



COMMITTEE ON HOUSE ADMINISTRATION
RANKING MEMBER JOSEPH D. MORELLE (NY-25)

REPORT

**The Committee on
House Administration's
January 6 Investigative
Activities in the 118th Congress**

January 2025 | 119TH CONGRESS, FIRST SESSION

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I. Introduction

The President bears responsibility for Wednesday’s attack on Congress by mob rioters. He should have immediately denounced the mob when he saw what was unfolding. These facts require immediate action by President Trump: accept his share of responsibility, quell the brewing unrest, and ensure President-elect Biden is able to successfully begin his term.¹

Those were the words of then-Republican Leader Kevin McCarthy, spoken on the Floor of the House of Representatives on January 13, 2021.

Just days earlier, and mere feet away, Leader McCarthy had pleaded with then-President Trump to intervene as an armed mob overran the Capitol:

You have got to get on TV. You’ve got to get on Twitter. You’ve got to call these people off. . . They literally just came through my office windows and my staff are running for cover. I mean they’re running for their lives. You need to call them off.²

Leader McCarthy was joined by allies of President Trump across the right-wing ecosystem,³ including now-Committee on House Administration (“Committee”) Subcommittee on Oversight (“Oversight Subcommittee”) Chairman Barry Loudermilk (R-GA), who expressed righteous indignation:

I’ve already communicated with the White House that we need him to come out strong and ask the people to stand down. . . I’m horrified. This is not what we’ve been fighting for. This is not the way you carry on your displeasure with the way things happened in a rule of law nation like we have.⁴

¹ Impeaching Donald John Trump, President of the United States, for High Crimes and Misdemeanors, 167 Cong. Rec. H171-H172 (daily ed. Jan. 13, 2021).

² *Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol*, H.R. Rep. No. 117-663, at 84 (2022). See also Andrew Kaczynski & Em Steck, ‘They scaled walls, they brought ropes’: House Speaker Kevin McCarthy’s own words contradict January 6 footage used by Tucker Carlson, CNN (Mar. 7, 2023), <https://www.cnn.com/2023/03/07/politics/kfile-kevin-mccarthy-january-6-comments-contradict-carlson-footage/index.html> (“In other comments made a week later on KERN, a local radio station that airs in his Bakersfield, California-based congressional district, McCarthy said anyone who participated should go to jail and spoke in stark terms of the violence unleashed on Capitol Police officers. ‘These men and women in the uniform, they got overrun. One officer got killed. . . they got broken arms. You don’t understand what was transpiring at that moment and that time. People hanging. People brought ropes. When I got back into my building, I found the straps that they had. I don’t know if they come and try to kidnap somebody or whatever. But they, they were well planned for it.’”).

³ Alexander Burns and Jonathan Martin, ‘I’ve Had It With This Guy’: G.O.P. Leaders Private Blasted Trump After Jan. 6, N.Y. Times, <https://www.nytimes.com/2022/04/21/us/politics/trump-mitch-mcconnell-kevin-mccarthy.html>.

⁴ Justin Wilfon, *Georgia lawmakers, officials condemn violent protests at U.S. Capitol*, WSB-TV Channel 2 News (WSB-TV, Jan. 6, 2021), <https://www.wsbtv.com/news/local/atlanta/georgia-lawmakers-officials-condemn-violent-protests-us-capitol/BCHIPQMTVRBIJHOWS4MB4DVVRU/>.

Prominent House Republicans like then-Ranking Members Rodney Davis (R-IL) and James Comer (R-KY) authored legislation calling the events a “domestic terrorist attack.”⁵ Hundreds of other Republican Members of Congress expressed their dismay. A non-exhaustive, representative sample of these denunciations is attached hereto as Appendix A.

Steadfast Trump supporters at *Fox News* also pleaded for Trump to call off the attack.⁶ Even his own son, Donald Trump Jr., begged for him to act, saying in a text message, “He’s got to condemn [sic] this shit. Asap. The captiol [sic] police tweet is not enough.”⁷

In the months that followed, however, Congressional Republicans reversed course. They sabotaged plans for a nonpartisan 9/11-style commission to investigate the attack and obstructed efforts to hold those responsible for the violence accountable. Then, after securing a narrow majority in the 118th Congress, House Republicans repurposed the Committee on House Administration—particularly Chairman Loudermilk’s Oversight Subcommittee—into an apparatus to advance the political interests of former President Trump and his allies by burying the truth about January 6, 2021.

As set forth in detail below, Chairman Loudermilk’s Interim Report (“Loudermilk Report” or “Report”) is a work of fiction—and an effort to rewrite American history for personal and partisan gain. Its factual assertions are unsupported by evidence and are, in fact, contradicted by substantial evidence the Report fails to address, including evidence from publicly available transcripts, documents, and the Final Report of the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”).

The Loudermilk Report is based on a tapestry of lies dating back to November 2020. As is documented in enormous detail in the Final Report of the Select Committee, President Trump began contesting the outcome of the 2020 election even before it was held. Then, afterward, he invented a series of farfetched lies about election fraud to try to convince the public he had won. Trump was advised repeatedly by his campaign, his White House staff, the Department of Justice (“DOJ”), and others that his fraud allegations were false. Dozens of courts reviewed the allegations that the election was stolen and rejected them. Examples include:

- From a federal court in Michigan: “With nothing but speculation and conjecture that votes for President Trump were destroyed, discarded, or switched to votes for Vice President Biden, Plaintiff’s equal protection claim fails.”⁸

⁵ To establish the National Commission on the Domestic Terrorist Attack Upon the United States Capitol, H.R. 275, 117th Cong. (2021).

⁶ *Final Report of the Select Committee*, *supra* note 2 at 82. See also Documents produced to the Select Committee to Investigate the January 6th Attack on the United States Capitol (Mark Meadows Production), MM014907, MM014944, and MM014961 (Text message from *Fox News* anchor Laura Ingraham: “Hey Mark, The president needs to tell people in the Capitol to go home”); (Text message from *Fox News* anchor Sean Hannity: “Can he make a statement. I saw the tweet. Ask people to peacefully leave the capital [sic]”); (Text message from *Fox News* anchor Brian Kilmeade: “Please get him on tv. Destroying every thing you guys have accomplished”).

⁷ Documents produced to Select Committee to Investigate the January 6th Attack on the United States Capitol (Mark Meadows Production), MM014925.

⁸ *King v. Whitmer*, 505 F. Supp. 3d 720 (E.D. Mich. 2020).

- From a state court in Nevada: “The Contestants failed to meet their burden to prove credible and relevant evidence to substantiate any of the grounds set forth in [Nevada law] to contest the November 3, 2020 General Election.”⁹
- From a state court in Arizona: “[T]he challenge fails to present any evidence of ‘misconduct,’ ‘illegal votes’ or that the Biden Electors ‘did not in fact receive the highest number of votes for office,’ let alone establish any degree of fraud or a sufficient error rate that would undermine the certainty of the election results . . .”¹⁰
- From the Federal Court of Appeals for the Third Circuit: “Free fair elections are the lifeblood of our democracy. Charges of unfairness are serious. But calling an election unfair does not make it so. Charges require specific allegations and then proof. We have neither here.”¹¹

An illustration of the perniciousness and audacity of President Trump’s lies is the fate of many private attorneys who supported his efforts to invent election fraud. More than a dozen were sanctioned, disbarred, or indicted for making unsupported and untruthful statements in court and in public. Examples include, but are not limited to: Rudy Giuliani,¹² John Eastman,¹³ Sidney Powell,¹⁴ Jenna Ellis,¹⁵ Jeffrey Clark,¹⁶ Lin Wood,¹⁷ Ken Paxton,¹⁸ and Cleta Mitchell.¹⁹ Indeed, federal and state prosecutors in multiple jurisdictions conducted independent investigations before federal and state grand juries and reached the same conclusions as the Select Committee.

⁹ Law v. Whitmer, 136 Nev. 840 (2020).

¹⁰ Bowyer v. Ducey, 506 F. Supp. 3d 699 (D. Ariz. 2020).

¹¹ Donald J. Trump for President, Inc. v. Sec’y of Pa., 830 F. App’x 377 (3d Cir. 2020).

¹² Melissa Quinn, *Rudy Giuliani disbarred in D.C., months after disbarment in New York*, CBS News (Sep. 26, 2024), <https://www.cbsnews.com/news/rudy-giuliani-disbarred-washington-dc/>; see also Holmes Lybrand, Kyung Lah, and Jack Hannah, *Rudy Giuliani and 10 others plead not guilty to charges of conspiring to overturn the 2020 presidential election in Arizona*, CNN (May 21, 2024), <https://www.cnn.com/2024/05/21/politics/rudy-giuliani-arizona-election-subversion/index.html>.

¹³ Kyle Cheney, *Judge rejects Eastman bid to retain law practice while fighting disbarment*, Politico (May 1, 2024), <https://www.politico.com/news/2024/05/01/judge-rejects-eastman-bid-practice-00155641>.

¹⁴ Rebecca Shabad, *Ex-Trump lawyer Sidney Powell pleads guilty in Georgia election interference case*, NBC News (Oct. 19, 2023), <https://www.nbcnews.com/politics/donald-trump/sidney-powell-pleads-guilty-georgia-election-interference-case-rcna121210>.

¹⁵ Melissa Quinn, *Jenna Ellis, ex-Trump campaign legal adviser, has Colorado law license suspended for 3 years*, CBS News (May 30, 2024), <https://www.cbsnews.com/news/jenna-ellis-ex-trump-campaign-legal-adviser-colorado-law-license-suspended/>.

¹⁶ Kyle Cheney, *Jeffrey Clark’s bid to aid Trump election scheme violated attorney rules, DC Bar panel finds*, Politico (Apr. 4, 2024), <https://www.politico.com/news/2024/04/04/jeffrey-clark-ethics-rules-00150631>.

¹⁷ Lawrence Hurley, *Supreme Court allows sanctions against Trump-allied lawyers over 2020 election lawsuit*, NBC News (Feb. 20, 2024), <https://www.nbcnews.com/politics/supreme-court/supreme-court-allows-sanctions-trump-allied-lawyers-2020-election-laws-rcna139256>.

¹⁸ Acacia Coronado, *Texas Attorney General Ken Paxton can be disciplined for suit to overturn 2020 election, court says*, AP News (Apr. 19, 2024), <https://apnews.com/article/texas-attorney-general-2020-election-ae4d4e0ea614b6476c56cf7de2f87d3d>.

¹⁹ Michael Kranish, *Cleta Mitchell, who advised Trump on Saturday phone call, resigns from law firm*, The Wash. Post (Jan. 5, 2021), https://www.washingtonpost.com/politics/mitchell-trump-resigns-firm/2021/01/05/ea5364b4-4f9e-11eb-b96e-0e54447b23a1_story.html.

The Loudermilk Report is an effort to erase a tragic chapter in our nation’s history by leveling malicious and despicable allegations against those charged with investigating the events. Yet, despite spending millions of dollars during his two-year investigation, Chairman Loudermilk identified no evidence of wrongdoing by the Select Committee. Because there was none. This effort lasted significantly longer than the Select Committee itself. Instead, the majority spent nearly two years recycling long-debunked conspiracy theories and lies while ignoring its actual legislative branch oversight responsibilities.

Among the most insidious of these falsehoods are his baseless, reckless, and frivolous assertions that Select Committee Vice Chair Liz Cheney “tampered with at least one witness” in violation of 18 U.S.C. § 1512 and that she should be investigated for “procuring another person to commit perjury” under 18 U.S.C. § 1622. As shown herein, Chairman Loudermilk’s allegations are malicious, despicable, and the result of either bad faith or a fundamental misunderstanding of the law. The allegations are reprehensible and merely the latest iteration of House Republicans’ unyielding fixation on retaliating against Vice Chair Cheney for her courage in prioritizing country over party.

The Oversight Subcommittee also failed to produce any new material findings related to Capitol security. It did not propose or enact legislation to enhance Capitol security, nor did it collaborate with nonpartisan Capitol security officials to address the unprecedented rise in threats against Members of Congress. It also neglected critical issues, including United States Capitol Police (“USCP”) reform, officer wellness, preparation for the 2025 electoral certification, and more. In sharp contrast, the Select Committee’s investigation led to passage of legislation to amend the Electoral Count Act.

Instead, the Oversight Subcommittee’s actions included:

- releasing sensitive Capitol security footage, initially to *Fox News* host Tucker Carlson and subsequently to the public, over the strenuous objections of USCP (contrary to the claims made by Chairman Loudermilk and others, that footage ultimately demonstrated that the Select Committee’s conclusions were fully justified);
- using taxpayer resources to publish a self-serving “report” purporting to exonerate Chairman Loudermilk from his actions leading up to January 6, 2021;
- making baseless claims about the integrity of the bipartisan investigation conducted by the Select Committee in service of former President Trump;
- targeting individual members of law enforcement who acted heroically on January 6, 2021;
- suggesting Speaker of the House Nancy Pelosi (D-CA) helped orchestrate her own attempted assassination; and

- spreading ridiculous conspiracy theories, including that the United States Secret Service (“USSS”) and Federal Bureau of Investigation (“FBI”) were complicit in the January 6, 2021, pipe bomb plot.

This report will:

- rebut false allegations in the Loudermilk Report with actual evidence;
- provide a further truthful account of the events of January 6, 2021, and debunk lies about the Select Committee investigation and its Members;
- detail how the House Republican Majority’s efforts to rewrite the history of the 2020 election and January 6 attack have jeopardized Capitol security;
- present additional evidence demonstrating then-President Trump’s responsibility for the horrors of January 6; and
- identify the critical issues ignored by the Committee and Oversight Subcommittee majority as it prioritized covering up the former President’s attack on the Constitution.

During the Select Committee’s June 9, 2022, public hearing, Vice Chair Cheney rightly observed that President Trump “summoned the mob, assembled the mob, and lit the flame of this attack.”²⁰ But just as dangerous as he who lit the match are those who stood by and watched the fire burn, or worse, fanned the flames. Chairman Loudermilk witnessed a deadly attack on the United States; but instead of standing up in defense of his country and his Congress, he chose to denigrate the innocent and shield the guilty.

This report corrects falsehoods and ensures that Donald Trump’s recent propaganda cannot rewrite history.

II. Background

a. The January 6 Attack Was an Unprecedented Assault on American Democracy

On January 6, 2021, a violent mob, incited by then-President Donald Trump, breached the United States Capitol and assaulted members of law enforcement as part of an effort to overturn the results of the 2020 presidential election and prevent the peaceful transfer of power.²¹ This unprecedented assault on America led to the deaths of multiple individuals, including USCP and

²⁰ *Hearing on the January 6th Investigation: Hearing Before the Select Committee to Investigate the January 6th Attack on the United States Capitol*, 117th Cong. (Jun. 9, 2021).

²¹ *Final Report of the Select Committee*, *supra* note 2 at 694. (“On December 19, 2020, President Trump tweeted: ‘Big protest in D.C. on January 6. Be there, will be wild!’ Following this tweet, an analyst at the National Capital Region Threat Intelligence Consortium observed a tenfold uptick in violent online rhetoric targeting Congress and law enforcement and noticed that previously unaffiliated violent right-wing groups had started to coordinate their efforts.”).

other law enforcement officers.²² It followed months of lies by President Trump and his allies alleging widespread election fraud, promoting debunked conspiracy theories, pressuring state and federal officials to corruptly alter election results, attempting to weaponize the Department of Justice (“DOJ”), and summoning his supporters to Washington, DC on January 6, 2021.

Many in the mob began the day at the Ellipse in front of the White House, where President Trump gave an address reiterating baseless claims of widespread election fraud. While delivering his remarks, President Trump exerted intense pressure on Vice President Pence, urging him to “do the right thing” by rejecting the certification of validly-cast electoral votes.²³ This was a power the Vice President did not constitutionally possess. Nevertheless, Trump emphasized Pence's role during his speech:

Mike Pence, I hope you’re gonna stand up for the good of our Constitution and for the good of our country. And if you’re not, I’m gonna be very disappointed in you. I will tell you right now. I’m not hearing good stories.²⁴

President Trump made clear he expected the crowd to “fight” and “take back” their country.²⁵ He also encouraged his supporters to march to the Capitol and that when they did, he would be marching alongside them:

Now, it is up to Congress to confront this egregious assault on our democracy. And after this, **we’re going to walk down, and I’ll be there with you**, we’re going to walk down, we’re going to walk down. Anyone you want, but I think right here, **we’re going to walk down to the Capitol**, and we’re going to cheer on our brave senators and congressmen and women, and we’re probably not going to be cheering so much for some of them. (emphasis supplied).²⁶

Soon thereafter, a mass of rioters broke through the barriers surrounding Capitol grounds and approached the Capitol building.²⁷ As the armed mob overran law enforcement, Capitol security officials requested assistance from the District of Columbia National Guard (“DC Guard”), which was staged mere blocks away at the Washington, D.C. Armory.²⁸

Due to a combination of incompetence, inexperience, and timidity within the Department of Defense (“DoD”), the DC Guard’s deployment to the Capitol was not authorized for three hours and nineteen minutes.²⁹ By the time the DC Guard arrived at the ransacked Capitol, fighting

²² Chris Cameron, *These Are the People Who Died in Connection With the Capitol Riot*, N.Y. Times (Jan. 5, 2022), <https://www.nytimes.com/2022/01/05/us/politics/jan-6-capitol-deaths.html>.

²³ Transcript of Trump’s Speech at Rally Before US Capitol Riot, *Associated Press*, (Jan. 13, 2021), <https://apnews.com/article/election-2020-joe-biden-donald-trump-capitol-siege-media-e79eb5164613d6718e9f4502eb471f27>.

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*

²⁷ *Final Report of the Select Committee*, *supra* note 2 at 651.

²⁸ *Id.* at 736-741.

²⁹ *Id.* at 748-749.

between law enforcement and the Trump-backed mob had largely subsided.³⁰ President Trump, who sat at the top of the DC Guard chain of command, failed to act to accelerate the DC Guard's deployment to the Capitol, even though he could have done so with a simple phone call.³¹ As President Trump's Secretary of Defense testified before the Select Committee, Trump issued no order, and as multiple witnesses testified, he made no call to the Attorney General, Secretary of Homeland Security, or other security officials.³²

This fact was confirmed by the then-Adjutant General of the DC Guard in sworn testimony to the Oversight Subcommittee.³³ Instead, President Trump opted to watch the chaos unfold on television from his private West Wing dining room,³⁴ where he issued a tweet further attacking Vice President Pence for not "hav[ing] the courage to do what should have been done to protect our Country."³⁵

As described in a sworn federal court filing, when told that Vice President Pence was forced to evacuate to a secure location for his own safety, President Trump simply responded, "So what?"³⁶ Moreover, when asked by *ABC News* reporter Jonathan Karl in a recorded interview about the mob's "Hang Mike Pence" chants, President Trump endorsed the chants as "common sense":³⁷

Mr. Karl: "Because you heard those chants — that was terrible. I mean — "

Mr. Trump: "He could have — well, the people were very angry."

Mr. Karl: "They were saying 'hang Mike Pence.'"

Mr. Trump: "Because it's common sense, Jon. It's common sense that you're supposed to protect. How can you — if you know a vote is fraudulent, right? — how can you pass on a fraudulent vote to Congress? How can you do that?"³⁸

More than 140 police officers were injured while the Capitol was under siege, including at least 80 USCP officers and 60 Washington, D.C. Metropolitan Police Department ("MPD") officers. Two USCP officers and three MPD officers died because of the attack.³⁹

³⁰ *Id.* at 748-749.

³¹ H. Comm. on H. Admin. Subcomm. on Oversight, *Transcribed Interview of Brigadier General Aaron R. Dean II*, 118th Cong. (Mar. 26, 2024), at 63-68.

³² *Final Report of the Select Committee*, *supra* note 2 at Appendix 2.

³³ *Transcribed Interview of Brigadier General Dean*, *supra* note 31 at 63-68.

³⁴ *Final Report of the Select Committee*, *supra* note 2 at 88-89.

³⁵ Donald J. Trump (@realDonaldTrump), X, Jan. 6, 2021 2:24 p.m. ET, available at <https://web.archive.org/web/20210106192450/https://twitter.com/realdonaldtrump/status/1346900434540240897>.

³⁶ Government's Motion for Immunity Determinations at 142, *U.S.A. v. Trump*, No. 23-cr-00257-TSC, (D.D.C. Oct. 2, 2024), ECF No. 252.

³⁷ Mike Allen, *Exclusive audio: Trump defends threats to "hang" Pence*, *Axios* (Nov. 12, 2021), <https://www.axios.com/2021/11/12/trump-hang-mike-pence-january-6-audio>.

³⁸ *Id.*

³⁹ Chris Cameron, *These Are the People Who Died in Connection With the Capitol Riot*, *N.Y. Times* (Jan. 5, 2022, updated Oct. 13, 2022), <https://www.nytimes.com/2022/01/05/us/politics/jan-6-capitol-deaths.html>.

Among the valiant USCP officers who protected Members of Congress, staff, the Capitol, and American democracy during the attack was Capitol Division Inspector Thomas Loyd. Inspector Loyd personally fought the attackers alongside the hundreds of rank-and-file officers under his command on the Capitol's West Front. He described the attack's impact on his officers:

Several of my officers had to be carried out of the Capitol Building on January 6 due to injuries. Some have returned to a Full Duty Status, others are in a Restricted Duty Status, and a few were not permitted to return to at all due to the severity of their injuries.

Two Capitol Police Officers perished as a result of the riot. Officer Brian Sicknick faithfully served the United States Capitol Police for 13 years. He fought valiantly for several hours on January 6. He died suddenly at 830pm while returning to the office in the United States Capitol Building, not far from where the Defendant led the mob earlier in the day. His body survived an additional day because his fellow officers worked so hard to keep him alive so his family could say goodbye in person on January 7. Despite the official medical report, there was nothing natural about the way Officer Sicknick died. He was 42 years old. Officer Howie Liebengood perished two days later when he took his own life. It is tough enough to bury any of my colleagues, but when the cause is suicide, it makes it that much more heartbreaking. Officer Liebengood faithfully served the Department for 16 years. He was 51 years old.

The ramifications of January 6 will affect all of my personnel for the rest of their lives. As a result of the riot, 20 percent of my team separated from the Department.⁴⁰

To date, more than 1,560 defendants have been federally charged for actions associated with the January 6 attack:⁴¹

- Approximately 590 have been charged with assaulting, resisting, or impeding law enforcement agents or officers or obstructing those officers during a civil disorder, including approximately 169 charged with using a deadly or dangerous weapon or causing serious bodily injury to an officer;
- 174 have been charged with entering a restricted area with a dangerous or deadly weapons;⁴²
- 18 have been charged with seditious conspiracy;

⁴⁰ Gov't's Sentencing Supp. at 2, U.S.A. v. Jensen, No. 21-cr-6-TJK (D.D.C. Dec. 13, 2022), ECF No. 113.

⁴¹ U.S. Dep't of Justice, 46 Months Since Jan. 6 Attack on the U.S. Capitol, *U.S. Attorney's Office, District of Columbia*, <https://www.justice.gov/usao-dc/46-months-jan-6-attack-us-capitol> (last visited Jan. 4, 2025).

⁴² According to the Department of Justice, "As proven in Court, the weapons used and carried on Capitol grounds include **firearms**; OC spray; tasers; edged weapons, including a sword, axes, hatchets, and knives; and makeshift weapons, such as destroyed office furniture, fencing, bike racks, stolen riot shields, baseball bats, hockey sticks, flagpoles, PVC piping, and reinforced knuckle gloves" (emphasis supplied).

- 88 have been charged with destruction of government property; and
- 67 have been charged with theft of government property.⁴³

So far, of the more than 1,560 defendants charged, 1,229 have been convicted.⁴⁴ Of the 1,229 defendants that have been convicted, 1,028 have reached the sentencing phase of proceedings, including 645 who have been sentenced to periods of incarceration and an additional 143 sentenced to in-home detention.⁴⁵ Charges remain pending for most defendants that have not been convicted. All the evidence from all the January 6 prosecutions, including all the Grand Jury transcripts from the case against Donald Trump, should be preserved forever. This includes the testimony of all the Trump aides who appeared before the Grand Jury, including former Vice President Mike Pence.

