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June 5, 2016

The Honorable Elijah E. Cummings
Ranking Member
Select Committee on the Events Surrounding
the 2012 Terrorist Attack in Benghazi
U.S. House of Representatives
Washington, D.C. 20515

Dear Ranking Member Cummings:

Your May 31st letter was mildly amusing but not altogether surprising.

It is mildly amusing that after two years of abject obstruction, after two years of not lifting a finger to assist the Majority with the investigation, after two years of doing everything in your power to prevent a report from being written, you now want to participate in the drafting of the report. Any reasonable observer would conclude you want to “work” on the report solely so you can leak and mischaracterize the new facts you now acknowledge have been found as a result of this investigation. That is what you have habitually done in the past, which is precisely why you are currently able to read the recent transcripts of witness interviews but not possess them. You have become a serial leaker of information.

Let me refresh your recollection of how helpful you have been during the course of this investigation:

“I do not believe a Select Committee is called for,” you stated when you were appointed to the Committee by Minority Leader Nancy Pelosi on May 21, 2014.¹ You made it clear then the Minority would be “in that room” for “two reasons,” both of which were about opposing the work of the Committee, not gathering new evidence or fulfilling the duty of Congress to conduct oversight.

During your September 16, 2014, press conference unveiling a website of questions you believed to be fully “asked and answered” – before the Committee had interviewed a single

¹ Committee on Oversight and Government Reform Minority, *Cummings On Select Committee: "We Need Someone In That Room To Defend The Truth"* (May 21, 2014) (online at <http://democrats.oversight.house.gov/news/press-releases/cummings-on-select-committee-we-need-someone-in-that-room-to-defend-the-truth>).

witness – you and other members of the Minority continued to argue there was no reason for the Committee to do any work.²

“One thing you cannot argue is that [Benghazi] has not been thoroughly investigated, the questions haven’t been asked, and the questions haven’t been answered. They have,” said Rep. Adam Smith. “[A]s Democrats, we always believed that there was no point in putting together this committee because the questions had been asked, the questions had been answered ... and there had been a thorough analysis[.]”

“The amount of time and resources that have been dedicated to answering what happened on the night of the attacks in Benghazi is unprecedented. ... Yet we keep hearing that questions remain,” said Rep. Linda Sanchez, dismissing the idea.

“We don’t want to be going over things that have been asked and answered,” you said. “If there is anything that this Select Committee will do, it will be hopefully to open up the world to all of the information that we already have.”

In October 2015, all five of the Committee’s Minority members voted to disband the Committee.³ That month, Rep. Adam Smith said, “We’ve learned absolutely nothing new. ... From the very beginning I was skeptical that anything new could be found. This committee is proving it.”⁴ In an opinion column published the previous month entitled “Disband the Benghazi Committee,” Rep. Adam Schiff wrote, “the committee has gained no additional insight into the attacks in Benghazi” and “has nothing new to tell the families of those killed or the American people.”⁵ Similarly, on separate occasions last year, you said the Committee has “nothing to show” for its work⁶ and has “turned up nothing.”⁷

If it were true the Majority has found “nothing new” and “gained no additional insight,” it makes little sense for the Minority to suddenly be interested in the Committee’s report. Moreover, you have spent far more time writing letters, selectively leaking material, and spreading mischaracterizations than you have actually participating in this investigation.

² C-SPAN, *House Democrats on Benghazi Committee* (September 16, 2014) (online at <http://www.c-span.org/video/?321518-1/house-democrats-news-conference-benghazi-committee>).

³ Real Clear Politics, *House Dems Fail in Vote to Disband Benghazi Panel* (October 8, 2015) (online at http://www.realclearpolitics.com/articles/2015/10/08/house_dems_fail_in_vote_to_disband_benghazi_panel_128337.html).

⁴ MSNBC (October 22, 2015) (online at http://www.realclearpolitics.com/video/2015/10/23/dem_rep_learned_absolutely_nothing_new_from_benghazi_hearing_purely_partisan_excercise.html).

⁵ The New York Times, *Disband the Benghazi Committee* (September 4, 2015) (online at <http://www.nytimes.com/2015/09/04/opinion/disband-the-benghazi-committee.html>).

⁶ Select Committee on Benghazi Minority, *Cummings, Smith Statement on Republican One-Year Update* (May 8, 2015) (online at <http://democrats-benghazi.house.gov/news/press-releases/cummings-smith-statement-on-republican-one-year-update>).

⁷ Select Committee on Benghazi Minority, *Documents Show Benghazi Select Committee’s Role in Glacial Pace* (April 23, 2015) (online at <http://democrats-benghazi.house.gov/news/press-releases/documents-show-benghazi-select-committee-s-role-in-glacial-pace>).

