

June 2, 2017

Honorable Susan W. Brooks  
Chair, House Committee on Ethics  
1015 Longworth House Office Bldg.  
Washington, DC 20515

Honorable Ted Deutch  
Ranking Member, House Committee on Ethics  
1015 Longworth House Office Bldg.  
Washington, DC 20515

RE: Assault Charges Pending Against Rep. Gregory Gianforte (R-MT)

Dear Chairwoman Brooks and Ranking Member Deutch:

We write on behalf of PEN America, Free Press Action Fund, Reporters Without Borders and the Society of Professional Journalists—groups committed to defending freedom of the press and free expression—to note the committee’s obligation to initiate an inquiry into the assault of a reporter by newly elected Rep. Gregory R. Gianforte (R-MT), pursuant to House Ethics Committee Rules 18(e)(2).

As you know, Rule 18(e)(2) requires the committee to, within 30 days of a member being charged with any crime, including a misdemeanor, either initiate an ethics investigation or submit a report to the House explaining why it has not.

Though ordinarily applied to members who were serving in office at the time they were charged with a crime, the plain terms of Rule 18(e)(2) are clear. Rep. Gianforte has been elected to Congress. He has been charged with a crime. The committee must either initiate an investigation, or submit a report to the full House explaining why it has not, within 30 days of the charge, which was filed on Wednesday, May 24, 2017.

The requirement in the rules for swift action is particularly appropriate in this case given the highly public and very troubling nature of Rep. Gianforte’s attack on reporter Ben Jacobs, and its relation to a recent pattern of escalating rhetoric and attacks on American journalists. We are unaware of any instance in recent memory of such a severe physical assault by a member of Congress on anyone, let alone against a journalist. Indeed, to our knowledge, there has not been a significant act of violence by a House member since shortly after the Civil War.

With respect to Rep. Gianforte’s violations of the House ethics rules, it is hard to imagine a crime that would reflect greater discredit on the House of Representatives than an unprovoked physical assault on a journalist who was simply doing his job, posing a question about a policy matter of pressing significance to the American people.

Inaction by the Ethics Committee would send a devastating signal that such conduct is acceptable, a message that would reverberate in every level of government here in the United States as well as around the world, and particularly in places that previously regarded the United States as a global standard-bearer for press freedom. Moreover, following the assault, Rep. Gianforte released a statement blaming Jacobs for the confrontation and referring to him in politically tinged terms. Rep. Gianforte's self-serving account was quickly proved false by an audio recording of the incident and an eyewitness report by a crew from Fox News who were present for the encounter.

Accordingly, we would submit that Rep. Gianforte has violated clauses 1 and 2 of House Rule 23, which, respectively, require members to behave at all times in a manner that reflects creditably on the House of Representatives, and to comply with the "spirit and letter" of the House rules. Rule 18(e)(2) was intended to strengthen the enforcement of these ethical rules by requiring prompt action by the committee upon the filing of an indictment for any crime, including a misdemeanor.<sup>1</sup>

We also note that the Gianforte assault comes on the heels of a series of troubling reports of physically aggressive acts against journalists by government officials. For instance, in West Virginia, a reporter for the Public News Service was arrested on May 9 for asking Health and Human Services Secretary Tom Price a question about the American Health Care Act.<sup>2</sup> In Washington on May 18, a reporter with CQ Roll Call was pinned against a wall in a public hallway at the Federal Communications Commission, and then forcibly ejected from the building, for attempting to ask a commissioner a question.<sup>3</sup>

It is incumbent on this committee to clearly communicate that such behavior by our elected representatives is unethical and serves to corrode basic democratic norms embodied in the Constitution that every member has sworn to uphold. We respectfully request confirmation from the committee that it will follow Rule 18(e)(2) and launch an investigation with respect to Rep. Gianforte's case.

Please note that we have also filed a separate complaint with the Office of Congressional Ethics and a letter to President Donald J. Trump on this matter, both of which are enclosed herein.

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<sup>1</sup> See H. Res. 451, 110th Cong. (2007) (finding that the 110th Congress, in its first day of session, strengthened the rules concerning the ethical behavior of members of the House and that illegal, unethical, or inappropriate conduct by members of the House will not be tolerated).

<sup>2</sup> Christopher Mele, *Reporter Arrested in West Virginia After Persistently Asking Questions of Tom Price*, N.Y. Times, May 10, 2017, available at <https://www.nytimes.com/2017/05/10/business/media/reporter-arrested-tom-price.html>.

<sup>3</sup> Christopher Mele, *Roll Call Reporter Says F.C.C. Security Pinned Him to a Wall*, N.Y. Times, May 19, 2017, available at <https://www.nytimes.com/2017/05/19/us/politics/fcc-security-reporter.html>.

Thank you in advance for your consideration, and we look forward to your response. Please do not hesitate to contact Gabe Rottman, PEN America's Washington Director, at [grottman@pen.org](mailto:grottman@pen.org) or 202-808-3514, with any questions. He can be reached by mail at 1015 15th St. NW, 6th Floor, Washington, D.C. 20005.

Sincerely,

Suzanne Nossel, Executive Director  
Gabriel Rottman, Washington Director  
PEN America

Craig Aaron, President and CEO  
Matt Wood, Policy Director  
Sandy Fulton, Government Relations Manager  
Free Press Action Fund

Delphine Halgand, USA Director  
Margaux Ewen, Advocacy and  
Communications Director  
Reporters Without Borders

Lynn Walsh, National President  
Society of Professional Journalists

cc: President Donald J. Trump  
Omar Ashmawy, Staff Director & Chief Counsel, Office of Congressional Ethics

Encls.