

Hon. Steve King (IA)

Proposed Rule on Information Requests and Subpoenas

A proposal to amend the Rules of the House of Representatives with respect to information requests and subpoenas to executive branch officials by adding the following new clause at the end of Rule XI:

7. (a) Whenever any committee or subcommittee makes a written request pursuant to this rule to any department or agency of the Government for the production of such books, records, correspondence, memorandum, papers, and documents as it considers necessary, a senior responsible official shall either comply with that request or file written objections within the timeframe for response set forth in the request. Such a request shall state that it is made pursuant to this rule and shall be authorized by the chair of the committee. The agency or department will produce such documents, records, and information in any electronic or digital file format, including searchable formats, in which they are available to or can be produced by the agency, as may be requested by Congress.

(b) If the senior responsible official files written objections within the timeframe for response, the committee or subcommittee staff shall seek to resolve these objections through negotiation and accommodation. If a resolution cannot be reached, staff shall so certify to the chair of the committee.

(c) If the senior responsible official fails to file objections or make full production of responsive records and information within the timeframe for response, the chair of the committee may issue a subpoena to the senior responsible official for any unproduced records or information as to which no objection was filed.

(d) With respect to any portion of the written request to which timely objection was made, a subpoena to the senior responsible official may be issued, following conclusion of the negotiations referred to in paragraph (b), by—

(1) the chair, upon 48 hours notice to the ranking member, unless the ranking member objects within that period; or

(2) a vote of the committee.

(e) If the senior responsible official files written objections to a subpoena issued under paragraphs (c) or (d) within the timeframe for response, the committee may hold a hearing to consider these objections. The senior responsible official shall personally attend this hearing, but the committee chair may grant an exception for good cause shown.

(f) If the committee overrules some or all of the objections asserted, it may issue an order of compliance. The senior responsible official shall comply with such order within the timeframe for response unless, prior to such time, the

President, personally and in writing, makes a claim of executive privilege with respect to the records and information at issue.

(g) Upon direction of the committee chair, the House counsel shall bring an action in an appropriate Federal court to enforce the subpoena if—

(1) the senior responsible official has failed to comply with or file objections to the subpoena within the subpoena's timeframe for response; or

(2) if, within the timeframe for response to an order of compliance, the senior responsible official has failed to comply and the President has failed to make a claim of executive privilege.

(h)(1) If a senior responsible official fails to comply with a subpoena issued under this clause, it shall not be in order to consider any appropriation bill that would fund the position or office of the senior responsible official until the chair provides notice under subparagraph 2 that the matter is resolved. A point of order under this subparagraph shall lie notwithstanding the President's assertion of executive privilege.

(2) The chair of any committee described in sub-paragraph (1) shall notify the chair of the Committee on Appropriations of any department or agency that becomes subject to subparagraph (1) and shall also notify the chair of the Committee on Appropriations whenever such matter is resolved.

(i) If the conduct of the senior responsible official so warrants, the committee may make a referral to the Committee on the Judiciary for a preliminary inquiry into impeachment.

(j) If during any stage of the proceedings under this clause, in the judgment of the committee chair the resolution of privilege or other issues would be advanced by a third-party review of the records or information in dispute, the chair may direct the Comptroller General to perform such a review.

(k) Nothing in this clause prohibits the exercise of any other statutory, constitutional or other remedy, including civil enforcement as authorized by the House, with respect to any congressional subpoena or request for information, including in cases where the President makes a claim of executive privilege.

(l) As used in this clause:

(1) The term “senior responsible official” refers to an executive branch official with control or custody over the records or information sought and who is a civil officer subject to removal from office under Article II, section 4, of the Constitution, unless no such civil officer has control or custody over the records or information sought. As circumstances warrant, there may be more than one senior responsible official designated with respect to a written request or subpoena, and different officials may be designated for a written request and the

corresponding subpoena.

