

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>

June 6, 2016

The Honorable Denis McDonough
Chief of Staff
The White House
Washington, D.C. 20500

Dear Mr. McDonough:

On May 5, 2016, the *New York Times* published a profile of Deputy National Security Advisor Benjamin Rhodes.¹ The profile contained some curiously candid and unguarded admissions by Mr. Rhodes about how the White House negotiated, and communicated about, the Joint Comprehensive Plan of Action with the Islamic Republic of Iran, or more aptly the “Iran nuclear deal.” According to the *Times*, Mr. Rhodes and his colleagues “manufactured” a narrative “for the purpose for selling the deal.”² Mr. Rhodes’ implication that the White House deceived Congress and the American people caught our Committee’s attention, and we invited him to testify at a May 17, 2016, hearing titled “White House Narratives on the Iran Nuclear Deal.” The White House refused to allow Mr. Rhodes to testify.

Had he been allowed to testify, perhaps Mr. Rhodes would have revealed the full extent to which the Administration has attempted to manipulate and conceal publicly available information related to the Iran nuclear deal negotiations. Since the hearing, the White House and the State Department were each found to have scrubbed the public record to remove statements that confirmed Mr. Rhodes’ surprising statements. In both cases, the statement that was expunged from the record related to lying to the public about the Iran nuclear deal.

First, on December 2, 2013, James Rosen, a Fox News correspondent, asked Jen Psaki, then-State Department spokesperson, whether it is “the policy of the State Department where the preservation of the secrecy of secret negotiations is concerned to lie in order to achieve that goal.”³ Ms. Psaki responded: “I think there are times where diplomacy needs privacy in order to progress. This is a good example of that.”⁴ Eight minutes of footage, including the Rosen-Psaki

¹ David Samuels, *The Aspiring Novelist Who Became Obama’s Foreign-Policy Guru*, N.Y. TIMES MAGAZINE, May 5, 2016, available at http://www.nytimes.com/2016/05/08/magazine/the-aspiring-novelist-who-became-obamas-foreign-policy-guru.html?_r=0.

² *Id.*

³ U.S. Dep’t of State, Daily Press Briefing (Dec. 2, 2013), available at <http://www.state.gov/r/pa/prs/dpb/2013/12/218178.htm>.

⁴ *Id.*

exchange, was excised from videos on the State Department website and official YouTube channel.⁵

At the May 10, 2016, daily press briefing, when asked why the deletion occurred, Elizabeth Trudeau, Director of the State Department Press Office, stated: “We’re looking into it. Genuinely we think it was a glitch.”⁶ On June 1, 2016, however, State Department spokesperson and Assistant Secretary for Public Affairs John Kirby stated that the deletion of the Rosen-Psaki exchange resulted from “a deliberate request.”⁷ He also added that the deletion “wasn’t a technical glitch.”⁸

Second, according to ABC News, the White House “omitted a line from a transcript of a May 9 [2016] briefing that also involved questions from Fox News about Iran.”⁹ The exchange in question started when Kevin Corke, a White House correspondent for Fox News, asked: “Can you state categorically that no senior official in this administration has ever lied publicly about any aspect of the Iran nuclear deal?”¹⁰ White House Press Secretary Josh Earnest replied: “No, Kevin.”¹¹ According to the story:

[T]he words ‘No, Kevin’ never made it into the official White House transcript. Instead it picked up with the rest of Earnest’s response, comments about how the White House believes the deal has made America safer. But, Earnest’s full answer can be heard in the White House’s own video, posted on its YouTube page, although it is not included in the on-screen captioning.¹²

According to ABC News, Mr. Earnest’s answer was not included in the transcript “because it was inaudible.”¹³ A transcript for the daily press briefing held by Mr. Earnest just three days prior, however, reflects that inaudible statements are distinguished by parentheses surrounding the word, “inaudible.”¹⁴ Addenda to transcripts are signaled by an asterisk

⁵ *Rosen: It’s Stunning that State Dep’t Tried to Censor my Questioning on Iran Deal*, FOX NEWS INSIDER, May 11, 2016; *State Dept: There Was ‘Deliberate Request’ to Delete Video of Rosen’s Iran Questions*, FOX NEWS INSIDER, June 1, 2016.

