

HEARING ON 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 ONE HUNDRED EIGHTEENTH CONGRESS FIRST SESSION

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HEARING ON COMPLIANCE WITH COMMITTEE OVERSIGHT

Wednesday, March 29, 2023

HOUSE OF REPRESENTATIVES

SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY
TO OVERSIGHT

COMMITTEE ON THE JUDICIARY

Washington, DC

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

Members present: Representatives Cline, Van Drew, Moran, Lee, Swalwell, and Ivey.

Mr. CLINE. The Subcommittee will come to order.

Without objection, the Chair is authorized to declare a recess at any time.

We welcome everyone to this hearing and the Subcommittee on Responsiveness and Accountability to Oversight. Again, by leading us in the Pledge, will everyone please rise. Rise in the back.

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. All right, thank you.

I begin with opening statements. The Chair recognizes himself.

Since the beginning of the Biden Administration, Committee Republicans have made at least 50 different requests for information and documents concerning the operations and actions of the FBI since the onset of this Administration.

Committee Republicans have sent numerous requests to the Biden FTC. These requests include the FTC's harassment of Elon Musk's Twitter; the abandonment of longstanding bipartisan anti-trust standards; and the FTC's extraordinary decision to ban voluntary noncompete clauses in employment contracts, supplant State laws without legal authority.

The absence of a sound and transparent administrative process results in failed and costly government policies. This is what we are seeing unfold at the FTC under Chair Lina Khan.

It is incumbent on Congress to provide oversight to these matters. Such oversight will remain necessary while the FTC continues to take actions on matters its enabling statute does not authorize.

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 some of these requests, multiple times.

On February 3, 2023, in the face of continued obstruction, Chair Jim Jordan issued subpoenas to FBI Director Wray and the Education Secretary Cardona for documents. Unfortunately, the Committee continues to have concerns about the responsiveness, not only of the agencies, but of the very documents they have provided.

For example, on March 1, 2023, the day the FBI was to comply in full with the subpoena, the Bureau produced just four pages of school board-related documents. While the FBI has since made additional documents available to the Committee pursuant to the subpoena, questions remain, and the Committee awaits the Bureau's next production.

We invited the FBI to testify at the last hearing on March 9, 2023, but the FBI refused. Although we were disappointed the agency was not there, the DOJ and the Education Department testified before the Subcommittee regarding the agency's compliance with the Committee subpoenas and various requests.

While the witnesses made some commitments to the Committee during their testimony to produce certain information, they otherwise provided underwhelming testimony and responses to Members' questions.

Actual evidence that was required, that was requested and would have been of interest to the Committee was, in fact, provided in a tranche of documents the day before. Despite every effort by the staff to go through all the documents, we didn't actually get through the documents before the hearing on the day after they were provided.

We look forward today to engaging with the witnesses that have appeared to discuss the productions that we have received to date, and regarding the status of our other outstanding requests.

These officials are charged with the responsibilities of working with Congress, coordinating policy. They play a key role as gatekeeper of witnesses and information. These hearings play a critical role in assisting the Committee in its oversight obligations which, in turn, allows the Committee to examine potential legislative changes within our jurisdiction.

The courts have recognized that Congress' power to conduct oversight is an indispensable component of our authority to legislate. Without the information that the Committee needs from the Biden Administration, we cannot do our jobs.

This Committee, the Subcommittee on Commitment and Accountability to Oversight, which is not the actual Weaponization Committee as much as the Ranking Member may claim that it seems to be, this Committee will not allow delay and indifference to obstruct the legislative process.

I look forward to hearing from our witnesses today how their respective agencies will comply with the requests made to them.

Now, I yield time to the Ranking Member Mr. Swalwell for five minutes.

Mr. SWALWELL. Well, here we are, another partners meeting of Insurrection LLC. That is what this is. This is the newly formed,

largest law firm in Washington, DC. Only has one client, maybe a second client that we are going to learn about today, but that client is former President Donald Trump. Their job is to litigate every one of his petty, petty, petty grievances.

Perhaps the next client is Elon Musk, and that is why FTC has been called here today.

Jim Jordan's Obstruction of Justice Committees that he is overseeing have less credibility today than they did when we convened just three weeks ago.

It is now 321 days since this subpoena was sent to Jim Jordan that he did not comply with. So, it is comical that we are here today under Jim Jordan's leadership asking people why they don't want to comply with subpoenas. The guy won't comply with the one that was sent to him 321 days ago, witness to a crime, the crime that has led to more arrests than any investigation in America. He is a witness being asked to do his patriotic duty and respond to a subpoena, 321 days later refuses.

Also, since the last hearing of this Committee to Obstruct Justice, Chair Jordan is now interfering in an independent criminal prosecution. There is an investigation in Manhattan, also in Atlanta, also at the Department of Justice into the former President. Jim Jordan has sent a letter to the independently elected District Attorney Alvin Bragg of Manhattan. He is asking Alvin Bragg to commit a felony.

Why is he asking Alvin Bragg to commit a felony? To help Donald Trump.

Why is it a felony? Because if Alvin Bragg were to turn over what Jim Jordan is asking, Alvin Bragg would be violating New York law that says you cannot turn over Grand Jury proceedings. That is what they are asking him to do. Again, the law doesn't matter if your client is Donald Trump.

The other day Jim Jordan was asked, well, what do you think of the former President who put out on Truth Social the other day essentially another call to action, a January 6th-like post, when the former President said this posting:

[Slide]

Mr. SWALWELL. Jim Jordan was presented with this post by the former President that calls for death and destruction. Mr. Jordan said that he would need his glasses.

He was looking the other way. Jim Jordan looking the other way.

Well, we have blown up on the screen, and we have put it right here, and I will leave it for Jim Jordan, this is what Donald Trump said, Mr. Jordan:

What kind of person can charge another person, in this case a former President of the United States, who got more votes than any sitting President in history, and leading candidate by far for the Republican Party nomination, with a crime, when it is known by all that NO Crime has been committed, and also known that potential death and destruction in such a false charge could be catastrophic for our Country? Why and who would do such a thing? Only a degenerate psychopath that truly hates the USA!

Mr. SWALWELL. Again, I am going to leave this up here in probably 200 size font, so Mr. Jordan doesn't need his glasses to read it.

The same individual who posted this, also posted this photo.

[Slide]

Mr. SWALWELL. There you go: Donald Trump, real tough guy, holding a baseball bat next to a picture of that independent prosecutor that Jim Jordan wants to commit a felony, Alvin Bragg.

You won't hear from this Committee to Obstruct Justice any condemnation of what Donald Trump posted. They can't condemn him. They can't.

So, in their silence they condone it. In these posts from Donald Trump he incites more and more Americans to commit violence, like a woman who was arrested yesterday near Times Square with a knife seeking to carry out an act of violence in Donald Trump's name.

So, what has changed since the last hearing? Well, we have now learned that the FBI investigated tips that they were asked to investigate through a tip line. That is their job, to run down every single lead.

Parents have every right to advocate on behalf of their kids. I have three little kids. When they get older and go to school, I will be a fierce advocate for their education.

No parent has the right to threaten a school board volunteer. If a threat is brought to the FBI, it is their duty to investigate those threats.

We have also learned from all the document production from DOJ, and the FBI, and the Department of Education, that there is not one instance where the Department of Justice called any parent or a groups of parents domestic terrorists, as has been claimed by Jim Jordan.

We also learned at the last hearing that this isn't really about parents and kids at all. Mr. Van Drew spent almost all his time wanting to go into the Mar-a-Lago search. Again, this is about one client and litigating his grievances.

It is also about a tweet that Jim Jordan posted back in the fall: "Kanye, Elon, Trump." Now, after that tweet was posted, Kanye said he is, "going death con 3 on jewish people." The tweet stayed up for months.

Everyone was, like, hey, guys, turns out your hero Kanye West hates the Jews. We all stand with Israel. Please take down the tweet.

They didn't take down the tweet. They kept the tweet up. Day after day Jewish communities are hurting, they say, please don't put this tweet up.

It stays up.

So, we can cross Kanye out. It looks like we are here today for the other two, Elon and Trump.

We are also here because the Republican Party that has done such a great job over many years standing up for the police, no longer back the Blue.

Last week we had a hearing where you could call anyone in America when you have the majority, the power of a subpoena, we had a hearing about the ATF. These guys brought a witness who had just recently tweeted "fuck cops." "Fuck cops." That is what this guy tweeted. Anyone on earth could have come to that hearing and they brought someone that said, "fuck cops"?

Then one of their colleagues, this is what she is selling on her social media: Defund the FBI.

So, we went from backing the Blue to backing the coup.

So, we will waste our time today on this exercise on behalf of Donald Trump and perhaps Elon Musk, but everyone on their side is going to have to go home this weekend to their constituents. Their constituents are going to ask them one question. Three little babies died this week at a school in Nashville. No other Committee in Congress has jurisdiction to do something about that except this Committee. So, you are on the Judiciary Committee. Three kids are dead. They are going to be buried this week. What did you do about it?

Did you show up to the Judiciary Committee and fight for those kids? Or did you show up and fight for Donald Trump?

They showed up at the first hearing after Nashville and they are fighting for Donald Trump.

I yield back.

Mr. CLINE. Thank the gentleman.

As I want to apologize to our witnesses because you may wonder, did I wander into the wrong hearing? No. This is the Subcommittee on Accountability to Oversight, not the Weaponization Committee, as much as my esteemed Member would like it.

Mr. IVEY. Mr. Chair, point of order.

Unless you are going to give us a chance to respond on your time—

Mr. CLINE. You are not recognized.

We will now introduce today's witnesses.

The Honorable Christopher Dunham is the Acting Assistant Director for the Office of Congressional Affairs at the FBI. In that role he leads the office that serves as the Bureau's primary liaison to Congress.

Jeanne Bumpus is the Director of the Office of Congressional Relations at the Federal Trade Commission. Her office works with Members of Congress and their staffs to provide information on the Commission's activities and advance the interests of the Commission in Congress.

The Honorable Roberto Rodriguez. Mr. Rodriguez is the Assistant Secretary for the Office of Planning, Evaluation, and Policy Development at the Department of Education. His office advises the Secretary of Education on all matters relating to policy development, implementation, and review.

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?