(2) The term “objections” shall include an appropriate privilege log, which shall describe with particularity the records or information withheld and the basis for withholding. The log shall be in such form as instructed by the committee or, in the absence of such instructions, shall be in the form that would be required by the rules and practice of the United States District Court for the District of Columbia. Failure to file an appropriate and timely privilege log shall be a basis for overruling or disregarding any objection.

(3) The “timeframe for response” with respect to any written request, subpoena or order of compliance shall be as stated therein, but shall not be less than 7 days for a written request, 7 days for a subpoena, or 10 days for an order of compliance. Any “timeframe for response” referred to in this clause may be extended by the committee chair for good cause shown.

Summary of Proposed Rule on Information Requests and Subpoenas

The proposed rule establishes orderly and efficient processes for administration of congressional information requests and subpoenas, resolution of executive branch objections and assertions of privilege, and imposition of sanctions on executive branch recalcitrance that make management of these issues easier for committee chairs and members. Key features of the rule, authored by Good Government Now Senior Fellow and former House senior legal counsel Michael L. Stern, include:

- 1) **Deadlines** - Establishes a consistent institutional policy on deadlines for executive branch responses to congressional information requests
- 2) **Written Objections** - Requires executive branch officials to assert all objections to information requests, subpoenas, compliance orders and assertions of privilege in writing and in a timely manner
- 3) **Negotiation** - Establishes an orderly, consistent, and effective system for early resolution of information disputes through *negotiation, primarily at the staff level*
- 4) **Subpoenas and Committee Rulings** - Provides a structured process for responding to subpoenas and for committees to rule on objections or assertions of privilege at the agency level
- 5) **Executive Privilege Accountability** - Requires assertions of executive privilege to be made by the president personally and in writing
- 6) **Enforcement Mechanisms** - for Disputes that Cannot be Resolved through Negotiation or Committee Ruling:
 - (a) **Civil enforcement action in federal court** - applies to disputes where there has been a clear procedural default by the executive and/or the president has declined to assert executive privilege
 - (b) **Congressional remedies** - can be used in addition or as an alternative to court enforcement. These include:
 - (i) **suspending appropriations to pay salaries** of executive officials responsible for withholding information from Congress.
 - (ii) **initiating impeachment inquiries** if the conduct of senior responsible executive officials warrants
 - (c) **All other statutory, constitutional or other remedies** - are preserved.

Six Advantages of the Proposed Rule on Information Requests and Subpoenas

- 1) **Congressional Control of Calendar** - Forces the executive branch to act on congressionally-mandated timetables, not their own, thereby preventing federal officials from “slow walking” congressional information requests unaccountably.
- 2) **Imposes Political Accountability on Executive Branch** - Holds the president and executive branch politically accountable for assertions of executive privilege and withholding information by requiring the president to take personal responsibility for these actions

formally in writing.

- 3) **Discourages Delaying Tactics and Meritless Objections** - Discourages executive branch officials from using vague, specious or obstructive assertions of executive privilege or other objections to withhold information from congress or as delaying tactics by requiring federal officials to submit all such claims in writing and subjecting them to scrutiny in a disciplined, formal, consistent process.
- 4) **Reduces Asymmetric Burdens on Congressional Committees and Chairs** - Under current practice, executive agencies can take advantage of the unstructured nature of congressional information requests and subpoenas to impose on the limited time of committee chairs and members, while the same matter is dealt with well below the level of top agency leadership. This rule will ease the burden on committees and committee chairs to administer information requests and subpoenas by enabling them to employ regularized procedures rather than continually having to confront difficult contingencies with ad hoc remedies case by case.
- 5) **Uses Courts to Enhance Congressional Capacity without Sacrificing Institutional Interests** - courts are well positioned to enforce congressional subpoenas when there is no fundamental dispute over Congress's constitutional authority. However, in cases where the president has raised a constitutional privilege, Congress should not empower courts to become an arbiter between the political branches. In those cases Congress must depend on its own constitutional powers to defend its institutional prerogatives vis a vis the executive branch.
- 6) **Improves Efficiency** - Creates efficiencies in administrative processes that will reduce the time and effort necessary to accomplish oversight and investigative tasks as relevant organizational routines are developed and refined.

