



THE WHITE HOUSE
WASHINGTON

November 17, 2023

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

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

Dear Chairman Comer and Chairman Jordan:

This letter addresses recent steps your Committees have taken, including the issuance of subpoenas and requests for interviews directed to the President's former White House Counsel and a number of White House officials. The subpoenas and interview requests purport to be in furtherance of what you have characterized as an "impeachment inquiry," even though no such inquiry has been authorized by the House of Representatives. Indeed, you appear so determined to impeach the President that you have misrepresented the facts, ignored the overwhelming evidence disproving your claims, and repeatedly shifted the rationale for your "inquiry."

Your latest steps follow an irresponsible set of subpoenas and requests for interviews that you launched last week, directed to multiple members of the President's family, all of whom are private citizens, including for example the President's deceased son's widow and her sister. These unjustified requests were sent despite the fact that, after a year of investigating, voluminous records and testimony from dozens of witnesses have refuted your baseless allegations about the President.

Days later, your "impeachment inquiry" has apparently shifted to focus on the President's self-reported discovery of documents with classification markings at the Penn Biden Center with a new set of subpoenas and interview requests to some of the President's closest aides. Yet your Committees' 30-page memorandum putting forward "the evidence justifying the inquiry" and "the scope of this impeachment investigation" only references this issue *in a single footnote*.¹

¹ See Rep. James Comer, Chairman of the House Committee on Oversight and Accountability, Rep. Jim Jordan, Chairman of the House Committee on the Judiciary, and Rep. Jason Smith, Chairman of

And, as you well know, the testimony that you seek from the President’s aides involves the subject matter of an ongoing Special Counsel investigation. These requests appear to be motivated by a desire to boost your subpoena numbers, as Chairman Jordan tweeted just this week,² rather than any legitimate investigative interest.

You also claim the mantle of an “impeachment inquiry” knowing full well that the Constitution requires that the full House authorize an impeachment inquiry before a committee may utilize compulsory process pursuant to the impeachment power—a step the Republican House Majority has so far refused to take.³ In fact, both of you previously supported the position that moving forward with an impeachment inquiry without a vote of the House “represents an abuse of power and brings discredit to the House of Representatives.”⁴ Speaker Mike Johnson has similarly endorsed this requirement, stating that an impeachment inquiry without a House vote is an illegitimate “sham.”⁵

In addition to the “inquiry” lacking constitutional legitimacy, Speaker Johnson reportedly has admitted that there is insufficient evidence to support impeachment.⁶ But rather than acknowledge the insufficiency of the evidence, you have consistently misrepresented the

the House Committee on Ways and Means, *Memorandum to Members of the Committee on Oversight and Accountability, Committee on the Judiciary, and Committee on Ways and Means re: Impeachment Inquiry* (Sep. 27, 2023), available at <https://judiciary.house.gov/sites/evo-subsites/republicans-judiciary.house.gov/files/evo-media-document/impeachment-inquiry-scoping-memo-final.pdf>.

² See Rep. Jim Jordan (@Jim_Jordan), Twitter (Nov. 14, 2023, 3:54 PM), available at https://twitter.com/Jim_Jordan/status/1724531292551733293.

³ See *House Committees’ Authority to Investigate for Impeachment*, 44 Op. O.L.C. ___, *11 (Jan. 19, 2020) (concluding that a House resolution authorizing the opening of an impeachment inquiry “does not just reflect traditional practice” and “is a constitutionally required step before a committee may exercise compulsory process in aid of the House’s ‘sole Power of Impeachment’”).

⁴ H.R. Res. 590, 116th Cong. (resolution introduced by Rep. McCarthy to “disapprove[] of the actions of the Speaker of the House” initiating an impeachment inquiry into former President Trump); see 165 CONG. REC. H7976-H7977 (daily ed. Sept. 25, 2019) (recording Rep. Comer and Rep. Jordan voting against a motion to table H.R. Res. 590, in Roll Call No. 547); 165 CONG. REC. H8396 (daily ed. Oct. 23, 2019) (statement of Rep. Comer) (condemning the 2019 impeachment inquiry as “baseless” and raising concern that no full House vote had been taken); Rep. Jim Jordan (@Jim_Jordan), Twitter (Oct. 9, 2019, 9:27 AM), available at https://twitter.com/Jim_Jordan/status/1181924030057766918 (condemning the lack of a full House vote as a “biased” and “unfair” process).