[Witnesses sworn.]

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

Thank you. You may be seated.

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 lights turn yellow you should begin to conclude your remarks. When the light turns red, your time has expired.

Mr. Dunham, you may begin.

STATEMENT OF CHRISTOPHER DUNHAM

Mr. DUNHAM. Good afternoon, Chair Cline, Ranking Member Swalwell, and distinguished Members of the Subcommittee.

I appreciate the opportunity to describe the FBI's efforts to respond to the Committee's oversight requests in the 118th Congress.

I am the Acting Assistant Director of the FBI's Office of Congressional Affairs. I am here voluntarily to answer your questions.

Unlike others who may come before this Subcommittee, I am not a political appointee nor am I an attorney. I have spent the entirety of my professional government life in civil service of the FBI's mission.

I agreed to serve as an Acting Assistant Director several months ago. In this role, I lead a team of agents and professional staff who are dedicated to working with Congress on all manner of legislative, policy, and oversight issues.

As long as I serve in this role, I am committed to working in good faith with all Members of the Subcommittee and the Full Judiciary Committee.

The FBI recognizes the important role of Congressional oversight. We appreciate that oversight is a critical underpinning of the legislative process. We recognize that we can shed valuable light on the FBI's operations and stewardship of taxpayer dollars.

Since 2021, the FBI has testified at 32 Congressional hearings and participated in hundreds of Member and staff briefings. By virtue of the FBI's dual law enforcement and intelligence responsibilities, we work closely with eight Congressional oversight committees of jurisdiction, including both House and Senate committees who oversee the intelligence community, and committees like this one who oversee the Justice Department.

In every instance we strive to provide Congress with information to support its legislative needs without compromising our law enforcement and national security efforts, including our investigative and prosecutorial responsibilities.

The FBI must also consider the privacy and safety interests implicated in revealing the identities of our dedicated line agents and personnel.

With these considerations in mind, we are committed to working in good faith to accommodate the Committee's oversight interests.

We understand the purview of this Subcommittee to oversee the responsiveness of agencies to the Full Committee's oversight requests. In this Congress so far, the Committee has identified well over 50 informational requests, across nearly a dozen different topics, in addition to requests for 19 transcribed interviews.

The FBI is complying with the Committee's requests in good faith. Since January, the FBI has provided ten responses on nine separate topics, including substantive written responses that provide critical information and context.

We have also produced nearly 1,000 pages of documents, with more to come.

In addition, we authorized the appearance of a former senior FBI official for a transcribed interview last month before the Committee.

Today, we remain engaged actively responding to your other requests, including working to supplement our initial productions on a rolling basis as we identify additional responsive documents.

Committee staff recently indicated that the Committee is prioritizing, in addition to today's hearing, the scheduling of transcribed witness interviews. That scheduling is underway. The FBI is working with Committee staff to provide multiple requested witnesses for transcribed interviews in the next few weeks.

Finally, we look forward to continued engagement with the Committee, especially to discuss additional ways to prioritize remaining requests in light of our available resources and the Committee's interests. We remain optimistic that by working cooperatively we will be able to satisfy the Committee's legislative needs, while also safeguarding the independence, integrity, and effectiveness of our law enforcement efforts.

This, of course, is at the core of the FBI's mission to protect the American people and uphold the Constitution.

Thank you again for the opportunity to be here. I am happy to answer your questions.

[The prepared testimony of Mr. Dunham follows:]



Department of Justice

STATEMENT OF

**CHRISTOPHER DUNHAM
ACTING ASSISTANT DIRECTOR
OFFICE OF CONGRESSIONAL AFFAIRS
FEDERAL BUREAU OF INVESTIGATION**

BEFORE THE

**SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO OVERSIGHT
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES**

AT A HEARING ENTITLED

“COMPLIANCE WITH COMMITTEE OVERSIGHT”

PRESENTED

MARCH 29, 2023

STATEMENT OF
CHRISTOPHER DUNHAM
ACTING ASSISTANT DIRECTOR
OFFICE OF CONGRESSIONAL AFFAIRS
FEDERAL BUREAU OF INVESTIGATION

BEFORE THE
SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO OVERSIGHT
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

AT A HEARING ENTITLED
“COMPLIANCE WITH COMMITTEE OVERSIGHT”

PRESENTED
MARCH 29, 2023

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

I am the Acting Assistant Director for the FBI’s Office of Congressional Affairs (OCA). OCA is the FBI’s primary liaison to Congress and plays a key role in communicating with lawmakers about FBI activities. OCA’s mission is to enhance congressional confidence in the FBI, including through the disclosure of information about the mission, accomplishments, operations, and values of the organization and by interacting directly with the FBI’s congressional oversight committees, Members, and staff.

The FBI recognizes the important role of congressional oversight. As Director Wray and Attorney General Garland have stated, the FBI and the Department of Justice (Department) are committed to accommodating Congress’ informational needs, consistent with our law enforcement, national security, and prosecutorial responsibilities and the Executive Branch’s confidentiality interests. The FBI appreciates that oversight is a critical underpinning of the legislative process, and we recognize that it can shed valuable light on the FBI’s operations and responsible stewardship of taxpayer dollars.

Consistent with the value we place on the role of congressional oversight, since 2021, the FBI has testified at 32 congressional hearings and participated in hundreds of Member and staff briefings—including more than 30 separate briefings and three hearings before this Committee alone. The FBI has also produced thousands of pages of documents responsive to congressional requests, and responded to numerous congressional letters, requests for information, and other oversight requests. By virtue of the FBI’s law enforcement and intelligence responsibilities, we work closely with multiple congressional committees of jurisdiction. This includes, for instance, both House and Senate committees who oversee the Intelligence Community as well as committees like this one, who oversee the Department. Our relationship with Congress, and particularly with the eight primary House and Senate committees that

oversee FBI funding and operations, is essential to the success of the FBI, its continued growth and enhancement, and ultimately its mission.

In every instance, we strive to provide Congress with information to support its legislative needs without compromising our law enforcement and national security efforts, as well as our investigative and prosecutorial responsibilities. In addition to these sensitivities, the FBI also has an obligation to protect other Executive Branch institutional interests, including the confidentiality of attorney-client communications, attorney work product, and internal deliberations. The FBI must also consider the privacy and safety interests implicated in revealing the identities of our dedicated line agents and personnel. This is important given the nature of the FBI's work, because revealing certain identities could put employees at risk. With those considerations in mind, we are committed to working in good faith to accommodate the Committee's oversight interests. We hope that the Committee will likewise engage in good faith with the FBI in a manner that recognizes these important law enforcement and confidentiality interests.

We understand the purview of this Subcommittee is to oversee the responsiveness of agencies to the Committee's oversight requests. Since the beginning of the 118th Congress in January, the Committee has sent six letters and one subpoena to the FBI identifying well over 50 informational requests across 11 different topics, as well as requests for 19 transcribed interviews. As drafted, your requests implicate the records of potentially thousands of FBI employees.

The FBI 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.¹

Since the start of the 118th congress the FBI has provided the Committee with ten responses on nine separate topics, including substantive narrative responses that provide critical context on the subjects of the Committee's various requests. We have also produced nearly 900 pages of documents in response to the Committee's information requests. We are also engaged and actively responding to your other requests, including working to supplement our initial responses, as we identify additional responsive documents. In addition, the FBI authorized the appearance of a former FBI senior official for a transcribed interview in February. To better inform the Committee's oversight requests, we have also offered several briefings related to FBI policy and process.

Committee staff recently indicated that the Committee is prioritizing—in addition to today's hearing—the scheduling of transcribed witness interviews. That scheduling is underway, and the FBI is working with Committee staff to provide multiple requested witnesses for transcribed interviews in the next several weeks. We look forward to continued engagement with the Committee, especially to discuss additional ways to prioritize the Committee's many additional requests in light of our available resources and the Committee's interests.

¹ The Committee's January 17, 2023, letter to Director Wray and its appendix of "Outstanding Oversight Requests," which we had understood to catalogue the Committee's initial oversight priorities for the FBI, did not include requests for documents regarding the Attorney General's October 4, 2021 memorandum regarding violent threats against school officials and teachers (Schoolboard Memorandum). We received a subpoena for information related to the Schoolboard Memorandum on February 3, 2023, and have since provided nearly 400 pages of documents and a narrative response.

The FBI remains optimistic that, by working cooperatively, we will be able to satisfy the Committee's legislative needs while also safeguarding the independence, integrity, and effectiveness of our vital law enforcement efforts. The FBI stands ready to continue its efforts to accommodate the Committee's information needs, consistent with the constitutionally mandated accommodations process and decades of precedent. Thank you again for the opportunity to testify. I would be happy to answer your questions.

Mr. CLINE. Thank you.

Ms. Bumpus, you are recognized for five minutes.

STATEMENT OF JEANNE BUMPUS

Ms. BUMPUS. Thank you. Chair Cline, Ranking Member Swalwell, and distinguished Members of the Subcommittee. I am Jeanne Bumpus, Director of the Office of Congressional Relations at the FTC. I am here to address the FTC's responses to requests from this Committee.

The FTC shares your view that Congressional oversight is vital to a well-functioning democracy. The commission is committed to cooperating with the Committee's efforts to seek information consistent with our obligation to protect the agency's ongoing initiatives and law enforcement efforts. As a former Hill staffer, I appreciate that oversight is an essential responsibility of Congress, and a critical aspect of the legislative process.

The FTC works regularly with Members and committees to provide them with expert, thoughtful, and timely information irrespective of party or position.

My office connects Congressional staff with commission officials and subject matter experts to provide technical assistance on proposed legislation, coordinates responses to Congressional letters, assists with efforts aimed at helping your constituents avoid fraud, coordinates the provision of information and briefings about the FTC's work and operations, and shepherds nominees through the confirmation process.

On February 14th Chair Jordan wrote to the FTC requesting documents and information related to the commission's recent issuance of a notice of proposed rulemaking on noncompete clauses in employment contracts, and we began working to reply.

On February 28th the FTC sent a letter and an initial production of documents to the Committee. In that letter, the FTC answered numerous questions and made clear that it is committed to responding to the Committee's document requests in a timely manner.