Summary of Inherent Contempt Enforcement Rule Proposal for the U.S. House

History and Background

1) The proposed rule would establish an inherent contempt enforcement procedure for the U.S. House of Representatives and is authored by Good Government Now Senior Fellow and congressional oversight expert Mort Rosenberg.

2) **Inherent contempt** enforcement is the traditional practice of the U.S. Congress and other parliamentary bodies of defending their institutional authority by holding trials to convict and sanction individuals who obstruct the legislative process.

3) **The U.S. Supreme Court** has ruled repeatedly and unequivocally that the authority to arrest, conduct trials of, and directly punish contemnors is inherent in the legislative power of Congress and is an essential institutional self-protective mechanism.

4) **Inherent contempt enforcement has been the most effective** of the three methods available to Congress for defending its institutional prerogatives against contumacious behavior and ensuring timely compliance with its information demands. Congress employed it highly successfully and almost exclusively until 1935, even after enactment of the criminal contempt statute in 1857. From 1857-1934, at least 28 witnesses complied with congressional information demands after being threatened with or charged in inherent contempt actions and two executive branch officials were arrested pursuant to contempt citations.

5) **Congress stopped employing inherent contempt after 1935 for two reasons:** (a) The associated **trials** at the bar of either house **consumed too much floor time**, and (b) The ***habeas corpus suits*** that invariably accompanied the arrests and detentions of alleged contemnors **delayed the process excessively**.

6) **DOJ /OLC declared inherent contempt and statutory criminal enforcement against executive branch officials unconstitutional in opinions issued in 1984 and 1986**, despite strong case law, history, and congressional practice to the contrary. These arguments are based on misguided legal theory that erroneously concludes that inherent and criminal enforcement are unconstitutional, and represent a calculated effort by DOJ to undermine congressional oversight by denying Congress recourse to its strongest enforcement mechanisms and channeling it toward an inferior civil enforcement option incapable of adequately defending its institutional interests.

7) **Emergence of an Oversight Crisis.** Aggressive DOJ opposition to inherent and statutory criminal enforcement, the circumstantial congressional drift away from the inherent contempt procedure, and a variety of other systemic factors have produced a crisis in the effectiveness of congressional oversight.

Summary of Proposal

1) **Solution: A Revised Inherent Contempt Procedure.** The modified inherent contempt procedure we propose addresses the crisis in oversight effectiveness and solves the problems associated with the traditional inherent contempt method with **three changes**:

- a) **Select Committees:** Time consuming preparatory and investigative work is moved off the House floor and assigned to a Select Committee instead,
- b) **Summary Trials:** Floor proceedings are limited to a summary trial that can be completed quickly, and
- c) **Monetary Penalties Only:** Punishments imposed on contemnors are restricted to monetary fines only to avoid triggering *habeas corpus* actions.

Key Process Features

1) Committee Report of Initial Finding – Following an appropriate period of investigation, negotiation and attempted accommodation, the committee prepares a report explaining why it believes the repudiation of its compliance order by the executive branch official constitutes contempt of Congress and related matters. The chair transmits this committee report to the Speaker along with the request to form the Select Committee.

2) Committee Chair Requests Speaker to Form Bipartisan Select Committee – Upon the failure of a senior responsible official to comply with a committee order to produce documents or testimony, the committee chair requests the Speaker to form a Select Committee of five members, three appointed by the Speaker and two by the Minority Leader, to assess whether the committee’s investigation and conclusion that executive branch non-compliance rises to the level of contempt of Congress.

3) Select Committee Completes Assessment and Preparatory Work – The Select Committee assesses the alleged contemptuous behavior to determine whether it rises to the level of a contempt of the House and a trial at the bar of the House is warranted. The Select Committee prepares a report of its findings for the Speaker. If the Committee finds that a trial is warranted, it must also prepare a detailed contempt resolution along with a recommendation for the monetary fine constituting appropriate punishment.

