

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5051

MINORITY (202) 225-5074

<http://oversight.house.gov>

April 15, 2019

The Honorable Brad Raffensperger
Secretary of State
State of Georgia
214 State Capitol
Atlanta, GA 30334

Dear Secretary Raffensperger:

We are in receipt of a letter addressed to you from Chairman Elijah E. Cummings and Chairman Jamie Raskin, dated March 6, 2019.¹ We write to express to you our concerns with the chairmen's inquiry as partisan and as exceeding the Committee's legislative authority under House Rule X.²

Although the chairmen's authority to investigate matters is broad, the Supreme Court has made clear that Congress is not "a law enforcement or trial agency" and that "[n]o inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress."³ As we understand the focus of the chairmen's request, they are seeking information and material about state officials enforcing state law.⁴ As articulated by the chairmen, their inquiry does not appear to have a valid legislative purpose and instead seeks confidential communications among state officials, including state law enforcement officials, regarding the enforcement of state law. This inquiry also raises serious federalism concerns.

The chairmen sent these letters without consulting with Republican Members of the Committee, or even the Members of the Committee representing the states they targeted. We have since relayed our concerns to the chairmen; however, we believe it is prudent to inform you of this matter as well. If you have any questions, please contact Committee staff at (202) 225-5074.

¹ Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. On Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Brad Raffensperger, Secretary of State of the State of Georgia (Mar. 6, 2019).

² See House Rule X.

³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

⁴ Letter from Chairman Cummings and Chairman Raskin, *supra* note 1.

The Honorable Brad Raffensperger
April 15, 2019
Page 2


Sincerely,




Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties

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April 15, 2019

The Honorable Brian P. Kemp
Governor
State of Georgia
206 Washington Street
Suite 203, State Capitol
Atlanta, GA 30334

Dear Governor Kemp:

We are in receipt of a letter addressed to you from Chairman Elijah E. Cummings and Chairman Jamie Raskin, dated March 6, 2019.¹ We write to express to you our concerns with the chairmen's inquiry as partisan and as exceeding the Committee's legislative authority under House Rule X.²

Although the chairmen's authority to investigate matters is broad, the Supreme Court has made clear that Congress is not "a law enforcement or trial agency" and that "[n]o inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress."³ As we understand the focus of the chairmen's request, they are seeking information and material about state officials enforcing state law.⁴ As articulated by the chairmen, their inquiry does not appear to have a valid legislative purpose and instead seeks confidential communications among state officials, including state law enforcement officials, regarding the enforcement of state law. This inquiry also raises serious federalism concerns.

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¹ Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. On Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Brian Kemp, Governor of the State of Georgia (Mar. 6, 2019).

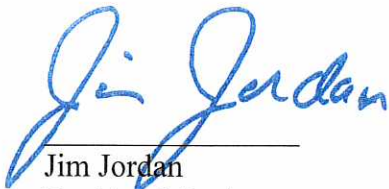
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³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

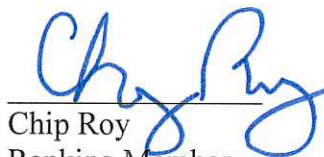
⁴ Letter from Chairman Cummings and Chairman Raskin, *supra* note 1.

The Honorable Brian P. Kemp
April 15, 2019
Page 2

Sincerely,



Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties

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April 15, 2019

The Honorable David Whitley
Secretary of State
State of Texas
P.O. Box 12887
Austin, TX 78711-2887

Dear Secretary Whitley:

We are in receipt of a letter addressed to you from Chairman Elijah E. Cummings and Chairman Jamie Raskin, dated March 28, 2019.¹ We write to express to you our concerns with the chairmen's inquiry as partisan and as exceeding the Committee's legislative authority under House Rule X.²

Although the chairmen's authority to investigate matters is broad, the Supreme Court has made clear that Congress is not "a law enforcement or trial agency" and that "[n]o inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress."³ As we understand the focus of the chairmen's request, they are seeking information and material about state officials enforcing state law.⁴ As articulated by the chairmen, their inquiry does not appear to have a valid legislative purpose and instead seeks confidential communications among state officials, including state law enforcement officials, regarding the enforcement of state law. This inquiry also raises serious federalism concerns.

The chairmen sent these letters without consulting with Republican Members of the Committee, or even the Members of the Committee representing the states they targeted. We have since relayed our concerns to the chairmen; however, we believe it is prudent to inform you of this matter as well. If you have any questions, please contact Committee staff at (202) 225-5074.

