

RESOLUTION OF INQUIRY REQUESTING THE PRESIDENT, AND DIRECTING THE ATTORNEY GENERAL, TO TRANSMIT, RESPECTIVELY, CERTAIN DOCUMENTS TO THE HOUSE OF REPRESENTATIVES RELATING TO CERTAIN COMMUNICATIONS BY THE PRESIDENT OF THE UNITED STATES

APRIL 6, 2017.—Referred to the House Calendar and ordered to be printed

Mr. GOODLATTE, from the Committee on the Judiciary, submitted the following

ADVERSE REPORT

together with

DISSENTING VIEWS

[To accompany H. Res. 203]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the resolution (H. Res. 203) of inquiry requesting the President, and directing the Attorney General, to transmit, respectively, certain documents to the House of Representatives relating to certain communications by the President of the United States, having considered the same, reports favorably thereon with an amendment and recommends that the resolution as amended not be agreed to.

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The Amendment

The amendment is as follows:

Strike all after the resolving clause and insert the following:

That the President is requested, and the Attorney General of the United States is directed, to transmit, respectively (in a manner appropriate to classified information, if the President or the Attorney General determines appropriate), to the House of Representatives, not later than 14 days after the date of the adoption of this resolution, copies of any document, record, memo, correspondence, or other communication in their possessions, or any portion of any such communication, that refers or relates to the following:

(1) President Donald J. Trump's statement, communicated via Twitter on March 4, 2017, at 3:35 a.m.: "Terrible! Just found out that Obama had my 'wires tapped' in Trump Tower just before the victory. Nothing found. This is McCarthyism!";

(2) President Trump's statement, communicated via Twitter on March 4, 2017, at 3:49 a.m.: "Is it legal for a sitting President to be 'wire tapping' a race for president prior to an election?" Turned down by court earlier. A NEW LOW!";

(3) President Trump's statement, communicated via Twitter on March 4, 2017, at 3:52 a.m.: "I'd bet a good lawyer could make a great case out of the fact that President Obama was tapping my phones in October, just prior to Election!"; or

(4) President Trump's statement, communicated via Twitter on March 4, 2017, at 4:02 a.m.: "How low has President Obama gone to tapp [sic] my phones during the very sacred election process. This is Nixon/Watergate. Bad (or sick) guy!"

Purpose and Summary

House Resolution 203 is a non-binding resolution of inquiry that requests that the Trump administration provide the House of Representatives with documents related to certain communications by the President regarding surveillance at Trump Tower.

Background and Need for the Legislation

Resolutions of inquiry, if properly drafted, are given privileged parliamentary status in the House. This means that, under certain circumstances, a resolution of inquiry can be considered on the House floor even if the committee to which it was referred has not ordered the resolution reported and the majority party's leadership has not scheduled it for consideration. Clause 7 of Rule XIII of the Rules of the House of Representatives requires the committee to which the resolution is referred to act on the resolution within 14 legislative days, or a motion to discharge the committee from consideration is considered privileged on the floor of the House. In calculating the days available for committee consideration, the day of introduction and the day of discharge are not counted.¹

Under the Rules and precedents of the House, a resolution of inquiry is a means by which the House may request information from the President or the head of one of the executive departments. According to *Deschler's Precedents*, it is a "simple resolution making a direct request or demand of the President or the head of an executive department to furnish the House of Representatives with specific factual information in the possession of the executive branch."² Such resolutions must ask for facts, documents, or spe-

¹Wm. Holmes Brown, et al., *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* ch. 49, §6, p. 834 (2011).

²7 *Deschler's Precedents of the United States House of Representatives*, H. Doc. No. 94-661, 94th Cong., 2d Sess., ch. 24, §8.

cific information; they may not be used to request an opinion or require an investigation.³ Resolutions of inquiry are not akin to subpoenas, they have no legal force, and thus compliance by the Executive Branch with the House’s request for information is purely voluntary.

According to a study conducted by the Congressional Research Service (CRS), between 1947 and 2011, 290 resolutions of inquiry were introduced in the House.⁴ Within this period, CRS found that “two periods in particular, 1971–1975 and 2003–2006, saw the highest levels of activity on resolutions of inquiry” and that the “Committees on Armed Services, Foreign Affairs, and the Judiciary have received the largest share of references.”⁵ CRS further found that “in recent Congresses, such resolutions have overwhelmingly become a tool of the minority party in the House.”⁶

A Committee has a number of choices after a resolution of inquiry is referred to it. It may vote on the resolution as is or it may amend it, and it may report the resolution favorably, unfavorably, or with no recommendation. The fact that a committee reports a resolution of inquiry adversely does not necessarily mean that the committee opposes looking into the matter. In the past, resolutions of inquiry have frequently been reported adversely for several reasons. The two most common reasons are substantial compliance and competing investigations.

House Resolution 203 requests information related to statements communicated via Twitter by the President with regard to the alleged surveillance of individuals at Trump Tower. As with the two other resolutions of inquiry that the Committee has considered this Congress, this resolution in no way compels the production of information. Moreover, as with the previous resolutions, this resolution comes on top of already existing investigations into the matter by both the House and Senate Intelligence Committees.

This resolution is unnecessary and premature given that committees in both the House and Senate are already investigating and have the full authority to compel the production of any needed documents that are not already being provided to Congress by the administration and the intelligence community. The House does not need to insert a non-binding resolution of inquiry into the middle of at least two ongoing investigations into this matter.

Furthermore, given that the information sought in this resolution is almost certainly classified, the overly broad request contained in the resolution would appear to be inappropriate. The resolution requests “any document, record, memo, correspondence, or other communication . . . or any portion of any such communication, that refers or relates to [the President’s tweets regarding Trump Tower being wiretapped].” The only limit placed on this request is that the communications be in the possession of the President or the Attorney General. It is questionable whether such a fishing expedition would be appropriate under normal circumstances, but given that the documents sought here are likely classified and that the two Intelligence Committees are already investigating this matter,

³A resolution that seeks more than factual information does not enjoy privileged status. Brown, *supra* note 1, at 833–34.

⁴Christopher M. Davis, Congressional Research Service, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2011* at i (2012).

⁵*Id.*

⁶*Id.*

this broad and unspecific request seems wholly inappropriate. This would especially seem to be the case given the apparent mishandling of classified information that surrounds the materials sought by this and the other resolutions of inquiry that have been before the Committee this Congress.