To refresh your recollection of just a few examples, the Minority selectively leaked and trumpeted a partisan attack by a Pentagon political appointee despite knowing the letter had a plethora of factual inaccuracies.⁸ You misrepresented comments made by Majority members of the Committee while ignoring the fact a partisan political group allied with you had debunked your distortion.⁹ You falsely described a Facebook post by an individual who identified himself as a member of the military called into work on the night of the attacks.¹⁰ You claimed, “[o]n February 13, 2015, the State Department completed its production to the Select Committee of Secretary Clinton’s emails relating to the Benghazi attacks,”¹¹ but the State Department actually did not turn over the majority of her relevant emails until September of 2015, seven months later. You selectively leaked the unofficial transcript of the Committee’s interview with Cheryl Mills and stated your unequivocal intention to further selectively leak “a slew of interview transcripts,”¹² which is why you do not have possession of recent transcripts but do have access to them. You even refused the Majority’s offer to restore your possession of transcripts if you agreed to not selectively leak them before the Committee’s work is complete.¹³ In a November 25, 2014, letter you proposed the rule that “every effort should be made to ensure that travel related to the Select Committee’s investigatory and oversight activities is bipartisan.” Yet when the Minority was invited to participate in a short fact-finding trip to AFRICOM and other U.S. military facilities in Europe,¹⁴ you leaked word of the delegation to the press before responding to the invitation, dishonestly described it as “lavish,” and refused to participate.¹⁵ Likewise, when the Minority requested an investigative plan and was provided with one in good faith,¹⁶ it

⁸ Select Committee on Benghazi, *Chairman Gowdy Responds to Partisan Attack by Pentagon Political Appointee* (May 6, 2016) (online at <http://benghazi.house.gov/news/press-releases/chairman-gowdy-responds-to-partisan-attack-by-pentagon-political-appointee>).

⁹ Select Committee on Benghazi, *Media Matters(!) Debunks Democrats’ Dishonest Distortion of Chairman Gowdy’s Comments* (May 20, 2016) (online at <http://benghazi.house.gov/news/press-releases/media-matters-debunks-democrats-dishonest-distortion-of-chairman-gowdy-s>).

¹⁰ Select Committee on Benghazi, *After DOD Delays, Benghazi Committee Interviews Two Drone Pilots* (May 26, 2016) (online at <http://benghazi.house.gov/news/press-releases/after-dod-delays-benghazi-committee-interviews-two-drone-pilots>).

¹¹ Select Committee on Benghazi Minority, *Documents Show Benghazi Select Committee’s Role in Glacial Pace* (April 23, 2015) (online at <http://democrats-benghazi.house.gov/news/press-releases/documents-show-benghazi-select-committee-s-role-in-glacial-pace>).

¹² The Washington Post, *Gowdy cites progress in Benghazi probe as Dems scoff* (February 18, 2016) (online at <https://www.washingtonpost.com/news/powerpost/wp/2016/02/18/republican-promises-benghazi-panel-report-as-soon-as-possible>).

¹³ Select Committee on Benghazi, *Gowdy Announces Rules to Ensure Equitable Access to Witness Transcripts, Preserve Integrity of Investigation* (March 16, 2016) (online at <http://benghazi.house.gov/news/press-releases/gowdy-announces-rules-to-ensure-equitable-access-to-witness-transcripts-preserve>).

¹⁴ Select Committee on Benghazi, *Westmoreland Leads Fact-Finding Delegation to U.S. Military Facilities in Europe* (December 1, 2015) (online at <http://benghazi.house.gov/news/press-releases/westmoreland-leads-fact-finding-delegation-to-us-military-facilities-in-europe>).

¹⁵ Select Committee on Benghazi Minority, *Benghazi Committee Passes \$5 Million Mark* (November 12, 2015) (online at <http://democrats-benghazi.house.gov/news/press-releases/benghazi-committee-passes-5-million-mark>).

¹⁶ Select Committee on Benghazi Minority, *Benghazi Select Committee to Narrow Scope and Adopt Official Rules* (December 10, 2014) (online at <http://democrats-benghazi.house.gov/news/press-releases/benghazi-select-committee-to-narrow-scope-and-adopt-official-rules>).

was subsequently leaked to the press in order to attack and mischaracterize the Committee's work.¹⁷ Just last month, *The Washington Post* Fact Checker awarded you a pair of Pinocchios for a misleading claim about the Committee's cost.¹⁸

From the moment this Committee was established with the support of seven House Democrats, I believed the American people would be best served by a joint investigation conducted in a serious and bipartisan manner. That is why I welcomed Democrats' suggested topics for the Committee's first two hearings, and offered special accommodations so that members of the Minority could participate despite personal issues they faced at the time.¹⁹ This is more, I hasten to add, than your own Democrat caucus was willing to afford one of our colleagues. I am sure you recall when one Democrat member was not able to attend due to a medical issue, we allowed him to participate remotely. And when yet another member was on leave, I allotted her time to you. So, while the Majority was allowing Democrats to suggest hearing topics, participate remotely in hearings, and allotting extra time to you because a Democrat was not able to attend, you were arguing in the Parliamentarian's office that members should only have 9 minutes and 20 seconds to ask their questions, rather than a full 10 minutes.

