

COMPLIANCE WITH COMMITTEE OVERSIGHT

HEARING

BEFORE THE

SUBCOMMITTEE ON RESPONSIVENESS AND
ACCOUNTABILITY TO OVERSIGHT

OF THE

COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES

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COMPLIANCE WITH COMMITTEE OVERSIGHT

Thursday, March 9, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY
TO OVERSIGHT

COMMITTEE ON THE JUDICIARY

Washington, DC

The Subcommittee met, pursuant to notice, at 2:03 p.m., in Room 2141, Rayburn House Office Building, Hon. Ben Cline [Chair of the Subcommittee] presiding.

Present: Representatives Cline, Jordan, Van Drew, Moran, Lee, Swalwell, and Ivey.

Mr. CLINE. The Subcommittee on Responsiveness and Accountability to Oversight will come to order.

Without objection, the Chair welcomes everyone to our first hearing of the Subcommittee.

The Chair now recognizes the gentleman from California, Mr. Swalwell, to lead us in the Pledge of Allegiance.

ALL. I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation, under God, indivisible, with liberty and justice for all.

Mr. CLINE. Thank you.

This Subcommittee will play a vital role this Congress by ensuring that the Committee is effectively able to obtain information relevant to our oversight obligations.

Throughout the course of this Congress, the Subcommittee will work to get answers directly from the departments and agencies that our Committee oversees and hold their representatives to Congress accountable.

We've seen time and again that the Biden Administration's response to legitimate Congressional oversight is to obstruct, delay, and obfuscate.

Since the beginning of the Biden Administration, Committee Republicans have made at least 107 different requests for information and documents concerning the operations and actions of the Justice Department.

Further, the Committee has made at least 50 different requests for information and documents concerning the operations and actions of the FBI since the onset of this administration.

Additionally, since the fall of 2021, the Committee has requested information and documents concerning the operations and actions of the Department of Education.

The Committee has reiterated these requests for information and documents to all three of these agencies multiple times.

On February 3, 2023, in the face of continued obstruction, Chair Jordan issued subpoenas to Attorney General Garland, FBI Director Wray, and Education Secretary Cardona for documents. While these agencies have begun to produce some documents, the Committee continues to have concerns about the responsiveness of these documents.

For example, the Department of Education's document production contains heavy redactions. The Department of Justice's document production also contains redactions.

Additionally, on March 1, 2023, the day the FBI was to comply fully with a subpoena, the Bureau produced just four pages of school board-related documents.

Outside of their initial productions in response to the Committee's subpoenas, the agencies have not substantially complied with other longstanding requests for information and documents.

Now, we invited the FBI to testify at today's hearing, but the FBI refused. While we are disappointed that the agency is not here today to answer our questions, we look forward to seeing the FBI at the Subcommittee's next hearing at the end of this month.

We also look forward to engaging with both Mr. Uriarte and Ms. Graham today to discuss the production we have received to date and regarding the status of our other outstanding requests.

Both officials are Senate confirmed and charged with the responsibilities of working with Congress. They lead large departments with substantial budgets and play a key role as a gatekeeper of witnesses and information.

By being able to conduct expeditious and thorough oversight, the Committee will be able to examine potential legislative changes that will help our Nation as a whole.

This Subcommittee will work in a judicious and thoughtful manner to ensure that this Committee obtains the information it needs to do its job.

The Chair now recognizes the Ranking Member, the gentleman from California, Mr. Swalwell, for his opening statement.

Mr. SWALWELL. The Chair just referenced "in the face of continued obstruction." I think it's quite rich that we are talking about subpoena compliance under a Chair of the Full Committee who was absolutely out of subpoena compliance in the last Congress.

So, we're going to haul witnesses in here today and claim that they did not comply with subpoenas or requests, and that request is so rich because it's coming from a Chair who himself did not comply with the January 6th Committee's requests.

So, May 31st you see a letter sent to then Representative Jordan asking that he honor his subpoena. He was asked over and over and over: You were a witness to a crime, you were a witness to the greatest crime ever committed, with the most criminals ever indicted in America. Will you help your country? Will you comply with that subpoena?

No compliance, crickets, absolute defiance of the subpoena. Because of that defiance, the Chair was referred—and it's still pending—to the House Ethics Committee. Why? Well, it's because he took an oath.

I want to have the Congressional oath put up there.

[Slide.]

Mr. SWALWELL. The Congressional oath mandates that Members of Congress defend the Constitution “without any mental reservation,” or, as it says on the slide, “purpose of evasion.” Not responding to a Congressional subpoena is a direct purpose of evasion.

So, this is our Chair hauling all of us here, everyone here today, people at the Department of Justice, the Department of Education, who are doing important work, to claim they are out of compliance when he, himself, is currently out of compliance.

I also want to go through what is being requested of the Department of Justice and the Department of Education, because they're actually in compliance.

In fact, the first request that was sent to the Department of Justice followed—by the way, it didn't have a date on it as to when the compliance had to exist. Hundreds of documents were sent back.

The request was so vague it would be like typing in Google Search: What is Earth? The Department of Justice is saying: Can you just be a little more specific and we will get you these documents? They sent hundreds of documents back.

The claim here is that the Department of Justice has designated parents as domestic terrorists. You will see in the Department's October 4, 2021, memo that they never used the phrase, from the Attorney General to anyone else in any of the documents produced, “domestic terrorists” as a way to label parents.

They are concerned, as local law enforcement is concerned, as State law enforcement is concerned, as Federal law enforcement must be concerned, that threats are being carried out to local volunteers on school boards all over America.

Apparently, the majority is here today to defend those who are making those threats. Taking time away from hanging out with the January 6th defendants at the D.C. jail, they're here today to defend threats like this, a threat that says:

It is too bad that your mama is an ugly communist whore. If she doesn't quit or resign before the end of the year, we will kill her. But first we will kill you.

That was a threat sent to a child. These guys are defending that threat. They don't believe law enforcement has any business investigating that threat.

I don't know what happened to the Republican Party that sided with law enforcement and law and order and public safety, but we're here today because they believe that threat is OK and no one in law enforcement should investigate it.

Let's look at some of the other threats. “We are coming after all of you, traitors of America,” a threat sent to a school board member in Dublin, Ohio. “This is why Hitler threw you,” “C” word, “in a gas chamber,” anonymous threat sent to a school board member in Pennsylvania.

These are the people you want to have this hearing for? You go and sympathize with the January 6th defendants. You are going to stand up for the people making these threats, and you are going to haul in people who are working hard for their country, and we're going to defend these people?

Well, knock yourself out, because what you are going to find is they are doing nothing but protecting innocent volunteers across America who want to make sure our kids and the parent volunteers are safe in their school.

Finally, I actually think when it comes to subpoena compliance, we should follow the Jim Jordan standard.

[Slide.]

Mr. SWALWELL. Back in 2019, Jim Jordan and Elijah Cummings agreed:

A Congressional subpoena is a powerful and coercive tool. It should be only used when attempts to reach an accommodation with a witness have reached an impasse or when necessary to obtain certain sensitive information, such as financial information, or through a so-called friendly subpoena to protect a witness.

This is the Jim Jordan standard set back in 2019. Just like the subpoena he defied when the January 6th Committee sent one to him, he is defying his own standard here today by not accepting what both departments are asking you to do, which is to be more specific in your request, to meet with their staff, and go through an accommodation process.

So, again, we can waste our time. You can stand with the January 6th terrorists. You can stand with the terrorists who made these threats. If you're just a little more specific, I think you'll get everything you want from the witnesses we have here today.

I yield back.

Mr. CLINE. I thank the gentleman.

Without objection, all other opening statements will be included in the record.

I want to welcome the Members of the Subcommittee: Mr. Moran from Texas, Ms. Lee from Florida, on my left, Mr. Ivey from Florida—no. I'm sorry, Maryland.

Mr. IVEY. Maryland.

Mr. CLINE. Yes.

Mr. IVEY. Although, I like Florida too.

Mr. CLINE. I do too.

We are glad to have all of you on the Subcommittee.

Before introducing today's witnesses, to respond briefly, what I did see after the oath of office that was displayed, I did not see the letter that the Chair of the Full Committee responded to his subpoena to the Chair of the January 6th Commission. It was quite a lengthy letter. Maybe it wouldn't have fit up on the screen. It was quite detailed about engaging with the January 6th Commission and those prepared to engage in a conversation about cooperation. He never received any further input from Chair Thompson.

So, when the last effort at establishing that dialog was made by the Chair of the Full Committee and we were awaiting a response from the Chair—

Mr. SWALWELL. I would just seek a point of order. Are we responding to opening statements now? Because I'm happy to listen to yours and give a rebuttal, but I thought we had witnesses here.

Mr. CLINE. I'm just briefly stating a fact, as is the prerogative of the Chair, and I'm happy to introduce the witnesses and move ahead with our questioning of them as well.

Mr. IVEY. Would the gentleman yield for a moment?

Mr. CLINE. I'm happy to allow for a conversation to occur, but I think it's going to occur. So, let's go ahead with the witnesses' opening statements, go ahead and get them sworn in.

Mr. IVEY. I'll be very brief, and we can come back to it. The comments that you just made are, I think, contradicted directly by the report that was issued that dealt with this issue specifically, as well as three other Members of House Republicans who received subpoenas as well.

So, I can read through that later, but I did want to raise that now.

Mr. CLINE. I appreciate that.

All right. Let's introduce today's witnesses.

The Honorable Carlos Uriarte is the Assistant Attorney General for the Office of Legislative Affairs at the Department of Justice. In that role, he is responsible for managing the Department's relationship with Congress.

The Honorable Gwen Graham is the Assistant Secretary for Legislation and Congressional Affairs at the Department of Education. In that role she acts as the liaison between the Department and Congress. She also represented Florida's Second Congressional District here in the House during the 114th Congress.

We welcome our witnesses and thank them for appearing today.

We will begin by swearing you in. Would you please rise and raise your right hand?

Do you swear or affirm, under penalty of perjury, that the testimony you are about to give is true and correct, to the best of your knowledge, information, and belief, so help you God?

The record will reflect that the witnesses have answered in the affirmative.

Thank you. Please be seated.

All right. Please know that your written testimony will be entered into the record in its entirety. Accordingly, we ask that you summarize your testimony in five minutes.

The microphone in front of you has a clock and a series of lights. When the light turns yellow, you should begin to conclude. When the light turns red, your time has expired.

Mr. Uriarte, you may begin.

