

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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May 21, 2018

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

Dear Mr. Chairman:

I am writing to respectfully request that you place 12 motions for subpoenas on the agenda for our Committee's upcoming business meeting on May 23, 2018. For each of these requests, I 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.

I 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. I ask that you allow us to offer these motions, debate them, and hold votes.

(1) Commerce Department and Census Bureau Withholding Documents on Citizenship Question:

On April 4, 2018, six Democratic Committee Members sent a letter to Secretary of Commerce Wilbur Ross and Acting Director of the Census Bureau Ron Jarmin requesting documents pertaining to concerns the Census Bureau raised about the Trump Administration's sudden decision to add an untested citizenship question to the 2020 Decennial Census. Members asked for these documents by April 10, 2018, so they would have time to review them before officials from the Department were scheduled to brief Members of the Committee on April 11, 2018.¹ The Department of Commerce and the Census Bureau have not provided any of the

¹ Letter from Ranking Member Elijah E. Cummings et al., House Committee on Oversight and Government Reform, to Secretary Wilbur Ross, Department of Commerce, and Acting Director Ron Jarmin, Census Bureau (Apr. 4, 2018) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-04.%20EEC%20Maloney%20Norton%20Clay%20Connolly%20%26%20Gomez%20to%20Commerce%20re.Cens_....pdf).

requested documents, instead stating that they will produce only documents they are required to turn over as part of ongoing litigation.² On April 24, 2018, all Democratic Committee Members wrote to request that you issue a subpoena or allow a vote, noting that the Department's response is inadequate because this Committee has independent oversight responsibilities.³ You did not respond.

(2) **Department of Justice Withholding Documents on Request to Add Citizenship Question to Census:**

On December 12, 2017, the Department of Justice requested that the Census Bureau add a question on citizenship status to the 2020 Decennial Census, claiming it was "critical to the Department's enforcement of Section 2 of the Voting Rights Act."⁴ According to documents made public on March 7, 2018, through a Freedom of Information Act request, the Department's request was made "at the request of leadership working with John" Gore, the Acting Assistant Attorney General for the Justice Department's Civil Rights Division.⁵ On May 1, 2018, all Democratic Committee Members sent a letter to Mr. Gore requesting documents regarding that request and evidence to support the assertion that this information was necessary for voting rights efforts. The Department has not produced any documents. On May 15, 2018, all Democratic Committee Members wrote to request that you issue a subpoena or allow a vote on a motion to subpoena the Department to produce these documents.⁶ You did not respond.

(3) **Department of Justice Withholding Documents on Politicized Hiring Allegations for Immigration Judges:**

On April 17, 2018, Reps. Lloyd Doggett, Joaquin Castro, Donald S. Beyer Jr., and I wrote to the Department of Justice requesting documents relating to allegations that the Department targeted candidates for immigration judge and Board of Immigration Appeals

² Briefing from Acting Director Ron Jarmin, Census Bureau, Michael Walsh, Jr., Deputy General Counsel, Department of Commerce, and Jennifer Ortman, Assistant Division Chief, American Community Survey Office, Census Bureau, to House Committee on Oversight and Government Reform (Apr. 11, 2018).

³ Letter from Ranking Member Elijah E. Cummings, Rep. Carolyn Maloney, et al., to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 1, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-04-24.OGR%20Dems%20to%20Gowdy%20re%20Census%20Bureau%20Subpoena%20Request.pdf>).

⁴ Letter from Arthur E. Gary, General Counsel, Justice Management Division, Department of Justice, to Ron Jarmin, Director, Census Bureau (Dec. 12, 2017) (online at www.documentcloud.org/documents/4340651-Text-of-Dec-2017-DOJ-letter-to-Census.html).

⁵ *The Trump Appointee Behind the Move to Add a Citizenship Question to the Census*, ProPublica (Mar. 7, 2018) (online at www.propublica.org/article/john-gore-trump-appointee-citizenship-question-census).

⁶ Letter from Ranking Member Elijah E. Cummings, et al., to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 15, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-05-15.Dems%20to%20Gowdy%20re.%20Subpoena%20DOJ%20Docs.pdf>).

positions based on their perceived political or ideological views.⁷ We requested documents and communications on candidates whose applications or offers have been pending for unusually long amounts of time. The Department did not respond to our letter. On May 16, 2018, I wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.⁸ You did not respond.

