

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States  
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906  
judiciary.house.gov

June 6, 2023

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

Dear Mr. Zients:

The Committee on the Judiciary is conducting oversight of the misuse of criminal and counterterrorism resources by the Executive Branch against concerned parents at local school board meetings and the effect on the First Amendment rights of parents. We write to renew our request for documents and communications within the custody and control of the Executive Office of the President (EOP) necessary for our constitutional oversight.

On September 29, 2021, the National School Boards Association (NSBA) sent a letter to President Biden urging the Executive Branch to use counterterrorism tools, including the PATRIOT Act, in response to parents protesting controversial educational curricula and policies.<sup>1</sup> The NSBA letter led to Attorney General Garland issuing a memorandum on October 4, 2021, directing federal law enforcement to investigate school board-related threats.<sup>2</sup> Whistleblowers subsequently disclosed to us that the Attorney General's memorandum resulted in the Federal Bureau of Investigation (FBI) establishing a "threat tag,"<sup>3</sup> which was applied to a mom belonging to a "right wing mom's group" and a dad who allegedly "fit the profile of an insurrectionist," among others.<sup>4</sup> The FBI confirmed that it opened at least 25 cases as a result of the NSBA letter.<sup>5</sup>

---

<sup>1</sup> Letter from Dr. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021).

<sup>2</sup> *Oversight of the United States Department of Justice: Hearing Before the H. Comm. on the Judiciary*, 117th Cong. at 68 (2021) (testimony from Hon. Merrick Garland, Atty Gen., U.S. Dep't of Justice); *see also* Memorandum from Atty Gen. Merrick Garland, U.S. Dep't of Justice, Partnership Among Federal, State, Local, Tribal, And Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff (Oct. 4, 2021).

<sup>3</sup> E-mail from Mr. Carlton Peeples, Deputy Assistant Dir., Criminal Investigative Div., Fed. Bureau of Investigation, to FBI\_SACS (Oct. 20, 2021).

<sup>4</sup> *See* Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (May 11, 2022).

<sup>5</sup> *See* Letter from Mr. Christopher Dunham, Acting Assistant Dir., Fed. Bureau of Investigation, to Rep. Jim Jordan, Chairman, H. Comm. on Judiciary (Mar. 3, 2023).

On January 17, 2023, in the opening days of the 118th Congress, we wrote to your predecessor, then-White House Chief of Staff Ronald Klain, requesting documents in the EOP's custody and control about this misuse of criminal and counterterrorism resources.<sup>6</sup> The letter also reiterated our earlier requests for transcribed interviews with EOP employees whom the Committee had reason to believe possess information necessary for our oversight.<sup>7</sup> The letter to Mr. Klain was part of a series of letters that the Committee sent to Executive Branch entities with relevant information about the Executive Branch's actions surrounding the NSBA letter to President Biden and Attorney General Garland's memorandum.

On February 14, 2023, the Special Counsel to the President responded to our request, specifically noting the Committee's requests to other Executive Branch entities and suggesting that it was "appropriate" for the Committee first "to seek information from the relevant agencies . . . and to thereafter request information from White House officials only to the extent necessary."<sup>8</sup> Although we disagree with this position, we nonetheless accommodated the EOP by focusing our initial oversight on the Executive Branch agencies that "administer[] a statutorily created program or that exercise[] statutory authorities."<sup>9</sup> These initial steps have made clear, however, that the Committee cannot fully exercise its constitutional oversight to inform legislative reforms without the documents and other information in the custody and control of the EOP.

Pursuant to subpoenas issued on February 3, 2023, the Committee has obtained some documents from the Department of Justice (DOJ), Department of Education (DOE), and FBI.<sup>10</sup> Although these documents are instructive in some ways in understanding the operations and activities of the agencies,<sup>11</sup> the documents received to date are deficient in one crucial respect. The agencies have not produced to the Committee the substance of any documents from or communications with EOP employees.

