

ONE HUNDRED EIGHTEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

June 15, 2023

Mr. Jeff Zients  
Assistant to the President and Chief of Staff  
The White House  
1600 Pennsylvania Avenue, NW  
Washington, DC 20500

Dear Mr. Zients:

On April 18, 2023, the Committee on the Judiciary wrote to you requesting documents and information related to the Committee's oversight of how and the extent to which the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.<sup>1</sup> On May 19, 2023, the Special Counsel to the President responded on your behalf, declining to comply with our request.<sup>2</sup> The reason he provided—that the Committee must first seek information from executive branch agencies—is unpersuasive because some of the material we requested is unique to the Executive Office of the President (EOP). We therefore reiterate our request for materials necessary to advance our oversight and inform potential legislative reforms.

In his May 19 letter, the Special Counsel to the President claimed that the Committee is obliged to seek the requisite information from agencies first, because "Congress may not rely on the President's information if other sources could reasonably provide Congress the information it needs in light of its particular legislative objective."<sup>3</sup>

Even accepting the accuracy of this stated policy, it is not applicable to the present circumstances. The material that the Committee is seeking from the EOP are documents and communications unique to EOP that do not exist, to the Committee's knowledge, in the custody or control of other executive branch agencies.

---

<sup>1</sup> Letter from Rep. Jim Jordan, Chairman of House Comm. on Judiciary, to Mr. Jeffrey Zients, White House Chief of Staff (April 18, 2023) (on file with author).

<sup>2</sup> Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, Chairman of House Comm. on Judiciary (May 19, 2023) (on file with author).

<sup>3</sup> *Id.*

The Committee's oversight stems, in part, from the White House's extraordinary, often successful efforts to suppress core, First-Amendment protected speech. In the words of a senior White House staffer, those efforts originated at "the highest (and I mean the highest) levels of the WH."<sup>4</sup> Indeed, the White House wasted no time in launching its censorship campaign. Just three days after President Biden's inauguration, a White House official wrote to Twitter urging the company to censor an online statement by current presidential candidate Robert F. Kennedy, Jr.: "Wanted to flag the below tweet and am wondering if *we can get moving on the process for having it removed ASAP*. And then if we can keep an eye out for tweets that fall in the same ~ genre that would be great." Twitter responded to the White House that it had "escalated this."<sup>5</sup>

Likewise, Mr. Flaherty made numerous written demands, which have since been publicized through discovery in a federal court case, to Facebook and Google, ordering the companies to remove content that he believed stoked vaccine hesitancy.<sup>6</sup> On more than one occasion, the companies' employees responded that they were changing their policies or escalating enforcement of existing policies in obvious attempts to appease the White House.<sup>7</sup> Companies removed specific individuals' accounts from Facebook and Twitter following the White House's demands to that effect, including those belonging to Mr. Kennedy, journalist Alex Berenson,<sup>8</sup> and others.<sup>9</sup>

Mr. Flaherty represented to companies that President Biden himself was the driving force behind these demands. After accusing YouTube, a subsidiary of Google, of "funneling" people into vaccine hesitancy by inadequately censoring material on its website, Mr. Flaherty remarked to Google that his concern was "shared at the highest (and I mean the highest) levels of the WH," prompting a company executive to respond that Google was working to "address your concerns related to Covid-19 misinformation."<sup>10</sup> Mr. Flaherty's characterizations of President Biden's involvement are consistent with the President's statements accusing platforms such as Facebook

---

<sup>4</sup> Email from Rob Flaherty, White House Director of Digital Media, to Google employees (Apr. 21, 2021, 8:05 PM) [Hereinafter Flaherty Email to Google] ([https://www.wsj.com/public/resources/documents/17289-0421.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/17289-0421.pdf?mod=article_inline)).

<sup>5</sup> Pl.'s Proposed Findings of Fact in Supp. of Their Mot. for Prelim. Inj. at 13, *Missouri v. Biden*, No. 3:22-cv-01213 (W.D. La. filed May 5, 2022) (<https://nclalegal.org/wp-content/uploads/2023/03/ECF-212-3-Proposed-Finding-of-Fact.pdf>) (emphasis added).

<sup>6</sup> Email from Rob Flaherty, White House Director of Digital Media, to Facebook employee (April 9, 2021, 2:56 PM) ([https://www.wsj.com/public/resources/documents/17549-0409.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/17549-0409.pdf?mod=article_inline)); Email from Rob Flaherty, White House Director of Digital Media, to Facebook employee (April 14, 2021, 1:10 PM) ([https://www.wsj.com/public/resources/documents/17511-0414.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/17511-0414.pdf?mod=article_inline)).

<sup>7</sup> Email from Rob Flaherty, White House Director of Digital Media, to Facebook employee (April 9, 2021, 2:56 PM) ([https://www.wsj.com/public/resources/documents/17549-0409.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/17549-0409.pdf?mod=article_inline)); Email from Rob Flaherty, White House Director of Digital Media, to Facebook employee (May 12, 2021, 2:52 PM) ([https://www.wsj.com/public/resources/documents/18130-0510.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/18130-0510.pdf?mod=article_inline)).