¹ Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. On Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to David Whitley, Secretary of State of the State of Texas (Mar. 28, 2019).

² See House Rule X.

³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

⁴ Letter from Chairman Cummings and Chairman Raskin, *supra* note 1.

The Honorable David Whitley
April 15, 2019
Page 2


Sincerely,




Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties

Congress of the United States

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April 15, 2019

The Honorable Elijah E. Cummings
Chairman
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

The Honorable Jamie Raskin
Chairman
Subcommittee on Civil Rights and Civil Liberties
Committee on Oversight and Reform
2157 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Cummings and Chairman Raskin:

We are in receipt of six letters dated March 6, 2019, and March 28, 2019, from you to state and local officials in Georgia, Texas, and Kansas seeking information and materials relating to these officials' enforcement of state law.¹ Your letters rely in large part on unverified media articles to suggest misfeasance or malfeasance in administering various state election laws and elections held in each of the three states. You sent these letters without consulting with Republican Members of the Committee, or even the Members of the Committee representing the states you targeted.

¹ Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Brian Kemp, Governor of Georgia (Mar. 6, 2019); Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Brad Raffensperger, Secretary of State of the State of Georgia (Mar. 6, 2019); Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to David Whitley, Acting Secretary of State of the State of Texas (Mar. 28, 2019); Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Ken Paxton, Attorney General of the State of Texas (Mar. 28, 2019); Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Debbie Cox, Ford County Clerk (Mar. 28, 2019); Letter from Chairman Elijah E. Cummings, H. Comm. on Oversight and Reform, and Chairman Jamie Raskin, Subcomm. on Civil Rights and Civil Liberties of the H. Comm. on Oversight and Reform, to Scott Schwab, Secretary of State of the State of Kansas (Mar. 28, 2019):

The Honorable Elijah E. Cummings
The Honorable Jamie Raskin
April 15, 2019
Page 2

Under House Rule X, you have wide latitude as chairmen to investigate “any matter at any time.”² However, we rely on you as the chairmen of the Committee and the Civil Rights and Civil Liberties Subcommittee to exercise this broad authority with good judgment so that our work focuses on improving the overall economy, efficiency, and effectiveness of the federal government or bettering the lives of the American people.

The Supreme Court has made clear that Congress is not “a law enforcement or trial agency” and that “[n]o inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress.”³ We have serious concerns that your letters appear to be an attempt to insert the Committee into particular state election proceedings, for which we do not see a legitimate legislative purpose.

As justification for your investigation, you wrote to these Georgia, Texas, and Kansas officials that “the Committee has examined state voting and elections issues on numerous occasions, including multiple hearings in the 115th Congress.”⁴ However, this is a mischaracterization of the Committee’s earlier oversight. The hearings you cited concerned the use of federal money in state elections, the efficacy of the Department of Homeland Security’s declaration of election infrastructure as “critical infrastructure,” and state-federal partnerships to improve the security of election systems.⁵ The Committee then did not insert itself into particular state election proceedings, as you have now done.

Your investigation also raises serious federalism concerns. The Supreme Court has explained that “[a]lthough the Constitution grants broad powers to Congress, our federalism requires that Congress treat the States in a manner consistent with their status as residuary sovereigns and joint participants in the governance of the Nation.”⁶ By seeking voluminous records relating to election administration of sovereign states, your investigation offends state-federal comity. In fact, the respective states are already working to resolve any issues with their election administration.⁷

Regrettably, this is not the first instance in which Chairman Cummings has sought to insert himself into Texas state election matters. In 2012, then-Ranking Member Cummings

² House Rule X, clause 1(n).

³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

⁴ Letters from Chairman Cummings and Chairman Raskin, *supra* note 1.

⁵ *Cyber-Securing the Vote: Ensuring the Integrity of the U.S. Election System*, HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, <https://republicans-oversight.house.gov/hearing/cyber-securing-the-vote-ensuring-the-integrity-of-the-u-s-election-system/>; *Cybersecurity of Voting Machines*, HOUSE COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM, <https://republicans-oversight.house.gov/hearing/cybersecurity-voting-machines/>.

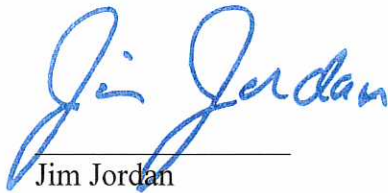
⁶ *Alden v. Maine*, 527 U.S. 706, 748 (1999) (citations omitted).