STATEMENT OF STATEMENT OF THE HON. CARLOS URIARTE

Mr. URIARTE. Good afternoon, Chair Cline, Ranking Member Swalwell, and distinguished Members of the Subcommittee. Thank you for the opportunity to appear before you today and discuss the efforts of the Department of Justice and its components to respond to the information requests since the beginning of the 118th Congress.

Not too long ago, I was sitting on the other side of this hearing room serving as a staffer, first on the House Oversight Committee

under the late Elijah Cummings, then on the Select Subcommittee on the Coronavirus Crisis under then Chair James Clyburn.

My time as a Congressional staffer showed me firsthand how transparency and accountability can improve the lives of everyday Americans. It also informed my belief that oversight can help the Department better fulfill our mission to uphold the rule of law, to keep our country safe, and to protect civil rights.

Shortly after the start of this Congress, on January 17th, Chair Jordan initiated oversight by sending the Department a letter with more than 80 separate requests for information. Three days later, I responded, outlining how we can work together productively to get the Committee the information it needs to meet its oversight responsibilities.

I would like to take this opportunity to reiterate a few of the points in that letter.

First, the Department and Congress have a long history of working together through the constitutionally mandated accommodation process. While this Congress is just two months old, we look forward to following that well-worn path with you over the next two years.

Second, the constitutionally mandated accommodation process requires good faith efforts from both of us to accommodate each other's interests. Most of that effort takes place through staff-level discussion and negotiation.

Third, the Department is committed to responding to the Committee's oversight inquiries to the fullest extent possible. As outlined in the 1982, "Reagan Memorandum," we will do so while abiding by longstanding precedent which protects the integrity of our work.

As I mentioned earlier, staff-level discussions are at the heart of the accommodation process. Historically, these have been working conversations where Department staff meet with Committee staff to better understand the Committee's interests.

On the Committee's end, staff may explain broad requests and clarify whether certain materials are of interest and to be able to share how the Committee expects to use the materials. Where, as here, there are many Committee interests, we ask staff to help us prioritize.

To be clear, prioritization doesn't just mean: What do you want first? It means: What are you really interested in learning and how can I help you get the information you need?

On our end, we try to identify the most efficient way to meet the Committee's oversight needs, which includes identifying any department equities and crafting solutions to address both the Committee's needs and those equities.

As of today, a mere two months into the new Congress, the Committee has sent 11 letters to the Department and its components identifying 183 information requests. These include at least 155 requests to search for and produce documents and 28 requests for transcribed interviews. They implicate the records of potentially thousands of Department of Justice employees and will take significant resources and staff time to process.

Given our unambiguous commitment to work with the Committee to meet its oversight needs, we were surprised the Com-

mittee deviated from longstanding practice and, instead, decided to issue subpoenas at this early stage.

Nevertheless, as is consistent with decades of practice, the Department began responding to the Committee's requests in good faith, making an initial production of documents last week that I think we can all agree is a good start.

I am hopeful that sitting here today I can learn more about the Committee's interests to better inform how to leverage the Department's resources to fulfill your informational needs.

I want to reiterate my commitment to working with the Committee in the tradition of accommodation and good faith negotiation, as articulated by President Reagan in 1982.

I look it forward to a productive discussion today and throughout this Congress.

[The prepared statement of the Hon. Uriarte follows:]



Department of Justice

STATEMENT OF

**CARLOS FELIPE URIARTE
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGISLATIVE AFFAIRS**

BEFORE THE

**SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO OVERSIGHT
COMMITTEE ON THE JUDICIARY
U.S. HOUSE OF REPRESENTATIVES**

AT A HEARING ENTITLED

“COMPLIANCE WITH COMMITTEE OVERSIGHT”

PRESENTED

MARCH 9, 2023

STATEMENT OF
CARLOS FELIPE URIARTE
ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGISLATIVE AFFAIRS

BEFORE THE
SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO OVERSIGHT
COMMITTEE ON THE JUDICIARY
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AT A HEARING ENTITLED
“COMPLIANCE WITH COMMITTEE OVERSIGHT”

PRESENTED
MARCH 9, 2023

Good afternoon, Chairman Cline, Ranking Member Swalwell, and distinguished Members of the Committee. I appreciate the opportunity to appear before you today to discuss the efforts of the Department of Justice (Department) and its components to respond to information requests from the Committee on the Judiciary (Committee) since the beginning of the 118th Congress.

We share your belief that congressional oversight is vital to a well-functioning democracy. We are committed to cooperating with the Committee’s legitimate efforts to seek information in aid of its legislative needs, consistent with our obligation to protect Executive Branch confidentiality and other institutional interests. The Department appreciates that oversight is a critical aspect of the legislative process. Congressional committees, such as this one, may need to gather information about how statutes are applied and funds are spent so that they can assess whether additional legislation is necessary, either to rectify practical problems in current law or to address problems not covered by current law. As a former congressional staffer and alumnus of the House Committee on Oversight, I can particularly appreciate that Congress’s oversight authority is essential to the performance of its constitutional functions and “information that committees gather in this oversight capacity is . . . important for the Executive Branch in the future implementation of the law and its participation in the legislative process.”¹ Oversight can shed valuable light on the Department’s operations and thereby assist the Department in addressing problems that might not otherwise have been clear.

Supporting Congress’s Information Needs

Every day, the Department devotes significant time and resources to supporting Congress’s needs for information. And while the Office of Legislative Affairs (OLA) coordinates and oversees this work, components throughout the Department share our responsibility of working with

¹ Letter to Rep. John Linder, Chairman, Subcommittee on Rules and Organization of the House Committee on Rules, from Robert Raben, Assistant Attorney General, Office of Legislative Affairs, at 1 (Jan. 27, 2000) (“Linder Letter”).

Congress. We do that in many ways. These efforts are worth highlighting because they are core to how we meet our responsibility to work with Congress even though they often do not receive much attention from the media or the public.

Department officials and subject matter experts communicate with Members and staff nearly every week, if not every day, to provide detailed briefings about our programs and operations. For example, in recent weeks, the Department has met with Members and staff at the Drug Enforcement Administration field offices to discuss our efforts to combat the fentanyl epidemic, offered tours of Bureau of Prisons facilities to discuss reforms, provided on-site briefings for congressional staff of the Bureau of Alcohol, Tobacco, Firearms and Explosives National Tracing Center, and demonstrated to Members and staff how the Federal Bureau of Investigation's (FBI) Criminal Justice Information Services Division executes firearms background checks. The Department is eager to share our work and collaborate with Congress to improve and enhance our service to the American people.

As discussed in our January 20, 2023, letter to the Committee explaining ways the Department can assist your work, we regularly provide technical assistance on draft or introduced legislation. This helps ensure the drafters are aware of how it may impact civil litigation, criminal investigations and prosecutions, grant making, and other matters within the Department's purview, and to ensure its constitutionality. In providing such assistance, the Department brings considerable experience enforcing and defending the law and other legal expertise.

And OLA is also responsible for communications between Congress and the Department and we respond to several hundred letters received each year.

I am fortunate to lead a small office of attorneys and support staff at OLA, all of whom are dedicated public servants. They are available to work in good faith with your staff to address the Committee's oversight and other requests. Providing information to Congress is core to our mission and a regular part of what we do each day. The Department is proud of our steadfast efforts to fulfill these responsibilities to Congress and the public, even if this work happens outside the spotlight.

The Accommodation Process

Congress often needs information from the Executive Branch to legislate effectively, yet that need must be balanced with the Department's obligation to protect confidential information and other interests essential to performing the Executive Branch's constitutional and statutory functions in executing and enforcing the law.

To navigate this balance responsibly and minimize conflict between the Executive Branch and Congress, the Constitution requires both Branches to negotiate in good faith. As the D.C. Circuit explained in *United States v. AT&T*, the Constitution "contemplates" that process "on the expectation that where conflicts in scope of authority arose between the coordinate branches, a spirit of dynamic compromise would promote resolution of the dispute in the manner most likely to

result in efficient and effective functioning of our governmental system.”² This process is referred to as the “accommodation process,” which in the vast majority of cases results in an acceptable outcome in which each Branch refrains from demanding strict adherence to the constitutional prerogatives it understands itself to possess and accepts instead a compromise as the most effective and efficient resolution.

The Executive Branch’s approach to the accommodation process is set out in a 1982 memorandum from President Reagan. It notes that the process of negotiation and compromise is the “primary means of resolving conflicts between the Branches.”³ And in that spirit, it directs agencies to make good-faith attempts to accommodate Congress’s requests for information, just as Congress is obliged to make good-faith attempts to accommodate the Executive Branch’s confidentiality and other interests when requesting that information. In recent decades, there have been a handful of instances in which the Executive Branch and Congress have reached impasse, sometimes resulting in an assertion of executive privilege. By contrast, successful compromises, generally achieved without fanfare, though not necessarily to the complete satisfaction of either side, often are made possible when both Branches hew to the accommodation process: it “is not simply an exchange of concessions or a test of political strength. It is an obligation of each branch to make a principled effort to acknowledge, and if possible to meet, the legitimate needs of the other branch.”⁴

Disputes over information requests have been resolved using this “tradition of negotiation and compromise” for more than 200 years.⁵ Yet the accommodation process can only operate properly when both Branches of government are approaching it in the same spirit of good faith. As former Attorney General Edward Levi explained nearly fifty years ago, “[i]n a system of divided powers, there are points where responsibility conflicts, where legitimate interests and demands appear on either side. In such instances, accommodation and compromise reflecting the exigencies of the matter at hand have been not only possible but a felt necessity. The essence of compromise is that principle or power is surrendered by neither side, but that there is a respect for the responsibility of others and recognition of the need for flexibility and reconciliation of competing interests.”⁶

Department Efforts to Respond to the Committee’s Requests

To help both the Committee and the Department successfully engage in the accommodation process, we would refer you to our January 20, 2023, letter to the Committee. As that letter notes, we share your belief that congressional oversight is vital to a well-functioning democracy and we

² *United States v. Am. Tel. & Tel. Co.*, 567 F.2d 121, 127 (D.C. Cir. 1977) (footnote omitted).

³ Reagan Memorandum at 1.

⁴ *Assertion of Executive Privilege in Response to a Congressional Subpoena*, 5 Op. O.L.C. 27, 31 (1981).

⁵ *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2029-31 (2020).

⁶ Edward Levi, *Some Aspects of Separations of Powers* (1976), available at https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=6059&context=journal_articles.

are committed to cooperating with the Committee's legitimate efforts to seek information, consistent with our obligation to protect Executive Branch confidentiality interests. The January 20, 2023, letter therefore provides additional guidance on the Department's longstanding approach to the accommodation process and the steps the Committee can take to help the Department provide what you need.

