

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>

October 18, 2017

The Honorable Rod J. Rosenstein
Deputy Attorney General
The Honorable Robert S. Mueller III
Special Counsel
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

Dear Mr. Rosenstein and Mr. Mueller:

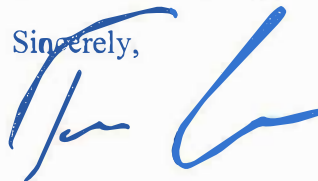
Attached please find a letter from my colleagues on the House Oversight and Government Reform Committee raising their concerns with both the production of documents previously requested, their requests for additional documents not previously requested, and more generally their concern about factual predicates best described as criminal or potentially criminal depending upon the state of mind of the actor.

I was not the chairperson of the Committee when these requests were originally made but I have striven to be consistent in how I approach criminal allegations, quasi-criminal allegations, and oversight that does not rise to the level of a criminal allegation.

Much of what is sought by my Democratic colleagues—if properly investigated, charged and proven beyond a reasonable doubt—would carry criminal penalties. Congress does not, and cannot, prosecute crimes. Congress may investigate matters to inform policymaking, and, in so doing, may find evidence of possible criminal actions. In those cases, Congress can do nothing except refer the matter to the Department of Justice. I was clear in this approach in meeting with Special Counsel Mueller, and that is what I am peremptorily doing now.

When the Special Counsel probe is completed, and to the extent issues raised in this letter remain unresolved, I will be more than pleased to investigate those issues. I will not risk interfering with any ongoing criminal probes, hence my referral of the attached letter to you.

Sincerely,



Trey Gowdy

Enclosure

cc: The Honorable Elijah E. Cummings

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October 18, 2017

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

Dear Mr. Chairman:

We are writing to respectfully request that you issue a subpoena to compel the White House to produce all of the documents that this Committee requested on a bipartisan basis on March 22, 2017, relating to former National Security Advisor Michael Flynn. To date, the White House has refused to provide any of the documents we requested and has asserted no valid privilege for this refusal.

We also request that you issue three additional subpoenas to General Flynn's company and two other companies he conducted business with—ACU Strategic Partners and IP3/IronBridge—since they have now refused to provide documents relating to General Flynn.

We believe the record is clear on the need for these subpoenas, but we have set forth some of that record below for your review. If you choose not to issue these subpoenas, then we respectfully request that you allow Committee Members to vote on these subpoenas at the Committee's next business meeting.

Need for Subpoena to the White House

More than six months ago, on March 22, 2017, then-Chairman Jason Chaffetz and Ranking Member Cummings sent a bipartisan letter to White House Chief of Staff Reince Priebus requesting documents relating to General Flynn's foreign contacts, including "any contacts formally disclosed by Lt. General Flynn," "direct or indirect communications between Lt. General Flynn and foreign government officials, representatives, affiliates, or agents," and "[d]ocuments referring or relating to Lt. General Flynn's receipt of funds from any foreign source."¹

¹ Letter from Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Reince Priebus, White House Chief of Staff (Mar. 22, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Chaffetz%20Cummings%20to%20Priebus>

Chairman Chaffetz and Ranking Member Cummings sent their letter after they obtained documents showing that RT, the propaganda arm of the Russian government, had paid more than \$45,000 for General Flynn's participation at a dinner gala in Moscow in December 2015. These documents also showed that General Flynn received \$11,250 from a Russian charter cargo airline blacklisted by the Pentagon and \$11,250 from a Russia-based cybersecurity corporation whose software has now been banned from federal government computer systems.²

Combined with General Flynn's unreported \$530,000 lobbying contract as a foreign agent on behalf of the Turkish government in 2016, these Russian payments raised major red flags about whether General Flynn had fully and properly disclosed his contacts and business involvement with foreign governmental entities before the President named him National Security Advisor and once he assumed that position.