(4) Department of Homeland Security and Department of Justice Withholding Documents on Gag Order Against Whistleblowers:

On February 7, 2017, Chairman Mark Meadows and Ranking Member Gerald Connolly of the Subcommittee on Government Operations, sent letters to the Department of Homeland Security and the Department of Justice requesting documents relating to the agencies' use of nondisclosure agreements.⁹ These bipartisan letters were sent more than a year ago, but the agencies produced no documents or responsive information. On April 24, 2018, Ranking Member Connolly and I wrote to request that you issue a subpoena to compel the production of these documents or allow a vote.¹⁰ You did not respond.

(5) White House Withholding Information on Chartered Flights:

On September 26, 2017, you and I sent a bipartisan request to the White House asking about the use of non-commercial flights by White House employees.¹¹ The White House refused to provide any information, claiming that "not all components within the EOP are under the

⁷ Letter from Reps. Elijah E. Cummings, Lloyd Doggett, Joaquin Castro, and Donald S. Beyer Jr., to Attorney General Jeff Sessions, Department of Justice (Apr. 17, 2018) (online at cummings.house.gov/sites/cummings.house.gov/files/Dems%20to%20DOJ%20re.%20EOIR%20Politicization.pdf).

⁸ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 16, 2018) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-05-16.EEC%20to%20Gowdy%20re.%20Immigration%20Judges%20and%20members%20of%20BIA.pdf).

⁹ Letter from Chairman Mark Meadows and Ranking Member Gerald E. Connolly, Subcommittee on Government Operations, House Committee on Oversight and Government Reform, to Acting Attorney General Boente, Department of Justice (Feb. 7, 2017) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-02-07.Connolly%20Meadows%20to%20Boente-DoJ%20on%20NDAs.pdf); Letter from Chairman Mark Meadows and Ranking Member Gerald E. Connolly, Subcommittee on Government Operations, House Committee on Oversight and Government Reform, to Secretary Kelly, Department of Homeland Security (Feb. 7, 2017) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2017-02-07%20Connolly%20Meadows%20to%20Kelly-DHS%20on%20NDAs.pdf).

¹⁰ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Gerald Connolly, Subcommittee on Government Operations, House Committee on Oversight and Government Reform, to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (April 24, 2018) (online at democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-04-24.EEC%20Connolly%20to%20Gowdy%20re.%20WPEA%20Subpoena%20Request.pdf).

¹¹ Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Chief of Staff John F. Kelly, The White House (Sept. 26, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/09/2017-09-26-TG-EEC-to-Kelly-WH-Travel-due-10-10.pdf>).

supervision of the President's Chief of Staff," directing our inquiry to the National Archives and Records Administration, and directing us to obtain the requested documents from other components of the Executive Office of the President that "are subject to the requirements of the Federal Records Act and the Freedom of Information Act."¹² On November 1, 2017, I wrote to request that you issue a subpoena to compel the White House to produce all of the documents we requested.¹³ In addition, we have learned that Counselor to the President Kellyanne Conway joined then-Secretary of Health and Human Services Tom Price on four chartered flights, and Director of the Domestic Policy Council Andrew Bremberg joined Secretary Price on one trip. On March 13, 2018, I wrote again to request that you issue a subpoena to compel the White House to produce the documents requested on September 26, 2017, and similar documents from Ms. Conway or allow a vote.¹⁴ You did not respond.

(6) White House Withholding Documents on Use of Private Email Accounts:

On September 25, 2017, you and I sent a bipartisan letter to the White House requesting information about multiple reports that the President's top advisors were using personal email accounts and private servers to conduct official business.¹⁵ The White House did not provide the requested documents or an update on its internal review. After my repeated requests that you follow up on this, including that you compel information about Jared Kushner's use of a private email server, on March 14, 2018, I wrote to renew my request that you subpoena the White House for documents relating to the use of private email accounts for official business or allow a

¹² Letter from Director of Legislative Affairs Marc T. Short, The White House, to Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Oct. 10, 2017) (online at https://democratoversight.house.gov/sites/democrats.oversight.house.gov/files/WH%20to%20OGR%2010-10-17_0.pdf); Letter from Director of Legislative Affairs Marc T. Short, The White House, to Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Nov. 3, 2017) (online at <https://democratoversight.house.gov/sites/democrats.oversight.house.gov/files/WH%20to%20OGR%2011-03-17.pdf>); Letter from Director of Legislative Affairs Marc T. Short, The White House, to Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Dec. 4, 2017) (online at <https://democratoversight.house.gov/sites/democrats.oversight.house.gov/files/WH%20to%20OGR%2012-04-17.pdf>).

