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HOUSE OF REPRESENTATIVES {

REPORT

116-__

IN THE MATTER OF ALLEGATIONS
RELATING TO REPRESENTATIVE
MATT GAETZ

R E P O R T
OF THE
COMMITTEE ON ETHICS



August 21, 2020.—Referred to the House Calendar and ordered to
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**116TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

**IN THE MATTER OF ALLEGATIONS RELATING TO
REPRESENTATIVE MATT GAETZ**

AUGUST 21, 2020

Mr. DEUTCH, from the Committee on Ethics, submitted the following

REPORT

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ONE HUNDRED SIXTEENTH CONGRESS

U.S. House of Representatives

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LETTER OF TRANSMITTAL

August 21, 2020

The Honorable Cheryl L. Johnson
Clerk, House of Representatives
Washington, DC 20515

Dear Ms. Johnson:

Pursuant to clauses 3(a)(2) and 3(b) of Rule XI of the Rules of the House of Representatives, we herewith transmit the attached report, "In the Matter of Allegations Relating to Representative Matt Gaetz."

Sincerely,

Theodore E. Deutch
Chairman

Kenny Marchant
Ranking Member

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**116TH CONGRESS, 2ND SESSION
U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON ETHICS**

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REPRESENTATIVE MATT GAETZ**

August 21, 2020

Mr. DEUTCH, from the Committee on Ethics, submitted the following

R E P O R T

In accordance with House Rule XI, clauses 3(a)(2) and 3(b), the Committee on Ethics (Committee) hereby submits the following Report to the House of Representatives:

I. INTRODUCTION

On March 13, 2019, the Committee received a Member complaint against Representative Matt Gaetz. The Committee then began a review, pursuant to Committee Rules 16(c) and 18(a), into allegations that Representative Gaetz sought to threaten, intimidate, harass, or otherwise improperly influence the President’s former attorney, Michael Cohen, in connection with Mr. Cohen’s testimony before a congressional committee. The allegations relate to a message posted by Representative Gaetz on his unofficial Twitter account the day before Mr. Cohen was set to testify before the House Committee on Oversight and Reform.

Because Representative Gaetz initially declined to testify before the Committee, the Committee was unable to dispose of the complaint in a timely fashion and therefore was required, pursuant to House Rule XI, clause 3(b)(2), and Committee Rule 16(d), to establish an Investigative Subcommittee (ISC) and forward the complaint against Representative Gaetz to the ISC for consideration. The ISC conducted a review of the information in the complaint and was ultimately able to obtain Representative Gaetz’s testimony. On February 3, 2020, the ISC transmitted its Report to the full Committee, summarizing its findings and recommendations. The Committee thanks the Members of the ISC for their efforts and attention to this matter.

The ISC found that Representative Gaetz’s tweet to Mr. Cohen did not violate witness tampering and obstruction of Congress laws, but Representative Gaetz’s actions did not reflect creditably upon the House of Representatives, in violation of House Rule XXIII, clause 1 of the Code of Official Conduct. The ISC noted that a grievance committee of the Florida Bar found Representative Gaetz’s tweet to be “unprofessional, reckless, insensitive, and [that it] demonstrated poor judgment.”¹ The Florida Bar grievance committee concluded that, “[w]hile

¹ ISC Report at 6.

[Representative Gaetz’s] conduct in this instance did not warrant formal discipline, . . . it was not consistent with the high standards of [its] profession, and . . . [his] actions do not reflect favorably on [Representative Gaetz] as a member of The Florida Bar.² Likewise, Representative Gaetz himself told the ISC that he was “not comfortable with the language I used,” that he “acted improperly regarding [his] own standards,” and that he was “sorry for doing so.”³ The ISC joined Representative Gaetz and the Florida Bar grievance committee in finding Representative Gaetz’s tweet to Mr. Cohen did not meet the standards by which Members of the House should govern themselves and recommended that the Committee admonish Representative Gaetz for his conduct.⁴

In light of the above, on July 29, 2020, the Committee unanimously voted to adopt this Report, admonish Representative Gaetz, and release the ISC Report, which is transmitted as an appendix to this Report.⁵

II. PROCEDURAL HISTORY

On March 13, 2019, the Committee received a letter from Representative Kathleen Rice requesting an investigation into allegations involving Representative Gaetz.⁶ On March 26, 2019, the Chairman and Ranking Member of the Committee, pursuant to House Rule XI, clause 3(j) and Committee Rule 16(a), determined that the letter submitted by Representative Rice met the Committee’s requirements for what constitutes a complaint.⁷ Representative Gaetz declined the Committee’s invitation to testify and the Committee was unable to resolve the matter by the rule-based deadline.⁸ Accordingly, an ISC was formed pursuant to House Rule XI, clause 3(b)(2), and Committee Rule 16(d).⁹ On June 28, 2019, the Committee publicly announced the ISC’s formation and membership.