Chairman Chaffetz described in a public interview why he and Ranking Member Cummings requested the documents:

Elijah Cummings and I both signed these letters. We're going back to the Administration asking for their viewpoint. Did the General ask for permission, and was he granted that permission?³

On April 19, 2017, the White House sent a response admitting that it was in possession of responsive documents, but refusing to produce a single document.⁴ The letter did not assert Executive Privilege or any other privilege for withholding the documents.

The White House's refusal to provide to the Committee any documents regarding General Flynn—despite the bipartisan request—has become even more concerning in light of revelations over the past six months that the President's transition team and later the White House Counsel were informed of serious national security concerns regarding General Flynn, but did not suspend his security clearance or halt his access to our nation's most sensitive information while a review of these concerns was conducted.

%2003-22-17%20re%20Flynn%20Docs_0.pdf).

² Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to President Donald J. Trump et al. (Mar. 16, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2016-03-16.EEC%20to%20POTUS%20DOD%20FBI%20re%20Flynn%20Payments.pdf>).

³ *For the Record with Greta Van Susteren*, MSNBC (Mar. 28, 2017) (online at www.msnbc.com/transcripts/for-the-record-with-greta/2017-03-28).

⁴ Letter from Marc T. Short, White House Director of Legislative Affairs, to Chairman Jason Chaffetz and Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform (Apr. 18, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/White%20House%20to%20Chaffetz%20Cummings%2004-19-17_0.pdf).

For example, on May 8, 2017, former Acting Attorney General Sally Yates testified that nearly three weeks before General Flynn was fired, she warned White House Counsel Donald McGahn that General Flynn “essentially could be blackmailed by the Russians” because the Russians knew and “likely had proof of” the fact that General Flynn lied about whether he discussed U.S. sanctions against Russia with Russian Ambassador Sergey I. Kislyak.⁵

Similarly, on May 17, 2017, the *New York Times* reported that during the transition, General Flynn and his counsel disclosed to the transition legal team that General Flynn was under federal investigation for secretly working as a paid lobbyist for Turkey.⁶

Over the past six months, our investigation has yielded another set of foreign contacts that General Flynn failed to disclose—his contacts with foreign officials and foreign businesses promoting a joint U.S.-Russian partnership to build nuclear power plants in the Middle East, with funding from Saudi Arabia.

The information regarding what General Flynn disclosed to the White House regarding his foreign contacts is critical to this Committee’s understanding of his actions as National Security Advisor, his risk to our country’s national security, and the security clearance process at the White House.

Need for Subpoenas to General Flynn and His Business Colleagues

On June 19, 2017, Ranking Member Cummings and Ranking Member Eliot Engel of the House Committee on Foreign Affairs wrote to General Flynn regarding his failure to disclose—in his 2016 security clearance renewal application or his interview with background check investigators—a June 2015 trip he took to the Middle East, as well as numerous foreign business and government contacts he had, relating to his efforts to promote a U.S.-Russian nuclear energy partnership in the Middle East.⁷

The background check investigators relayed what General Flynn told them in their internal memo, writing:

- “HE does not have any foreign business connections or foreign financial interests”;

⁵ *Full Transcript: Sally Yates and James Clapper Testify on Russian Election Interference*, Washington Post (May 8, 2017) (online at www.washingtonpost.com/news/post-politics/wp/2017/05/08/full-transcript-sally-yates-and-james-clapper-testify-on-russian-election-interference).

⁶ *Trump Team Knew Flynn Was Under Investigation Before He Came to White House*, New York Times (May 17, 2017) (online at www.nytimes.com/2017/05/17/us/politics/michael-flynn-donald-trump-national-security-adviser.html).

⁷ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot L. Engel, House Committee on Foreign Affairs, to Flynn Intel Group et al. (June 19, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/EEC%20Engel%20to%20Flynn%20Intel%20Group%20et%20al.pdf>).

