

July 11, 2016

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

Dear Speaker Ryan:

We are writing to you as a community of organizations that advocate for civil rights and civil liberties, good government, health, science, the environment, LGBT, immigrants' and women's rights, and labor unions, all deeply concerned by the Select Investigative Panel's conduct over the last nine months. We believe the Panel's actions offend basic standards of fairness and respect for the rights of American citizens and the bounds of courtesy and propriety that are the hallmark of truly bipartisan special congressional investigations. The power of Congress to investigate may be broad, but it is not limitless.<sup>1</sup> The Panel's abuse of power negatively impacts the rights of those it is investigating and, more broadly, millions of Americans by setting a dangerous precedent for the ways in which Congress investigates individuals and organizations.

While the Panel was created to investigate certain issues related to the use of fetal tissue, the majority has gone well beyond that scope and engaged in a fishing expedition in an apparent attempt to ratify a discredited smear campaign against Planned Parenthood and those associated with it. In doing so, the Panel has acted outside of House rules and customs, much like the House Committee on Un-American Activities did during the Cold War.

The seminal case on congressional abuse of authority at the time established the principle that Congress has no power to expose simply for the sake of exposure where to do so constitutes an invasion of the private rights of individuals.<sup>2</sup> On October 29, 2015, upon your election as Speaker, you called on your colleagues to "return to regular order" so that "a fully functioning House can truly represent the people."<sup>3</sup> The actions of the Panel and its Chair are contrary to the spirit of those remarks. We, as organizations committed to an ethical and accountable government, urge you to bring your leadership to bear in the name of comity, fairness, and justice by disbanding this Panel at once.

Many of the undersigned organizations do not work on reproductive rights issues. Instead, the concerns that bind us have to do with the apparent predisposition of the

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<sup>1</sup> *Watkins v. U. S.*, 345 U.S. 178, 187 (1957). See also Oleszek, Walter J., *Congressional Procedures and the Policy Process* at 295 (7<sup>th</sup> ed.) (Washington, D.C.: CQ Press, 2007).

<sup>2</sup> *Watkins v. U. S.* at 200.

<sup>3</sup> Office of the Speaker of the House, "Paul Ryan elected speaker transcript (full text, video)," *Politico* (2015, October 29). [Online], <http://www.politico.com/story/2015/10/paul-ryan-elected-speaker-transcript-full-text-215351>, accessed June 14, 2016.

Panel's majority on the subject matter of the Panel's investigation and against Planned Parenthood and all who associate with it. In furtherance of that predisposition, the majority has acted with disdain toward customs of basic procedural fairness. Such a standardless approach to congressional investigation harms those engaged in reproductive health work today, but tomorrow it could be environmentalists, free speech advocates, academicians, scientists, or indeed any group that happens to draw the ire of the majority. We urge you to preserve the prestige of congressional investigations and oversight by bringing an end to this unfair charade.

Those who stand in the way of the Panel's preferred outcome have been dealt with summarily, with no consideration for issues of safety, factual accuracy, or scientific progress.

- Bias was evidenced by the very creation of the Panel. After hearing testimony in his Committee, Oversight and Government Reform Chairman Jason Chaffetz stated that he was “not suggesting that [Planned Parenthood] broke the law,” and conceded that he “didn’t find any wrongdoing.”<sup>4</sup> Thirteen different state investigations into Planned Parenthood affiliates have reached the same conclusion, and eight additional states have declined to investigate. Furthermore, after conducting interviews and reviewing materials, the House Energy and Commerce minority staff, concluded: “To date, the Committee has received no evidence to substantiate the allegations that Planned Parenthood has engaged in the sale of fetal tissue for profit.”<sup>5</sup> It is evidence of the majority's predisposition that Congress created the Panel even in the face of the heavy weight of these prior findings.
- The majority has violated multiple House rules and customs in the course of the Panel's efforts.
  - The majority refused to share information, refused to identify the source of documents, and “routinely [issued] unilateral subpoenas without required notice or consultation from Ranking Member Schakowsky.”<sup>6</sup>

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<sup>4</sup> Interview with Representative Jason Chaffetz, Chair, Committee on Oversight and Government Reform, U.S. House of Representatives. “Full interview with House Oversight Chairman,” *The Situation Room with Wolf Blitzer*, CNN. (2015, September 30). [Online], <http://www.cnn.com/videos/us/2015/09/30/jason-chaffetz-entire-interview-tsr.cnn/video/playlists/rep-jason-chaffetz-on-the-situation-room/>, accessed June 14, 2016.