In addition to the physical and psychological trauma caused to law enforcement and others at the Capitol, the rioters destroyed property, some of which had historical significance. According to the nonpartisan Government Accountability Office (“GAO”), the January 6 attack caused approximately \$2.7 billion in total estimated costs to American taxpayers.⁴⁶ Earlier this year, Committee Democrats discovered that, although virtually all defendants convicted of January 6-related crimes have been required to pay restitution to the Architect of the Capitol (“AOC”) as part of their sentence, the AOC has not received those funds because there is no legal mechanism for the agency to access them. Instead, the funds remain untouched in an account at the U.S. Treasury.⁴⁷

b. House Democrats Immediately Initiate Investigations

As detailed below, the House of Representatives, led by a Democratic majority, conducted, directed, or facilitated a variety of investigations into the January 6 attack during the 117th Congress.

The robust public record notwithstanding, Oversight Subcommittee Chairman Loudermilk has repeatedly and falsely asserted that House Democrats “failed to thoroughly investigate and review the security failures at the Capitol on and before January 6, 2021.”⁴⁸ However, fact checkers from *The Washington Post* rated similar claims about Democrats’ lack of investigation with “four Pinocchios,” the grade it assigns to only the most egregious lies.⁴⁹

⁴³ U.S. Dep’t of Justice, 46 Months Since Jan. 6 Attack on the U.S. Capitol, *supra* note 41.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ U.S. Gov’t Accountability Off., *Capitol Attack: Federal Agencies Identified Some Threats, but Did Not Fully Process and Share Information Prior to January 6, 2021*, GAO-23-106625 (Feb. 2023), <https://www.gao.gov/assets/d23/106625.pdf>.

⁴⁷ Architect of the Capitol Office of Gen. Counsel, Email to Comm. on H. Admin. Democratic Staff, *Subject: Jan. 6 Restitution* (May 22, 2024, 4:28 p.m.). See also Scott MacFarlane, *Jan. 6 offenders have paid only a fraction of restitution owed for damage to U.S. Capitol during riot*, CBS News (Jun. 13, 2024), <https://www.cbsnews.com/news/jan-6-restitution-capitol-damage/>.

⁴⁸ *Initial Findings Report on the Failures and Politicization of the January 6th Select Committee and the Activities on and Leading Up To January 6, 2021*, Comm. on H. Admin. Subcomm. on Oversight (Mar. 11, 2024) at 3.

⁴⁹ Salvador Rizzo, *The false GOP claim that Pelosi turned down National Guard before Jan. 6 attack*,

To date, no standing committee in the United States Congress has held more hearings examining the Congressional security apparatus' performance before and on January 6, 2021, than the Committee on House Administration under Democratic leadership during the 117th Congress. These hearings occurred as part of immediate and effective efforts to address security failures, ensure accountability, and provide transparency.

i. The Committee on House Administration Launches Several Investigations

On the morning of January 7, 2021, the Committee's Democratic majority directed the USCP Office of Inspector General ("USCP OIG") to set aside all ongoing work and prioritize an urgent, nonpartisan review of USCP's preparations for, and response to, the attack. The Committee and USCP OIG sought to determine, among other things: 1) whether USCP established adequate measures to ensure the safety and security of the Capitol Complex and Members; 2) whether there existed adequate internal controls and processes to ensure compliance with USCP policies; and 3) whether USCP complied with all applicable laws, regulations, policies, and procedures.

The USCP OIG produced a series of eight flash reports, each examining different elements of USCP's preparation, response, policies, and procedures. These flash reports were discussed in the Committee's public hearings. The public hearings are listed in Appendix B.⁵⁰ The flash reports contained a total of 103 recommendations for reforms to USCP. The Committee worked

Wash. Post (July 28, 2021) <https://www.washingtonpost.com/politics/2021/07/28/false-gop-claim-that-pelosi-turned-down-national-guard-before-jan-6-attack/>. ("McCarthy also made another claim at this news conference suggesting Democrats were asleep at the wheel when it came to securing the Capitol. He suggested that Rep. Zoe Lofgren (D-Calif.), a Pelosi ally on the select committee investigating Jan. 6 and the chair of the House Administration Committee, which supervises the Capitol Police, had not held hearings into security matters since a report was issued by the Capitol Police's inspector general. "You had a chair of House administration with responsibility that did not come to the Capitol for more than six months," McCarthy said. "First time showing back up? On January 3rd to vote for the speaker. No hearings about the IG report, no movement of Rodney Davis's bill." McCarthy's office did not say which inspector general report he was referring to, but the House Administration Committee has held five hearings on the Jan. 6 attack since the Capitol Police inspector general issued its first report and recommendations in February. One of the hearings, titled "Reforming the Capitol Police and Improving Accountability for the Capitol Police Board," was held weeks after Republicans on the committee, including the ranking Republican, Rep. Rodney Davis (Ill.), called for such reforms to the Capitol Police's oversight structure. (The House Administration Committee did not take a six-month hiatus. It held virtual hearings during the height of the coronavirus pandemic in 2020).")

⁵⁰ See U.S. Capitol Police Office of Inspector Gen., *Flash Report: Operational Planning and Intelligence*, Inv. No. 2021-I-0003-A, (Feb. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Civil Disturbance Unit and Intelligence*, Inv. No. 2021-I-0003-B, (Mar. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Counter-Surveillance and Threat Assessment*, Inv. No. 2021-I-0003-C, (Apr. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Containment Emergency Response Team and First Responders Unit*, Inv. No. 2021-I-0003-D, (Jun. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Command and Coordination Bureau*, Inv. No. 2021-I-0003-E, (Jul. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Hazardous Incident Response Division and Canine (K-9) Unit*, Inv. No. 2021-I-0003-F, (Aug. 2021); U.S. Capitol Police Office of Inspector Gen., *Flash Report: Dignitary Protection Division and Human Capital*, Inv. No. 2021-I-0003-G, (Oct. 2021); and U.S. Capitol Police Office of Inspector Gen., *Flash Report: Summary of Recommendations and Security Enhancements since January 6, 2021*, Inv. No. 2021-I-0003-H, (Dec. 2021).

closely with USCP to address those recommendations throughout the 117th Congress. In the 118th Congress, USCP closed out the last of the 103 recommendations.⁵¹

In addition to the USCP review, given the AOC's key role in the physical security of the Capitol Complex—including the Architect's position as one of three voting members of the Capitol Police Board—the Committee's Democratic majority directed the AOC Office of Inspector General ("AOC OIG") to also commence an urgent, nonpartisan review of the attack. This included a review of 1) AOC's emergency preparedness posture; 2) AOC's role in securing the Capitol Complex for large public gatherings; and 3) U.S. Capitol window security and infrastructure.⁵² The Committee also held corresponding public hearings with the AOC OIG and the AOC.⁵³

Committee Democrats also facilitated two supplementary investigations related to the attack, including leading a group of Members and Senators in requesting that GAO review the events of the day, as well as the preparation and coordination that took place prior to the joint session. In addition, Speaker Pelosi, together with the Committee, tasked Lieutenant General Russel Honoré (Ret.) with leading an immediate, nonpartisan review to identify actions or decisions that could have been taken immediately to improve the security of the Capitol Complex, Members and staff.⁵⁴ General Honoré's task force included a team of professionals with law enforcement, legal, dignitary protection, intelligence, military and Congressional experience, and made a series of recommendations.⁵⁵ The GAO and Honoré reviews were limited in scope and centered on short-term improvements to security infrastructure and law enforcement preparation for and response to key events.

ii. *The House Passes H.R. 3233, a Bill to Establish an Independent 9/11-Style Commission to Investigate the Attack*

Due to the limits of both the Committee and institutional OIG jurisdiction, the reviews described above were not broad enough in scope to provide a full accounting of the attack and the events preceding it. As such, in the weeks that followed, Speaker Pelosi proposed establishing an independent 9/11-style commission to investigate and report on the facts and causes of the attack.⁵⁶

In response, Republican Leader Kevin McCarthy wrote to Speaker Pelosi, demanding the commission legislation include three elements:

⁵¹ Justin Papp, *Capitol Police close out post-Jan. 6 recommendations, call for more manpower*, Roll Call (Dec. 11, 2024), <https://rollcall.com/2024/12/11/capitol-police-close-out-post-jan-6-recommendations-call-for-more-manpower/>.

⁵² *Report on the Activities of the Committee on House Administration During the 117th Congress, Together with Minority Views*, H.R. Rep. No. 117-698 at 34 (2022).

⁵³ *Id.* at 37.

⁵⁴ Benjamin Din, *Retired general who led Katrina response tapped for immediate review of Capitol security*, Politico (Jan. 15, 2021), <https://www.politico.com/news/2021/01/15/russel-honore-capitol-security-review-459664>.

⁵⁵ Kyle Cheney, *Prominent retired generals aided Honoré review of Capitol security*, Politico (Mar. 5, 2021), <https://www.politico.com/news/2021/03/05/retired-generals-honore-capitol-security-473898>.

⁵⁶ Letter from Speaker of the House Nancy Pelosi to Democratic Members of the House of Representatives (Feb. 15, 2021), available at <https://www.speaker.gov/newsroom/21521-0>.

1. An equal 5-5 ratio in party appointments notwithstanding the Republicans' minority status in both the House and Senate;
2. Co-equal subpoena power for the Chair and Vice Chair; and
3. No inclusion of findings or other predetermined conclusions in the resolution.⁵⁷

Leader McCarthy then deputized Committee on Homeland Security Ranking Member John Katko (R-NY) to negotiate the contours of the commission bill with his counterpart, Committee on Homeland Security Chairman Bennie Thompson (D-MS).⁵⁸

Every one of Leader McCarthy's requests was granted and incorporated into H.R. 3233, the bipartisan "National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act" ("Commission Bill"),⁵⁹ which Ranking Member Katko described as a "a solid, fair agreement."⁶⁰

Even though he secured every personal demand, Leader McCarthy declared his opposition to the Commission Bill and led 140 Republicans in voting against the bipartisan legislation.⁶¹ Nevertheless, the bill passed the House on a bipartisan basis, with support from all voting House Democrats and 35 of the 175 voting House Republicans.⁶² None of the Republicans presently on the Oversight Subcommittee voted for the Commission Bill.⁶³

iii. Senate Republicans Kill the Commission Bill

After passing the House, the Commission Bill went to the Senate. Despite Senator Mitch McConnell's acknowledgment that the attackers "beat and bloodied our police" and "used terrorism to try and stop a specific piece of domestic business they did not like. . . because they'd been fed wild falsehoods by the most powerful man on Earth," the Senate Republican Leader blocked the Commission Bill.⁶⁴ In so doing, he "ask[ed] wavering senators to support

⁵⁷ Letter from House Minority Leader Kevin McCarthy to Speaker of the House Nancy Pelosi (Feb. 22, 2021), available at https://www.speaker.gov/sites/speaker.house.gov/files/Sharp%20MX-4141_20210518_081238.pdf.

⁵⁸ Marianna Sotomayor, Karoun Demirjian & Josh Dawsey, *Republicans divided over whether to support Jan. 6 commission that would put Trump's actions in the spotlight*, *Wash. Post* (May 18, 2021), https://www.washingtonpost.com/powerpost/mccarthy-oppose-commission-capitol-attack/2021/05/18/7579c386-b7e0-11eb-a6b1-81296da0339b_story.html.

⁵⁹ National Commission to Investigate the January 6 Attack on the United States Capitol Complex Act, H.R. 3233, 117th Cong. (2021).

⁶⁰ Deirdre Walsh & Claudia Grisales, *Top House Republican Opposes Bipartisan Commission To Investigate Capitol Riot*, NPR (May 18, 2021) <https://www.npr.org/2021/05/18/997836874/top-house-republican-opposes-bipartisan-commission-to-probe-capitol-riot>.

⁶¹ Deirdre Walsh & Claudia Grisales, *Top House Republican Opposes Bipartisan Commission To Investigate Capitol Riot*, NPR (May 18, 2021) <https://www.npr.org/2021/05/18/997836874/top-house-republican-opposes-bipartisan-commission-to-probe-capitol-riot>.

⁶² H.R. 3233, 117th Cong., Roll Call Vote No. 154, 167 Cong. Rec. H2592-H2593 (May 19, 2021).

⁶³ *Id.*

⁶⁴ *Read McConnell's remarks on the Senate floor following Trump's acquittal*, CNN (Feb. 13, 2021) <https://www.cnn.com/2021/02/13/politics/mcconnell-remarks-trump-acquittal/index.html>.

filibustering the bill as ‘a personal favor’ to him.”⁶⁵ This doomed the prospect of an outside, independent 9/11 style commission.

The Senate’s failure to pass the House’s bipartisan legislation only increased the importance of the investigations facilitated by Committee Democrats.

iv. *The Committee on House Administration Convenes a Series of Hearings on Institutional Security Failures and Necessary Reforms*

In April 2021, the Committee commenced a series of hearings on USCP and AOC’s preparations for and response to the attack. As the not-yet-formed Select Committee went on to note in its Final Report, the Committee’s series of hearings established that there were “additional steps that should have been taken [by USCP and other law enforcement] to address the potential for violence on that day.”⁶⁶

The hearings centered primarily on the USCP OIG and AOC OIG flash reports. While each report investigated a discrete topic or topics, the series, taken as a whole, revealed the following systemic deficiencies within USCP and its management by senior leaders:

1. Insufficient training;
2. Inadequate planning, policies, and procedures;
3. Little to no capability to professionally collect, process, and disseminate intelligence; and
4. Deficient leadership and poor culture.⁶⁷

As the series of hearings illustrated, these leadership and management deficiencies led to Department-wide failures in command and control on January 6, 2021, and greatly hindered the ability of scores of brave rank-and-file officers to execute their mission.

A more detailed description of each Committee hearing is attached as Appendix B.

v. *The Select Committee is Formed and the Committee on House Administration Oversees Ongoing Capitol Police Reforms*

On June 30, 2021, the House agreed to H.Res.503, establishing the Select Committee.⁶⁸ Under the resolution, the Speaker was responsible for appointing 13 Members, five of whom were to be appointed “after consultation with the minority leader.”⁶⁹ Leader McCarthy proposed five

⁶⁵ Jamie Gangel & Michael Warren, *McConnell doubles down to pressure Republicans, asking for ‘a personal favor’ to block January 6 commission*, CNN (May 27, 2021) <https://www.cnn.com/2021/05/27/politics/mcconnell-personal-favor-block-january-6-commission/index.html>.

⁶⁶ *Final Report of the Select Committee*, *supra* note 2 at 693.

⁶⁷ *Report on the Activities of the Committee on House Administration During the 117th Congress*, *supra* note 52.

⁶⁸ Establishing the Select Committee to Investigate the January 6 Attack on the United States Capitol, H.Res.503, 117th Cong. (2021).

⁶⁹ *Id.*

Republican Members to serve on the Select Committee. Speaker Pelosi accepted three of the proposed Members. Two proposed Members, Representatives Jim Jordan (R-OH) and Jim Banks (R-IN) were rejected by the Speaker.⁷⁰ Representative Jordan had a serious conflict of interest because he was a material witness with facts relevant to the investigation, and thus could not serve as a Member of the Select Committee. Representative Banks made statements indicating that he would not operate in good faith.⁷¹ Leader McCarthy decided to remove all of his five recommended Members from the Committee and refused to participate in any fashion.⁷² Republican Representatives Liz Cheney (R-WY) and Adam Kinzinger (R-IL) served on the Select Committee for its full duration.

There have been repeated attempts at litigating the issues Chairman Loudermilk raises about the formation of the Select Committee. Those attempts lost in court each time.⁷³

Concurrently, the Committee on House Administration continued to conduct vigorous oversight of the Congressional security apparatus, including implementation of reforms at USCP, while simultaneously supporting the work of the Select Committee.

⁷⁰ Speaker Nancy Pelosi, Pelosi Statement on Republican Recommendations to Serve on the Select Committee to Investigate the January 6th Attack on the U.S. Capitol (Jul. 21, 2021), <https://pelosi.house.gov/news/press-releases/pelosi-statement-on-republican-recommendations-to-serve-on-the-select-committee> (last visited Dec. 12, 2024).

⁷¹ Representative Banks sent at least one letter to the Executive Branch falsely identifying himself as the Select Committee’s “Ranking Member.” He then falsely denied having done so even after the letter had been entered into the record during House debate. See @AnnieGrayerCNN (Oct. 21, 2021, 3:05 p.m.), <https://x.com/AnnieGrayerCNN/status/1451263342727806984> (“On the House floor, Liz Cheney entered this into the record calling out Jim Banks for sending letters to government agencies claiming he is the ranking member of the 1/6 committee even though he is not on the committee.”); see also @jamiedupree (Oct. 21, 2021, 5:29 p.m.), <https://x.com/jamiedupree/status/1451299681951178753> (“Meanwhile, a spokesman for Rep. Jim Banks R-IN denies that Banks identified himself as the Ranking GOP member of the Jan 6 committee, even though Banks signed his letter as ‘Ranking Member’”).

⁷² Annie Grayer and Jeremy Herb, *McCarthy pulls his 5 GOP members from 1/6 committee after Pelosi rejects 2 of his picks*, CNN (Jul. 21, 2021), <https://www.cnn.com/2021/07/21/politics/nancy-pelosi-rejects-republicans-from-committee/index.html>.

⁷³ See, e.g., *Republican Nat’l Comm. v. Pelosi*, 602 F. Supp. 3d 1, (D.D.C. 2022), *vacated on other grounds because the Select Committee withdrew the subpoena at issue*, 2022 WL 4349778 (D.C. Cir. 2022) (“First, the RNC argues that the Select Committee lacks authorization because it has only nine members . . . But for a few reasons, especially given the House’s own reading of the authorizing resolution, the Court cannot agree. . . Second, the RNC contends that the Select Committee lacks authorization to issue the subpoena because it does not include the Republican members Minority Leader McCarthy recommended to Speaker Pelosi to serve on the Select Committee. . . Again, the Court cannot agree. . . Third, the RNC says that the Select Committee could not have lawfully issued the subpoena because. . . Chairman Thompson had to consult with the “ranking minority member” before issuing it—and the RNC contends that the Select Committee does not have a “ranking minority member.” . . the Court must defer to the Select Committee’s decision to treat Representative Cheney as the ranking minority member for consultation purposes.”). See also *Ward v. Thompson*, 630 F. Supp. 3d 1140 (D. Ariz. 2022) (“Plaintiffs ask this Court to interpret the resolution in a different manner than the House’s own reading of the authorizing resolution. But the Rulemaking Clause reserves this power to the House and the Court will not interpret the resolution in a manner contrary to the authorizing body.”); *Eastman v. Thompson*, 2022 WL 1407965 at *6 (2022) (“Because the Speaker followed the requirements of H.R. 503 in appointing Members, the Select Committee is properly constituted.”).

Examples of USCP reforms implemented during the 117th Congress—including, but not limited to, passing legislation⁷⁴ to provide the Capitol Police Chief authority to request National Guard assistance without Capitol Police Board approval—are attached as Appendix C.

c. The Select Committee Conducts a Rigorous Bipartisan Investigation

The Select Committee conducted a thorough, wide-ranging, and bipartisan investigation into the facts and circumstances surrounding the attack on the Capitol, examining root causes and lessons learned, while making recommendations to prevent future acts of domestic violent extremism and improve Capitol Complex security. It interviewed hundreds of witnesses—including many Republicans and Trump Administration officials—who provided firsthand accounts of the plots leading up to and causing the violence on January 6, 2021. Additionally, the Select Committee reviewed more than one million pages of documentary evidence, which, together with the interviews, formed the foundation for its Final Report, which included 845 pages, multiple appendices⁷⁵ and detailed footnotes.⁷⁶ Furthermore, the Select Committee held 10 public hearings that contemporaneously detailed its investigation process and findings.

Moreover, in an extraordinary display of transparency, the Select Committee publicly posted underlying documentary evidence, video exhibits, and interview/deposition transcripts, on *GovInfo* (“GPO Website”), a free public website operated by the Government Publishing Office (“GPO”).⁷⁷

A condensed summary of the Select Committee’s findings is below. The findings, which can be read in full in the Select Committee’s Final Report,⁷⁸ led to the enactment of the Electoral Count Reform and Presidential Transition Improvement Act of 2022, which amended and revised the Electoral Count Act of 1887.⁷⁹ The findings include:

1. President Trump spread false claims of election fraud starting on election night, aiming to both overturn the results and raise money. These falsehoods incited violence on January 6.
2. Even though he lost more than 60 election-related lawsuits and was urged by advisors to concede, President Trump refused to accept the election results and instead planned to overturn them.
3. President Trump pressured former Vice President Pence to illegally reject electoral votes during the January 6 joint session, knowing such an action was unconstitutional.

⁷⁴ Capitol Police Emergency Assistance Act of 2021, Pub. L. No. 117-77, 135 Stat. 1521 (2021).

⁷⁵ Notably, one appendix—Appendix 2—is dedicated exclusively to the DC Guard response to the attack, an issue Oversight Subcommittee Republicans have alleged was ignored by the Select Committee. See *Final Report of the Select Committee*, *supra* note 2, at 724.

⁷⁶ *Final Report of the Select Committee*, *supra* note 2 at 749.

⁷⁷ Government Publishing Office, Select January 6th Committee Final Report and Supporting Materials Collection, GovInfo, <https://www.govinfo.gov/collection/january-6th-committee-final-report> (last visited Jan. 4, 2025).

⁷⁸ *Final Report of the Select Committee*, *supra* note 2 at 4-7.

⁷⁹ Consolidated Appropriations Act, 2023, Pub. L. No. 117-328, 136 Stat. 5233 (2022).

4. President Trump attempted to co-opt the DOJ to falsely validate his election fraud claims and offered the role of Acting Attorney General to Jeffrey Clark to facilitate this illegal plan.
5. President Trump unlawfully pressured state officials and legislators to alter certified election results without any legitimate legal or factual basis.
6. President Trump oversaw efforts to create and transmit fake electoral certificates to Congress and the National Archives.
7. President Trump urged Members of Congress to object to certified electoral slates from several states.
8. President Trump purposefully verified false information in federal court filings.
9. President Trump summoned supporters to Washington on January 6, and, knowing some were armed, directed them to march to the Capitol to "take back" their country.
10. President Trump tweeted a condemnation of former Vice President Pence at 2:24 p.m. on January 6, knowing it would incite further violence amid the ongoing attack, which it did.
11. President Trump failed to act for hours during the Capitol attack, ignoring repeated calls to disperse the violent mob and instead watched the events unfold on television.
12. Each of these actions were part of a broader, coordinated effort to overturn the lawful 2020 presidential election results.
13. Intelligence and law enforcement agencies identified potential violence on January 6, including planning specifically by the Proud Boys and Oath Keeper militias to target the Capitol. This information was shared within the executive branch, including with the USSS and the White House through the National Security Council.
14. Intelligence gathered in advance indicated no expected involvement by Antifa or other left-wing groups in any violence. Ultimately, these groups were not involved to any material extent with the attack.
15. Intelligence and law enforcement agencies failed to fully anticipate the scope of President Trump's provocation, his call to march to the Capitol, and his refusal to intervene once violence erupted.
16. USCP and MPD officers showed immense bravery during the attack, but leadership was unprepared for the violence. Insufficient assets in place, delayed DC Guard deployment, and leadership gaps worsened the situation.
17. Then-President Trump had absolute authority to deploy the DC Guard directly but took no action to do so. Ultimately, DoD deployed the DC Guard, though communication

delays hampered the response. Concerns about potential misuse of the military also contributed to caution.⁸⁰

III. Cassidy Hutchinson Decided to Fire Her Trump-Paid Attorney Over His Unethical Practices, Conflicts of Interest, and Unsound Advice Before Approaching the Select Committee

Chairman Loudermilk spends a significant amount of time in his Report discussing the Select Committee testimony of Cassidy Hutchinson, a former aide to Trump White House Chief of Staff Mark Meadows and one of many Trump White House staff members who testified before the Select Committee.

The Loudermilk Report distorts the record regarding Ms. Hutchinson's testimony in two primary ways. First, Chairman Loudermilk suggests that the Select Committee's conclusions hinge on Ms. Hutchinson's testimony while maligning her testimony in misleading ways inconsistent with the record. Second, Chairman Loudermilk manufactures allegations of inappropriate interactions with Ms. Hutchinson as a witness—even though he chose not to interview other witnesses mentioned in this portion of the report. Moreover, the actual evidence, including Ms. Hutchinson's transcribed testimony on September 14, 2022, specifically and thoroughly rebuts Chairman Loudermilk's allegations.

