

Congress of the United States
Washington, DC 20515

June 10, 2016

The Honorable Lamar Smith
Chairman
House Committee on Science, Space, and Technology
2321 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Smith:

We write to express our grave concern that you and several members of the House Committee on Science, Space, and Technology have launched an inquiry into several legitimate state law enforcement investigations. On May 18, 2016, you and other Committee members sent a wide-ranging letter to seventeen state attorneys general requesting documents and communications relating to each office's law enforcement work and investigative activities. This letter asserted baseless concerns, and made demands that, if met, could only serve to delay investigations that are of critical importance to the American public.

Your particular focus appears to be several, ongoing investigations by state attorneys general into potential securities, business, and consumer fraud violations by ExxonMobil. Investigation by state attorneys general into potential violations of state law is an appropriate exercise of state police power as reserved to the States under the 10th Amendment. It is deeply concerning that this Committee has inserted itself into these investigations since there are clear jurisdictional issues. The state attorneys general are seeking to expose potentially criminal acts that involved intentionally misleading the public and public officials, and defrauding shareholders. Based on the Committee's own purported concerns this investigation does not fall under the Committee's jurisdiction.

Congressional interference with legitimate state law enforcement investigations is particularly alarming and inappropriate in this case. As you know, there is overwhelming scientific consensus that climate change poses a grave and growing threat to the health and safety of Americans and to populations across the globe. In response, governments and private sector actors around the world are taking steps to shift away from global dependence on fossil fuels and move toward clean energy sources. These actions inevitably create financial risks for investors in fossil fuel companies like ExxonMobil; risks that the investing public is entitled to know.

Moreover, more frequent and extreme storms, shrinking ice sheets, melting permafrost, rising sea levels, and other phenomena exacerbated by climate change pose unique and significant risks to companies such as ExxonMobil with billions of dollars invested in infrastructure located in coastal areas and off-shore. In recent months, state attorneys general have cited publicly available documents indicating that ExxonMobil may have misled investors and the public about what the company knew about the risks of climate change—for example, characterizing these risks to the public and investors as highly uncertain, when internally, the company was modeling and planning for risks associated with climate change with a high degree of precision. These allegations deserve to be thoroughly scrutinized by law enforcement. Further, if true, these facts are likely to require law enforcement action at the state and possibly federal level.

Your letter asserts that a number of the state attorneys general are engaged in a “coordinated attempt to deprive companies, nonprofit organizations, and scientists of their First Amendment rights and ability to fund and conduct scientific research free from intimidation and threats of prosecution.” This allegation is patently false. It is well established that the First Amendment does not confer a right to commit fraud. On the other hand, demanding the disclosure of routine communications between law enforcement and outside scientific experts, which occurred in the course of an ongoing investigation, could have a chilling effect on the free exchange of ideas between state authorities and the scientific community.

Congressional committees should not be used to shield corporations from fraud investigations, especially those conducted by states under their sovereign authority granted by the 10th Amendment of the U.S. Constitution.

State law enforcement authorities have a critical—and independent—role to play in protecting the people of their respective states from fraud and other illegal activity. In order to perform their duties effectively, state authorities must not be subject to improper interference from the federal government. We strongly urge you to withdraw your request to all state attorneys general related to this investigation.

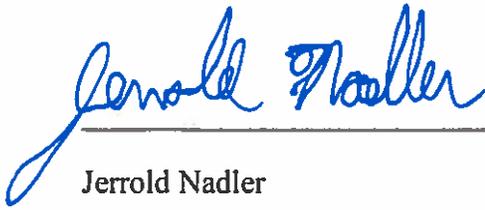
Sincerely,

A handwritten signature in blue ink that reads "Paul D. Tonko". The signature is written in a cursive style and is positioned above a horizontal line.

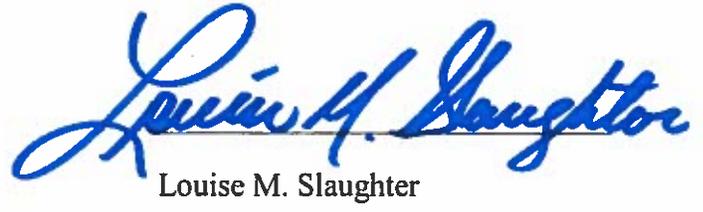
Paul D. Tonko

A handwritten signature in blue ink that reads "Brian Higgins". The signature is written in a cursive style and is positioned above a horizontal line.

Brian Higgins



Jerrold Nadler



Louise M. Slaughter



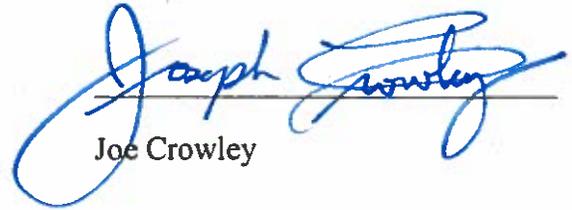
Eliot L. Engel



Steve Israel



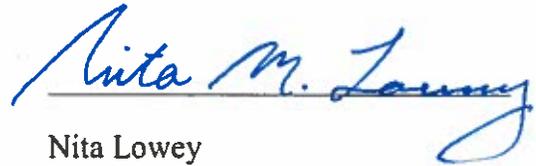
Carolyn B. Maloney



Joe Crowley



Grace Meng



Nita Lowey



José E. Serrano



Kathleen M. Rice



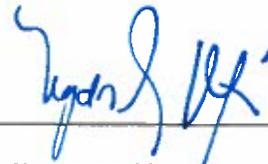
Gregory W. Meeks



Yvette D. Clarke



Hakeem Jeffries



Nydia M. Velázquez



Sean Patrick Maloney



Charles Rangel