



THE WHITE HOUSE
WASHINGTON

May 16, 2024

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
United States House of Representatives
Washington, D.C. 20515

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Comer and Chairman Jordan:

As you know, yesterday the Attorney General requested that the President assert executive privilege over the audio recordings of his and Mark Zwonitzer's interviews with Special Counsel Robert Hur, which had been subpoenaed by the House Judiciary and Oversight Committees. Because of the President's longstanding commitment to protecting the integrity, effectiveness, and independence of the Department of Justice and its law enforcement investigations, he has decided to assert executive privilege over the recordings.

When he ran for President, President Biden promised that he would restore longstanding norms regarding the Department's independence, after the prior Administration repeatedly disregarded them. He committed to returning prosecutorial decision-making solely to the Department, shielding Department investigations from undue political interference, and protecting the integrity of federal law enforcement processes. As President, he has upheld this commitment to the American people and consistently reinforced his deep respect for the rule of law.

That respect is what led him to cooperate fully with Special Counsel Hur's investigation, including sitting for a voluntary interview over two days, as well as other extraordinary measures that helped ensure the investigation was thorough and complete.

This Administration has also sought to work in good faith with Congress to satisfy its interests in Special Counsel Hur's investigation. The President did not assert executive privilege over any portion of Special Counsel Hur's final report, which the Department provided promptly and in full to Congress. The Department readily agreed to allow Special Counsel Hur to testify publicly, and he answered questions for more than five hours. And the Department has already made extraordinary accommodations to provide the Committees with the specific information you have demanded, including by providing the transcripts of the President's and Mr. Zwonitzer's interviews with the Special Counsel, relevant correspondence between the Department and the President's lawyers, and the two classified documents that the Committees

demanded.¹ As the Department has explained repeatedly, these materials—particularly the transcripts—more than satisfy your articulated needs for this information.²

The President has a duty to safeguard the integrity and independence of Executive Branch law enforcement functions and protect them from undue partisan interference that could weaken those functions in the future. As you know, the Attorney General has warned that the disclosure of materials like these audio recordings risks harming future law enforcement investigations by making it less likely that witnesses in high-profile investigations will voluntarily cooperate. In fact, even a past President and Attorney General from your own party recognized the need to protect this type of law enforcement material from disclosure.³

The absence of a legitimate need for the audio recordings lays bare your likely goal—to chop them up, distort them, and use them for partisan political purposes. Demanding such sensitive and constitutionally-protected law enforcement materials from the Executive Branch because you want to manipulate them for potential political gain is inappropriate.

Rather than demonstrating respect for the rule of law, this contempt proceeding is just the latest in the Committees' damaging efforts to undermine the very independence and impartiality of the Department of Justice and criminal justice system that President Biden seeks to protect. Your subpoenas and contempt threats come in the wake of the Committees' efforts to go after prosecutors you do not like, attack witnesses in cases you disapprove of, and demand information from ongoing investigations and prosecutions, despite longstanding norms that these law enforcement processes should be allowed to play out free from such political interference.⁴

¹ Letter from Assistant Attorney General Carlos Uriarte to Chairmen Jim Jordan and James Comer (April 25, 2024), <https://punchbowl.news/doj-letter-to-jordancomer> (“Despite the Committees’ assertion that these documents are necessary for your investigation, and despite other requestors accepting our offer to review these documents, the Chair of the Oversight Committee has not yet taken us up on our offer, which we made over two months ago.”).

² Letter from Assistant Attorney General Carlos Uriarte to Chairmen Jim Jordan and James Comer (April 8, 2024), <https://punchbowl.news/2024-04-08-out-jordan-comer-re-sco-hur>; Letter from Assistant Attorney General Carlos Uriarte to Chairmen Jim Jordan and James Comer (April 25, 2024), <https://punchbowl.news/doj-letter-to-jordancomer>.

³ *Assertion of Executive Privilege Concerning the Special Counsel’s Interviews of the Vice President and Senior White House Staff*, 32 Op. O.L.C. 7, 13 (2008) (opinion of Attorney General Michael B. Mukasey), <https://www.justice.gov/file/523056/dl> (“I am greatly concerned about the chilling effect that compliance with the Committee’s subpoena would have on future White House deliberations and White House cooperation with future Justice Department investigations. . . . I believe that it is legally permissible for you to assert executive privilege with respect to the subpoenaed documents. I respectfully request that you do so.”).

⁴ *See, e.g., Republicans Threaten to Hold Fani Willis in Contempt*, Press Release, House Committee on the Judiciary (March 14, 2024), <https://judiciary.house.gov/media/press-releases/republicans-threaten-hold-fani-willis-contempt>; *Chairman Jordan Investigates Justice Department Coordination with Alvin Bragg’s Politicized Prosecution*, Press Release, House Committee on the Judiciary (April 30, 2024), <https://judiciary.house.gov/media/press-releases/chairman-jordan-investigates-justice-department-coordination-alvin-braggs>; *Johnson Floats Defunding Special Counsel’s Office Amid Jack Smith’s Trump Probe*, Fox News (May 15, 2024), <https://www.foxnews.com/politics/johnson-floats-defunding-special-counsels-office-jack-smiths-trump>

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The President will continue to protect the rule of law, and his Administration will continue to work in good faith to accommodate Congress's legitimate interests, while standing up to improper threats to the independence of the nation's justice system.

Sincerely,



Edward N. Siskel
Counsel to the President

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

probe; *Chairmen Jordan and Comer Launch Inquiry into D.C. Attorney General's Politically Motivated Investigation of Leonard Leo*, Press Release, House Committee on the Judiciary (October 30, 2023), <https://judiciary.house.gov/media/press-releases/chairmen-jordan-and-comer-launch-inquiry-dc-attorney-generals-politically>; *House GOP Goes After 'Convicted Liar' Michael Cohen, Urges Justice Department to Investigate Recent Lies*, Fox News (May 8, 2024), <https://www.foxnews.com/politics/house-gop-convicted-liar-michael-cohen-urges-justice-department-investigate-recent-lies>; *House Republicans Invite Nathan Wade to 'Interview' with Judiciary Committee Regarding Trump Election Case*, Fox News (May 9, 2024), <https://www.foxnews.com/politics/house-republicans-invite-nathan-wade-interview-judiciary-committee-trump-election-case>.