

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

September 21, 2015

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

Dear Mr. Chairman:

We have been informed that the Committee intends to hold a public hearing with Planned Parenthood on September 29—just one day before Congress must pass a Continuing Resolution to keep the federal government operating.

Based on numerous press reports over the past several weeks, this appears to be part of a broader power struggle to unseat House Speaker John Boehner, led by an extreme wing of the Republican Party that is using this issue to force a government shutdown unless the Speaker bows to their demands.

More than half of the founding members of the House Freedom Caucus are also Members of the Oversight Committee, including one senior Republican who has been vocally pressing Speaker Boehner to step down. In conducting the Oversight Committee's investigation, you have teamed with the Chairman of the Freedom Caucus, and together you have sent five different letters seeking documents over the past month.

We recognize and respect the right of all Members of the House to express their opinions, but we do not believe our Committee should be dragged into an internal Republican political battle that has been churning for years. Another Republican shutdown would cause horrendous results for our nation, particularly since the shutdown two years ago cost the American economy \$24 billion, according to Standard & Poors.

Editorial boards across the country have condemned this latest Republican threat as a "kamikaze stunt,"¹ "crazy,"² and "doomed-from-the-start."³

¹ *No to Another Government Shutdown*, Miami Herald (Sept. 5, 2015).

² *Not Another Shutdown*, Baltimore Sun (Sept. 9, 2015).

³ *GOP, Spare Us Another Foolish Government Shutdown*, Los Angeles Times (Sept. 18, 2015).

With respect to the upcoming hearing, we have been informed that you intend to invite Planned Parenthood. We believe it is fundamentally unfair to hold a public hearing to essentially indict Planned Parenthood in the court of public opinion without hearing directly from their accuser, David Daleiden, who deceptively edited secretly-recorded videos in an ultimately unsuccessful three-year crusade to entrap Planned Parenthood.

Mr. Daleiden and his organization, the Center for Medical Progress (CMP), engaged in a host of potentially illegal activities, including filing false documents with government agencies, falsely impersonating a legitimate business concern, soliciting charitable contributions under false pretenses, and secretly recording Planned Parenthood officials without their consent. Despite all of these machinations, the Committee has obtained no credible evidence that Planned Parenthood violated any law.

We believe all Committee Members should have the opportunity to question Mr. Daleiden directly at the hearing, especially since Republican Members reportedly have been in contact with CMP and its representatives for months. For these reasons, if you decide to proceed with this hearing, we respectfully request that Mr. Daleiden be invited to testify.

We understand that many Members hold very strong feelings regarding these matters—including both Democrats and Republicans—and we have generally been impressed with the improvements in the way the Committee has been run under your leadership.

However, we strongly oppose this biased, one-sided attack against Planned Parenthood that disregards the questionable activities of Mr. Daleiden merely to help the House Freedom Caucus shut down the government and potentially oust Speaker Boehner—all while jeopardizing healthcare services for millions of women across the country.

Use of Planned Parenthood Issue to Challenge the Speaker

Multiple press accounts over the past month have reported that the House Freedom Caucus is attempting to oust Speaker John Boehner by forcing a government shutdown unless all funding for Planned Parenthood is stripped from the upcoming Continuing Resolution.

On July 28, 2015, two weeks after Mr. Daleiden publicly released the first of his secretly-recorded videos, Rep. Mark Meadows, a founding Member of the Freedom Caucus and a senior Member of the Oversight Committee, introduced a resolution to unseat Speaker Boehner.⁴ Rep. Meadows reportedly stated that “he or another conservative could force a vote to replace Boehner if they’re unhappy with his leadership through the month.”⁵

⁴ *GOP Congressman Launches Bid to Oust John Boehner as House Speaker*, Washington Post (July 28, 2015) (online at www.washingtonpost.com/news/post-politics/wp/2015/07/28/rep-mark-meadows-makes-bid-to-oust-boehner-from-speakership/).

⁵ *Congress’ Planned Parenthood Fight Complicated By Leadership Challenge*, ABC News (Sept. 14, 2015) (online at <http://abcnews.go.com/Politics/congress-planned-parenthood-fight-complicated-leadership-challenge/story?id=33748353>).

