

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

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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February 2, 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 13 motions for subpoenas on the agenda for our Committee's upcoming business meeting on February 6, 2018. This request follows a similar request Ranking Member Cummings sent to you on October 31, 2017, asking for six motions to be added to the agenda for the business meeting we held on November 2, 2017, all of which were denied.<sup>1</sup>

For each of these 13 subpoena requests, we and other Members previously sent you detailed letters setting forth the specific bases for the motions, but you have not responded. These requests are summarized below.

We understand that you personally may disagree with our 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) Trump Organization Withholding Documents on Foreign Payments:**

On April 21, 2017, Ranking Member Cummings and Chairman Jason Chaffetz sent a letter requesting that the Trump Organization produce documents demonstrating the specific sources and amounts of foreign government payments, the manner in which these amounts were calculated, and the manner in which they were donated to the

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<sup>1</sup> *Oversight Committee Republicans Block All Debate and Votes on Subpoenas*, House Committee on Oversight and Government Reform Democratic Press Office (Nov. 2, 2017) (online at <https://democrats-oversight.house.gov/news/press-releases/oversight-committee-republicans-block-all-debate-and-votes-on-subpoenas>).

Treasury. The Trump Organization refused to provide the documents and instead suggested that it might comply in 2018. On January 11, 2018, all Democratic Committee Members wrote to request that you finally begin a serious investigation of President Trump's compliance with the Emoluments Clause of the Constitution, as well as the numerous conflicts of interest caused by his refusal to follow the example of his predecessors by liquidating his assets and placing them in a truly independent blind trust, as both Republican and Democratic ethics experts recommended. We requested that you issue a subpoena to compel the production of these documents or allow a vote.<sup>2</sup>

(2) **DHS Withholding Documents on Russian Attacks Against States Before Election:**

On October 20, 2017, Ranking Member Cummings and Information Technology Subcommittee Ranking Member Robin Kelly sent a letter requesting documents from the Department of Homeland Security (DHS) relating to Russian-backed efforts to monitor, penetrate, or otherwise hack at least 21 state election systems in the 2016 election. In response, DHS provided just one e-mail containing a short generic script that DHS employees apparently read over the phone to state election officials. On November 29, 2017, during a subcommittee hearing on the "Cybersecurity of Voting Machines," Ranking Member Kelly asked DHS official Christopher Krebs when these documents would be provided. Although he assured her that a response would be forthcoming, no further documents were provided. Ranking Member Kelly then sent Questions for the Record, but DHS never responded. On January 29, 2018, all Democratic Committee Members wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.<sup>3</sup>

(3) **DHS Withholding Information from IG Report on Trump Muslim Ban:**

On February 8, 2017, Ranking Member Cummings joined with 37 other Members of Congress to request that the DHS Inspector General investigate reports of coercive actions taken by Customs and Border Patrol agents in response to Executive Order 13769, President Trump's first attempt at banning Muslim immigrants and visitors from the United States. On November 20, 2017, the Inspector General wrote to those 38 Members stating that he had completed his report, but was "very troubled" that DHS was blocking its release through unprecedented assertions of attorney-client and deliberative process privileges. On January 17, 2018, all Democratic Committee Members wrote to request that you issue a subpoena to compel DHS to produce a full, unredacted copy of

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<sup>2</sup> Letter from Democratic Members to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 11, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-01-11.Dem%20Members%20to%20Gowdy%20re.%20Subpoena%20Trump%20Org..pdf>).

<sup>3</sup> Letter from Democratic Members to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 29, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-29.OGR%20Dems%20to%20Gowdy%20re%20DHS%20Doc%20Production%20for%20Attacks%20on%20State%20....pdf>).

this report. On January 18, 2018, DHS finally released a redacted version of the report that removed significant details without providing specific justification as required by law.<sup>4</sup>

**(4) White House and HHS Withholding Documents on Biased Refugee Report:**

On September 26, 2017, Ranking Member Cummings, National Security Subcommittee Ranking Member Stephen Lynch, Judiciary Committee Ranking Member John Conyers, Jr., and Immigration and Border Security Subcommittee Ranking Member Zoe Lofgren wrote to the White House and the Department of Health and Human Services (HHS) requesting drafts of a report in which the Trump Administration removed all references to the tens of billions of dollars of economic benefits that refugees provide to our country. The White House did not respond to the letter, and HHS sent a letter refusing to provide the documents. On January 12, 2018, Ranking Member Cummings and Ranking Member Lynch wrote to request that you issue subpoenas to compel the production of these documents or allow a vote.<sup>5</sup>

**(5) HHS Withholding Documents on Gag Order Against Whistleblowers:**

On February 7, 2017, Ranking Member Connolly and Chairman Mark Meadows of the Subcommittee on Government Operations sent a letter requesting documents relating to reports that HHS was using nondisclosure agreements to prevent its employees from speaking with Congress.<sup>6</sup> On May 4, 2017, Chairman Chaffetz and Senator Chuck Grassley, Chairman of the Senate Committee on the Judiciary, sent a follow-up letter to HHS seeking documents relating to a “potentially illegal and unconstitutional” internal memorandum that appeared likely to chill whistleblower disclosures.<sup>7</sup> On January 29,

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<sup>4</sup> Letter from Democratic Members to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 17, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-17.OGR%20Dems%20to%20Gowdy%20re%20Travel%20Ban.pdf>).