---

<sup>6</sup> See Letter from Rep. Jim Jordan et. al., Chairman, H. Comm. on the Judiciary, to Mr. Ronald A. Klain, Assistant to the President and Chief of Staff, The White House (Jan. 17, 2023) [hereinafter "Jan. 17 Letter"]; Letter from Rep. Jim Jordan et. al, Ranking Member, H. Comm. on the Judiciary, to Mr. Ronald A. Klain, Assistant to the President and Chief of Staff, The White House (Nov. 18, 2022) [hereinafter "Nov. 18 Letter"]; Letter from Rep. Jim Jordan et. al, Ranking Member, H. Comm. on the Judiciary, to Mr. Ronald A. Klain (Oct. 17, 2022). Our initial request to Mr. Klain was made in June 2022. See Letter from Rep. Jim Jordan et. al, Ranking Member, H. Comm. on the Judiciary, to Mr. Ronald A. Klain (Jun. 14, 2022).

<sup>7</sup> Jan. 17 Letter, *supra* note 6.

<sup>8</sup> Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, H. Comm. on the Judiciary (Feb. 14, 2023).

<sup>9</sup> *Id.*

<sup>10</sup> See Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick Garland, Att'y Gen., U.S. Dep't of Justice (Feb. 3, 2023); Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Miguel A. Cardona, Sec'y, U.S. Dep't of Edu. (Feb. 3, 2023); Subpoena from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Christopher A. Wray, Dir., Fed. Bureau of Investigation (Feb. 3, 2023).

<sup>11</sup> The Committee has accommodated the agencies' requests for rolling productions in response to the subpoena. The agencies continue to make periodic productions; however, they have not represented to the Committee when they will complete their productions.

The Committee has reason to believe that communications between the EOP and the relevant Executive Branch agencies exist and that these records are instrumental in fully understanding the Executive Branch's actions in this matter. Based on documents and testimonial evidence received to date, it appears that Mary C. Wall, a Senior Advisor to the President, was the conduit between the White House and Executive Branch officials across multiple agencies, as well as the conduit between the White House and the NSBA.

For example, we know from publicly available documents that Ms. Wall asked the NSBA on September 21, 2021, if she could “take a look at the letter [to President Biden] in advance of [its] release” to inform her discussions with other White House officials and DOJ on September 22.<sup>12</sup> In this same communication with the NSBA, Ms. Wall mentioned coordination with DOJ.<sup>13</sup> Specifically, Ms. Wall wrote to NSBA's then-Interim CEO and Executive Director Chip Slaven:

Is there any way we can take a look at the letter in advance of release? In specific, I'm meeting w colleagues from other WH offices and DOJ tomorrow morning to see if there might be any options we can pursue here, so if you have concrete recommendations in your letter (e.g., the threat assessment you mentioned), would be good to know so I can include in discussions.<sup>14</sup>

In response, Mr. Slaven sent Ms. Wall a detailed summary of the contents of the letter, which included specific language about the PATRIOT Act and the use of domestic terrorism tools.<sup>15</sup> Although the Committee does not know how Ms. Wall used this information, the final letter sent to President Biden included the language about the PATRIOT Act and use of domestic terrorism tools in the context of addressing threats at school board meetings.<sup>16</sup> Despite Ms. Wall's email to the NSBA referencing communications with DOJ, it has not produced any communications between Ms. Wall and its employees.

---

<sup>12</sup> Email from Ms. Mary Wall, Senior Policy Advisor to the Pres., Exec. Office of the Pres., to Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat'l School Boards Assoc. (Sept. 21, 2021 10:10 PM).

<sup>13</sup> *Id.*

<sup>14</sup> E-mail from Ms. Mary Wall, Senior Policy Advisor to the Pres., Exec. Office of the Pres., to Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat'l School Boards Assoc. (Sept. 21, 2021 10:10 PM) (emphasis added).

<sup>15</sup> E-mail from Mr. Chip Slaven, Interim CEO & Exec. Dir., Nat'l School Boards Assoc., to Ms. Mary Wall, Senior Policy Advisor to the Pres., Exec. Office of the Pres. (Sept. 21, 2021 11:26 PM).

<sup>16</sup> Letter from Dr. Viola M. Garcia, President, Nat'l School Board Assoc. & Mr. Chip Slaven, Chief Exec. Officer, Nat'l School Board Assoc., to President Joseph R. Biden, White House (Sept. 29, 2021) (“Additionally, NSBA requests that such review examine appropriate enforceable actions against these crimes and acts of violence under the Gun-Free School Zones Act, the PATRIOT Act in regards to domestic terrorism, the Matthew Shepard and James Byrd Jr. Hate Crimes Prevention Act, the Violent Interference with Federally Protected Rights statute, the Conspiracy Against Rights statute, an Executive Order to enforce all applicable federal laws for the protection of students and public school district personnel, and any related measure.”).

