



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:

Today, the Department of Justice (Department) is producing documents in response to the Committee on the Judiciary's (Committee's) subpoena of February 3, 2023. The subpoena requests seven broad categories of documents regarding the October 4, 2021, memorandum titled, "Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff." Your subpoena also requests two broad categories of documents and communications related to the May 2022 establishment of a domestic terrorism unit within the Counterterrorism Section of the National Security Division.

The Attorney General issued the October 4, 2021, memorandum following "a disturbing spike in harassment, intimidation, and threats of violence against school administrators, board members, teachers, and staff."¹ The Attorney General subsequently noted that "Americans who serve and interact with the public at every level—many of whom make our democracy work every day—have been unlawfully targeted with violence and threats of violence."² The October 4 memorandum explained that "[w]hile spirited debate about policy matters is protected under our Constitution, that protection does not extend to threats of violence or efforts to intimidate individuals based on their views." The memorandum directed United States Attorneys and the Federal Bureau of Investigation (FBI) to "convene meetings with federal, state, local, Tribal, and territorial leaders in each federal judicial district ... [to] facilitate the discussion of strategies for addressing threats against school administrators, board members, teachers, and staff, and [to] open dedicated lines of communication for threat reporting, assessment, and response."

¹ Mem. from the Attorney General to the FBI Director, Director of the Executive Office of United States Attorneys, Assistant Attorney General for the Criminal Division, and United States Attorneys, *Partnership Among Federal, State, Local, Tribal, and Territorial Law Enforcement to Address Threats Against School Administrators, Board Members, Teachers, and Staff* (Oct. 4, 2021).

² Statement of Attorney General Merrick B. Garland on the First Anniversary of the Attack on the Capitol (Jan. 5, 2022) ("Across the country, election officials and election workers; airline flight crews; school personnel; journalists; local elected officials; U.S. Senators and Representatives; and judges, prosecutors, and police officers have been threatened and/or attacked.").

In response to this directive, each U.S. Attorney's Office convened meetings or consultations with relevant federal, state, local, Tribal, and territorial law enforcement partners in the fall of 2021. The meetings and consultations addressed trends in violations of criminal laws involving threats of violence and the role of federal, state, local, Tribal, and territorial law enforcement. U.S. Attorney's Offices were instructed that the "meetings should make clear that law enforcement must not interfere with, and should protect, spirited debate about policy matters and peaceful protest."³

Today's production includes 448 pages of documents responsive to your subpoena. It provides information you requested so the Committee can better understand how the Department implemented and communicated about the October 4, 2021, memorandum. We have made limited redactions to protect personally identifiable information and other confidentiality interests. These redactions are important to protect individual privacy interests and the integrity of our law enforcement and other work.⁴ We will produce additional responsive materials on a rolling basis, and we remain committed to providing you the information you need while respecting Executive Branch confidentiality interests and Department resources.

This production provides an initial set of responsive materials in light of the time available since February 3, the breadth of the requests, and the Department's limited resources. This production also conforms with the long-observed and constitutionally mandated accommodation process.⁵ Before the Committee issued this subpoena, we offered to meet with your staff to discuss which of the more than 80 requests in your January 17, 2023, letter reflected the Committee's current priorities.⁶ The Committee did not respond to that offer before serving the Department with a subpoena, after which we offered again to meet and confer on the Committee's priorities. Our voluntary engagement makes compulsory process unnecessary and premature.⁷ Indeed, the Department has expended significant resources to identify and produce what would be helpful to the Committee in the absence of a typical meet-and-confer process.

So that we may continue making progress toward satisfying your informational needs promptly and efficiently, we are treating your subpoena as reflecting the Committee's prioritization among your many different requests. Even so, the subpoena itself contains nine

³ Mem. From Monty Wilkinson, Director, Executive Office for U.S. Attorneys, *Guidance on Implementing the Attorney General's Memorandum on Addressing Threats Against School Administrators, Board Members, Teachers, and Staff* (Oct. 20, 2021), DOJ-HJC-0000237-39.

⁴ The critical necessity of such protections for Department personnel is clear from recent threats to their safety. *See, e.g.*, Press Release: 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>.

⁵ *See United States v. AT&T*, 567 F.2d 121, 127 (D.C. Cir. 1977) ("[E]ach branch should take cognizance of an implicit constitutional mandate to seek optimal accommodation through a realistic evaluation of the needs of the conflicting branches in the particular fact situation. This aspect of our constitutional scheme avoids the mischief of polarization of disputes."); *accord* Subpoena from House Committee on the Judiciary to Hon. Merrick Garland, at 5 (Feb. 3, 2023) ("If the subpoena cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.").

⁶ Letter from Assistant Attorney General Carlos F. Uriarte to Chairman Jim Jordan (Jan. 20, 2023); *see also* letter from Assistant Attorney General Carlos F. Uriarte to Chairman Jim Jordan (Feb. 8, 2023) (reiterating offer to meet and confer).

⁷ *See Congressional Oversight of the White House*, 45 Op. O.L.C. ___, at *56-57 (2021) (discussing exhaustion of the accommodations process).

separate requests, each seeking “all documents” or “all documents and communications” related to a specific request. As drafted, the requests implicate multiple Department components, including 94 separate U.S. Attorney’s Offices. We hope that we can work with you and your staff so we can focus our efforts on the information most relevant to you. Not only is dialogue and negotiation the most effective way for the Department to provide the information you need without violating confidentiality interests or excessively burdening resources, the Constitution requires it of us both.⁸ Such standard staff-level discussions are a meaningful part of the accommodation process because they have a long history of helping the Executive Branch and Congress reach agreement and avoid conflict. That should be our shared goal.

We hope you will find this production helpful. We will continue producing responsive documents to meet the Committee’s informational needs. We reiterate our offer to meet and discuss how we can provide what you need on this request and others. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

CARLOS
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by CARLOS
URIARTE
Date: 2023.02.28
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Carlos Felipe Uriarte
Assistant Attorney General

Enclosures

cc:

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

⁸ See *United States v. AT&T*, 567 F.2d at 127, 130; Congressional Oversight of the White House, 45 Op. O.L.C. ___, at *56-57 (“A congressional committee may not avoid its obligation to participate in this constitutionally mandated process by issuing or seeking to enforce a subpoena before the accommodation process has run its course.”).