The next day, on July 29, 2015, Rep. Jim Jordan, the Chairman of the Freedom Caucus and also a senior Member of the Oversight Committee, joined 17 other Republicans in sending a letter to Speaker Boehner warning that they “will not support any funding resolution—an appropriations bill, an omnibus package, a continuing resolution, or otherwise—that contains any funding for Planned Parenthood, including mandatory funding streams.”⁶

Rep. Jordan had stated previously that he and other conservative Republicans are “fed up” with the current Republican leadership and that he founded the Freedom Caucus with the goal of “moving things in a conservative manner.”⁷

In fact, more than half of the founding Members of the Freedom Caucus also sit on the Oversight Committee, including Reps. Justin Amash, Ron DeSantis, and Mick Mulvaney.⁸ They have declared that their goal is to “push the entire conference to the right” and have stated that they “oppose any spending measure that contains funding for Planned Parenthood.”⁹

Response from Republican Leadership

Speaker Boehner reportedly opposes forcing a government shutdown on this issue. According to one press account, Speaker Boehner’s supporters argue that he “is being ‘blackmailed’ by conservative hard-liners into supporting a government shutdown.” They reportedly “want Boehner to do whatever it takes to shut off funding for the group, even if it means a shutdown.” According to this account:

The warning to Boehner is obvious: The speaker can either do what they want on Planned Parenthood, or they’ll force a vote to replace him.¹⁰

⁶ Letter from Rep. Mick Mulvaney, et al. to Speaker John Boehner, Majority Leader Kevin McCarthy, and Majority Whip Steve Scalise (July 29, 2015) (online at <https://edit-mulvaney.house.gov/sites/mulvaney.house.gov/files/DefundPPFinal07292015.pdf>); Heritage Action for America, *Defund Planned Parenthood* (online at http://heritageaction.com/defund-planned-parenthood/?utm_source=heritageaction&utm_medium=email&utm_campaign=gr-hill&utm_content) (accessed Sept. 16, 2015).

⁷ *‘Fed Up’ Conservatives Plot Revenge Against Boehner*, Washington Examiner (June 23, 2015) (online at www.washingtonexaminer.com/fed-up-conservatives-plot-revenge-against-boehner/article/2566818); *Rep. Jim Jordan to Co-Found New GOP “House Freedom Caucus,”* Cleveland.com (Jan. 26, 2015) (online at www.cleveland.com/open/index.ssf/2015/01/rep_jim_jordan_will_head_new_g.html).

⁸ *House Republicans Form House Freedom Caucus* (Jan. 26, 2015) (online at <http://jordan.house.gov/news/documentsingle.aspx?DocumentID=397889>).

⁹ *Meet the Freedom Caucus*, National Review (Jan. 26, 2015) (online at www.nationalreview.com/article/397170/meet-freedom-caucus-joel-gehrke); *House Freedom Caucus Statement Regarding Planned Parenthood Funding* (Sept. 10, 2015) (online at <http://jordan.house.gov/news/documentsingle.aspx?DocumentID=397949>).

¹⁰ *House GOP Obsessed with Boehner’s Future*, Politico (Sept. 15, 2015) (online at www.politico.com/story/2015/09/john-boehner-future-as-speaker-2015-213602).

This press report also described the Freedom Caucus' plans for the next two weeks:

Twenty-five Republicans voted against Boehner for speaker back in January, and Rep. Mark Meadows (R-N.C.) reignited the debate when he proposed a motion to 'vacate the chair' in late July, essentially calling a vote on whether Boehner should continue as speaker. Those close to Boehner say they expect Meadows or another hard-liner to offer the motion again in coming weeks, depending on what happens with Planned Parenthood.¹¹

This latest Republican effort to force a government shutdown has also been criticized by Senate Majority Leader Mitch McConnell, who warned that it is "a tactic that's been tried going back to the '90s, frequently by Republican majorities that always have the same ending." He explained: "There's no education in the second kick of a mule."¹²

In addition, last week, even conservative Republican Rep. Tom McClintock publicly rejected this tactic and resigned in protest from the Freedom Caucus. In a letter to Caucus Chairman Jim Jordan, Rep. McClintock warned that the plan to shut down the federal government would only "alienate the public," adding that the Freedom Caucus' "many missteps have made it counterproductive to its stated goals." He proclaimed: "I no longer wish to be associated with it."¹³

Oversight Committee Investigation

With respect to the Oversight Committee's investigation, Ranking Member Cummings sent a letter to you on September 3, 2015, objecting to proceeding with a one-sided investigation that has identified no credible evidence that Planned Parenthood engaged in illegal activity. He requested, if you chose to move forward, that the Committee also investigate the actions of Mr. Daleiden and his organization, which—in contrast to Planned Parenthood—may have violated numerous state and federal laws in their clandestine effort to entrap Planned Parenthood.¹⁴

For example:

¹¹ *Id.*

¹² *McConnell: GOP Shouldn't Shut Down Government Over Planned Parenthood*, Politico (Aug. 6, 2015) (online at www.politico.com/story/2015/08/mitch-mcconnell-planned-parenthood-government-shutdown-121096).