As the Committee has stated with regard to this and the other resolutions of inquiry it has considered this Congress and made clear in its oversight plan, the Committee is committed to conducting robust oversight of the Executive Branch. However, in conducting any such oversight, the Committee will act in an objective manner using the more precise and powerful tools it possesses and not through politicized resolutions of inquiry. Accordingly, the Committee voted to report this resolution unfavorably to the House.

Hearings

The Committee on the Judiciary held no hearings on H. Res. 203.

Committee Consideration

On March 29, 2017, the Committee met in open session and ordered House Resolution 203 unfavorably reported, with an amendment, by a roll call vote of 19 to 15, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following roll call votes occurred during the Committee's consideration of H. Res. 184.

1. Amendment #1, offered by Mr. Raskin, to expand the scope of the resolution to include documents related to the Chairman of the House Intelligence Committee's White House meeting and announcement regarding the incidental collection of information about U.S. citizens involved in the Trump transition. The amendment was defeated by a roll call vote of 11 to 18.

ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman		X	
Mr. Sensenbrenner, Jr. (WI)		X	
Mr. Smith (TX)			
Mr. Chabot (OH)		X	
Mr. Issa (CA)		X	
Mr. King (IA)		X	
Mr. Franks (AZ)		X	
Mr. Gohmert (TX)		X	
Mr. Jordan (OH)		X	
Mr. Poe (TX)			
Mr. Chaffetz (UT)		X	
Mr. Marino (PA)			
Mr. Gowdy (SC)		X	
Mr. Labrador (ID)		X	
Mr. Farenthold (TX)		X	

ROLLCALL NO. 1—Continued

	Ayes	Nays	Present
Mr. Collins (GA)		X	
Mr. DeSantis (FL)		X	
Mr. Buck (CO)		X	
Mr. Ratcliffe (TX)			
Ms. Roby (AL)		X	
Mr. Gaetz (FL)			
Mr. Johnson (LA)		X	
Mr. Biggs (AZ)		X	
Mr. Conyers, Jr. (MI), Ranking Member	X		
Mr. Nadler (NY)	X		
Ms. Lofgren (CA)			
Ms. Jackson Lee (TX)	X		
Mr. Cohen (TN)			
Mr. Johnson (GA)	X		
Mr. Deutch (FL)	X		
Mr. Gutierrez (IL)			
Ms. Bass (CA)	X		
Mr. Richmond (LA)			
Mr. Jeffries (NY)	X		
Mr. Cicilline (RI)	X		
Mr. Swalwell (CA)			
Mr. Lieu (CA)	X		
Mr. Raskin (MD)	X		
Ms. Jayapal (WA)			
Mr. Schneider (IL)	X		
Total	11	18	

2. Motion to report H. Res. 203 unfavorably to the House. Approved 19 to 15.

ROLLCALL NO. 2

	Ayes	Nays	Present
Mr. Goodlatte (VA), Chairman	X		
Mr. Sensenbrenner, Jr. (WI)	X		
Mr. Smith (TX)			
Mr. Chabot (OH)	X		
Mr. Issa (CA)	X		
Mr. King (IA)	X		
Mr. Franks (AZ)	X		
Mr. Gohmert (TX)	X		
Mr. Jordan (OH)	X		
Mr. Poe (TX)	X		
Mr. Chaffetz (UT)	X		
Mr. Marino (PA)			
Mr. Gowdy (SC)	X		
Mr. Labrador (ID)	X		
Mr. Farenthold (TX)	X		
Mr. Collins (GA)	X		

ROLLCALL NO. 2—Continued

	Ayes	Nays	Present
Mr. DeSantis (FL)	X		
Mr. Buck (CO)	X		
Mr. Ratcliffe (TX)			
Ms. Roby (AL)	X		
Mr. Gaetz (FL)			
Mr. Johnson (LA)	X		
Mr. Biggs (AZ)	X		
Mr. Conyers, Jr. (MI), Ranking Member		X	
Mr. Nadler (NY)		X	
Ms. Lofgren (CA)		X	
Ms. Jackson Lee (TX)		X	
Mr. Cohen (TN)		X	
Mr. Johnson (GA)		X	
Mr. Deutch (FL)		X	
Mr. Gutierrez (IL)			
Ms. Bass (CA)		X	
Mr. Richmond (LA)			
Mr. Jeffries (NY)		X	
Mr. Cicilline (RI)		X	
Mr. Swalwell (CA)		X	
Mr. Lieu (CA)		X	
Mr. Raskin (MD)		X	
Ms. Jayapal (WA)		X	
Mr. Schneider (IL)		X	
Total	19	15	

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this resolution does not provide new budgetary authority or increased tax expenditures.

Committee Cost Estimate

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementing this non-binding resolution would not result in any significant costs. The Congressional Budget Office did not provide a cost estimate for the resolution.

Duplication of Federal Programs

No provision of H. Res. 203 establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

Disclosure of Directed Rule Makings

The Committee estimates that H. Res. 203 specifically directs to be completed no specific rule makings within the meaning of 5 U.S.C. § 551.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H. Res. 203 requests certain documents from the Trump administration related to communications by the President of the United States regarding surveillance at Trump Tower.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H. Res. 203 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the resolution as reported by the Committee.

House Resolution 203, a non-binding resolution of inquiry, requests that the President and the Attorney General of the United States transmit certain documents and communications to the House of Representatives related to communications by the President regarding surveillance at Trump Tower.

Dissenting Views

On March 4, 2017, President Donald J. Trump claimed via Twitter that “President Obama was tapping my phones in October, just prior to Election!”¹ He directed the statement at President Obama personally: “How low has President Obama gone to tapp [sic] my phones during the very sacred election process. This is Nixon/Watergate. Bad (or sick) guy!”²

There is no evidence to support this claim.

The accusation has been denied by former President Obama; former Director of National Intelligence James Clapper; Speaker Paul Ryan (R–WI); Senator Richard Burr (R–NC), Chairman of the Senate Select Committee on Intelligence; and Representative Devin Nunes (R–CA), Chairman of the House Permanent Select Com-

¹ President Donald Trump (@realDonaldTrump), Twitter, Mar. 4, 2017, 3:52 AM.