- “HE has not received any benefit from a foreign country”; and
- “[O]n all of the trips HE had only insubstantial contact with foreign nationals.”⁸

Ranking Members Cummings and Engel requested that General Flynn’s company, Flynn Intel Group, as well as two companies that participated in this project—IronBridge/IP3 Group and ACU Strategic Partners—provide documents relating to General Flynn’s foreign travel and contacts in relation to this business venture.

General Flynn’s business colleagues responded to that letter by providing multiple independent confirmations that General Flynn indeed traveled to the Middle East in June 2015 to meet with government officials in Egypt and Israel to promote the Middle East nuclear plan. Based on their responses, it appears that General Flynn violated federal law by omitting this trip and these foreign contacts from his security clearance renewal application in 2016 and concealing them from security clearance investigators who interviewed him as part of that background check process.

The companies’ initial responses also raised additional questions about whether General Flynn continued to communicate with his business colleagues about this nuclear project after the presidential election, after Donald Trump was sworn in as President, and after General Flynn assumed the post of National Security Advisor—without disclosing his foreign travel or contacts.

To follow up on these concerns, on September 12, 2017, Ranking Members Cummings and Engel sent another letter to General Flynn and his business colleagues. They requested all documents in the companies’ possession regarding General Flynn’s unreported June 2015 trip to the Middle East and any communications they had with General Flynn or other Trump Administration officials during the presidential campaign, during the transition, during General Flynn’s tenure as National Security Advisor, or after General Flynn’s departure from the White House. Ranking Members Cummings and Engel also requested interviews with the companies’ leaders.⁹

The day after the Ranking Members sent their letter, on September 13, 2017, the *Wall Street Journal* issued a startling new report that appeared to confirm that General Flynn—after assuming his post as National Security Advisor—had “promoted a controversial private-sector nuclear power plan in the Middle East that had once involved Russian companies, according to

⁸ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, to Chairman Jason Chaffetz, House Committee on Oversight and Government Reform (May 22, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Cummings%20to%20Chaffetz%2005-22-17.pdf>).

⁹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot L. Engel, House Committee on Foreign Affairs, to Flynn Intel Group et al. (Sept. 12, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-09-12.%20EEC%20%20E.Engel%20%20to%20ACU%20Re.Flynn_Redacted.FINAL_.pdf).

former security-council staffers and others familiar with the effort.” This report stated that even after General Flynn left the White House, “several members of the group met in the White House with Gary Cohn, Mr. Trump’s top economic adviser, and Thomas Barrack Jr., an adviser and real estate billionaire who helped plan the administration’s May trip to Saudi Arabia.”¹⁰

Following those new allegations, the Ranking Members sent an additional letter to the companies on September 15, 2017, expanding their request and seeking all documents and communications referring or relating to General Flynn, any member of the Flynn Intel Group, Thomas Barrack, Jr., Gary Cohen, any formal or informal campaign official or adviser, or any Trump Administration official.¹¹

The companies have now all declined to provide any further documents or the requested interviews:

- On June 30, 2017, Flynn Intel Group’s counsel wrote to Ranking Members Cummings and Engel stating that the company will not provide any documents unless you issue a subpoena: “we are only responding to compulsory process and do not anticipate producing documents in response to other requests.”¹²
- On August 1, 2017, Alex Copson, the Managing Director of ACU Strategic Partners wrote to Committee staff, stating: “I would be more than happy to brief the Committees on the project and on the limited role played by General Flynn, if the full Committees make a formal request for me to do so.”¹³
- On September 15, 2017, ACU Strategic Partners’ counsel, Donald Gross, sent an email to Committee staff, writing: “Mr. Copson and Dr. Cochran would be happy to brief the Committees on the project as well as the limited role played by General Flynn, if the full Committees make a formal request for them to do so.”¹⁴

¹⁰ *Flynn Promoted Nuclear-Plant Project While in White House*, Wall Street Journal (Sept. 13, 2017) (online at www.wsj.com/articles/flynn-promoted-nuclear-plant-project-while-in-white-house-1505328226).