The ISC met a total of six times and interviewed Representative Gaetz.¹⁰ The ISC also reviewed over 160 pages of materials including information from the Florida Bar.¹¹ On January 28, 2020, the ISC unanimously voted to adopt its Report and transmit it to the Committee.¹² The ISC did not recommend the Committee impose a sanction in this matter but did recommend that Representative Gaetz be admonished for his conduct.¹³ The Committee considered the ISC’s Report and on July 29, 2020, unanimously voted to release the ISC’s findings and issue this Report.

² *Id.*

³ *Id.*

⁴ *Id.* at 9-11.

⁵ *See* Appendix A.

⁶ ISC Report at 2.

⁷ *Id.*

⁸ *Id.*; Committee Rule 16(b) (establishing the rules-based deadlines for handling a properly executed complaint).

⁹ ISC Report at 2.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *See* Committee Rule 24 (discussing Committee level sanctions, House level sanctions, and the prerequisite steps necessary for implementation of each).

III. FINDINGS AND CONCLUSIONS

On February 26, 2019, Representative Gaetz drafted and posted a tweet directed at the President's former personal attorney Michael Cohen.¹⁴ The post stated:

Hey @MichaelCohen212 – Do your wife & father-in-law know about your girlfriends? Maybe tonight would be a good time for that chat. I wonder if she'll remain faithful when you're in prison. She's about to learn a lot...¹⁵

Later that day, following public backlash for the post, Representative Gaetz deleted the tweet and stated that it was not his intent to threaten Mr. Cohen and that he should have “chosen words that better showed [his] intent.”¹⁶ Representative Gaetz reiterated that it was not his intent to threaten Mr. Cohen nor to disrupt his testimony in both conversations with reporters and in his sworn testimony before the ISC.¹⁷ Representative Gaetz also expressed remorse for his actions, explaining that he was uncomfortable with any perception that he intended to threaten Mr. Cohen or smear his family and that his “tweet did not conform to my own standard that I maintain for myself and for my conduct.”¹⁸

The ISC reviewed Representative Gaetz's conduct and did not find that he had the requisite intent to establish a violation of the federal criminal statutes prohibiting witness tampering and obstruction of Congress.¹⁹ The ISC did find, however, that Representative Gaetz's conduct violated House Rule XXIII, clause 1, which requires Members to act at all times in a manner that reflects creditably in the House.²⁰

Not all actions that may influence a witness or otherwise impact a congressional proceeding are a violation of clause 1. When such actions foreseeably risk improperly interfering with such a proceeding, however, they may run afoul of that provision.²¹ The ISC's Report reflects that Representative Gaetz's specific actions, and in particular, his statement that Mr. Cohen's wife was “about to learn a lot,” coupled with the timing of his tweet the day before Mr. Cohen was set to testify, were an appropriate cause for concern and review. Likewise, the Florida Bar grievance committee found Representative Gaetz's tweet to be “unprofessional, reckless, insensitive, and [that it] demonstrated poor judgment,” and that his “actions do not reflect favorably on [him] as a

¹⁴ ISC Report at 3.

¹⁵ *Id.*

¹⁶ *Id.* at 4.

¹⁷ *Id.* at 4-5 (citing Representative Gaetz's sworn testimony that it “never occurred” to him that his tweet would impact Mr. Cohen's willingness to testify, or the substance of his testimony).

¹⁸ *Id.* at 4-6 (“I am not comfortable with the language I used, with the reference that I deployed in this tweet, and that's why, by virtue of inconsistency with my own standards, I deleted it and apologized publicly and privately.”).

¹⁹ As part of its review, the ISC considered Representative Gaetz's appearance at the Oversight Committee hearing room on the day of Mr. Cohen's testimony (Representative Gaetz is not a member of the Oversight Committee). *Id.* at 5. The ISC similarly did not find that that his attendance at the hearing demonstrated an intent to improperly interfere with the proceeding, and noted that “Members of Congress are free to attend open congressional hearings for Committees upon which they do not sit – as are the general public.” *Id.* at 9.

²⁰ *Id.* at 9-11.

²¹ See Comm. on Ethics, *In the Matter of Allegations Relating to Representative Judy Chu*, H. Rept. 113-665, 113th Cong. 2d Sess. 10-11 (2014).

member of The Florida Bar.”²² In light of the above, the Committee admonishes Representative Gaetz.

As the ISC recognizes in its report, the Committee is not the social media police. The Committee has acknowledged that the fast-pace and wide dissemination of electronic communications, while in some ways a boon to greater transparency between Members and their constituents, can lead to embarrassing mistakes and unintended consequences.²³ Not every social media misstep requires Committee action. As the ISC notes, however, the requirement that Members conduct themselves at all times in a manner that reflects creditably on the House extends to their electronic communications.²⁴ Members are, accordingly, cautioned to exercise sound judgment when using social media.

Following the publication of this Report, the Committee will take no further action in this matter, and considers it closed.

IV. STATEMENT UNDER HOUSE RULE XIII, CLAUSE 3(c)

The Committee made no special oversight findings in this Report. No budget statement is submitted. No funding is authorized by any measure in this Report.

²² ISC Report at 6.

²³ See Comm. on Ethics Memorandum for all Members, Officers and Employees, *Intentional Use of Audio-Visual Distortions & Deep Fakes* (Jan. 28, 2020).

²⁴ ISC Report at 11.