Since the beginning of the 118th Congress, the Committee has sent 11 letters to the Department and its components identifying 183 informational requests. The first letter was dated January 13, 2023, and the most recent was dated March 6, 2023. Your oversight requests contain at least 155 requests to search for and produce documents and 28 requests for transcribed interviews. They implicate the records of potentially thousands of Department employees. In addition, you have issued two subpoenas, one to the Department dated February 2, 2023, and one to FBI also dated February 2, 2023.

It is unclear why the Committee deviated from longstanding practice by issuing these subpoenas at this early stage.⁷ The Department is complying with the Committee's requests voluntarily and in good faith consistent with the accommodation process. So that we may continue making progress toward satisfying your informational needs promptly and efficiently, we have treated the subpoena as reflecting the Committee's prioritization among your many different requests. We remain eager to meet with the Committee to discuss ways to prioritize the Committee's many additional requests in light of our available resources and the Committee's interests.

We have actively sought to work with the Committee in the accommodation process, and we will continue to be responsive to Congress while respecting the integrity of the Department's work and other Executive Branch interests.⁸ 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.⁹ 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

⁷ The Department responded to your January 17, 2023, letter on January 20, 2023, explaining ways the Department can assist your work and we offered to meet with your staff to discuss which of the more than 80 requests in your letter reflected the Committee's current priorities. The Committee did not respond to that offer before serving the Department with a subpoena on February 3, 2023, after which we offered again to meet and confer on the Committee's priorities. Likewise, in a meeting with FBI staff on January 17, 2023, the Committee declined to provide prioritization guidance. The FBI subsequently provided two document submissions and authorized the transcribed interview of former Executive Assistant Director Jill Sanborn. Your subpoena to the FBI includes requests for materials that were not referenced in your January 17, 2023, letter to the FBI, but the FBI nevertheless is working in good faith to respond to those requests as well. Our voluntary engagement makes compulsory process unnecessary and premature. *See* Letter from Assistant Attorney General Carlos F. Uriarte to Chairman Jim Jordan (Jan. 20, 2023); letter from Assistant Attorney General Carlos F. Uriarte to Chairman Jim Jordan (Feb. 8, 2023) (reiterating offer to meet and confer).

⁸ These interests are described in the 2000 letter we sent to then-Chairman John Linder. *See generally* Linder Letter, *supra*.

⁹ *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.").

conflict. That should be our shared goal.

In conclusion, I emphasize again that the Department recognizes that congressional oversight is an important part of our system of government. We remain optimistic that, by working together cooperatively, we will be able to satisfy the Committee's legislative needs while also safeguarding the independence, integrity, and effectiveness of the Department's vital law enforcement efforts and prosecutorial responsibilities. The Department stands ready to continue this effort to accommodate your information needs.

Thank you again for the opportunity to testify. I would be happy to answer your questions.

Mr. CLINE. Thank you, Mr. Uriarte.
Ms. Graham, you may begin.

STATEMENT OF THE HON. GWEN GRAHAM

Ms. GRAHAM. Thank you.

Good afternoon, Chair Cline, Ranking Member Swalwell, and distinguished Members of this Subcommittee. Thank you for the opportunity to address the Department of Education's response to the Committee's requests.

As a former Member of Congress, I can tell you, the Department recognizes the critical importance of Congressional oversight to our functioning democracy. We work every day with Members and Committees to provide Congress with accurate and timely information, irrespective of party or position.

Accordingly, the Department has been responsive to Congressional inquiries regarding the topics of interest to the Committee for more than a year, and we continue to voluntarily engage with the Committee about its informational needs.

On January 17, 2023, Chair Jordan sent a letter to the Department of Education about three topics. First, Chair Jordan inquired about a letter a school board association sent to the President. Second, the letter asked about a Department of Justice memo. Third, the letter asked about an appointment to the independent, non-partisan National Assessment Governing Board.

Immediately, the Department began to voluntarily engage in the standard accommodations and compromise process with the Committee, resulting in our February 2nd response expressing our readiness to work with the Committee regarding its oversight requests.

The Department's response also noted that an independent investigation commissioned by the School Board Association had already addressed these issues in May 2022, more than nine months ago. However, despite our February 2nd response, the Chair served a subpoena to the Department for documents the next day.

On February 13th, Department staff communicated that a document production would be forthcoming by the date specified in the subpoena and reiterated our commitment to continue to engage with the Committee on the matter.

However, on February 16, 2023, nearly two weeks before the Committee's requested production date, I received notice that I would be called to testify about the Department's response.

As promised, on March 1st, prior to the Committee's requested production time, the Department transmitted more than a thousand pages of responsive material to the Committee, and we continue to engage with the Committee about its informational needs.

The Department of Education has a critical mission: To promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

As part of that mission, we believe that parents play a critical role in their children's education and that education leaders at all levels provide opportunity for parents to be heard.

Our significant and timely production of responsive documents and ongoing engagement with the Committee demonstrate the Department's continued commitment to working with Congress in

good faith while ensuring that we fulfill our core mission of fostering educational excellence for all our students across this great country.

I look forward to your questions about this process and thank you.

[The prepared statement of the Hon. Graham follows:]

U.S. Department of Education

**Statement of Gwendolyn Graham
Assistant Secretary, Office of Legislation and Congressional Affairs
Before The Subcommittee on Responsiveness and Accountability to Oversight
Committee on the Judiciary
U.S. House of Representatives**

March 9, 2023

Chairman Cline, Ranking Member Swalwell, and distinguished Members of the Committee,

Thank you for the opportunity to address the Department of Education's (Department's) response to the Committee's requests. As a former Member of Congress, I understand the importance of Congressional oversight and I appreciate the opportunity to meet with you today.

As the Department does not typically appear before this Committee, I am pleased to share an overview of our critically important work. The Department's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access. Among its other responsibilities, Congress has charged the Department with complementing state and local efforts to improve the quality of education; encouraging increased involvement of the public, parents, and students in Federal education programs; and increasing accountability of Federal education programs to the President, Congress, and the public. Of particular importance, the Department and this Administration firmly believe that parents play a critical role in their children's education, and that education leaders at all levels should provide opportunities for parents to be heard. The Department's nearly 4,400 public servants work tirelessly every day to meet our mission and carry out these duties.

The Department works every day with Members and Committees—including our Committees of jurisdiction—to provide Congress with accurate, complete, and timely information, irrespective of party or position. We are also engaged and actively responding to 64 ongoing engagements from the Government Accountability Office, including 19 new engagements since the start of the year. Consistent with longstanding Executive Branch policy, we are committed to transparency,

while also respecting the constitutional and statutory obligations of the Executive Branch, and we recognize that Congressional oversight is vital to our functioning democracy.

Document Requests by the Judiciary Committee

On January 17, 2023, Chairman Jordan wrote to the Department requesting documents related to a letter sent by the NSBA—a private entity that is not part of the federal government—to President Biden on September 29, 2021, and an October 4, 2021, Department of Justice memorandum. Immediately, the Department began to voluntarily engage in the standard accommodations process with the Committee, resulting in our February 2, 2023, letter to the Committee. In that letter, the Department made clear that we are committed to responding to the Committee's requests in a manner consistent with Executive Branch policy. The Department's letter also emphasized what we have repeatedly made clear over the last two years: the Secretary of Education did not request, direct any action, or play any role in the development of the school board association's letter. Furthermore, as it pertains to the Justice Department's memo, the Department had no role in its development and or its implementation.

The Department's letter to the Committee also noted that an independent internal investigation commissioned by the NSBA found no evidence that the Department was in any way involved in the development of the September 29, 2021 letter. That independent investigation also found no evidence that the appointment of Dr. Viola García to the National Assessment Governing Board had any connection to the letter. The independent investigation issued these findings on May 20, 2022, more than 9 months ago.^{[11](#)}

Despite the Department's February 2, 2023, response indicating that it would seek to accommodate the Committee's requests, the Chairman served a subpoena for documents to the Department the next day, on February 3, 2023, less than three weeks after the initial document request sent by Representative Jordan as Chairman of the Committee. Department staff met with the Committee's staff on February 13, 2023, and made clear that a document production would be forthcoming by the March 1, 2023, date specified in the subpoena, and that the Department was committed to continuing to engage in staff-level discussions on the matter. However, on

February 16, 2023—nearly two weeks *before* the Committee’s requested production date—I received notice that I would be called to testify about the Department’s responsiveness.

Consistent with the Department’s representations to staff, on March 1, 2023, prior to the Committee’s requested production time, the Department transmitted more than 1,000 pages of responsive material to the Committee.

Conclusion

Our significant production of documents demonstrates the Department’s continued commitment to working with Congress in good faith, consistent with longstanding Executive Branch policy. Additionally, our ongoing efforts to engage in discussions with Committee staff, as a standard part of the constitutional accommodations process, further demonstrate our willingness to engage with requests for information. This dialogue allows us to meet the Committee’s legitimate oversight needs while ensuring the Department can continue to fulfill our core mission of fostering educational excellence for all students across the country. I am here to answer any questions you may have.

¹⁴¹ Philip G. Kiko, Esq. & Michael Best & Friedrich LLP, *Final Report on the Events Surrounding the National School Board Association’s September 29, 2021 Letter to the President* (May 20, 2022)

Mr. CLINE. Thank you, Ms. Graham.

We will now proceed under the five-minute rule with questions, and I anticipate we will have two rounds of questions today. I will recognize myself for five minutes.

Mr. Uriarte, how many staff members do you have at DOJ's Office of Legislative Affairs?

Mr. URIARTE. Congressman, thank you for the question.

The Office of Legislative Affairs at DOJ is actually a relatively small component. We have a total of 25 full-time staff positions. I believe we have 21 total full-time people currently in our office, in addition to some detailees.

Mr. CLINE. How many are dedicated specifically to responding to subpoenas from Congress?

Mr. URIARTE. Thank you for the question, Congressman.

The way that we have structured the team is to have a number of different attorneys who can do multiple different things at the same time. So, depending on what the matter is and how it comes into the Department, et cetera, we may staff it differently. So, it really just depends on the matter.

Mr. CLINE. No one has their job description solely as responding to subpoenas?

Mr. URIARTE. No, that's correct, Congressman.

Mr. CLINE. How many members of your staff are working remotely?

Mr. URIARTE. I don't know the answer to that question, but we have implemented some flexibility in our work arrangements with our staff to accommodate various requests and, frankly, have found it to be quite productive.