Nevertheless, the Committee's September 2014 hearing was widely praised for its civility and cooperation. "This is exactly what congressional oversight should be: a bipartisan effort by legislators to make sure executive-branch officials don't repeat past mistakes," one liberal columnist wrote.²⁰ A year later, you admitted the Majority's questioning of the former Secretary's Deputy Chief of Staff was "overall fair."²¹ So whatever your motivation is for mischaracterizing this Committee as a "two-and-a-half-year attack on Secretary Clinton," that allegation is not based in fact or reality. When the witness transcripts are released – and they will be – the public will be able to judge whose questions evidenced an obsession with the former Secretary of State and whose did not.

Consider these facts: the Majority did not publicize its August 2014 discovery of the former Secretary's use of personal email for official government business,²² did not reveal its March 2015 subpoena of her Libya-related public records until she denied its existence,²³ did not

¹⁷ Select Committee on Benghazi Minority, *Republicans Abandon Plan for Benghazi Hearings to Focus on Clinton* (online at <http://democrats-benghazi.house.gov/news/press-releases/republicans-abandon-plan-for-benghazi-hearings-to-focus-on-clinton>).

¹⁸ The Washington Post, *Have Republicans really spent \$7 million on the Benghazi Committee?* (May 17, 2016) (online at <https://www.washingtonpost.com/news/fact-checker/wp/2016/05/17/have-republicans-really-spent-7-million-on-the-benghazi-committee>).

¹⁹ *The Wall Street Journal*, *The Real Benghazi Investigation* (October 8, 2015) (online at <https://benghazi.house.gov/news/press-releases/wsj-op-ed-the-real-benghazi-investigation>).

²⁰ GOP.gov, *What they are saying about the Benghazi Select Committee's first public hearing* (September 18, 2014) (online at <http://www.gop.gov/what-they-are-saying-about-the-benghazi-select-committees-first-public-hearing>).

²¹ MSNBC (October 16, 2015) (online at <http://benghazi.house.gov/news/blog/the-truth-about-the-benghazi-committees-work-very-constructive-professionalism-and-respect>).

²² Select Committee on Benghazi, *Select Committee Releases Interim Progress Update* (May 8, 2015) (online at <http://benghazi.house.gov/news/press-releases/select-committee-releases-interim-progress-update>).

²³ Select Committee on Benghazi, *Select Committee on Benghazi Releases Clinton Subpoena* (July 8, 2015) (online at <http://benghazi.house.gov/news/press-releases/select-committee-on-benghazi-releases-clinton-subpoena>).

attempt to take possession of her private server,²⁴ did not grant her IT staffer immunity in exchange for his testimony, and did not require her to raise her right hand in public prior to her testimony, instead administering the oath privately.²⁵ The Majority also never promised a predetermined outcome to this investigation. Even Rep. Schiff recently conceded this Committee is not investigating the former Secretary's private server.²⁶ So while her emails have never been the focus of our investigation, it was necessary to obtain the ones related to Libya, and this Committee is the first and only Benghazi investigation to do so.

Whether you and the other Democrat members of the Committee knew the State Department did not possess the former Secretary's emails, knew the State Department concocted a sophomoric scheme to have those emails returned, knew a State Department employee was sent to a private law firm to retrieve the emails, and knew the public record was not intact for nearly two years after the former Secretary separated from service at the State Department, we do not know. What we do know is you were insistent the former Secretary be interviewed as early as December of 2014, which was well before the Committee – and the rest of the world – learned of her exclusive use of personal email and a private server.

My decision to conduct a fair investigation focused on the facts stands in stark contrast to your approach. Several news outlets have taken note of your focus on acting as the former Secretary's "defense attorney,"²⁷ "chief defender,"²⁸ "top supporter,"²⁹ "staunch defender,"³⁰ and "biggest defender."³¹ It has also been reported she is "personally grateful"³² for your constant attacks on this Committee. As one news anchor concluded, "the Democrats have ... [tried] to

²⁴ Select Committee on Benghazi, *Select Committee on Benghazi Formally Requests Clinton Turn Over Server to Neutral Third Party* (March 20, 2015) (online at <http://benghazi.house.gov/news/press-releases/select-committee-on-benghazi-formally-requests-clinton-turn-over-server-to>).