A week later, the FTC provided additional documents. To date, we have sent approximately one, 400 pages of responsive material to the Committee. FTC staff continues to reach out to Committee staff to keep them apprised of our efforts and discuss how best to provide additional responsive materials.

In addition, on March 10th the agency received a request from the Committee for documents connected to Mr. Musk's purchase of Twitter, and any FTC investigation of the company. The commission provided an initial letter response on March 27th, and we followed up with the Committee staff earlier this week.

On March 13th the FTC received a letter asking that I testify today about the agency's responsiveness to the Committee's requests.

The FTC remains committed to working with Congress in good faith, consistent with longstanding commission policy. The FTC looks forward to continuing to engage with your staff to comply with the Committee's oversight requests, while ensuring the FTC

can continue to protect the independence, integrity, and effectiveness of its law enforcement efforts and core agency processes.

I am happy to answer any questions you have.

[The prepared testimony of Ms. Bumpus follows:]

PREPARED STATEMENT OF THE FEDERAL TRADE COMMISSION
Hearing on Compliance with Committee Oversight
Before the
COMMITTEE ON THE JUDICIARY
SUBCOMMITTEE ON RESPONSIVENESS AND ACCOUNTABILITY TO
OVERSIGHT
UNITED STATES HOUSE OF REPRESENTATIVES

WASHINGTON, D.C.
March 29, 2023

Chairman Cline, Ranking Member Swalwell, and distinguished Members of the Committee, I am Jeanne Bumpus, Director of the Office of Congressional Relations, of the Federal Trade Commission (“Commission” or “FTC”).¹ Thank you for the opportunity to address the FTC’s responses to requests from the Committee on the Judiciary (“Committee”) since the beginning of the 118th Congress.

The FTC is the only federal agency with the broad mission of both protecting consumers and maintaining competition in most sectors of the economy. Its jurisdiction includes privacy and data security, consumer fraud, and anticompetitive mergers and conduct in the pharmaceutical, defense, technology, hospital, retail food, and other sectors that affect every American every day. The FTC’s 1200 public servants work tirelessly every day to meet this broad and critical mission.

The FTC shares your view that congressional oversight is vital to a well-functioning democracy, and we appreciate that. We are committed to cooperating with the Committee’s efforts to seek information, consistent with our obligation to protect the agency’s ongoing initiatives and law enforcement efforts. The FTC appreciates that oversight is a critical aspect of the legislative process and can both inform whether additional legislation is necessary, as well as shed valuable light on the FTC’s operations.

Providing information to Congress is a fundamental and regular part of what we do each day. The FTC works with Members and Committees to provide them with expert, thoughtful, and timely information, irrespective of party or position. The FTC devotes significant time and resources to supporting Congress’s needs for information, working with Bureaus and Offices

¹ This written statement presents the view of the Federal Trade Commission. The oral statement and responses to questions reflect my own views and do not necessarily reflect the views of the Commission or any Commissioner.

across the agency to respond to requests. Commission officials and subject matter experts are in constant communication with Members and congressional staff to provide technical assistance on proposed legislation; respond to numerous Congressional letters received each year; assist with constituent services and outreach efforts aimed at helping constituents avoid fraud; and provide detailed information and briefings about our programs and operations. The Commission is eager to continue to share our work and collaborate with Congress to improve and enhance our service to the American people.

On February 14 of this year, Chairman Jordan wrote to the FTC asking a series of questions and requesting documents related to the Commission's recent issuance of a Notice of Proposed Rulemaking on Non-Compete Clauses in employment contracts, which initiated the public process for providing comment on the proposed rule and potential alternatives. After receiving the letter, the FTC immediately began working to reply. On February 28, the FTC sent a letter and an initial production of documents to the Committee. In that letter, the FTC provided answers to numerous questions and made clear that we are committed to responding to the Committee's document requests in a timely manner. A week later we provided additional documents, and to date have sent approximately 1400 pages of documents, and continue to reach out to committee staff to keep them apprised of our efforts and discuss how best to provide additional responsive materials. In addition, we received a request from the Committee on March 10, 2023, for documents connected to Mr. Musk's purchase of Twitter and any FTC investigation of the company. As we did before, we reached out to Committee staff to begin discussions about this request, and we provided a letter on March 27. On March 13, the FTC received a letter asking that we testify today about the agency's responsiveness to the Committee's requests.

In conclusion, I emphasize again that the FTC recognizes that congressional oversight is an important part of our system of government. The Commission remains committed to working with Congress in good faith, consistent with longstanding Commission policy. We look forward to engaging with your staff to continue to produce responsive materials to meet the Committee's oversight requests while ensuring the FTC can continue to protect the independence, integrity, and effectiveness of the Commission's law enforcement efforts and core agency processes. The FTC stands ready to continue its longstanding efforts to work with Congress, and I am happy to answer any questions you may have.

Mr. CLINE. Thank you.

Mr. Rodriguez, you are recognized for five minutes.

STATEMENT OF THE HON. ROBERTO RODRIGUEZ

Mr. RODRIGUEZ. Good afternoon, Chair Cline, Ranking Member Swalwell, distinguished Members of this Subcommittee.

I am Robert Rodriguez. I have the honor of serving as Assistant Secretary in the Office of Planning, Evaluation, and Policy Development at the U.S. Department of Education. Our role is to develop and implement policy, budget, and data across the department and improve student opportunity and outcomes.

Although I am pleased to advance our administration's policy priorities and budget before Congress, I am here today on behalf of the department to discuss our document production and ongoing good faith effort to respond to this Committee's oversight needs.

Having served for eight years leading the Democratic staff on the Senate Health, Education, Labor, and Pensions Committee, I have a deep appreciation for the important role that Congress exercises with regards to oversight, to advance and uphold the efficacy and integrity of government.

I am pleased to share that the Department of Education has been responsive to Congressional inquiries regarding the topics of interest before this Committee for more than a year. This includes voluntarily appearing and testifying before this Committee on Thursday, March 9th, transmitting two document productions totaling 1,335 pages, and engaging in numerous communications with Committee staff.

It is in that spirit that I am appearing before this Committee again today, and that the department will 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 that the National School Boards Association sent to President Biden.

Second, the Chair's letter asked about a Department of Justice memo.

Third, the Chair's letter asked about an appointment to the independent, nonpartisan National Assessment Governing Board.

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

The next day, on February 3rd, the Chair served a subpoena to the department for documents.

On February 13th, department staff communicated that a document production would be forthcoming by the March 1st date specified in the subpoena.

On February 16th, nearly two weeks before the Committee's requested production date, the department was called to testify about our response to the Committee's inquiry.

As promised, on March 1st the department transmitted more than 1,000 pages of responsive material to the Committee.

On March 9th, Assistant Secretary Graham testified before this Subcommittee regarding the department's response to the Committee's request.

Just four days later the Committee again asked the department to return to testify regarding this inquiry, even while our staff were actively engaged in continuously providing further information to be responsive to the Committee's requests.

On March 24th, the department transmitted its second document production consisting of 331 pages and offered an opportunity for Committee staff to view selected redactions in camera.

Our ongoing engagement with the Committee, multiple document productions, and willingness to appear voluntarily before this Committee on multiple occasions demonstrates 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 students across this country.

Carrying forth that mission is important today more than ever before, as our Nation continues its recovery from the pandemic, supports students' academic success and well-being, and works with local and State educational agencies to tackle pressing challenges such as the teaching shortage that is facing schools, classrooms, and communities across the Nation.

While my colleague, Assistant Secretary Graham, wasn't able to be here today, I am pleased to appear before the Committee and respond to your questions about this process.

Thank you.

[The prepared testimony of Mr. Rodriguez follows:]

Mr. CLINE. Thank you, Mr. Rodriguez.

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

I am going to take a moment to address some of the comments of the Ranking Member.

Now, to the Chair of this Committee this is not the January 6th Committee, this is not the Weaponization Committee, this is about compliance. As much as we want to have cooperation from the witnesses, compliance is what we are after. So, at the end of the day we want to see the documents.

Now, as to the allegations made by the Ranking Member, the Chair, Mr. Jordan, never said that he wouldn't testify before the January 6th Commission. I noted that you put up a letter. The letter actually was in response to a letter from Chair Jordan about testifying. He said this multiple times in interviews.

The January 6th Committee stopped negotiating with Mr. Jordan about potential testimony. Every time the January 6th Committee asked Mr. Jordan to testify, he responded.

On December 22nd he responded. He responded January 9th. On May 12th they asked, on May 25th he responded, on May 31st they responded renewing their subpoena. On June 9th Mr. Jordan sent another letter, and no response after the last letter from Mr. Jordan.

Now, the Chair was very responsive—

Mr. SWALWELL. Will the gentleman yield—

Mr. CLINE. I will not.

Mr. SWALWELL. —to answer whether he actually testified?

Mr. CLINE. It is my time. It is my time.

Mr. SWALWELL. OK. Did he testify?

Mr. CLINE. It is my time.

Freedom of speech is among the most important rights, guaranteed to every American. Elon Musk's acquisition of Twitter last year served to revitalize this fundamental freedom in the digital age.

Now, in the wake of this acquisition the FTC engaged in an aggressive campaign to harass Twitter and deluge it with demands about its personnel decisions in each of the company's departments, every internal communication relating to Elon Musk, and even Twitter's interactions with journalists.

These demands have no basis in the FTC's statutory mission and appear to be the result of partisan pressure to target Twitter and silence Musk.

The FTC is currently imposing some demands on Twitter that have no rational basis in user privacy. There was no logical reason, for example, why the FTC needs to know the identities of journalists engaging with Twitter.

There was no logical reason why the FTC on the basis of user privacy needed to analyze all of Twitter's personnel decisions. There was no logical reason why the FTC needed every single internal Twitter communication about Elon Musk.

The strong inference from these facts is that Twitter's rediscovered focus on free speech is being met with politically motivated attempts to thwart Elon Musk's goals. The FTC's demands did not occur in a vacuum. They appear to be the result of loud voices on the left, including elected officials, urging the Federal Government to intervene in Musk's acquisition and management of the company.

The FTC's harassment of Twitter is likely to be the one fact, Musk's self-described absolutist commitment to free expression in the digital town square.

