

United States Senate
Washington, DC 20510

November 8, 2023

The Honorable Merrick Garland
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington D.C. 20530-0001

Dear Attorney General Garland,

We write to express deep concern regarding recent revelations that the Department of Justice engaged in a campaign of covert surveillance of the personal communications of attorneys advising congressional oversight committees.¹ The decision by unelected government bureaucrats to investigate the elected congressional representatives and congressional staff trying to hold them accountable is a true attack on our democracy.

An October 24, 2023 Freedom of Information Act (FOIA) request by Empower Oversight revealed that the Department subpoenaed a Senate staffer's private phone and email logs during the pendency of a bicameral congressional investigation of both the Department and the FBI for their involvement in the Russia-collusion hoax known as Crossfire Hurricane.² In one instance, the Department subpoenaed Google for all telephone connection records and text message logs for the Chief Investigative Counsel to the Chairman of the Senate Judiciary Committee during the very time period that this staffer directed oversight into Department misconduct.

Further records indicate that the personal records of a House staffer employed by the House Permanent Select Committee on Intelligence ("HPSCI") were additionally targeted as part of this vendetta campaign. Notably, in January 2018, Deputy Attorney General Rod Rosenstein threatened to subpoena HPSCI staff personal

¹ Margot Cleveland, *DOJ Subpoenaed Phone And Email Logs Of Hill Staffers Probing Crossfire Hurricane Malfeasance*, THE FEDERALIST (Oct. 25, 2023),

<https://thefederalist.com/2023/10/25/doj-subpoenaed-phone-and-email-logs-of-hill-staffers-probing-crossfire-hurricane-malfeasance/>

² *Id.*; Empower Oversight, *FOIA Request for Records Regarding Subpoena of U.S. Senate Staffer's Personal Communication Records*, (Oct. 24, 2023), <https://empowr.us/wp-content/uploads/2023/10/2023-10-24-TL-to-DOJ-re-GJ-subpoenas-Senate-Staffers-Final-w-Exh-A.pdf>

records during a confrontation over the Justice Department's failure to comply with that committee's compulsory process.³ But even so, the targets of the Department and the FBI were not limited to Republican staffers. Democrats in Congress have called for investigations into the targeting of their private communications as well, targeting which reportedly included subpoenas to Apple for information about HPSCI aides and their families, including even one account belonging to a child.⁴

Empower Oversight has submitted a FOIA request for all relevant documents, including grand-jury subpoenas, communications between various offices, and correspondence with the press. While FOIA requests serve as a valuable tool for transparency, it is evident that in matters of such magnitude such as the one here, additional measures must be taken to ensure openness and accountability.

Notwithstanding the investigation by the Department's Inspector General, Congress is entitled to conduct its own parallel review of this important matter. Accordingly, we ask that you respond to the following questions and requests by November 22, 2023:

1. Please provide the names of all officials at the Department of Justice that drafted, supervised, or approved the issuance of the grand jury subpoenas in question or otherwise related to the consolidated leaks cases.
2. Please provide the names of all persons employed by both the Senate and the House of Representatives, including Members of Congress, for which subpoenas were issued in relation to the consolidated leaks cases.
3. Please provide the names of all persons employed by both the Senate and the House of Representatives, including Members of Congress, for which subpoenas were sought, but not issued, in relation to the consolidated leaks cases.
4. Please provide the specific predicate, criteria, or evidence that justified the Department's seeking of grand jury subpoenas to access personal

³ Catherine Herridge, *Rosenstein threatened to 'subpoena' GOP-led committee in chilling clash over records, emails show*, FOX NEWS (Jun. 12, 2018), <https://www.foxnews.com/politics/rosenstein-threatened-to-subpoena-gop-led-committee-in-chilling-clash-over-records-emails-show>

⁴ Myah Ward, *Adam Schiff calls for investigation after report of his phone records being seized by Trump DOJ*, POLITICO (Jun. 10, 2021) available at <https://www.politico.com/news/2021/06/10/adam-schiff-investigation-trump-doj-493343>

communications of Members of Congress, congressional staffers, and their families, including the legal basis for such actions.

5. Please provide information regarding Deputy Attorney General Rosenstein's involvement in the approval or issuance of the subpoenas described above, or as responsive to Questions 2 and 3, specifically whether Deputy Attorney General Rosenstein was briefed or otherwise made aware of, ordered, directed, or supervised any of these actions, or, rather whether they were executed without his knowledge or consent.
6. Please submit to the Senate Committee on the Judiciary all documents or communications referencing U.S. District Court for the District of Columbia grand jury subpoena number GJ2017091241939.
7. Please submit to the Senate Committee on the Judiciary all documents or communications referencing U.S. District Court for the District of Columbia grand jury subpoena number 2017R01896.
8. Please provide all other means by which the Department searched for information relating to Members of Congress, congressional staff, or their families, including specific databases searched and use of FISA authorities or data previously collected under FISA authorities.
9. Please indicate whether the Department is still in possession of the documents it received pursuant to the grand jury subpoenas. If not, please provide the date and method of disposal.
10. Please identify all indicators or identifiers, and types of indicators or identifiers, used to locate or obtain information on Members of Congress, congressional staff, or their families, specifying whether the indicators were personal or official Senate or House devices or phone numbers.
11. Please identify all companies or organizations subpoenaed, such as Google, Verizon, Apple, AT&T, and others, as part of the consolidated leak cases for information on Members, staffers, and their families.

This extensive and far-reaching effort to use grand jury subpoenas and perhaps other means to gather the personal communications records of congressional staffers and their families with little or no legitimate predicate is absolutely unacceptable. The executive branch overreach and gross violation of separation of powers apparent in

this case no doubt shocks the conscience and shakes public confidence in our justice system to its core. The public deserves answers.

In light of these very serious concerns, we await your detailed and speedy response.

Sincerely,



Ted Cruz
United States Senator



Mike Lee
United States Senator



Charles E. Grassley
United States Senator