Mr. CLINE. Would you say that would be deterring any production of our requests?

Mr. URIARTE. Absolutely not.

Mr. CLINE. OK. Who makes the final decision about what requests to respond to and how much information to provide?

Mr. URIARTE. I appreciate the question, Congressman.

What I can tell you is that at the Department we are always going to be guided by finding the most efficient and effective way to get you the information you need. That means that we will work with the impacted components. We will work with them to identify what materials are at issue, how we can get you the information, et cetera, and then we will try to get that information over to you.

There's no specific one person who is making that decision. It is a number of different equities within the Department that come together to provide Congress with the information they're looking for. Again, what will guide us there is defining the most efficient and effective way to get you the information that you're looking for.

Mr. CLINE. OK. So, your first go-to when deciding about what request to respond to is not Paul Coburn (ph)?

Mr. URIARTE. Congressman, actually the first go-to that I would start with in determining what to respond to would be to work with your staff, frankly.

I think that conversations that happen between our staff and your team are the most productive and can really help guide us to what are the priorities of the Committee, what are the key infor-

mational interests of the Committee, and it really helps us to do our job of being efficient, as efficient as possible.

Mr. CLINE. OK. Let's talk about your budget. Can you estimate your budget for Fiscal Year 2023?

Mr. URIARTE. So, the Office of Legislative Affairs falls within the GA bucket. I think that's the General Administration bucket. We don't have a specific line item in the budget. I know the spend plan is still pending before the Appropriations Committee, so I don't have that precise number on me. I'm happy to followup with your team on that.

Mr. CLINE. How much of your budget would you say—since you can't articulate what your budget is—how much do you think you spend on responding to these requests?

Mr. URIARTE. I think it would be hard to put a number on that.

What I can say is that it is something that takes up a significant amount of staff time within the Office of Legislative Affairs. That's because it is a priority for us. As the Attorney General has articulated previously, being responsive to Congress is significant to him. It's a significant priority to him and to me personally. As a former Congressional staffer, I think this is really something that we ought to be prioritizing.

So, it's harder to talk about it in terms of dollars and cents. What I can certainly speak to is the amount of staff time that we dedicate—

Mr. CLINE. Well, quantify that then. Quantify that staff time for me. Half? Quarter?

Mr. URIARTE. It really depends on the moment in time you're talking about, but it is a significant investment of time by the staff in our office.

Mr. CLINE. OK. How many are on staff at the FBI to respond to these requests? How much of their budget is dedicated to responding?

Mr. URIARTE. It's a good question, sir.

I can tell you they have about 30 full-time staff members in their Office of Congressional Affairs. They work with others out of the FBI office to respond to your requests, and I know they share my commitment to being responsive to your requests.

Mr. CLINE. Can you speak to the specific dollar figure for their budget?

Mr. URIARTE. I cannot, but I'm happy to get back to you.

Mr. CLINE. OK. We definitely expect you to speak for the FBI, because that's what we were assured of today, was we were told: Oh, the FBI doesn't need to be there because DOJ can speak for them.

So, if you don't have those numbers for us right now, I'm disappointed, but I would appreciate you getting them for me.

What was the policy of the DOJ in responding to requests from the minority last year? Did you respond?

Mr. URIARTE. Congressman, last year we did send a number of responses to the Committee. I believe in response to 48 letters from Ranking Member Jordan, we sent 34 letters in response.

Mr. CLINE. What about documents?

Mr. URIARTE. I don't have that number in front of me, but I can tell you that certainly in this Congress we are committed to pro-

ducing documents and information in response to the Chair's letters, and we're going to continue to do so, just as we did in the first production to the Committee a couple weeks ago.

Mr. CLINE. Thank you.

The gentleman from California is recognized for five minutes.

Mr. SWALWELL. Thank you.

I want to thank both of our witnesses.

Congratulations. You have done something that Chair Jordan was not willing to do. You were invited to come and talk to Congress about information you had, and you showed up, and now you're being asked questions and you're answering them. It doesn't seem so hard, because you took an oath to follow the law. So, we're grateful that you you're here and doing something that the Chair was unwilling and is unwilling to do.

Mr. Uriarte, I want to ask you, though, I read the Jim Jordan standard to you, which was a pact that he and Elijah Cummings made in 2019.

A Congressional subpoena is a powerful and coercive tool. It should be used only when attempts to reach an accommodation with the witness have reached an impasse or when necessary to obtain certain sensitive information, such as financial information, or through a so-called friendly subpoena to protect a witness.

So, Mr. Uriarte, thus far, has Chair Jordan followed his own Jim Jordan standard in his request to you and your department?

Mr. URIARTE. Congressman, thank you for the question.

I think what you're talking about here is generally the constitutionally mandated accommodation process that I talked about in my opening.

My experience over many years of doing this work is that this is a back and forth between the Committee and the Department, where we understand from the Committee what their needs are, we work through voluntary production of documents, et cetera, and that, yes, when there is impasse, from time to time, there will be a subpoena that may be issued by Congress.

What I find is that the most productive conversations we can have are those about voluntary production of documents and information. Especially given where we are in this Congress, it certainly—there was no reason to send a subpoena. We were ready to voluntarily comply with the Committee's requests.

Mr. SWALWELL. So, speaking of voluntary compliance, you received your first request for documents on January 20th. Is that right?

Mr. URIARTE. January 17th, I believe, was the first request in this Congress.

Mr. SWALWELL. How many days did it take you to respond to that request?

Mr. URIARTE. We sent a letter back on the 20th, three days later.

Mr. SWALWELL. OK. So, three days.

In that letter did you offer to meet with the Chair's staff to discuss the request?

Mr. URIARTE. We did.

Mr. SWALWELL. Did they take you up on that offer?

Mr. URIARTE. They did not.

Mr. SWALWELL. Have you ever heard the phrase “won’t take yes for an answer”?

Mr. URIARTE. I have, sir.

Mr. SWALWELL. Does that sound apt here?

Mr. URIARTE. Certainly, I can tell you that we are looking forward to continuing to dialog with the Committee staff and certainly hope that we can do so in the spirit of accommodation that I mentioned earlier.

We do have a good relationship with the Committee staff, and we appreciate that. We certainly hope that we continue to bolster those conversations by additional dialog about the Committee’s interests and what the Department can do to meet those interests on a voluntary basis.

Mr. SWALWELL. So, after Chair Jordan wouldn’t take yes for an answer, he followed up with a subpoena with nine requests for 94 field offices asking for documents from 118,000 employees. Is that right?

Mr. URIARTE. That is correct.

Mr. SWALWELL. How much time did it take you to prepare for this hearing, you and your staff?

Mr. URIARTE. It took dozens of hours.

Mr. SWALWELL. What would you have been doing otherwise?

Mr. URIARTE. We would have been working on the Committee’s requests and producing documents to the Committee.

Mr. SWALWELL. If you weren’t doing that, though, what other Department of Justice public safety priorities could you have been working on?

Mr. URIARTE. Well, certainly the Office of Legislative Affairs works on a number of different issues, including helping Congress with legislation, providing them information about grant-making, activities of the Department about what’s going on in their districts.

More broadly across the Department, when we do receive a request like this, it will impact the law enforcement components and prosecutorial components of the Department.

In this instance, there was a significant volume of materials that we had to collect from the Executive Office for United States Attorneys, and certainly that does take away from their time to support the United States attorneys in their mission to protect the United States.

Mr. SWALWELL. Mr. Uriarte, at your Senate confirmation vote how many Republican Senators voted against you?

Mr. URIARTE. On the floor vote, it was a unanimous vote in my favor.

Mr. SWALWELL. Ms. Graham, our dear missed colleague, in your confirmation vote how many Republican Senators voted against you?

Ms. GRAHAM. Thank you, Ranking Member Swalwell.

My vote on the floor was, again, was unanimous as well.

Mr. SWALWELL. Thank you.

OK. So, you’re looking at two bipartisan, unanimously confirmed witnesses who, again, did something that the Chair of this Committee was not willing to do, which was follow a subpoena request.

I yield back.

Mr. CLINE. The gentleman from New Jersey, Mr. Van Drew, is recognized for five minutes.

Mr. VAN DREW. Thank you, Chair.

Thank you both for being here today.

Just something I want to correct in, I guess, the way we speak and the vocabulary we use. When Mr. Swalwell, Ranking Member Swalwell, says we won't take yes for an answer, a yes answer is giving the documents. A yes answer is not saying: Well, we'll meet. We'll talk. We'll use some slick language—no offense—but you're not actually getting the documents.

A yes is a yes. A no is a no. There's a lot of space in between. That was no/yes answer by anybody's imagination.

You also wonder why it came to the point that Chair Jordan was asking for all these documents. Because, quite frankly, we don't know the answers. We want to know what's really going on.

This isn't really complicated. The American people want to know what's going on. I want to know what's going on. This Committee wants to know what's going on. Saying that we'll work with you and we'll talk about some things and it will take some time, but we're not sure, that doesn't tell us what's going on. So, let me just be very candid about that.

Let me talk about this a little bit, though, too. On August 8, 2022—and I'm sure you all remember the date—Federal agents executed an unprecedented—and it was unprecedented—raid on the residence of the former President, Donald Trump.

Since then, we've seen several current instances of classified documents belonging to our current President, President Biden, and they have been acquired from a number of locations, from Boston to D.C.

Yet, no raids, no heavy media presence, no large team of Federal agents digging through all his personal effects, going through his wife's clothing and into her closet and her drawers, none of that.

We still have no idea who had access to these classified documents, which is a grave concern considering reports on anonymous donations to China being made to the Penn Biden Center where some of these documents were found. It's weird. I don't care what anybody says. It doesn't make sense.

How is it that the FBI can treat President Trump as a criminal when sending raids of dozens of Federal agents there, yet with President Biden, for what would seemingly be a similar issue, there is no sense of urgency?

Remember, he had his own secret police there. They had their own people there. Literally, were we afraid of them? Did we think President Trump was going to come out with an Uzi? I don't know why such a show had to be made of it, but it sure was.

This is unfair treatment. It's unfair treatment between two citizens, one Republican and one Democrat. As Republicans, we get used to it, but it doesn't mean we like it, and we don't.

American people have begun to question trust in Federal law enforcement. They have. Don't believe me. Look at every poll that has come out recently. Not the folks working, actually doing the job, but the people at the top, the people who are in administration.

American people right now, if you would ask the average Joe or Jane, they'd say: Man, I don't know. I don't know what to think. I don't know whether to trust them.