So, Director Bumpus, on March 10, 2023, Chair Jordan sent a letter seeking information and documents about the FTC's investigation of their harassment of Elon Musk's Twitter. It demanded that Twitter identify all journalists and other members of the media to whom Twitter has granted any type of access to the company's internal communications, using Slack, emails, resources, internal documents, and/or files since October 27, 2022.

Your response, the FTC's response was not timely and only barely responsive to the inquiry, with no indication when additional information would be provided.

As the Select Subcommittee's report states, its approach appears to be the result of partisan pressure to target Twitter and silence Musk.

When does the FTC expect to provide the information and documents requested in the March 10, 2022, letter?

Ms. BUMPUS. Congressman, as you noted, we provided a narrative response to the question posed earlier this week.

We have reached out to staff. We would like to be responsive. We look forward to connecting soon with the Committee to talk about next steps.

Mr. CLINE. Well over two weeks since the FTC received Chair Jordan's inquiry, and the FTC barely responded on substance to the inquiry. Can you tell me what accounted for the delay?

Ms. BUMPUS. Congressman, we want to be responsive to your request. The commission, while I cannot talk about nonpublic investigations, has confirmed that it is investigating compliance by Twitter with a consent order related to data security and privacy. We look forward to continuing to engage with this Committee to get your responsive documents.

Mr. CLINE. All right. We asked you to testify today. You initially responded that you would not and requested that the Executive Director testify.

Can you tell me, are there topics or subjects about which you have been instructed or encouraged not to testify? If so, what topics and who gave you those instructions?

Ms. BUMPUS. Not at all, Mr. Chair. I have not been instructed not to testify about anything.

Mr. CLINE. All right. Well, through the Twitter files Americans are learning more about one of the most significant threats to civil liberties in the modern era. The Executive Branch's suppression of free speech is a real peril to our republic. Given the gravity of the situation, it was my hope that the FTC would provide the information necessary for this matter.

I now yield to the Ranking Member for five minutes.

Mr. SWALWELL. Thank you.

Chair, what is interesting to me is that this hearing is about transparency. My staff has told me that there are multiple documents that you have allowed my staff to look at in camera, meaning they can go look at them, but they cannot have them, documents that you have been given related to an FTC inquiry.

My ask is, just that you turn those over to us. It sounds like we are asking you to do what you think these witnesses are not doing. So, again, just in the spirit of transparency we would like those documents.

Mr. Dunham—

Mr. CLINE. I'll take it under advisement.

Mr. SWALWELL. Thank you, Mr. Chair.

Mr. Dunham, following the subpoena you received from the Judiciary Committee Republicans you offered to meet and confer with them on multiple occasions. Is that right?

Mr. DUNHAM. We met with the Committee in early January on the initial forming of the Committee in the new Congress. Then we have had several engagements or outreach since the subpoena.

Mr. SWALWELL. What would happen if you violated a subpoena and just didn't show up?

Mr. DUNHAM. I am not sure what the consequences would be for me. We are actively engaged with the Committee and intend to do so going forward as well.

Mr. SWALWELL. Great. Well, thank you for doing what Jim Jordan wasn't willing to do and show up and be responsive.

Your good faith effort did not end there, though. In fact, you also offered to work with them to prioritize their documents requests. Is that right?

Mr. DUNHAM. When we received Chair Jordan's letter on January 17th, we also had a meeting previously scheduled that afternoon with Committee staff, more as a meet and greet to talk about the 118th Congress and discuss the topics of interest to the Committee to determine what was the primary focus on their interest.

Mr. SWALWELL. In addition to that meeting, you allowed them to come in person and review nonpublic documents. Is that correct?

Mr. DUNHAM. In response to the subpoena, we provided in camera review of guardian documents related to any official tags, which is a substantive production at the core of the Committee subpoena's request.

Mr. CLINE. These guys viewed those documents?

Mr. DUNHAM. The documents were viewed by both majority and minority staff.

Mr. SWALWELL. After viewing the documents—and do those documents, by the way, include what we call law enforcement sensitive information?

Mr. DUNHAM. The documents themselves are law enforcement sensitive. There are law enforcement files. There are tips that we received from the public and the actions associated with those tips. So, yes.

Mr. SWALWELL. What is the difference between something you call law enforcement sensitive and something that you could put on the front page of the *Washington Post*?

Mr. SWALWELL. Something that is purely unclassified versus something that has a law enforcement caveat that is necessary to protect potential investigative equities, witness information, subject information, anything related to sources, methods, techniques, and that type of thing.

Mr. SWALWELL. After Jim Jordan's team viewed the documents, are you aware of a report that Jim Jordan drafted related to the inquiry?

Mr. DUNHAM. I am aware.

Mr. SWALWELL. In that report, was it a public report?

Mr. DUNHAM. I believe it was a public report.

Mr. SWALWELL. In that report did you see any law enforcement sensitive information.

Mr. DUNHAM. I am not, I am not aware of what information was in the report. I haven't studied it that closely in hope to determine whether there was law enforcement sensitive information there. That is something I can certainly get back to.

Mr. SWALWELL. OK. I will go back to you with some pieces that we saw that were included in there that would qualify as an unlawful disclosure.

Ms. Bumpus, thank you, again, for also doing something that Jim Jordan would not do, and responding to a subpoena.

Is it true that you have worked for multiple prior Chairs that were Republican and Democratic, and even worked for John McCain when you worked for the Hill?

Ms. BUMPUS. Sorry.

Yes, Congressman. I did work for John McCain on the Hill prior to coming to the FTC in 2006. I have worked for eight Chairs as Director of Congressional Relations for Democrats and for Republicans.

Mr. SWALWELL. While you were responsive to the inquiries of the Chair, is it true that you cannot provide information about ongoing or potential investigations?

Ms. BUMPUS. That is correct. Under the rules of the commission, we cannot disclose nonpublic information without a vote of the commission.

Mr. SWALWELL. So, would you be committing a crime if you did what Jim Jordan is asking you to do?

Ms. BUMPUS. I cannot speak today about nonpublic information or about ongoing investigations.

Mr. SWALWELL. Thank you.

Yield back.

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

Mr. VAN DREW. Thank you, Mr. Chair.

I hate to waste time, but I have to start out because this falls under the policy if you say things over, and over, and over, and over again people will start to believe them. Let's hear the truth. That is not what the truth is.

Mr. Jordan, our Chair, told *CBS News* on January 13, 2022, that I never said no.

He never said no to testify before the January 6th Committee. Here is a direct quote. We have it, and I would like to enter this into the record, Chair, this direct quote: "There is a reason I was concerned about testifying," but I never said, and this was on *CBS*, "I never said no." That was to Major Garrett.

I would like to enter that.

Mr. CLINE. Without objection.

Mr. VAN DREW. Thank you.

So, I don't know if I should say it again, would that make everybody believe it more? Because Mr. Swalwell thinks that by saying it over, and over, and over, and over again—that is a lot of "overs" in there, Eric, just like you do when you speak.

Or by using the "F" word when we really didn't need it in the testimony in the hearing. We could have done that in quite a gentler way. It is sensational. It is sensational.

Certainly, Mr. Swalwell, this hearing is not about you. I know it has been made about you to some degree. You are a sensational guy and you have been involved in an awful lot of things that are pretty amazing and questionable. We are not here to discuss them today, because that would be exciting testimony.

We are here to discuss, No. 1, Jim Jordan, if you want to keep bringing it up, and January 6th.

By the way, I wouldn't blame him that he doesn't want to testify. He said he would. Because the January 6th Committee wasn't bipartisan. It wasn't formulated right. It didn't have any real Members on there that were appointed by the minority leader at that time or anybody from really any substance of the Republican Party.

The bottom line was it wasn't a real Committee. It didn't tell the truth. It didn't do the right thing.

Now, do you want me to say that over again? It wasn't the right Committee. It didn't do the right thing. It didn't tell the truth.

Do you want me to say it over again? It wasn't a good Committee. It didn't do the right thing. It didn't tell the truth.

Mr. IVEY. One more time.

Mr. VAN DREW. One more time?

It didn't tell the truth. OK?

So, I can repeat things a lot, too, and it wastes time. You never let the truth get in the way of a good story. Mr. Swalwell, I will say this. I don't know if you have ever seen the show "Seinfeld," Jerry Seinfeld. Remember that show? Some of us are old enough to remember it, and some of us just like it.

They asked George one time, because he was going to tell a big, fat, whopping lie, and he said, "Well, the truth is the truth if you believe it is the truth, even if it is a lie."

Mr. Swalwell, I believe that is the deal in what you are doing. I am sorry. Sorry to have to say it to you, but that is what I think.

Mr. Dunham, thank you for coming in today.

Can I ask why the FBI wasn't present at our previous hearing?

Mr. DUNHAM. Yes, thank you, Congressman.

First, I would be remiss if I didn't mention I was born in Carney's Point.

Mr. VAN DREW. Ah.

Mr. DUNHAM. I have a lot of family in South Jersey—

Mr. VAN DREW. God bless you.

Mr. DUNHAM. —who are your constituents.

Mr. VAN DREW. Salem County.

Mr. DUNHAM. People territory down there. Love it.

I was with the director. He was testifying before the House Permanent Select Committee on Intelligence for their threat assessment hearing. I had conversation with the staff in advance of your March 9th hearing.

Mr. VAN DREW. Please excuse me. I don't mean to be rude.

Why didn't they just show up? Isn't it so much easier?

It is like everything else, why not just give us the documents? Why not just show up? You know something is wrong, intuitively something is wrong.

Again, Mr. Swalwell asked, what of the American people? They know something is wrong. Over 60 percent of them know that it is not right.

I love the FBI. I want to trust the FBI. I don't understand some of the things that are going on now. I don't understand why he wouldn't be here at this meeting. He should have been.

Mr. DUNHAM. I appreciate the flexibility of the Committee allowing me to come at a later date. I am here today to answer your questions.

Mr. VAN DREW. Thank you for doing that.

By the way, what I am going to do, and I know it is going to aggravate him a lot, I am going to talk about Mar-a-Lago again. Everybody ready, because we can say over, and over, and over again it doesn't matter. It has nothing to do whether you like Donald Trump or not.

You know why it matters? It matters because dozens of FBI agents descended upon Mar-a-Lago where there was a former sitting President who had Secret Service around him. Were they afraid of the Secret Service? Is that why they needed so many arms?

