

Congress of the United States
Washington, DC 20515

August 22, 2016

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

The Honorable Ron Johnson
Chairman
Senate Committee on Homeland Security and Governmental Affairs
340 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairmen Smith and Johnson:

We write today regarding your investigations into the use of a personal email server by former Secretary of State Hillary Clinton.

On July 12, 2016, you jointly sent letters requesting substantial, non-public information from three companies that provided information technology services to Secretary Clinton after she left the Department of State in February of 2013. On August 22, Chairman Smith issued subpoenas to these same companies for this same information. As you know, these companies have already turned over all relevant data to the Federal Bureau of Investigation (FBI) and made their employees available for interviews with the FBI. We have serious concerns regarding the inappropriate use of taxpayer resources in an apparent pursuit of an election-year partisan agenda through these investigations.

Your July letters and the August subpoenas are only the latest in a long series of requests from Republicans in Congress focused on Secretary Clinton. Over the past year, Chairman Johnson has devoted substantial resources to this effort, and Chairman Smith has also made requests for similar information. In total, Chairman Johnson has sent over 40 letters related to Secretary Clinton—making her use of a personal email server a top investigative priority of the Senate Committee on Homeland Security and Governmental Affairs. Moreover, the House of Representatives has expended over \$7 million on the Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi, Libya, which also investigated Secretary Clinton's use of an email server.

Last month, the FBI, under the leadership of its well-respected Director James Comey, ended its extensive investigation with the conclusion that “no reasonable prosecutor” would bring a case against Secretary Clinton. The FBI thoroughly investigated this issue “competently, honestly,

and independently,” and there has been no reason to believe its investigation was conducted otherwise. However, instead of shifting our Committees’ focus to more productive matters, you have chosen to renew your requests through the July letters and the August subpoenas from the House Committee on Science, Space and Technology. As a result, we have serious questions regarding the true purpose of your continued investigations, which seek to replicate the work of the FBI’s recently concluded investigation. Just last week, the FBI took the unusual step of turning over to Congress substantial information gathered in the course of their investigation, including its interview summaries with employees of the companies you are targeting. Given Congress’ receipt of this investigatory information from the FBI, we question the purpose of the issuance of committee subpoenas.

Moreover, although your July letters and the August subpoenas demand documents and interviews related to the “security capabilities” of Secretary Clinton’s server *during* her time at the State Department, the companies from which you seek information only provided information technology services to Secretary Hillary Clinton *after* she left her position at the Department. Further, while your letters request information to understand what “potential vulnerabilities ... need to be mitigated,” your letters omit the fact that, after substantial forensic work, the FBI was unable to find evidence that Secretary Clinton’s personal e-mail domain was successfully hacked. Regardless, Secretary Clinton is no longer Secretary of State and the Department of State has and continues to make her work-related emails available to the public. Given this information, it is unclear how the information you requested from these companies would inform our Committees’ legislative work.

In addition, your continued demands for information do not address concerns previously expressed by one of the companies regarding how confidential information voluntarily provided in response to previous requests by Chairman Johnson was selectively included in letters that were made public and obtained by the media. As you know, Ranking Member Carper has also expressed concerns about the selective release of information in that instance. Your continued requests also do not address the reported unease of House Republican leadership with Chairman Smith’s prior requests to these companies and his subsequent public decision to defer to the FBI’s investigation.¹

Both our Committees have long traditions of bipartisanship, and the prior histories of our Committees are filled with extensive and important oversight work. Indeed, previous Republican and Democratic chairmen of our Committees have understood that obtaining bipartisan support for an investigation is important to protect the legitimate use of Congress’s oversight powers. They also understood that the issuance of partisan subpoenas would weaken the authority of our Committees and tarnishes our legacy of strong, bipartisan work. Sadly, it appears that your investigations have less to do with legitimate oversight and more to do with trying to damage a presidential candidate in the heat of an election season.

¹ See: Daniel Newhauser and Ben Geman, “Republican Leaders Won’t Back Smith’s Probe of Clinton Emails,” *Government Executive*, February 1, 2016, accessed here: <http://www.govexec.com/oversight/2016/02/republican-leaders-wont-back-smiths-probe-clinton-emails/125601>; and Cory Bennett, “GOP leader suggests panel overstepped with Clinton email probe,” *The Hill*, February 1, 2016, accessed here: <http://thehill.com/policy/cybersecurity/267803-mccarthy-house-panel-overstepped-with-clinton-email-probe>

Now that the FBI has concluded its review, it is time for both of our Committees to move on. Instead of focusing on Secretary Clinton, the American people expect us in Congress to fix problems—not use our time and resources to score political points.

Thank you for your attention to this matter.

Sincerely,



Eddie Bernice Johnson
Ranking Member
Committee on Science, Space,
and Technology



Tom Carper
Ranking Member
Senate Homeland Security and
Governmental Affairs Committee