⁵ 165 CONG. REC. H8378 (Oct. 22, 2019) (statement of Rep. Johnson) (describing the 2019 impeachment inquiry as “unprecedented and dangerous” and noting that in all previous instances of impeachment proceedings against a President, “the impeachment inquiry was first properly authorized by a full vote of this House”).

⁶ Jacqueline Alemany, *Momentum Behind Impeachment Inquiry Slows Under New Speaker*, WASH. POST (Nov. 10, 2023, 6:00 AM), available at <https://www.washingtonpost.com/politics/2023/11/10/biden-impeachment-inquiry-speaker-johnson/> (reporting that Speaker Johnson has “indicated that there is insufficient evidence at the moment to initiate formal impeachment proceedings”).

documents and testimony you have received and then moved the goalposts when your claims have been debunked, as you appear to be doing here. This pattern of distortions and falsehoods lays bare that no amount of truthful testimony or document productions will satisfy you and exposes the improper nature of your Committees' efforts.

Congressional harassment of the President to score political points is precisely the type of conduct that the Constitution and its separation of powers was meant to prevent. As the Supreme Court has made clear, “[w]ithout limits on its subpoena powers, Congress could ‘exert an imperious control’ over the Executive Branch and aggrandize itself at the President’s expense, just as the Framers feared.”⁷ Both of you have publicly admitted that your investigation is driven by the partisan political goal to hurt the President,⁸ raising additional serious concerns that you are improperly weaponizing the oversight powers of Congress. Speaker Johnson joined you in admitting that partisan political concerns were guiding the House’s decision-making in this process.⁹

Indeed, the Committees are failing to heed the Speaker’s own earlier warnings against using congressional power for “raw partisan politics”¹⁰ or “weaponiz[ing] the oversight responsibility of the Congress” as a “means for political retribution.”¹¹ The Speaker was

⁷ *Trump v. Mazars*, 140 S. Ct. 2019, 2034 (2020) (quoting THE FEDERALIST No. 71 (Alexander Hamilton)) (citations omitted).

⁸ See Aaron Blake, *House GOP Chairman Links His Investigation to Biden’s Poll Numbers*, WASH. POST (May 22, 2023), available at <https://www.washingtonpost.com/politics/2023/05/22/james-comer-biden-investigation-polls/> (describing a quote from Chairman Comer and noting that he “clearly alluded to the political gain from his probe”); Rep. Jim Jordan, Remarks at the Conservative Political Action Conference (Aug. 4, 2022), available at <https://www.c-span.org/video/?522151-109/conservative-political-action-conference-rep-jim-jordan> (describing various lines of inquiry and stating “all those things need to be investigated just so you have the truth, plus that will help frame up the 2024 race, when I hope and I think President Trump is gonna[sic] run again and we need to make sure that he wins”).

⁹ See Jacqueline Alemany, *Momentum Behind Impeachment Inquiry Slows Under New Speaker*, WASH. POST (Nov. 10, 2023, 6:00 AM), available at <https://www.washingtonpost.com/politics/2023/11/10/biden-impeachment-inquiry-speaker-johnson/> (“[I]n this week’s private meeting with moderates, Johnson appeared to agree with Republican lawmakers who argued that since Biden’s polling numbers have been so weak, there is less of a political imperative to impeach him, according to Bacon and others who attended the meeting.”).

¹⁰ *Markup of Committee Report for Resolution Recommending that the House of Representatives Find William P. Barr, Attorney General, U.S. Department of Justice, in Contempt of Congress for Refusal to Comply with a Subpoena Duly Issued by the Committee on the Judiciary Before the H. Comm. on the Judiciary*, 116th Cong. (May 8, 2019) (statement of Rep. Johnson) (unofficial transcript available at <https://docs.house.gov/meetings/JU/JU00/20190508/109451/HMKP-116-JU00-Transcript-20190508.pdf>).

¹¹ Trish Reagan Primetime, Interview of Rep. Mike Johnson, Fox Business (Mar. 11, 2019), available at <https://www.youtube.com/watch?v=9-t-RpMI9IA>.

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undoubtedly correct in his earlier statements that such conduct would be “dangerous to our constitutional Republic.”¹²

For all these reasons, you should reconsider your current course of action and withdraw these subpoenas and demands for interviews. If you do in fact have legitimate requests for information within the White House pursuant to an appropriate oversight inquiry, please contact the undersigned so that the constitutionally approved processes can be implemented.

Respectfully,



Richard Sauber
Special Counsel to the President

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

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

¹² *Id.*