¹¹ Letter from Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot L. Engel, House Committee on Foreign Affairs, to Flynn Intel Group et al. (Sept. 15, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/2017-09-15.EEC%20E.%20Engel%20to%20ACU%20re.%20followup%20to%209-12%20letter%20REDACTED.pdf>).

¹² Letter from Robert Kelner et al., Counsel to Michael T. Flynn, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot L. Engel, House Committee on Foreign Affairs (June 30, 2017) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/Response%20from%20Flynn%20Intel%20Group%2006-30-2017.pdf>).

¹³ Email from Alex Copson, Managing Director, ACU Strategic Partners, to House Committee on Oversight and Government Reform Democratic Staff (Aug. 1, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/08012017_Alex%20Copson%20Email.pdf).

¹⁴ Email from Donald Gross, Counsel, ACU Strategic Partners, to House Committee on Oversight and

- On October 3, 2017, counsel for IP3/IronBridge produced no documents, but nevertheless stated in a letter that “we believe we have provided the relevant information.”¹⁵

Additional Questions

In their correspondence with Committee staff, some company officials and their attorneys explained that there was a split between ACU Strategic Partners and X-Co Dynamics and that there are now two partnerships pursuing similar, but distinct proposals. This explanation, while interesting, is irrelevant to the goals of our investigation, which are to determine the full extent of General Flynn’s undisclosed foreign contacts and obtain all relevant documents from each of these companies—regardless of their relationships with each other.

For example, on October 3, 2017, counsel for IP3 Corporation and IronBridge Group, Inc. sent a letter to Ranking Members Cummings and Engel stating:

Several of the IP3/IronBridge Group board members were previously participating in ACU, but they separated from ACU in late April 2016. ...

The name Iron Bridge was sometimes used at ACU to refer to a concept of a Middle East security initiative. IP3 subsequently named its distinct security company IronBridge Group, but IronBridge Group is not in any way affiliated with ACU, and Lt. Gen. Flynn is not part of IP3 or its security affiliate, IronBridge Group.¹⁶

The letter explained that starting in June 2016, IP3/IronBridge became a separate, competing group promoting a Middle East nuclear proposal that does not involve Russia, stating: “IP3 is not developing a Russian solution for the Middle East.”¹⁷

The letter stated that IP3 attempted to hire General Flynn, but he never accepted the offer:

Lt. Gen. Flynn is not part of IP3 or its security affiliate, IronBridge Group. After IP3 was formed in June of 2016, IP3 invited Lt. Gen. Flynn to join the company, but he ultimately declined the invitation. ...

Government Reform Democratic Staff (Sept. 15, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/09152017_Donald%20Gross%20Email.pdf).

¹⁵ Letter from Michael J. Summersgill, Counsel to IronBridge Group and IP3 Corporation, to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Eliot L. Engel, House Committee on Foreign Affairs (Oct. 3, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/10032017_IP3%20Letter.pdf).

¹⁶ *Id.*

¹⁷ *Id.*

Lt. Gen. Flynn has no stake in the company and was never compensated or reimbursed for expenses by IP3 or IronBridge Group.¹⁸

These statements appear to contradict General Flynn's financial disclosure from August 2017, in which he disclosed that he served as an unpaid "Advisor" to "IronBridge Group Inc." from June 2016 to December 2016. IP3/IronBridge did not disclose in its letter that it had an unpaid business relationship with General Flynn until December 2016.¹⁹

These statements also appear to contradict a document provided by Thomas Cochran, a Senior Scientist at ACU Strategic Partners on September 14, 2017, before the company halted further communications with Committee staff. He described this document as "IP3 presentation material dated August 2016."²⁰

This document listed General Flynn as a member of the group of "IP3/IronBridge: Formidable US Leadership" that would provide "US-led, State-of-the-Art, Full-Spectrum Security Delivered by Iron Bridge Group."²¹