The evidence—much of which is described below—shows that there is absolutely no basis for the malicious assertion by Chairman Loudermilk that Vice Chair Cheney might have violated 18 U.S.C. §1512, or that she should be investigated by the FBI for violating 18 U.S.C. §1622.

a. Ms. Hutchinson's Attempts to Hire Independent Counsel

When Ms. Hutchinson learned she would be subpoenaed to testify before the Select Committee on November 9, 2021, she immediately began searching for an attorney unaffiliated with former President Trump.⁸¹ However, as a 24-year-old public servant from modest roots, she did not anticipate being able to afford the immense legal fees she would likely incur:

Ms. Hutchinson: I was thoroughly up front about my financial situation and not wanting to go back to Trump world to ask for representation. . . I didn't want to feel like I was using an attorney in Trump world where I'd potentially have to be responding to their interests as well.⁸²

Her concerns were validated by a Republican Member of Congress (who was not on the Select Committee) and confidant:

Ms. Hutchinson: But there is a Republican Member of Congress who, for years I've been close with and confided in, Republican Member of Congress who is not on

⁸⁰ *Final Report of the Select Committee*, *supra* note 2 at 4-7.

⁸¹ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Cassidy Hutchinson*, 117th Cong. (Sept. 14, 2022), at 6.

⁸² *Id.* at 7.

the committee. . . back in January when I reached out to them about potentially getting money from Trump world to pay for my legal bills, like if that was a bad or a good idea, this Member had told me that, “If you do that, just know that you're kind of making your bed and you're getting back in Trump world, Cassidy. That lawyer isn't just going to be working for you. Like, I just -- I want you to be aware of that. I'm not telling you to do it or not to do it, but I just -- I want you to know that you can't take money like that and expect them to just be working for you and your interests.”⁸³

Ms. Hutchinson tried for months to find an attorney who was unaffiliated with President Trump and willing to represent her *pro bono* or at a reduced rate.⁸⁴ Despite speaking with dozens of attorneys, she was unsuccessful.⁸⁵

b. Ms. Hutchinson Receives a Select Committee Subpoena

On January 26, 2022, Ms. Hutchinson—still unrepresented by counsel—was formally served with a Select Committee subpoena.⁸⁶ Now facing a document production deadline, she reached out to former White House colleagues for assistance. They began making calls within “Trump-world” on her behalf.⁸⁷

Ms. Hutchinson: And then [White House colleague Liz Horning] had said, “You need to contact Matt Schlapp,” or Matt Schlapp's team. . . And she had said also simultaneously. . . she had called both Pam Bondi and Eric Herschmann.

Pam Bondi at the time was employed by Mr. Trump's PAC. I don't know if she still is, and I'm not sure if Eric Herschmann is employed by Trump Organization or a Trump PAC, but he's in Trump world.

. . . Eric had called me that night, said that he was working on logistics and that somebody would be in touch with me in the coming days. Didn't specify who.⁸⁸

⁸³ *Id.* at 79.

⁸⁴ *Id.* at 7-9.

⁸⁵ By late November 2021, Ms. Hutchinson believed she had secured representation from attorney Andrew White of Silverman Thompson, who agreed tentatively that they would be able to work something out, likely *pro bono* or at an extremely low cost. However, he did not want to formalize the attorney-client relationship until Ms. Hutchinson was formally served with the Select Committee subpoena. Ms. Hutchinson was served with the Select Committee subpoena on January 26, 2022. The next day, when she met with Mr. White to sign her formal engagement letter, Mr. White presented her with a \$150,000 retainer letter, explaining that circumstances had changed. Unable to afford the \$150,000 retainer, Ms. Hutchinson left without engaging Mr. White as her attorney. *See Id.* at 9.

⁸⁶ *Transcribed Interview of Cassidy Hutchinson*, *supra* note 81 at 8.

⁸⁷ *Id.* at 15.

⁸⁸ *Id.*

c. *Trump-Affiliated Attorney Stefan Passantino Provided Unethical and Troubling Counsel to Ms. Hutchinson*

On February 7, 2022, Ms. Hutchinson received a phone call from Stefan Passantino, a former Trump Campaign and White House attorney who told Ms. Hutchinson that he would be her attorney.⁸⁹

i. *Mr. Passantino Did Not Provide Ms. Hutchinson an Engagement Letter, in Violation of the Rules of Professional Conduct*

During their initial February 7, 2022, call, Ms. Hutchinson told Mr. Passantino she wanted to quickly sign an engagement letter because her initial deadline to submit documents to the Select Committee was the following day.⁹⁰ However, Mr. Passantino refused to provide one.⁹¹

Ms. Hutchinson: He had called and let me know that he was my attorney. And it was a really brief call. . . I had asked him about signing the engagement letter, because I had said, "This would be great if we can meet in person soon." My document deadline date at that time was, I believe, Tuesday, February 8th. I let him know that, and I was like, "I probably should sign an engagement letter." And he said, "No, no, no. We're not doing that. Don't worry. We have you taken care of."

And I said -- remember asking him, "I don't have to sign an engagement letter?" Because that was sort of the first alarm bell in my head that went off, because I wanted something in writing for myself, because I already was -- I kind of sometimes have a tendency to overthink things. And I had never had to retain an attorney before. But I do know enough to know that you are -- you should be signing an engagement letter.⁹²

Mr. Passantino's refusal to provide an engagement letter violated the District of Columbia Bar Rules of Professional Conduct ("Rules of Professional Conduct"), which provide, in relevant part:

When the lawyer has not regularly represented the client, the basis or rate of the fee, the scope of the lawyer's representation, and the expenses for which the client will be responsible shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.⁹³

⁸⁹ *Id.* at 21.

⁹⁰ *Id.*

⁹¹ *Id.*

⁹² *Id.*

⁹³ DC R RPC Rule 1.5(b).

ii. *Mr. Passantino Did Not Disclose His Funding Source, in Violation of the Rules of Professional Conduct*

Ms. Hutchinson then asked Mr. Passantino how his legal fees were being paid, which he also refused to answer:

Ms. Hutchinson: So then I had asked him, “All right. Well, that's perfectly fine. Would you mind letting me know where the funding for this is coming from? I want to thank them. I want to thank whoever it is, because I'm just trying to kind of like figure things out.” And he said, “If you want to know at the end, we'll let you know, but we're not telling people where funding is coming from right now. Don't worry, we're taking care of you.”⁹⁴

Mr. Passantino’s refusal to disclose the funding source—along with his failure to consult with Ms. Hutchinson and secure her informed consent regarding essential aspects of his representation—also violated the Rules of Professional Conduct, which provide, in relevant part:

A lawyer shall not accept compensation for representing a client from one other than the client unless:

- (1) The client gives informed consent after consultation;
- (2) There is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and
- (3) Information relating to representation of a client is protected as required by Rule 1.6.⁹⁵

iii. *Mr. Passantino Encouraged Ms. Hutchinson to Deceive the Select Committee, in Violation of the Rules of Professional Conduct*

Although Ms. Hutchinson testified that Mr. Passantino never explicitly told her to lie, she did confirm that he told her it was not perjury to say, “I can’t recall” when, in fact, she did recall relevant information.⁹⁶ His rationale was that the Select Committee could not know what Ms. Hutchinson could or could not recall:

Ms. Hutchinson: And he said, “They don't know what you know, Cassidy. They don't know that you can recall some of these things. So you saying 'I don't recall' is an entirely acceptable response to this.”⁹⁷

⁹⁴ *Transcribed Interview of Cassidy Hutchinson*, supra note 81 at 21-22.

⁹⁵ DC R RPC Rule 1.8(e) *see also* DC R RPC Rule 1.7(b) (“[a] lawyer shall not represent a client with respect to a matter if: . . . (4) The lawyer's professional judgment on behalf of the client will be or reasonably may be adversely affected by the lawyer's responsibilities to or interests in a third party or the lawyer's own financial, business, property, or personal interests”).

⁹⁶ *Transcribed Interview of Cassidy Hutchinson*, supra note 81 at 55, 57.

⁹⁷ *Id.* at 55.

Ms. Hutchinson: He specifically told me, "I don't want you to perjure yourself, but 'I don't recall' isn't perjury. They don't know what you can and can't recall."⁹⁸

Ms. Hutchinson: I was telling him I was nervous that you all were going to ask me certain questions that I would recall. And he said, "Your go-to, Cass, is 'I don't recall.'" He was like, "Again, if you start using that in the beginning, they're going to realize really quick that they have better witnesses than you, and they're not going to ask you as complicated of questions as you're worried about." And he was like, "Trust me. You just need to trust me on this." So I said, "Okay."⁹⁹

Mr. Passantino also told Ms. Hutchinson that she did not need to discuss conversations she overheard, even if asked about them by the Select Committee:

He was like, "Did you overhear things?"

And I said, "Yes."

And he said, "Were you in the meetings?"

I said, "Not all of them, but I was in some of them."

He was like, "Well, if you had just overheard conversations that happened, you don't need to testify to that."¹⁰⁰

Under the Rules of Professional Conduct, it is professional misconduct for an attorney to "Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation."¹⁰¹ Mr. Passantino violated this rule by repeatedly counseling Ms. Hutchinson to claim she did not recall facts she did, in fact, recall, and by advising her to withhold relevant information from the Select Committee.

d. Ms. Hutchinson Ended Her Attorney-Client Relationship with Mr. Passantino Due to his Unethical and Troubling Counsel, Following Guidance from a Republican Member of Congress

Over several months, Ms. Hutchinson grew increasingly uncomfortable with Mr. Passantino's advice and strategy. In addition to the advice and strategy described above, Mr. Passantino:

- refused to follow Ms. Hutchinson's demand that he not speak to reporters about her interviews by the Select Committee;¹⁰²

⁹⁸ *Id.* at 42.

⁹⁹ *Id.* at 52.

¹⁰⁰ *Id.* at 34.

¹⁰¹ DC R RPC Rule 8.4.

¹⁰² *Transcribed Interview of Cassidy Hutchinson, supra* note 81 at 98-99.

- refused to respect Ms. Hutchinson’s wishes that he not speak to lawyers outside of his firm about her interviews with the Select Committee;¹⁰³ and
- told Ms. Hutchinson that President Trump “reads transcripts” of people interviewed by the Select Committee.

On April 22, 2022, the Select Committee filed a motion for summary judgment against Mark Meadows in his lawsuit challenging a duly issued Select Committee subpoena. Ms. Hutchinson’s initial testimony when represented by Mr. Passantino was important to the Select Committee and it was cited in briefs filed by the Select Committee in litigation. When she read those briefs, Ms. Hutchinson identified several citations to her interview transcripts and realized that due to Mr. Passantino’s advice to provide as little information to the Select Committee as possible, she had additional information to share:

Ms. Hutchinson: I kept reading how I was responding to questions, and the "I don't recalls," and dancing around my responses, not giving full-throated responses about things. I would say things, there were a few in that filing, but I knew there were more where like I was completely hedging for Trump and for Mark where I would say, like, I was sticking up for them and saying that, like, essentially what they did wasn't really that bad. And I remember sitting there thinking this isn't completely out of my control yet. Like I did not handle this well, and that, you know, there is - - I guess I would have to backtrack a little bit.¹⁰⁴

Ms. Hutchinson then confided in her friend and confidant, the Republican Member of Congress described *supra*.¹⁰⁵ The Republican Member of Congress—who had previously advised Ms. Hutchinson that an attorney paid for by Trump allies would be representing President Trump and his allies’ interests—counseled Ms. Hutchinson that she could either try to move on with her life or attempt to correct the record:

Ms. Hutchinson: So that night I had called this [Republican] Member, and they essentially said, "Yeah, Cassidy, you need to -- you're the one that has to live with the mirror test for the rest of your life. I know that you feel like that you didn't handle things right. I know that you're stressed about this. Are you going to be able to live with yourself if you just move on and kind of forget about this, or do you want to try to do something about it?"¹⁰⁶

Several days later, Ms. Hutchinson spoke about her quandary with another confidant, former White House colleague Alyssa Farah Griffin. She described her concerns with Mr. Passantino’s advice as a Trump-affiliated attorney and asked Ms. Farah Griffin to “back

¹⁰³ *Id.* at 99-101.

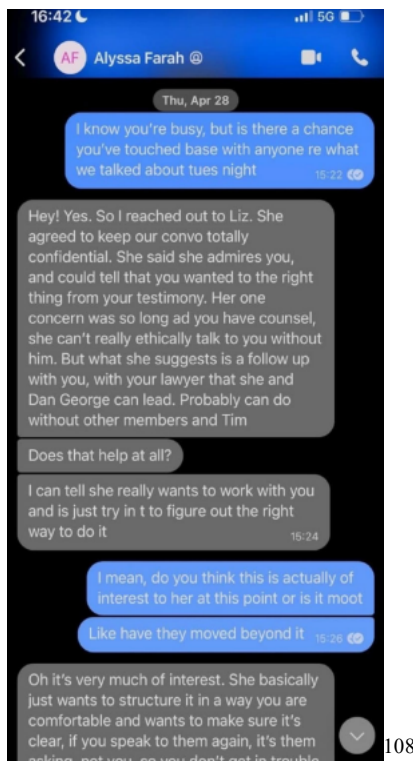
¹⁰⁴ *Id.* at 78.

¹⁰⁵ *Id.* at 79.

¹⁰⁶ *Id.*

channel to the committee and say that there [are] a few things that I want to talk about.”¹⁰⁷

Ms. Farah Griffin then contacted the Select Committee through Vice Chair Liz Cheney to explain that Ms. Hutchinson had more information she wished to share with investigators. **Vice Chair Cheney responded to Ms. Farah Griffin by explicitly saying she would speak with her again with her counsel. Vice Chair Cheney reported this to Select Committee investigative counsel and suggested that a follow up interview be arranged by Select Committee staff.**



After the exchange between Ms. Farah Griffin and Vice Chair Cheney, **Select Committee staff contacted Mr. Passantino** to schedule a third interview.¹⁰⁹ The Select Committee had a duty to pursue the tip it received from Ms. Farah Griffin.

When the Select Committee reached out to Mr. Passantino to schedule additional interviews, he initially declined on Ms. Hutchinson’s behalf.¹¹⁰ The Select Committee then issued a subpoena.¹¹¹

Shockingly, Mr. Passantino ultimately advised Ms. Hutchinson to risk contempt:

¹⁰⁷ *Id.* at 85.

¹⁰⁸ *Interim Report on the Failures and Politicization of the January 6th Select Committee*, Comm. on H. Admin. Subcomm. on Oversight (Dec. 17, 2024) at 21.

¹⁰⁹ *Transcribed Interview of Cassidy Hutchinson*, *supra* note 81 at 86.

¹¹⁰ *Id.* at 89-90.

¹¹¹ *Id.* at 91.

Ms. Hutchinson: Stefan texted me Monday, June 6th, in the morning. He said, "With DOJ refusing to hold Mark and Scavino in contempt and with the committee talking about you to the press again, I don't see why we do anything more with them. There's a small element of risk to refusing to cooperate, but I think it's the best move for you. Do you agree?"

I said, "Did they reach out about a live hearing? I don't want to gamble with being held in contempt, Stefan. I'm sorry, but I just don't think I can do it."

. . . And I kept reiterating to him, "But, Stefan, if they do prosecute me, I theoretically could go to prison, right?" And he said, "Cassidy, DOJ will not prosecute you over being held in contempt when you've already given the committee so much. You need to trust me on this. This is the best option for you."¹¹²

These communications are reflected in contemporaneous documents provided by Ms. Hutchinson. For Ms. Hutchinson, Mr. Passantino's June 6, 2022, advice was the final straw; on that day, she decided to terminate the attorney-client relationship:

Ms. Hutchinson: And I said -- this is still on the phone -- "Stefan, I really don't want to gamble with this." He said, "Well, just keep giving it some thought. I'll talk with some people too. But we really think this is what's best for you, Cass. Like, this needs to end at some point, and I think it just needs to end now." And I in my mind thought, "This does need to end now," "this" being our attorney-client relationship.¹¹³

Ms. Hutchinson reflected on her decision to the Select Committee:

Ms. Hutchinson: . . . I followed his bad legal advice; I took his bad legal advice. I will own that. But my character and my integrity mean more to me than anything. And to be held in contempt in Congress over an issue that I am passionate about and that I had been steered in what, in my opinion, was the wrong direction for the past 5 months when I was trying to correct course myself, because my lawyer, I knew, wasn't going to help me – it was clear for a long time that he was not representing my interests in how he knew I wanted to facilitate my relationship with the committee. But I was not going to let this moment completely destroy my reputation, my character, and my integrity for a cause that I was starkly opposed to.¹¹⁴

Ms. Hutchinson testified that she decided to end the attorney-client relationship with Mr. Passantino on June 6, 2022, and represent herself.¹¹⁵

¹¹² *Id.* at 108-109.

¹¹³ *Id.*

¹¹⁴ *Id.* at 107-108.

¹¹⁵ *Id.* at 107-109.

Although the Loudermilk Report purports to have unearthed new information about Ms. Hutchinson and her interactions with the Select Committee, the facts of her interactions and her difficulties with Mr. Passantino are documented in her testimony, which she provided under oath. That testimony—some of which is provided above—has been publicly available on the GPO Website since the Select Committee concluded its work.

Only after independently making her decision to terminate the attorney-client relationship with Mr. Passantino did Ms. Hutchinson contact Vice Chair Cheney to inform her of her decision to terminate that relationship and to proceed without counsel. A recent letter from Ms. Hutchinson’s current counsel, written to the District of Columbia Court of Appeals’ Office of Disciplinary Counsel, confirms that Ms. Hutchinson independently decided to terminate her attorney-client relationship with Mr. Passantino before speaking with Vice Chair Cheney:

Ms. Hutchinson has testified multiple times regarding her decision to terminate Mr. Passantino as her counsel before reaching out to Congresswoman Cheney. . . . As is well-documented in her testimony and in her book, *Enough*, she contacted Congresswoman Cheney to let her know of this decision. Congresswoman Cheney suggested that she not appear unrepresented in her testimony, but instead have the benefit of independent counsel.

Ms. Hutchinson made the independent decision to terminate her then-counsel of her own accord given the conflict of interest she perceived and represent herself because she did not believe Mr. Passantino was representing her interests. . . . [I]t was Ms. Hutchinson who made the determination to terminate Mr. Passantino, contact independent counsel, and retain this law firm for representation.¹¹⁶

A copy of this letter is attached as Appendix D.

Vice Chair Cheney acted with integrity and professionalism when approached by a witness with relevant facts. After being informed that this witness was no longer represented by an attorney and that she wanted to provide the Select Committee with additional information while acting as her own attorney, the Vice Chair suggested that she consider retaining independent counsel before testifying again before the Select Committee. This again demonstrates that Vice Chair Cheney was not involved in shaping Ms. Hutchinson’s testimony. Ms. Hutchinson’s new counsel recently explained this once more in the letter attached as Appendix D.

Chairman Loudermilk could have relied on Ms. Hutchinson’s September 14, 2022, transcript for all these facts. Instead, he ignored that evidence and decided not to talk to any witness who would rebut him. The evidence and the record make clear the absurdity of the Loudermilk Report’s suggestion that Vice Chair Cheney “tampered” with Ms. Hutchinson as a witness or “procur[ed] another person to commit perjury.” Those allegations are maliciously false. The fact that Chairman Loudermilk chose to make these allegations without having even interviewed the relevant parties highlights the disregard for truth that underlies the entirety of the Loudermilk

¹¹⁶ Letter from William H. Jordan, Alston & Bird to Phil Fox, DC Court of Appeals Office of Disciplinary Counsel (Nov. 22, 2024).

Report. Again, the evidence in the record directly contradicts Chairman Loudermilk's conclusions.

Ms. Hutchinson terminated her relationship with Mr. Passantino and approached the Select Committee without an attorney because she felt an obligation to tell the whole truth; this was an honorable and courageous act. The Select Committee responded in an entirely appropriate way to Ms. Hutchinson as a witness, consistent with its duty to discover the truth.

e. Ms. Hutchinson's Testimony was Important and Corroborated Other Key Testimonial Evidence; Every Conclusion of the Select Committee was Based Upon Multiple Sources of Evidence, Including from Ms. Hutchinson

The Select Committee identified many key findings and conclusions regarding the attack on the United States Capitol. Those findings and conclusions are summarized in Section II, *supra*, and were based upon hundreds of interviews and the review of thousands of documents. White House Counsel Pat Cipollone's testimony also covered the most important issues Ms. Hutchinson addressed. To put this in context, the Loudermilk Report does not begin to address the following non-exhaustive list of topics covered by the Select Committee:

- Donald Trump purposely disseminated false allegations of fraud related to the 2020 Presidential election in order to aid his effort to overturn the election and for purposes of soliciting contributions.
- Knowing that he and his supporters had lost dozens of election lawsuits, and despite his own senior advisors refuting his election fraud claims and urging him to concede his election loss, Donald Trump refused to accept the lawful result of the 2020 election. Rather than honor his constitutional obligation to "take Care that the Laws be faithfully executed," President Trump instead plotted to overturn the election outcome.
- Donald Trump corruptly pressured Vice President Mike Pence to refuse to count electoral votes during Congress's joint session on January 6.
- Donald Trump sought to corrupt the DOJ by attempting to enlist Department officials to make purposely false statements and thereby aid his effort to overturn the Presidential election. After that effort failed, Donald Trump offered the position of Acting Attorney General to Jeff Clark knowing that Clark intended to disseminate false information aimed at overturning the election.
- Without any evidentiary basis and contrary to state and federal law, Donald Trump unlawfully pressured state officials and legislators to change the results of the election in their states.
- Donald Trump oversaw an effort to obtain and transmit fake electoral certificates to Congress and the National Archives.

- Knowing that violence was underway at the Capitol, and despite his duty to ensure that the laws are faithfully executed, Donald Trump ignored repeated requests over a multiple hour period that he instruct his violent supporters to disperse and leave the Capitol, and instead watched the violent attack unfold on television. This failure to act perpetuated the violence at the Capitol and obstructed Congress’s proceeding to count electoral votes.¹¹⁷

Ultimately, the Select Committee explained in depth why it credited Ms. Hutchinson’s testimony, which was corroborated by others, and found other testimony obtained later less credible.¹¹⁸

f. Neither Ms. Hutchinson Nor Vice Chair Cheney Attempted to Disbar Mr. Passantino

The Loudermilk Report alleges that Vice Chair Cheney and Ms. Hutchinson somehow conspired to disbar Mr. Passantino. This is false. Chairman Loudermilk cites no evidence for this assertion, because there is none. It also states that Mr. Passantino was not disciplined by the District of Columbia Office of Disciplinary Counsel over his actions representing Ms. Hutchinson, citing a *New York Times* article.¹¹⁹ This claim is also false; he was not cleared.

The *New York Times* article cited by Chairman Loudermilk noted that Ms. Hutchinson declined to participate in the Office of Disciplinary Counsel inquiry—brought by others—into Mr. Passantino.¹²⁰ Ms. Hutchinson’s current counsel recently explained in a letter to the Office of Disciplinary Counsel that she decided not to participate in seeking discipline against Passantino because she “had every wish to move on from Mr. Passantino’s representation.”¹²¹

Furthermore, the assertion that Mr. Passantino was not disciplined is patently false. In fact, the Office of Disciplinary Counsel issued Mr. Passantino a letter—referenced and linked in the *New York Times* article—determining that he “violated Rule 1.5(b) [of the Rules of Professional Conduct]” and ordered him to participate in a diversion and training program.¹²² Thus, it was also false for Chairman Loudermilk to say that Mr. Passantino was somehow “cleared” by the Bar. Ironically, it was Ms. Hutchinson’s decision to not pursue disciplinary action or participate in the inquiry that likely spared Mr. Passantino from harsher consequences.¹²³ The public can read Ms. Hutchinson’s September 14, 2022, transcript to further understand the underlying facts.

All told, Mr. Passantino’s representation was marred by his consistent failure to adhere to the fundamental ethical obligations required of attorneys, neglecting to maintain a fiduciary

¹¹⁷ *Final Report of the Select Committee*, *supra* note 2 at 4-5.