² President Donald Trump (@realDonaldTrump), Twitter, Mar. 4, 2017, 4:02 AM.

mittee on Intelligence.³ In recent testimony, Federal Bureau of Investigation (FBI) Director James Comey said there is “no information” to back the President’s charge.⁴

Nevertheless, the White House stands by the President’s claim.⁵ The Administration’s reckless defense of the President’s “wiretap” accusation has, in a few short weeks, further undermined the credibility of the Administration, undercut relationships with one of our closest allies, and diminished the standing of the House of Representatives. Our Committee has primary jurisdiction over the statutes that authorize government surveillance. If there is proof to support the President’s claim, it should fall to the House Committee on the Judiciary to find it. If there is none—and there almost certainly is none—it falls to our Members to correct an Administration that seems oblivious to the harm it has caused.

Representative Mike Quigley (D-IL) introduced H. Res. 203 on March 16, 2017. The Resolution directs the White House and the Department of Justice to provide the House with information related to the President’s allegation. Rather than support the Resolution and put the burden on the Administration to explain its actions, the Majority chose to adversely report it and block it from further consideration in the House.

DESCRIPTION OF THE LEGISLATION

H. Res. 203 directs President Trump and U.S. Attorney General Jeff Sessions to transmit to the House, not later than 14 days after enactment of the resolution, copies of any document, record, memo, correspondence, or other communication of the White House or the Department of Justice, respectively, that refers or relates to:

- (1) President Trump’s statement, communicated via Twitter on March 4, 2017, at 3:35 AM: “Terrible! Just found out that Obama had my ‘wires tapped’ in Trump Tower just before the victory. Nothing found. This is McCarthyism.”
- (2) President Trump’s statement, communicated via Twitter on March 4, 2017, at 3:49 AM: “Is it legal for a sitting President to be ‘wire tapping’ [sic] a race for president prior to an election? Turned down by court earlier. A NEW LOW!”
- (3) President Trump’s statement, communicated via Twitter on March 4, 2017, at 3:52 AM: “I’d bet a good lawyer could make a great case out of the fact that President Obama was tapping my phones in October, just prior to Election!”
- (4) President Trump’s statement, communicated via Twitter on March 4, 2017, at 4:02 AM: “How low has President Obama gone to tapp [sic] my phones during the very sacred election process. This is Nixon/Watergate. Bad (or sick) guy!”

H. Res. 203 expressly permits the White House and the Department of Justice to transmit this information in a classified format if necessary.

³Peter Baker & Charlie Savage, *Trump Digs In on Wiretap, No Matter Who Says Differently*, N.Y. TIMES, Mar. 16, 2017.

⁴*Russian Active Measures Investigation: Open Hearing before the H. Permanent Sel. Comm. on Intelligence*, 115th Cong. (2017) (remarks of Director James B. Comey, Federal Bureau of Investigation).

⁵ See Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer, 3/16/2017, #25*, The White House, Mar. 16, 2017.

GENERAL BACKGROUND

Under the rules and precedents of the House, a resolution of inquiry is used to obtain information from the executive branch. Directed at the President of the United States or the head of a Cabinet-level agency, a resolution of inquiry requests facts within the control of the executive branch.⁶ As a “simple resolution,” designated by “H. Res.,” a resolution of inquiry does not carry the force of law. “Compliance by the executive branch with the House’s request is voluntary, resting largely on a sense of comity between co-equal branches of government and a recognition of the necessity for Congress to be well-informed as it legislates.”⁷

House Rules afford resolutions of inquiry a privileged parliamentary status. A Member files a resolution of inquiry like any other legislation. The resolution is then referred to the proper committee of jurisdiction. If the committee does not report the resolution to the House within 14 legislative days of its introduction, however, a motion to discharge the resolution from committee can be made on the House floor.⁸ In practice, then, even when the Majority opposes a resolution of inquiry, a committee may mark it up and report it—perhaps adversely—to prevent its sponsor from making a privileged motion to call up the legislation on the House floor.⁹

REASONS WHY H. RES. 203 IS NEEDED

H. Res. 203 gives the Committee an opportunity to hold President Trump accountable for his “wiretapping” claim. Unless the burden is placed on the President to produce evidence to support his accusation, it seems unlikely that the White House will acknowledge the increasingly obvious truth: President Trump’s claim is simply false.

I. President Trump has a history of making obviously false statements

As a presidential candidate, Donald Trump displayed a remarkable proclivity for false and misleading statements.¹⁰ That behavior has continued into his presidency. According to one report, since President Trump has been in office, he has made 338 false or misleading claims.¹¹ At the time of this writing, out of the 76 days President Trump has occupied the White House, there have been only three days so far without his making a false statement on record.¹² Some of these claims stand out—both as odd preoccupations for a sitting president, and as comments that diverge from easily confirmed facts.

On January 21, 2017, in a speech delivered before the CIA Memorial Wall, President Trump claimed that “a million, million and

⁶Christopher M. Davis, *Resolutions of Inquiry: An Analysis of Their Use in the House, 1947–2011*, CONG. RESEARCH SERVICE, May 15, 2012 (R40879).

⁷*Id.* at 2.

⁸House Rule XIII, clause 7.

⁹Davis, *supra* A note 6, at 1.

¹⁰*The 2016 Election Fact Checker*, WASH. POST, Nov. 3, 2016; *see, e.g.*, Michell Ye Hee Lee, *Trump’s false claim that the murder rate is the “highest it’s been in 45 years,”* WASH. POST, Nov. 3, 2016; Michell Ye Hee Lee, *Fact-checking two false claims by Trump alleging widespread voter fraud*, WASH. POST, Oct. 19, 2016; Glenn Kessler, *Trump’s claim that a racial discrimination suit was “brought against many real estate firms,”* WASH. POST, Sept. 28, 2016; Glenn Kessler, *Too good to check: Sean Hannity’s tale of a Trump rescue*, WASH. POST, Aug. 11, 2016.

¹¹100 Days of Trump Claims, WASH. POST, Feb. 21, 2017 (last visited Apr. 5, 2017).