Additionally, although DOE has produced some communications between Ms. Wall and its officials, it has redacted the entirety of the correspondence.<sup>17</sup> These redactions—which DOE has made without citing any claim of privilege<sup>18</sup>—include not only Ms. Wall’s portion of the communications but DOE employees’ responses as well.<sup>19</sup> These redactions impede the Committee’s ability to understand the nature of communications between Executive Branch agencies.

In short, our oversight has shown that the White House had advance notice of the request from the NSBA for federal law enforcement to use counterterrorism and criminal tools with respect to school board-related threats, and that the White House discussed these matters with both DOJ and DOE. Both agencies have declined, so far, to provide information concerning the White House’s involvement in this misuse of counterterrorism and criminal tools.

For the Committee to fully and effectively fulfill its oversight of how the NSBA’s letter to President Biden could result in the FBI misusing counterterrorism and criminal resources to investigate American moms and dads, it is apparent that the Committee must obtain documents and communications in the custody and control of the EOP. We therefore write to reiterate our January 17 requests. However, as an accommodation to the EOP, the Committee is willing to narrow its requests initially to those involving Ms. Wall. Accordingly, we ask that you produce the following material for the period of January 20, 2021, to the present:

1. All documents and communications sent or received by Mary C. Wall referring to or relating to the NSBA and school board-related threats or parental involvement in school board meetings;
2. All documents and communications between Mary C. Wall and employees or officials of any Executive Branch department or agency referring or relating to the NSBA and school board-related threats or parental involvement in school board meetings;
3. All documents and communications between Mary C. Wall and employees or officials of the Department of Justice referring or relating to the Attorney General’s memorandum dated October 4, 2021; and
4. All documents and communications between Mary C. Wall and employees of the NSBA referring or relating to the NSBA’s September 29, 2021, letter to President Biden.

---

<sup>17</sup> See, e.g., E-mail from Mary C. Wall to Maureen Tracey-Mooney et al. (Sept. 16, 2021, 2:40 PM) (on file with Committee); E-mail from Mary C. Wall to Aaliyah A. Samuel et al. (Sept. 21, 2021, 8:35 AM) (on file with Committee).

<sup>18</sup> The only privilege that likely applies on these facts, the deliberative process privilege, is not an appropriate basis on which to withhold this information. *In re Sealed Case (Espy)*, 121 F.3d 729, 737-38 (D.C. Cir. 1997) (noting that where there is reason to believe misconduct occurred, “the [deliberative process] privilege is routinely denied on the grounds that shielding internal government deliberations . . . does not serve the public interest in honest, effective government” (internal quotations omitted)).

<sup>19</sup> See, e.g., E-mail from Scott Sargrad to Mary C. Wall et al. (Sept. 22, 2021, 9:07 AM) (on file with Committee).

Mr. Jeff Zients  
June 6, 2023  
Page 5

Please produce this material as soon as possible but no later than 5:00 p.m. on June 20, 2023. In addition, the Committee renews its earlier requests for transcribed interviews.<sup>20</sup> As another accommodation to the EOP, and because Ms. Wall appears to possess unique and specialized information, the Committee is willing to begin with Ms. Wall's interview initially. We ask that you please work with Committee staff to schedule this interview with Ms. Wall promptly.

Pursuant to the Rule X of the Rules of the House of Representatives, the Judiciary Committee is authorized to conduct oversight of matters involving civil liberties and criminal law to inform potential legislative reforms.<sup>21</sup> These potential legislative reforms include, among other proposals, legislation to prescribe how federal law-enforcement entities investigate constitutionally protected activity and legislation to prevent the misuse of federal law-enforcement and counterterrorism resources in the future.

We trust that, consistent with the letter from the Special Counsel to the President, the White House will honor its commitment to engage in good faith and produce the requested documents.<sup>22</sup> If not, the Committee may consider the use of compulsory process.

Thank you for your attention to this matter.

Sincerely,



Jim Jordan  
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

---

<sup>20</sup> Jan. 17 Letter, *supra* note 6 (citing Nov. 18 Letter, *supra* note 6).

<sup>21</sup> Rules of the U.S. House of Representatives, R. X (2023).

<sup>22</sup> Letter from Richard Sauber, Special Counsel to the President, to Rep. Jim Jordan, H. Comm. on the Judiciary (Feb. 14, 2023).