¹¹⁸ *Id.* at 127-128.

¹¹⁹ Luke Broadwater and Charlie Savage, *Ethics Panels Dismiss Complaints Against Former Lawyer for Jan. 6 Witness*, *N.Y. Times* (Mar. 19, 2024), <https://www.nytimes.com/2024/03/19/us/politics/stefan-passantino-cassidy-hutchinson-jan-6.html>.

¹²⁰ *Id.*

¹²¹ Letter from William H. Jordan, to Phil Fox, *supra* note 116.

¹²² Letter from Hamilton P. Fox, DC Court of Appeals Office of Disciplinary Counsel, to Stefan Passantino, The Garber Group LLC (Feb. 2, 2024), available at <https://static01.nyt.com/newsgraphics/documenttools/c3f8da0e4bae8a90/7ffb8cdb-full.pdf>.

¹²³ Broadwater et al., *supra* note 119 (“[C]iting Ms. Hutchinson’s unwillingness to talk to investigators, the office said there was insufficient evidence on the larger matter.”).

relationship with his client, and counseling her to risk contempt by defying a subpoena. These actions both undermined the attorney-client relationship and highlighted a pattern of misconduct by Trump-affiliated attorneys. Ms. Hutchinson did not continue with Mr. Passantino once he recommended she risk criminal contempt. That advice may have been in Donald Trump’s best interest, but it was not in his client, Ms. Hutchinson’s best interest.

IV. **The Select Committee Followed All Legal and Ethical Requirements and was Entitled to All Appropriate Constitutional Privileges**

a. Members of Congress are Entitled to Speech or Debate Clause Protections

In its investigation of the attack on the Capitol, the Select Committee was engaged in one of the most important roles the Legislative Branch has under the Constitution: to investigate an attack on the Constitution itself and consider legislation to prevent future attacks.¹²⁴ Upon their appointment, each Member of the Select Committee, had a Constitutional duty to investigate the facts surrounding the attack and consider their implications for the security of Congress, the Constitution, and the country.

As discussed in Section II, *supra*, the Select Committee conducted a comprehensive, ethical investigation that complied with all applicable laws, rules, and regulations.¹²⁵ Under the Constitution’s Speech or Debate Clause (“Clause”), such conduct would be protected and cannot be probed in any legal proceeding.¹²⁶ The Clause provides all Members of Congress with immunity from criminal prosecution and civil suits for legislative acts taken as part of their official responsibilities.¹²⁷ The Supreme Court has held that Congressional investigations are “legislative acts” and fall within the Clause’s scope:

We reaffirm that once it is determined that Members are acting within the “legitimate legislative sphere” the Speech or Debate Clause is an absolute bar to interference. In determining whether particular activities other than literal speech or debate fall within the “legitimate legislative sphere” we look to see whether the activities took place “in a session of the House by one of its members in relation to the business before it. . . The power to investigate and to do so through compulsory process plainly falls within that definition. (internal citations omitted).¹²⁸

¹²⁴ See Michael D. Bopp, Thomas G. Hungar, and Chantalle Carles Schropp, *How President Trump's Tangles with Committees Have Weakened Congress's Investigative Powers*, 37 J.L. & Pol. 1, 5 (2021) (“The investigative power is so central to Congress's ability to fulfill its role as lawmaker for the Nation that it can be permanently limited or modified only by constitutional amendment.”).

¹²⁵ Government Publishing Office, *GovInfo*, *supra* note 77.

¹²⁶ U.S. Const. art. I, § 6, cl. 1. (“The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States. They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.”).

¹²⁷ See *Gravel v. United States*, 408 U.S. 606 (1972).

¹²⁸ *Eastland v. U. S. Servicemen's Fund*, 421 U.S. 491 (1975).

This is a view shared by prominent House Republicans. Recently, the Republican-controlled House filed a legal brief noting that:

[t]he Speech or Debate Clause is a central piece of the Framers’ plan to create a federal government based on the separation of powers between three branches of government.¹²⁹

The Republican-controlled House further stated that the “central role of the Clause is to prevent intimidation of legislators by the Executive,”¹³⁰ and that the Supreme Court has repeatedly “and without exception” read the Clause “broadly to effectuate its purposes.”¹³¹ The Republican-controlled House also noted that the privilege under this Clause is “absolute, without any qualifications based on the type of questioning at issue.”¹³² In its brief, the Republican-controlled House provided a legal position at odds with Chairman Loudermilk’s unfounded allegations:

The Clause is not abrogated by allegations that a legislative official acted unlawfully or with an unworthy purpose, and applies both in civil cases and criminal prosecutions. It applies to activities within the legislative sphere even though the conduct, if performed in other than legislative contexts, would in itself be unconstitutional or otherwise contrary to criminal or civil statutes.¹³³

Representative Scott Perry (R-PA), who served as “the chief conduit for the House GOP Conference to the White House in Trump’s quest to overturn his defeat,”¹³⁴ also advanced this view. When a federal magistrate approved a warrant to seize his personal phone based on his actions related to January 6, Representative Perry asserted privilege, citing the Clause:

The Constitution's Speech and Debate Clause states that "for any Speech or Debate in either House, [Members of Congress] shall not be questioned in any other place." The Supreme Court has explained that the Clause "was designed to assure a

¹²⁹ Brief of the U.S. House of Representatives as *Amicus Curiae* in Support of Neither Party, submitted to the U.S. Court of Appeals for the District of Columbia in Case No. 23-3001 (filed February 10, 2023).

¹³⁰ Brief of the U.S. House of Representatives as *Amicus Curiae* in Support of Neither Party, submitted to the U.S. Court of Appeals for the District of Columbia in Case No. 23-3001 (filed February 10, 2023) (quoting *Eastland v. U.S. Serviceman’s Fund*, 421 U.S. 491 (1975)).

¹³¹ *Id.* at 5 (quoting *Eastland v. U.S. Serviceman’s Fund*, 421 U.S. 491 (1975)).

¹³² *Id.* at 5.

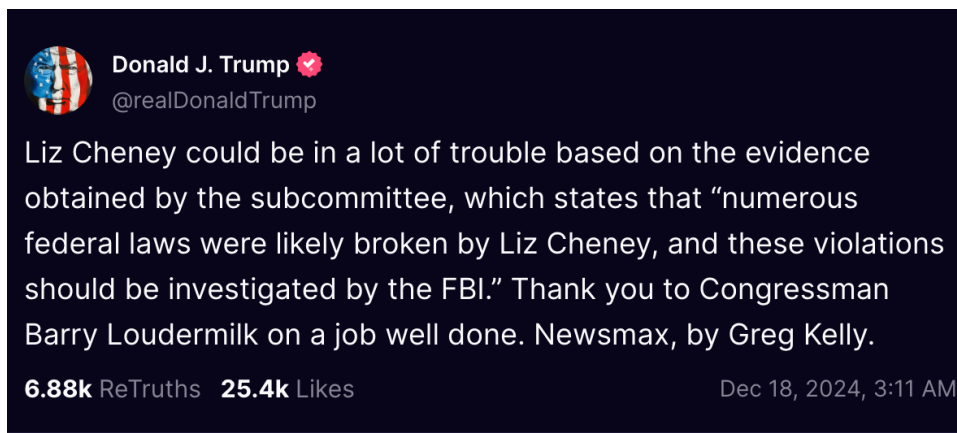
¹³³ *Id.* at 6.

¹³⁴ Jacqueline Alemany, Emma Brown and Amy Gardner, *Rep. Scott Perry played key role in promoting false claims of fraud*, Wash. Post (Jun. 23, 2022), <https://www.washingtonpost.com/national-security/2022/06/23/scott-perry/>. See also *Final Report of the Select Committee*, *supra* note 2 at 50 (“The Committee’s investigation has shown that Congressman Perry was working with one Department of Justice official, Jeffrey Clark, regarding the stolen election claims. Perry was working with Clark and with President Trump and Chief of Staff Mark Meadows with this goal: to enlist Clark to reverse the Department of Justice’s findings regarding the election and help overturn the election outcome.”).

co-equal branch of the government wide freedom of speech, debate, and deliberation without intimidation or threats from the Executive Branch." In extending that reasoning to include an absolute non-disclosure privilege in addition to a testimonial privilege, the U.S. Court of Appeals for the District of Columbia Circuit has held that "the purpose of the Speech and Debate Clause is to ensure that the legislative function the Constitution allocates to Congress may be performed independently, without regard to the distractions of private civil litigation or the periods of criminal prosecution." (internal citations omitted).¹³⁵

b. Chairman Loudermilk's Allegations of Criminal Conduct Lack Any Factual or Legal Basis

The Clause unequivocally immunizes all Members of Congress, including Vice Chair Cheney and other Members of the Select Committee, for actions undertaken as part of their official duties. Nevertheless, even in the absence of Speech or Debate protections, Chairman Loudermilk's disgraceful allegations that Vice Chair Cheney violated federal criminal law would remain entirely meritless. The Loudermilk Report fails to analyze the elements of the alleged crimes, cite any caselaw, or provide even basic legal reasoning. Chairman Loudermilk's claims seem aimed at pleasing former President Trump rather than advancing a serious argument:



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In any case, the Clause plainly immunizes all Members of the Select Committee for the actions taken as a Members of the Select Committee, just as it would any other Member of Congress. Put simply, the statements in the Loudermilk Report are absurd. If the Clause did not apply to congressional investigations, Chairman Loudermilk could be subject to liability himself for

¹³⁵ Emergency Motion for Return of Seized Property Pursuant to Fed. R. Crim. P. 41(g) and Request for Injunctive and Other Relief, *Perry v. U.S.A.*, (D.D.C. Aug. 18, 2022) (No. 1 1:22-mc-00079).

¹³⁶ Donald Trump (@realDonaldTrump), Truth Social, (Dec. 18, 2023, 3:11 AM), <https://truthsocial.com/@realDonaldTrump/posts/113672813493636573>.

defamation. All those who republish these allegations outside speech or debate may also be liable.

V. Chairman Loudermilk’s Factfinding Efforts Were Unserious and Lacked Basic Investigative Rigor

In contrast to the Select Committee’s thorough and exhaustive investigation, Chairman Loudermilk’s inquiry into Vice Chair Cheney’s interactions with Ms. Hutchinson is an example of investigative failure.

There is only one explanation for the lack of any meaningful investigation: Chairman Loudermilk knew information provided by Ms. Hutchinson, Vice Chair Cheney, and Ms. Farah Griffin would undermine his predetermined narrative and efforts to put aside the fact that President Trump was the first President in our nation’s history responsible for inciting an attack on the Constitution and the United States Capitol. But the world watched—live on television—as President Trump both took actions that harmed the nation and failed to take actions to preserve and defend the Constitution.

VI. Chairman Loudermilk’s Other Select Committee “Findings” Have No Basis in Fact

a. President Trump’s Intent to Join the Rioters at the Capitol

In addition to the malicious and unsupported allegations described above, Chairman Loudermilk also presents a series of additional findings related to the Select Committee that are similarly preposterous. For example, on pages 28 to 33, the Loudermilk Report attempts to rebut a series of specific investigative findings by the Select Committee, but does so by ignoring the actual evidence in the record. The Select Committee was concerned that then-President Trump desired to personally lead his supporters’ effort at the Capitol to obstruct the counting of electoral votes. The Select Committee’s Final Report explained that:

President Trump’s desire to travel to the Capitol was particularly important for the Committee to evaluate because it bears on President Trump’s intent on January 6th.¹³⁷

A book by former Trump Chief of Staff Mark Meadows (the publisher of which eventually sued Mr. Meadows for including false information therein)¹³⁸ suggested that President Trump never intended to do this.¹³⁹ In fact, President Trump announced in his speech at the Ellipse that he was going to the Capitol.¹⁴⁰ A White House employee with national security responsibilities who was at the Ellipse in the Presidential Motorcade that day, testified to the Select Committee that, upon hearing the President make his announcement, he spoke to Chief of Staff Mark Meadows to ask

¹³⁷ *Final Report of the Select Committee*, *supra* note 2 at 127.

¹³⁸ Hillel Italie, *Former White House chief of staff Mark Meadows sued by book publisher for breach of contract*, AP (Nov. 6, 2023), <https://apnews.com/article/mark-meadows-trump-breach-contract-book-publisher-c76972d8f51df9ad74bc7797584c7436>.

¹³⁹ Mark Meadows, *The Chief’s Chief* 259 (2021).

¹⁴⁰ Transcript of Trump’s Speech at Rally Before US Capitol Riot, *supra* note 23.

whether there would be a movement to the Capitol. Meadows told him, “Not now, but maybe later.”¹⁴¹

In addition, as the Select Committee’s Final Report explains in great detail, the witness testimony and documentary evidence support its conclusion that President Trump did, in fact, have this intent.¹⁴² Several White House witnesses (including Press Secretary Kayleigh McEnany), USSS personnel, and a member of MPD explained in sworn testimony that Trump was adamant about traveling to the Capitol both before and after his Ellipse speech.¹⁴³

The incident in the Presidential Limousine is one such piece of evidence. Multiple witnesses, including USSS agents and a member of MPD who were in the motorcade testified that President Trump was angry, furious, or irate when he was told he could not travel to the Capitol.¹⁴⁴ Ms. Hutchinson testified about an account she heard second hand of these events from Deputy Chief of Staff Anthony Ornato shortly after the Limousine returned to the White House. Although Mr. Ornato later testified that he did not recall relaying this story to Ms. Hutchinson, another member of the White House staff testified that he heard an account of Trump’s irate exchange in the Limousine from Mr. Ornato around the same time in the White House office with the same people present.¹⁴⁵ The Select Committee explained in detail in its report why it credited Ms. Hutchinson’s account. And since the work of the Select Committee concluded, President Trump has repeatedly indicated in public remarks that he did want to go to the Capitol on January 6, 2021.¹⁴⁶

b. The Handwritten Note Given to President Trump

On pages 37 to 42 of the Report, Chairman Loudermilk focuses on a note written by President Trump’s staff imploring him to instruct his violent supporters to leave the Capitol. The note recommended that President Trump say, “Anyone who entered the Capitol ~~illegally~~ without proper authority should leave immediately.”¹⁴⁷ The key point is that then-President Trump’s staff was begging him to take immediate action to stop the violence at the Capitol, but for hours Trump refused to do so. The Select Committee explained in its Final Report why this note was an important part of the evidence of Trump’s disgraceful conduct.¹⁴⁸

It is particularly strange that Chairman Loudermilk focuses on this note without addressing—at all—its actual relevance. Although witness recollection can and often does differ a year after the fact, Chairman Loudermilk focuses on an immaterial difference in recollection that that does nothing to undermine the evidence of then-President Trump’s corrupt intent.

¹⁴¹ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of White House Employee Three*, 117th Cong. (Jul. 19, 2022), at 58.

¹⁴² *Final Report of the Select Committee*, *supra* note 2 at 127-128, 587-592.

¹⁴³ *Id.* at 587-592.

¹⁴⁴ *Id.*

¹⁴⁵ *Id.* at 588.

¹⁴⁶ *See, e.g.*, Chris Cameron and Michael Gold, *Trump Acknowledges He Wanted to Go to the Capitol on January 6*, N.Y. Times (May 1, 2024) <https://www.nytimes.com/2024/05/01/us/politics/trump-capitol-jan-6.html>.

¹⁴⁷ *Final Report of the Select Committee*, *supra* note 2 at 79.

¹⁴⁸ *Id.* at 76-79 (2022) (“Who wrote the note is not material to the Select Committee—the important point is that it was prepared for the President.”).

c. President Trump’s Knowledge of the Potential for Violence

Chairman Loudermilk also suggests that then-President Trump had no knowledge of the potential for violence on January 6. However, once again, Chairman Loudermilk ignores the very specific evidence developed on this point, including testimony and contemporaneous documents discussed at pages 65-75 of the Select Committee’s Final Report.¹⁴⁹ The detailed intelligence available at the time about the potential for violence is discussed at length in the November 29, 2022, deposition of Mr. Ornato, the transcript of which was made public on the GPO Website at the close of the Committee investigation in 2022.

d. Calls to Hang Vice President Pence

Chairman Loudermilk further asserts that there is no evidence that President Trump agreed with the rioters who chanted “hang Mike Pence,” and tries to characterize Ms. Hutchinson’s testimony as inconsistent when she recounted Mark Meadows’s statements concerning President Trump’s view that perhaps Mike Pence deserved to be hanged. But there is no inconsistency. In fact, that view is entirely consistent with the first-hand account Trump has given of his own view. As noted briefly in Section I, *supra*, Trump is on record defending those who chanted “Hang Mike Pence!” in an interview with *ABC News*’ Jonathan Karl:

Mr. Karl: "Because you heard those chants — that was terrible. I mean — "

Mr. Trump: "He could have — well, the people were very angry."

Mr. Karl: "They were saying 'hang Mike Pence.'"

Mr. Trump: "Because it's common sense, Jon. It's common sense that you're supposed to protect. How can you — if you know a vote is fraudulent, right? — how can you pass on a fraudulent vote to Congress? How can you do that?"¹⁵⁰

In addition, and as also noted in Section I, *supra*, when told that Vice President Pence was forced to evacuate to a secure location for his own safety, then-President Trump cruelly responded, “So what?”¹⁵¹

The Loudermilk Report makes much of the fact that another unnamed witness did not hear the same comments about which Ms. Hutchinson testified. But Chairman Loudermilk selectively omits that this witness acknowledged that he would routinely “tune out” and does not recall Trump’s statements on multiple topics.¹⁵² He likewise omits that the witness also testified, “I don’t know if it happened or not.”¹⁵³ Thus, this allegation is another lie.

¹⁴⁹ *Final Report of the Select Committee*, *supra* note 2 at 65-75.

¹⁵⁰ Allen, *supra* note 37.

¹⁵¹ Government’s Motion for Immunity Determinations, *supra* note 36.

¹⁵² H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of White House Employee One*, 117th Cong. (Jun. 10, 2022), at 33-34.

¹⁵³ *Id.* at 43.

Further, Ms. Hutchinson’s testimony about Trump’s state of mind is consistent with the accounts given by multiple witnesses who unsuccessfully pled with President Trump to act to stem the violence.¹⁵⁴ Another White House employee testified about a conversation he had with Pat Cipollone and Eric Herschmann while the violence was underway in which Mr. Herschmann indicated that the President did not want to do anything to halt the violence. That employee told the Select Committee that in response to a call from the Pentagon concerning the DC National Guard, Mr. Herschmann said something to the effect of, “the President didn’t want anything done.”¹⁵⁵ Mr. Herschmann and Mr. Cipollone have both testified before a grand jury investigating Donald Trump, and their testimony should be made public. Moreover, according to evidence from a witness other than Ms. Hutchinson, President Trump “did not want to include any sort of mention of peace” in his message to the public amidst the violence on January 6th and others, including his daughter, had to work to convince him to change his mind.¹⁵⁶

VII. Committee on House Administration Republicans’ Attempts to Erase Inconvenient Truths, Undermine Accountability, and Weaken Capitol Security

a. “The Confidentiality of USCP’s Footage is Vital to Protecting the Capitol”: Release of Sensitive Capitol Security Footage Over Capitol Police Objections

i. The Committee Turns Sensitive Capitol Security Footage Over to Tucker Carlson Without Capitol Police Approval or Notification

House Republicans’ attempts to whitewash January 6, 2021, began in the months that followed the attack,¹⁵⁷ but they accelerated upon the convening of the 118th Congress. Even before Members were sworn in, then-Leader McCarthy reportedly promised to direct the Committee on House Administration to release tens of thousands of hours of sensitive Capitol security footage in exchange for votes to become Speaker.¹⁵⁸

¹⁵⁴ *Final Report of the Select Committee*, *supra* note 2 at 76-82.

¹⁵⁵ *Transcribed Interview of White House Employee Three*, *supra* note 141 at 98.

¹⁵⁶ *Final Report of the Select Committee*, *supra* note 2 at 90 (citing testimony of Sarah Matthews).

¹⁵⁷ See, e.g. Grace Segers, “Normal tourist visit”: Some Republicans downplay January 6 riot amid Democratic objections, CBS News (May 13, 2021), <https://www.cbsnews.com/news/capitol-riot-january-6-hearing-lawmakers-clash/> (“If you didn’t know the footage was from January 6, you would actually think it was a normal tourist visit,” [Republican Congressman Andrew] Clyde said. But Clyde’s description undersells the violence of the day. Rioters attacked law enforcement officers defending the Capitol, injuring 140 Capitol and Metropolitan Police officers. One officer died the day after the attack, and two died by suicide shortly thereafter.”).

¹⁵⁸ <https://www.cnn.com/2023/02/27/politics/kevin-mccarthy-january-6-footage-reaction/index.html> (“While GOP leaders are supportive of the move to release the footage – which was one of the many concessions McCarthy made in his bid to become speaker – some lawmakers in the closed-door leadership meeting asked whether sensitive security protocols or certain evacuation routes would be exposed by taking that step.”); see also Melanie Zanona, Manu Raju, and Alayna Treene, *Top Republicans question McCarthy over release of January 6 footage as speaker vows deliberate approach*, CNN (Feb. 28, 2023), <https://www.cnn.com/2023/02/27/politics/kevin-mccarthy-january-6-footage-reaction/index.html> (“One of McCarthy’s closest allies, Georgia Rep. Marjorie Taylor Greene – who also has downplayed the January 6 attack – backed his decision to give the footage to Carlson. She told CNN on Monday she played a role in McCarthy’s decision, but she wouldn’t go into further detail... Florida Rep. Matt Gaetz, who urged the speaker to release the footage as McCarthy was courting his vote for the speakership, would not say if that was part of the commitment made to encourage him to vote “present” and help the California Republican’s cause.”).

Soon thereafter, in February 2023, the Committee provided “unfettered access” to tens of thousands of hours of sensitive Capitol security footage to Tucker Carlson at the direction of Speaker McCarthy.¹⁵⁹ The footage was provided without notice to—or clearance from—USCP. On the contrary, USCP had already informed Committee Republicans that it opposed releasing the footage. The footage did not show that January 6 was “peaceful” because it was not. But disclosing it did create security issues. The USCP General Counsel explained why the footage was so sensitive in sworn testimony to a federal court as part of a January 6-related prosecution:

Allowing less restricted access to the CCV (closed circuit video) system could present a dire safety risk to the Capitol and its inhabitants; even a knowledge of, for example, the location of each CCV camera might enable a bad actor to exploit vulnerabilities in the system.¹⁶⁰

The USCP Assistant Chief of Police provided similar sworn testimony:

USCP continues to consider any interior footage of the U.S. Capitol to be highly sensitive information, and that access to it should be strictly limited.¹⁶¹

In additional sworn testimony, the USCP General Counsel described his discussions with Committee Republicans about their interest in releasing the footage:

10. On February 8, 2023, I received a request from [Republican staff] from the Committee on House Administration (CHA), one of the four oversight committees of the Capitol Police. The Director requested that CHA be given the same access to the USCP footage that had been provided to the January 6 Select Committee. . . **At no time was I nor anyone else from the Capitol Police informed that anyone other than personnel from CHA would be reviewing the camera footage.**

11. On February 20, 2023, through a report from the media, the Capitol Police learned that access to the footage had been granted to members of the Tucker Carlson Show. That access was not previewed with the Capitol Police nor was the Capitol Police informed before that access was granted. . .

¹⁵⁹ Rebecca Shabad, *Tucker Carlson says he has access to 44,000 hours of Jan. 6 video*, NBC News (February 21, 2023), <https://www.nbcnews.com/politics/congress/tucker-carlson-says-access-44000-hours-jan-6-video-footage-rcna71642> (“So there are about 44,000 hours, and we have, you may have read, been granted access to that,” Carlson said on his prime-time show. “We believe that access is unfettered. We believe we have secured the right to see whatever we want to see.”).

¹⁶⁰ Declaration of Thomas A. DiBiase, U.S.A. v. Pope, (D.D.C Mar. 17, 2023) (No. 88-1 1:21-cr-00128), available at <https://storage.courtlistener.com/recap/gov.uscourts.dcd.228004/gov.uscourts.dcd.228004.88.1.pdf> (last accessed Dec. 12, 2024); see also Frank Thorp V and Dareh Gregorian, *Capitol Police were not told Republicans would turn Jan. 6 footage over to Tucker Carlson*, NBC News (Mar. 17, 2023), <https://www.nbcnews.com/politics/congress/capitol-police-werent-told-republicans-turn-jan-6-footage-tucker-carls-rcna75504>.