⁷ See, e.g., Guillermo Contreras, *Deal to End Lawsuits Over Voter Purge Program Almost Done*, SAN ANTONIO EXPRESS-NEWS (Apr. 1, 2019), <https://www.expressnews.com/news/local/article/Texas-settles-lawsuits-over-voter-purge-program-13732909.php?t=f12e29c6a9>; Maya T. Prabhu, *Judge Dismisses Case Challenging Georgia’s Lieutenant Governor Race*, ATLANTA J. CONSTITUTION (Jan. 18, 2019), <https://www.ajc.com/news/state--regional-govt--politics/judge-dismisses-case-challenging-georgia-lieutenant-governor-race/JEX9F2aGs60aHTg32O3RyJ/>; Marcia Werts, *Dodge City Plans 2 New Polling Sites as Legal Fees Mount*, WICHITA EAGLE (Jan. 15, 2019), <https://www.kansas.com/news/politics-government/article224589015.html>.

The Honorable Elijah E. Cummings
The Honorable Jamie Raskin
April 15, 2019
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launched an investigation into the Texas-based voter integrity nonprofit, True the Vote, run by Catherine Engelbrecht.⁸ The IRS targeted True the Vote and Ms. Engelbrecht for additional scrutiny based on their conservative values.⁹ In light of these concerns, we urge you to reconsider this ill-conceived investigation and to move instead to the serious, fact-based oversight that you promised for this Committee.

Sincerely,



Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

⁸ Press Release, Ranking Member Elijah E. Cummings, Cummings Launches Investigation of “True the Vote”; Raises Questions About Conservative Group’s Campaign to Challenge Legitimate Voters (Oct. 5, 2012), <https://oversight.house.gov/news/press-releases/cummings-launches-investigation-of-true-the-vote-raises-questions-about>.

⁹ *The IRS Targeting Investigation: What Is the Administration Doing?: Hearing before the Subcomm. on Economic Growth, Job Creation, and Regulatory Affairs of the H. Comm. on Oversight & Gov’t Reform*, 113th Cong. (2014).

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April 15, 2019

The Honorable Ken Paxton
Attorney General
State of Texas
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Dear Attorney General Paxton:

We are in receipt of a letter addressed to you from Chairman Elijah E. Cummings and Chairman Jamie Raskin, dated March 28, 2019.¹ We write to express to you our concerns with the chairmen's inquiry as partisan and as exceeding the Committee's legislative authority under House Rule X.²

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³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).


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The Honorable Ken Paxton
April 15, 2019
Page 2


Sincerely,




Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties

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April 15, 2019

Ms. Debbie Cox
Ford County Clerk
100 Gunsmoke Street
Dodge City, KS 67801

Dear Ms. Cox:

We are in receipt of a letter addressed to you from Chairman Elijah E. Cummings and Chairman Jamie Raskin, dated March 28, 2019.¹ We write to express to you our concerns with the chairmen's inquiry as partisan and as exceeding the Committee's legislative authority under House Rule X.²

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² See House Rule X.

³ *Watkins v. United States*, 354 U.S. 178, 187 (1957).

⁴ Letter from Chairman Cummings and Chairman Raskin, *supra* note 1.

Ms. Debbie Cox
April 15, 2019
Page 2


Sincerely,




Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
Ranking Member
Subcommittee on National Security



Michael Cloud
Ranking Member
Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties

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April 15, 2019

The Honorable Scott Schwab
Secretary of State
State of Kansas
Memorial Hall, 1st Floor
120 SW 10th Avenue
Topeka, KS 66612-1594

Dear Secretary Schwab:

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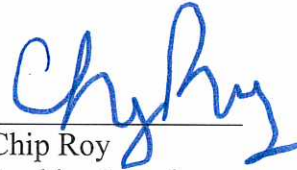
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The Honorable Scott Schwab
April 15, 2019
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Jim Jordan
Ranking Member



Chip Roy
Ranking Member
Subcommittee on Civil Rights and Civil
Liberties



Jody Hice
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Subcommittee on National Security



Michael Cloud
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Subcommittee on Economic and Consumer
Policy

cc: The Honorable Elijah E. Cummings, Chairman

The Honorable Jamie Raskin, Chairman
Subcommittee on Civil Rights and Civil Liberties