¹²*Id.*

a half people” had attended his inauguration the day before.¹³ As to reports of substantially smaller crowds, he said: “The rest of the 20-block area, all the way back to the Washington Monument, was packed. So we caught them, and we caught them in a beauty. And I think they are going to pay a big price.”¹⁴ Later that evening, White House Press Secretary Sean Spicer argued that the media had deliberately misled the public. “This was the largest audience to ever witness an inauguration—period.”¹⁵

Each of the President’s arguments in support of this claim was quickly debunked. Mr. Spicer argued that “[t]his was the first time in our nation’s history that floor coverings have been used to protect the grass on the Mall. That had the effect of highlighting any areas where people were not standing.”¹⁶ Floor coverings have been in use since 2013.¹⁷ Mr. Spicer claimed that “[t]his was also the first time that fencing and magnetometers went as far back on the Mall, preventing hundreds of thousands of people from being able to access the Mall.”¹⁸ According to the Congressional Research Service, fencing and magnetometers have been a standard part of inauguration security since 2009.¹⁹ Mr. Spicer claimed that ridership on local public transportation had outpaced President Obama’s second inauguration, an assertion that was quickly disputed by the Washington Metro Area Transportation Authority.²⁰

Although it can be difficult to estimate crowd sizes on the National Mall, side-by-side images of the 2017 and 2009 inauguration ceremonies show significantly larger crowds at President Obama’s first inauguration.²¹ On March 7, 2017, the National Park Service released aerial photographs that appear to confirm this comparison.²² Even if the President were correct, and 1.5 million people attended his inauguration—even if Mr. Spicer’s lower estimate was accurate, and 720,000 people filled the space between the Capitol and the Washington Monument—those figures would be smaller than the 1.8 million people estimated to have attended President Obama’s first inaugural.²³ One wonders why the White House made this claim in the first place.

President Trump received 304 votes in the electoral college. In 2012, President Obama received 332 electoral votes. In 2008, President Obama won with 365 electoral votes. Presented with this information at a recent press conference, President Trump suggested, “[w]ell, I’m talking about Republican.”²⁴ When told that President

¹³ Office of the Press Secretary, *Remarks by President Trump and Vice President Pence at CIA Headquarters*, The White House, Jan. 21, 2017.

¹⁴ *Id.*

¹⁵ Office of the Press Secretary, *Statement by Press Secretary Sean Spicer*, The White House, Jan. 21, 2017.

¹⁶ *Id.*

¹⁷ *Plan to Protect National Mall Grass This Inauguration*, NBC WASHINGTON, Jan. 17, 2013.

¹⁸ Office of the Press Secretary, *Statement by Press Secretary Sean Spicer*, The White House, Jan. 21, 2017.

¹⁹ *Inauguration Security: Operations, Appropriations, and Issues for Congress*, CONG. RESEARCH SERVICE, R42867, Jan. 11, 2017.

²⁰ Luz Lazo, *Metro Inauguration Day trips top 500,000, but still lowest since 2005*, WASH. POST, Jan. 21, 2017.

²¹ Betsy Klein, *Comparing Donald Trump and Barack Obama’s inaugural crowd sizes*, CNN, Jan. 21, 2017.

²² Katie Reilly, *Official NPS Photos Show President Trump’s Inauguration Was Smaller Than Obama’s*, TIME, Mar. 7, 2017.

²³ Linda Qiu, *Donald Trump had biggest inaugural crowd ever? Metrics don’t show it*, POLITIFACT, Jan. 21, 2017.

²⁴ Office of the Press Secretary, *Remarks by President Trump in Press Conference*, The White House, Feb. 16, 2017.

George H. W. Bush won in 1988 with 426 electoral votes, President Trump demurred: “[w]ell, no, I was told—I was given that information. I don’t know. I was just given. We had a very, very big margin.”²⁵ The President declined to answer a follow-up question: “why should Americans trust you . . . when you’re providing information that’s fake?”²⁶

Since taking office, President Trump has also repeated the claim he would have won the popular vote but for millions of illegal votes.²⁷ In the days after the election, President Trump stated: “In addition to winning the Electoral College in a landslide, I won the popular vote if you deduct the millions of people who voted illegally.”²⁸ In a televised interview, he suggested that, out of the three to five million illegal votes cast, “none of ‘em come to me. None of ‘em come to me. They would all be for the other side.”²⁹ There is no evidence to support the claim that millions of people voted illegally in the recent election—let alone that each of those millions of votes were cast for Secretary Hillary Clinton.³⁰ Several senior Republicans—including Senators John McCain (R–AZ) and Lindsey Graham (R–SC)—have urged the President to stop repeating the baseless theory.³¹ Nevertheless, according to the White House, the President “believes what he believes.”³²

After repeated debunking, these claims merely undermine the credibility of the Trump Administration. Other claims—like the President’s “wiretapping” accusation—have the potential to do real and lasting damage to our national security.

II. *President Trump has offered no evidence to support his “wire-tapping” claim—but his reckless defense keeps changing*

President Trump has offered no evidence to substantiate his claim that President Obama orchestrated a “Nixon/Watergate” plot to conduct unlawful surveillance on Trump Tower prior to the election—but the manner in which the White House defends that claim has changed dramatically over a short period of time.

The President made his wiretapping accusation early in the morning of March 4, 2017. On March 5, White House Press Secretary Sean Spicer issued a statement: “Reports concerning potentially politically motivated investigations immediately ahead of the 2016 election are very troubling.”³³ Mr. Spicer said that the President had requested an investigation into the matter by the congressional intelligence committees, and that “[n]either the White House nor the President will comment further until such oversight is con-

²⁵ *Id.*

²⁶ *Id.*

²⁷ Abby Phillip & Mike DeBonis, *Without evidence, Trump tells lawmakers 3 million to 5 million illegal ballots cost him the popular vote*, WASH. POST, Jan. 23, 2017.

²⁸ President Donald Trump (@realDonaldTrump), Twitter, Nov. 27, 2016, 3:30 PM.

²⁹ *Transcript: ABC NEWS anchor David Muir interviews president Trump*, ABC NEWS, Jan. 25, 2017.

³⁰ Glenn Kessler, *Donald Trump’s bogus claim that millions of people voted illegally for Hillary Clinton*, WASH. POST, Nov. 27, 2016; *Knock the Vote: Zero evidence has been put forth to support the widely parroted claim that 3 million “illegal aliens” voted in the 2016 presidential election*, SNOPE.S.COM, Nov. 23, 2016; Allison Graves, *Fact-check: Did 3 million undocumented immigrants vote in this year’s election?*, POLITIFACT, Nov. 18, 2016.

³¹ Frank Thorp & Corky Siemaszko, *Lindsey Graham to Trump: Stop Claiming “Illegals” Cost You Popular Vote*, NBC NEWS, Jan. 24, 2017.

³² David Jackson, Spicer: *Trump believes voter fraud claim despite lack of evidence*, USA TODAY, Jan. 24, 2017.

