

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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WASHINGTON, DC 20515-6143

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<http://oversight.house.gov>

May 7, 2019

Mr. Cole Rojewski  
Director of Congressional and Legislative Affairs  
Department of the Interior  
1849 C Street, N.W.  
Washington, D.C. 20240

Dear Mr. Rojewski:

The Committee is writing in response to the Department's failure to produce a single document in response to its request on March 13, 2019, as well as the Department's ongoing refusal to schedule transcribed interviews with four Department officials. The Committee is investigating transparency and recordkeeping at the Department, including whether Secretary of the Interior David Bernhardt and his staff are adequately preserving records of his schedule and daily appointments and making them available to the public in compliance with the law.

On March 13, 2019, the Committee sent a joint letter with the Committee on Natural Resources requesting 12 categories of documents relating to the Department's implementation of the Freedom of Information Act (FOIA). Specifically, the Committees sought documents relating to a proposed rulemaking that would make numerous changes to the FOIA process that could impair response times, limit the numbers of responses, and deny some requests altogether.<sup>1</sup>

In addition, on March 28, 2019, the Committees sent a letter requesting transcribed interviews with four Department officials who have knowledge about the preservation and maintenance of the Secretary's schedule. We requested that the Department contact us by April 8, 2019, to schedule these interviews.<sup>2</sup>

The Department has not produced any documents in response to the March 13, 2019, request and has refused to make these four officials available for interviews.

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<sup>1</sup> Letter from Chairman Raúl Grijalva, Committee on Natural Resources, and Chairman Elijah E. Cummings, Committee on Oversight and Reform, to Secretary David Bernhardt, Department of the Interior (Mar. 13, 2019) (online at [naturalresources.house.gov/imo/media/doc/Grijalva%20Cummings%20Cox%20Letter%20to%20Bernhardt%20on%20FOIA%20Implementation%20Procedures%20March%2013%202019.pdf](http://naturalresources.house.gov/imo/media/doc/Grijalva%20Cummings%20Cox%20Letter%20to%20Bernhardt%20on%20FOIA%20Implementation%20Procedures%20March%2013%202019.pdf)).

<sup>2</sup> Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Raúl Grijalva, Committee on Natural Resources, to Secretary Bernhardt, Department of the Interior (Mar. 28, 2019) (online at [oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Grijalva%20to%20Bernhardt-DOI%20re%20Calendars.pdf](http://oversight.house.gov/sites/democrats.oversight.house.gov/files/2019-03-28.EEC%20Grijalva%20to%20Bernhardt-DOI%20re%20Calendars.pdf)).

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Instead of producing the documents and officials requested by the Committees, you sent a letter on April 10, 2019, offering a briefing and producing nearly 27,000 pages of documents that the Committees did not request in our March 13 or March 28 letters.<sup>3</sup>

On April 12, 2019, Committee staff informed you that we would accept the briefing offered by the Department, but that this briefing would not substitute for the documents and transcribed interviews we requested. Since that time, the Department has not produced any of the documents we requested and still has not scheduled any of the transcribed interviews.

For these reasons, on April 17, 2019, the Committees wrote directly to the four Department officials to request their voluntary compliance with transcribed interviews.<sup>4</sup>

On April 24, 2019, you sent a letter informing the Committees that “the interviews you seek are unnecessary at this time.” Instead, you proposed that we delay our investigation. Although you repeated your offer to provide “a briefing before the scheduling of employee interviews,” you refused for weeks to schedule the briefing and, finally, proposed on Friday that it not take place until the week of May 28, 2019. You also argued that we should delay all interviews until the National Archives and Records Administration (NARA) completes its separate investigation into the Department’s actions.<sup>5</sup>

The Department does not appear to recognize that Congress is an independent and co-equal branch of government that will determine its own investigative steps without undue interference or delay by the Department. We will not postpone our interviews further, and we will not delay them because of a separate investigation that we asked NARA to initiate.

Please be advised that any official at the Department who “prohibits or prevents” or “attempts or threatens to prohibit or prevent” any officer or employee of the Federal Government from speaking with the Committee could have his or her salary withheld pursuant to section 713 of the Financial Services and General Government Appropriations Act.<sup>6</sup> The Government

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<sup>3</sup> Letter from Cole Rojewski, Director of Congressional and Legislative Affairs, Department of the Interior, to Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Raúl Grijalva, Committee on Natural Resources (Apr. 10, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOI.041019.Response%20to%20EEC%20re%20Calendars.pdf>).

<sup>4</sup> See, e.g., Letter from Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Raúl Grijalva, Committee on Natural Resources, to Mr. Todd Willens, Department of the Interior (Apr. 17, 2019).

<sup>5</sup> Letter from Cole Rojewski, Director of Congressional and Legislative Affairs, Department of the Interior, to Chairman Elijah E. Cummings, Committee on Oversight and Reform, and Chairman Raúl Grijalva, Committee on Natural Resources (Apr. 24, 2019) (online at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/DOI.042419.Response%20to%20EEC%20Grijalva%20re%20Calendars%20and%20Record%20Keeping.pdf>).

<sup>6</sup> P.L. 116-6, § 713 (“No part of any appropriation contained in this or any other Act shall be available for the payment of the salary of any officer or employee of the Federal Government, who ... prohibits or prevents, or attempts or threatens to prohibit or prevent, any other officer or employee of the Federal Government from having any direct oral or written communication or contact with any Member, committee, or subcommittee of the Congress in connection with any matter pertaining to the employment of such other officer or employee or pertaining to the

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Accountability Office has reported to the Committee in the past when an agency official has violated this provision by preventing agency staff from being interviewed by Congress,<sup>7</sup> and a portion of that official's salary was ordered to be returned to the federal government.<sup>8</sup>

Please inform Committee staff by May 10, 2019, whether the Department will voluntarily produce the requested documents and expeditiously make the four Department officials available for transcribed interviews, or whether the Committees should consider alternative means to obtain compliance.

If you have any questions, please contact Committee staff at (202) 225-5051.

Sincerely,



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Elijah E. Cummings  
Chairman  
Committee on Oversight and Reform

cc: The Honorable Jim Jordan, Ranking Member

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department or agency of such other officer or employee in any way, irrespective of whether such communication or contact is at the initiative of such other officer or employee or in response to the request or inquiry of such Member, committee, or subcommittee.”).

<sup>7</sup> Letter from Susan A. Poling, General Counsel, Government Accountability Office, to Chairman Jason Chaffetz, Committee on Oversight and Government Reform, et al. (Apr. 5, 2016) (online at [www.gao.gov/assets/680/676341.pdf](http://www.gao.gov/assets/680/676341.pdf)); Letter from Aaron Santa Anna, Acting General Deputy Assistant Secretary for Congressional and Intergovernmental Relations, Department of Housing and Urban Development, to Chairman Charles E. Grassley, Senate Committee on the Judiciary (June 19, 2017) (online at [www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act\\_Redacted.pdf](http://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf)).

<sup>8</sup> Letter from Craig T. Clemmensen, Senior Advisor to Acting Deputy Secretary, Department of Housing and Urban Development, to General Deputy Assistant Secretary, Department of Housing and Urban Development (June 15, 2017) (online at [www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act\\_Redacted.pdf](http://www.judiciary.senate.gov/imo/media/doc/06-19-17%20Santa%20Anna,%20Aaron%20to%20CEG%20re%20GAO%20Legal%20Opinion%20Financial%20Services%20and%20General%20Government%20Appropriations%20Act_Redacted.pdf)) (directing former General Deputy Assistant Secretary to repay a portion of his salary for violating this provision).