²⁵ Tweet by Dana Bash (October 22, 2015) (online at <https://twitter.com/DanaBashCNN/status/657213082025000964>).

²⁶ Bloomberg Television (April 10, 2016) (online at <https://twitter.com/HouseBenghazi/status/735977087765516290>).

²⁷ Roll Call, *Bypassing the Senate, Cummings Has One More Career Fork Ahead* (February 3, 2016) (online at <http://www.rollcall.com/news/home/bypassing-senate-cummings-final-career-fork-ahead#sthash.33xjbCzG.dpuf>).

²⁸ The Washington Post, *Elijah Cummings endorses Hillary Clinton after staying neutral for months* (April 10, 2016) (online at https://www.washingtonpost.com/local/md-politics/elijah-cummings-endorses-hillary-clinton-after-staying-neutral-for-months/2016/04/10/af305556-ff29-11e5-b823-707c79ce3504_story.html).

²⁹ The Washington Post, *Clinton's top supporter in Benghazi hearing: Rep. Elijah Cummings* (October 22, 2015) (online at https://www.washingtonpost.com/local/md-politics/clintons-top-supporter-in-benghazi-hearing-rep-elijah-cummings/2015/10/22/1daaa11c-7857-11e5-b9c1-f03c48c96ac2_story.html).

³⁰ Talking Points Memo, *Top Dem On Benghazi Panel Endorses Clinton: We Need More Than 'Promise'* (April 11, 2016) (online at <http://talkingpointsmemo.com/livewire/elijah-cummings-endorses-clinton>).

³¹ The Fiscal Times, *With Clinton in the Rearview, What Now for the Benghazi Committee?* (October 25, 2015) (online at <http://www.thefiscaltimes.com/2015/10/25/Clinton-Rearview-What-Now-Benghazi-Committee>).

³² CNN, *Top Benghazi panel Dem endorses Hillary Clinton* (April 11, 2016) (online at <http://www.cnn.com/2016/04/10/politics/elijah-cummings-hillary-clinton-benghazi-committee-endorse>).

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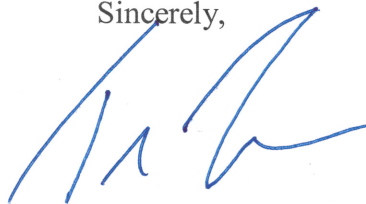
discredit and undermine their own committee.”³³ It is telling that when questioned by *The Washington Post*, your staff did not deny “strategic coordination with the campaign.”³⁴

This is why I was particularly struck by the Minority’s claim this week it is finally ready to “put politics aside,” especially in light of its assertion last month this Committee has “lost any semblance of credibility.”³⁵ No doubt the sincerity of your letter this week is best reflected in your decision to leak it to the press only moments after delivering it to Committee staff.

This leads to a second observation: I was not surprised you now say you want to participate. The very essence of your two-year obstruction has been impeached. This investigation has uncovered new information that will change how the public views what happened before, during, and after the attacks in Benghazi. Despite your best efforts to prevent it from happening, actually talking to eyewitnesses and actually accessing relevant documents has produced new information. Sadly, if you had helped even a little bit we could have accessed this information sooner. But there is no statute of limitations on the truth. It took longer than I wanted, but we are finally going to be able to answer questions left unanswered by previous investigations. So, I full well understand why you now have changed your tune.

Despite your efforts to undermine and obstruct our fact-centered work, rest assured all members of the Committee will have the opportunity to review the report and offer changes in a manner consistent with the rules of the House. Then, after the Committee completes its work, the American people will be able to read the report, the supporting evidence and transcripts, and judge for themselves the value and fairness of our investigation.

Sincerely,



Trey Gowdy
Chairman

cc: The Honorable Adam Schiff

³³ CNN, Jake Tapper (October 22, 2015) (online at <https://twitter.com/HouseBenghazi/status/657325594779107328>).

³⁴ Select Committee on Benghazi, *Committee Democrats politicize Benghazi terrorist attack investigation* (October 21, 2015) (online at <http://benghazi.house.gov/news/blog/committee-democrats-politicize-benghazi-terrorist-attack-investigation>).

³⁵ Independent Journal, *The Benghazi Committee Is Two Years Old — Here’s How Seriously Democrats Have Taken It* (May 9, 2016) (online at <https://www.ijreview.com/2016/05/601565-dems-react-to-benghazi-anniversary>).

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The Honorable Adam Smith
The Honorable Tammy Duckworth
The Honorable Linda Sanchez