³³ Office of the Press Secretary, *Statement from the Press Secretary*, The White House, Mar. 5, 2017.

ducted.”³⁴ On March 8, Mr. Spicer broke from his “no comment” statement to clarify that, although Trump Tower may have been the target of surveillance, “there is no reason . . . that we have to think the President is the target of any investigation.”³⁵ On March 9, Mr. Spicer backtracked, stating that although the White House was “not aware” of any investigation into the President, he did not know if one existed.³⁶

On March 13, Mr. Spicer attempted to broaden the meaning of the President’s initial statement: “I think if you look at the President’s tweet, he said very clearly ‘wiretapping’ in quotes” and “that spans a whole host of surveillance types of options.”³⁷ On March 14, Mr. Spicer stretched the original claim even further. Not only did the President use the word wiretap “in quotes,” but there has been “significant reporting about surveillance techniques that have existed throughout the 2016 election.”³⁸ On the evening of March 15, in a televised interview, President Trump was asked why he did not wait until he had evidence of wiretapping at Trump Tower before making a public statement. The President responded:

[I]f you take a look at some of the things written about wiretapping and eavesdropping . . . and don’t forget I say wiretapping, those words were in quotes. That really covers—because wiretapping is pretty old-fashioned stuff—but that really covers surveillance and many other things. And nobody ever talks about the fact that it was in quotes, but that’s a very important thing. But wiretap covers a lot of different things. I think you’re going to find some very interesting items coming to the forefront over the next two weeks.³⁹

At a March 16 press briefing, Mr. Spicer spent several minutes reading from a list of press clips—some from conservative pundits, others from articles about government surveillance wholly unrelated to the President’s claim.⁴⁰ “I think the President’s been very clear when he talks about this, and he talked about it last night. So we talked about wiretapping, he meant surveillance and that there have been incidents that have occurred.”⁴¹

On March 31, Mr. Spicer tried a new approach. Citing to Dr. Evelyn Farkas, a foreign policy expert who left the Obama Administration in 2015, Mr. Spicer circled back to something like the President’s original thesis: he claimed that Dr. Farkas had “raised serious concerns on whether or not there was an organized and widespread effort by the Obama administration to use and leak highly sensitive intelligence information for political purposes.”⁴²

³⁴ *Id.*

³⁵ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 8, 2017.

³⁶ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 9, 2017.

³⁷ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 13, 2017.

³⁸ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 14, 2017.

³⁹ *Tucker Carlson Tonight*, FOX NEWS, broadcast Mar. 15, 2017 (interview with President Donald Trump).

⁴⁰ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 16, 2017.

⁴¹ *Id.*

⁴² Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 31, 2017.

In fact, Dr. Farkas had raised serious concerns about the Trump Administration burying evidence related to the Russian government and the Trump campaign. She stated, “I had a fear that somehow that information would disappear with the senior people who left so it would be hidden away in the bureaucracy.”⁴³ In context, Dr. Farkas was responding to a report that the Obama White House had “scrambled to spread information about Russian efforts to undermine the presidential election . . . to ensure that such meddling isn’t duplicated in future American or European elections, and to leave a clear trail of intelligence for government investigators.”⁴⁴ Given the Trump Administration’s Russia-related antics, the concerns expressed by Dr. Farkas seem well-placed.

The President’s initial accusation remains on the record: “I’d bet a good lawyer could make a great case out of the fact that President Obama was tapping my phones in October, just prior to Election!”⁴⁵ His characterization of that claim has shifted—from the certainty of a “Nixon/Watergate” operation ordered by his predecessor to mere “[r]eports concerning potentially politically motivated investigations.” His Administration has gone from “reviewing” a serious legal matter to litigating the importance of the quotation marks around the word “wiretap.” Absent any actual proof, the White House has attempted to appropriate a slew of opinion pieces and unrelated reporting as evidence that some kind of surveillance happened, even if the President’s literal accusation is untrue.

There is a simpler explanation for the President’s unfounded claim. During the markup of H. Res. 203, Representative Ted Lieu (D–CA) observed:

the President of the United States made a very serious allegation that Trump Tower was wiretapped. If that were true . . . it would mean that U.S. intelligence officials or U.S. agents investigating criminal behavior believe there were either agents of a foreign power at Trump Tower or a criminal activity. And that they convinced a Federal judge of that, either an independent FISA Court judge appointed by Chief Justice Roberts or a Federal District Court judge, all with life tenures, who concluded, “Yes, there was probable cause that there was criminal activity at Trump Tower or there were agents of a foreign power.”⁴⁶

Chairman Bob Goodlatte (R–VA) asked Representative Lieu to yield, and insisted that “[t]his question has already been answered. We know this because Director Comey testified before the House Intelligence Committee last week.”⁴⁷ Representative Lieu responded: “Thank you, Mr. Chair, because that gets me to the sec-

⁴³ *Morning Joe*, MSNBC, broadcast Mar. 2, 2017 (comments of Dr. Evelyn Farkas).

⁴⁴ Matthew Rosenberg *et al.*, *Obama Administration Rushed to Preserve Intelligence of Russian Election Hacking*, N.Y. TIMES, Mar. 1, 2017.

⁴⁵ President Donald Trump (@realDonaldTrump), Twitter, Mar. 4, 2017, 3:52 AM.

⁴⁶ Unofficial Tr. of Markup of H.R. 1667; H.R. 1695; H. Res. 184; and H. Res. 203 before the H. Comm. on the Judiciary, 115th Cong. (Mar. 29, 2017) (statement of Rep. Ted Lieu) [hereinafter Markup Tr.].

⁴⁷ *Id.* (statement of Chairman Bob Goodlatte).

ond part of my statement which is, ‘Or the President of the United States just made this up.’”⁴⁸

H. Res. 203 would cut through the Administration’s deflection. The resolution directs the White House to produce what evidence it may have to support the President’s statement. If, as President Trump suggests, “we have a lot” of evidence “right now,”⁴⁹ then the resolution would have given him an opportunity to be vindicated. If not, then H. Res. 203 would at least put the shifting storyline to rest. The Majority chose instead to block the resolution, and to enable the President to continue pressing his baseless claim.

III. President Trump’s statements have been widely dismissed as untrue

There is bipartisan consensus in Congress that the President’s “wiretap” claim is unfounded. Speaker Paul Ryan (R–WI) said “we’ve seen no evidence of that.”⁵⁰ Representative Devin Nunes (R–CA), Chairman of the House Permanent Select Committee on Intelligence, said that there was not “an actual tap of Trump Tower. Are you going to take the tweets literally? If you are, then clearly the President was wrong.”⁵¹ In a joint statement, Senators Richard Burr (R–NC) and Mark Warner (D–VA), the Chairman and Ranking Member of the Senate Select Committee on Intelligence, said: “Based on the information available to us, we see no indications that Trump Tower was the subject of surveillance by any element of the United States government either before or after Election Day 2016.”⁵²

In his recent testimony before the intelligence committee, FBI Director James Comey made the matter clear in an exchange with Representative Adam Schiff (D–CA):

SCHIFF. Director Comey, was the president’s statement that Obama had his wires tapped in Trump Tower a true statement?

