

2017 Luncheon Keynote

USING PROSECUTORIAL SKILLS IN THE TRUMP-RUSSIA INVESTIGATION

Rep. Eric Swalwell

U.S. Representative from California's
15th Congressional District

Rep. Eric Swalwell (CA-15), ranking member of the CIA Subcommittee of the House Permanent Select Committee on Intelligence, will discuss how his legal background - a law degree from the University of Maryland, and seven years as an Alameda County Deputy District Attorney - guides his work as a leader in the investigation of Russia's interference in the 2016 presidential election.

Speaker Biography

[Link to Eric Swalwell Biography](#)

Growing up in what now is California's Fifteenth Congressional District taught Eric Swalwell a lot about hard work, strong principles, and planning for a brighter future.

The oldest of four boys and son to Eric Sr., a retired police officer, and Vicky, who works as an administrative assistant, Swalwell was raised and attended public schools in the East Bay. A Division I soccer scholarship was his ticket to becoming the first person in his family to go to college. During college, he worked as an unpaid intern in the office of his representative, Congresswoman Ellen Tauscher, and so was on Capitol Hill on September 11, 2001. This inspired his first legislative achievement: using his Student Government Association position to create a public-private college scholarship program for students who lost parents in the attacks.

After earning undergraduate and law degrees from the University of Maryland, he returned to the East Bay to serve as a prosecutor in the Alameda County District Attorney's Office for seven years. He also served as chairman of the Dublin Heritage & Cultural Arts Commission, on the Dublin Planning Commission, and was elected to the Dublin City Council.

Eric Swalwell in 2012 was elected to represent California's Fifteenth Congressional District, which includes a large part of the East Bay. Now in his third term, he's working hard to bring new energy, ideas, and a problem-solving spirit to Congress, with a focus on advancing policies that support equality, opportunity, and security.

Congressman Swalwell serves on the House Permanent Select Committee on Intelligence, and believes protecting Americans is Congress' most solemn duty. He is the top Democrat on the Subcommittee on the Central Intelligence Agency (CIA), responsible for the oversight, policy, activities, and budget of the CIA. He also serves on the House Judiciary Committee, where his experience as a prosecutor and as a son and brother of law enforcement officers informs his perspective on criminal justice reform while he also address issues including voting rights, LGBT equality, comprehensive immigration reform, and protecting a woman's right to make her own health care decisions.

An up-and-coming leader in the House, he is co-chair of the Democratic Steering and Policy Committee, which makes committee assignments and sets the caucus' policy agenda. He also chairs the Future Forum, a group of more than 20 young Democratic Members of Congress focused on issues and opportunities for millennial Americans including student loan debt and home ownership.

But in keeping with his promise to work across the aisle, in his first term, Congressman Swalwell co-founded the bipartisan United Solutions Caucus to bring new Members together; the group meets regularly to advance common-sense solutions and overcome the partisan divide. And in his second term, Swalwell cofounded the bipartisan Sharing Economy Caucus to explore how this burgeoning new economic sector can benefit more Americans.

Congressman Swalwell's first-term legislative accomplishments include two of his bills signed into law – tied for the most bills signed from any freshman Member of his class – including one that incentivized charitable giving after Typhoon Haiyan devastated the Philippines. And, while serving on the Homeland Security Committee in his first term, he led a successful effort opposing a TSA proposal to allow certain knives aboard airplanes and advocated for enhancing airport perimeter security with innovative technological solutions.

Even while addressing national and international issues, Congressman Swalwell remains rooted in the region he represents. He flies home almost every weekend, and has been a leader in adopting social media such as Facebook, Twitter, Instagram and Snapchat as well as technology like Skype to stay in constant contact with constituents.

Prosecuting the President

During the 2000s, Eric Swalwell was one of the first prosecutors in Alameda County to discover that some criminals were dumb enough to post incriminating photos and videos of themselves on social media. His boss and mentor, Alameda County District Attorney Nancy O'Malley, recalled that in one case, Swalwell scoured the web, uncovering a video that a defendant had posted of himself holding a .25-caliber handgun. That damning piece of evidence clinched a conviction.

"When he was trying cases here, he was advanced technologically—using Google Maps, YouTube, social media," O'Malley said, adding that she and other prosecutors used to sit in the courtroom gallery as the twentysomething Swalwell displayed his flowcharts and multimedia presentations to the jury.

But the young prosecutor didn't rely on technology alone. A son of a retired cop, Swalwell gained a reputation in Alameda County courthouses for using detective skills to build ironclad cases, unravel alibis, and guide jurors through a maze of circumstantial evidence.

