

**RANKING MEMBER ELIJAH E. CUMMINGS**  
**AMENDMENT #1 ON SUBPOENAS**  
**COMMITTEE ORGANIZATIONAL MEETING**  
**Tuesday, January 25, 2011**

Mr. Chairman, I have an amendment at the desk.

This amendment would require the Chairman to seek the agreement of the Ranking Member before issuing a subpoena. If the ranking member objects, this amendment would require the Chairman to call a vote of the Committee.

This standard—seeking the concurrence of the ranking member or a Committee vote—has been the approach of all Committee Chairmen since the McCarthy era, with one exception.

From 1997 to 2002, when Representative Burton served as Chairman, he issued more than 1,000 unilateral subpoenas during the Clinton Administration without the concurrence of the ranking member or a vote of the Committee.

As widely reported, this approach led to serious abuses, and it was abandoned by Representative Tom Davis, a Republican, who became Chairman in 2002.

It's true that the rules provide the Chairman with the authority to issue unilateral subpoenas.

But Representative Davis understood that issuing a subpoena is such an extreme exercise of congressional power that it should be undertaken only with the agreement of the Chairman and Ranking Member or the backing of the full Committee.

When Representative Davis handed over his gavel to Representative Waxman in 2007—exactly like we are doing here today—he asked Mr. Waxman to follow this same approach. And Mr. Waxman did.

Let me make something clear. I did not want to offer this amendment. Yesterday, I asked Chairman Issa to engage in the exact same colloquy as Representatives Davis and Waxman did in 2007. Word for word, with no changes.

But he said no. He said he would never, under any circumstances, ask this Committee to vote on any subpoena he issued, even if it was extremely controversial.

I think this is a mistake because it prevents an open and honest debate. Let me read what Chairman Davis said in 2007:

“Concurrence or a vote of the Committee would ensure that the issues are fully aired, so that our members and the public can fully understand what the Committee is doing.”

I completely agree. And the only reason not to adopt this approach is to avoid a full airing before this Committee and the public. This is exactly what leads to abuses of authority.

Therefore, I ask that Members vote in favor of the amendment.