This document appears to be an August 2016 presentation to "King Salman Bin Abdul Aziz" of Saudi Arabia, proposing "30 reactors by 2040 operating a Kingdom-led regional security umbrella" with "Saudi Arabia as the Heart" and "GCC, Egypt, Jordan to follow the Kingdom's lead." Under the header "Three Global Powers Deeply Committed," the document listed the United States providing security, Saudi Arabia providing development, and China providing infrastructure, with IP3 linking the three countries. The document also described a series of companies on IP3's "Exceptional Team," including Westinghouse, IronBridge Group, China CFFC Energy Company United, and Grid Corporation of China.²²

If General Flynn was communicating about a multi-billion dollar Saudi Arabian nuclear project from inside the White House—regardless of whether it was the version originally promoted by ACU Strategies, the version promoted by IP3/IronBridge Group, or both—he may have violated federal laws that protect against egregious conflicts of interests, as well as

¹⁸ *Id.*

¹⁹ Executive Branch Personnel Public Financial Disclosure Report (OGE Form 278e) for Michael Flynn (Aug. 3, 2017) (online at www.documentcloud.org/documents/3913715-Michael-Flynn-amended-public-financial-disclosure.html).

²⁰ Email from Thomas B. Cochran, Senior Scientist, ACU Strategic Partners, to House Committee on Oversight and Government Reform Democratic Committee Staff (Sept. 14, 2017) (online at https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/09142017_Thomas%20Cochran%20Email.pdf).

²¹ Presentation to His Majesty King Salman Bin Abdul Aziz, IP3 (Aug. 2016) (online at <https://democrats-oversight.house.gov/sites/democrats.oversight.house.gov/files/documents/IP3%20Presentation%20to%20His%20Majesty%20King%20Salman%20Bin%20Abdul%20Aziz%20Aug%202016.pdf>).

²² *Id.*

President Trump's own ethics pledge.²³ These potential violations are in addition to his failures to disclose foreign travel and foreign contacts during his 2016 security clearance reapplication.

Conclusion

For years, you have warned witnesses that when the Oversight Committee sends a document request, it is not an optional exercise, and they must comply unless they assert a valid privilege. In 2011, you explained to one executive branch official that "the only legal basis for not answering the question would be the executive privilege."²⁴ Yet, the White House has been openly defying this Committee's bipartisan request for documents regarding General Flynn for months without any assertion of privilege of any kind.

We believe that this paper trail must be pursued to answer the gravest questions of all—did General Flynn seek to change the course of our country's national security to benefit the same private interests he previously promoted, whether by advising President Trump, interacting with foreign officials, or influencing other members of the Trump Administration? And if so, did he do so covertly or with President Trump's knowledge and consent? The documents that the White House and General Flynn's business associates are refusing to produce to us bear directly on these questions.

To our knowledge, no other committee in Congress is investigating these specific matters or seeking these specific documents. In addition, obtaining these documents as part of our investigation in no way conflicts with or impedes Special Counsel Mueller's investigation.

Your decisions on this investigation will have a profound impact on the faith that the American people have in Congress to fulfill our duty under the Constitution to exercise robust oversight of the Executive Branch, especially when grave violations of the public trust are at stake. We ask that you compel these entities to produce the requested information, or at the very least, allow the Committee to vote on issuing subpoenas at the next business meeting.

Thank you for your consideration of this request.

²³ 5 C.F.R. § 2635.502; President Donald J. Trump, Executive Order 13770, Ethics Commitments by Executive Branch Appointees (Jan. 28, 2017) (online at www.whitehouse.gov/the-press-office/2017/01/28/executive-order-ethics-commitments-executive-branch-appointees).