O'Malley recalled that in an East Oakland murder case in which the young victim was wrongly mistaken for a gang member by the assailant, Swalwell uncovered surveillance video that law enforcement overlooked, helping secure a swift conviction. News accounts described it as "a stunningly quick verdict," O'Malley recalled.

Less than a decade later, Swalwell is employing the same skills he honed in the Alameda County District Attorney's Office to publicly lay out the Russia collusion case involving President Donald Trump, his family, and his former campaign surrogates. An outspoken member of the House Intelligence Committee, which is investigating Moscow's interference in the 2016 U.S. presidential election, Swalwell has become one of the most sought-after figures on cable news. He has made nearly 200 national television appearances this year and has deftly used social media to assemble a large following on Twitter.

It turns out that being an ex-prosecutor-turned-Democratic-politician is the perfect career path in this moment of U.S. history, a time when a deeply unpopular Republican president is ensnared in a wide-ranging criminal investigation that grows more complex each day. In fact, Swalwell is among a group of four California ex-prosecutors now serving as Democratic members of Congress who have grabbed the national spotlight during this year's sprawling Trump-Russia saga: Rep. Adam Schiff, a former federal prosecutor in Los Angeles and ranking member of the House Intelligence Committee; Rep. Ted Lieu, an ex-military prosecutor from Southern California; and Sen. Kamala Harris, a former California attorney general, San Francisco DA, and onetime colleague of Swalwell in the Alameda County DA's Office. The four have become prominent leaders of the Trump Resistance.

"Being a former prosecutor is a huge advantage at this point," said Ace Smith, a veteran California political consultant who has long advised Kamala Harris. "Especially since Trump might be tried in front of the U.S. Congress."

Smith tells Democratic politicians that it's impossible right now to be too critical of the president, particularly in California, where Trump and his agenda have record-low approval ratings. "Any politician who is cautious about going after Donald Trump is making a serious mistake," he said. "It's one of those rare instances where it's both good policy and politics."

Although Swalwell was among the first Democrats to start connecting the dots between Trump and Russia, he's no political firebrand; he doesn't hurl scorching one-liners à la Congresswoman Maxine Waters, D-Los Angeles. Instead, during his cable news appearances and televised congressional hearings, Swalwell reverts to his calm, steady, folksy oratorical style, meticulously explaining the Russian collusion connections to viewers much like he used to do in criminal cases when talking to jurors.

"Being a former prosecutor has helped me in ways that I never imagined for this job," Swalwell said during a July interview at Awaken Cafe in downtown Oakland. "Piecing together a lot of different types of evidence and explaining it to jurors in a way that's relatable."

"Prosecutors also have a sense of justice and ethics," he continued. "We can also call 'bullshit.' We know what rings of truth."

But Swalwell—a Democrat from an all-Republican family who often appears on Fox News because it's the news channel his parents watch—is also quick to point out that he has no interest in rushing to judgment. "I want to be fair and not draw conclusions yet," the 36-year-old said of the Trump-Russia criminal probe. "This could just be the worst case of campaign judgment we've ever seen."

Eric Michael Swalwell inherited his sense of justice and ethics from his father, Eric Nelson Swalwell, an Alameda native. After the elder Swalwell retired from his post as an Alameda County sheriff's deputy, he decided to move his family to the Midwest, taking a job as police chief in Algona, Iowa. Algona residents were hungry at the time for a tough law-and-order man, but they had never met a cop like Swalwell.

The new chief quickly drew ire from citizens and bar owners when he cracked down on drunken driving and scorn from City Hall when he refused to fix parking tickets for the mayor and his cronies, according to a copy of an early 1980s news article in the Des Moines Register that his son gave to the magazine.

Eventually, the town council fired Chief Swalwell, even though the local press portrayed him as a sort of anti-establishment hero who treated everyone equally under the law. "I remember him saying, 'No one gets special treatment,'" the younger Swalwell said of his dad. "He was a stickler for the rules."

After the family returned to the East Bay, Eric Michael caught the political bug at Dublin High School. His history teacher during his senior year was Tim Sbranti, who would later become the mayor of Dublin and a longtime friend and mentor. "It was clear from day one he was going places," said Sbranti of the teenage Swalwell. "He's a natural, thoughtful leader."

Swalwell attended the University of Maryland, where he interned for then-East Bay Congresswoman Ellen Tauscher after 9/11 and worked in her office while she helped form the bipartisan 9/11 Commission. "That was a turning point for him," said Sbranti, who, in a role reversal, now works for Swalwell as his deputy chief of staff and district director. "He really felt the calling."

But the former cop's son also felt a calling for the law, so he enrolled in the University of Maryland School of Law. He said one of his proudest moments was when he landed a law clerk's job at the Alameda County DA's Office.