4) Select Committee Assessment Process

- a) House General Counsel assists the Select Committee in conducting its assessment, which may include further investigation.
- b) Witnesses have the right to private legal counsel, but may not be represented by government lawyers, even if they are government employees
- c) All testimony of contemnor and witnesses taken *in camera*
- d) No one other than Select Committee members and staff, House General Counsel staff, and witnesses and their legal representatives may attend the proceedings

5) Summary Floor Trial – The House will conduct a summary or expedited floor trial if the Select Committee recommends consideration of a resolution of contempt.

6) Procedures for Summary Floor Trial

- a) **Contempt Resolutions are Treated as Rule IX Questions Requiring Precedence** – Any contempt resolution recommended by the Select Committee will be reported to the House by the Speaker and treated as a Rule IX question of privilege of the House requiring precedence over all other questions until resolved and promptly scheduled for floor consideration.
- b) **House General Counsel presents case for passage of the contempt resolution.**
- c) **The alleged contemnor and counsel may present a defense.**
- d) Time may be allotted for questions by members from the floor.
- e) **House votes on passage of the contempt resolution** after the time allotted for presentations, questions, and debate.
- f) **House holds a second vote on imposition of a fine** if the contempt resolution passes.

7) Penalties and Enforcement

- a) **\$25,000 minimum fine, perhaps increased in \$25,000 increments daily** until the contempt is purged or the maximum penalty of \$250,000 is reached; amount of fine depends on timeliness of compliance.
- b) **House General Counsel authorized to file suit to freeze contemnor’s assets** immediately upon passage of contempt resolution.

c) House General Counsel files suit to recover accrued penalties upon expiration of the 20-day compliance period

8) Points of Order on Appropriations – The rule provides for points of order against the appropriations of any agency whose employee is found guilty of contempt of Congress as follows:

- a) **Reduction of the salary of the agency head** by the amount of any fine imposed by Congress in an inherent contempt conviction of an agency employee
- b) **Reductions of appropriations for other salaries, offices, or divisions of the agency or other agencies as the committee chair may designate.**

Benefits of the Proposed Revised Inherent Contempt Procedure

1) Revives and Revises Congress’ Most Powerful Contempt Enforcement Mechanism. Modernizes the historical inherent contempt process to make it usable and seemly by employing an investigative Select Committee to save floor time, conducting a summary floor trial, and replacing arrest and detention with monetary fines as the primary sanction imposed on contemnors.

2) Affirms Congress’ Absolute Authority to Rule on All Claims of Privilege. Affirms that Congress has absolute authority and discretion to rule in the first instance on all objections and claims of privilege asserted in response to its demands for information from the executive.

3) Repudiates Illegitimate Executive Branch Stratagems to Disempower Congressional Contempt Enforcement. Reasserts congressional power by rejecting unsound executive branch arguments that inherent enforcement is unconstitutional and effectively resists manipulative executive channeling of Congress toward inferior civil enforcement actions incapable of effectively defending its oversight interests in a timely manner.

4) Imposes Consequential Sanctions. Enables the House to swiftly impose consequential sanctions on contemptuous executive branch officials.

5) Leverage. Enables the House to restore leverage over obstructive or recalcitrant executive branch officials in oversight disputes by having recourse to powerful sanctions.

6) Speed. Enables the House to obtain information essential to its oversight responsibilities more quickly than other available remedies.

7) Independent Action. Enables the House to act independently without the assistance of other branches or the Senate to resolve oversight disputes.

8) Ease of Adoption and Execution. Adoption and execution of the new procedure requires only promulgation of a House rule and minimal need for judicial assistance.