Did they think Donald Trump was going to come out and he was going to start shooting it up?

What was the reason, especially when there was cooperation, especially when it was done with our current President who had somewhat of a similar situation, and this didn't happen?

So, what is the answer to why did we need so many people? Why did we have to be so violent? Why did we have to be so aggressive?

Mr. CLINE. The gentleman is permitted to answer.

Mr. DUNHAM. Congressman, as you are aware, there are multiple special council investigations looking into not only the Donald Trump, former President Trump documents, but also the Biden documents as well. I would defer you to the Department of Justice for questions relating to this.

Mr. VAN DREW. That is not an answer. I am sorry.

I love you are from Carney's Point, but it is not an answer.

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

The gentleman from Maryland is recognized for five minutes.

Mr. IVEY. I would be happy to answer the question. Thank you.

The reason they went in after Donald Trump differently than they did with President Biden or Vice President Pence, as we discussed at the last hearing—this is like Groundhog Day—was because Trump hid documents and didn't comply with the subpoena that he was given.

He actually, apparently his lawyers lied on his behalf because he lied to his lawyers. That is why that lawyer had to testify, was ordered to testify by a judge last week.

So, on the Jim Jordan piece, which we also did at the last hearing, OK, he never said no, but of course we know he never said yes because, guess what, he never testified.

I have got an article here, it is by Luke Broadwater with *The New York Times*, entitled, "Jim Jordan Refuses to Cooperate with January 6th Panel."

I would ask for unanimous consent to have it admitted into the record.

Mr. CLINE. Without objection.

Mr. IVEY. With respect to the Jordan response which, again, we did it last, so I didn't know I was going to have to do it again, but let me just read it into the record.

They requested material from Jim Jordan in the form of a subpoena, I guess similar to what you just got, but in response, rather than just produce documents like all you have, and produce letters saying we look forward to complying and offer to meet with you so we can make compliance work, Jim Jordan sends a request back saying 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, if you all did something like that, they would send the cavalry after you. Because that is clearly a noncompliance. Not only that, it is about as close to saying a direct no as you can get.

So, we can go through this. it is clear Jim Jordan never testified. He never intended to testify. There are others who didn't as well. Speaker McCarthy didn't testify. Congressman Perry didn't testify, on and on, and on.

You are being held to a different standard. The standard you are being held to is unreasonable. Let me just say it that way.

You have done everything to comply. Your compliance would be totally acceptable in a court. The reaction of the Committee coming after you, like a subpoena the day after you responded, is outrageous.

I got to say the second hearing, too, even in the face of your ongoing compliance is a complete waste of time because you are doing everything to comply that they would be expected to.

In my view, this Committee really ought to be doing different things.

I earlier today—I was at a press conference about the Nashville shootings. The Judiciary Committee has jurisdiction over gun violence; is choosing not to exercise it. Republicans are choosing the Second Amendment over second graders. We are talking about banning books instead of banning assault weapons.

They have got the right to do that, but it is really time for us to get focused on real things. These investigations they are conducting, the Weaponization Committee they created, rather than deal with real weapons that we have got on our streets and in our schools right now, is another complete waste of time.

By the way, there was a reference to the public thinking this is good stuff, is actually quite the opposite. The public is already starting to recognize that. These hearings, these so-called investigative hearings which are chasing after nothing, the American people recognize that this has nothing to do with the things they care the most about.

They are worried about the economy. They are worrying about getting guns out of our schools. I think we have had 127 mass shootings just this year alone. Our response from the Republican side of the aisle is total silence on this. We get thoughts and prayers but, as Paul wrote, “faith without works,” is dead.

So, I hope that we can get focused on two things. If you are going to stay on this track, let’s be honest about what is going on here. The Chair mentioned in the face of continued obstruction. There is no evidence of obstruction here, there really isn’t.

In fact, the in-camera inspection that was done I think was at the recommendation or the offer of the minority staff. Then after the inspection was done, apparently some of this information got leaked out.

So, could be just a coincidence. I got to say, next time this Committee comes and says we want to see what you redacted, that has got to be in the minds, and appropriately, of these people who run the departments, especially when they are dealing with sensitive information. Whether it is ongoing investigations, sources and methods, or whatever, and certainly Grand Jury material, it is important for that front, too.

So, I yield back my time. I sure do hope we can get focused on things that really impact the American people.

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

Mr. Moran is recognized for five minutes.

Mr. MORAN. Thank you, Mr. Chair.

Mr. Rodriguez, I want to direct my questions for you. Thank you for taking the time to meet with us today.

At the last meeting, as you know, Secretary Gwen Graham was here to discuss document production issues. She pledged to meet immediately with staff and those involved in production to discuss the production, supplementation that was needed, and also redaction issues that came up at the last hearing.

I want to ask you, were you part of that meeting, Mr. Rodriguez?

Mr. RODRIGUEZ. No, sir, I was not.

Mr. MORAN. Have you met with Ms. Graham to discuss what she pledged to this Committee last time she was here? If so, what did you guys talk about?

Mr. RODRIGUEZ. I am aware of her commitment. We did not meet to discuss that further.

Mr. MORAN. All right. What preparation did you have between last meeting and this meeting to prepare for providing additional supplement, supplementation to what you testified to?

Mr. RODRIGUEZ. Well, sir, we, I have spent hours preparing for this hearing and to be able to answer your questions. I know our staff has met, I believe on three occasions over the last few weeks, to further discussion some of those redactions.

Mr. MORAN. In your preparation did you look through that thousand-plus pages that have been produced?

Mr. RODRIGUEZ. Yes, sir, I did.

Mr. MORAN. Did you look at them in unredacted form?

Mr. RODRIGUEZ. I also reviewed some of those, not every single line.

Mr. MORAN. OK. Let me show you what was just handed to you. I am going to reference it.

It is a list of 26 different documents by Bates number, starting with No. 1, Bates Number HJC-11816 all the way down to number 26, HJC-118850. It is a series of 26 sets of documents that this Committee has prioritized and asked you to produce at least in camera, without waiving the ability to see them in full and unredacted form for the Committee itself. The Committee staff has asked to look at these in unredacted form in camera.

Only two of them have been offered to be put up to do so. Do you know why it is only two and not all 26?

Mr. RODRIGUEZ. Sir, I do know that we are continuing our work to provide additional documents for the Committee's review. I believe there will be a third package as well of documents.

Mr. MORAN. Is that third package going to be unredacted copies of any of these 26 referenced on this page?

Mr. RODRIGUEZ. I cannot speak to the particular planned redactions or lack thereof for this next package. I do know that there are the two first and second documents that have been prioritized for discussions with this Committee to be made available in camera.

Mr. MORAN. Are you able to testify about why any of these documents on this 26, list of 26 has been actually redacted?

Mr. RODRIGUEZ. Well, I can speak, sir, to the process of redaction, which is consistent with longstanding process at the U.S. Department of Education across the course of multiple Administrations, and with executive branch confidentiality interests.

So, those redactions may be based on deliberative process, attorney-client privilege, personal information. I can say that many of those documents contained internal confidential communication.

The department remains ready—

Mr. MORAN. Let me stop you there.

Can you be more specific when you say internal confidential information? What do you mean by that other than personal information, or attorney-client privilege, or the deliberative process for this?

Mr. RODRIGUEZ. Sir, I mean those three things. Sorry.

Mr. MORAN. OK. So, is it your testimony that some of these documents on those 26 actually contain attorney-client privilege?

Mr. RODRIGUEZ. Again, I can't speak to this list of 26 documents, only to the first delivery of the package, and to say that we remain ready and will continue to meet with this Committee to provide further information in response to specific interests relative—

Mr. MORAN. So, who can, I would like to know who can actually tell me which privilege that you are asserting applies to which document?

Mr. RODRIGUEZ. That would be a process to continue in the conversations with this Committee. I know our staffs—

Mr. MORAN. No, I get that. You are not answering my question.

Who is it that we can sit at this table to ask that question as to why these documents are being redacted, and why this Committee staff is not being able to see them in camera?

Mr. RODRIGUEZ. I am happy to take that question back, sir.

Mr. MORAN. When can you get me an answer back out?

Mr. RODRIGUEZ. I will take that back and commit to getting back to this Committee after this hearing.

Mr. MORAN. You are going to be able to get me a specific name of a person that can tell me the specific reason why each of those documents is redacted? Is that what I hear you saying?

Mr. RODRIGUEZ. I am happy to take your request back and to continue and commit to our department continuing to work with this Committee on a case-by-case basis relative to specific redactions that the Committee is interested in seeing.

Mr. MORAN. You have mentioned a lot about, or you have mentioned something about the deliberative process privilege. Are you able to tell me what the common law elements are to assert that privilege?

Mr. RODRIGUEZ. No. I am not able to speak to those technical questions today. I can take those questions back for further discussion.

Mr. MORAN. Well, just for information, it has got to be predecisional, and it has got to be deliberative. Those communications must meet those two substantive elements. If it doesn't meet those two elements, it doesn't qualify for that privilege.

Now, there is some argument to say that privilege doesn't apply at all. Assuming it does even at all, it has got to meet those two requirements.

I would urge you and your colleagues to go back and look at each of these documents to make sure that you can in good faith say it does in fact. Because we are going to get to the bottom of these at some point. We are going to come back to the testimony you are

giving in this hearing today and we are going to understand whether or not that privilege is being asserted correctly or not.

In fact, it hasn't been officially asserted, I will just tell you, it hasn't been asserted at all except in the Committee room, which is not the appropriate place. It must be in writing and must be done before the subpoena deadline was to be responded to.

I yield back.

Mr. CLINE. The gentleman can respond if he wishes.

Well, let me just put it this way: I think that long and short what the gentleman said was the more we get, the less likely you are coming back. The less we get, the more likely we are going to see you again.

The gentlelady Ms. Lee is recognized.

Ms. LEE. Thank you, Mr. Chair.

Director Dunham, I would like to direct my questions to you.

On January 13, 2023, the FBI's Richmond Field Office published an official document that linked radically or ethnically motivated violent extremists with what the FBI referred to as radical-traditionalist Catholics.

This proposed targeting of Americans practicing their faith necessitate oversight by Congress and raises serious concerns about Americans being able to freely exercise their religion without having unlawful surveillance conducted by agents of Federal law enforcement.