<sup>5</sup> Memorandum from House Committee on Energy and Commerce Democratic Staff, to Subcommittee on Oversight and Investigations Democratic Members and Staff, “Update on the Committee's Ongoing Investigation of Planned Parenthood Federation of America,” (2015, September 9). [Online], <http://democrats-energycommerce.house.gov/sites/democrats.energycommerce.house.gov/files/Memorandum%20from%20Energy%20and%20Commerce%20Committee%20Democratic%20Staff%2C%2009.09.2015.pdf>, accessed June 14, 2016.

<sup>6</sup> Letter from Representative Jan Schakowsky, Ranking Member, Select Investigative Panel, U.S. House of Representatives, to Representative Paul Ryan, Speaker, U.S. House of Representatives (May 12, 2016). [Online], <https://selectpaneldems->

- Chair Blackburn has issued 30 of 36 subpoenas without the targeted individual or organization receiving any prior contact or request for voluntary information from the Panel.<sup>7</sup> As far as we are aware, there is no precedent for this tactic.
- The Chair ignored legitimate safety concerns raised by the American Association of the Advancement of Science,<sup>8</sup> the American Association of Medical Colleges, the Association of American Universities, the Association of Public and Land-grant Universities,<sup>9</sup> women’s health care providers, minority members of the panel<sup>10</sup> and others. It is common knowledge that threats to reproductive health care providers have surged in recent months. Even so, the Chair has proactively disseminated personal identifying information on such providers to the media, to anti-abortion extremists, and to the public at large.
  - In one case, the Chair issued ten subpoenas to investigate one doctor, including naming his family members, other doctors in the practice, and sending subpoenas to two hospitals, two small businesses, and three local emergency response entities.<sup>11</sup> The Chair went so far as to vilify the doctor in an accompanying media statement for performing abortions – a completely legal medical procedure.<sup>12</sup>
- The Panel’s actions have stopped potentially groundbreaking medical research work. Many leading non-partisan organizations have attested to the value of

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[energycommerce.house.gov/sites/default/files/2016\\_5\\_12\\_Dem\\_Letter\\_to\\_Speaker\\_Ryan.pdf](http://energycommerce.house.gov/sites/default/files/2016_5_12_Dem_Letter_to_Speaker_Ryan.pdf), accessed June 14, 2016.

<sup>7</sup> Memorandum from Select Investigative Panel Democratic Staff, to Democratic Members of the Select Investigative Panel, “Status Report,” (May 25, 2016). [Online], [https://selectpaneldems-energycommerce.house.gov/sites/default/files/2016\\_05\\_25\\_Select\\_Panel\\_Dem\\_Status\\_Update.pdf](https://selectpaneldems-energycommerce.house.gov/sites/default/files/2016_05_25_Select_Panel_Dem_Status_Update.pdf), accessed June 14, 2016.

<sup>8</sup> Letter from Rush Holt, Chief Executive Officer, American Association for the Advancement of Science, to Representative Marsha Blackburn, Chair, Select Investigative Panel, U.S. House of Representatives, and Representative Jan Schakowsky, Ranking Member, Select Investigative Panel, U.S. House of Representatives, (March 31, 2016). [Online], [http://www.aaas.org/sites/default/files/AAAS\\_FTR\\_March%202016.pdf](http://www.aaas.org/sites/default/files/AAAS_FTR_March%202016.pdf), accessed June 14, 2016.

<sup>9</sup> Letter from Darrell G. Kirch, M.D., President, Association of American Medical Colleges, Hunter R. Rawlings III, President, Association of American Universities, and Peter McPherson, J.D., President, Association of Public and Land-grant Universities, to Blackburn and Schakowsky, (March 31, 2016). [Online], <https://www.aamc.org/download/457826/data/aamc-aau-apluletteronfetaltissuesubpoenas.pdf>, accessed June 14, 2016.