9) Every Step of the Proposed Rule is Supported by Supreme Court and lower federal court precedent. The Supreme Court has sustained the constitutional validity and necessity of inherent contempt as a self-protective institutional mechanism at least four times between 1821 and 1935. A Supreme Court ruling in 1993 upheld the power of the Senate to establish its own rules for the conduct of an impeachment and approved the appointment of a special committee to make findings of fact and recommendations before the floor trial, which is analogous to the proposed Select Committee. The Supreme Court and appellate courts have approved of practices and processes Congress has adopted for oversight and investigative hearings that do not accord with the full panoply of procedural rights enjoyed by witnesses in adjudicatory proceedings. Appellate court rulings and historic congressional practice have established that acceptance of common law privileges and assertions of the presidential communications privilege rest in the initial and sole discretion of jurisdictional committees and may be contested only during the defense of statutory criminal contempt or inherent proceedings.

Inherent Contempt Procedure Rule

Amending the Rules of the House of Representatives with respect to the enforcement of committee subpoenas to executive branch officials
Resolved, That Rule XI of the Rules of the House of Representatives is amended by adding at the end the following new clause:

Additional Subpoena Enforcement Power

7. (a) Whenever any committee or subcommittee makes a written request to any department or agency of the Government for the attendance of named witnesses and/or the production of such books, records, correspondence, memorandum, papers, documents, and electronic or digital files, data or information, in any form, including any electronic or digital files, data or information in any searchable formats in which they are available to or can be produced by the agency, as the committee or subcommittee considers necessary, a senior responsible official shall either comply with that request or file written objections within the time frame for response set forth in the request.

(b) If the senior responsible official files written objections within the timeframe for response, the committee or subcommittee shall seek to resolve these objections through negotiation and accommodation. If a resolution cannot be reached, staff shall so certify to the chair of the committee.

(c) If the senior responsible official fails to file objections or make available the designated witnesses and/or full production of responsive records and information within the timeframe for response, the chair of the committee may issue a subpoena to the senior responsible official for any unproduced records or information as to which no objection was filed, and to any designated witness to which no objection was filed.

(d) With respect to any portion of the written request for documents and witnesses to which timely objection was made, a subpoena to the senior

responsible official and to designated witnesses, may be issued, following conclusion of the negotiations referred to in paragraph (b), by—

- (1) the chair, upon 48 hours notice to the ranking member, unless the ranking member objects during that period; or
- (2) a vote of the committee.

(e) If the senior responsible official files written objections to a subpoena issued under paragraphs (c) or (d) within the timeframe for response, the committee may hold a hearing to consider these objections. The senior responsible official shall personally attend this hearing, but the committee chair may grant an exception for good cause shown.

(f) If the committee overrules some or all of the objections asserted, it may issue an order of compliance which states the grounds for rejection of the objections, the date for compliance, and an advisement of the legal consequences of a failure to comply. The senior responsible official shall comply with such order within the timeframe for response unless prior to such time, the President, personally, and in writing, makes a claim of executive privilege with respect to the records, information and witnesses at issue.

(g) On the failure of the senior responsible official to comply with the order of compliance the chairman of the committee shall direct a request to the Speaker of the House to convene a Select Committee to assess whether the noncompliance rises to the level of a breach of the constitutional privilege and duty of the institution to be fully informed in order to properly perform its legislative responsibilities without undue obstruction and thereby warrants condemnation and punishment by means of a trial before the bar of the House. The request shall be accompanied by a committee report detailing the history and nature of the controversy and attempts at accommodation; the legal issues raised; the legislative need for the information sought; and the legal and practical reasons for the determination that the objections were rejected.

(h) On receipt of the chairman's request and report, the Speaker shall appoint a Select Committee composed of five Members, three designated by the Speaker and two by the Minority Leader, charged with the task of reviewing the substantiality of the committee's finding of a breach of privilege. The Select Committee shall have the power to send for persons and papers, and to examine witnesses, and report to the Speaker as soon as possible [or by a specific date certain established by the Speaker] an assessment of all the facts and circumstances of the matter and a recommendation as to whether or not a resolution of contempt of Congress should be entertained and a trial at the bar of the House be held. If the Select Committee concludes that a contempt of Congress proceeding is warranted, its report is to be accompanied by a detailed resolution of contempt and a recommendation as to what order and manner of degree of monetary punishment, if any, it is proper for the House to invoke for the vindication of its institutional privilege.