¹⁶¹ Declaration of Sean P. Gallagher, U.S. v. Egtvedt, (D.D.C. Jul. 5, 2022) (No. 87-1 1:21-cr-00177).

. . .13. During numerous conversations with [Republican staff] over several weeks, I emphasized the Capitol Police's desire to review every footage clip, whether it was on the Sensitive List or not, if it was going to be made public. I informed the [Republican staff] that this was the same process followed by the Select Committee and the prosecutors in all of the criminal cases: that we were shown and had to approve of every clip before it was made public. **This was followed in all cases by both the Select Committee and the prosecutors.** (emphasis supplied).^{162 163}

Committee Republicans, however, disregarded these admonitions and ignored USCP's pleas for restraint by providing the footage to Mr. Carlson, against the best judgment of the Capitol's nonpartisan security professionals. Ironically, just one week later, they adopted a Committee Oversight Plan declaring their intention to "independently empower security experts, not politicians, to make security-related decisions."¹⁶⁴

In contrast to Committee Republicans, and as referenced by the USCP General Counsel in his testimony, the Select Committee agreed to share all footage it released publicly with USCP prior to release.¹⁶⁵ When USCP objected to use of a particular clip, the Select Committee worked with them to address the concerns. In addition, any individual that accessed security footage agreed to certain conditions and acknowledged that their actions were tracked so there was an auditable record. This responsible stewardship of sensitive Capitol security footage stands in stark contrast to the irresponsible actions of the Committee, Oversight Subcommittee, and multiple Republican Speakers of the House in the 118th Congress.

It is of note that, at the time the footage was provided, Mr. Carlson was a *Fox News* personality who regularly used his platform to peddle in conspiracy theories, including that the January 6 attack was a government-led false flag operation to justify stripping Trump supporters of their constitutional rights, that the violence was led by left-wing agitators, and that the rioters convicted of crimes were political prisoners.¹⁶⁶ By this time, even *Fox News* had acknowledged in federal court that Mr. Carlson should not have been considered an objective source of information.¹⁶⁷ Just one month later, *Fox News* would be forced to pay a nearly \$800 million settlement to Dominion Voting Systems over the outrageous and false claims made by Mr.

¹⁶² Declaration of Thomas A. DiBiase, *supra* note 160.

¹⁶³ In addition to obtaining clearance from USCP prior to utilizing video footage, the Select Committee utilized the following controls: only review footage from a limited period of time was reviewed; anyone from the Select Committee who reviewed footage signed a user agreement and their individual actions were tracked through individual usernames; the Select Committee maintained a paper log to document who was at the terminal and when; and although the Select Committee received the footage on an external hard drive, it was used on the condition that it wouldn't be accessed on non-House devices.

¹⁶⁴ H.R. Rep. No. 118-36, *Authorization and Oversight Plans for All House Committees*, at 3 (2023).

¹⁶⁵ Declaration of Thomas A. DiBiase, *supra* note 160.

¹⁶⁶ Bill McCarthy, *Tucker Carlson's 'Patriot Purge' film on Jan. 6 is full of falsehoods, conspiracy theories*, Politifact, (Nov. 5, 2021), <https://www.politifact.com/article/2021/nov/05/tucker-carlsons-patriot-purge-film-jan-6-full-fals/>.

¹⁶⁷ Memorandum in Support of Defendant's Motion to Dismiss, *McDougal vs. Fox News Network, LLC*, 489 F.Supp.3d 174 (S.D.N.Y. 2020) (No. 29 1:19-cv-11161).

Carlson and others at *Fox News* that the 2020 presidential election was stolen through the use of Dominion voting machines.¹⁶⁸

On March 6, 2023, Mr. Carlson, while reiterating his claims that the 2020 election was stolen from former President Trump, aired deceptive clips of Capitol security footage provided to him by Committee Republicans.¹⁶⁹ He disingenuously claimed that the rioters were peaceful, that “the footage does not show an insurrection or a riot in progress,”¹⁷⁰ and that the rioters “obviously revered the Capitol.”¹⁷¹ The broadcast was described by USCP Chief J. Thomas Manger as “filled with offensive and misleading conclusions about the January 6 attack.”¹⁷²

Notably, Committee Republicans chose to release the footage to a notorious purveyor of election misinformation and conspiracy theories at a time in which threats toward elected officials were (and remain) at record highs¹⁷³ and USCP was already struggling to manage its caseload.¹⁷⁴

The brave women and men of USCP and MPD who risked their lives to protect Members of Congress, staff, and American democracy itself on January 6, 2021—along with the families of those who lost their lives doing so—have described the agony they feel when bad faith actors attempt to whitewash their trauma. For example, following Mr. Carlson’s hours of nationally televised propaganda (that Committee Republicans assisted Mr. Carlson and *Fox News* in producing), the family of the late Officer Brian Sicknick said:

Every time the pain of that day seems to have ebbed a bit, organizations like Fox rip our wounds wide open again and we are frankly sick of it.¹⁷⁵

¹⁶⁸ David Bauder, Randall Chase, and Geoff Mulvihill, *Fox, Dominion reach \$787M settlement over election claims*, AP (Apr. 18, 2023), <https://apnews.com/article/fox-news-dominion-lawsuit-trump-2020-0ac71f75acface52ea80b3e747fb0afe>.

¹⁶⁹ Sahil Kapur, *Tucker Carlson, with video provided by Speaker McCarthy, falsely depicts Jan. 6 riot as a peaceful gathering*, NBC News (Mar. 6, 2023), <https://www.nbcnews.com/politics/justice-department/tucker-carlson-new-video-provided-speaker-mccarthy-falsely-depicts-jan-rcna73673>.

¹⁷⁰ *Id.*

¹⁷¹ Azi Paybarah, *White House criticizes Tucker Carlson for depiction of Jan. 6 attack*, The Wash. Post, (Mar. 8, 2023), <https://www.washingtonpost.com/politics/2023/03/08/tucker-white-house-attack/>.

¹⁷² Memorandum from Chief J. Thomas Manger to Members of the United States Capitol Police (Mar. 7, 2023). See also Katherine Faulders, Rachel Scott, and Luke Barr, *Capitol Police chief slams Carlson’s comments about Jan. 6 video as ‘offensive and misleading’ in internal memo*, ABC News (Mar. 7, 2023), <https://abcnews.go.com/Politics/capitol-police-chief-slams-carlsons-comments-jan-6/story?id=97686463>.

¹⁷³ Paul Kane, Marianna Sotomayor, and Jacqueline Alemany, *Fear, anger and trauma How the Jan. 6 attack changed Congress*, Wash. Post (Jan. 3, 2022), <https://www.washingtonpost.com/politics/2022/01/03/january-6-congress/> (“Threats against lawmakers are at an all-time high, with 9,600 being recorded in 2021, according to U.S. Capitol Police Chief J. Thomas Manger, continuing an alarming trend. In 2017, there were fewer than 4,000 threats against lawmakers, a number that rose to more than 8,600 threats in 2020.”); see also Andrew Solender, *Threats against members of Congress went back up in 2023*, Axios (Jan. 18, 2024), <https://www.axios.com/2024/01/19/threats-members-congress-2023>.

¹⁷⁴ Chris Marquette, *Capitol Police agents strained to probe increasing threats against lawmakers*, Roll Call (Sep. 21, 2023), <https://rollcall.com/2023/09/21/capitol-police-agents-strained-to-probe-increasing-threats-against-lawmakers/>.

¹⁷⁵ Cami Mondeaux, *Capitol Police chief blasts Tucker Carlson for saying officers acted as ‘tour guides’ on Jan. 6*, The Wash. Examiner (Mar. 7, 2023), <https://www.washingtonexaminer.com/news/house/capitol-police-chief-blasts-tucker-carlson-for-jan-6-footage>.

ii. *The Committee Turns Sensitive Capitol Security Footage Over to January 6 Criminal Defendants Over Capitol Police Objections*

At about the same time the Committee provided the footage to Mr. Carlson, it also provided criminal defendants charged with January 6-related crimes with thousands of hours of Capitol security footage.¹⁷⁶ However, through the ordinary discovery process, these defendants already had access to virtually all Capitol footage from the relevant eight-hour period that day. Providing additional footage to defendants outside the standard discovery process undermined a protective order that had been in place and potentially allowed for the publication of sensitive security footage without regard to the danger such publication would have posed.¹⁷⁷ Indeed, the protective order was issued in the first place because a federal judge found the following:

‘[P]roviding unfettered access to hours of extremely sensitive information to defendants who have already shown a desire to interfere with the democratic process will result in the layout, vulnerabilities and security weaknesses of the U.S. Capitol being collected, exposed and passed on to those who might wish to attack the Capitol again’... The Government has thus shown that maintaining the confidentiality of USCP’s footage is vital to protecting the Capitol—especially as to those who have sought to attack it.¹⁷⁸

Committee Republicans ignored the objections of nonpartisan law enforcement professionals and, seemingly prioritizing their own political ends and those of former President Trump over the safety and security of the United States Capitol and the thousands of Members, staff, and visitors who occupy it, provided the footage anyway.

iii. *Speaker Mike Johnson and the Committee Pledge to Release Capitol Security Footage to the General Public Over Capitol Police Objections*

On October 3, 2023, House Republicans voted to remove Speaker Kevin McCarthy by agreeing to a resolution declaring the office of Speaker to be vacant filed by former Representative Matt Gaetz (R-FL). Following approximately two weeks of failed votes on several potential replacements, House Republicans selected Representative Mike Johnson (R-LA) as the next Speaker. Speaker Johnson was a key architect of congressional Republicans’ objections to certifying the 2020 election and played an indispensable role in former President Trump’s congressional efforts to stop the peaceful transfer of power.¹⁷⁹

¹⁷⁶ Kyle Cheney, Olivia Beavers, and Sarah Ferris, *House GOP moving to let Jan. 6 defendants access Capitol security footage*, Politico (Feb. 28, 2023), <https://www.politico.com/news/2023/02/28/house-gop-moving-to-let-jan-6-defendants-access-capitol-security-footage-00084763>.

¹⁷⁷ Memorandum Opinion, *U.S. v. McCaughey & Stevens* (D.D.C. Apr. 21, 2021) (No. 39 1:21-cr-0040).

¹⁷⁸ *Id.* (quoting Declaration of Thomas A. DiBiase).

¹⁷⁹ Luke Broadwater and Steve Eder, *Johnson Played Leading Role in Effort to Overturn 2020 Election*, N.Y. Times (Oct. 25, 2023), <https://www.nytimes.com/2023/10/25/us/politics/mike-johnson-2020-election-overturn.html> (“A social conservative, Mr. Johnson played a leading role in recruiting House Republicans to sign a legal brief supporting a lawsuit seeking to overturn the results. In December 2020, Mr. Johnson collected signatures for a legal brief in support of a Texas lawsuit, rooted in baseless claims of widespread election irregularities, that tried to throw out the results in four battleground states won by Joseph R. Biden Jr. The Supreme Court ultimately rejected the suit, but not before Mr. Johnson persuaded more than 60 percent of House Republicans to sign onto the effort. He did so by telling them that the initiative had been personally blessed by Mr. Trump, and that the former president was

As part of his campaign to become Speaker, then-Representative Johnson pledged to release more than 40,000 hours of Capitol security footage to the public.¹⁸⁰ He would go on to do this in close partnership with Oversight Subcommittee Chairman Loudermilk, who received an influx of resources and autonomy under the new Speaker:

“We’re entering a new phase,” [Loudermilk] said in an exclusive interview with *Fox News Digital*. “The speaker has committed whatever resources we need to move forward, and has basically tripled the size of our staff.”¹⁸¹

When there was a short delay in releasing the video footage after Speaker Johnson assumed his new position, he explained the wait by describing appalling efforts to blur out rioters’ faces to prevent them from being charged with crimes:

We have to blur some faces of persons who participated in the events of that day because we don’t want them to be retaliated against and to be charged by the DOJ.¹⁸²

Of course, if DOJ charges an individual with a crime based on the reasonable belief that the charges are supported by probable cause and that admissible evidence would be sufficient to support conviction beyond a reasonable doubt, that would not be retaliation. The failed attempt to blur the faces of the rioters is an affront to the members of law enforcement who gave life and limb to protect Chairman Loudermilk, Speaker Johnson, and their colleagues on January 6.

In the end, faces of the rioters were not blurred. According to Speaker Johnson and Chairman Loudermilk, the decision to not blur faces was made strictly because “that process has entailed significant logistical issues leading to lengthy delays.”¹⁸³

“anxiously awaiting” to see who in Congress would defend him. A constitutional lawyer, Mr. Johnson was also a key architect of Republicans’ objections to certifying Mr. Biden’s victory on Jan. 6, 2021. Many Republicans in Congress relied on his arguments. In 2020, Mr. Johnson embraced Mr. Trump’s wild and false claims of fraud. In a radio interview, he asserted that a software system used for voting was ‘suspect because it came from Hugo Chávez’s Venezuela.’ Mr. Johnson also falsely claimed the election was ‘rigged.’”).

¹⁸⁰ Farnoush Amiri, *Speaker Johnson says he’ll make 44,000 hours of Jan. 6 footage available to the general public*, AP (Nov. 17 2023), <https://apnews.com/article/jan-6-tapes-congress-capitol-insurrection-c737a543c379413ad6e025ac603ac3e3> (“House Speaker Mike Johnson said Friday he plans to publicly release thousands of hours of footage from the Jan. 6, 2021, attack on the U.S. Capitol, making good on a promise he made to far-right members of his party when he was campaigning for the job.”).

¹⁸¹ Brooke Singman, *House investigation into ‘what really happened on January 6’ entering ‘new phase’ with Speaker Johnson support*, Fox News (Jan. 14, 2024), <https://www.foxnews.com/politics/house-investigation-intowhat-really-happened-on-january-6-entering-new-phase-speaker-johnson-support>

¹⁸² Ryan J. Reilly, *Speaker Mike Johnson says he’s blurring Jan. 6 footage so rioters don’t get charged*, NBC News (Dec. 5, 2023), <https://www.nbcnews.com/politics/congress/speaker-mike-johnson-says-blurring-jan-6-footage-rioters-dont-get-char-rcna128181>.

¹⁸³ Comm. on H. Admin., *Committee on House Administration Releases 5,000 More House of January 6 Footage* (Mar. 1, 2024), <https://cha.house.gov/2024/3/committee-on-house-administration-releases-5-000-more-hours-of-january-6-footage> (last visited Dec. 16, 2024).

iv. *The Committee Posts Capitol Security Footage on a Right-Wing Social Media Platform Known for Disinformation and Extremism*

Beginning in November 2023, Committee Republicans released rolling tranches of Capitol security footage to the general public, despite continued objections from USCP.¹⁸⁴ Instead of utilizing the Committee's official public website, the majority chose to post the videos on Rumble, a right-wing video-sharing platform described by the *Associated Press* as “a haven for disinformation and extremism.”¹⁸⁵ The platform, for example, hosts content denying the results of the 2020 election and prominently features accounts promoting the “QAnon” conspiracy theory.¹⁸⁶

In June 2024, the Oversight Subcommittee issued a subpoena for testimony to former USCP Acting Director of Intelligence Julie Farnam. Former Acting Director Farnam was initially hired by USCP weeks prior to the 2020 election as the Assistant Director of Intelligence as part of an effort to professionalize USCP intelligence capabilities.¹⁸⁷ She was asked whether there were particular dangers associated with posting Capitol security footage on a platform like Rumble. She responded as follows:

Ms. Farnam: Well, the audience is largely extremists, and those are people who have -- not everyone, but some of them have celebrated the threats to our democracy and have worked to undermine our democracy. And so having that security information makes it even more dangerous for the people trying to protect the Capitol and more dangerous for all the Members of Congress.¹⁸⁸

In addition to exposing security vulnerabilities to an extremist audience, the Rumble decision was an expensive and superfluous one. It cost more than \$250,000 in taxpayer funds in a single quarter alone to host the footage on Rumble, even though both the Committee and the Speaker maintain taxpayer-funded websites capable of hosting the material at no additional cost.¹⁸⁹

¹⁸⁴ Cindy Harper, *Free Speech Platform Rumble Is Selected To Host Publicly Available January 6th CCTV Transparency Footage*, Reclaim the Net (Dec. 8, 2023), <https://reclaimthenet.org/rumble-january-6th-cctv-transparency-footage>.

¹⁸⁵ Ali Swenson, *RNC's livestreaming partner for the GOP debate is a haven for disinformation and extremism*, AP (Sep. 25, 2023), <https://apnews.com/article/repUBLICAN-debate-livestream-rumble-disinformation-extremism-a6e627ac88463f9f83ada062ea83c6db>.

¹⁸⁶ *Id.*

¹⁸⁷ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Julie Farnam*, 117th Cong. (Dec. 15, 2021) at 5, 14-15.

¹⁸⁸ Comm. on H. Admin., *Deposition of Julie Farnam*, 118th Cong. (June 21, 2024) at 60.

¹⁸⁹ U.S. House of Representatives, *Statement of Disbursements of the House, April 1, 2024, to June 30, 2024*, available at <https://www.house.gov/the-house-explained/open-government/statement-of-disbursements/archive>.

ORGANIZATION	FISCAL YEAR	TRANSDT	VENDOR NAME	PERFORM START	PERFORM END	DESCRIPTION	AMOUNT
2024 HOUSE ADMINISTRATION	LY2024	11-Apr-24	RUMBLE CLOUD USA INC	20-Feb-24	19-Mar-24	CONTRACTS	83333.33
						TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	11-Apr-24	RUMBLE CLOUD USA INC	1-Mar-24	31-Mar-24	CONTRACTS	1500
						TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	11-Apr-24	RUMBLE CLOUD USA INC	20-Feb-24	29-Feb-24	CONTRACTS	465.52
			FIVE STONES			NON-TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	8-May-24	INTELLIGENCE INC	15-Jan-24	29-Feb-24	CONTR	37346.3
			FIVE STONES			NON-TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	20-May-24	INTELLIGENCE INC	1-Mar-24	31-Mar-24	CONTR	12653.64
						TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	20-May-24	RUMBLE CLOUD USA INC	20-Mar-24	19-Apr-24	CONTRACTS	83333.33
						TECHNOLOGY SERVICE	
2024 HOUSE ADMINISTRATION	LY2024	3-Jun-24	RUMBLE CLOUD USA INC	20-Apr-24	19-May-24	CONTRACTS	83333.33

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In sum, the Committee majority’s decision to release sensitive Capitol security footage exclusively to right-wing commentator Tucker Carlson and subsequently to the general public via Rumble has compromised the security of the Capitol and all who work or visit it. That this was done at a time in which threats against Members of Congress were so high was reckless and has put every Member, staffer, and visitor in the Capitol Complex at risk.

The footage Committee Republicans made available on Rumble includes continuous, unedited views of sensitive Capitol Complex areas, including barricades, USCP screening locations, magnetometers, ammunition and weapons storage facilities, garage entrances and exits, utility tunnels, telecommunications equipment, and Member evacuation routes, among other critical infrastructure. Prolonged access to such a wide array of unvetted footage presents a significant vulnerability to the security of the Capitol and all who work or visit there. For example, such access could provide bad actors with intelligence on USCP operations; the location of key infrastructure, access points, and other sensitive areas; camera locations, views, and blind spots; or routes of travel within the Capitol and other buildings on campus, including evacuation routes.

b. Overreach and Unintended Revelations: The Oversight Subcommittee Indulges Conspiracy Theories, Ignores Committee Jurisdiction, and Provides More Evidence of Trump’s Culpability

i. Chairman Loudermilk Begins the Congress by “Exonerating” Himself

The Committee and Oversight Subcommittee Democrats entered this Congress with a commitment to bipartisan oversight of USCP and building on the reforms implemented during the 117th Congress. This commitment was not shared by the Oversight Subcommittee Republicans. Instead, Chairman Loudermilk’s first order of business was to unilaterally release a self-serving “report” aimed at exonerating himself over his actions on January 5, 2021, when he conducted a tour of the Capitol Complex even though it was closed to the public because of COVID-19 public health restrictions. During this tour, now-Chairman Loudermilk’s guests photographed and recorded locations not generally of interest to tourists, such as staircases, hallways, and security checkpoints.¹⁹¹

¹⁹⁰ U.S. House of Representatives, *Statement of Disbursements of the House, April 1, 2024 to June 30, 2024*, available at <https://www.house.gov/the-house-explained/open-government/statement-of-disbursements/archive>.

¹⁹¹ *Final Report of the Select Committee*, *supra* note 2 at 642.

The next day (on January 6, 2021), one of the individuals on the tour was captured on video outside the Trump Ellipse rally saying:

There's no escape, Pelosi, Schumer, Nadler. We're coming for you... Even you, AOC. We're coming to take you out. To pull you out by your hairs.¹⁹²

Chairman Loudermilk was invited repeatedly by the Select Committee to provide an explanation for his actions, but he declined.

ii. The Majority's Allegation that the Select Committee Suppressed Evidence is Belied by the Facts

Chairman Loudermilk's allegation that the Select Committee suppressed evidence is false. The Select Committee prioritized transparency. In addition to the 10 public hearings that provided updates on investigatory processes and findings in real time, the Select Committee also archived and published all records associated with its Final Report on the free and publicly available GPO Website.¹⁹³ This includes more than 140 interview transcripts, as well as videos and documents—including memos, emails, text messages, and other records. In all cases, the Select Committee followed or exceeded relevant House Rules related to record preservation.¹⁹⁴

In response to this allegation, Select Committee Chairman Bennie Thompson sent a letter (“Thompson Letter”) to Chairman Loudermilk detailing the Select Committee's archiving and document preservation process. A copy of the Thompson Letter is attached as Appendix E. It reads, relevant part:

At my direction, Select Committee staff worked in close coordination with staffs of the Committee on House Administration, the Clerk of the House, the Office of General Counsel, the Office of the Parliamentarian, the National Archives and Records Administration (NARA), and the Government Publishing Office (GPO) in preparing the Select Committee's more than 1 million records for publication and archiving. Given the records' historic importance documenting the January 6th insurrection, I am proud of the Select Committee's unprecedented transparency, such as the records collection associated with the bipartisan Select Committee's final report at GPO's website: <https://www.govinfo.gov/collection/january-6th-committee-final-report>.

¹⁹² January 6 Committee, “Loudermilk Footage,” YouTube, June 5, 2022, available at www.youtube.com/watch?v=G9RNJ1tx4zw.

¹⁹³ Government Publishing Office, *GovInfo*, supra note 77.

¹⁹⁴ Rule VII of the Rules of the House of Representatives requires committees to archive noncurrent official, permanent records. Consistent with this guidance and other relevant authorities, the Select Committee archived all official, permanent records with the Office of the Clerk. Office of the Clerk guidance states that a permanent record is “[m]aterial created or received by a person, family, or a public or private organization that is preserved because of its enduring value. The value stems from the information it contains or the evidence it provides of the functions and responsibilities of the creator.” Records Management Manual for Committees,” Office of Art and Archives, Office of the Clerk of the House of Representatives (Aug. 2021). Per this guidance, the Select Committee did not archive temporary committee records that were not elevated by the Committee's actions (e.g., records not used in hearings or that did not further investigative activities).

As you note in your letter, rule VII of the Rules of the House of Representatives requires committees to archive noncurrent official, permanent records. To that end, the bipartisan Select Committee used an e-discovery platform to manage its investigative records. In consultation with the House Clerk's Office of Art and Archives and NARA, the Select Committee worked with its e-discovery platform contractor to create an archive file compatible with House Clerk and NARA systems. Official, permanent records were electronically archived in that file and delivered to the House Clerk with additional official, permanent records outside of the e-discovery platform on January 2, 2023. I encourage you to carefully review the Select Committee's over 4-terabyte digital archive, which includes the e-discovery platform's electronic archive file, before asserting that certain noncurrent records were not archived.¹⁹⁵

In addition, throughout its investigation, the Select Committee negotiated with Executive Branch entities to obtain testimony and other material containing law enforcement sensitive operational details and private personal information that, if released, could endanger national security, the safety of witnesses, or both.¹⁹⁶ As part of those negotiations, and as explained in the Thompson Letter, the Select Committee committed to keeping operational details and private information confidential, and to providing relevant executive branch entities like the Department of Homeland Security ("DHS") an opportunity to review interview transcripts for sensitive information that should be protected from disclosure. This was an express condition the Select Committee was required to accept to obtain testimony of these individuals, and attorneys in interviews and depositions repeatedly stressed this. This was documented by the Select Committee in letters to DHS and the White House, both of which were posted on the GPO Website when the investigation and session of Congress concluded.¹⁹⁷

The letter to DHS reads, in relevant part:

In each of our interviews, Secret Service lawyers participated and made clear that the transcripts:

include information and records covered under the Privacy Act, personnel and other personal privacy information, for-official-use-only information, intelligence and law enforcement sensitive records, and raw intelligence information.

