

Congress of the United States

Washington, DC 20515

January 31, 2024

Mr. Edward Siskel
White House Counsel
1600 Pennsylvania Ave. NW
Washington, DC 20500

Dear Mr. Siskel:

The House Committees on Oversight and Accountability, Judiciary, and Ways and Means (collectively, the “Committees”) are investigating whether sufficient grounds exist to draft articles of impeachment against President Biden for consideration by the full House.¹ On August 17, 2023, the Oversight Committee sent a request to the National Archives and Records Administration (NARA) to release presidential records relating to President Biden’s time as Vice President, pursuant to the Presidential Records Act.² Among other items, the Oversight Committee’s August 17 letter requested that NARA produce “[a]ll drafts from November 1, 2015 to December 9, 2015 of then-Vice President Biden’s speech delivered to the Ukrainian Rada on December 9, 2015.” For more than five months the White House has declined to authorize the production of these draft speeches to the Oversight Committee or to assert a valid privilege over them. Such a lengthy delay in processing a discrete and limited category of documents is unacceptable and appears to represent an attempt to obstruct the Committees’ legitimate investigation. These dilatory tactics must cease, and the White House must permit NARA to release these documents forthwith.

Pursuant to federal law, the Oversight Committee may request from NARA presidential records from former administrations,³ and those records must be made available to the Committee “subject to any rights, defenses, or privileges which the United States or any agency or person may invoke.”⁴ This White House has previously permitted NARA to provide Congress with presidential records related to the Trump Administration after only one month of White House review.⁵ We expect the White House to do the same in this instance.

On August 17, 2023, the Oversight Committee requested NARA compile and release documents to the Committee relating to several areas for which the Committee requires additional information in furtherance of its investigation of President Biden’s participation in his

¹ See H. Res. 918, 118th Cong. (2023); Memorandum from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, & Hon. Jason Smith, Chairman, H. Comm. on Ways & Means, to H. Comm. on Oversight & Accountability, H. Comm. on the Judiciary, & H. Comm. on Ways & Means. Re: Impeachment Inquiry (Sept. 27, 2023).

² Letter from Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability to Hon. Colleen Shogan, Archivist, Nat’l Archives & Records Admin. (Aug. 17, 2023).

³ 44 U.S.C. § 2205(2)(C).

⁴ 44 U.S.C. §§ 2205(2).

⁵ See, e.g., Letter from Dana A. Remus, Counsel to the President, to David Ferriero, Archivist, Nat’l Archives & Records Admin. (Oct. 8, 2021).

family's business schemes. As relevant here, the Oversight Committee asked NARA to produce "[a]ll drafts from November 1, 2015 to December 9, 2015 of then-Vice President Biden's speech delivered to the Ukrainian Rada on December 9, 2015." NARA has informed the Oversight Committee that within a week of receiving the Committee's request, NARA was able to provide the White House with the full set of documents that cover this request.

Since August 24, 2023, however, the White House has refused to permit NARA to provide the Oversight Committee with any documents related to the 2015 Ukraine speech delivered by then-Vice President Biden. Rather, relying on Executive Order 13489, the White House has extended its review period by 60 days on three separate occasions—September 22, 2023; November 21, 2023; and January 22, 2024. On September 22, 2023—the same day as its first extension—the White House informed NARA that:

Pursuant to section 2(b) of Executive Order 13489, please extend the time period by 60 days during which the incumbent President may review the records that NARA maintains are responsive to Request #4 in Chairman Comer's August 17, 2023 letter. That request seeks all drafts of a particular foreign policy speech given by then-Vice President Biden. Release of this material would be fairly extraordinary, as it may make public foreign affairs deliberations of the person who is now the sitting President and his advisers, and as such requires additional review and analysis. **This extension will also give us time to explore appropriate accommodations with Chairman Comer** so as to avoid the concerns mentioned above.⁶

To date, the Oversight Committee has no record of anyone from the White House attempting to contact the Committee to "explore" any accommodation regarding these documents, casting considerable doubt as to whether the White House has requested these extensions in good faith or is simply attempting to delay the production of this very limited tranche of documents to the Committee. Nor has the White House asserted any privilege over these draft speeches, presumably because none is applicable.

On January 25, 2024, the Archivist of the United States, Dr. Colleen Shogan, informed the Committees that she had "no insight into the decision-making process the White House is using for their review and release of these records" and confirmed that NARA "does not make the decision about when and which responsive records are cleared for release to Congress by [Presidential Records Act] representatives."⁷ In short, NARA has identified the White House as the sole party responsible for the stonewalling of this request.

The Committees now demand that the White House permit NARA to produce the following information no later than February 7, 2024:

⁶ E-mail from Richard A. Sauber, Special Counsel for the President, The White House, to Nat'l Archives and Records Admin. staff (Sept. 22, 2023) (emphasis added).

⁷ Letter from Hon. Colleen J. Shogan, Archivist, Nat'l Archives and Records Admin., to Hon. James Comer, Chairman, H. Comm. on Oversight & Accountability, Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary, & Hon. Jason Smith, Chairman, H. Comm. on Ways & Means (Jan. 25, 2024).

- All drafts from November 1, 2015 to December 9, 2015 of then-Vice President Biden's speech delivered to the Ukrainian Rada on December 9, 2015.

If the White House does not either authorize the production of all documents NARA has identified as responsive to this request or assert a legitimate privilege by that date, the Oversight Committee will consider the use of compulsory process to require the White House's production of the speeches.

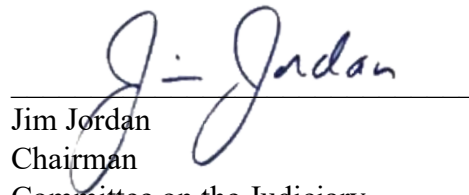
If you have any questions regarding this letter, please contact Oversight Committee staff at (202) 225-5074.

Thank you for your cooperation with the impeachment inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability



Jim Jordan
Chairman
Committee on the Judiciary



Jason Smith
Chairman
Committee on Ways and Means

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Richard E. Neal, Ranking Member
Committee on Ways and Means