(i) The Office of the House General Counsel will provide all necessary legal assistance in the conduct of the Select Committee's assessment. The testimony of the alleged contemnor and all witnesses called by the contemnor and the Select Committee shall be taken *in camera*. At least three members of the Select Committee must be present for the taking of testimony unless the witness waives that requirement, in writing, or the Select Committee expressly authorizes it. The Select Committee in taking testimony will follow the procedures for taking depositions and resolving disputes over objections to questions that are prescribed by the House Rules Committee for such testimonial proceedings. [see 162 Cong. Rec. H536-37 (daily ed. Jan. 13, 2017)]. The proceedings will be transcribed and available to the witnesses. Witnesses have the right to be accompanied only by non-government private counsel (even if the witness is a government official or employee). No one other than the Select Committee members, designated Select Committee staff, House General Counsel staff, and the witness and his or her counsel are permitted to attend the proceeding.

(j) If the Select Committee recommends consideration of a resolution of contempt, it shall be reported to the House by the Speaker and treated as a Rule IX question of privilege of the House requiring precedence over all other questions until resolved and promptly scheduled for floor consideration. The House General Counsel shall present the case for passage of the resolution. The alleged contemnor shall be present and may be accompanied by counsel, either of whom may present a defense to the charge. Time may be allotted for questions by members from the floor. At the conclusion of the allotted period for presentations, questions and debate, a vote on passage of the resolution will be taken. If the vote is for passage, a second vote will be taken on the Select Committee's recommendation for imposition of a monetary penalty. A proffer of an amendment to alter the recommended penalty is in order.

(k) Rules of Construction. Nothing in this Clause shall be interpreted to diminish Congress's inherent authority or previously established methods and practices for enforcing compliance with congressional subpoenas, nor shall anything in this Clause be interpreted to establish Congress's acceptance of any privilege or other legal basis for noncompliance with a congressional subpoena. More particularly:

(1) The acceptance of assertions of the common law attorney-client privilege is a matter of absolute congressional discretion and rests on a committee's weighing considerations of legislative need, public policy, and the statutory duty of congressional committees to engage in continuous oversight of the application, administration, and execution of laws falling within their jurisdiction, against any possible injury to the witness. A committee may consider and evaluate, *inter alia*: the strength of a claimant's assertion in light of the pertinency of the documents or information sought to the subject of the investigation; the practical unavailability of the documents or information from any other source; the possible unavailability of the privilege to the claimant if it were to be raised in a judicial forum; and the committee's assessment of the

cooperation of the witness in the matter. A valid claim of such privilege, free of any taint of waiver, exception or other mitigating circumstance, would merit substantial weight. Any serious doubt, however, as to the validity of the asserted claim would diminish its compelling character.

(2) Acceptance of the common law deliberative process privilege by executive departments and agencies is subject to the absolute discretion of any committee that demonstrates that it has jurisdiction and authority over the subject matter at issue and that the information sought is necessary for its investigation and is conclusively overcome by a plausible showing of fraud, waste, abuse or maladministration.

(3) The common law privilege of attorney work product immunity is available only if there is an anticipation of possible criminal or civil litigation or an administrative proceeding where there are discovery rights. Congressional hearings are not judicial or administrative proceedings and do not afford witnesses discovery rights.