¹³ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Nov. 1, 2017) (online at <https://democratoversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-11-1.EEC%20to%20Gowdy%20re.Travel.pdf>).

¹⁴ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Mar. 13, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-03-13.EEC%20to%20Gowdy%20re.WH%20Travel.pdf>).

¹⁵ Letter from Chairman Trey Gowdy and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Donald F. McGahn II, White House Counsel (Sept. 25, 2017) (online at <https://oversight.house.gov/wp-content/uploads/2017/09/2017-09-25-TG-EEC-to-McGahn-WH-Presidential-Records-Act-due-10-9.pdf>).

vote.¹⁶ You did not respond.

(7) **Department of Justice Withholding Documents on Improper Attempt to Classify Dana Boente Notes:**

On April 11, 2018, National Security Subcommittee Ranking Member Stephen Lynch and I wrote to the Justice Department to request documents relating to handwritten notes taken by top Justice Department official Dana Boente on March 30, 2017, memorializing his conversation with then-FBI Director James Comey. The notes related to a conversation in which Director Comey conveyed that President Trump had asked him to lift the “cloud” of the Russia investigation and “to get out” that the President was not under criminal investigation—and were apparently improperly classified without Mr. Boente’s permission or any legal justification.¹⁷ The Department failed to respond to the letter or produce any documents. On May 9, 2018, Ranking Member Lynch and I wrote to you to request that you issue a subpoena to compel the production of these documents or allow a vote.¹⁸ You did not respond.

(8) **State Department and White House Withholding Documents and Testimony on “Cleaning” Out of Career Employees:**

On March 15, 2018, I joined with Ranking Member Eliot Engel of the House Committee on Foreign Affairs to send a letter to the White House and State Department requesting documents related to alleged attempts by political officials to conduct a “cleaning” of career State Department employees they deemed not sufficiently “supportive” of President Trump’s agenda, as well as depositions with the officials involved.¹⁹ On April 19, 2018, the State Department provided a short response that did not dispute any of the alleged facts. The State Department response did not produce any of the documents or information we had requested in

¹⁶ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (Mar. 14, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-03-14.EEC%20to%20Gowdy%20re.%20PRA1.pdf>).

¹⁷ 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 Deputy Attorney General Rod Rosenstein, Department of Justice (Apr. 11, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-04-11.EEC%20Lynch%20to%20Rosenstein-DOJ%20re%20Document%20Request.pdf>).

¹⁸ 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 (May 9, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-05-09.EEC%20Lynch%20to%20Gowdy%20re%20Boente%20Notes.pdf>).

¹⁹ 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 John Kelly, White House Chief of Staff, and John Sullivan, Deputy Secretary, Department of State (Mar. 15, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-03-15.EEC%20Engel%20to%20WH%20%26%20State.pdf>).

our letter, nor did it schedule any of the transcribed interviews we requested. The White House failed to respond at all. On May 18, 2018, I wrote to ask that you issue subpoenas to compel the production of documents and the appearance of witnesses for depositions or allow a vote.²⁰ You did not respond.

(9) **White House Withholding Documents on Rejected Security Clearance Application for NSC Deputy Robin Townley:**

On March 16, 2018, I wrote to the White House to request documents regarding a rejected application for access to Sensitive Compartmented Information (SCI) for Robin Townley, who served as one of the closest deputies to former National Security Advisor Michael Flynn, as well as for documents related to his removal from White House employment.²¹ The White House did not respond to the letter. On May 18, 2018, I wrote to request that you issue a subpoena to compel the White House to produce these documents or allow a vote.²² You did not respond.

