



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, DC 20530

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Jordan:

We write regarding the House Committee on the Judiciary’s (Committee) letter to the Department of Justice (Department), dated September 18, 2023, and your subpoenas, dated September 14, 2023, about the individual ongoing criminal investigation and prosecution overseen by Special Counsel David Weiss.

The Department has worked hard to provide information to the Committee and avoid unnecessary conflict, consistent with the commitments we made to you and the American people at the outset of this Congress.¹ We continue to respect and give due weight to your interest in this matter and are steadfast in our belief that compromise “should be our shared goal.”² The Department has built a strong record of compromise by providing documents and testimony voluntarily. We will continue to identify information we can share with the Committee, consistent with law, Department policy, and the public interest. We hope you will reciprocate our good-faith efforts to reach common ground—including by accepting our offer to make four senior Department officials available voluntarily to address the scope of Mr. Weiss’s authority instead of pursuing testimony by non-supervisory personnel about the ongoing investigation.

As we have previously communicated, Mr. Weiss is the appropriate Department official to address his investigative and prosecution decisions at the appropriate time. Specifically, Mr. Weiss will produce a report at the conclusion of his investigation and will at that point be able to provide more information about his currently ongoing investigation and prosecution. With this letter, we also reiterate our offer to make Mr. Weiss available in the near term to address the subject of his authority, while recognizing that sharing nonpublic information about an investigation while it is ongoing may undermine the investigation and related prosecutions and could improperly intrude upon the Executive Branch’s authority to enforce the law. This approach will enable the Committee to continue obtaining information from appropriate

¹ See generally Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Jan. 20, 2023) (“January 20 Letter”).

² Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan, at 1 (July 13, 2023) (“July 13 Letter”); January 20 Letter, at 3.

individuals about Mr. Weiss's authority—a key focus of the Committee's inquiry to date—while allowing Mr. Weiss to share information about his investigative and prosecution decisions at the appropriate time.

The Department's Strong Record of Cooperation

In response to your interest in this matter, the Department has worked in good faith to find common ground with the Committee by identifying topics on which information can be shared, including through voluntary testimony by appropriate individuals, consistent with law, Department policy, and the public interest. Over the past four months, the Department, including the Federal Bureau of Investigation (FBI), has provided a significant amount of responsive information to the Committee. We have sent seven letters, made an initial production of documents, and committed to making Mr. Weiss available for a public hearing before the Committee.³ In the past two weeks alone, the Department authorized voluntary testimony by two FBI supervisors on two topics the Committee has repeatedly identified as central priorities: the scope of Mr. Weiss's authority and discussions about his authority at a meeting on October 7, 2022.⁴ Their testimony, totaling nearly ten hours, was in addition to information the Department and Mr. Weiss had previously provided on those same topics.⁵ Earlier this week, the Attorney General testified publicly about Mr. Weiss's authority.

Moreover, as we have previously said, at the close of this matter Special Counsel Weiss will prepare a report for the Attorney General explaining his prosecution and declination decisions. The Attorney General has committed to making public as much of that report as possible, consistent with legal requirements and Department policy.

We have made these extraordinary efforts despite the fact that, as we have repeatedly made clear, the Department must continue protecting its criminal law enforcement decisions and legal judgments from even the appearance of political or other improper influences.⁶ The Department safeguards non-public information about open investigations, sensitive law enforcement information, and internal deliberations. This protects the public interest in the integrity and fairness of criminal investigations and proceedings—concerns that are heightened while a matter is open. As Mr. Weiss and his office have stated, his investigation remains ongoing.

³ See Letter from U.S. Attorney David C. Weiss to Honorable Jim Jordan (June 7, 2023) (“June 7 Letter”); July 13 Letter; Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (July 24, 2023) (“July 24 Letter”); Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Aug. 14, 2023); Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Aug. 25, 2023); Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Aug. 29, 2023); Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Sept. 11, 2023).