As somebody who spent many years working alongside the brave men and women of the Bureau on the local level, we also here want to ensure that the FBI is directing its resources and its attention to helping protect our communities and keep our communities safe, as opposed to an undue or unwarranted focus on surveilling particular religious groups.

So, with that, is it correct to say, Director Dunham, this Committee, in fact, sent a correct to information—a request for information to the Bureau on February 16, 2023?

Mr. DUNHAM. I believe that is correct.

Ms. LEE. All right. In response to that request, to this date the Bureau has produced 18 pages of documents. Is that right?

Mr. DUNHAM. I think that is accurate.

Ms. LEE. All right. Among other things, this Committee requested a list of the FBI investigations, local law enforcement agency reporting, and liaison reporting, with varying degrees of cooperation and access the FBI's Richmond Field Office relied on to make its assessment. Have those documents been provided to date to this Committee?

Mr. DUNHAM. We have not provided those documents.

Ms. LEE. When will those documents be provided?

Mr. DUNHAM. I don't have a timeline for you yet. We, my letter that we sent last week I mentioned that there is an internal review going on to get to the bottom of a lot of these issues that you, that you referenced. I anticipate having ongoing dialog with the Committee and with staff, and will be able to provide more information once our review is complete.

Ms. LEE. Mr. Dunham, are you personally engaged in that review process?

Mr. DUNHAM. I am not.

Ms. LEE. Who at the FBI is engaged in that review process?

Mr. DUNHAM. I will have to take that back. I believe it might be through our Inspection Division. I will get back to you on that.

Ms. LEE. To this point, has the Inspection Division given you a date by which they will be producing these documents back to us?

Mr. DUNHAM. I don't have a date for you. I will get back to you.

Ms. LEE. All right. Is it also correct that this Committee requested a list of FBI employees involved in the drafting, reviewing, approving, or disseminating of the January 23, 2023, Domain Perspective entitled, "Interest of Racially or Ethnically Motivated Violent Extremist Radical-Traditionalist Catholic Ideology." We made that request to you as well; is that right?

Mr. DUNHAM. That's correct.

Ms. LEE. To this point have documents been provided in response to that request?

Mr. DUNHAM. We have not.

Ms. LEE. When will those documents be provided to this Committee?

Mr. DUNHAM. That is something that I will take back and I will get you information on.

What I will say is that some of that information may contain what we call non-SES employee information. That is something that through practice and policy we are more protective of our employees to avoid having them become targets of our adversaries for intel or operational purposes, to avoid them becoming targets of harassment, to avoid any limitations they may have.

It has been the FBI's position that decisions that are made are best reflected, best explained by the executives who direct those decisions. I anticipate having—

Ms. LEE. Assuming the FBI is capable of distinguishing between particular sensitive information it feels it needs to protect and that information which is something that is appropriate and necessary for us to engage in oversight, correct?

Mr. DUNHAM. Agree with that.

Ms. LEE. There are also multiple methods for producing and providing information to us that we have heard about, even during the course of this hearing, that could achieve both objectives of protecting the necessary identification information for agents who are out working in the field, but also ensure that as Members of Congress we have access to these vital documents to conduct our oversight, correct?

Mr. DUNHAM. Correct.

Ms. LEE. All right. Now, the Bureau's interests in this potential threat appear to be increasing as there was an upcoming election.

Can you elucidate for us why it would be that this particular subject was something that became of interest to the FBI as an election was approaching?

Mr. DUNHAM. I don't have, I am not a subject matter expert on this topic, I don't have any inside information on the product.

I think the attorney general, and the director have been clear in their testimony when asked about this that the products did not meet the FBI's exacting standards and it was unacceptable. That is why we are looking into how it came to be.

Ms. LEE. All right. Thank you, Director Dunham.

Mr. Chair, I yield back.

Mr. CLINE. I thank the gentlelady. We will start Round 2. I want to start by, just for the record, noting in response to some of Ranking Member's allegations about sensitive material being made public that the information that he alleges was improperly made public was actually provided by a whistleblower. That information was made public legally and under a May 11th letter and a November 4th report.

Mr. SWALWELL. Will you give us the whistleblower notes?

Mr. CLINE. I will take that under advisement. Let me go back to Ms. Bumpus. Ms. Bumpus, it has been well over a month since the Committee's oversight letter about the FTC's rulemaking on non-compete clauses was sent and explain that letter that FTC lacks legal authority to promulgate this rule. It is also running roughshod on federalism and well established area of State law.

On February 28th, the FTC provided a written response and only 43 pages of notifications that schedule a variety of meetings. On March 7th, over three weeks ago, the FTC made a production of around 1,400 more pages of materials. Of that production, only about 100 pages were not already publicly available, and none of them have provided any insight as to the internal discussions that have led to this radical proposed rule.

Understand that the FTC has said they will produce materials on a rolling basis. It has been more than a month since the FTC received this oversight letter and 22 days since the last production. When does the FTC expect to complete its production of responsive documents?

Ms. BUMPUS. Thank you, Mr. Chair. I can't tell you when we expect to complete it. I can tell you that we're continuing to work on it, and we expect to make another production in April. We've reached out to your staff, and we hope to engage with them to learn more about your priorities.

Mr. CLINE. OK. Well, it is well known that the FTC frequently seeks extensive information from private parties that it investigates. When those parties fail to produce what is required for the FTC to conduct its investigation, the FTC also seeks sanctions. In the FTC's response to this inquiry, most of what it has provided is already publicly available or otherwise incomplete. I find it quite remarkable and inconceivable that the FTC would tolerate such a production from parties under its own investigation. What should the Committee take from the FTC's paltry production to date on this important matter?

Ms. BUMPUS. I hope the Committee takes that we respect your oversight authority and that we'd like to be responsive. We look forward to continuing to work with you to get there.

Mr. CLINE. In its letter in response to the Committee's oversight of the FTC's proposed noncompete rulemaking, the FTC said that a CFPB employee served a detail to the FTC and worked on the rulemaking. This CFPB employee, quote,

. . . led the team on a daily basis. He supervised the drafting of the notice of proposed rulemaking, ensured versions of the draft NPRM were circulated to the team and bureaus for their review, ensured versions of the draft NPRM were circulated to the commission for its review, and oversaw any necessary legal research.

Ms. BUMPUS. This is an interesting and troubling development. It raises questions about former Commissioner Chopra's outsized remaining influence at the FTC. It is well known that Chair Khan was on Rohit Chopra's staff, and she gave jobs overseeing the competition and consumer protection missions as well Chief of Staff and Chief Technologist, Rohit Chopra's other staffers.

Now, we are learning Rohit Chopra's influence continues as he has assigned one of his CFPB employees to a detail at the FTC. That employee has led and supervised the FTC's noncompete rule-making effort. The Committee has questions related to the FTC's decision to staff this rulemaking in this way. However, for you as the Director of the Office of Congressional Relations who coordinates the FTC's responses to our inquiries, let me ask, did the FTC take any steps to coordinate your response to this Committee with the staff at the CFPB?

Ms. BUMPUS. Not that I'm aware of, Mr. Chair.

Mr. CLINE. When you helped coordinate the production to the Committee, did you raise the issue that additional searching would need to be done at the CFPB?

Ms. BUMPUS. I wasn't involved in the production itself. I don't know.

Mr. CLINE. Former Commissioner Rohit Chopra is the Director of CFPB. Has your office been in touch with him about responding to the Committee's request?

Ms. BUMPUS. I have not been in touch with him and no one in my office has.

Mr. CLINE. Who at the FTC is supervising the CFPB's employee's leadership on this issue? I would like a name.

Ms. BUMPUS. I'm not sure I understand the premise of your question.

Mr. CLINE. Who at the FTC is supervising over the CFPB, this specific employee's leadership in this area? Do you know of the employee of whom I am speaking?

Ms. BUMPUS. I believe the employee you're talking about was employed in the Office of Policy Planning.

Mr. CLINE. OK. Who is the head of—or who was supervising that official in policy and planning?

Ms. BUMPUS. I believe the current head of the Office of Policy and Planning is Elizabeth Wilkins.

Mr. CLINE. OK. In your experience, how common is it for the FTC to rely on staff of another Federal agency to lead its teams on a daily basis and supervise drafting of rules?

Ms. BUMPUS. I don't know.

Mr. CLINE. What other interaction does your office, or the FTC, have with the CFPB that this Committee should be aware of?

Ms. BUMPUS. I'm not sure of the extent of our interaction. I know that both of us, the agencies, are charged with consumer protection. So, I would assume that there would be interaction. I can't characterize the amount of it.

Mr. CLINE. OK. I just want to note that even in the limited materials that were provided, we can see that the FTC staff communicated using a staffer's personal Gmail account. In other instances, the employee was using the employee's CFPB account, and other CFPB employees were using their CFPB accounts to commu-

nicate with the FTC on this matter. I yield to the Ranking Member for five minutes.

Mr. SWALWELL. Ms. Bumpus, isn't it true that you all at the FTC had a consent decree with Twitter in 2011 and May 2022, well before Elon Musk bought that company?

Ms. BUMPUS. That's correct.

Mr. SWALWELL. Those consent decrees allege that Twitter had been reckless with consumer data. Is that correct?

Ms. BUMPUS. I don't want to characterize them, but they dealt with the company's practices with respect to data security and privacy.

Mr. SWALWELL. Mr. Rodriguez, which the Committee in Congress has jurisdiction over the Department of Education?

Mr. RODRIGUEZ. That would be the Education Workforce Committee and the Senate HELP Committee.

Mr. SWALWELL. That is not the Judiciary Committee? You didn't name them.

Mr. RODRIGUEZ. That's correct, sir.

Mr. SWALWELL. OK. So, you could argue that requests that Virginia Foxx has on the House Education Committee from you have to be balanced against requests that you have from a committee that's outside your jurisdiction. Is that right?

Mr. RODRIGUEZ. I am here to provide this Committee the information that it needs. We endeavor to balance all our Congressional requests.

Mr. SWALWELL. I hope this side cleared all this with Ms. Foxx because on our side, people would be pretty pissed off if you started going into another committee's jurisdiction knowing that Leg Affairs only has so much bandwidth. Well, I thank the witnesses. I am sorry you had your time thoroughly and exhaustively wasted here today.

