

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 9, 2016

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

Dear Mr. Chairman:

I have served as a Member of Congress since 1996, and during that time I have staunchly supported the Congressional oversight function and the Constitutional prerogatives of the House of Representatives in conducting investigations on behalf of the American people.

Over the past two decades, I have supported both Democratic and Republican chairmen in their efforts to secure the cooperation of key witnesses and the production of relevant documents to improve the effectiveness and efficiency of government and better the lives of our constituents. Even when I disagreed with the policy goals of my colleagues on the other side of the aisle, I have defended the authority of our Committee.

However, this is the first time during my twenty years in Congress that I have witnessed the oversight power of this Committee used in such a transparently political manner to directly influence a presidential election, and I can understand why witnesses would not want to participate in this effort.

The Committee has been using taxpayer dollars to target Secretary Clinton in an effort to damage her campaign for president. This Committee and others have been using the authority of Congress to engage in an astonishing onslaught of political attacks against Secretary Clinton.

These actions are an egregious abuse of authority and an inappropriate use of taxpayer funds for political purposes. Worse, they undermine our credibility as a Committee and directly contradict the Constitutional mission we are supposed to serve.

The pattern is clear. Republicans publicly accuse Secretary Clinton of illegal activity without evidence, generate breathless headlines, and demand investigations. But when these investigations come up empty, Republicans simply invent more accusations and launch more investigations—repeating the work of previous inquiries in the process.

Exhibit A is Benghazi. Even though these tragic attacks had been investigated in a bipartisan manner many times before, Secretary Clinton agreed to testify again before the Select Committee, and for more than 11 hours, she answered every conceivable question posed to her.

When the Benghazi investigations failed to substantiate Republican claims that Secretary Clinton ordered the military to “stand down” or other outlandish conspiracy theories, Republicans demanded a criminal investigation of her emails—and they got it. Career law enforcement officials at the FBI conducted an exhaustive, independent investigation, and they determined unanimously that there was simply no case.

This was not the answer that you and other Republicans wanted. So, even though you, Speaker Ryan, and other Republicans had praised the FBI Director just days earlier as a model of independence, you reversed course and proceeded to attack the integrity of the investigation and the FBI Director himself.

In response, the FBI Director made the unprecedented decision to testify before our Committee in detail about the evidence they obtained, the law they applied, and the decision-making process they employed. He described how an “all-star team” of experienced investigators conducted this investigation. He even agreed to share with Congress and the public documents from the investigation in an effort to put these issues to rest.

Rather than accept these conclusions from career law enforcement officials, you and Judiciary Committee Chairman Goodlatte disregarded their findings and sent new criminal referrals to the Justice Department accusing Secretary Clinton and her aides of perjury and obstruction of justice, claiming that they directed the intentional destruction of emails to conceal them from investigators.

You made these referrals despite the fact that the FBI Director had explained: “we found no evidence that any of the additional work-related e-mails were intentionally deleted in an effort to conceal them.” As the FBI Director emphasized this week in a memo to his staff, “the case itself was not a cliff-hanger.”

Your criminal referrals are ludicrous on their face, but they follow the same Republican pattern—accuse, investigate, fail, repeat.

This week, you began issuing a flurry of desperate subpoenas—without any debate or vote by the Committee—demanding that several individuals appear on Tuesday at an emergency hearing to reinvestigate claims that Secretary Clinton or her aides ordered the destruction of documents to hide them from investigators.

For example, just two days ago, you sent a letter to Bryan Pagliano, the former IT specialist who worked on Secretary Clinton’s email system, promising a subpoena for a hearing less than one week away.

As you know, Mr. Pagliano was already interviewed by the FBI. Obviously, he was concerned by the criminal accusations that many Republicans in Congress were making against him, but he spoke with the independent law enforcement authorities at the FBI, and they awarded

him immunity. The FBI has provided the Committee with the results of that interview, but you are now demanding to hear directly from Mr. Pagliano because you disagree with the conclusions the FBI made.

When Chairman Gowdy issued his own unilateral subpoena to force Mr. Pagliano to testify before the Benghazi Select Committee amidst these reckless Republican accusations, Mr. Pagliano asserted his Fifth Amendment privilege and exercised his Constitutional right to remain silent. Despite this fact, you now apparently want Mr. Pagliano to come before our Committee again to assert this privilege for a second time.

There is no legitimate reason that our Committee should force Mr. Pagliano to come before us just to take the Fifth Amendment before Congress yet again. This appears to be nothing more a public relations stunt to generate more headlines—and perhaps a photo op. It has no credible purpose or function whatsoever.

Mr. Pagliano is not alone. You invited several other individuals to Tuesday's hearing who were also previously interviewed by the FBI, including Paul Combetta and Bill Thornton of Platte River Networks.

You sent these invitation letters on Wednesday, just one day after you publicly asked the Justice Department to re-open a criminal investigation against them. In your letters on Wednesday, you said you would give these individuals until today to consult with their attorneys and respond. But you did not even wait 48 hours. Instead, late last night, you rushed to issue unilateral subpoenas demanding that they attend the emergency hearing on Tuesday.

By taking these actions, you are staging a set-up. First, you accuse them of criminal activity without evidence and refer them for criminal investigation. Then you rush to subpoena them to testify without any debate or vote, virtually guaranteeing that some will invoke the Fifth Amendment when their attorneys advise them to steer far clear of our Committee.

I can understand why some witnesses may want no part of this political circus. This is not a credible investigation in pursuit of legitimate oversight. This is a farce. It takes partisan gamesmanship to an entirely new level, and it undermines the integrity of our Committee.

I urge you with all sincerity to immediately abandon this misguided, inappropriate, and illegitimate use of taxpayer funds to affect the upcoming presidential election.

Sincerely,



Elijah E. Cummings  
Ranking Member