¹³ Rep. Tom McClintock, *Congressman McClintock Today Announced His Resignation from the House Freedom Caucus* (Sept. 16, 2015); Letter from Rep. Tom McClintock to Rep. Jim Jordan, Chairman, House Freedom Caucus (Sept. 16, 2015) (online at <https://mcclintock.house.gov/newsroom/press-releases/congressman-mcclintock-today-announced-his-resignation-from-the-house>).

¹⁴ Letter from Ranking Members Elijah E. Cummings and John Conyers to Chairmen Jason Chaffetz and Bob Goodlatte, House Committee on Oversight and Government Reform and House Committee on the Judiciary (Sept. 3, 2015).

- Under Mr. Daleiden's leadership, CMP obtained 501(c)(3) tax-exempt status and apparently solicited charitable contributions under false pretenses.¹⁵
- Mr. Daleiden and his associates apparently filed official paperwork with the State of California to create a sham tissue procurement company called BioMax Procurement Services LLC.¹⁶
- Mr. Daleiden and his associates apparently used fake identification to pose as sales representatives from BioMax—reportedly even going so far as to assume the identity of a former high school classmate of Mr. Daleiden's.¹⁷
- Mr. Daleiden and his associates secretly recorded Planned Parenthood personnel and other individuals over the course of three years without their consent and in possible violation of state invasion of privacy laws.¹⁸

With respect to the undercover videos released by Mr. Daleiden, a forensic analysis recently concluded that even the purported "full footage" videos contain "cuts, skips, missing tape, and changes in camera angle," as well as "numerous intentional post-production edits" that in one case resulted in "more than 30 minutes of missing video." This analysis found that the underlying video transcripts contain "numerous errors, discrepancies, and omissions" that "render them useless as 'evidence.'"¹⁹

Unfortunately, you did not respond to Ranking Member Cummings' letter requesting a balanced and even-handed investigation.

¹⁵ Letter from Citizens for Responsibility and Ethics in Washington to Commissioner John A. Koskinen, Internal Revenue Service (July 23, 2015). *See also Group Behind Planned Parenthood Sting Video May Have Tricked IRS, Donors*, Huffington Post (July 17, 2015) (online at www.huffingtonpost.com/entry/planned-parenthood-sting-video_55a92205e4b0896514d11ac9).

¹⁶ *With Planned Parenthood Videos, Activist Ignites Abortion Issue*, New York Times (July 21, 2015) (online at www.nytimes.com/2015/07/22/us/with-planned-parenthood-videos-activist-ignites-abortion-issue.html); *What is the Center for Medical Progress, the Group Behind the Latest Viral Abortion Video*, Slate (July 15, 2015) (online at www.slate.com/blogs/xx_factor/2015/07/15/live_action_distributed_the_planned_parenthood_sting_video_why_aren_t_they.html).

¹⁷ *Exclusive: The Faces and Fake Names of People Behind Planned Parenthood Attack Videos*, RH Reality Check (July 28, 2015) (online at <http://rhrealitycheck.org/article/2015/07/28/exclusive-faces-fake-names-people-behind-planned-parenthood-attack-videos/>).

¹⁸ *Kamala Harris to Review Group Behind Planned Parenthood Abortion Videos*, Sacramento Bee (July 24, 2015) (online at www.sacbee.com/news/politics-government/capitol-alert/article28666714.html).

¹⁹ *CMP Analysis*, Fusion GPS (Aug. 25, 2015).

To its credit, Planned Parenthood has been extremely cooperative with the Committee's investigation.

On August 14, 2015, you joined Freedom Caucus Chairman Jim Jordan in sending a letter to Planned Parenthood requesting seven broad categories of information covering the past five years, including information about the sources of its funding, forms submitted to the Internal Revenue Service, and the 50 highest-paid Planned Parenthood employees.²⁰

Planned Parenthood has now delivered more than 20,000 pages of documents in four productions, on September 3, 11, 14, and 18, and they are producing additional documents on a rolling basis. In contrast, Mr. Daleiden has not produced a single document.