PHOTO BY D. ROSS CAMERON

Swalwell says he has to encounter a backlash from district Republicans despite his tough stances on Trump.

Soon after, O'Malley, who was then a top deputy for Alameda County DA Tom Orloff, recommended that Orloff hire Swalwell as a prosecutor. Swalwell quickly rose through the ranks, first handling misdemeanor cases before moving on to felonies and violent crimes and eventually homicides. He also did a stint as the DA's sole hate crimes prosecutor. (He said he's concerned about the uptick in hate crimes during the Trump era and that bigots who support the president seem to feel emboldened. "I worry that the president's tone has created an environment for it.")

Although Swalwell thrived in the courtroom, he still longed for the political arena. So he approached Sbranti, telling him he was thinking about running for Dublin City Council. "I was overeager," Swalwell recalled. Sbranti, who was mayor at the time, urged patience and decided to appoint Swalwell to the arts commission and then the planning commission so the political neophyte could learn the ropes at City Hall.

After Swalwell won a council seat, the plan was for him to take over as mayor once Sbranti was termed out. But then a bigger opportunity arose. Redistricting following the 2010 Census and the creation of a nonpartisan redistricting commission resulted in substantially changed congressional boundaries in the East Bay. Suddenly, the area of the Tri-Valley where Swalwell lived was no longer represented by Congressman Jerry McNerney, whom he greatly admired, but rather, longtime liberal rabble-rouser Pete Stark, who had served in Congress for 40 years.

Swalwell seized the moment, figuring the newly drawn congressional district was too moderate for the leftist Stark. Swalwell also reckoned that he would benefit from the state's new top-two primary system, in which the two leading vote-getters in the primary move on to the general election regardless of political party.

But the 2012 race turned ugly when Stark accused Swalwell of being a closet Tea Party Republican and of being corrupt because of a Dublin development deal. The charges didn't stick, in part due to the fact that Stark was prone to making rambling, outlandish statements.

For O'Malley, it was a difficult time: While she was rooting hard for Swalwell, she also had served for years alongside Stark's son, Jeff Stark, in the DA's office. "Unfortunately, Pete was a bitter and nasty man," she said.

During the campaign, Swalwell ran as a consensus-builder, pledging to seek bipartisan solutions to the nation's problems. On Election Day, the 32-year-old Democrat won a combination of moderate, conservative, and liberal votes to defeat Pete Stark, 52 percent to 48 percent.

The new youngest member of Congress, however, soon learned that political polarization had gripped the nation's capital, making consensus-building nearly impossible.

When Eric Swalwell got to Washington, he naively believed he could reach across the aisle to Republicans and work together to solve some of the country's most intractable problems. He's especially interested in issues affecting millennials, including the suffocating costs of student loan debt. He figured he could make good use of the skills he learned in the courtroom. "As a prosecutor, you strike deals all the time in order to get things done," he noted.

But the GOP-controlled House had no interest in brokering compromises and instead was bent on opposing nearly every initiative put forward by Minority Leader Nancy Pelosi and President Obama. As a result, very few pieces of Democrat-sponsored legislation made it to the Resolute Desk during Obama's second term. And though Swalwell was popular in his East Bay district, he, like most other junior House Democrats, operated in obscurity from 2013 to the end of 2016.

But that changed when Donald Trump won the presidency and the Russia scandal started to unfold in the months afterward. Swalwell immediately filled a void: Cable news hosts desperately wanted to book guests who could comprehend and easily explain the legal intricacies of the Trump-Russia connections—without sounding overly partisan.

To help his constituents understand the sprawling case, Swalwell assembled pages on his congressional website, calling one of them "Connecting the Trump-Russia Dots." It features a large flowchart displaying all the known characters of Moscow collusion—from Gen. Michael Flynn to Paul Manafort to Donald Trump Jr.—and how they connect Trump to Russian President Vladimir Putin, and vice versa. The flowchart resembles a classic prosecutorial prop designed to help jurors piece together an elaborate legal conspiracy.

On Twitter, Swalwell has connected the dots further, noting that Trump's actions often resemble those made by criminal defendants whom Swalwell used to put behind bars. After the president fired FBI Director James Comey, who was leading the Trump-Russia investigation, Swalwell tweeted, "This is not what an innocent person would do. Firing the guy investigating #RussianHacking—without cause—is consciousness of guilt."

The East Bay congressman also often employs light humor to point out Trump's odd obsession of wanting to please Putin above all else. For example, after the White House announced that it was creating a joint cyber team with Moscow to get to the bottom of how the Russians hacked the U.S. election, Swalwell wryly tweeted: "This is like giving the alarm code to the guys who just burglarized your home. Just make it easier for them next time."