<sup>8</sup> *Berenson v. Biden, Jr.*, No. 1:23-cv-03048 (S.D.N.Y. filed Apr. 12, 2023) (<https://envisage.law/alex-berenson-v-president-joe-biden-et-al/>).

<sup>9</sup> Compl. at 69–70, *Kennedy v. Biden*, No. 3:23-cv-00381 (W.D. La. filed May 5, 2022) ([https://childrenshealthdefense.org/wp-content/uploads/RFK-Jr-et-al-v-Biden-Complaint-3\\_24\\_23.pdf](https://childrenshealthdefense.org/wp-content/uploads/RFK-Jr-et-al-v-Biden-Complaint-3_24_23.pdf)); Oliver Darcy, *Facebook Takes Action Against 'Disinformation Dozen' after White House Pressure*, CNN (Aug. 18, 2021, 8:17 PM EDT) (<https://www.cnn.com/2021/08/18/tech/facebook-disinformation-dozen/index.html>).

<sup>10</sup> Flaherty Email to Google ([https://www.wsj.com/public/resources/documents/17289-0421.pdf?mod=article\\_inline](https://www.wsj.com/public/resources/documents/17289-0421.pdf?mod=article_inline)).

of “killing people” by not adequately censoring Americans who questioned the safety or efficacy of the Covid-19 vaccines.<sup>11</sup> The President’s former press secretary, Jennifer Psaki, openly boasted that the Administration was in regular touch with social media companies, telling them which accounts and posts to remove,<sup>12</sup> and wielding the threat of regulation to achieve the President’s desired ends.<sup>13</sup>

In short, there is already extensive evidence that the White House played a unique role in urging and directing social media companies to impose viewpoint-based censorship. Based on this evidence, and in light of the EOP’s unique position within the executive branch, the Committee has good reason to believe that additional material exists in the EOP’s custody and control that would help the Committee to understand the nature and extent of its involvement in this censorship scheme.

Accordingly, for the Committee to wholly and effectively fulfill its oversight obligations, the Committee must obtain documents and communications in the custody and control of the EOP. We therefore renew the requests made in our April 18 letter. As an accommodation to the EOP, and pursuant to the letter of May 19, the Committee is willing to narrow its request to material that is in the custody and control of the EOP and that is not in the custody and control of other executive branch agencies. We ask for your voluntary compliance with this request by June 29, 2023. Please be advised that the Committee may be forced to resort to compulsory process if these requests remain outstanding.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning “civil liberties” to inform potential legislative reforms.<sup>14</sup> These legislative reforms include the possible enactment of new statutory limits on the Executive Branch’s ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users. To develop effective legislation, the Committee must first understand how and the extent to which the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. In addition, H. Res. 12 authorizes the Committee’s Select Subcommittee on the Weaponization of the Federal Government to investigate “issues related to the violation of the civil liberties of citizens of the United States.”<sup>15</sup>

---

<sup>11</sup> Matt Viser, Rachel Lerman & Tyler Pager, *‘They’re Killing People’: Biden Aims Blistering Attack at Tech Companies Over Vaccine Falsehoods*, WASH. POST (July 16, 2021, 7:17 PM EDT) ([https://www.washingtonpost.com/politics/biden-vaccine-social-media/2021/07/16/fbc434bc-e666-11eb-8aa5-5662858b696e\\_story.html](https://www.washingtonpost.com/politics/biden-vaccine-social-media/2021/07/16/fbc434bc-e666-11eb-8aa5-5662858b696e_story.html)).

<sup>12</sup> Press Briefing by Jen Psaki, White House Press Secretary (July 16, 2021, 1:20 PM EDT) (<https://www.whitehouse.gov/briefingroom/press-briefings/2021/07/16/press-briefing-by-press-secretary-jen-psaki-july-16-2021/>).

<sup>13</sup> Press Briefing by Jen Psaki, White House Press Secretary, and Tom Vilsack, Secretary of Agriculture (May 5, 2021, 12:32 PM EDT) (<https://www.whitehouse.gov/briefing-room/press-briefings/2021/05/05/press-briefing-by-press-secretary-jen-psaki-and-secretary-of-agriculture-tom-vilsack-may-5-2021/>).

<sup>14</sup> Rules of the House of Representatives R. X (2023).

<sup>15</sup> H. Res. 12 § 1(b)(1).

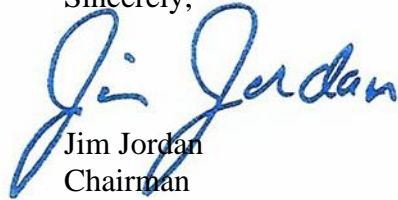
Mr. Jeff Zients

June 15, 2023

Page 4

If you have any questions about this matter, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style.

Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member