If the FBI can go after a former President of the United States, unprecedented, as they did, who's to say they couldn't do this to any American? Well, I guess the answer is they could.

Attorney General Merrick Garland went after parents and a former President of the United States, yet he failed to investigate individual firebombing of pro-life centers. I guess he doesn't like pro-life centers, but that isn't his job. There were firebombings there, and we really needed to investigate, and we really needed to protect.

He failed to go after BLM. He failed to go after Antifa in the riots in 2020. Is it a coincidence? Is it a coincidence? I think it's intentional.

The House Judiciary Committee plays a role in the oversight of ensuring that this current administration is not trampling on the constitutional rights of our American citizens and strongly enforcing the laws on those they see fit. That's why Chair Jordan is sending subpoenas. He can't get the information. None of us can. Excuse my voice. I have been doing a lot of talking.

So, I have questions, and I know I only have a little bit of time, but I'll try to get through the first one.

These letters requesting documents and communications relating to the execution of the search were sent in August 2022 and again in January of this year. So, it's not like we only had a day, week, month, and year.

When will the DOJ—and I want a specific answer, I want a specific answer—when will the DOJ be providing these documents to this Committee?

Mr. URIARTE. Congressman, thank you for the question.

As I said earlier, you know what guides us in responding to oversight requests—

Mr. VAN DREW. Forgive me for one second. You don't have to say thank you for the question every time, because I know you don't like a lot of these questions. So, you can go right into the answer, at least with me.

Go ahead. Thank you.

Mr. URIARTE. I appreciate that, Congressman.

So, as I said earlier, we are committed to working with the Committee to help get them the information they need. Certainly, in this instance, as we have referenced previously in letters to the Committee, the matter that you're talking about is an ongoing matter. There are a number of ongoing matters at issue there. Protecting the integrity of those investigations is something that is incredibly important to the Department of Justice.

Now, we have a long history of working with Congress in those instances to answer their questions, provide their information, even when there are those ongoing investigations. We must find a way to do so that protects the integrity of that work.

So, happy to engage with you and the team, the staff, to find a way to meet that informational need, but there are significant equities at issue in those matters.

Mr. VAN DREW. I'm going to yield back in a second. Mr. Uriarte, I'm sorry, I don't agree with you. We can answer these questions, and we can answer them in a timely way. This is not timely, it's not appropriate, and that's why we're at wit's end.

I yield back.

Mr. CLINE. All right. The gentleman's time has expired.

The gentleman from Maryland, Mr. Ivey.

Mr. IVEY. Thank you, Mr. Chair.

Let me say that this has been timely, actually.

So, the gentleman from New Jersey and the Chair have made a number of comments. I want to try and deal with them in categories, and I would need more than five minutes to correct all the misstatements that were made.

Just broadly speaking, on the one hand, we've got parties who have shown how to comply with subpoenas, and they're the ones testifying in front of us today. Department of Education has done a rolling production, a thousand pages; the Department of Justice just under 500. The term "rolling production" is standard in not only Congressional investigations, but in the Federal courts.

The type of conduct that was done by the Department of Justice, which is to reach out to the people who sent the subpoena and try and engage in a conversation—what are you looking for, how do we want to try and have a discussion about how to comply—not only is that standard practice in Federal courts—and in Congress, by the way, at least going—I was in the Whitewater hearings. So, going back, what is that; 25, 30 years. We were doing it then, and I know there's a memo in the Department of Justice about the accommodation provision that dates back to 2000.

In Federal court, if the parties had refused to respond, like the Republicans did, for civil or criminal discovery or subpoena responses, a judge might impose sanctions, including attorneys' fees.

I would say that your conduct has been great, the Republican Committee staff not so great.

Then, with respect to my colleague from New Jersey's comments about Donald Trump and the Chair's response about Mr. Jordan, I think it's clearly that's why they're on the opposite side of our two witnesses here today, because they refused to comply.

Donald Trump, even worse than just refusing to comply, pretended to comply and actually made false statements about complying. That's under investigation now. We'll let that go forward with the Department of Justice.

As is standard practice with the Department of Justice, if you lie about producing documents, they go get them. They don't sit there and let you lie and just move on. They go get the documents. That's exactly what they did there.

That's not surprising or targeting Republicans because they treated Pence the same way they treated Biden. You got voluntary compliance by Biden and Pence. They didn't go into their houses because they were providing the documents.

I think that's the same issue that arises with respect to the points Congressman Swalwell was making about Chair Jordan. There were others as well who have refused to comply. The Speaker is another one, Congressman Perry.

Multiple people received subpoenas from the January 6th Committee, refused to comply with them, made no attempts to figure out how to comply. In fact, Chair Jordan sent a letter back, not only was he not going to comply, but he said he wants all the materials referencing him in the Select Committee's possession and all internal legal analysis related to the constitutionality of Member subpoenas.

Now, imagine if every time this Committee sent out a subpoena they got an answer back from the target demanding information about the investigation that they're conducting. I guess you could have done that as the Department of Justice, but instead of doing that—and the Department of Education—you complied. You turned over documents to the best you could discern what they were asking for, and you did it in a timely manner. You said it was a rolling production. I think you've, what did you get it, like 30–45 days ago, something like that?

So, I would think, under most circumstances, it looks like a reasonable effort to comply and actual compliance actually as well.

So, I actually commend you for what you've done there. I join Congressman Swalwell in raising concerns about those who haven't complied with producing subpoenas getting up on the high horse and complaining about people who are actually complying with the subpoenas that they're issuing now.

I've got a couple other things that I want to raise and that go to the direct issue with respect to the subject matter of the subpoenas. I'm running out of time, but I'll come back and deal with that on the next round.

I do want to say this too. The Chair raised heavy redactions as a concern. That's another point where I would think there would be conversations between the majority staff and the Department of Justice. What did you redact? Why did you do it? They could make a decision about it. They have to respond to your answers and your information for that dialog to move forward.

The comment about longstanding requests that the Chair made I think ignores the fact that the new Congress just started a few weeks ago.

So, again, I commend you on the work that you've done in trying to comply with these requests. I apologize to you for being in the crosshairs of an obviously politicized effort to attack the Biden Administration and to try and score political points when we've got real work we could be doing on behalf of the American people.

I yield back.

Mr. CLINE. I thank the gentleman.

I think it's important to clarify that the Chair of the Full Committee never indicated that he would not comply and that he responded—

Mr. SWALWELL. Did he comply?

Mr. CLINE. —and that he responded and that he was awaiting further statements from Chair Thompson.

Mr. SWALWELL. Still waiting.

Mr. CLINE. As I recall, the subpoena for the President was withdrawn.

Mr. IVEY. Would the gentleman yield?

Mr. CLINE. The gentleman from Texas is recognized, Mr. Moran.

Mr. MORAN. Thank you.

Mr. IVEY. Point of order. If the Chair is going to make comments out of order, you should at least give us a chance to respond to them.

Mr. CLINE. Go ahead.

Mr. MORAN. Thank you, Mr. Chair.

Secretary Graham, my question is going to be for you. Thank you for your attendance here today. I want to focus my questions on process-specific topics.

You received the request, the subpoena for the two sets of documents through the subpoena, on February 2nd. About a thousand pages were produced. Were you in charge of the responsive effort in that regard?

Ms. GRAHAM. Congressman, thank you very much for the question.

I was part of a team that worked very hard from the moment we received this request to respond, and the thousand-plus pages that we responded with are reflective of the hard work that went into getting it to all of you.

Mr. MORAN. You noted in your letter that there's going to be some supplemental requests, I believe, or supplemental documents produced. Where are you at in that process? When should we expect those documents to be produced?

Ms. GRAHAM. Thank you for the question.

Actually, our teams have a meeting scheduled for Tuesday and look forward to that being part of the conversation, the ongoing conversation that we're having.

Mr. MORAN. You don't have any timeline for us at all, 30 days, 14 days, that you can give us when another batch of documents will come through?

Ms. GRAHAM. That's part of the process that we'll be continuing Tuesday, I believe. Hopefully, we'll be able to come back with those timelines through the process of our teams discussing.

Mr. MORAN. I noticed in this batch of documents that were produced there was no assertion of privilege or no assertion of objections to the requests.

Have you asserted any objections or withheld any documents as a result of any objections or assertions of privilege?

Ms. GRAHAM. No, sir.

Mr. MORAN. Do you anticipate that this will be the case based on the two requests made under the subpoena to the Department of Education?

Ms. GRAHAM. What I would appreciate is if we could take that question back. I don't anticipate it, but certainly would like to have an opportunity to have a conversation about it. No, sir, I do not.

Mr. MORAN. In a number of those documents there was heavy redactions. I want to talk to you about the redaction process and what you do to determine exactly what you're going to redact and what you don't.

I presume, at the end of the day, you're the one that makes the final determination about what gets redacted. Is that accurate?

Ms. GRAHAM. The redactions are a result of either the—let me see if I can get the word out correctly—deliberative process or at-

torney-client information or personal information which is protected because of those reasons.

Mr. MORAN. Other than the deliberative privilege, is there any other reason why you would have redacted, or the agency would have redacted, the Department would have redacted anything from these documents?

Ms. GRAHAM. Attorney-client privilege and personal information that we want to protect from the public.

Mr. MORAN. I want to show you a couple of these documents back here that you see behind me. You'll notice that probably about 99 percent of those documents have actually been redacted.

Do you recall actually looking at these documents and approving the redaction on these documents?

Ms. GRAHAM. Congressman, in terms of the production of the documents, that's a conversation that I hope can be part of the accommodations process that's ongoing. The good news is the opportunity is going to come up next week on Tuesday.

Mr. MORAN. When you go through the process of gathering the documents—these were very specific requests, they weren't overly broad requests, they were very narrowly tailored—how do you go through the process of determining within the Department what documents would or would not be responsive?

Ms. GRAHAM. It's a technical process. Happy to take that question back and provide a response.

Mr. MORAN. Do you guys do an email search with query words that you use for emails or documents within the electronic system?

Ms. GRAHAM. As I understand the process, yes, that's what is conducted. Again, happy to take that question back to the teams that are working on it and provide a response.

Mr. MORAN. Who determines what words or phrases are included in that?

Ms. GRAHAM. That's a technical question. I prefer to have the teams discuss it in the next meeting on Tuesday.

Mr. MORAN. I presume that at some point, though, you review those words and determine whether or not it's actually going to meet with the request or somebody from your team is going to do that.

Ms. GRAHAM. I want to be very accurate in providing you that information, Congressman. So, again, certainly look forward to having that conversation and getting you the information you seek.