I would like to enter into the record Jim Jordan's testimony to the January 6th Committee. He didn't testify to the January 6th Committee is what you are about to say. Actually, that is the point here is that there is no credibility.

There is no credibility on Jim Jordan's Committee to obstruct justice. He can't talk credibly about witnesses not complying with subpoenas, and that is why he is not here. He wasn't at the last hearing.

He often goes to Subcommittee hearings. This is one of the only ones he doesn't go to, and it is because there is no credibility. You can't ask people to comply. You can't complain when people don't comply when you are 321 days into your own noncompliance.

Just doesn't work. So, he won't come here. He will ask my friend, Mr. Cline here, who is doing his best job to represent Mr. Jordan to do that instead. Mr. Jordan won't come here.

Mr. Jordan will pull the old, I don't have my reading glasses, trick when he is asked if he will condemn a threat of death and destruction by the former President. Mr. Jordan and actually no one on this dais on the other side will condemn Donald Trump posting a picture of himself with a baseball bat next to an African American independent prosecutor. My colleagues continue to want to focus on Mar-a-Lago.

There is so many questions about the Mar-a-Lago search warrant from my colleague from New Jersey. That is not even the focus of this hearing. We learned zero today about what their allegations were.

I would actually say the only earnest questioning came from Mr. Moran and Ms. Lee who had real questions. Everything else was on behalf of Donald Trump. That's what we are going to continue to see from this side is litigating on behalf of just one client, Donald Trump.

Their credibility is in a free fall. The attacks on law enforcement continue. Right after the Mar-a-Lago search, Mr. Dunham knows this, a madman with an assault rifle went to an FBI field office.

Thankfully, he was killed by brave agents at the Bureau. The attacks from this side on law enforcement are only going to bring more attacks on law enforcement. I say that as someone who has two brothers who walk the beat.

When you bring witnesses in this building, in this room who tweet out, "fuck cops," what do you think is going to happen? People are going to take up violence against the cops. Those were your witnesses. You brought them here.

When you have a colleague that you don't condemn who says defund the FBI and you are silent, you let that happen, people are going to go after the FBI. So, we will waste more time. As Mr. Ivey pointed out, more kids will be victims of gun violence.

The Committee that can do something about it will focus on this nonsense. I know where Mr. Ivey and I are on the issue of gun violence. We are going to continue to stand up to protect kids. It is clear that these guys are only here to protect Trump. I yield back.

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

Mr. VAN DREW. Well, I would say the Ranking Member has made it clear. What he has made clear is that he is going to use gun violence as a political tool, and that is unfortunate. It is unfortunate to keep taking these children and their families and running them through the political gauntlet, because you want to gain some points with it. That isn't the point of this Committee.

I have questions. The first question, I want to thank Congresswomen Lee for bringing this up. It is OK to be Roman Catholic, right? Somebody answer me, please.

Mr. DUNHAM. Yes.

Mr. VAN DREW. OK. I was getting a little nervous. I am Roman Catholic.

Mr. IVEY. I will say yes.

Mr. VAN DREW. OK, OK. What is radical Catholic ideology? Why were we looking into that? What is that about?

Mr. DUNHAM. I am not able to speak to specifics of the actual product. I think that is what the internal review that I referenced earlier—

Mr. VAN DREW. Doesn't that concern you?

Mr. DUNHAM. Certainly, I agree with the director's statements that the product was inexcusable.

Mr. VAN DREW. Yes, it sure was. What would ever lead anybody to think that they could start investigating that? Now, I am not as good as I should be. I miss mass sometimes.

Mostly, mass is a very peaceful thing where people go to pray and get Holy Communion. What are we investigating? How did that ever get through at all, to even get started? Why did it have to be condemned when it never should have happened?

I just want to say something else too. Since Mr. Jordan was brought up again, I really hate doing this because we do have more important things. Mr. Swalwell stops, I will stop.

Again, here is his quote. "There's a reason I was concerned about testifying, but I never said no." This is a quote that is recorded. It is part of our hearing. It is part of the testimony.

The Chair has accepted it, and he has said that numerous times. Now, concern with testifying, I would be damn concerned testifying in front of that Committee. That Committee was a rigged Committee.

That Committee didn't tell the truth. That Committee was a political tool and nothing else. It was shameful that Congress was used in that way.

That Committee was in nobody's mind or nobody's sense bipartisan. So, Mr. Jordan didn't do anything wrong. He is always everywhere. Yes, I will defend him.

I think he is a damn good Member and a damn good Chair and doesn't deserve that. Nevertheless, if we have got to say it over and over again, I will say it over and over again. Just like I said if you have come over and over again, and you are probably huddled together at the beginning of the day and say, all right, who is going to have to put up with it today and decide who is going to go.

I feel bad that you have to go through it. You do because all we need is the information. If we get the information, we won't have to go through this process.

All I heard today is, I can't speak to the redaction. I can't tell us why we aren't giving access. I am not aware, not sure. I don't know. I don't know why it is so long. I don't know about the rule of law on this case. Have to take that back. Have to take it back.

We know no more—I am going to end this today in a similar way to when I ended the last one. We know virtually no more now that we knew then. You don't have the documents with you, right?

Correct, you do not have them? Can somebody answer that? Mr. Dunham, you don't have them? Ms. Bumpus, you don't have them? Mr. Rodriguez, you don't have them? I assume you didn't lose them, correct? Am I correct in my assumption? Please somebody answer me.

Mr. IVEY. You want me to answer that one too, or—

Mr. VAN DREW. Yes, I would like all three to answer. It is a pretty easy question. God help us. I hope it is an easy question. Because if you lost them, I would understand what happened.

Mr. DUNHAM. We are actively engaged in providing additional information to the Committee. We have made ten responses to the Committee since the January 17th letter, including productions totaling nearly 1,000 pages.

Mr. VAN DREW. You don't know what it is going to be. Why can't we just get all the information, get it done, look at it together. If you don't want us just to have it, learn what really happened. We know things happened here, that things went awry. We just do.

Do you want to talk about the American people? The American people know something is wrong. They know something went awry. They know something is wrong, and they just want to get answers, no more or less than we do.

We don't want to go on these tangents. If other people do, we will. Who at the FBI made the decision to not comply with these requests until a subpoena was actually issued. Can somebody tell me that?

Mr. DUNHAM. I'm not sure there's a sole decisionmaker there. We weren't aware of the school board request until we received the subpoena. We were operating under the January 17th Chair Jordan letter is our prioritization list to get information to the Committee for the 118th Congress.

Mr. VAN DREW. So, nobody is sure. Did the FBI only comply with the Committee's various questions on February 3rd? Were we complying before then? It is the elephant in the room, and it is my last question. I will yield back.

Are the way that Republicans are treated different in any way than the minority—as when we were the minority as Democrats? Is there any difference? When the Democrats were the majority and we were the minority, any difference in the way we are treated?

Mr. DUNHAM. There's absolutely no difference.

Mr. VAN DREW. Do you swear to me under oath that there is no difference?

Mr. DUNHAM. There's absolutely no difference, Congressman. We provided a response of information in the 117th, and that was through the form of written materials, briefings, testimony before the Full Committee, proactive information that we provided the Committee on a routine basis.

Mr. VAN DREW. So, then you would swear under oath, all three of you, that the information that we have is no more or less than the information—

Mr. IVEY. Point of order, Mr. Chair.

Mr. CLINE. The witnesses may answer.

Mr. DUNHAM. I'm not aware of any difference in how we operate or practice in policy. It's consistent.

Mr. VAN DREW. Thank you. I yield back.

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

Mr. IVEY. It is hard to know where to start with all that. The gentleman's comments about losing the documents, I also sit on Homeland Security. It is a little ironic because Democrats on Homeland Security have been trying to get the IG at the Department to come give us information about the loss of the January 6th information by the Secret Service with respect to text messages on January 5th and January 6th.

Our Republican colleagues to date haven't been helping us in accomplishing that. So, there is no evidence of loss of documents here. The Chair mentioned something about the FTC. When you seek information, if you don't get it, you go to sanctions.

I do want to point out that there's a lot of intermediate steps the courts require to be followed that this Committee has not followed before you get to sanctions. If you go to sanctions and request sanc-

tions too soon, sanctions get imposed on you. So, for example, in this instance, some of the subpoenas I looked at struck me as overbroad. They could have moved to quash.

They would never do that to this Committee out of respect for the House. That is certainly something that could have happened and probably would have happened in the private sector. Overbroad request? No deficiency letter from the Committee back?

Hey, we are missing this in writing. Also, as I mentioned before, the duty to consult, there have been some consultations. Usually, that has been the outreach of the departments to the Committee as opposed to vice versa. Issuing a subpoena the day after receiving the letter I thought was just over the top.

The comment about on a separate topic, mentioning gun violence means, quote, "these children and their families are being dragged through this again," was particularly striking. Just last week, we sat in this hearing room with families of gun violence, survivors listening to a hearing. They were trying to—this is the bill that was going to overturn the ATF restrictions on the shoulder straps.

They were here because they want to be here. They were here because they want something done about gun violence. They had children die, and that is why they showed up.

The same families that showed up or actually same types of parents that showed up a couple of hours ago on the steps of the Capitol, they had children that were killed. They had classmates that were killed. They are not unhappy about us bringing this up.

They are there because they want us to bring it up, and they are bringing it up too. In addition to bringing it up, it is really time to do something about it. The Republican response to gun violence, as Mr. Jeffries said a little while ago is basically in the witness protection program. Nobody can find what it is.

There is an effort to try to hide it behind these hearings that they don't have a response to gun violence or many of the issues that they complain about. The time has come to put up or shut up. With respect to the budget, with respect to funding, I have got the Vox article here.

The gentleman mentioned something about the American people want this. This is by Christian Paz. Quote, "The House GOP's investigations are flopping." That's the name of the article.

So, the American people see through this. They want us to do things that really impact their lives. This hearing which is essentially kind of an enforcement hearing on a subpoena which a judge wouldn't bother with.

He would say, you guys go back and figure this out, which is what we should be doing here and which they have offered to do. Trying to work this out in a Committee hearing when we don't sit down with the people who actually do the work and make the decisions and can go through the redactions that you want. Let's go meet with them.