COMEY. With respect to the president’s tweet about alleged wiretapping directed at him by the prior administration, I have no information that supports those tweets and we have looked carefully inside the FBI. The Department of Justice has asked me to share with you that the answer is the same for the Department of Justice and all its components. The department has no information that supports those tweets. . . .

SCHIFF. So President Obama could not unilaterally order a wiretap of anyone?

COMEY. No president could.⁵³

In an odd reflection of the larger incident, during Director Comey’s testimony, President Trump claimed from his official Twitter account that Director Comey and National Security Agency Director Mike Rogers had told the committee that “Russia did not in-

⁴⁸ *Id.* (statement of Rep. Ted Lieu).

⁴⁹ *Tucker Carlson Tonight*, FOX NEWS, broadcast Mar. 15, 2017 (interview with President Donald Trump).

⁵⁰ Austin Wright, *Congress’ wiretap slap leaves White House fuming*, POLITICO, Mar. 16, 2017.

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Russian Active Measures Investigation: Open Hearing before the H. Permanent Sel. Comm. on Intelligence*, 115th Cong. (2017) (remarks of Director James B. Comey, Federal Bureau of Investigation).

fluence electoral process.”⁵⁴ Later in the hearing, Representative Jim Himes (D-CT) asked Director Comey about the President’s characterization. Director Comey said “it wasn’t our intention to say that today” and referred back to his earlier testimony that Russia had “engaged in a multifaceted campaign of active measures to undermine our democracy and hurt one of the candidates—and hope to help one of the other candidates.”⁵⁵

IV. The Administration’s defense of the President’s claim presents a risk to national security

The fact that the President is caught without evidence for his wiretapping claim does not mean that his actions cannot cause real and lasting damage to the United States. In a rambling defense of the President’s wiretapping claim, White House Press Secretary Sean Spicer told the White House Press pool:

Last, on Fox News, on March 14th, Judge Andrew Napolitano made the following statement, quote, “three intelligence sources have informed Fox News that President Obama went outside the chain of command. He didn’t use the NSA, he didn’t use the CIA, he didn’t use the FBI, and he didn’t use the Department of Justice. He used GCHQ. What is that? It’s the initials for the British intelligence finding agency.”⁵⁶

The White House continues to avoid responsibility from the fallout for these remarks.

Breaking from its policy of refusing to comment about its activities, a spokesman for United Kingdom Government Communications Headquarters (GCHQ) said: “Recent allegations made by media commentator Judge Andrew Napolitano about GCHQ being asked to conduct ‘wiretapping’ against the then president elect are nonsense. They are utterly ridiculous and should be ignored.”⁵⁷ Tim Farron, leader of the Liberal Democrat party in the United Kingdom, stated: “Trump is compromising the vital UK-US security relationship to try to cover his own embarrassment. This harms our and US security.”⁵⁸ Susan Rice, National Security Advisor for President Obama, argued: “The cost of falsely blaming our closest ally for something this consequential cannot be overstated.”⁵⁹ Prime Minister Teresa May of Britain also issued a statement: “We’ve made clear to the administration that these claims are ridiculous and should be ignored. We’ve received assurances these allegations won’t be repeated.”⁶⁰

The next day, at a press conference with German Chancellor Angela Merkel, President Trump was unwilling to take responsibility for the backlash: “All we did was quote a certain very talented legal mind who was the one responsible for saying that on tele-

⁵⁴ President Trump (@POTUS), Twitter, Mar. 20, 2017, 9:42AM.

⁵⁵ *Russian Active Measures Investigation: Open Hearing before the H. Permanent Sel. Comm. on Intelligence*, 115th Cong. (2017) (remarks of Director James B. Comey, Federal Bureau of Investigation).

⁵⁶ Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 16, 2017.

⁵⁷ Barney Henderson, *GCHQ slaps down White House claims of Trump Tower wiretapping claims as “utterly ridiculous,”* TELEGRAPH, Mar. 17, 2017.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Peter Baker & Steven Erlanger, *Trump Offers No Apology for Claim on British Spying*, N.Y. TIMES, Mar. 17, 2017.

vision. You shouldn't be talking to me, you should be talking to Fox." ⁶¹ Mr. Spicer echoed those remarks: "I don't think we regret anything. As the president said, I was just reading off media reports." ⁶² Fox News later disavowed the report. "Fox News knows of no evidence of any kind, that the now president of the United States was surveilled at any time, in any way, full stop." ⁶³

The United States intelligence community relies on a close relationship with its British counterparts. In its defense of the President's claim, the White House has directly endangered that partnership. Dr. Kori Schake, who served on President George W. Bush's National Security Council and advised the McCain-Palin presidential campaign, put it this way: "It illustrates the extent to which the White House really doesn't care what damage they do to crucial relationships in order to avoid admitting their dishonesty. America's allies are having to protect themselves from being tarred with the White House's mendacity." ⁶⁴ Eric Edelman, a career Foreign Service officer and Under Secretary of Defense for Policy under President George W. Bush, stated: "I hope that this latest episode doesn't drive a stake through the heart of the strongest remaining element of the Anglo-American partnership." ⁶⁵ Julianne Smith, who served as deputy national security adviser to Vice President Joe Biden, warned: "He will probably live to see the day when he will regret firing off such an egregious insult to Britain and then failing to apologize for it." ⁶⁶

President Trump has given the world plenty of reason to question the truth of his statements. His loss of credibility has profound consequences for the security of the United States. As the *Wall Street Journal* editorial board put it:

If President Trump announces that North Korea launched a missile that landed within 100 miles of Hawaii, would most Americans believe him? Would the rest of the world? We're not sure, which speaks to the damage that Mr. Trump is doing to his Presidency with his seemingly endless stream of exaggerations, evidence-free accusations, implausible denials and other falsehoods.

The latest example is Mr. Trump's refusal to back off his Saturday morning tweet of three weeks ago that he had "found out that [Barack] Obama had my 'wires tapped' in Trump Tower just before the victory" on Election Day. He has offered no evidence for his claim, and a parade of intelligence officials, senior Republicans and Democrats have since said they have seen no such evidence.