During the first six months of Trump's presidency, you couldn't turn on CNN, MSNBC, or even Fox News without seeing Swalwell on an almost daily basis. According to his communications team, the congressman made about 180 national TV appearances through July 31, with the vast majority of them concerning the Russia investigation.

On Twitter, his following soared by early August to 111,000—a sizable figure, considering that he had virtually no national profile at the start of the year. Since January, many of his Trump tweets have gone viral, garnering in excess of 5,000 retweets and 10,000 likes. According to this magazine's analysis of nearly 400 recent tweets by Swalwell, 39 percent concerned Trump-Russia, with another 29 percent involving other Trump-GOP controversies, including the failed attempt to repeal Obamacare.

On TV, Swalwell often invokes a down-home, Midwestern style when talking about the Russia case. He's also not shy about going after Democrats sometimes, especially for their failure to bring the Russia scandal to light sooner. During a June 23 interview with Andrea Mitchell on MSNBC, Swalwell criticized former President Obama for not being more forthcoming before the election about what U.S. intelligence agencies had already concluded: that Moscow was interfering in the presidential race in order to help Trump and hurt Hillary Clinton. "There was smoke in the kitchen, and the response was to open the windows when we needed a fire extinguisher," Swalwell told Mitchell.

Swalwell told the magazine that he long ago learned the effectiveness of down-to-earth phrasing. "It comes from being in the courtroom and trying to make things relatable to jurors," he explained.

Likewise, TV news interviewers have also sought out ex-California prosecutors Adam Schiff, Ted Lieu, and Kamala Harris for their legal acumen and ability to lay out the complex Trump-Russia case for viewers. The plainspoken Schiff, in particular, may be even in higher demand than Swalwell. By early August, his Twitter following had swelled to 404,000. And according to an analysis of about 350 recent tweets by Schiff, he critiques the president more often than Swalwell. About 49 percent of Schiff's tweets concerned the Trump-Russia case and another 47 percent involved other Trump-GOP issues.

But while Swalwell and Schiff's tweets and TV comments often come across as measured, Lieu's are usually sarcastic and acerbic—and wildly popular. The former military prosecutor, for example, loves to make fun of Trump's habit of belittling opponents through name-calling. After The New York Times reported that Trump's son, campaign manager, and son-in-law had met in the summer of 2016 with Moscow-connected officials after the Russians said they had damaging information about Clinton, Lieu tweeted: "To the people who LEAKED THE TRUTH about the Shady Don Jr., Guilty Manafort & Amateur Kushner collusion meeting, THANK YOU. America owes you."

And when Trump tweeted that the "fake" news media wants him to stop tweeting so much, Lieu quipped, "Dear dumb as a rock @realDonaldTrump: The news media LOVES that you use social media. It jacks up their ratings & helps Special Counsel."

Viral tweets like those jacked up Lieu's Twitter following to 332,000 by early August.

Swalwell said that even though his East Bay district includes a large number of GOP voters, he has yet to encounter a backlash for his tough stances on Trump. "Conservatives have come forward and thanked me, saying, 'I'm a Republican. Thanks for standing up to this guy.'"

But finding bipartisanship in Washington has been elusive. This year, Swalwell convinced two GOP-House colleagues to sign on to legislation he co-sponsored with legendary Congressman Elijah Cummings, D-Md., seeking to create a bipartisan commission to examine foreign interference in the 2016 election—modeled after the 9/11 commission that his old boss, Congresswoman Tauscher, helped establish.

But getting more House Republicans to support the bill has been an uphill battle, because Trump, despite his sagging national poll numbers, remains intensely popular with the ultra-conservative GOP base. "I've probably talked privately to dozens of Republicans, and a common refrain has been, 'I can't afford to bet against the president again,'" Swalwell said.

Swalwell, Schiff, and Lieu's recent fame on social media and their near constant presence on cable TV this year have also placed them on the short list of candidates to replace U.S. Sen. Dianne Feinstein, D-Calif., should she retire next year. However, none of them is expected to run against Feinstein if she seeks another term.

Swalwell, in particular, seems to be taking his old history teacher's advice: be patient and take things one day at a time. He's also insanely busy. His newfound national profile has coincided with his marriage to Brittany Watts and the recent birth of their first child: Eric Nelson Swalwell, named after his father. Crisscrossing the country, between his Capitol office and his East Bay home, while caring for a newborn (whom they call "Nelson") and doing countless TV appearances can be taxing.

But the seemingly indefatigable congressman says he feels a sense of duty to keep prosecuting the Russia case in the public sphere.

"It's a sense of duty for the country," he said. "It's a fight or flight moment."