



COMMITTEE ON
SCIENCE, SPACE, & TECHNOLOGY
Lamar Smith, Chairman

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Statement of Chairman Lamar Smith (R-Texas)

Affirming Congress' Constitutional Oversight Responsibilities: Subpoena Authority and Recourse for Failure to Comply with Lawfully Issued Subpoenas

Chairman Smith: Today's hearing has dual purposes, one general and one specific. First, this hearing will explore the scope of Congress' investigative authority as a general matter.

Second, and in particular, this hearing will affirm the legitimacy of the Committee's ongoing inquiry, which includes the issuance and enforcement of its subpoenas. Let me begin with the factual background.

For months, the Science Committee sent correspondence and requests for voluntary cooperation and information from two state attorneys general and several environmental groups.

After these requests were stonewalled, on July 13, 2016, the Committee issued subpoenas for information that relates to the origin of state investigations into scientific research conducted by non-profit organizations, private companies, and individual scientists.

The Committee is concerned that such investigations may have an adverse impact on federally-funded scientific research. If this is the case, it would be the responsibility of the Committee to change existing law and possibly appropriate additional funds to even out any such imbalances caused as a result.

So far, many of the subpoenas' recipients have failed to meaningfully engage with the Committee or make a good-faith effort to gather and produce responsive documents. In lieu of cooperation, these recipients have provided a myriad of spurious legal arguments.

They say, for example, that the Committee lacks authority to conduct this investigation; that responsive documents would be privileged under common law or state law; that the First or Tenth Amendments shield them from having to comply with a congressional subpoena; or that the subpoena is invalid because it is vague and overbroad.

None of these arguments are persuasive. As we will hear today, the Committee has the power to issue these subpoenas and enforce their compliance.

In fact, the Committee has a constitutional obligation to conduct oversight anytime the United States scientific enterprise is potentially impacted. The documents demanded by the subpoena will inform the Committee about the actions of the attorneys general and the environmental groups. The documents also will allow the Committee to assess the effects of these actions on America's scientific research and development funding.

And the documents demanded will allow the Committee to assess the breadth and depth of the AGs' investigations and inform our understanding of whether their actions have a chilling impact on scientific research and development.

Committee staff have repeatedly attempted to reach out to every party to encourage cooperation and compliance with the subpoena. The Committee wants the truth, Americans deserve the truth, and the Constitution requires that we seek the truth.

The refusal of the Attorneys General to comply with the Committee's subpoenas should trouble everyone sitting on this dais, everyone in this room, and every American.

The question we explore today isn't partisan; it's institutional. What is the scope of Congress' oversight powers? Congress has an obligation and a Constitutional responsibility to enforce its compulsory legal authority where warranted.

To the extent that this authority is blunted by parties' rejection of lawfully issued subpoenas, all lawmakers, Republicans and Democrats alike, should be concerned. Allowing subpoenaed parties to ignore compliance based on the politics of the subject sets a dangerous precedent. It diminishes transparency and accountability and undermines Congress' Article I powers in the Constitution.

I look forward to hearing about these issues from our witnesses today. All are constitutional law professors with outstanding expertise.

They will address Congress' ability and obligation to conduct rigorous oversight and the consequences of allowing those who would like to evade inquiry to do so. These consequences could include depositions, contempt proceedings, and legal actions.

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