In the interest of conducting balanced oversight, Ranking Member Cummings sent a parallel letter to Mr. Daleiden similarly requesting seven broad categories of information covering the past five years, including the sources of his group's funding, forms submitted to the Internal Revenue Service, and the 50 largest donors to CMP.²¹

In response, the Life Legal Defense Foundation sent a short letter on September 2 acknowledging receipt of this request and noting that "CMP will endeavor to timely respond to your inquiries once our legal counsel has had an opportunity to review your requests."²²

The following week, on September 9, you issued a press release announcing that you planned to "expand" the investigation of Planned Parenthood.²³ On that date, you and Rep. Jordan sent your own request to Mr. Daleiden asking him to produce full copies of all unedited videos, including footage that a California court had restricted from public release with a temporary restraining order.²⁴

²⁰ Letter from Chairman Jason Chaffetz and Rep. Jim Jordan, House Committee on Oversight and Government Reform, to Cecile Richards, President, Planned Parenthood Federation of America (Aug. 14, 2105) (online at <https://oversight.house.gov/wp-content/uploads/2015/08/2015-08-14-JC-JJ-to-Richards-PP-Planned-Parenthood.pdf>).

²¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to David Daleiden, Chief Executive Officer, Center for Medical Progress (Aug. 20, 2015) (online at <http://democrats.oversight.house.gov/news/press-releases/documents-sought-from-group-that-may-have-violated-law-in-targeting-planned>).

²² Letter from Catherine Short, Life Legal Defense Foundation, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Sept. 2, 2015).

²³ House Committee on Oversight and Government Reform, *Committee Expands Investigation into Planned Parenthood Videos* (Sept. 9, 2015) (online at <https://oversight.house.gov/release/committee-expands-investigation-into-planned-parenthood-videos/>).

²⁴ Letter from Chairman Jason Chaffetz and Rep. Jim Jordan, House Committee on Oversight and Government Reform, to David Daleiden, Executive Director, Center for Medical Progress (Sept. 9, 2015).

You and Rep. Jordan also requested documents from Mr. Daleiden, but only those “relating to the acquisition, preparation, and sale of fetal tissue.” You did not agree to a request by Ranking Member Cummings to seek numerous other categories of documents that would have helped the Committee investigate the potentially criminal activities of Mr. Daleiden and his associates.

To date, Mr. Daleiden has produced no videos or documents in response to your request. As a result, on September 15, 2015, you issued a subpoena for these materials, explaining in an accompanying press release: “This subpoena is a demand for transparency. The action of the court will not thwart or impede Congress’ Constitutional duty and right to conduct effective oversight.”²⁵

In holding next week’s hearing, it is clear that the Committee will be relying extensively on the results of Mr. Daleiden’s potentially illegal and covert activities, his secretly-recorded videos, and his documents that have now been subpoenaed. For precisely this reason, it is critical to hear from him directly at next week’s hearing.

Request for Mr. Daleiden’s Testimony

If you decide to go forward with the hearing on September 29, we respectfully request that the Committee invite Mr. Daleiden to testify. If you choose not to invite him, we ask that he be invited to testify as the minority-requested witness. If you also choose to decline this request, we hereby exercise our rights under House rule XI clause (2)(j)(1), which states:

[T]he minority members of the committee shall be entitled, upon request to the chair by a majority of them before the completion of the hearing, to call witnesses selected by the minority to testify with respect to that measure or matter during at least one day of hearing thereon.

For this request to be meaningful, we ask that you schedule this minority day of hearings on the same day as the hearing with Planned Parenthood—September 29—so all Committee Members have the opportunity to question both Planned Parenthood and Mr. Daleiden prior to the House vote on the Continuing Resolution the next day. We respectfully request your response to this letter by September 23, 2015.

Sincerely,

²⁵ House Oversight and Government Reform Committee, *Chairman Issues Subpoena for Unedited Planned Parenthood Videos* (Sept. 15, 2015) (online at <https://oversight.house.gov/release/chairman-issues-subpoena-unedited-planned-parenthood-videos/>).

Eljib E. Cummings

Eleanor H. Naton

Stacey E. Platto

Brenda L. Lawrence

Dominic Watson Coleman

Ted W. Lieu

Carolyn B. Maloney

Michelle Lujan Grisham

Wm. Lacy Clay

Mark D. Se.

Mark T. Tinsley

Tammy Duckworth

Matthew A. Cristofari

Peter Welch

John Loom

Brendan J. Gayle