⁴ See, e.g., Letter from Honorable Jim Jordan to Attorney General Merrick Garland (Feb. 28, 2023); Letter from Honorable Jim Jordan to Attorney General Merrick Garland (July 21, 2023); Letters from Honorable Jim Jordan to FBI Special Agent in Charge and Assistant Special Agent in Charge (Aug. 21, 2023); Email from Committee Staff to Department and FBI Staff (Sept. 5, 2023, 7:49 pm).

⁵ See June 7 Letter; Letter from U.S. Attorney David C. Weiss to Honorable Jim Jordan (June 30, 2023); July 13 Letter.

⁶ See, e.g., Letter from Assistant Attorney General Carlos Uriarte to Honorable Jim Jordan (Aug. 29, 2023).

The Department Reiterates Our Offer for Testimony from Four Senior Officials

Consistent with these principles, the Department hopes you will accept our offer conveyed on September 14, 2023, for testimony from three senior Department officials whom you have previously asked to interview. We stand ready to make U.S. Attorney Matthew Graves, U.S. Attorney Martin Estrada, and Acting Deputy Assistant Attorney General Stuart Goldberg available voluntarily, for transcribed interviews accompanied by agency counsel, to discuss the scope of Mr. Weiss's authority. U.S. Attorney Graves is available on October 3, 2023, U.S. Attorney Estrada is available on October 20, 2023, and Mr. Goldberg is available on October 24, 2023.⁷ The Department also reaffirms its commitment, first extended on July 24, 2023, to making Mr. Weiss available for an appearance before the Committee on the same subject matter of our prior offers.⁸

These senior officials are the most appropriate individuals to address the questions the Committee has raised about the scope of Mr. Weiss's authority. The offer for voluntary testimony by the four officials is based on the priority you have placed on hearing from U.S. Attorneys Graves and Estrada, in particular, and on your continued expression of interest in 28 U.S.C. § 515 and Mr. Weiss's authority to bring charges in other districts as U.S. Attorney for the District of Delaware. In addition, Mr. Goldberg is an appropriate witness for testimony on a further topic in which you have expressed interest: processes the Department's Tax Division follows when working with a U.S. Attorney's Office to investigate and prosecute criminal tax offenses. We believe this testimony would respond to the Committee's requests, would be from appropriate officials, would be on appropriate subjects for oversight under the circumstances, and would be consistent with the public interest—this is a reasonable opportunity for compromise.

We are offering this testimony as an alternative to the Committee pursuing line personnel to testify about an ongoing criminal investigation and prosecution, including through your September 14 subpoenas, which you have stated you authorized pursuant to what Speaker Kevin McCarthy has described as an "impeachment inquiry."⁹ Such demands implicate several well-

⁷ Department personnel are available for voluntary transcribed interviews to the extent the federal government continues its normal operations following the end of the current fiscal year on September 30, 2023. The Department may need to discuss alternative dates with the Committee in the event of any lapse in appropriations, which could impair our ability to prepare and make witnesses available.

⁸ In our July 24 Letter before Mr. Weiss was appointed Special Counsel, the Department offered to make him available for a public hearing on the topic of his authority. He remains available for a single appearance on that topic in the near term. There is a likelihood that Mr. Weiss, like previous special counsels, will be asked for public testimony at the conclusion of his investigation. Even a single appearance before that time, while the matter is ongoing, will impact the investigation's resources given the time necessary for an appearance before Congress. Even so, the Department is committed to taking this extraordinary step because we remain deeply concerned about any misrepresentations about our work that could harm public confidence in the evenhanded administration of justice.

⁹ Sean Hannity, Fox News (Sept. 13, 2023) (Chairman Jordan stated, "Well I just signed subpoenas today that are going to people in the Justice Department that we think we need to talk to. ... The beauty—I think the importance of being in an impeachment inquiry phase of our oversight duty is that when courts see that they know this is rooted in the constitutional principle that impeachment resides solely with the House of Representatives so we're not engaged in a legislative function which is the normal reason why we do oversight.").

established Department concerns, as well as legal constraints.¹⁰ This includes the Department's longstanding policy to "ensur[e] that appropriate supervisory personnel, rather than line attorneys and agents, answer Congressional questions about Department actions."¹¹ These concerns are particularly acute given the increasing prevalence of harassment, violence, and threats of violence against Department personnel associated with high profile matters.¹² Proceeding with what the Department *can* make available would advance the Committee's stated interests while avoiding unnecessary conflict. We encourage you to accept this compromise.