Mr. MORAN. I understand that there have been some requests for the production of some employees to appear and give testimony or to speak with the staff.

Do you guys intend to produce those individuals?

Ms. GRAHAM. We have been engaged with the Committee on this topic for over a year and continue to do so, and those conversations are taking place through the accommodations process.

Mr. MORAN. One of the things that Mr. Uriarte mentioned earlier was this idea of good faith efforts. I'm genuinely concerned. I'm new to Congress. I have practiced law for 20 years, and I was a judge for six years. I'll tell you, as I look at the redaction here, it concerns me about whether or not good faith is being exercised by the Department of Education in its production.

Can you commit to me that good faith is actually being done to ensure that there's transparency in the production of these documents?

Ms. GRAHAM. Congressman, let me assure you—and welcome to Congress—that the incredible team at the Department of Education, of which I am so proud to be a member of, has worked very hard to make sure that we produce the documents as requested under the subpoena, and we will continue to do so, Congressman.

Mr. MORAN. You mentioned about this team that you've put together to respond to these documents. How many people are on this team?

Ms. GRAHAM. Congressman, it's a cross-agency effort. If you want the specific number, I'm happy to get you that number.

Mr. MORAN. Can you give me an approximate number?

Ms. GRAHAM. Congressman, I'm here to talk about what we did produce, but happy to answer any questions you have and will certainly get back to you.

Mr. MORAN. All right.

Mr. CLINE. The gentleman's time has expired.

Mr. MORAN. I just want to understand the process because, really, this is a process, a set of questions, and ongoing for me to be able to understand why you're producing things and why not. I need to understand what is going on behind the scenes.

So, when you leave here and go back and talk to folks, besides your attorneys, who else are you talking to saying: What have we produced? What else is left to produce? How can we get this gathered and get this to the Committee?

Mr. CLINE. That was a rhetorical question. No.

The gentlelady is recognized to answer.

Ms. GRAHAM. Congressman, it is my responsibility—and I take it very seriously—to get the answers that you're seeking and look forward to taking that question back and providing you a response.

Mr. MORAN. I apologize, Mr. Chair. I went way over time. Sorry about that.

Mr. CLINE. No, that's all right. We've got a second round, so save some for the second round.

The gentlelady from Florida, Ms. Lee.

Ms. LEE. Thank you, Mr. Chair.

Following the May 2022 unprecedented leak of the draft *Dobbs* opinion, the Justices of our Supreme Court have been subjected to harassment and intimidation campaigns, not only in the vicinity of the Supreme Court, but in public and also at their private homes where they reside with their families.

This unlawful and insidious conduct culminated in June 2022 when a man attempted to assassinate Justice Brett Kavanaugh at his Maryland home.

To be clear, when the intent is to interfere or impede the administration of justice or to influence or intimidate a judge, this is not protected First Amendment conduct. This is a crime.

To date, the efforts by the Department of Justice and the FBI to prosecute and convict the individuals responsible for this criminal effort and intimidation outside the private residences of Justices and their families is wholly inadequate.

As a former judge, I will tell you this failure is an affront to every single man and woman across the United States who is serving in the judiciary.

At the same time, the Federal Bureau of Investigation saw fit to begin investigating what it deems radical traditionalist Catholics as an extremist group.

Taken together, we have a Department of Justice that has failed to prosecute violent extremists threatening the lives and safety of our Supreme Court Justices and their families but has instead devoted resources to investigating Catholics and their religious traditions.

Congress must engage in oversight to ensure that Americans are not being targeted for investigation and surveillance by our government for practicing their religious beliefs and that our judges and our Justices are not being left vulnerable and in danger due to a failure to enforce the law.

It is imperative that the Department of Justice and the FBI promptly and completely respond to our requests so that we may ensure the rights and freedoms of Americans are protected and there is complete transparency to the American people.

With that, Mr. Uriarte, I would like to direct my first questions to you, and specifically related to the Federal Bureau of Investigation, a February 16, 2023, letter to Director Wray.

On January 23, 2023, the FBI's Richmond Field Office published an official document that linked "racially or ethnically motivated violent extremists" with a "radical-traditionalist Catholic ideology."

We made a request to allow this committee to assess the extent to which the FBI has misused its Federal law enforcement resources to target Catholic Americans for their religious beliefs. That document request requested all documents and communications referring to intelligence products about this subject for a period January 20, 2021, to the present.

Can you tell me, sir, how many documents have been provided to this Committee that are responsive to that request?

Mr. URIARTE. Congresswoman, thank you for the question.

I want to start by just making very clear, as the Attorney General said last week—and I know the Director has spoken to this as well—that product did not meet our standard at all. It was offensive to me personally, and as the Attorney General said last week, it was offensive to him.

What I can tell you is that the FBI took steps immediately to withdraw that memorandum and are doing aggressive analysis to understand how that even came to be. Part of that will be, of course, responding to this committee, which we expect we will do in the coming weeks.

That is a really important issue, I completely agree, and I expect that we will have good faith back and forth on that topic so we can get the Committee the information it's looking for.

Ms. LEE. To this point, have any documents been produced that are responsive to this request?

Mr. URIARTE. My understanding is that there have not at this point been any documents produced, but that we have responses to those requests in the queue, and we hope to get them to you shortly.

Ms. LEE. Do you have a timeline or an approximation about when you will be able to get us the documents that are responsive to this request?

Mr. URIARTE. Congresswoman, I appreciate your interest in this issue. As I said, it's something that is important to me as well. I know that we have something that is forthcoming soon. I don't want to overpromise and underdeliver, so we will get back to you shortly on that.

Ms. LEE. I certainly appreciate your acknowledgment that this is a serious issue and your acknowledgment that there is an intention to comply in the future with this document request. However, I would just note that our efforts here, that our endeavor here is to ensure that we are actually receiving and reviewing these documents so that we can provide transparency to the American people about the contents therein.

So, with that, Mr. Chair, I'll yield back.

Mr. CLINE. I thank the gentlelady.

All right. We'll start the second round. I yield five minutes to myself for questions.

Mr. Uriarte, I'm looking at a list, and I want to go back to the question I asked during my last round. Your policy or the policy of the Department regarding responsiveness to Republican requests or Ranking Member Jordan's requests when the Republicans were in the minority, is it your statement today that you provided documents to Ranking Member Jordan in the 117th Congress?

Mr. URIARTE. Congressman, what I was saying earlier, just to clarify, was that my understanding is that in the last Congress we provided 34 letters to then Ranking Member Jordan in response to his various requests.

Mr. CLINE. OK. It's my understanding that, just regarding the school board issue, over 100 letters were sent to DOJ components over the course of the 117th.

Does that reflect your recollection of the situation?

Mr. URIARTE. I don't have that number in front of me, but I'm happy to take that back.

Mr. CLINE. OK. Beginning back as early as October 13, 2021, when a letter was written to Attorney General Garland, there have been letters to U.S. attorneys requesting documents dated November 1, 2021; to FBI Director Wray, November 3, 2021, requesting documents on the FBI's role by November 17, 2021; to Attorney General Garland on the completeness of testimony regarding the whistleblower disclosure on November 16, 2021.

I can go on, but you essentially see that over the course of 2021–2022 they weren't just requests for a letter. They were requests for documents. They were responded to with generally a single sheet letter saying: We will not comply, essentially.

So, now that we are in the majority, these same requests were given to you on January 17th—first, actually, after November's election, November 18th, Attorney General Garland was given a letter stating Republicans will pursue the matter into the 118th and requesting not only testimony but responsiveness to previous requests; and then January 17th, another letter reiterating not only past requests but outstanding requests in the new Congress.

So, when we say these requests just came in, we've just gotten these requests this year, I think it's important to provide some context about the timeline over which Republicans have been asking for information, asking for documents, and receiving very little.

Your testimony is that, while you responded with letters, were any documents provided before Republicans took the majority?

Mr. URIARTE. Not to my knowledge. What we were endeavoring to do is to, again, begin the process of informing the Committee about the answers to their questions, was to do so through a narrative format. That's oftentimes the first step that is taken here.

Yes, we of course are happy to, whether as a Ranking Member or now as Chair, engage in the accommodation process. Of course, everything has started anew with the new Congress and we have endeavored through these processes and through the letters that we have sent to have that voluntary discussion about your priorities.

Mr. CLINE. Were you accommodating the majority at the time during the 117th Congress, providing them with document production?

Mr. URIARTE. I don't have that number in front of me, but I can tell you that, whether it has been the majority or the minority, we work through various requests consistently.

Mr. CLINE. That wasn't my question. Did you ever provide documents to the Democrats when they were in the majority in the 117th?

Mr. URIARTE. I am confident that we provided documents to this Committee in the last Congress in response to requests from then Chair Nadler.

Consistent with the constitutional role the Chair of the Committee plays and that they speak for Congress, the Department has taken the position that there are additional authorities that are granted to the Chair, and, of course, that does inform our responses to the Committees.

Regardless of the role of the individual Member, we do endeavor to be responsive to all Members and to treat them as constitutional officers, which we recognize.

Mr. CLINE. I'm pleased at that last statement respecting that the majority should receive some response and some action on the part of the Department. So, that now that there is a different majority, your responsiveness to the majority now should be similar to your responsiveness to the majority then. It's disappointing to hear that there was essentially a double standard where the majority was getting those documents and the minority was getting nothing during the last Congress.

You knew about them, and that's the important thing. You've known what we were asking for, so it shouldn't come as a surprise, and we should be seeing results by this point.

The gentleman from California is recognized for five minutes.

Mr. SWALWELL. Well, now we know why we're here after a round of questioning. It's clear why we're here. We haven't heard one shred of evidence that any parents were unlawfully targeted by the Department of Justice, but we did hear a lot about Mar-a-Lago.

That's why we're here. Because when the Republicans went into the majority, they formed the largest law firm in Washington, DC,

who would advocate on behalf of just one client, one very, very small man with a lot of grievances that they're going to carry out.

We're living through today a corrupt bargain, a corrupt bargain that will have installment payments week after week, to fight the grievances for that one small man to harbor an international wanted criminal; to put a January 6th sympathizer on the Homeland Security Committee; to defund the troops by \$75 billion; to make sure that honest brokering journalist Tucker Carlson gets his hands, and only his hands, on the January 6th footage; and, as we just saw today, to attack the cops who protect our kids and volunteers at our schools.

Again, we didn't hear any evidence of any parents being unlawfully targeted. We also didn't hear any condemnation of the three threats; of many threats that were put up there.