<sup>10</sup> Letter from Representative Jan Schakowsky, Ranking Member, Select Investigative Panel, U.S. House of Representatives, to Representative Marsha Blackburn, Chair, Select Investigative Panel, U.S. House of Representatives, (February 11, 2016). [Online], [https://schakowsky.house.gov/uploads/2.11.2016%20SP%20Dems%20Letter%20to%20Chair%20\(attachments\).pdf](https://schakowsky.house.gov/uploads/2.11.2016%20SP%20Dems%20Letter%20to%20Chair%20(attachments).pdf), accessed June 14, 2016.

<sup>11</sup> Press Release from the Energy and Commerce Committee, the U.S. House of Representatives, “Select Panel Begins Investigation of Late-Term Abortionist LeRoy Carhart”. (2016, May 11). [Online], <https://energycommerce.house.gov/news-center/press-releases/select-panel-begins-investigation-late-term-abortionist-leroy-carhart>, accessed June 14, 2016.

<sup>12</sup> Ibid.

research using fetal tissue, and that this area of research holds promise for a wide range of infectious diseases, including HIV/AIDS, the Zika virus, as well as devastating conditions such as Parkinson's.<sup>13,14,15,16</sup>

The actions of the Select Investigative Panel are causing serious harm to individuals, to medical providers, and to medical research. The Panel has endangered patients and staff at health centers, which have become targets of vicious attacks. Millions in the United States and around the globe will suffer if research regarding cures and vaccines for devastating diseases continues to be delayed. All the while, the Panel has acted imperiously and in contravention of the rules and customs of the House. Given the unchecked harm and lack of transparency in use of taxpayer dollars, we urge you to disband the Select Investigative Panel in the name of fairness to those negatively impacted by this misguided endeavor.

Respectfully,

Aids United  
American Civil Liberties Union  
American Federation of State, County and Municipal Employees (AFSCME)  
Arab American Institute  
Coalition of Labor Union Women  
Communications Workers of America  
Citizens for Responsibility and Ethics in Washington  
Environmental Working Group  
GLBTQ Legal Advocates & Defenders (GLAAD)  
Human Rights Campaign  
Lambda Legal  
NAACP  
National Association of Social Workers  
National Center for Lesbian Rights  
National Center for Transgender Equality  
National Immigration Law Center  
National Immigration Project of the National Lawyers Guild  
National LGBTQ Task Force Action Fund

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<sup>13</sup> Congressional Research Service. (2015, July 15). "Fetal Tissue Research: Frequently Asked Questions." [Online], [https://www.plannedparenthood.org/files/3814/4716/5499/FAQ\\_Tissue\\_Research.pdf](https://www.plannedparenthood.org/files/3814/4716/5499/FAQ_Tissue_Research.pdf), accessed June 14, 2016.

<sup>14</sup> Letter from Dr. Benard P. Dreyer, FAAP, to Representative Marsha Blackburn, Chair, Select Investigative Panel, U.S. House of Representatives, and Representative Jan Schakowsky, Ranking Member, Select Investigative Panel, U.S. House of Representatives, (March 1, 2016). [Online], <http://docs.house.gov/meetings/IF/IF04/20160302/104605/HHRG-114-IF04-20160302-SD016.pdf>, accessed June 14, 2016.

<sup>15</sup> Open letter from AAMC – Association of American Medical Colleges. (March 18, 2016). [Online], <https://www.aamc.org/download/444248/data/statementinsupportoffetaltissueresearch.pdf>, accessed June 14, 2016.

<sup>16</sup> ACOG Statement in Support of Fetal Tissue Research. (March 30, 2016). [Online], <http://www.acog.org/About-ACOG/News-Room/Statements/2016/ACOG-Statement-In-Support-of-Fetal-Tissue-Research>, accessed June 14, 2016.

National Partnership for Women and Families  
National Women's Health Network  
National Women's Law Center  
Public Citizen  
SEIU  
Sierra Club  
The Center for Science and Democracy at the Union of Concerned Scientists  
Transgender Law Center

cc: Hon. Nancy Pelosi, Minority Leader  
Hon. Fred Upton, Chair, House Energy and Commerce Committee  
Hon. Frank Pallone, Ranking Member, House Energy and Commerce Committee  
Hon. Marsha Blackburn, Chair, Select Investigative Panel on Infant Lives  
Hon. Jan Schakowsky, Ranking Member, Select Investigative Panel on Infant Lives