcommittee on Health Care, Benefits, and Administrative Rules, wrote to the Department of Health and Human Services and the Centers for Medicare and Medicaid Services requesting information and documents regarding potential coverage losses that low-income Americans and their families may face as a result of proposed Medicaid work requirements, an effect contrary to their stated purpose.<sup>19</sup> These new work requirements—especially in states that did not expand Medicaid as provided by the Affordable Care Act—could result in coverage losses for low income individuals who become ineligible for Medicaid, but are still unable to afford private insurance. The letter requested any analyses of the expected impact of imposing work requirements, documents pertaining to the Administration’s efforts to ensure coverage for individuals who may lose it, and internal and external communications regarding the Administration’s continued push to condition Medicaid eligibility on work-related activities. On September 20, 2018, Ranking Members Cummings and Krishnamoorthi wrote to request that you issue a subpoena to compel the production of these documents, or allow a vote.<sup>20</sup> CMS Administrator Seema Verma responded on September 24, 2018, but failed to produce any of the requested documents.

(10) **Department of Health and Human Services and Centers for Medicare and Medicaid Services Withholding Documents on Scrubbing of Department Websites:**

On August 7, 2018, Ranking Member Cummings wrote to the Department of Health and Human Services and the Centers for Medicare and Medicaid Services requesting information and documents regarding the scrubbing of content pertaining to the Affordable Care Act from the Medicare.gov website.<sup>21</sup> In this letter, the Ranking Member reiterated a request for documents that he made in an April 6, 2018, letter to the Department regarding the scrubbing of content from the Office of Women’s Health website. The previous request was for documents and internal and external communications pertaining to the removal and relocation of content on

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<sup>19</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Raja Krishnamoorthi, Subcommittee on Health Care, Benefits, and Administrative Rules, to Secretary Alex M. Azar, Department of Health and Human Services, and Administrator Seema Verma, Centers for Medicare and Medicaid Services (Aug. 23, 2018) (online at [democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf)).

<sup>20</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Raja Krishnamoorthi, Subcommittee on Health Care, Benefits, and Administrative Rules, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-09-20.EEC%20Krishnamoorthi%20to%20Gowdy-OGR%20re%20Medicaid%20Subpoena%20Request.pdf>).

<sup>21</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Alex M. Azar, Department of Health and Human Services, and Administrator Seema Verma, Centers for Medicare and Medicaid Services (Aug. 7, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-08-07.EEC%20to%20Azar-HHS%2C%20Verma-CMS%20re%20ACA%20Website%20information.pdf>).

websites maintained by the Department or entities contracted by the Department.<sup>22</sup> In her August 31, 2018, response, CMS Administrator Seema Verma produced none of the requested documents and failed to provide an explanation of how content is deemed “relevant” enough to stay on Department websites.<sup>23</sup> On September 21, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the production of the documents, or allow a vote.<sup>24</sup>

**(11) State Department Withholding Documents on Decision to Close Cyber Office:**

On September 21, 2017, Ranking Member Cummings and Rep. Robin Kelly, Ranking Member of the Subcommittee on Information Technology, joined with Chairman Gowdy and Rep. Will Hurd to request the State Department provide a briefing and eight categories of documents related to the State Department’s effort to shutter the Office of the Coordinator for Cyber Issues, which is responsible for leading U.S. cyber diplomacy around the world.<sup>25</sup> The State Department has provided only 60 pages of documents in response, omitting documents from multiple key categories on who at the Department would assume the responsibilities of maintaining critical cyber functions and the resources that would be dedicated to these areas if the office was closed. On August 9, 2018, Ranking Members Cummings and Kelly wrote to request that you issue a subpoena to Secretary Pompeo to compel the production of these documents, or allow a vote.<sup>26</sup>

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<sup>22</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Secretary Alex M. Azar, Department of Health and Human Services (Apr. 6, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-04-06.EEC%20to%20HHS%20re.website%20for%20the%20Office%20of%20Womens%20Health.pdf>).

<sup>23</sup> Letter from Administrator Seema Verma, Centers for Medicare and Medicaid Services, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Aug. 31, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/HHS.083118.Response%20to%20EEC%20re%20ACA%20Website%20Information.pdf>).

<sup>24</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Sept. 21, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-09-21.EEC%20to%20Gowdy-OGR%20re%20HHS%20Websites%20Subpoena.pdf>).

<sup>25</sup> Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, et al., House Committee on Oversight and Government Reform, to Secretary Rex W. Tillerson, Department of State (Sept. 21, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/10/2017-09-21-TG-EC-WH-RK-to-Tillerson-DOS-Cyber-Reorganization-due-10-5.pdf>).

<sup>26</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Robin Kelly, Subcommittee on Information Technology, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Aug. 9, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-08-09.EEC%20Kelly%20to%20Gowdy-OGR%20re%20CCI%20Subpoena%20Request.pdf>).

The Honorable Trey Gowdy, Chairman  
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For the reasons set forth above, we respectfully request that you place these 11 motions for subpoenas on the agenda for our business meeting on September 27, 2018. Thank you for your consideration of our request.

Sincerely,



Elijah E. Cummings  
Ranking Member



Gerald E. Connolly  
Vice Ranking Member