

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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September 29, 2023

Mr. Robert Flaherty
c/o Brandon L. Arnold
Kramer Levin
2000 K St. NW, 4th Floor
Washington, D.C. 20006

Dear Mr. Flaherty:

The Committee on the Judiciary is continuing to conduct its investigation into how and to what extent the Executive Branch has coerced and colluded with companies and other intermediaries to censor speech.¹ As part of the Committee's constitutional oversight obligations, we write to reiterate our request that you appear for a transcribed interview with the Committee.²

Since our June 23, 2023 letter to you, the Committee has obtained additional documents further demonstrating the central role you played in communicating the Biden White House's censorship demands to social media companies, including the White House's demands to censor true information.³ For example, internal Facebook documents obtained by the Committee illustrate your specific role in threatening high-ranking Facebook executives to censor Americans' speech, including critics of the Biden Administration.⁴ These internal notes reveal that you sought to have Facebook "kick people off" the platform, change its newsfeed algorithm, and "play ball" with the Biden Administration's censorship demands.⁵

¹ See, e.g., Ryan Tracy, *Facebook Bowed to White House Pressure, Removed Covid Posts*, WALL ST. J. (July 28, 2023); Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752; Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 7, 2023, 10:11 AM), https://twitter.com/Jim_Jordan/status/1688553339624042496; Rep. Jim Jordan (@Jim_Jordan), Twitter (Sept. 5, 2023, 6:17 PM), https://twitter.com/Jim_Jordan/status/1699184930331267539.

² See Letter from Hon. Jim Jordan, Chair, H. Comm. on the Judic., to Mr. Robert Flaherty (June 23, 2023).

³ Rep. Jim Jordan (@Jim_Jordan), TWITTER (July 27, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684595375875760128; Rep. Jim Jordan (@Jim_Jordan), Twitter (July 28, 2023, 12:03 PM), https://twitter.com/Jim_Jordan/status/1684957660515328001.

⁴ Rep. Jim Jordan (@Jim_Jordan), Twitter (Aug. 3, 2023, 11:00 AM), https://twitter.com/Jim_Jordan/status/1687116316073930752.

⁵ *Id.*

In your attorney's July 7, 2023 response to the Committee, he asked that the Committee "direct [its] request to the White House in the first instance."⁶ The Committee, however, has already engaged with the White House about these topics and the White House has refused to respond substantively to our requests. Instead, in response to the Committee's good-faith attempts to obtain necessary documents and information, the White House has argued that the Committee must first "exhaust[] other means of obtaining the information," including for information that is exclusively in the possession of the Executive Office of the President and no other federal agency.⁷ Although the Committee does not agree with the White House's position, as a show of good faith, the Committee has exhausted other options for information, including by issuing document subpoenas to federal agencies, technology companies, and other relevant third parties, as well as interviewing personnel at these entities. In fact, it was the Committee's threatened enforcement of its subpoenas to technology companies that yielded information demonstrating your central role in the government's efforts to censor or remove certain viewpoints on social media.

The Committee has good reason to believe that you possess specialized and unique information that is unavailable to the Committee through other means. Given your extensive personal involvement in the government's efforts to censor or remove certain viewpoints on social media, you are uniquely situated to advance the Committee's oversight and inform potential legislative reforms. For example, as one of the Biden White House's primary representatives responsible for interfacing with large social media companies, you may have knowledge about the officials within the White House responsible for leading the Biden censorship regime as well as about the meaning of messages you and others sent to social media companies, including messages that appear to suggest consequences for non-compliance. Your testimony will inform the Committee's legislative reforms aimed at preventing and prohibiting an out-of-control Executive Branch from wielding its immense power to pressure social media platforms to censor disfavored viewpoints. Accordingly, we reiterate our request that you appear promptly for a transcribed interview with the Committee without any further delay.

Pursuant to the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction to conduct oversight of matters concerning "civil liberties" to inform potential legislative reforms.⁸ These legislative reforms include the possible enactment of new statutory limits on the Executive Branch's ability to work with social media platforms and other companies to restrict the circulation of content and deplatform users. To develop effective legislation, the Committee must first understand how and the extent to which the Executive Branch coerced and colluded with companies and other intermediaries to censor speech. In addition, H. Res. 12 authorized the Committee's Select Subcommittee on the Weaponization of the Federal Government to investigate "issues related to the violation of the civil liberties of citizens of the United States."⁹

⁶ Letter from Mr. Brandon L. Arnold to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (July 7, 2023).

⁷ Letter from Richard Sauber, Special Counsel to the President, to Hon. Jim Jordan, Chair, H. Comm. on the Judic. (June 29, 2023).

⁸ Rules of the House of Representatives R. X (2023).

⁹ H. Res. 12 § 1(b)(1).

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Please contact Committee staff as soon as possible but by no later than 5:00 p.m. on October 13, 2023, to schedule your transcribed interview. The Committee is prepared to resort to compulsory process, if necessary, to obtain your testimony. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is fluid and cursive, with the first name "Jim" and last name "Jordan" clearly distinguishable.

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member