I will condemn the violence that the gentlelady from Florida referenced. I'll condemn violence by Antifa, any threats made toward any judge, whether it's Judge Kavanaugh or any other judge. I'll condemn the violence that took place in Portland. My colleagues and I do that over and over. There hasn't been one condemnation of the threats that were made to parents.

So, if you don't condemn it, then you're condoning it. If you're condoning it, it's going to fester, and more and more threats are going to be made to parents. What they're asking is that you don't investigate that at all, that because these parents share their political beliefs that are making these threats, you shouldn't investigate them. That's what's being asked of you at this hearing today.

I do want to ask, though, with regards to the redactions on those documents, Ms. Graham alluded to it, but am I right that anyone who is below what's called an SES level in the Federal Government, which is a senior government employee, any employee's information, their name, contact information, et cetera, would be redacted just to protect those civil servant employees.

Ms. GRAHAM. Yes, personal information is redacted.

Mr. SWALWELL. I want to ask, Mr. Uriarte, you've referenced over and over that you're willing to meet with the staff. You're here. You've got your team here behind you. Ms. Graham's here. She's got her team behind you. I see the staff of the majority is here.

Are you still willing to sit down with them and meet with them to be a little more specific? When I say be more specific, in the definition section of what they sent over to you, the term "document" has about 20 lines that define "document." They're asking for documents of 118,000 employees.

So, are you willing to still work with them so that they can be more specific, and then you can be more responsive in a manner that suits the needs that they have, Mr. Uriarte?

Mr. URIARTE. Absolutely. We'd welcome that.

Mr. SWALWELL. Great.

Ms. Graham?

Ms. GRAHAM. Yes, absolutely, and look forward to having that opportunity on Tuesday.

Mr. SWALWELL. Great. Thank you. I yield back.

Mr. CLINE. The gentleman from New Jersey is recognized for five minutes.

Mr. VAN DREW. Thank you.

Well, first, and please don't take this the wrong way, but that was wonderful theatrics. Let's really talk about fact.

The fact is that we do have information that relates to parents being harassed and parents having problems because of their beliefs and wanting to be involved in their child's educational process.

I have that information here, Chair. I ask that it be entered into the record, so my colleagues can all see it.

Mr. CLINE. Without objection.

Mr. VAN DREW. Thank you.

It makes some interesting reading. Parents should never, ever have to go through that. The relationship between a parent and a child is extremely important, and I think the parent always has the ultimate say.

Second, there was some discussion that the Republicans won't take yes for an answer, and I want to correct that.

No, the deal is we're not going to take no for an answer. We're going to go over this over and over and over and over again, no matter how long it takes, to get the information. Because I know no more now, than I did when we started this meeting. Anybody that's honest and candid knows no more now, than when they started the meeting.

The amount of time it has taken to try to get information, the reason for the subpoenas, because we can't get accurate information, the fact that—and, yes, the Trump issue is an issue, because why is it that in one case you have dozens and dozens of individual law enforcement, FBI, and others, coming down and in the other case you don't? That's just not fair and not necessary.

Again, whatever you think of Donald Trump, you don't think he's going to be coming running out with a squad of his own Secret Service and Uzis and God knows what else. There was no need to do that. They were having a conversation. Again, it was theatrics.

You know what American people are tired of? They are tired of theatrics. I'm tired of it myself. We want answers. We won't take no for an answer. We want the answer to be yes, and we want the information.

So, have you or your department been actively looking for these documents, and how many have been gathered so far? I mean, have you actually been looking for them? Have you lost some of them? Where are they? What's going on? Because it's taken just an endless amount of time.

I'm sorry, I didn't mean to interrupt you, but today we just learned that, well, we're willing to talk about it some more, we'll get together over coffee.

We don't need the coffee. We don't need to get together. We want the answers.

Mr. URIARTE. Congressman, I hear your frustration. As I mentioned earlier, I've been a Congressional staffer. I've been on the side of these investigations. I worked with Chair Chaffetz in investigating misconduct at the Department of Defense that uncovered hundreds of millions in dollars in waste, fraud, and abuse.

So, I completely understand the value of your oversight, and I bring that ethos with me every day to the Department of Justice.

What I'll tell you is that in talking about specifically the searches at Mar-a-Lago, President Biden, and former Vice President Pence, that we are happy to work with you and your staff on those matters.

Mr. VAN DREW. Well, no, tell me now. I mean, you're a smart man. Obviously, your great credentials, you're here. Why would you need 30-some people to go into somebody's bedroom, to go through their house, and use all kinds—and have all kind of arms when it's a former President, unprecedented? Yet, in another case, very similar situation, definitely documents that shouldn't have been out there, there is hardly anybody. Everything is slow, relaxed, easy, and smooth.

I want to know why. I want to know why there's a difference. That's all I want to know. It's a simple thing. You did one thing one way in one place; you did something else different in another place. Why?

Mr. URIARTE. Congressman—

Mr. VAN DREW. Did you really think it was that dangerous to go in there with the Secret Service being there? Tell me. Do you have a problem with the Secret Service?

Mr. URIARTE. Congressman, the Attorney General has spoken directly to this and said there are not different standards for Republicans or Democrats.

Mr. VAN DREW. It sure was.

Mr. URIARTE. He has endeavored to approach each of these instances consistently. That's why we appointed special counsels in both the Trump matter as well as in the Biden matter. We are working with Congress, and Congressional leadership specifically, to discuss potential oversight of the documents that are at issue there. We're committed to that. We also are committed to handling those three matters in a consistent manner.

Mr. VAN DREW. Mr. Uriarte, in all deference, and to be as polite as I can—you know, I'm from Jersey, so it's a little tough sometimes—just to say to you, that means nothing to me. I just want an answer.

You ask me a question, I will give you an answer, yes or no, and is this why. One place you did it this way, another place you did it radically different. Why?

Then the second question, another question, what was done with the request we provided the last Congress? Why was that request ignored? Nothing happened with that. You had a lot of time. You had time to at least start on it. What happened? Yes? No? Give me an answer, something, please.

Mr. CLINE. The gentleman's time has expired. The gentleman can respond.

Mr. URIARTE. Thank you, Congressman.

In response to that request, we did send letters back to the Committee. Again, I recognize your interest here.

I will say what we have prioritized in our responses to this Committee are the documents and information that were subpoenaed related to the Attorney General's October 4th memorandum.

Of course, if there is additional information you want to share today about your priorities, that is helpful information, and we'll absolutely come back.

Mr. VAN DREW. I yield back. I just want to say what you just said means as much to me as this does.

[Chart.]

Mr. VAN DREW. By the way, I want everybody to look at this and tell me what they gleaned from this substantive information that's up there.

Thank you, Chair.

Mr. CLINE. The gentleman from Maryland for five minutes.

Mr. IVEY. Thank you, Mr. Chair.

If I heard you all correctly, the Chair and the gentleman from New Jersey, I think the point you're trying to make is that when you made requests when you were in the minority, you should have gotten productions from the government. In other words, the minority has rights to seek and compel the production of documents without the assistance of the majority.

I certainly hope that's the case. We're in the minority now, and I would love to have the ability to do that. So, we can discuss whether that's what you actually meant or not later on.

I did want to address a couple of things, too. I certainly share the view about the threats against the Supreme Court Justices, the protests against them, to the extent violent threats were made those people should be prosecuted. My recollection without—I could be corrected—I thought one of the individuals, the one who had made threats, had been arrested and is in the middle of being prosecuted now, I believe in Federal court. So, I think that's exactly what the Justice Department is supposed to be doing.

I would note, too, to the extent we're talking about threats to public officials—and we can make these documents available—but school board members in Loudoun County and across the country have been subjected to these kinds of threats, death threats.

[Chart.]

Mr. IVEY. We've got some up behind us. I'll submit a couple more for the record.

One was a school board member, actually from Florida, I believe, who wrote about it. The school board member, she mentioned that they burned "FU" on her yard; that they—

We're coming for you. We're going to make you beg for mercy. If you thought January 6th was bad, wait until you see what we have for you.

I'll submit that for the record.

The threats against the Georgia Secretary of State, Mr. Raffensperger, who is still getting threats, by the way, for taking the courageous stand to refuse to submit to Donald Trump's demands that he lied about the election returns in Georgia. He's getting death threats for that.

We don't have to go all the way down to Georgia either, cause they're getting death threats in Loudoun County, too.

[Chart.]

Mr. IVEY. As a matter of fact, they sort of peaked. They jumped at the time of the January 6th event, and then they came back up in the following summer, which is, I guess, what the point of these subpoenas are about, because that was some of the time when the rhetoric ramped up.

[Chart.]

Mr. IVEY. Oh, here's the chart right here.

So, you see the big jump coming there in November–December 2020 into January 2021, that was the raid on the Capitol. The dotted line is the total numbers. The blue line, which you can see peaks around there in October–November 2021, that comes during the time when Republicans started making efforts to go after school boards. The Proud Boys—I’ve got an article we can submit for the record on that.

We’ve got an audio tape, I don’t have time to play it now, but from a group in Virginia that explains they targeted the Loudoun Public County School Board in an effort to ramp up opposition to certain policies that they disagree with. Roughly, at the same time that they were ramping this up, as you can see there in the graph, the threats jumped up against these officials.

Mr. CLINE. Without objection, the article from *The Washington Post* and the article from, what was that, *CNN*, are entered in the record.

Mr. IVEY. Thank you, Mr. Chair.

I do want to close with this. The gentleman from New Jersey said he didn’t know more now than he did before the hearing. I’ll say this—

Mr. VAN DREW. Maybe less. It was a brain freeze.

Mr. IVEY. The parties submitted over a thousand pages, almost 1,500 pages of documents, and they go directly to the issues that were requested by the subpoena. To the extent there’s some kind of subtle accusation about an attempt for the Department of Justice to go after parents, I would just draw a contrast between the Attorney General’s document, October 4th, which goes to this issue.

Basically, he said: I want you all to convene meetings, U.S. attorneys, Federal officials, meet with local officials and have meetings, ask them if they think there’s a problem.

If you go to the document production, you can see on DOJ HJC155 that the head of EOUSA, in following up on that, sent instructions out telling people, quote, “Convene a meeting by November 3, 2021.”

Then if you go back further, in the documents that have already been produced to the Committee—so we have these in our possession right now—so, if you go to DOJ HJC144, this is from the feedback they get. It says: We received feedback after a meeting from the chief of Richmond PD. The meeting was the Western District of Virginia. It wasn’t the whole State. That’s how the U.S. attorneys divvy it up in Virginia. There’s an Eastern District and a Western District.