The Committee's New Requests

Your September 18 letter also seeks a wide range of documents the Committee has not previously requested, including communications from several Department employees during an ongoing criminal investigation that has spanned multiple years. This significantly expands the scope of the Committee's information requests, and it follows the announcement by Speaker McCarthy of what he described as an "impeachment inquiry" on this subject matter, among others.¹³ You have also requested transcribed interviews with seven Department employees in the next three weeks and a public hearing on October 18, in addition to the testimony you are seeking next week from the two Tax Division employees at issue in your September 14 subpoenas.

The volume and requested pace of the Committee's proposed schedule far exceeds the Department's resources, especially in light of the Committee's other pending requests and subpoenas to the Department on other topics. Even if the Committee's requests did not implicate significant Department interests and concerns, it is not possible to collect, review, and make productions of documents by September 27; while simultaneously making available individuals for testimony on September 27, September 28, September 29, October 2, October 3, October 4, October 6, October 10, October 11, and October 18. Individuals also may require time to consider the retention of personal counsel to represent them in their personal capacities.

¹⁰ See Letters from Honorable Jim Jordan to Tax Division Trial Attorney and Senior Litigation Counsel (Sept. 14, 2023). Among other things, the subpoenas and letters likely encompass information the Department may be precluded by law from sharing with the Committee, such as information protected by 26 U.S.C. § 6103 and Federal Rule of Criminal Procedure 6(e). The subpoenas also bar agency counsel from attending the subpoenaed appearances. See *Attempted Exclusion of Agency Counsel from Congressional Depositions of Agency Employees*, 43 Op. O.L.C. ___, at 8 (May 23, 2019). In addition, the Department would appreciate the opportunity to discuss official and sensitive personal obligations that affect the availability of the non-supervisory Tax Division personnel on the schedule the Committee seeks, separate and apart from the Department's concerns about their seniority, the scope of testimony the Committee seeks, and the terms of the subpoena.

¹¹ Letter from Assistant Attorney General Robert Raben to Honorable John Linder, at 6 (Jan. 27, 2000); January 20 Letter, at 3; July 13 Letter, at 4-5.

¹² See, e.g., Press Release, U.S. Dept. of Justice, Two Tennessee Men Arrested for Planning Attacks on Law Enforcement Personnel and the FBI's Knoxville Field Office (Dec. 16, 2022), <https://www.justice.gov/opa/pr/two-tennessee-men-arrested-planning-attacks-law-enforcement-personnel-and-fbi-s-knoxville>.

¹³ Dear Colleague Letter from Speaker Kevin McCarthy (Sept. 12, 2023); See also Press Release, House Comm. on the Judiciary, Chairman Jordan, Comer, Smith Statement on Speaker McCarthy Opening an Impeachment Inquiry into President Biden (Sept. 12, 2023), <https://judiciary.house.gov/media/press-releases/chairmen-jordan-comer-smith-statement-speaker-mccarthy-opening-impeachment>.

We remain committed to providing information voluntarily, without unnecessary escalation, consistent with law, Department policy, and the public interest. To that end, we welcome the opportunity to discuss your priorities in this letter and the many other information requests the Committee has made since the beginning of this Congress, on this topic and others. Regarding the requests in your September 18 letter, as we have noted, the most appropriate time for providing information about any individual ongoing criminal investigation is after the matter is closed, especially where the matter is pending before a court and subject to judicial supervision, and legal and ethical bars limit what the Department can say. We will work to identify any additional information, including documents, that can be shared, consistent with the Committee's priorities and Department resources. However, any additional testimony and documents shared at this early juncture must continue to be appropriately limited to protect the ongoing matter and important confidentiality interests.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

Carlos Felipe Uriarte
Assistant Attorney General

cc:

The Honorable Jerrold L. Nadler
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515