Let's do it that way. Let's get it done instead of wasting time at the hearings like this. Then the last point about concern about testifying.

Mr. Jordan didn't show up because the January 6th Committee was stacked and unfair to Republicans. I just want to remind everybody here almost all the witnesses that testified at the January

6th hearing were Republicans. In fact, one of them was President Trump's daughter.

One of was former President Trump's son-in-law. One of them was former President Trump's Attorney General. They weren't too scared to go testify.

They went. They got subpoenas. Some of them actually just complied voluntarily. They went and testified. Mr. Jordan didn't. The Speaker didn't. Others didn't.

So, let's not pretend like that was some scary trap that was being set. They just didn't go because they didn't want to go. That's basically what is going on here today with respect to this hearing. Let's not hold them to a higher standard than we hold ourselves because that is exactly what this hearing is about. With that, I yield back.

Mr. CLINE. I thank the gentleman. I will note to Mr. Dunham I was reminded that in the last hearing last month the representative from the Department of Justice did concede that Members of the minority were responded to differently than Members of the majority. So, while the FBI may have a different policy, Department of Justice apparently responds to Members of the majority while ignoring Members of the minority's requests.

Mr. IVEY. Will the gentleman yield, because we discussed this last time?

Mr. CLINE. Go ahead.

Mr. IVEY. OK. Will the majority under our Committee rules has authority to get responses that the minority does not? Now, if you are agreeing today that we can get that same authority, I would appreciate it. We would love to have that not just with respect to this hearing, but other hearings that we want to go forward with—

Mr. CLINE. You just made my point.

Mr. IVEY. —like the one I just mentioned.

Mr. CLINE. You just made my point. There is different treatment for the majority than the minority. I just wanted to caution as he answers the question.

[Simultaneous speaking.]

Mr. CLINE. The gentleman from Texas is recognized for five minutes.

Mr. IVEY. These were the rules that you proposed and you voted in. Very well.

Mr. MORAN. Thank you, Mr. Chair. First, I would ask procedurally that the list of 26 priority documents that I handed—or that was handed to Mr. Rodriguez during my first round of questions be admitted into the record.

Mr. CLINE. Without objection.

Mr. MORAN. Mr. Ivey just say a judge wouldn't bother with this. I just want to make a little comment about that. I was a judge, and I would tell you I would have bothered with this because if it was brought to me, I didn't like it when parties played shell games with discovery and lawsuits. I frankly wouldn't put up with it.

I would make parties produce relevant documents that they needed to in a lawsuit. Mr. Swalwell also called this hearing a waste of time. Ms. Bumpus, I want to ask you, do you think it is a waste of time for this Committee to seek information on behalf

of the U.S. taxpayers that they deem relevant through their duly elected representatives in Congress?

Ms. BUMPUS. No, I don't.

Mr. MORAN. All right. Ms. Bumpus, thank you for that. I appreciate that answer because I don't think it is a waste of time either. I think it is exactly what we should be doing. Did you discuss with Chair Jordan and Senator Cruz's—did you discuss Chair Jordan and Senator Cruz's March 10th letter with Chair Khan?

Ms. BUMPUS. No, I did not.

Mr. MORAN. Did you discuss the letter with Chair Khan's Chief of Staff or any of her other direct reports?

Ms. BUMPUS. I believe I did engage with her Chief of Staff.

Mr. MORAN. OK. Only her Chief of Staff?

Ms. BUMPUS. I'm sorry. I think I did speak to Chair Khan briefly when we received the letter as well.

Mr. MORAN. What was the nature of those discussions?

Ms. BUMPUS. To inform them that we had received the letter.

Mr. MORAN. That was all the discussion was?

Ms. BUMPUS. That was the essence of the discussion?

Mr. MORAN. Then did you followup with Chair Khan's Chief of Staff?

Ms. BUMPUS. I think the process when we receive requests for nonpublic information under the commission's rule is to refer the request to the Office of General Counsel. Those requests are then sent to relevant offices and bureaus around the commission depending on the nature of what's being asked for, for a response.

Mr. MORAN. So, as it relates to the nature of what is being asked for in the March 10th letter, who would be responsible for collecting the documents in response to the March 10th letter?

Ms. BUMPUS. I think we have staff throughout the commission who may have those records who are working on the response.

Mr. MORAN. Can you identify any of those staff?

Ms. BUMPUS. Not at this time, no.

Mr. MORAN. Can you identify a supervisor, somebody over the staff that we could go to, to figure out exactly who is going to respond to the March 10th letter?

Ms. BUMPUS. I believe it would be the Bureau of Consumer Protection.

Mr. MORAN. Do you know if any of the documents have been collected to date in response to that March 10th letter?

Ms. BUMPUS. I don't know.

Mr. MORAN. Do you know who would know that?

Ms. BUMPUS. I don't know. I'm happy to get back to you on that.

Mr. MORAN. Do you know whether or not any text messages have been collected in response to the March 10th letter request?

Ms. BUMPUS. I don't know.

Mr. MORAN. Again, would you know who would know that?

Ms. BUMPUS. I'm happy to get back to you on that.

Mr. MORAN. Can you get back to me this week?

Ms. BUMPUS. I'm happy to inquire.

Mr. MORAN. All right. Has anybody told you or not to produce any specific documents to the Committee that are responsive to the March 10th letter?

Ms. BUMPUS. Not at all. The Committee has not refused to produce any documents.

Mr. MORAN. Are you aware of anyone being told not to produce specific documents that are responsive to the March 10th letter?

Ms. BUMPUS. Not at all.

Mr. MORAN. Does the FTC ever brief Congress on nonpublic investigations?

Ms. BUMPUS. Yes, we do.

Mr. MORAN. Why would this investigation be any different?

Ms. BUMPUS. I believe that providing nonpublic briefings which we do at the request of Chairs and Subcommittee Chairs of relevant Committees is often the fastest way to inform those committees. We have engaged in that practice for many years and continue to do that.

Mr. MORAN. I assume then that the FTC also briefs the White House on nonpublic investigations. Is that true as well?

Ms. BUMPUS. Not that I'm aware of, no.

Mr. MORAN. One of the requests in the March 10th letter is for communications with the White House related to Mr. Musk. Do you know why none of these documents have been produced to date?

Ms. BUMPUS. I'm not.

Mr. MORAN. Do you know who would be aware of why those haven't been produced to date?

Ms. BUMPUS. I don't know whether they exist, and I don't.

Mr. MORAN. So, can you tell me anybody at all specifically by name that is involved in responding to the March 10th letter?

Ms. BUMPUS. My name is Jeanne Bumpus. I'm the head of the Office of Congressional Relations. I coordinate communications between the agency and the Committee.

Mr. MORAN. I appreciate that, but you really haven't given me any information today. So, I am curious if you could give me the name of anybody with actual answers to my questions that relate to the March 10th letter and the response to that letter.

Ms. BUMPUS. I'm happy to get back to you on that, Congressman.

Mr. MORAN. All right. Thank you. I yield back.

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

Ms. LEE. Thank you, Mr. Chair. Director Dunham, I'd like to spend a few moments discussing the FISA process. Now, would it be correct to say that the purpose overall of FISA is to collect information about espionage or terrorism from foreign powers or the agents of foreign powers?

Mr. DUNHAM. Certainly, one of the reasons. I'm not a subject matter expert on FISA.

Ms. LEE. It is the purpose being foreign intelligence information collection, correct? Now, it wouldn't be used by contrast for the purpose of collecting information for purely domestic criminal activity. Is that right?

Mr. DUNHAM. I'm not a subject matter expert to answer any of those types of questions. What I can tell you is I know we've offered a pretty extensive substantive response to the Committee's inquiries that we sent last week or the week before, 10-plus pages responding to your questions plus 400-plus pages of document pro-

ductions. I believe we're in the process of setting up a briefing for Committee staff and Members.

I know this is a topic that's really a legislative priority for the FBI. So, I'm more than happy to get the right person in front of you to answer the questions related to FISA so that we can alleviate a lot of the Committee's concerns and also educate on a lot of the reforms that we've put into place over the last two years that go to some of the heart of those concerns as well.

Ms. LEE. So, as you sit here with us today then, it would be your position that you are not qualified to share with us the scope of the FISA process and whether it might relate to, say, domestic criminal activity versus the collection of information about foreign adversaries and foreign terrorist threats?

Mr. DUNHAM. I'm certainly not qualified on a lot of things in FISA, FISA, getting to the bottom of FISA, the definitions, the ins and outs of the process, why we use it, the value of it. I would feel more comfortable having a subject matter expert come before you and really dig into it.

Ms. LEE. You are aware, are you not, that in the past, the Office of the Inspector General has concluded that the FBI has engaged in overreach as it relates to information collection within the FISA courts?

Mr. DUNHAM. I'm aware of some of those reports, correct.

Ms. LEE. This Committee made a request of the FBI that states, in part, the Office of The Director of National Intelligence's Annual Statistical Transparency Report revealed that from December 2020–November 2021 the FBI conducted over 3.3 million U.S. person queries against its 702 holdings. This was a substantial increase from the number of U.S. person queries the FBI conducted from December 2019–November 2020 which the report stated was approximately 1.3 million. Now, can you share for us today why that number increased?

Mr. DUNHAM. I can't share for you the specifics. What I can tell you is I believe the response that you received on March 14th goes to the heart of a lot of those questions the Committee had. We are in the process of offering a briefer to go over a lot of the questions the Committee has, in addition to—

Ms. LEE. If you have identified for us that you don't perceive that you are the internal subject matter expert on FISA at the Bureau, who would be the person that we should bring in if we wanted to have a thorough discussion about the scope of FISA and the responses to our substantive requests?

Mr. DUNHAM. We have a FISA team that's responsible for responding to Congressional engagements, Congressional information requests. I'm happy to have one of them come before the Committee for a briefing. I think we're in the process of setting that up, actually.

Ms. LEE. All right. Thank you, Director Dunham. Mr. Chair, I yield back.

Mr. CLINE. All right. I thank the gentlelady. That concludes today's hearing. We thank our witnesses for appearing before the Committee today.

As we said, the more we hear from you between now and the next time, the less likely it is that we will see you next time. With-

out 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 3:36 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=115601>.