(4) The presidential communications privilege is a qualified constitutional privilege that allows the president to preserve the confidentiality of information and documents that reflect presidential decision-making and deliberations that the president believes should remain confidential. However, the communications in question must relate to a “quintessential and non-delegable presidential power” that requires direct presidential decision-making, such as the power to appoint and remove executive officials, the commander-in-chief power, the sole authority to receive ambassadors and other public ministers, and the pardon power. The privilege does not cover matters handled within the broader executive branch beyond the Executive Office of the President. Therefore it does not cover decision-making regarding the implementation of laws that delegate policymaking authority to heads of departments or agencies, or which allow presidential delegations of authority. The subject communication must be authored and solicited by the president or a close White House adviser. The adviser must be

in operational proximity to the president, thereby limiting coverage of the privilege to the administrative boundaries of the Executive Office of the President and the White House. The privilege is a qualified one that may be overcome by a showing that the information sought likely contains important evidence and is unavailable elsewhere to an appropriate investigative authority. The president may not prevent such a showing of need by granting absolute immunity to witnesses necessary to show that important evidence exists.

(5) Statutory confidentiality requirements that do not expressly prohibit congressional access to the covered information may not be utilized to impede jurisdictional committee access.

(l) As used in this Clause:

(1) The term “senior responsible official” refers to an executive branch official with control or custody over the records or information or the subordinate officials or employees that are sought and who is a civil officer subject to removal from the office under Article II, section 4, of the Constitution, unless no such civil officer has control or custody over the records or information sought.

(2) The term “objections” shall include an appropriate privilege log, which shall describe with particularity the records or information withheld and the basis for withholding. The log shall be in such form as instructed by the committee or, in the absence of such instruction, shall be in the form that would be required by the rules and practice of the United States District for the District of Columbia. Failure to file an appropriate and timely privilege log shall be a basis for overruling or disregarding any objection.

(m) Penalties

(1) Upon House passage of the resolution of contempt the contemnor shall be assessed by the body the penalty of a monetary fine of no less than \$25,000 and no more than \$250,000. The amount of the ultimate penalty will depend on timeliness of the contemnor’s compliance in providing information withheld. The initial penalty of \$25k could be increased by \$25k increments after

the passage of a set number of calendar days until the 250K maximum is reached, perhaps no longer than 20 days. On House passage of the resolution of contempt, the House General Counsel is authorized to file an immediate suit for a judicial order to freeze the contemnor's assets. On expiration of the 20-day period for compliance, the House General Counsel is authorized to file suit for recovery of any accrued penalties.

(2) No appropriated funds, funds provided from any accounts in the Treasury, funds derived from collection of fees, or other government funds shall be used to pay a monetary penalty imposed by the House under this Clause.

(3) No person, group, entity, organization, or corporation may make payments to, reimburse or offer remuneration of any kind to compensate a contemnor for, or assist a contemnor in paying, any portion of a monetary penalty imposed by the House of Representatives. Nor shall any person, group, entity, organization, or corporation be permitted to pay any monetary penalties directly on behalf of a contemnor. The House may regard such actions to compensate, reimburse or provide remunerations or payments to a contemnor as an obstruction of its investigative and information gathering prerogatives and responsibilities and a contempt of the House.

(4) There could be a point of order to allow a motion to reduce the next appropriation for the department or agency involved, to wit:

Point of Order.

(a) In General

(1) Reduction of Salary—It shall not be in order in the House of Representatives to consider a bill, amendment, or resolution providing an appropriation for an agency where the House has found that a senior responsible official of that agency has been found guilty of contempt of Congress pursuant to the provisions of this Clause unless the appropriations for salary and expenses for the head of the relevant agency contains a provision reducing the salary of the agency head by the amount equal to the monetary penalty assessed. If the penalty

exceeds the annual salary of the agency head, then the point of order shall continue until the remaining amount is subtracted from the salary of the agency head.

(2) The committee chair may lay a point of order against any appropriations measure that would fund one or more of the following (a) the position of the senior responsible official; (b) the salaries of other officials in the office of the senior responsible official or other offices or divisions within the agency of the senior responsible official or other agencies; (c) the office, section or division of the senior responsible official; (d) other offices, sections or divisions of the senior responsible official's agency; and (e) designated offices, sections, or divisions of other agencies.

(3) Compliance—Paragraphs (1) and (2) shall not apply if the agency has complied with the information demands that were the subject of the contempt proceeding and the contemnor has paid the assessed monetary penalty.