²⁴ House Committee on Oversight and Government Reform and House Committee on Small Business, *Joint Hearing on Politicizing Procurement: Will President Obama's Proposal Curb Free Speech and Hurt Small Business?*, 112th Cong. (May 12, 2011) (H. Rept. 112-47) (online at www.gpo.gov/fdsys/pkg/CHRG-112hhrg70516/pdf/CHRG-112hhrg70516.pdf).

Sincerely,



Elijah E. Cummings
Ranking Member



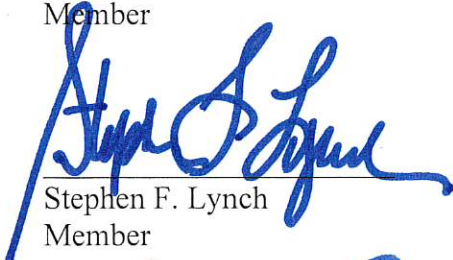
Carolyn B. Maloney
Member



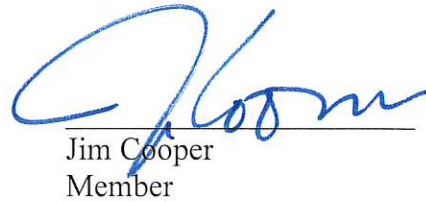
Eleanor Holmes Norton
Member



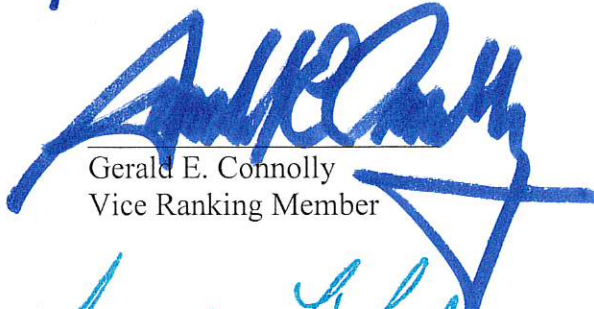
Wm. Lacy Clay
Member



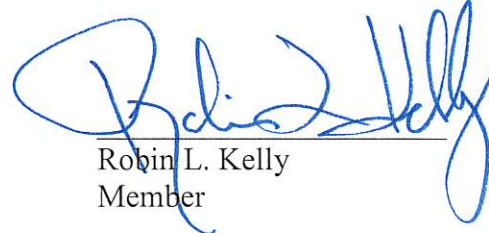
Stephen F. Lynch
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Jim Cooper
Member



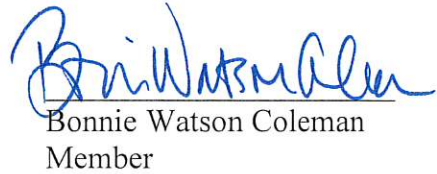
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Vice Ranking Member




Robin L. Kelly
Member



Brenda L. Lawrence
Member



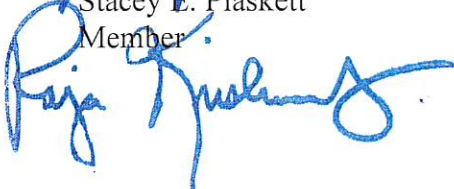
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Member



Stacey E. Plaskett
Member



Val Butler Demings
Member



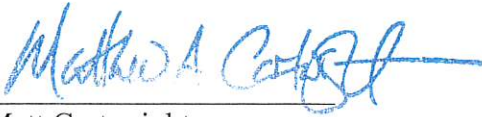
Raja Krishnamoorthi
Member



Jamie Raskin
Member



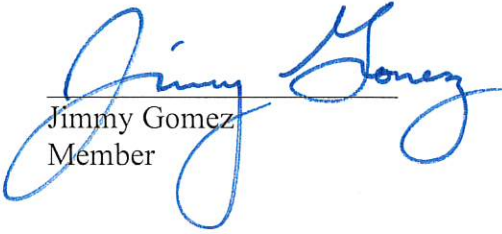
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Jimmy Gomez
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