¹⁹⁵ Letter from Representative Bennie Thompson to Representative Barry Loudermilk (Jul. 7, 2023).

¹⁹⁶ See generally Isaac Arnsdorf and Josh Dawsey, *Jan. 6 panel escalates showdown with Trump over influencing witnesses*, Wash. Post (Jul. 12, 2022), <https://www.washingtonpost.com/national-security/2022/07/12/trump-witness-tampering-jan-6/>.

¹⁹⁷ Letter from Chairman Bennie Thompson and Vice Chair Liz Cheney, Select Committee to Jonathan Meyer, Dept. of Homeland Security (Dec. 30, 2022), available at <https://www.govinfo.gov/content/pkg/gpo-j6-transcript-chair-vice-chair-letter-to-dhs/pdf/gpo-j6-transcript-chair-vice-chair-letter-to-dhs.pdf> and Letter from Chairman Bennie Thompson and Vice Chair Liz Cheney, Select Committee to Richard Sauber, The White House (Dec. 30, 2022), available at <https://www.govinfo.gov/content/pkg/gpo-j6-transcript-chair-vice-chair-letter-to-white-house/pdf/gpo-j6-transcript-chair-vice-chair-letter-to-white-house.pdf>

Secret Service lawyers also explained as follows:

While the Secret Service and the Department have made this information and records available, **we continue to assert that such information and records and any discussion of such information and records during the course of this transcribed interview is not intended for public release** ...This transcript and any attachments are protected from further dissemination to the same extent as the documents and information they are based on.

. . . In coordination with the office of the Speaker of the House, **to comply with House rules and to honor our commitment to best provide for continuing confidentiality of operational details and private information, we are hereby providing those transcripts to the Department now for appropriate review, timely return, and designation of instructions for proper handling by the Archives.** During your review, we recommend that the Department provide for the official file that will reside with the Archives any necessary written guidance regarding the need for limitations on release or other sensitivities. **Our expectation is that the transcripts with such instructions will become part of the historical record of our investigation maintained by the National Archives.** (emphasis supplied).¹⁹⁸

The letter from the Select Committee to the White House contained similar language:

In coordination with the office of the Speaker of the House, **to comply with House rules and to honor our commitment to best provide for continuing confidentiality of operational details and private information, we are hereby providing those transcripts to now for appropriate review, timely return, and designation of instructions for proper handling by the Archives.** During your review, we recommend that provide for the official file that will reside with the Archives any necessary written guidance regarding the need for limitations on release or other sensitivities. **Our expectation is that the transcripts with such instructions will become part of the historical record of our investigation maintained by the National Archives.**¹⁹⁹

Nonpartisan fact checkers agree that the Select Committee properly preserved its records. For example, PolitiFact rated the claim that the Select Committee “suppressed testimony” false.²⁰⁰ In so doing it cited, among other sources, the letter to DHS referenced above. Similarly,

¹⁹⁸ Letter from Chairman Bennie Thompson and Vice Chair Liz Cheney to Jonathan Meyer, *supra* note 197.

¹⁹⁹ Letter from Chairman Bennie Thompson and Vice Chair Liz Cheney to Richard Sauber, *supra* note 197.

²⁰⁰ Sara Swann, *Jan. 6 committee didn't 'suppress testimony' about Trump push for 10,000 National Guard troops*, PolitiFact (Mar. 19, 2024), <https://www.politifact.com/factchecks/2024/mar/19/facebook-posts/jan-6-committee-didnt-suppress-testimony-about-tru/>.

Factcheck.org noted the “more than a million records [that] had been prepared for publication and archiving,”²⁰¹ and went on to say:

Republican Rep. Barry Loudermilk, of Georgia, had told Fox News in a story published on Aug. 8, 2023, that the committee hadn’t adequately preserved some documents, data and video depositions.

. . . In reality, the evidence collected by the committee is still publicly available on a government website.²⁰²

It bears emphasizing that despite Chairman Loudermilk’s unsubstantiated allegations, a federal court found that President Trump has long had access to the evidence that Chairman Loudermilk falsely says were suppressed:

With regard to the subpoena duces tecum for the written interview transcripts. . .the Government represents that it “obtained these materials from the Select Committee, the White House, and the Secret Service, and it produced them to the defendant [Donald Trump] in its first discovery production more than two months ago,” itemized in a source log. Defendant [Donald Trump] does not dispute that report. The written transcripts are thus “procurable reasonably in advance of trial by exercise of due diligence” and therefore a Rule 17(c) subpoena for those transcripts is unnecessary. (internal citations omitted).²⁰³

The Court also dispensed with Chairman Loudermilk’s baseless claim that the Select Committee suppressed video footage of transcribed interviews. The Court noted that “the written transcripts. . .have already been produced” and further observed that President Trump “could have used the written transcripts of the interviews which he already possesses” to obtain the same information.²⁰⁴

iii. Instead of Performing Legislative Branch Oversight, the Oversight Subcommittee Conducted an Investigation into the DoD and DC Guard That Implicated Trump

a) The Select Committee Investigated the DC Guard Response to the Capitol

The Oversight Subcommittee spent a significant amount of time and resources investigating an internal DoD dispute between Trump Administration Pentagon officials and the DC Guard. The

²⁰¹ Saranac Hale Spencer, *Meme Rehashes Old, False Claim That J6 Committee Destroyed Evidence*, FactCheck.org (Oct. 15, 2024), <https://www.factcheck.org/2024/10/meme-rehashes-old-false-claim-that-j6-committee-destroyed-evidence/>.

²⁰² *Id.*

²⁰³ Opinion and Order, U.S.A. v. Trump, (D.D.C. Nov. 27, 2023) (No. 165 1:23-cr-00257), available at <https://storage.courtlistener.com/recap/gov.uscourts.dcd.258148/gov.uscourts.dcd.258148.165.0.pdf> (last accessed Jan. 4, 2025).

²⁰⁴ *Id.*

dispute centered on the accuracy of a DoD Office of Inspector General (“DoD OIG”) report examining the DoD’s role on January 6, 2021.²⁰⁵

The Select Committee examined this issue closely as part of its investigation, conducting more than two-dozen interviews, reviewing over 37,000 pages of documents, and dedicating 45 pages of its Final Report to this issue.²⁰⁶ These documents, interview transcripts, and the Final Report are all available to the public for free online on the GPO Website.²⁰⁷

The Select Committee concluded that President Trump’s eagerness to engage the military to address domestic unrest and his talk of invoking martial law or the Insurrection Act because of false claims the election was “stolen,” combined with unclear orders from an ill-equipped, newly installed Acting Secretary of Defense, caused confusion as the attack unfolded.²⁰⁸

The Select Committee further concluded that President Trump, as the Commander-in-Chief, could have expedited the deployment of the DC Guard to the Capitol with a simple phone call;²⁰⁹ instead, however, he merely watched the chaos unfold on television.²¹⁰

b) Former President Trump Did Not Order 10,000 DC Guard Troops Activated Ahead of January 6, 2021

While ostensibly meant to examine disputed facts from the DoD OIG report, part of the Oversight Subcommittee’s investigation was used as a pretext to spread the discredited allegation that former President Trump was not to blame for the violent Capitol siege because he attempted to send 10,000 DC Guard troops to the Capitol but was turned down.

As described below, the oft-repeated claim that President Trump ordered or otherwise offered 10,000 DC Guard troops for the Capitol prior to January 6 has been debunked by both Trump Administration officials providing testimony under oath and fact checkers. As an armed mob overran USCP, hunted for the Vice President and Speaker of the House, and laid siege to the Capitol, he was missing in action. Vice President Pence was effectively the President for multiple hours, giving orders from the basement of the Capitol while sheltering from the violent mob.

Christopher Miller served as former President Trump’s Acting Secretary of Defense on January 6, 2021. While testifying under penalty of perjury to the Select Committee, he said the following:

Select Committee Staff: To be crystal clear, there was no direct order from President Trump to put 10,000 troops to be on the ready for January 6, correct?

²⁰⁵ U.S. Dep’t of Def. Off. of Inspector Gen. *Review of the DOD’s Role, Responsibilities, and Actions to Prepare for and Respond to the Protest and its Aftermath at the U.S. Capitol Campus on January 6, 2021*, DODIG-2022-039 (Nov. 2021), <https://media.defense.gov/2021/nov/19/2002896088/-1/-1/1/dodig-2022-039%20v2%20508.pdf>.

²⁰⁶ *Final Report of the Select Committee*, *supra* note 2 at 724-769.

²⁰⁷ Government Publishing Office, *GovInfo*, *supra* note 77.

²⁰⁸ *Final Report of the Select Committee*, *supra* note 2 at 724-769.

²⁰⁹ *Id.* at 741.

²¹⁰ *Id.* at 76.

Miller: No. Yeah. That’s correct. There was no direct—there was no order from the President.²¹¹

Former President Trump’s Chairman of the Joint Chiefs of Staff, General Mark Milley, testified similarly to the Select Committee:

Gen. Milley: Not -- never once did I hear the President relative to the 6th specify the number of troops, 10,000 or any other number, for that matter.²¹²

Moreover, *The Washington Post* fact checker—one of many to analyze this claim—awarded it “four Pinocchios,” writing:

As we have documented before, President Donald Trump never requested 10,000 National Guard troops to secure the Capitol that day. He threw out a number, in casual conversation, that is now regarded by his supporters as a lifeline to excuse his inaction when a mob inspired by his rhetoric invaded the Capitol.²¹³

Undeterred by sworn witness testimony and fact checkers, in March 2024, Chairman Loudermilk began releasing a series of Select Committee interview transcripts. These transcripts, which had been undergoing compulsory security reviews, included a January 2022 interview of Anthony Ornato. Mr. Ornato was former President Trump’s Deputy Chief of Staff for Operations, a role he assumed after he served as the USSS agent in charge of Trump’s detail. In a press release, Chairman Loudermilk falsely claimed this transcript was “suppressed” because it contained “exonerating testimony” showing former President Trump did, in fact, ask for DC Guard troops in advance of January 6, 2021.²¹⁴

Specifically, Chairman Loudermilk references a phone call Mr. Ornato testified he overheard between White House Chief of Staff Mark Meadows and Washington, D.C. Mayor Muriel Bowser. Mr. Ornato testified he overheard that Mr. Meadows “wanted to make sure she had everything that she needed,” in terms of DC Guard assets.²¹⁵ The majority apparently believes

²¹¹ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Christopher Miller* 117th Cong. (Jan. 14, 2022), at 100-101. *See also* Annie Grayer, *Trump’s defense secretary denies there were orders to have 10k troops ready to deploy on January 6*, CNN (Jul. 26, 2022), <https://www.cnn.com/2022/07/26/politics/chris-miller-house-select-committee/index.html> (“Former acting Defense Secretary Chris Miller told the House select committee investigating the Capitol Hill insurrection that former President Donald Trump never gave him a formal order to have 10,000 troops ready to be deployed to the Capitol on January 6, 2021, according to new video of Miller’s deposition released by the committee.”).

²¹² H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of General Mark A. Milley*, 117th Cong. (Nov. 17, 2021), at page 222.

²¹³ Glenn Kessler, *No, Trump did not order 10,000 troops to secure the Capitol on Jan. 6*, *The Washington Post* (Dec. 15, 2021), <https://www.washingtonpost.com/politics/2021/12/15/no-trump-did-not-order-10000-troops-secure-capitol-jan-6/>; *see also* Madison Czopek, *No proof Trump asked for troops on Jan. 6 or that Democrats denied a request*, *Politifact* (Aug. 10, 2022), <https://www.politifact.com/factchecks/2022/aug/10/facebook-posts/no-proof-trump-asked-troops-jan-6-or-democrats-den/> (“There is no record of former President Donald Trump authorizing or requesting thousands of National Guard troops for the U.S. Capitol on Jan. 6, 2021.”).

²¹⁴ Press Release, Comm. on H. Admin., *Chairman Loudermilk Publishes Never-Before Released Anthony Ornato Transcribed Interview*, (Mar. 8, 2024), <https://cha.house.gov/press-releases?ID=05CC8BC4-AC1D-4D16-90C5-957D52B3674C>.

²¹⁵ *Id.*

this amounts to exculpatory evidence. However, they ignore the fact that, aside from the testimony failing to be exonerating, Mr. Ornato recounted the same telephone conversation in a November 2022 interview with the Select Committee. The transcript of that interview has long been publicly available on the GPO Website:

Ornato: . . .the Chief of Staff had a phone call with the D.C. Mayor, and was talking to her about this. And I believe from what I recall is that the D.C. Mayor had asked for approximately 300 or so National Guard to help with traffic posts in D.C., and I was relaying that information to Robert Engel there. That was my recollection on the D.C. National Guard...

...But I remember Mr. Meadows having the conversation with the D.C. Mayor because I happened to walk into his office, and he waved me in. And he was on the phone with the D.C. Mayor in offering assistance with the National Guard. And I remember that for – to bring National Guard, or to have them on standby.

Select Committee Staff: Right. We did discuss[] the conversation you overheard between Mr. Meadows and Mayor Bowser.²¹⁶

Chairman Loudermilk also omits less convenient excerpts of the January 2022 transcript. For example, at a different point in the interview, Mr. Ornato acknowledges that there was no order to deploy the DC Guard on January 6, 2021:

Select Committee Staff: I just want to be clear that the Mayor Bowser's response to the -- how would you describe it? Was it an offer of National Guard, or an inquiry about whether she needed additional National Guard?

Ornato: From what I remember, it was the Chief just checking in with the Mayor, are you all set? Do you have everything you need type of thing? We can book to do the -- if you need more -- I know, I think the request was, like I said, 350 or so. But if you need more, the President threw out a number of 10,000. I just heard the Chief's conversation, but that's what it sounded to be. I just had heard his side obviously.

Select Committee Staff: Right. And there wasn't any step taken after that? It sounded like Chief from the -- from what you described earlier, the Chief said, We are all set. And did that seem to end this idea of this number that you said was thrown out there of 10,000 troops?

Ornato: Yes. Yes.²¹⁷

²¹⁶ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Anthony Ornato*, 117th Cong. (Nov. 29, 2022), at 62.

²¹⁷ Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Anthony Ornato*, 117th Cong. (Jan. 28, 2022), at 83.

. . .Select Committee Staff: The morning of – you essentially thought it was going to just be an ordinary day, right, as you said?

Ornato: Correct.

Select Committee Staff: And apart from that conversation that you overheard with Mayor Bowser and Chief Meadows, you did not learn of any other additional efforts or order regarding 10,000 troops?

Ornato: No, not 10,000 troops, no.²¹⁸

c) Kash Patel is Conspicuously Absent from the Loudermilk Report

Kash Patel served as Chief of Staff to Acting Secretary of Defense Miller on January 6, 2021, and played a pivotal role in the DoD’s response to the attack. Mr. Patel testified before the Select Committee regarding the deployment of the DC Guard and claimed President Trump preemptively authorized “10- to 20,000” National Guardsmen for that day.²¹⁹

Despite this testimony, which seemingly aligns with Chairman Loudermilk’s desired narrative, Mr. Patel’s name is conspicuously absent from the Loudermilk Report. The reason for this omission is clear: in 2023, Mr. Patel testified in a Colorado state court about the DC Guard issue. The Court found that Mr. Patel was not a credible witness:

The Court finds that Mr. Patel was not a credible witness. His testimony regarding Trump authorizing 10,000-20,000 National Guardsmen is not only illogical (because Trump only had authority over about 2,000 National Guardsmen) but completely devoid of any evidence in the record. Further, his testimony regarding the January 6th Committee refusing to release his deposition and refusing his request to speak at a public hearing was refuted by [Select Committee attorney] Mr. Heaphy who was a far more credible witness. The Court did not give any weight to Mr. Patel’s testimony other than as evidence that the January 6th Select Committee interviewed many of Trump’s supporters as part of its extensive investigation.²²⁰

Mr. Patel—determined by a judge to be not credible on this subject specifically—exemplifies the type of witness Chairman Loudermilk relies upon to advance his discredited defenses of President Trump’s dereliction of duty on January 6.

It is worth noting, however, that if Chairman Loudermilk’s findings are taken at face value—specifically, that Acting Secretary Miller failed to follow orders from the Commander-in-Chief and, as a result, warrants investigation or disciplinary action as implied in the report²²¹—it is

²¹⁸ *Id.* at 92.

²¹⁹ Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Deposition of Kashyap Pramod Patel* (Dec. 9, 2021), at 38.

²²⁰ *Anderson v. Griswold*, 2023 WL 8006216, at *9 (Colo. Dist. Ct. Nov. 17, 2023).

²²¹ *Interim Report on the Failures and Politicization of the January 6th Select Committee*, Comm. on H. Admin. Subcomm. on Oversight (Dec. 17, 2024) at 68.

inconceivable that Mr. Patel, then also a senior DoD official, would not also be subject to the same level of scrutiny or accountability.

d) If President Trump Did Express Interest in the DC Guard, It Was Only to Protect Himself and His Supporters

Finally, as noted in the Select Committee’s Final Report, President Trump’s own advisors testified that any suggestion by Trump regarding the availability of the DC Guard was in the context of protecting himself and his supporters, rather than the Capitol and its occupants:

The President’s advisors tried to talk him out of [walking to the Capitol]. White House Senior Advisor Max Miller “shot it down immediately” because of concerns about the President’s safety. Pierson agreed. But President Trump was persistent, and he floated the idea of having 10,000 National Guardsmen deployed to protect him and his supporters from any supposed threats by leftwing counter-protestors. Miller again rejected the President’s idea, saying that the National Guard was not necessary for the event. Miller testified that there was no further conversation on the matter. After the meeting, Miller texted Pierson, “Just glad we killed the national guard and a procession.” That is, President Trump briefly considered having the National Guard oversee his procession to the U.S. Capitol. The President did not order the National Guard to protect the U.S. Capitol, or to secure the joint session proceedings.²²²

That talk of the DC Guard was in the context of protecting former President Trump and his supporters rather than the Capitol was corroborated by Trump’s Chief of Staff Mark Meadows, who, on January 5, 2021, sent an email saying the DC Guard was being activated “so they can protect pro Trump people.”²²³

e) Senior DC Guard Leaders Confirm Former President Trump Could Have Expedited the DC Guard Arrival at the Capitol But Chose Not To

In March 2024, the Oversight Subcommittee majority convened series of transcribed interviews with senior leadership from the DC Guard. These interviews related to the dispute between the DoD and the DC Guard over the DoD OIG report examining January 6 and the three hour and nineteen-minute delay between the time the DC Guard was requested by USCP and its authorization to deploy to the Capitol. The DC Guard leaders confirmed that President Trump could have accelerated deployment of the DC Guard significantly had he merely picked up his phone and called the Acting Secretary of Defense, Secretary of the Army, or Commanding General of the DC Guard rather than watch the chaos on television.²²⁴

²²² *Final Report of the Select Committee*, *supra* note 2 at 534.

²²³ Documents produced to Select Committee to Investigate the January 6th Attack on the United States Capitol (Mark Meadows Production), MM0000789, available at <https://www.govinfo.gov/content/pkg/GPO-J6-DOC-MM000789/pdf/GPO-J6-DOC-MM000789.pdf>.

²²⁴ Kyle Cheney, *Trump could have helped response to Jan. 6 riot — but didn’t — per new testimony*, Politico (Apr. 17, 2024), <https://www.politico.com/news/2024/04/17/trump-jan-6-capitol-riot-national-guard-00152757>.

As discussed at length in the Select Committee’s Final Report, the DC Guard is unique among national guards in that it is the only one that is directly controlled by the President of the United States.²²⁵ However, a 1969 executive order delegated the President’s day-to-day control of the DC Guard to the Secretary of Defense.²²⁶ That same year, the Secretary of Defense delegated day-to-day control of the DC Guard to the Secretary of the Army.²²⁷ Despite the delegation of day-to-day control, the President maintains authority over the DC Guard. This was confirmed by Command Sergeant Major Michael Brooks, the most senior enlisted member of the DC Guard on January 6, during his transcribed interview:

Committee on House Administration Staff: And who is above the commanding general directly?

CSM Brooks: Of the D.C. National Guard?

CHA Staff: Yes.

CSM Brooks: The Secretary of the Army.

CHA Staff: And above the Secretary of the Army?

CSM Brooks: Secretary of Defense.

CHA Staff: And above the Secretary of Defense?

CSM Brooks: The President.²²⁸

The DC Guard’s Adjutant General, Brigadier General Aaron Dean, testified that the President could always supersede the delegation of authority to the Secretary of Defense and Secretary of the Army:

CHA Staff: And the President's authority has been delegated by executive order to the Secretary of Defense and the Secretary of the Army.

Gen. Dean: Right.

CHA Staff: Can the President at any time supersede that delegation of authority?

Gen. Dean: The President could.²²⁹

²²⁵ *Final Report of the Select Committee*, *supra* note 2 at 724-769. *See also* DC Code § 49-409, (“The President of the United States shall be the Commander-in-Chief of the militia of the District of Columbia.”).

²²⁶ Exec. Order 11485, 34 F.R. 15411, § 1, (Oct. 1, 1969).

²²⁷ Memorandum, Sec’y of Def. to Sec’y of the Army and Sec’y of the Air Force, “*Supervision and Control of the National Guard of the District of Columbia*,” (Oct. 10, 1969).

²²⁸ H. Comm. on H. Admin., *Transcribed Interview of Command Sergeant Major Michael Brooks*, 118th Cong. (Mar. 14, 2024), at 67.

²²⁹ *Transcribed Interview of Brig. Gen. Aaron R. Dean II*, *supra* note 31 at 62-63.

Brigadier General Dean went on to testify that President Trump could have called the Commanding General of the DC Guard directly as he saw the violence unfolding, and that doing so would have expedited the DC Guard's response:

CHA Staff: And if the President gave a lawful order to the D.C. National Guard, either through the Secretary of Defense and Secretary of the Army or directly to the Commanding General, would the National Guard be compelled to follow that order?

Gen. Dean: Absolutely. He could call [Commanding] General Walker directly. "Hey, General Walker, I need you at the Capitol right now."

CHA Staff: Did that happen on January 6?

Gen. Dean: No. No.²³⁰

. . . CHA Staff: If the President had made that phone call at [the time the Capitol was breached] -- you know, he's watching it play out on television. If he calls at that time and says, "Go," do you think that would have resulted in the National Guard getting to the Capitol more quickly than they did on the 6th?

Gen. Dean: Quite frankly, I think if anybody had said, "Go." . . . I think if the Secretary of the Army, the Secretary of Defense, or the President had said, "Go," either one, all three -- all three, one or three or a combination thereof had said, "Go," then we would've gone and we would've been there much faster than 5:09 or 5:06 or whatever time that was.²³¹

Command Sergeant Major Brooks agreed with Brigadier General Dean's analysis:

CHA Staff: Could the President have picked up the phone, called the Secretary of Defense and said, you know, "What's going on here? Our law enforcement is getting overrun. Make this happen"?

CSM Brooks: I assume that he could expedite an approval through the Secretary of Defense, through the Secretary of the Army, yes.

CHA Staff: And, to your knowledge, did that happen at all on January 6?

CSM Brooks: No.²³²

The President was missing in action. As noted by the Select Committee in its Final Report, by the time the Guard finally arrived at the Capitol, "pretty much all the other fighting, per se, had

²³⁰ *Id.*

²³¹ *Id.* at 66-67.

