

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives

COMMITTEE ON ENERGY AND COMMERCE

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December 7, 2016

The Honorable Paul Ryan
Speaker of the House of Representatives
H-232 U.S. Capitol
Washington, D.C. 20515

Dear Mr. Speaker:

We write to ask that you address the continued violation of House rules by the Republican Members of the Select Investigative Panel of the Energy and Commerce Committee and take steps to ensure that Panel Democrats have access to documents and source information obtained by Panel Republicans.

Throughout the investigation, Panel Republicans have withheld documents and information from Panel Democrats. This includes documents obtained pursuant to congressional subpoena or threat of subpoena, as well as documents from alleged “confidential informants.”¹ They have used these documents to question witnesses, as the basis for their own allegations of criminal wrongdoing and – more recently – as the basis for requesting criminal investigation by law enforcement officials in various states.²

When Panel Democrats have obtained documents that had been withheld – and while Panel Republicans continue to refuse to identify the source of many of these materials – we have seen that these documents do not actually support Republican allegations.³ This demonstrates why the continued withholding of “evidence” by Panel Republicans is so problematic.

House rules guarantee all members access to committee records and equitable treatment of majority and minority committee staff as well.⁴ Documents that form the basis of congressional accusations of criminal misconduct – along with source information, which goes to the heart of the reliability and credibility of the materials being used – should not be withheld from minority members regardless of who controls the majority.

Panel Republicans have claimed that they cannot share documents and source information because they have agreed to maintain this information as “confidential.” These

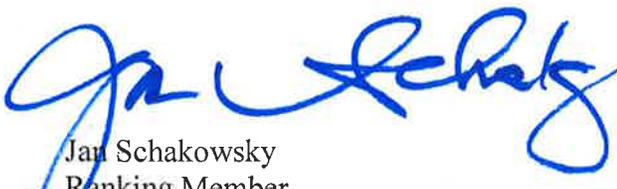
agreements – intended, presumably, to shield individuals from *public* disclosure – cannot be used as a sword to violate House rules and withhold information from other Members of the Panel. Chair Blackburn already argued in correspondence filed with a federal court that “disclosure to Congress is not ‘public disclosure.’”⁵ Thus, any alleged concern about safety risks that might flow from public disclosure does not justify withholding documents and source information from Panel Democrats.

The solution to any legitimate concern about protecting identities from public disclosure is to enact rules for the Panel to follow and that would apply across-the-board to anyone whose safety is at risk. But Panel Republicans have steadfastly refused requests from Democrats and outside entities to enact any such rules and, instead, have publicly released and named certain targets of their investigation. Now, when it suits their needs, Panel Republicans have manufactured a non-existent safety concern that allows them to avoid fact checking of their alleged “evidence” or allegations.

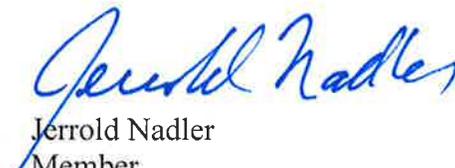
For the past year, you have allowed Panel Republicans to run roughshod over House rules, notions of basic fairness, and common decency. As a result, they have conducted a shameful “investigation” that dishonors and discredits the House.

The point to intervene is overdue. Panel Republicans have made serious allegations of criminal misconduct, including “criminal referrals” to state or local law enforcement officials, based on secret, unsourced, unverified documents and information. We ask that you take immediate steps to ensure that Panel Democrats have access to documents and source information obtained by Panel Republicans, as House rules require.

Sincerely,



Jan Schakowsky
Ranking Member
Select Investigative Panel



Jerrold Nadler
Member
Select Investigative Panel



Diana DeGette
Member
Select Investigative Panel



Jackie Speier
Member
Select Investigative Panel



Suzan K. DelBene
Member
Select Investigative Panel



Bonnie Watson Coleman
Member
Select Investigative Panel

cc: Hon. Marsha Blackburn
Chair, Select Investigative Panel

¹ Report of the Democratic Members of the Select Investigative Panel, *Setting the Record Straight: The Unjustifiable Attack on Women's Health Care and Life-Saving Research* (Dec. 5, 2016), at 88-89 [hereinafter "Final Report of the Democratic Members"].

² See 162 CONG. REC. H7091 (daily ed. Dec. 1, 2016) (statement of Rep. Mia Love describing various criminal "referrals" by Select Panel Republicans, including several that referenced reliance on "confidential informants"); See also email correspondence from Select Panel Republican staff to Select Panel Democratic staff (Dec. 6, 2016), on file with the Democratic Members.

³ See, e.g., Final Report of the Democratic Members, at 58-59, 89-91.

⁴ HOUSE RULE XI 2(e)(2), RULE X 9(g) (114th Cong.).

⁵ Letter from Hon. Marsha Blackburn, Chair, Select Investigative Panel to Ms. Catherine Short, Life Legal Defense Foundation (Nov. 8, 2016), at 4.