So, the chief of the Richmond PD says that he has assigned uniformed officers to attend Richmond school board meetings, which has been well received by the school board president, despite initial hesitance. With the officers present, meeting attendees were able to calm down, and the board conducted its business effectively.

Then, with respect to the issue of weaponization, I would draw the contrast between the memo from the Attorney General—and I know I got one extra minute like my colleague had there—and I would ask you to draw the contrast between the Attorney General’s memo with respect to these school boards and the one that goes out with respect to the attacks on airplane flights. I think that was one on the graph there, too, where that jumped after people got upset

about the masks and they started losing their minds and getting violent on planes.

In that memo the Attorney General says,

I am directing United States attorneys to prioritize prosecution of Federal crimes occurring on commercial aircraft that endanger the safety of passengers, flight crews, and flight attendants.

Now, when the Attorney General wants them to prosecute, he said it. The one with respect to the school board, all he says was convene meetings. Based on what we've seen in the documents that have been produced so far, that's all they've done. No attempts to go after parents, no threats, even though threats have been made against school board members. Nothing of the sort.

I yield back.

Mr. CLINE. I thank the gentleman. I think you've done a good job of pointing out that we have different crimes, one of which is Federal, one of which is primarily handled at the local level and is better handled at the local level.

The gentleman from Texas.

Mr. MORAN. Secretary Graham, I'm going to come back to you. Thank you for your time once again. I want to revisit the notion of how this process begins.

Is it customary for the Department of Education to sit on requests by letter from this Committee and wait until they receive a subpoena to respond with documents?

Ms. GRAHAM. Thank you, and I actually left my light on this time.

The Department has been engaged with this Committee for over a year with responsive documents that culminated in our March 1st response to the subpoena, which was over a thousand-plus pages, over 300 documents. We will continue to engage in that process working with the Committee and look forward to that opportunity.

Mr. MORAN. So, going forward, I hear your commitment to respond to informal requests, but we don't have to get to that point of a subpoena request. Is that your commitment?

Ms. GRAHAM. We look forward to working together with the Committee, which we have been doing for over a year now, and very glad—

Mr. MORAN. That really doesn't give me a good, fuzzy feeling when you respond like that. I think that was a fair request for your commitment to respond to requests by an informal manner, as you indicated earlier you would do, in good faith, through the process of accommodation to accommodate the requests of this Committee. Would you commit to that.

Ms. GRAHAM. The good news, Congressman, is that we have another opportunity to do that on Tuesday. I'm thankful for the opportunity to work together with your team.

Mr. MORAN. As part of the good faith process to, in particular, look at the redacted documents that we see back here and others that are redacted, how do you foresee that is going to happen moving forward to determine whether or not these redactions are appropriate, and which ones should or shouldn't be redacted, and which ones should be more fully disclosed?

Ms. GRAHAM. Well, that's part of the ongoing accommodation and compromise process that we've been engaged in and look forward to continuing to be engaged in.

Mr. MORAN. Forgive my ignorance. Again, I'm brand new, and I'm new to the game of producing documents in Congress. I would assume in the judicial process you're going to have an in-camera review and somebody's going to say, yes, this should or shouldn't be redacted, or, yes, this should or shouldn't be produced.

So, is that what's going to happen when we leave here today, you are going to allow somebody from the Committee or somebody from the staff of the Committee to look at what's behind the redactions and to work through whether or not that should or shouldn't be redacted?

Ms. GRAHAM. The technical aspects of our more than a thousand pages of substantive documents pursuant to the subpoena is certainly something that could be discussed during the accommodations process.

Mr. MORAN. Well, certainly, I have to believe this is not your first time to go down a production of documents issue. How does it normally work? I'm just curious. How does it work when you say, "Well, we're going to work with the Committee in good faith to determine whether or not these redactions are appropriate or not?" How are we to determine that if we can't see what's behind the redaction?

Ms. GRAHAM. It's part of the ongoing conversation that we are having, and—

Mr. MORAN. I'm trying to figure out what the conversation is going to be. Are you going to tell us what's behind there? Am I going to get to know? Is some Member of the Committee going to get to know? Or are you just going to say, "Trust us, it should be redacted?"

Ms. GRAHAM. We will continue to have those conversations about any of the issues that have been raised today by Members of this Committee on both sides of the aisle. That is my commitment as the Assistant Secretary for the Office of Legislation and Congressional Affairs.

Mr. MORAN. I read into your answer that I'm never going to know what's behind those redactions, and neither is the American public, and that really concerns me.

Again, I want to go back to the good faith accommodation issue that you guys have both talked about today. All this stuff is redacted, and it seems to be unilaterally decided on your end of the spectrum. I want to know what's behind the redactions and whether or not the American people should see that. In fact, they should see that.

Ms. GRAHAM. Congressman, again, the redacted components of our production are deliberative process, attorney-client privilege, and/or personal information.

Mr. MORAN. Do you have any employees—let's talk about supplementation. I just have a minute. Do you have any employees specifically dedicated to the continued production of these documents?

Ms. GRAHAM. Congressman, we have a team that is working very diligently to meet the requests that we receive from this Committee, and we will continue to do so.

Mr. MORAN. In the Department of Education, in your segment of the Department of Education, you have somebody you are going to go back to and say, "Look, you're responsible for figuring out if there's any more to produce." Is there somebody else that we need to have here to answer questions?

Ms. GRAHAM. That process will continue. Again, I look forward to having the opportunity next week and following weeks to answer any questions you have. I'm happy to take anything back.

Mr. MORAN. OK. Thank you, Mr. Chair.

Mr. CLINE. The gentlelady from Florida is recognized for five minutes.

Ms. LEE. Thank you, Mr. Chair.

I'll begin by noting that I believe the gentleman from Maryland is correct that the man who attempted to assassinate Justice Kavanaugh in his home, my understanding is, was ultimately prosecuted.

However, unfortunately, that horrific incident is just part of a much broader, more pervasive ongoing threat to our courts and to our Justices that has been the subject of requests for production of documents and information by this Committee.

Specifically, there were several instances in which Supreme Court Justices were threatened because of their previous judicial decisions and incidents—these fit into a larger campaign that is designed to threaten and intimidate, to frighten and dissuade Justices from issuing opinions.

One group published the home addresses of six Justices and has organized harassment at their personal residences, where they live with their spouses and their children. This is clearly an effort to intimidate and threaten these Justices and to attempt to affect their decisions.

In a letter dated June 23, 2022, to the Attorney General, this Committee noted these actions appear to be attempts to intimidate and influence the Justices' rulings in violation of Section 1507 of Title 18 of the U.S.C. which prohibits pickets or parades in or near a building or residence of a judge when done with the intent to interfere, obstruct, or impede the administration of justice, or with the intent of influencing any judge in the discharge of his duty.

While protesting is a protected and fundamental First Amendment activity, courts have distinguished conduct that is intended to obstruct or pervert the course of justice. That conduct does not retain such protections.

This letter went on to request two categories of documents. First, all documents and communications between or among the Department of Justice and the Executive Office of the President referring or relating to the harassment and intimidation campaign outside of Justices' homes.

Mr. Uriarte, to date, have any documents been produced in response to that January 23, 2022, letter?

Mr. URIARTE. Congresswoman, thank you for the question.

I want to start by saying, as you know, this issue is something that is incredibly personal to the Attorney General as a former judge.

As you may remember, after the Dobbs' decision leaked, he took the unprecedented step of having the U.S. marshals to protect the homes of the Justices. We've had as many as 70 U.S. marshals in place to protect those Justices' homes, and their mission there is focused on the life and safety of the judges. That is something that is incredibly important to the AG and incredibly important to all of us at the Department of Justice.

Now, in terms of the document request that you're referring to, of course I'm happy to take that back and see if there's additional information that we can provide.

Again, part of the value of these conversations, I think, is to understand the priorities of the Committee. If this is an issue that is a high priority for the committee, as I understand you're saying now, that will definitely inform our ability to produce those documents or to get you information sooner.

Ms. LEE. So, would it be correct to say, Mr. Uriarte, that as of today no documents have been produced in response to request No. 1?

Mr. URIARTE. I don't have that request in front of me, but I'm happy to take that back.

Ms. LEE. Request No. 2, all documents and communications between or among employees of the Department of Justice referring or relating to the harassment and intimidation campaign outside of Justices' homes, including those sent or received by employees of the United States Attorney's Office for the District of Maryland and the United States Attorney's Office for the Eastern District of Virginia.

Mr. Uriarte, same question. To this date, have any documents responsive to request No. 2 been produced to this Committee?

Mr. URIARTE. Again, I'm happy to take that back. As I said, my commitment to you was that we will work with you and your staff to be as efficient and effective as possible and respond to your requests.

Again, the more we understand about your priorities among the various oversight requests, the more effective I think we can be at helping to meet your informational need.

Ms. LEE. To the best of your knowledge, as you sit here today before this committee, to this date, no documents responsive to this request from this Committee have been provided?

Mr. URIARTE. That is consistent with my understanding, but I want to get back to you on that.

Again, that request is from the prior Congress. Starting in this Congress, we have taken steps to respond to the Committee's requests, including the production of 448 pages earlier this month on a different topic to which were the subject of the subpoena.

Again, if this is a priority for you, we will certainly take that into account as we continue to work through the various requests.

Ms. LEE. I will note that this letter concluded with a request that this information be provided as soon as possible, but no later than 5 p.m. on July 8, 2022.

With that, Mr. Chair, I yield back.

Mr. CLINE. I thank the gentlelady.

That concludes our second round.

I want to thank our witnesses for appearing today. I have to say I'm disappointed in many of the answers. I'm not disappointed in the commitment to continue the conversation.

It's a shame that it reached this point, because these conversations between staff, you spoke to great staff conversations that go on, you spoke to a knowledge of previous requests, but unfortunately it has come to this.

So, hopefully, we will see additional progress being made over the next month. Otherwise, we will plan on seeing you here again very soon, probably in three weeks.

Mr. IVEY. Mr. Chair, would the gentleman yield for just a moment?

Mr. CLINE. I'll yield.

Mr. IVEY. I certainly agree that it's disappointing that it got to this stage. We may feel disappointed for different reasons, but I share your disappointment.

Mr. CLINE. I thank the gentleman.

Without objection, all members will have five legislative days to submit additional written questions for the witnesses or additional materials for the record.

Without objection, the hearing is adjourned.

[Whereupon, at 3:37 p.m., the Subcommittee was adjourned.]

All materials submitted for the record by Members of the Subcommittee on Responsiveness and Accountability to Oversight can be found at: <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115443>.