(10) **Cambridge Analytica Withholding Documents about Foreign Employees' Participation in U.S. Elections:**

On March 27, 2018, I joined with Ranking Member Jerrold Nadler of the House Committee on the Judiciary to send a letter to Cambridge Analytica requesting documents and communications relating to reports that Cambridge Analytica may have violated U.S. election regulations that prohibit high-level strategy or analysis work by foreign nationals in U.S. political campaigns.²³ Cambridge Analytica failed to respond to the letter or produce any of the requested documents. On May 16, 2018, I wrote to ask that you issue a subpoena to compel the production of these documents or allow a vote.²⁴ You did not respond.

²⁰ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 18, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/cummings-asks-gowdy-to-subpoena-documents-withheld-by-white-house-and-state>).

²¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to John Kelly, White House Chief of Staff (Mar. 6, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/2018-03-06.EEC%20to%20Kelly-WH%20re%20Townley%20SCI%20Application.pdf>).

²² Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 18, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/cummings-asks-gowdy-to-issue-subpoena-for-documents-on-denial-of-security>).

²³ 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 Dr. Alexander Tayler, Acting Chief Executive Officer, Cambridge Analytica (Mar. 27, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-03-27.EEC%20Nadler%20to%20Tayler-Cambridge%20Analytica%20re%20Foreign%20Campaign....pdf>).

²⁴ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 16, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2018-05-16.EEC%20to%20TG%20re.%20Cambridge%20Analytica.pdf>).

(11) Department of Health and Human Services Withholding Documents on Effort to Strip Information from Women's Health Website:

On April 6, 2018, I sent a letter to the Department of Health and Human Services requesting documents related to the Trump Administration's decision to remove information about breast cancer, preventive services guaranteed by the Affordable Care Act, and various LGBTQ health issues from HHS's website for the Office of Women's Health.²⁵ On April 20, 2018, the Department responded with a form letter addressed to Senator Patty Murray that failed to produce the documents requested in my letter.²⁶ On May 18, 2018, I wrote to request that you issue a subpoena to compel production of the documents the Department is withholding or allow a vote.²⁷ You did not respond.

(12) The Federal Savings Bank Withholding Documents Relating to Loans Made to the President's Campaign Chairman:

On April 12, 2018, National Security Subcommittee Ranking Member Stephen Lynch and I sent a letter to The Federal Savings Bank requesting documents relating to reports that its Chief Executive Officer, Steve Calk, may have made loans of up to \$16 million to President Donald Trump's campaign chairman, Paul Manafort, in exchange for promises to name him to a top position in the Trump Administration.²⁸ On April 26, 2018, the Bank provided a one-page response arguing that the "news media speculation is false."²⁹ The Bank, however, did not produce any of the documents requested. On May 1, 2018, Ranking Member Lynch and I sent a

²⁵ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to The Honorable Alex M. Azar II, Secretary, 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>).

²⁶ Letter from Matthew D. Bassett, Assistant Secretary for Legislation, Department of Health and Human Services, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Apr. 20, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/HHS.042018.Response%20to%20EEC%20re%20Website%20for%20the%20Office%20of%20Womens%20Health.pdf>).

²⁷ Letter from Ranking Member Elijah E. Cummings to Chairman Trey Gowdy, House Committee on Oversight and Government Reform (May 18, 2018) (<https://democrats-oversight.house.gov/news/press-releases/cummings-asks-gowdy-to-subpoena-documents-on-trump-administration-campaign-to>).

²⁸ 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 Steve Calk, Chief Executive Officer, The Federal Savings Bank (Apr. 12, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/pentagon-confirms-banker-who-gave-manafort-loans-inquired-about-position-with>).

²⁹ Letter from Ryan T. Murphy, Compliance Manager and In-House Counsel, The Federal Savings Bank, to 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 (Apr. 26, 2018) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/TFSB%20Response%20to%20Committee%20on%20Oversight.pdf>).

The Honorable Trey Gowdy, Chairman
Page 8

letter requesting that you issue a subpoena or allow a vote.³⁰ You did not respond.

For the reasons set forth above, I respectfully request that you place these 12 motions for subpoenas on the agenda for our business meeting on May 23, 2018. Thank you for your consideration of our request.

Sincerely,



Elijah E. Cummings
Ranking Member

³⁰ 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 (May 1, 2018) (online at <https://democrats-oversight.house.gov/news/press-releases/top-dems-ask-gowdy-to-subpoena-documents-from-bank-that-reportedly-loaned>).