

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 20, 2018

The Honorable Trey Gowdy  
Chairman  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20510

Dear Mr. Chairman:

Over the past two years, we have been urging you to conduct a serious and credible investigation of the many critical problems with the security clearance process at the White House—an issue you previously stated is squarely within our Committee’s jurisdiction—but you declined to join any of our requests, and the White House refused to provide any of the documents we sought.<sup>1</sup>

However, the White House is now escalating its obstruction by failing to comply with a law duly enacted by both houses of Congress and signed by President Trump himself. This law required the White House to submit a report to Congress by August on its procedures for adjudicating security clearances, but the White House has failed to submit this report and has been unable to explain why.

On July 19, 2017, our Committee considered H.R. 3210, the SECRET Act. During the business meeting, Rep. Krishnamoorthi offered the following amendment:

Not later than 90 days after the date of enactment of this Act, the Director of the National Background Investigations Bureau of the Office of Personnel Management shall submit to Congress a report that explains the process for conducting and adjudicating security clearance investigations for personnel of the Executive Office of the President, including White House personnel.<sup>2</sup>

The Committee adopted this amendment and ordered the bill reported on a voice vote without opposition. The House then passed the bill on July 26, 2017, by voice vote. The Senate

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<sup>1</sup> *On Trump and Russia, Oversight Chair Trey Gowdy Says He Will Stay in His Lane*, Washington Post (June 23, 2017) (online at [www.washingtonpost.com/powerpost/on-trump-and-russia-oversight-chair-trey-gowdy-says-he-will-stay-in-his-lane/2017/06/23/4d1dfca6-583d-11e7-a204-ad706461fa4f\\_story.html](http://www.washingtonpost.com/powerpost/on-trump-and-russia-oversight-chair-trey-gowdy-says-he-will-stay-in-his-lane/2017/06/23/4d1dfca6-583d-11e7-a204-ad706461fa4f_story.html)).

<sup>2</sup> H. Rept. 115-248 (online at [www.congress.gov/congressional-report/115th-congress/house-report/258](http://www.congress.gov/congressional-report/115th-congress/house-report/258)).

passed the bill with an amendment by unanimous consent on March 15, 2018, and the House agreed to the Senate amendment on May 7, 2018, by unanimous consent.

President Trump signed the bill into law on May 22, 2018. Therefore, the deadline for the White House to submit its report to Congress was August 20, 2018. However, 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.

The failure of the White House to submit this report to Congress in compliance with the law is particularly troubling in light of significant failings and dysfunctions in its security clearance adjudication system. For example:

- The President allowed former National Security Advisor Michael Flynn to retain his security clearance for weeks even after the Department of Justice informed the White House that he lied about his secret communications with the Russians.<sup>3</sup>
- The President allowed Staff Secretary Robert Porter to maintain his security clearance even after the Federal Bureau of Investigation submitted five separate derogatory reports to the White House about his background investigation.<sup>4</sup>
- The President revoked the security clearance of former Central Intelligence Director John Brennan for political reasons, stating that he viewed him “as among those he held responsible for the investigation, which also is looking into whether there was collusion between the Trump campaign and the Kremlin.”<sup>5</sup>
- The President granted current National Security Advisor John Bolton access to our nation’s most carefully guarded secrets despite the fact that he worked directly with a Russian citizen who has now been charged by criminal prosecutors with spying against the United States.<sup>6</sup>

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<sup>3</sup> See, e.g., Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 18, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-1-18.EEC%20to%20TG%20re.Flynn%20Kushner%20Security%20Clearance%20Suspensions.pdf>).

<sup>4</sup> See, e.g., Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Feb. 8, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-02-08.EEC%20to%20TG%20re.security%20clearance%20process%20at%20WH.PDF>).

<sup>5</sup> See, e.g., 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>6</sup> See, e.g., 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%20Lynch%20to%20Gowdy-OGR%20re%20John%20Bolton.pdf>).

We have repeatedly asked you to put the full force of our Committee behind a fact-based investigation of the White House security clearance process, but you have repeatedly refused to do so, even when the White House defied your own requests for documents.<sup>7</sup>

Now, the White House is amplifying its defiance by disregarding a law duly enacted by Congress as a whole and signed by President Trump himself.

We believe it is time for our Committee to do its job and issue a subpoena to compel the White House to produce the information we need to fulfill our oversight responsibilities—both to ensure that the security clearance process is not being abused for political purposes and to ensure that our nation's secrets are adequately being protected.

For all of these reasons, we respectfully ask that you reconsider your past refusals to issue a subpoena and finally obtain the documents you requested yourself from the White House on February 14 and 15, 2018.<sup>8</sup>

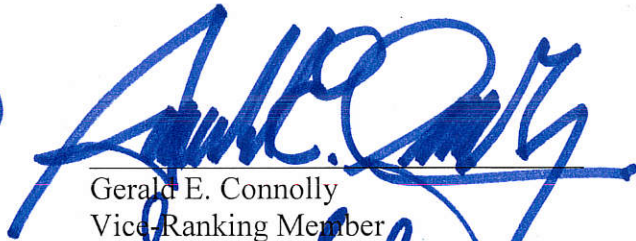
If you choose not to issue this subpoena, then we ask that you place this matter on the agenda for our next regularly scheduled business meeting so all Committee Members will have the opportunity to vote on a motion to issue this subpoena.

Thank you for your consideration of this request.

Sincerely,



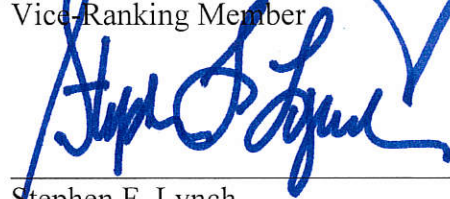
Elijah E. Cummings  
Ranking Member



Gerald E. Connolly  
Vice-Ranking Member



Raja Krishnamoorthi  
Ranking Member  
Subcommittee on Healthcare, Benefits,  
and Administrative Rules



Stephen F. Lynch  
Ranking Member  
Subcommittee on National Security

<sup>7</sup> See, e.g., Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Mar. 9, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-03-09.EEC%20to%20Gowdy%20re.%20Subpoena%20Request%20after%20WH%20SC%20Response.pdf>).

<sup>8</sup> House Committee on Oversight and Government Reform, *Republicans Block 13 More Subpoenas—Including for White House Security Clearance Docs* (May 15, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/republicans-block-13-more-subpoena-motions-including-for-white-house-security>).



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