⁶ U.S. Dep’t of State, Daily Press Briefing (May 10, 2016), available at <http://www.state.gov/r/pa/prs/dpb/2016/05/257074.htm>.

⁷ U.S. Dep’t of State, Daily Press Briefing (June 1, 2016), available at <http://www.state.gov/r/pa/prs/dpb/2016/06/257880.htm>.

⁸ *Id.*

⁹ Justin Fishel, Serena Marshall, Benjamin Siegel, and Devin Dwyer, *White House Omitted Line about Iran from Briefing Transcript, ABC News Finds*, ABC NEWS, June 3, 2016, <http://abcnews.go.com/Politics/white-house-omitted-line-iran-briefing-transcript-abc/story?id=39591852>.

¹⁰ The White House, Daily Press Briefing by the Press Secretary (May 9, 2016), Transcript, available at <https://www.whitehouse.gov/the-press-office/2016/05/10/daily-press-briefing-press-secretary-592016>.

¹¹ The White House, Daily Press Briefing by the Press Secretary (May 9, 2016), Video, available at <https://www.youtube.com/watch?v=FsAjEOpM-m0&feature=youtu.be&t=1h>.

¹² *Supra* note 6.

¹³ *Id.*

¹⁴ The White House, Daily Press Briefing by the Press Secretary (May 6, 2016), available at <https://www.whitehouse.gov/the-press-office/2016/05/06/press-briefing-press-secretary-josh-earnest-5616>.

preceding the supplemental text.¹⁵ In light of the White House's practice of clearly marking inaudible statements in transcripts from press briefings, it appears that the omission of Mr. Earnest's answer was intentional.

Mr. Earnest recently acknowledged the "important principle" of clearly marking clarifications and corrections on transcripts and stated he is "confident that everyone at the White House understands why it's important to preserve the integrity of these materials."¹⁶ It is unclear, however, what steps the White House takes to preserve the integrity of the public record of the Administration's statements, or whether the Administration routinely sanitizes the record, especially as it relates to the Iran nuclear deal. To help the Committee understand the White House's policies related to transcripts and video footage from press briefings and other events, please provide the following documents and information as soon as possible, but not later than 5:00 p.m. on June 20, 2016:

1. Documents sufficient to identify, by name and job title, the individual or individuals responsible for omitting Mr. Earnest's full response to Mr. Corke's question relating to the Iran nuclear deal from the transcript and closed captioning for the May 9, 2016, press briefing.
2. All documents and communications, including, but not limited to, internal memoranda and reports to or from the Office of White House Communications, referring or relating to the omission of Mr. Earnest's full response to Mr. Corke's question during the May 9, 2016, press briefing.
3. Documents referring or relating to policies for editing or revising transcripts and/or video footage from press briefings or other media and public events.
4. Documents referring or relating to ensuring that transcripts and/or video footage from press briefings or other media and public events comply with the Federal Records Act.
5. All documents and communications referring or relating to edits to and/or omissions from transcripts and video footage since January 1, 2012.

Please deliver your responses to the Committee on Oversight and Government Reform Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter contains additional instructions for responding to the Committee's request.

¹⁵ The White House, Daily Press Briefing by the Press Secretary (May 31, 2016), *available at* <https://www.whitehouse.gov/the-press-office/2016/05/31/press-briefing-press-secretary-josh-earnest-5312016>.

¹⁶ The White House, Press Gaggle by the Press Secretary en route Andrews Air Force Base (June 2, 2016), *available at* <https://www.whitehouse.gov/the-press-office/2016/06/02/press-gaggle-press-secretary-en-route-andrews-air-force-base>.

The Honorable Denis McDonough

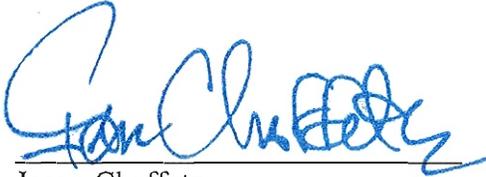
June 6, 2016

Page 4

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please contact Sang Yi of the Majority staff at (202) 225-5074 with any questions regarding this request. Thank you for your attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Ron DeSantis
Chairman
Subcommittee on National Security

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Stephen F. Lynch, Ranking Member
Subcommittee on National Security

Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,
CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE,
DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD,
INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION,
BEGATTACH.
6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.

7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.
17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.

5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.