<sup>5</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, House Committee on Oversight and Government Reform, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 12, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-01-12.EEC%20and%20Lynch%20to%20Gowdy%20re.%20Subpoena%20WH%20Refugee%20docs.pdf>).

<sup>6</sup> Letter from Chairman Mark Meadows and Ranking Member Gerald E. Connolly, Subcommittee on Government Operations, House Committee on Oversight and Government Reform, to Acting Secretary Norris Cochran, Department of Health and Human Services (Feb. 7, 2017) (online at [connolly.house.gov/uploadedfiles/connolly-meadows\\_hhs\\_re\\_ndas.pdf](http://connolly.house.gov/uploadedfiles/connolly-meadows_hhs_re_ndas.pdf)).

<sup>7</sup> Letter from Chairman Jason Chaffetz, House Committee on Oversight and Government Reform, and Chairman Chuck Grassley, Senate Committee on the Judiciary, to Secretary Thomas E. Price, M.D., Department of Health and Human Services (May 4, 2017) (online at [oversight.house.gov/wp-content/uploads/2017/05/2017-05-04-JEC-CEG-to-Price-HHS-Congressional-Communications.pdf](https://oversight.house.gov/wp-content/uploads/2017/05/2017-05-04-JEC-CEG-to-Price-HHS-Congressional-Communications.pdf)).

2018, we wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.<sup>8</sup>

(6) **Kushner Withholding Emails That Violate Presidential Records Act:**

On September 25, 2017, Ranking Member Cummings requested that Senior Adviser to the President Jared Kushner provide a list of all emails in which he conducted official business on private accounts. Mr. Kushner refused. On December 22, 2017, Ranking Member Cummings wrote to request that you join him in obtaining copies of just those emails that Mr. Kushner sent or received in violation of the Presidential Records Act, which requires federal employees to copy or forward all official emails sent on private accounts to their government accounts within 20 days. You never responded.<sup>9</sup>

(7) **White House Withholding Documents on Security Clearance Suspensions:**

On June 21, 2017, all Democratic Members of the Committee wrote to the White House to request documents regarding procedures for suspending security clearances, as well as the decision not to suspend the security clearances of former National Security Advisor Michael Flynn and Senior Adviser Jared Kushner while authorities investigated—and continue to investigate—credible allegations against them involving national security issues. These decisions appear to violate Executive Order 12968 and are counter to the Department of Defense manual governing the suspension of security clearances. The White House never produced the documents. On January 18, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.<sup>10</sup>

(8) **Transition Team and DOJ Withholding Flynn, Jr.'s Security Clearance Documents:**

On November 16, 2016, Ranking Member Cummings requested that Vice President-Elect Mike Pence, as head of the Trump Transition Team, produce information about individuals for whom security clearance applications were submitted. He never responded. On November 16, 2017, Ranking Member Cummings requested that the Federal Bureau of Investigation (FBI) produce all documents relating to the “foreign contacts” sections of Michael Flynn, Jr.’s security clearance application since he

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<sup>8</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Gerald E. Connolly, Subcommittee on Operations, House Committee on Oversight and Government Reform, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 29, 2018) (online at [democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-29.EEC%20Connolly%20to%20Gowdy%20re.%20HHS%20NDA%20Response.pdf](https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-29.EEC%20Connolly%20to%20Gowdy%20re.%20HHS%20NDA%20Response.pdf)).

<sup>9</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Dec. 22, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-12-22.EEC%20to%20Gowdy%20re%20Presidential%20Records%20Act.pdf>).