Yet the President clings to his assertion like a drunk to an empty gin bottle, rolling out his press spokesman to make more dubious claims. ⁶⁷

⁶¹ *Id.*

⁶² *Id.*

⁶³ Peter Sterne, *Fox News: "No evidence of any kind" that Obama wiretapped Trump*, POLITICO, Mar. 17, 2017.

⁶⁴ Peter Baker & Steven Erlanger, *Trump Offers No Apology for Claim on British Spying*, N.Y. TIMES, Mar. 17, 2017.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *A President's Credibility*, WALL ST. JOURNAL, Mar. 21, 2017.

By requesting information about the President’s “wiretapping” claims, the Committee would have put the burden on the President to produce the evidence or issue an apology. Even if the President had failed on those fronts, Congress would have shown our partners that Congress will not condone President Trump’s reckless behavior. The Majority voted instead to block H. Res. 203, and to leave our allies to wonder at their inaction.

V. The White House is undermining the credibility of the only House investigation of the President’s ties to Russia

H. Res. 203 is important, not only to help the Committee conduct basic oversight, but also to push back against an Administration that has attempted to impede the House of Representatives’ only active investigation into ties between the Trump campaign and the government of Vladimir Putin.

Despite Sean Spicer’s protest that “it’s not in our interest to talk about the process,”⁶⁸ the timeline of events suggests that the White House attempted to orchestrate the release of “secret” information through Representative Devin Nunes (R-CA), the Chairman of the House Permanent Select Committee on Intelligence. The Trump Administration appears to have done so in an attempt to justify the President’s tweets and to undercut the intelligence committee’s Russia investigation.

On March 20, 2017, Director James Comey took the extraordinary step of announcing that the FBI is investigating possible collusion between the President’s advisors and the Russian government. Director Comey also dismissed the President’s claim that he was wiretapped.⁶⁹

Sometime on March 21, 2017 Chairman Nunes received a call from “a source.” He went directly to the White House and reviewed “dozens” of intelligence reports.⁷⁰ The following day, Chairman Nunes announced to the press that “on numerous occasions, the intelligence community incidentally collected information about U.S. citizens involved in the Trump transition.”⁷¹ Chairman Nunes shared this information with Speaker Ryan, then traveled back to the White House to brief President Trump on the matter. He did so without sharing his findings with any other member of the intelligence committee. In a second press conference convened in the driveway of the White House, Chairman Nunes stated that, although the new information did not directly support the President’s wiretapping claim, it did show that the President was probably right to say he had been under surveillance.⁷² President Trump later said that he felt “somewhat” vindicated by the announcement.⁷³

⁶⁸Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 31, 2017.

⁶⁹*Russian Active Measures Investigation: Open Hearing before the H. Permanent Sel. Comm. on Intelligence*, 115th Cong. (2017) (remarks of Director James B. Comey, Federal Bureau of Investigation).

⁷⁰Emmarie Huetteman & Matthew Rosenberg, *Confused by the Trump Surveillance Drama? Here’s a Timeline*, N.Y. TIMES, Mar. 31, 2017.

⁷¹Greg Miller, *et al.*, *House Intelligence chair says Trump campaign officials were ensnared in surveillance operations*, WASH. POST, Mar. 22, 2017.

⁷²Matthew Rosenberg *et al.*, *Monitoring May Have “Incidentally” Picked Up Trump Aides, House Member Says*, N.Y. TIMES, Mar. 22, 2017.

⁷³Brian Bennett, *Trump says he feels “somewhat” vindicated by spying revelations from Rep. Devin Nunes*, L.A. TIMES, Mar. 22, 2017.

On March 23, 2017, Mr. Spicer denied that the White House had been the source of the information handed to Chairman Nunes. “I don’t know why he would brief the Speaker and then come down here to brief us on something we would have briefed him on. It doesn’t really seem to make a ton of sense.”⁷⁴ Later that day, Chairman Nunes apologized “for not sharing information about the documents he saw with the Minority before going public,” but insisted that “[t]he president didn’t invite me over” to the White House.⁷⁵ He subsequently canceled an open hearing on the Russia investigation that had been scheduled for the next week.

Ranking Member Adam Schiff (D–CA) called the Chairman’s actions “an attempt to choke off” public access to critical information about the Trump Administration.⁷⁶ Chairman Nunes continued to withhold his secret evidence from his colleagues, arguing that he would “never reveal those sources and methods.”⁷⁷

As the Judiciary Committee prepared to mark up H. Res. 203, it became increasingly clear that the White House itself was the source of Chairman Nunes’ “evidence.” Chairman Nunes said he met his source on “White House grounds . . . in order to have proximity to a secure location where he could view the information provided by the source.”⁷⁸ Mr. Nunes is the Chairman of the House Permanent Select Committee on Intelligence, and controls the largest secure space in the U.S. Capitol complex. He did not need to travel to the White House to gain access to a secure facility.

Later reports show that at least two, and perhaps three, White House officials provided Chairman Nunes with access to the new information and to the White House grounds.⁷⁹ At least one such official had worked for Chairman Nunes before joining White House Counsel’s Office. These were not “whistleblower-type” individuals, as they had been described by Chairman Nunes and Speaker Ryan.⁸⁰ They were White House employees. Mr. Spicer later described these officials as having come across “information that may support the questions raised by the President” in the “ordinary course of their work.”⁸¹ Ranking Member Schiff responded directly to that comment:

Well, the question for the White House and for Mr. Spicer is the ordinary course of whose business? Because, if these were produced either for or by the White House, then why all of the subterfuge? There’s nothing ordinary about the process that was used here at all.⁸²

⁷⁴Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 23, 2017.

⁷⁵Austin Wright & Nolan D. McCaskill, *Nunes apologizes for going directly to White House with monitoring claims*, POLITICO, Mar. 23, 2017.

⁷⁶Rep. Adam Schiff (@RepAdamSchiff), Twitter, Mar. 24, 2017, 11:46AM.

⁷⁷Eric Beech, *House intel panel chief Nunes says he will not divulge his sources*, REUTERS, Mar. 28, 2017.

⁷⁸Austin Wright, *Nunes on White House grounds before monitoring claim*, POLITICO, Mar. 27, 2017.

