

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>

October 3, 2019

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

Dear Chairman Cummings:

We are in receipt of a memorandum dated October 2, 2019 from you to Members of the Committee regarding your decision to issue a subpoena to the White House.¹ You decided to issue this subpoena without consulting Republicans and without allowing Members to debate the terms of the subpoena. Your memorandum cherry-picks and misstates information to propagate a misleading narrative about the President's actions. We object strongly to the issuance of this subpoena and your stated reasons for issuing it. If you proceed with this subpoena over our objections, you will violate our bipartisan agreement about subpoenas, trample on long-held minority rights in the House of Representatives, and prove the partisan nature of your inquiry.

Your memorandum misconstrues the nature of your attempts to obtain voluntarily the material that you now seek to compel. You wrote that “[o]ver the past several weeks, the Committees tried several times to obtain voluntary compliance with our requests for documents”² However, when you first made this request less than a month ago, you demanded a voluminous amount of material covering a multi-year period—material that may be in the possession of several Executive Branch agencies and that likely requires interagency review as well as careful examination for potential privileges.³ You have made unreasonable demands that the White House produce the entirety of this material within only a matter of days. To our knowledge, you have offered no accommodations to the White House or otherwise narrowed your demands to facilitate your receipt of this material.

In fact, by the terms of your subpoena, you are now expanding the universe of material you are seeking to include documents that you have not yet requested the White House produce voluntarily. Your draft subpoena requests forty different categories of documents, when your

¹ See Memorandum from Elijah E. Cummings, Chairman, H. Comm. on Oversight and Reform, to Members of the Committee on Oversight and Reform (Oct. 2, 2019) (on file with the Committee).

² Memorandum from Elijah E. Cummings, *supra* note 1, at 1.

³ See Letter from Elijah E. Cummings, Chairman, H. Comm. on Oversight and Reform, Adam Schiff, Chairman, H. Permanent Select Comm. on Intelligence, and Eliot L. Engel, Chairman, H. Comm. on Foreign Affairs, to Pat Cipollone, Counsel to the President, The White House (Sept. 24, 2019) (on file with the Committee).

prior letters only asked for six categories. This expansion is particularly troubling because your justification for unilaterally issuing this subpoena is that you claim that the White House has failed to voluntarily comply with your demands. The White House, however, cannot voluntarily comply with a request that you had not previously made.

Most troubling, your actions are in violation of the letter and spirit of our bipartisan agreement about subpoenas. In January, you promised: “Members deserve the opportunity to go on the record for some of the most important work they will do, and the public deserves the opportunity to see them do that work in the open.”⁴ You stated that you “prefer[] that when the Ranking Member objects, the Committee will have an open proceeding and a vote when feasible.”⁵ Your proposal to conduct a “poll of individual Member offices to provide any information they would like to be considered” appears to be a charade designed to give your conduct a veneer of fairness, given your statement that the subpoena “*will* be issued” by the Committee on October 4.⁶ You have failed to articulate a legitimate reason why you are violating our bipartisan agreement.

Here, on the Committee’s most important work—Democrats’ self-described “impeachment inquiry”—you have chosen to deny Members a meaningful opportunity to debate and amend your proposed subpoena. Although your memorandum asserts that “[t]his is an urgent matter” of an “exigent nature,”⁷ the relevant facts at issue became public when the House was in session and the Committee could have met to debate and vote on your subpoena. Instead, you waited until the House was out of session to use the recess as an excuse to deny any meaningful Committee consultation or vote.

Likewise, you have not articulated why, if Democrats intend to conduct an objective and even-handed inquiry, you cannot wait for Members to fully consider and vote on your subpoena when the House returns on October 15th. There is ample opportunity for you to convene an “open proceeding and a vote” so that Members have “an opportunity to go on the record for some of the most important work they will do”—statements that you made just months ago.

⁴ *Organizing Meeting, H. Comm. on Oversight and Reform*, 116th Cong. 33 (2019).

⁵ *Id.*

⁶ See Memorandum from Elijah E. Cummings, *supra* note 1 (emphasis added).

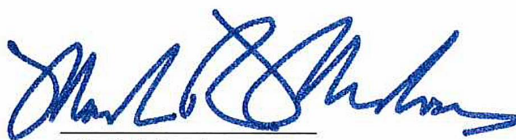
⁷ *Id.* at 5.

Your actions here are an abusive and unprecedented attack on the Minority's right to fundamental fairness and accountability, and they violate your promises to the Committee. For all these reasons, we strongly object to your unilateral issuance of your proposed subpoena to the White House. We respectfully request that you reconsider your partisan approach to this subpoena and this investigation and convene a business meeting of the Committee so that we may publicly debate and vote on this action.

Sincerely,



Jim Jordan
Ranking Member



Mark Meadows
Ranking Member
Subcommittee on Government
Operations



Jody Hice
Ranking Member
Subcommittee on
National Security



James Comer
Ranking Member
Subcommittee on Environment



Paul A. Gosar, D.D.S.



Virginia Foxx



Thomas Massie



Glenn Grothman



Michael Cloud



Bob Gibbs



Ralph Norman



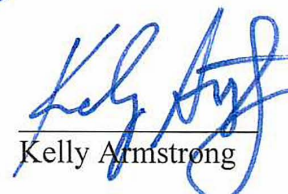
Clay Higgins



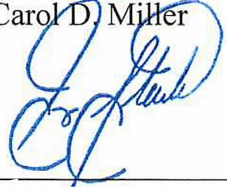
Carol D. Miller



Mark Green



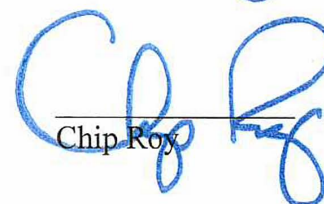
Kelly Armstrong



W. Gregory Steube



Fred Keller



Chip Roy