²³² *Transcribed Interview of Command Sergeant Major Michael Brooks, supra* note 228 at 68-69.

stopped on the Capitol complex.”²³³ Crucially, this was not the fault of the individual members of the DC Guard, who were eager to deploy to the Capitol. Ranking Member Morelle made this point directly to members of the DC Guard during an Oversight Subcommittee hearing:

The D.C. National Guardsmen are known as the Capitol Guardians, and we as members are only able to do our jobs in the days and months that followed January 6 because you stood guard over us as you did, and for that and for all of your long service, we owe you enormous debt of gratitude.

So, thank you. I want to be clear, we're here today for a single reason, an unpatriotic, cynical, power-hungry man incited a deadly insurrection as part of his months long effort to overturn a free and fair American election.²³⁴

f) Speaker Nancy Pelosi Did Not Block the National Guard

Among the most absurd of the false allegations advanced by Oversight Subcommittee Republicans is that Speaker Nancy Pelosi blocked approval of requests for DC Guard assistance on January 6, 2021. This is false, as the Speaker of the House had no role or legal authority in approving or not approving requests for DC Guard assistance. Before and during the attack, the U.S. Capitol Police Board (“Board”)²³⁵ alone made decisions about whether and how to request DC Guard resources for the Capitol.²³⁶

On January 6, 2021, the Board did not need—nor did it seek—the Speaker’s approval to call the DC Guard for emergency assistance.²³⁷ The House Sergeant at Arms on January 6, 2021, Paul Irving, testified to Congress:

[f]rom a tactical perspective, we would make decisions without the input from congressional leadership . . . I always felt that I had full authority to implement security decisions as I deemed appropriate.²³⁸

As detailed above, President Trump was the Commander-in-Chief, not Speaker Pelosi.

Notably, the three voting members of the Board in place on January 6, 2021, were all initially appointed by Republicans: then-Speaker John Boehner, then-Senate Majority Leader Mitch McConnell, and then-President Donald Trump.

²³³ *Final Report of the Select Committee*, *supra* note 2 at 748 (citing testimony of MPD Special Operations Division Commander Robert Glover).

²³⁴ *Three Years Later: D.C. National Guard Whistleblowers Speak Out on January 6 Delay*, Hearing Before the Comm. on H. Admin., Subcomm. on Oversight, 118th Cong. (Apr. 17, 2024) (opening remarks of full committee Ranking Member Joseph D. Morelle).

²³⁵ The U.S. Capitol Police Board consists of the House and Senate Sergeants at Arms, the Architect of the Capitol and the USCP Chief, who serves as a non-voting member.

²³⁶ H. Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, *Transcribed Interview of Paul Irving*, 117th Cong. (Mar. 4, 2022), at 19, 53 (“[Q: T]he Speaker’s office isn’t part of that process in terms of requesting the National Guard, correct? A [:] Correct. It would just be on the notification side.”).

²³⁷ *Id.*

²³⁸ *Id.* at 53.

Fact checkers have debunked the claim advanced by the majority. For example, the *Associated Press* analyzed the claim as follows:

CLAIM: House Speaker Nancy Pelosi blocked the National Guard from coming to the Capitol during the Jan. 6 insurrection.

AP'S ASSESSMENT: False. As Speaker of the House, Pelosi does not direct the National Guard. Further, as the Capitol came under attack, she and the Senate Majority leader called for military assistance, including the National Guard.

THE FACTS: On Tuesday, a false claim about the deadly Jan. 6 riot at the Capitol resurfaced suggesting that Pelosi blocked the National Guard from coming to lawmakers' defense during the insurrection at the Capitol.

“@SpeakerPelosi, why did you block the National Guard from protecting the Capitol?” Indiana Rep. Jim Banks tweeted.

Minority Leader Kevin McCarthy posed a similar question on Fox News saying, “Was there a decision by the Speaker not to have the National Guard at the Capitol that day?”

The answer is no.

. . . The decision on whether to call National Guard troops to the Capitol is made by what is known as the Capitol Police Board, which is made up of the House Sergeant at Arms, the Senate Sergeant at Arms and the Architect of the Capitol. The board decided not to call the guard ahead of the insurrection but did eventually request assistance after the rioting had already begun, and the troops arrived several hours later.²³⁹

CNN provided a similar fact check and noted that former USCP Chief Steven Sund said Speaker Pelosi was not involved in decisions related to the DC Guard:

Jane L. Campbell, president and CEO of the US Capitol Historical Society, told CNN that “the Speaker of the House does not oversee security of the US Capitol, nor does this official oversee the Capitol Police Board.”

Pelosi also cannot unduly influence who is appointed to the Board, which consists of the House and Senate Sergeants at Arms, the Architect of the Capitol and the Chief of the Capitol Police. The Sergeants at Arms are elected and must be confirmed by their respective chambers and the Architect must be confirmed by both chambers of Congress.

²³⁹ Arijeta Lajka, *Pelosi did not block the National Guard from the Capitol on Jan. 6*, AP, (Jul. 23, 2021), <https://apnews.com/article/fact-checking-235651652542>.

And according to testimony from the former Capitol Police chief, Pelosi was not involved in the decisions made ahead of January 6 regarding the National Guard.²⁴⁰

Simply put, sworn testimony, independent fact checkers, the historical record, and common sense have thoroughly debunked any claim that Speaker Pelosi blocked National Guard assistance on January 6. Attempts to shift blame onto Speaker Pelosi serve to distract from the culpability of former President Trump and his Republican enablers in Congress.

g) An Executive Branch Intra-agency Dispute Has Nothing to Do with Improving Capitol Security or Conducting Legislative Branch Oversight

The ongoing conflict between the DoD and DC Guard over the three hour and nineteen-minute delay on January 6, 2021, falls under the jurisdiction of the House Armed Services Committee, which oversees the “Department of Defense generally.”²⁴¹ While the Committee on House Administration exercises jurisdiction over Capitol security through its oversight of the Sergeant at Arms and USCP, this jurisdiction is not without limits. Congressional investigations must serve a legitimate legislative purpose, as it is well established that “[t]here is no congressional power to expose for the sake of exposure.”²⁴²

The Oversight Subcommittee majority has neither recommended nor introduced any legislation stemming from its investigation into the DoD-DC Guard dispute, underscoring that the investigation did not yield any actionable insights within the Committee’s purview. In contrast, during the 117th Congress, Committee Democrats advanced the only relevant legislative measure: the Capitol Police Emergency Assistance Act of 2021.²⁴³ Signed into law by President Biden on December 22, 2021, this legislation empowered the USCP Chief of Police to request DC Guard assistance during emergencies without prior Board approval.

h) The Oversight Subcommittee Scrutinized an Active, Ongoing FBI Investigation to Appease Conspiracy Theorists

In March 2024, the Oversight Subcommittee convened a hearing to examine an active FBI investigation into pipe bombs placed outside the Democratic National Committee (“DNC”) and Republican National Committee (“RNC”) headquarters on the evening of January 5, 2021. Due to the active nature of the investigation, officials from the FBI, USSS, and U.S. Attorney’s Office could not participate. The hearing served as nothing more than a pretext to elevate conspiracy

²⁴⁰ Tara Subramaniam and Holmes Lybrand, *Fact checking Rep. Jordan’s claim that Speaker Pelosi was responsible for US Capitol security on January 6*, CNN, (Jul. 21, 2021), <https://www.cnn.com/2021/07/21/politics/fact-check-jim-jordan-nancy-pelosi-january-6-security/index.html>; see also Ella Lee, *Fact check: Nancy Pelosi wasn’t ‘in charge’ of Capitol Police on Jan. 6*, USA Today, (Jul. 27, 2023), <https://www.usatoday.com/story/news/factcheck/2021/07/27/fact-check-nancy-pelosi-isnt-in-charge-capitol-police/8082088002/>; Nicholas Fandos, *Republicans are blaming Nancy Pelosi for the Jan. 6 attack. Their claims don’t add up*, N.Y. Times, (Jul. 27, 2021), available at <https://www.nytimes.com/2021/07/27/us/insurrection-pelosi-claims-fact-check.html>;

²⁴¹ Rule X(1)(C), Rules of the House of Representatives, 118th Cong. (2023).

²⁴² *Trump v. Mazars USA, LLP*, 591 U.S. 848 (2020).

²⁴³ Pub. L. No. 117-77, 135 Stat. 1522.

theories favored by extreme Members of the House Republican Conference. For instance, prior to the hearing, Rep. Marjorie Taylor-Greene (R-GA) asserted:

The FBI can't find the pipe bomber? This is ridiculous! This shows you that the FBI doesn't care about finding the pipe bomber because they know exactly who the pipe bomber is.²⁴⁴

Similarly, Rep. Thomas Massie (R-KY), accused law enforcement of being complicit in planting the pipe bombs:

This is an ongoing coverup at this point. . .If there were indeed two operable pipe bombs, that would be the biggest threat that existed on January 6. . .It doesn't make any sense why they wouldn't be promoting threat to advance that narrative unless they had something to do with the pipe bombs and they're trying to memory-hole the whole thing to avoid embarrassment.²⁴⁵

The minority witness was Barry Black, a retired FBI master bomb technician and first responder to the 1995 Oklahoma City bombing, the 1996 Atlanta Olympic bombing, and the 9/11 World Trade Center attack. He provided critical insights into the complexities of such investigations and explained:

As for the January 6 suspect, it appears that there was a conscious effort to disguise that person's identity, making personal identification difficult. From what I have seen in the public record, it appears that the IEDs themselves were comprised of very simple, very common components that are available most anywhere. That makes it difficult to trace the source of those components and, thereby, makes it difficult to determine who purchased those components. I understand hundreds, if not thousands, of interviews have been conducted.²⁴⁶

He further clarified the exhaustive nature of such inquiries and emphasized the critical role of public engagement in identifying the suspect:

Tens of thousands of video images have been reviewed, hundreds of tips. Sadly, sometimes cases go cold. Once the forensic evidence has been exhausted, once all viable leads have been covered, new information is required.

Requests for public information and a half-million-dollar reward may one day provide the key that will unlock this case, and at that time I am certain the dedicated

²⁴⁴ Graeme Massie, *Marjorie Taylor Greene cryptically says the FBI knows who mystery Capitol pipe bomber is*, *The Independent* (Jun. 1, 2023), <https://www.the-independent.com/news/world/americas/us-politics/greene-capitol-pipe-bomber-fbi-b2349325.html>.

²⁴⁵ Luke Rosiak, *The FBI Said There Were 'Pipe Bombs' On January 6. Evidence Points To A Coverup, Congressman Says*, *The Daily Wire* (Jan. 22, 2024), <https://www.dailywire.com/news/the-fbi-said-there-were-pipe-bombs-on-january-6-evidence-points-to-a-coverup-congressman-says>.

²⁴⁶ Hearing: *Three Years Later: Assessing the Law Enforcement Response to Multiple Pipe Bombs on January 6, 2021*; Hearing Before the H. Comm. on H. Admin. Subcomm. on Oversight, 118th Cong. (2024) (Statement of Barry Black at 24).

men and women of the FBI and our law enforcement partners will thoroughly exhaust those leads to their logical conclusion.²⁴⁷

i) FBI Agents Did Not Instigate the January 6 Attack

For years, Republicans both on and off the Committee have advanced conspiracy theories that federal agents entrapped rioters on January 6 by “engaging in nefarious activities”²⁴⁸ and posing as Trump supporters to trick them into carrying out mob violence.²⁴⁹

On December 12, 2024, the DOJ Office of Inspector General (“DOJ OIG”) issued a report which confirmed Republicans’ accusations were baseless:

We found no evidence in the materials we reviewed or the testimony we received showing or suggesting that the FBI had undercover employees in the various protest crowds, or at the Capitol, on January 6.²⁵⁰

The findings stand in contrast to misinformation—advanced by House Republicans—that FBI agents organized the riot, which percolated via traditional, fringe, and social media. As noted in *Roll Call*, a 2023 poll taken found that a quarter of Americans believe it is “definitely” or “probably” true that the agency instigated the Capitol attack.²⁵¹

VIII. The Oversight Subcommittee Neglected Critical Issues to Attempt to Exonerate Trump

The activities undertaken by Chairman Loudermilk and the Oversight Subcommittee majority during the 118th Congress, as described in this report, came with a significant opportunity cost. The Committee and Oversight Subcommittee are tasked with overseeing all aspects of both House operations and administration of the broader legislative branch and the resources to effectuate such activity. This jurisdiction includes oversight of House officers such as the Clerk of the House, Sergeant at Arms, and Chief Administrative Officer, and critical support agencies like the Library of Congress, Architect of the Capitol, Government Publishing Office, and the Smithsonian Institution. These entities, essential to the functioning of Congress, were ignored by the Oversight Subcommittee throughout the 118th Congress.

Moreover, even if the Oversight Subcommittee opted to focus solely on Capitol security, it still ignored a range of key oversight issues. These issues include, but are not limited to:

²⁴⁷ *Id.*

²⁴⁸ Brooke Singman, *House investigation into 'what really happened on January 6' entering 'new phase' with Speaker Johnson support*, Fox News (Jan. 14, 2024), <https://www.foxnews.com/politics/house-investigation-into-what-really-happened-on-january-6-entering-new-phase-speaker-johnson-support>.

²⁴⁹ Luke Broadwater and Alan Feuer, *G.O.P. Congressman's Wild Claim: F.B.I. Entrapped Jan. 6 Rioters*, New York Times (Apr. 4, 2024), <https://www.nytimes.com/2024/04/04/us/politics/clay-higgins-jan-6.html>.

²⁵⁰ https://oig.justice.gov/sites/default/files/reports/25-011_0.pdf p 4. U.S. Dep’t of Justice, and Inspector Gen. A Review of the Federal Bureau of Investigation’s Handling of Its Confidential Human Sources and Intelligence Collection Efforts in the Lead Up to the January 6, 2021 Electoral Certification, 25-011 at 4, (Dec. 2024), <https://oig.justice.gov/sites/default/files/reports/25-011.pdf>.

²⁵¹ Ryan Tarinelli, *Watchdog finds no proof of undercover FBI agents at Jan. 6 attack*, Roll Call (Dec. 12, 2024), <https://rollcall.com/2024/12/12/watchdog-finds-no-proof-of-undercover-fbi-agents-at-jan-6-attack/>.

- USCP officer mental health, wellness, and morale, including the continued development of the Howie C. Liebengood Center for Wellness;
- The record number of threats directed toward Members of Congress and corresponding USCP Threat Assessment Section backlog;
- Insights from the newly appointed USCP Inspector General on the implementation of predecessor recommendations related to January 6, 2021, and whether those recommendations were appropriately closed;
- Preparation for the January 6, 2025, Joint Session of Congress;
- USCP training reforms, including the need for additional training facilities and improved in-service leadership training;
- Status of the USCP Protective Intelligence Operations Center (“PIOC”);
- USCP’s reliance on overtime and related waivers of the Maximum Allowable Pay Rate (MAPR);
- Physical security upgrades to the Capitol Complex, including hardening of doors and windows and the status of upgraded screening vestibules;
- USCP officer shortages within the Dignitary Protection Division;
- Coordination between USCP and state and local law enforcement;
- Efficacy of the newly established USCP field offices;
- Impact of the USCP departmental reorganization; and
- USCP’s ongoing shift from a traditional law enforcement agency to a force protection agency.

A thorough, bipartisan examination of the security protocols and response to the January 6, 2021, attack could have built on the previous Congress’ work and helped improve the safety and security of the Capitol and all who work within it. Instead, the Oversight Subcommittee wasted time and taxpayer resources. It focused on efforts to rewrite the history of January 6, 2021, attacked the integrity of the Select Committee, injected itself into a dispute between the DoD and DC Guard, and served the political interests of former President Trump and select members of the Republican Conference.

IX. Conclusion

The January 6, 2021, attack is a stain on American democracy. A mob of armed rioters, summoned to Washington, DC by the sitting President, marched to the Capitol at the President's direction, violently broke into the building, and brutalized members of law enforcement. Americans died. American democracy almost died too. This unprecedented assault was fueled by deliberate lies about the 2020 election, perpetuated at the highest levels of the Republican Party,²⁵² and amplified by individuals seeking to undermine the peaceful transfer of power.

The Select Committee's exhaustive investigation laid bare the facts: former President Trump bore responsibility for the violence that day. Instead of building on the Select Committee's bipartisan findings to address security failures and enhance protections for the Capitol, Chairman Loudermilk prioritized the political interests of former President Trump and select members of the Republican Conference—himself chief among them. This choice resulted in a failure to fulfill critical oversight responsibilities related to both Capitol security and other aspects of Congressional operations.

The release of sensitive security footage, along with the indulgence of baseless conspiracy theories and efforts to undermine the Select Committee's integrity, have damaged public trust and compromised the safety and security of the Capitol. These actions failed the very individuals the Committee is charged to serve: Members of Congress, Congressional staff, USCP officers, visitors to the Capitol, and the American people.

Yet, the Oversight Subcommittee's efforts to distort the truth about January 6, 2021, have not changed reality. The attack was the result of a coordinated multi-pronged effort to overturn the lawful results of the 2020 election. While law enforcement heroically ensured that democracy ultimately prevailed, the physical and psychological trauma from that day will be felt for years to come.

As the 119th Congress begins, oversight efforts must focus on strengthening institutional security and addressing the ongoing risks posed by political violence and misinformation. Congress must demonstrate its commitment to the truth, honor the members of law enforcement who defended the Capitol, and ensure the events of January 6, 2021, never occur again.

Our revered American institutions do not protect themselves; we must take responsibility to protect them—along with the principles upon which they stand. History will remember who rose to meet the moment, who chose to look away, and who chose to actively undermine our democracy.

²⁵² Representative Zoe Lofgren, *Social Media Review*, available at <https://lofgren.house.gov/socialreview> (last accessed Jan. 2, 2025).

Appendix A

Quotes from Republican Elected Officials Immediately Following January 6, 2021

Speaker Mike Johnson

- “I unambiguously condemn in the strongest possible terms any and all forms of violent protest. Any individual who committed violence today should be prosecuted to the fullest extent of the law. It is beyond time to remember that while we may disagree, we are all Americans, and there is far more that unites us than divides us. I extend my deepest thanks to the United States Capitol Police for protecting the Capitol complex today and all days.”²⁵³ (*Tweet Thread, January 6, 2021*)

Representative Barry Loudermilk

- “Violence against our brave law enforcement is not in line with our values as freedom loving Americans. I strongly support our rights to peacefully protest, but strongly condemn any acts of violence against our brave officers of the Capitol Police or others.”²⁵⁴ (*Tweet, January 6, 2021*)

Representative Elise Stefanik

- “This is truly a tragic day for America. I fully condemn the dangerous violence and destruction that occurred today at the United States Capitol. Americans have a Constitutional right to protest and freedom of speech, but violence in any form is absolutely unacceptable and anti-American. The perpetrators of this un-American violence and destruction must be prosecuted to the fullest extent of the law. My staff and I are safe. We pray that my colleagues on both sides of the aisle, their staffs, and all Americans across the country remain safe. Thank you to the United States Capitol Police, all law enforcement, the National Guard, and the bipartisan professional staff of the United States Capitol for protecting the People’s House and the American people.”²⁵⁵ (*Press Release, January 6, 2021*)

Representative Jim Jordan

- “What happened today is wrong and is not what America is about.”²⁵⁶ (*Tweet, January 6, 2021*)

²⁵³ Mike Johnson (@SpeakerJohnson), X, Jan. 6, 2021, 4:28 p.m. ET, <https://x.com/SpeakerJohnson/status/1346931551204896769?s=20>.

²⁵⁴ Barry Loudermilk (@RepLoudermilk), X, Jan. 6, 2021, 2:20 p.m. ET, <https://x.com/RepLoudermilk/status/1346899580852596736?s=20>.

²⁵⁵ Elise Stefanik, *Stefanik Statement on Violence at the United States Capitol*, Press Release (Jan. 6, 2021), available at <https://web.archive.org/web/20240125161316/https://stefanik.house.gov/2021/1/stefanik-statement-violence-united-states-capitol>.

²⁵⁶ Jim Jordan (@Jim_Jordan), X, Jan 6, 2021, 5:50 p.m. ET, https://x.com/Jim_Jordan/status/1346952368190083072?s=20.

Representative Nancy Mace

- This is un-American. Mr. President, please do something. Keep America safe. Enough. Support our police. This isn't a protest. It's anarchy. I thought we were the party of law & order.²⁵⁷ (*Tweet, January 6, 2021*)

Representative Virginia Foxx

- “Violence like what we’re witnessing in the United States Capitol is unacceptable. People have the right to peacefully protest, and there is absolutely no reason to resort to destruction. God bless the brave men and women of the United States Capitol Police for protecting us.”²⁵⁸ (*Tweet, January 6, 2021*)

Representative Michael Waltz

- “This is not who we are as a people or as a country. This is wrong and condemnable. God bless the Capitol police and keep them safe.”²⁵⁹ (*Tweet, January 6, 2021*)
- “This is despicable. This is not who we are as a country. In America, we solve our disputes through debate, discussion, courts and judges. There is no place for violence.”²⁶⁰ (*Tweet, January 6, 2021*)

Representative Chip Roy

- “Mr. President—get to a microphone immediately and establish calm and order. Now. And work with Capitol Police to secure the Capitol. It’s the last thing you’ll do that matters as President.”²⁶¹ (*Tweet, January 6, 2021*)

Representative Ronny Jackson

- “What happened at the U.S. Capitol today is a stain on our nation. American heroes have died on battlefields all over this world to protect our freedoms and allow peaceful debate in this very building. Today that was taken away from us. Those involved should be prosecuted to the fullest extent of the law. Thank you to the brave U.S. Capitol Police officers who put themselves in harm’s way to protect us and restore order. I also want to thank the many constituents who have reached out to me concerning the safety of myself, my family, and my staff. We are safe, but I ask that you keep our country and U.S. Capitol Police officers injured in today’s attack in your prayers. The Constitution protects our right to peacefully protest injustices, but violence has no place in our civic discourse. American is better than this.”²⁶² (*Press Release, January 6, 2021*)

²⁵⁷ Nancy Mace (@RepNancyMace), X, Jan. 6, 2021, 3:52 p.m. ET, <https://x.com/RepNancyMace/status/1346922591903215616?s=20>.

²⁵⁸ Virginia Foxx (@virginiafoxx), X, Jan. 6, 2021, 2:49 p.m. ET, <https://x.com/virginiafoxx/status/1346906650452647936?s=20>.

²⁵⁹ Mike Waltz (@michaelgwaltz), X, Jan. 6, 2021, 2:19 p.m. ET, <https://x.com/michaelgwaltz/status/1346899195169542146?s=20>.

²⁶⁰ Mike Waltz (@michaelgwaltz), X, Jan. 6, 2021, 5:27 p.m. ET, <https://x.com/michaelgwaltz/status/1346946440652873733?s=20>.

²⁶¹ Chip Roy (@chiproytx), X, Jan. 6, 2021, 3:39 p.m. ET, <https://x.com/chiprotyx/status/1346919375601889280?s=20>.

²⁶² Ronny Jackson, *Rep. Jackson Responds to U.S. Capitol Attack*, Press Release (Jan. 6, 2021), <https://jackson.house.gov/news/documentsingle.aspx?DocumentID=31>.

Representative Troy Nehls

- “What I’m witnessing is a disgrace. We’re better than this. Violence is NEVER the answer. Law and order!”²⁶³ (*Tweet, January 6, 2021*)

Senator (then-Representative) Jim Banks

- “Peaceful protest is healthy, but what is happening at the U.S. Capitol right now is unacceptable and un-American. Those participating in lawlessness and violence must be arrested and prosecuted to the fullest extent of the law.”²⁶⁴ (*Tweet, January 6, 2021*)
- “What happened today was inexcusable. Every individual who broke the law should be prosecuted harshly.”²⁶⁵ (*Tweet, January 6, 2021*)

Representative James Comer

- “At this time, my staff and I are safe and I am in an undisclosed location after evacuating the House floor when protestors made their way inside the Capitol. The outrageous rioting and violence taking place in the Capitol Building is completely unacceptable and not who we are as a nation of law and order. Mob violence is wrong regardless of political affiliation.”²⁶⁶ (*Tweet Thread, January 6, 2021*)
- “The role of Congress in Electoral College proceedings is clearly defined in the 12th Amendment of the U.S. Constitution. It’s to certify the Electoral College results – not to decide the election. The role of selecting electors resides solely with states, not Congress. It is also the role of each state to determine and uphold their own unique set of election laws.”²⁶⁷ (*Press Release, January 7, 2021*)

Senator Ted Cruz

- “The attack at the Capitol was a despicable act of terrorism and a shocking assault on our democratic system. We must come together and put this anger and division behind us. We must, and I am confident we will, have a peaceful and orderly transition of power.”²⁶⁸ (*Twitter, January 7, 2021*)
- “We are approaching a solemn anniversary this week. And it is an anniversary of a violent terrorist attack on the Capitol, where we saw the men and women of law enforcement demonstrate incredible courage, incredible bravery, risk their lives for the Capitol.”²⁶⁹ (*Senate Committee on Rules and Administration Hearing, January 5, 2021*)

²⁶³ Troy Nehls (@SheriffTNehls), X, Jan. 6, 2021, 4:00 p.m. ET, <https://x.com/SheriffTNehls/status/1346924508498845698?s=20>.