⁷⁹Matthew Rosenberg *et al.*, *2 White House Officials Helped Give Nunes Intelligence Reports*, N.Y. TIMES, Mar. 30, 2017; Greg Miller and Karen DeYoung, *Three White House officials tied to files shared with House intelligence chairman*, WASH. POST, Mar. 30, 2017.

⁸⁰Mark Hensch, *Ryan: Nunes source a “whistleblower type,”* THE HILL, Mar. 30, 2017.

⁸¹Office of the Press Secretary, *Press Briefing by Press Secretary Sean Spicer*, The White House, Mar. 31, 2017.

⁸²*State of the Union*, CNN, broadcast Apr. 2, 2017 (statement of Rep. Adam Schiff).

After reports outed these White House officials, the Administration invited Ranking Member Schiff and the heads of the Senate Select Committee on Intelligence to review the “evidence” on hand. Representative Schiff commented after his visit to the White House: “Nothing I could see today warranted a departure from the normal review procedures, and these materials should now be provided to the full membership of both committees.”⁸³

Observers on both sides of the aisle are troubled by Chairman Nunes’ behavior. Senator John McCain found the situation “bizarre” and noted that “[t]here is no substantiation for what Chairman Nunes said.”⁸⁴ Ranking Member Schiff argued that Chairman Nunes “will need to decide whether he is the chairman of an independent investigation . . . or he is going to act as a surrogate of the White House, because he cannot do both.”⁸⁵ Representative Charlie Dent (R-PA) appears to have lost faith in the House investigation altogether. “The Senate is going to lead this discussion . . . the House is in a situation where the issue has become overly politicized.”⁸⁶ Senator McCain was even more direct: “If we’re really going to get to the bottom of these things, it’s got to be done in a bipartisan fashion. And as far as I can tell, Congressman Nunes killed that.”⁸⁷

To be clear, Chairman Nunes’ announcement does not validate President Trump’s wiretapping claim. The President alleged that the government targeted Trump Tower for surveillance, that the surveillance was illegal, that it took place during the campaign, and that President Obama ordered the operation. Even if what Chairman Nunes shared with the press is accurate, it does not support the President’s accusation.

By coordinating with Chairman Nunes, the White House has undercut the credibility of the only active House investigation of the President’s ties to Russia. Chairman Nunes cancelled plans for a second open hearing on the Russia investigation. That hearing would have featured former Acting Attorney General Sally Q. Yates, former Director of National Intelligence James Clapper, and former CIA Director John Brennan—all of whom have disputed the President’s wiretapping claim and expressed concern about the Trump Administration’s ties to the Russian government.⁸⁸ Public sentiment has turned against the prospect of a credible investigation run by the House intelligence committee.⁸⁹

H. Res. 203 would have given the House Judiciary Committee an opportunity to contain this damage, and to conduct real oversight in a credible manner.

At the markup of the resolution, Representative Jamie Raskin (D-MD) offered an amendment that would have directed the White

⁸³ Austin Wright, *Schiff slams White House after reviewing controversial intelligence*, POLITICO, Mar. 31, 2017.

⁸⁴ Christiano Lima, *McCain: House panel lost “credibility” to handle Russia probe*, POLITICO, Mar. 22, 2017.

⁸⁵ *Id.*

⁸⁶ Noland D. McCaskill, *Rep. Dent: House intel probe “overly politicized,”* POLITICO, Mar. 29, 2017.

⁸⁷ *This Week with George Stephanopoulos*, ABC NEWS, broadcast Apr. 2, 2017 (statement of Senator John McCain).

⁸⁸ Greg Miller and Karoun Demirjian, *Chairman and partisan: The dual roles of Devin Nunes raise questions about House investigation*, WASH. POST, Mar. 26, 2017.

⁸⁹ See, e.g., Editorial Board, *Take Devin Nunes off Russian case*, USA TODAY, Mar. 22, 2017; Editorial, *Rep. Nunes is a Lapdog in a Watchdog Role*, N.Y. TIMES, Mar. 23, 2017; Jennifer Rubin, *Nunes shows why he’s incapable of running an investigation*, WASH. POST, Mar. 23, 2017.

House and the Department of Justice to produce any information they have that is related to Chairman Nunes' late-night visit to the White House and subsequent claims. Representative Raskin explained:

Chairman Nunes went to the White House with information that he did not first go to his committee with, [and] it raises a number of very serious questions. Why did Chairman Nunes need to brief the President on documents clearly already in possession of the White House? Why did he need to work with the White House to obtain and examine these documents when he has subpoena power as chairman of the Intelligence Committee? Why would he brief the President, whose associates may very well be the subject of the Intelligence Committee's investigations and FBI investigations, and did he in fact inadvertently become the leak that our colleagues on the other side of the aisle have frequently invoked"⁹⁰

The Majority rejected Representative Raskin's amendment because, in the view of Chairman Goodlatte, "there is no reason to request this information at this time."⁹¹ The Majority then rejected the underlying resolution, preferring instead to be complicit in the President's obstruction of a congressional investigation.

CONCLUSION

In his opposition to H. Res. 203, Chairman Goodlatte noted the FBI's acknowledgement of an investigation into the Trump campaign's contacts with the Russian government. "[W]e should not be supplanting that with a blunderbuss approach where we submit a resolution of inquiry, which does not even carry the weight of a subpoena, asking for information that is already being investigated by other committees and by the executive branch."⁹²

We do not so casually dismiss our Committee's jurisdiction in this matter, particularly given the Trump Administration's attempt to undermine the only active investigation of these matters in the House of Representatives. H. Res. 203 would have helped our Committee push back against a President who has severely damaged his own credibility—and whose dalliance with Chairman Nunes threatens ours. The Resolution would have placed pressure on the Trump Administration to provide evidence for the President's wiretap claim. If the Administration had ignored our request, then we would have been justified in resorting to the compulsory process mentioned by the Chairman. Instead, the Majority will have its way, and the Committee will take no official action with respect to the President's apparent lies and the damage they have caused.

⁹⁰ Markup Tr. (statement of Rep. Jamie Raskin).

⁹¹ *Id.* (statement of Chairman Robert Goodlatte).

⁹² *Id.*

We will continue to press for answers and accountability, both on President Trump's wiretapping claim and on the underlying investigation into his connections to the government of Vladimir Putin. We respectfully dissent from the Majority's motion to disapprove H. Res. 203.

MR. CONYERS, JR.
MR. NADLER.
MS. LOFGREN.
MS. JACKSON LEE.
MR. COHEN.
MR. JOHNSON, JR.
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MR. SWALWELL.
MR. LIEU.
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