<sup>10</sup> 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>).

appeared to be involved in a number of General Flynn's undisclosed foreign contacts. On December 5, 2017, the FBI appeared to acknowledge that it was in possession of a security clearance application from Michael Flynn, Jr., but declined to produce any documents without authorization. On December 18, 2017, Ranking Member Cummings again wrote to Vice President Pence, requesting that he authorize the FBI and the Department of Justice to produce these documents. He never responded. On January 16, 2018, Ranking Member Cummings wrote to request that you issue subpoenas to compel the production of these documents or allow a vote.<sup>11</sup>

(9) **White House Withholding Documents on Interim Security Clearances:**

On October 5, 2017, Ranking Member Cummings wrote a letter to the White House, the Director of National Intelligence, Defense Security Services, and the National Background Investigations Bureau requesting documents relating to extremely troubling reports that interim security clearances are being granted to "murderers," "rapists," and "pedophiles." Although the Department of Defense responded with information about 165 cases in which interim security clearances were granted to individuals who were later denied final security clearances, the White House ignored the request. On January 24, 2018, Ranking Member Cummings wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.<sup>12</sup>

(10) **Flynn and Business Partners Withholding Documents on Middle East Nuclear Deal:**

On June 19, 2017, September 12, 2017, and September 15, 2017, Ranking Member Cummings joined with Ranking Member Eliot Engel of the Committee on Foreign Affairs to request that the Flynn Intel Group, ACU Strategic Partners, and IP3 Corporation produce documents relating to former National Security Advisor Michael Flynn's unreported foreign travel and contacts to promote a Middle East nuclear deal to foreign leaders. Ranking Member Cummings also wrote to you on September 8, 2017, and September 14, 2017, urging you to join him in obtaining these documents. The companies refused to produce the documents. On December 6, 2017, Ranking Member Cummings wrote to request that you issue subpoenas to compel the production of these documents or allow a vote.<sup>13</sup>

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<sup>11</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 16, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-16.EEC%20to%20Gowdy%20re.Flynn%20Jr.%20clearance.pdf>).

<sup>12</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Jan. 24, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-01-24.EEC%20to%20Gowdy%20re.Interim%20Security%20Clearances1.pdf>).

<sup>13</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Dec. 6, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-12-06.EEC%20to%20Gowdy.pdf>).

**(11) Data Firms Withholding Documents on Foreign Contacts During Election:**

On October 26, 2017, Ranking Member Cummings and Judiciary Committee Ranking Member John Conyers, Jr. requested documents from five data consultants relating to their engagement with foreign actors and governments during the 2016 presidential campaign. Two companies, Giles-Parscale and Cambridge Analytica, did not deny that they had foreign contacts or communications, and they also declined to produce the requested documents. On December 14, 2017, Ranking Member Cummings and Ranking Member Jerrold Nadler sent a letter requesting that you and Chairman Bob Goodlatte issue subpoenas to compel the production of these documents or allow a vote.<sup>14</sup>

**(12) OMB Withholding Agency Downsizing Plans:**

On October 5, 2017, all Democratic Committee Members wrote to request that you hold hearings on the detrimental effects of the Trump Administration's actions in restricting the hiring of federal employees, and we asked the Committee to obtain copies of each federal agency's reorganization plans submitted to the Office of Management and Budget.<sup>15</sup> You did not respond to that letter. On December 19, 2017, Ranking Member Cummings sent his own letter requesting copies of each agency's final downsizing plans, but the Office of Management and Budget refused to produce the documents.<sup>16</sup>

**(13) FDIC Withholding Documents on EPA Senior Advisor Banned from Banking:**

On September 21, 2017, Ranking Member Cummings wrote to the Federal Deposit Insurance Corporation (FDIC) to request documents relating to its decision to ban Albert C. Kelly from the banking industry. Mr. Kelly is a senior advisor to Environmental Protection Agency Administrator Scott Pruitt, and the FDIC imposed a financial penalty of \$125,000 for abuses Mr. Kelly engaged in during his prior employment as the top executive of a bank in Oklahoma. The FDIC refused to provide these documents. On November 8, 2017, Ranking Member Cummings wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.<sup>17</sup>

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<sup>14</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Jerrold Nadler, House Committee on the Judiciary, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform, and Chairman Bob Goodlatte, House Committee on the Judiciary (Dec. 14, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-12-14.EEC%20Nadler%20to%20Gowdy%20Goodlatte%20re%20Cambridge%20Analytica%20Giles-Pa....pdf>).

<sup>15</sup> Letter from Democratic Members to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Oct. 5, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-10-04.EEC%20OGR%20members%20to%20Gowdy%20re%20Agency%20Downsizing.pdf>).

<sup>16</sup> Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Director Mick Mulvaney, Office of Management and Budget (Dec. 19, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-12-19.EEC%20to%20Mulvaney-OMB%20re%20Agency%20Reorganization.pdf>).

<sup>17</sup> Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Nov. 8, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-11-08.EEC%20to%20Gowdy%20re%20FDIC%20subpoena.pdf>).

The Honorable Trey Gowdy, Chairman  
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For the reasons set forth above, we respectfully request that you place these 13 motions for subpoenas on the agenda for our business meeting on February 6, 2018. Thank you for your consideration of our request.

Sincerely,

  
Elijah E. Cummings  
Ranking Member

  
Gerald E. Connolly  
Vice Ranking Member