²⁶⁴ Jim Banks (@SenatorBanks), X, Jan. 6, 2021, 4:00 p.m. ET, <https://x.com/SenatorBanks/status/1346924739613372421?s=20>.

²⁶⁵ Jim Banks (@SenatorBanks), X, Jan. 6, 2021, 9:54 p.m. ET, <https://x.com/SenatorBanks/status/1347013612733423618?s=20>.

²⁶⁶ James Comer (@RepJamesComer), Jan. 6, 2021, 4:55 p.m. ET, <https://x.com/RepJamesComer/status/1346938480387969027>.

²⁶⁷ James Comer, Statement From Congressman James Comer On Electoral College Vote, Press Release (Jan. 7, 2021), <https://comer.house.gov/2021/1/statement-from-congressman-james-comer-on-electoral-college-vote>.

²⁶⁸ Ted Cruz (@SenTedCruz), Jan. 7, 2021, 2:53 a.m. ET, <https://x.com/SenTedCruz/status/1347089034846330880>.

²⁶⁹ Craig Huber, *Following backlash, Sen. Ted Cruz walks back description of Jan. 6 as ‘terrorist attack’*, Spectrum News (Jan. 7, 2022), <https://ny1.com/nyc/all-boroughs/news/2022/01/07/following-backlash--sen--ted-cruz-walks-back-description-of-jan--6-as--terrorist-attack-->.

- *Note:* The following day (the one-year anniversary of the attack), Senator Cruz appeared on Tucker Carlson's *Fox News* show to apologize for referring to the January 6 attack as terrorism, saying, "The way I phrased things yesterday — it was sloppy, and it was, frankly, dumb."²⁷⁰

²⁷⁰ Rebecca Shabad, *Cruz says in Fox News interview it was a 'mistake' for him to call Jan. 6 a 'terrorist attack'*, NBC News (Jan. 7, 2022), <https://www.nbcnews.com/politics/congress/cruz-says-fox-news-interview-it-was-mistake-him-call-n1287154>.

Appendix B

During the 117th Congress, under a Democratic majority, the Committee held six hearings to examine security failures on January 6, including hearings investigating USCP's lack of preparation, the emergency preparedness of the AOC, and the structure of the Capitol Police Board. The Committee was dedicated to enhancing the security posture of the Capitol complex and improving related processes. In contrast, the Oversight Subcommittee in the 118th Congress prioritized deflecting responsibility from Donald Trump and misallocated resources by pursuing investigations into security issues involving the Department of Defense and D.C. National Guard, entities outside the Committee's jurisdiction. The following is a list of hearings that the Committee held during the 117th Congress, along with each hearing's key findings.

On April 15, 2021, and April 21, 2021, the Committee held a multi-day hearing with the USCP IG entitled, "*Oversight of the United States Capitol Police and Preparations for and Response to the Attack of January 6.*"²⁷¹ During this hearing, the USCP IG discussed his office's first two flash reports, which focused specifically on operational planning, intelligence, and USCP's Civil Disturbance Unit. Key takeaways from the hearing included:

- USCP lacked a comprehensive operational plan for the January 6, 2021, Joint Session of Congress and lacked appropriate guidance for operational planning;
- USCP failed to disseminate relevant intelligence obtained from outside sources;
- There was a lack of consensus within USCP on the interpretation of threat analyses;
- USCP disseminated conflicting intelligence;
- USCP did not have adequate policies and procedures for the Civil Disturbance Unit defining its duties, composition, equipment, and training; and
- USCP failed to update and document its intelligence priorities.

On May 10, 2021, the Committee held a hearing entitled, "*Oversight of the January 6 Attack: United States Capitol Police Threat Assessment and Counter-Surveillance Before and During the Attack.*"²⁷² During this hearing, the USCP IG discussed his office's third flash report. Key takeaways from the hearing included:

- Counter Surveillance (CS) and Threat Assessment (TA) Operations had outdated and vague guidance;
- USCP lacked a dedicated CS entity; and

²⁷¹ *Oversight of the United States Capitol Police and Preparations for and Response to the Attack of January 6: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2021).*

²⁷² *Oversight of the January 6 Attack: United States Capitol Police Threat Assessment and Counter-Surveillance Before and During the Attack: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2021).*

- Both CS and TA were inadequately resourced.

On May 12, 2021, the Committee held a hearing with the AOC IG entitled, “*Oversight of the January 6 Attack: Review of the Architect of the Capitol’s Emergency Preparedness.*”²⁷³ During this hearing, the AOC IG discussed his office’s first flash report. Key takeaways from the hearing included:

- The AOC lacked updated emergency management policies and procedures for active shooter, protests and riot/civil disturbance activities; and
- The AOC failed to conduct all-inclusive joint exercises with other Legislative Branch Organizations.

On May 24, 2021, the Committee held a hearing entitled, “*Reforming the Capitol Police and Improving Accountability for the Capitol Police Board.*”²⁷⁴ As part of this hearing, the Committee received witness testimony from newly installed Sergeant at Arms Major General William Walker and Architect of the Capitol Brett Blanton, who as Architect is one of three voting members of the Capitol Police Board and served in that role prior to and during the January 6 attack. Additionally, the Committee received a written statement from the also newly installed Senate Sergeant at Arms, Karen Gibson – who had also served on the Honore task force – resulting in a hearing record with testimony from all voting members of the Capitol Police Board. The Committee also received testimony from experts in force protection, physical security, and law enforcement from entities including U.S. Secret Service and National Guard. This hearing examined the structures, deficiencies, and culture of the Capitol Police Board and USCP. Key takeaways included:

- USCP should shift from a law enforcement model to a proactive force protection model;
- January 6 included failures in equipment, training, intelligence, command and control, and communication;
- The need for a regulation to allow the Chief of Police to call upon the D.C. National Guard in cases of emergency was vital (by this time, Speaker Nancy Pelosi had approved just such a regulation);
- The Capitol Police Board should be more transparent and accountable, and should have a permanent staff; and
- USCP needs to change its culture to become a learning organization and overcome its leadership challenges.

²⁷³ *Oversight of the January 6 Attack: Review of the Architect of the Capitol’s Emergency Preparedness*: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2021).

²⁷⁴ *Reforming the Capitol Police and Improving Accountability for the Capitol Police Board*: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2021).

On June 15, 2021, the Committee held a hearing with the USCP IG entitled, “*Oversight of the January 6 Attack: United States Capitol Police Containment Emergency Response Team and First Responders Unit.*”²⁷⁵ During this hearing, the USCP IG discussed his office’s fourth flash report. In addition, the Committee received testimony from Dr. Gretta Goodwin, the Director of Justice and Law Enforcement Issues at the Government Accountability Office. Key takeaways from this hearing included:

- USCP must increase oversight and define the missions of the Containment Emergency Response Team (CERT) and the First Responders Unit (FRU);
- CERT should have used the USCP Training Services Bureau rather than seeking training on its own from outside contractors;
- FRU did not have the proper resources, including equipment, training, and physical access management;
- USCP did not have adequate access to the Capitol’s physical security infrastructure;
- Officers were not qualified to use their weapons even though law enforcement practice is that officers are taken offline until all qualifications and requirements are met; and
- The CERT Commander deployed with his unit rather than stay in the command center to coordinate responses by other tactical units.

On February 17, 2022, the Committee held a hearing entitled, “*Oversight of the January 6 Capitol Attack: Ongoing Review of the United States Capitol Police Inspector General Flash Reports.*”²⁷⁶ During this hearing, the USCP IG discussed his final four flash reports. These flash reports concerned the Command and Coordination Bureau (CCB), Hazardous Incident Response Division (HIRD), Canine Unit, Dignitary Protection Division (DPD), and Human Capital. The final flash report provided a summary of recommendations and security enhancements since the attack. Key takeaways from this hearing included:

- CCB had several deficiencies, including inadequate guidance, non-compliance with existing guidance, lack of direction from the chain of command, lack of law enforcement coordination, and inadequate incident management training;
- Coordination between HIRD and USCP leadership was flawed, resulting in misinformation among officers;
- HIRD lacked the necessary personnel and equipment to complete its mission;

²⁷⁵ *Oversight of the January 6 Attack: United States Capitol Police Containment Emergency Response Team and First Responders Unit*: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2021).

²⁷⁶ *Oversight of the January 6 Capitol Attack: Ongoing Review of the United States Capitol Police Inspector General Flash Reports*: Hearing Before the H. Comm. on H. Admin., 117 Cong. (2022).

- Not all Canine Unit officers received canine training or operational experience;
- DPD's training program was inadequate, as was its equipment, as officers experienced problems with ballistic vests; and
- DPD lacked a Plan of Action for the January 6, 2021, Joint Session of Congress and experienced equipment failure with its issued ballistic vests.

Appendix C

Security Reforms Facilitated in the 117th Congress:

- Hired a new Chief of Police;
- Provided the Chief of Police authority to call upon the D.C. National Guard in the event of an emergency;
- Held USCP’s first ever comprehensive active shooter training;
- Trained with National Capital Region law enforcement partners;
- Developed an action plan to improve USCP’s ability to effectively collect, process and disseminate intelligence;
- Established retention bonuses and increased salaries to address personnel shortages;
- Established a Contract Security Officer (CSO) pilot program to ease the strain on officers associated with personnel shortages;
- Reformed operational planning by implementing a new process for publishing Incident Action Plans;
- Revised standard operating procedures related to sourcing, production and evaluation of analytical products;
- Moved CDU riot shields to temperature-controlled areas to comply with manufacturer guidelines;
- Used the Federal Bureau of Investigation’s Behavioral Analysis Unit Task Force for in-depth analysis of priority subjects;
- Hired experts, including the Director of Intelligence for the New York Police Department, to serve in the same role and a U.S. Secret Service expert in major events.
- Established the Howard “Howie” C. Liebengood Center for Wellness, a new mental health center to support of USCP officers.²⁷⁷

²⁷⁷ Officer Liebengood died after valiantly defending the Capitol during the attack. In the 117th Congress, legislative action was taken both to ensure that, in general, resources and disability benefits are available to public safety officers who experience post-traumatic stress disorder following traumatic events in the line of duty. Within the USCP, a wellness center to support officers was named in memory and honor of Officer Liebengood. See e.g., Luke Broadwater, *Capitol Officer’s Suicide After Jan. 6 Qualifies for Line-of-Duty Death Benefit*, N.Y. TIMES, Nov. 21, 2022, available at <https://www.nytimes.com/2022/11/21/us/politics/officer-suicide-jan-6-benefits.html>.

Appendix D

ALSTON & BIRD

One Atlantic Center
1201 West Peachtree Street
Atlanta, GA 30309-3424
404-881-7000 | Fax: 404-881-7777

William H. Jordan

Direct Dial: 404-881-7850

Email: bill.jordan@alston.com

November 22, 2024

Via Email

Mr. Phil Fox
Office of Disciplinary Counsel
District of Columbia Court of Appeals
515 5th Street, NW
Building A, Suite 117
Washington, DC 20001

Re: Oversight Committee’s October 15, 2024 Press Release and America First Legal’s Bar
Complaint against Congresswoman Elizabeth Cheney

Dear Mr. Fox:

This firm represents Cassidy Hutchinson. We have received the so-called “report” from the Committee on House Administration’s Subcommittee on Oversight (“Loudermilk Report”) concerning messages between my client and Congresswoman Elizabeth Cheney.¹ We have also reviewed the publicly released bar complaint filed by America First Legal on behalf of Stefan Passantino, Ms. Hutchinson’s former counsel, against Congresswoman Cheney (“Complaint”). The purpose of this letter is to inform you that the Loudermilk Report and the Complaint filed with your office both contain factual errors, one of which is corrected below.

The Complaint attempts to use Ms. Hutchinson’s messages and communications and the Loudermilk Report’s mis-characterization of those messages as the basis for its allegation.² We provide this letter on Ms. Hutchinson’s behalf to correct some of the fundamental misstatements in those documents. Ms. Hutchinson provides this information reluctantly. As your office is aware, she declined to participate in the prior DC Bar complaints filed by others against Mr. Passantino, in a desire to move on from her association with him. That investigation resulted in your office entering into a diversion arrangement with Mr. Passantino for failing to provide Ms. Hutchinson

¹ Press Release by Committee on House Administration’s Subcommittee on Oversight Chairman Barry Loudermilk, *New Texts Reveal Liz Cheney Communicated with Cassidy Hutchinson About Her Select Committee Testimony-without Hutchinson’s Attorney’s Knowledge-Despite Cheney Knowing it was Unethical* (Oct. 15, 2024), <https://cha.house.gov/press-releases?ID=46BC1893-41CA-4E6B-834C-2B2B2A6BDB70>.

² D.C. Bar complaint filed by America First Legal on behalf of Stefan Passantino (Oct. 21, 2014), <https://media.aflegal.org/wp-content/uploads/2024/10/22124445/DC-Bar-Complaint-for-Posting.pdf>.

with an engagement letter that advised her of actual or potential conflicts. Since the newly filed Complaint misstates the record, she is now compelled to provide this information.

Ms. Hutchinson has testified multiple times regarding her decision to terminate Mr. Passantino as her counsel before reaching out to Congresswoman Cheney. This decision occurred after Ms. Hutchinson had many reservations regarding the advice provided by Mr. Passantino, culminating in his suggestion to Ms. Hutchinson that she run the risk of criminal contempt rather than respond to the Committee's subpoena.³

The advice and counsel provided by Mr. Passantino during the representation troubled Ms. Hutchinson. In particular, she believed that it was not in her best interests as a 25-year-old to assume the risk of criminal contempt, even though failure to comply in full with the demands of the Select Committee on the January 6 Attack ("January 6th Committee") may well have been in the interests of the Trump-affiliated political action committee that funded her representation. She decided to terminate her relationship with Mr. Passantino and to proceed independently so that she could provide more fulsome testimony to the January 6th Committee without the constraint she felt from being represented by Trump-funded counsel. As is well-documented in her testimony and in her book, *Enough*, she contacted Congresswoman Cheney to let her know of this decision. Congresswoman Cheney suggested that she not appear unrepresented in her testimony, but instead have the benefit of independent counsel. Following her discussions with Congresswoman Cheney and interviewing additional attorneys, Ms. Hutchinson decided to retain this firm, which has proudly represented Ms. Hutchinson on a pro bono basis since that time.

The Loudermilk Report is false in numerous respects, including its suggestion that Ms. Hutchinson and Congresswoman Cheney had any improper communications. Ms. Hutchinson made the independent decision to terminate her then-counsel of her own accord given the conflict of interest she perceived and represent herself because she did not believe Mr. Passantino was representing her interests. Even assuming that the Rules of Professional Conduct somehow applied to Ms. Hutchinson's interactions with a member of Congress in this circumstance, it was Ms. Hutchinson who made the determination to terminate Mr. Passantino, contact independent counsel, and retain this law firm for her representation.

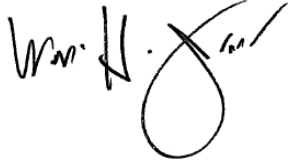
The Loudermilk Report is replete with other politically motivated falsehoods, but at a minimum Ms. Hutchinson wanted specifically to correct this error because it has been seized on by Mr. Passantino and other individuals in this Complaint.

Ms. Hutchinson had every wish to move on from Mr. Passantino's representation and, despite her misgivings with the legal advice she received. Ms. Hutchinson chose not to participate in your office's prior review as a result of this desire. But she cannot now allow the intentional misstatements in the recent Complaint go rebutted, so she reluctantly wades back into this matter of legal ethics to correct the record against these accusations.

³ Please refer to pages 4-110 of her September 14 public transcript and pages 39-55 of her September 15 public transcript for detailed discussions of why she felt the need to change counsel and the pressure that was brought on her to be "loyal" to Mr. Trump in her earlier testimony. *See also* Cassidy Hutchinson, *Enough*, Chs. 21-23 (2023).

Oversight Committee's October 15, 2024 Press Release and America First Legal's Bar Complaint
against Congresswoman Elizabeth Cheney
November 22, 2024
Page 3

Sincerely,

A handwritten signature in black ink, appearing to read "Wm. H. Jordan". The signature is stylized with a large, circular flourish at the end.

William H. Jordan

Appendix E

BENNIE G. THOMPSON
SECOND DISTRICT, MISSISSIPPI

COMMITTEE ON
HOMELAND SECURITY
RANKING MEMBER

WASHINGTON OFFICE:
2466 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2402
(202) 225-5876
(202) 225-5898: FAX

E-MAIL: benniethompson@mail.house.gov
HOME PAGE: <http://www.benniethompson.house.gov>

CONGRESSIONAL BLACK CAUCUS
CONGRESSIONAL GAMING CAUCUS
CONGRESSIONAL SPORTSMEN'S CAUCUS
CONGRESSIONAL RURAL CAUCUS
HOUSE EDUCATION CAUCUS
CONGRESSIONAL RICE CAUCUS

Congress of the United States House of Representatives Washington, DC 20515-2402

July 7, 2023

The Honorable Barry Loudermilk
Chairman, Subcommittee on Oversight
Committee on House Administration
U.S. House of Representatives
Washington, DC 20515

Dear Representative Loudermilk:

I am in receipt of your June 26, 2023, letter regarding the records of the bipartisan Select Committee to Investigate the January 6th Attack on the United States Capitol.

Unlike many Republican Members who failed to cooperate with the bipartisan Select Committee's investigation of the deadly U.S. Capitol attack, I will afford you the courtesy of a response, which is particularly important given your letter's significant factual errors.

At my direction, Select Committee staff worked in close coordination with staffs of the Committee on House Administration, the Clerk of the House, the Office of General Counsel, the Office of the Parliamentarian, the National Archives and Records Administration (NARA), and the Government Publishing Office (GPO) in preparing the Select Committee's more than 1 million records for publication and archiving. Given the records' historic importance documenting the January 6th insurrection, I am proud of the Select Committee's unprecedented transparency, such as the records collection associated with the bipartisan Select Committee's final report at GPO's website: <https://www.govinfo.gov/collection/january-6th-committee-final-report>.

As you note in your letter, rule VII of the Rules of the House of Representatives requires committees to archive noncurrent official, permanent records.¹ To that end, the bipartisan Select

¹ Guidance from the Office of the Clerk states that a permanent record is "[m]aterial created or received by a person, family, or a public or private organization that is preserved because of its enduring value. The value stems from the information it contains or the evidence it provides of the functions and responsibilities of the creator." See "Records Management Manual for Committees," Office of Art and Archives, Office of the Clerk of the House of Representatives (Aug. 2021), p. 8. Consistent with guidance from the Office of the Clerk and other authorities, the Select Committee did not archive temporary committee records that were not elevated by the Committee's actions, such as use in hearings or official publications, or those that did not further its investigative activities. Accordingly, and contrary to your letter's implication, the Select Committee was not obligated to archive all video recordings of transcribed interviews or depositions. Based on guidance from House authorities, the Select Committee determined that the written transcripts provided by nonpartisan, professional official reporters, which the witnesses and Select Committee staff had the opportunity to review for errata, were the official, permanent records of transcribed interviews and depositions for the purposes of rule VII.

Committee used an e-discovery platform to manage its investigative records. In consultation with the House Clerk's Office of Art and Archives and NARA, the Select Committee worked with its e-discovery platform contractor to create an archive file compatible with House Clerk and NARA systems. Official, permanent records were electronically archived in that file and delivered to the House Clerk with additional official, permanent records outside of the e-discovery platform on January 2, 2023. I encourage you to carefully review the Select Committee's over 4-terabyte digital archive, which includes the e-discovery platform's electronic archive file, before asserting that certain noncurrent records were not archived.

As you also note, on December 30, 2022, when the bipartisan Select Committee still had control of its records under House rules,² Vice Chair Liz Cheney and I sent letters to the White House Special Counsel and the Department of Homeland Security (DHS) regarding the Select Committee's loan of some then-current material containing law enforcement sensitive operational details and private, personal information that, if released, could endanger the safety of witnesses.³ As indicated in the letters, the Select Committee wrote to those authorities seeking their assistance and guidance in the proper archiving of such sensitive material to protect witnesses' safety, national security, and to safeguard law enforcement operations.⁴ This was part of the Select Committee's effort to accommodate the Executive Branch in appropriately protecting certain sensitive information while also complying with the archiving rules of the House. The Executive Branch was still conducting its review of that material to provide appropriate archiving guidance at the time the Select Committee dissolved. Accordingly, the Select Committee did not have the opportunity to properly archive that material with the rest of its records with the benefit of the Executive Branch's guidance to ensure witness safety, our national security, and law enforcement sensitive information.

Because I agree that Congress must properly retain and archive committee records to maintain the confidence of the American people, the letters transmitting that sensitive material were, contrary to your assertion, archived in several places (including the public GPO document repository) and intended to inform the Select Committee's successor of the ongoing Executive Branch review

² As memorialized at chapter 17, section 19.1 of *Deschler's Precedents*, a committee expiring absent action by the House maintains control of its records through the end of the Congress in which it was created.

³ See Isaac Arnsdorf and Josh Dawsey, "Jan. 6 panel escalates showdown with Trump over influencing witnesses," *Washington Post*, (July 12, 2022), available at <https://www.washingtonpost.com/national-security/2022/07/12/trump-witness-tampering-jan-6/>. Further, clause 3(b)(2) of rule VII implies that a House committee has a duty to provide the House Clerk with appropriate guidance as to whether an investigative record should be archived for 50 years rather than the usual 30 years. The Executive Branch's guidance would help inform the judgment of the Select Committee, or its successor, as to whether the investigative records "contain[ed] personal data relating to a specific living person (the disclosure of which would be an unwarranted invasion of personal privacy)".

⁴ "[W]e are hereby providing those transcripts...for appropriate review, timely return, and designation of instructions for proper handling by the Archives." Letter from Chairman Bennie G. Thompson and Vice Chair Liz Cheney, Select Committee to Investigate the January 6th Attack on the United States Capitol, to Mr. Richard A. Sauber, Special Counsel to the President (Dec. 30, 2022), available at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CHAIR-VICE-CHAIR-LETTER-TO-WHITE-HOUSE/pdf/GPO-J6-TRANSCRIPT-CHAIR-VICE-CHAIR-LETTER-TO-WHITE-HOUSE.pdf>, p. 1 (emphasis added). See also Letter from Chairman Bennie G. Thompson and Vice Chair Liz Cheney, Select Committee to Investigate the January 6th Attack on the United States Capitol, to The Honorable Jonathan Meyer, General Counsel, U.S. Department of Homeland Security (Dec. 30, 2022), available at <https://www.govinfo.gov/content/pkg/GPO-J6-TRANSCRIPT-CHAIR-VICE-CHAIR-LETTER-TO-DHS/pdf/GPO-J6-TRANSCRIPT-CHAIR-VICE-CHAIR-LETTER-TO-DHS.pdf>.

The Honorable Barry Loudermilk

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process when the Select Committee dissolved. At this time, only the Committee on House Administration, as the successor to the Select Committee, has the authority under House Resolution 5, 118th Congress, to coordinate with the White House and DHS to arrange for the return of the records mentioned in those letters along with the Executive Branch's archiving guidance—as was the bipartisan Select Committee's stated intent.

Sincerely,



Bennie G. Thompson

cc: The Honorable Norma J. Torres, Ranking Member, Subcommittee on Oversight
The Honorable Joseph D. Morelle, Ranking Member, Committee on House Administration



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