

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

\_\_\_\_\_  
MARK MEADOWS,  
1023 North Royal Street, Unit 302  
Alexandria, VA 22314,

*Plaintiff,*

v.

Case No. \_\_\_\_\_

NANCY PELOSI, in her official  
capacity as Speaker of the United States  
House of Representatives;

BENNIE G. THOMPSON, in his official  
capacity as Chair of the Select Committee  
to Investigate the January 6th Attack on the  
United States Capitol;

ELIZABETH L. CHENEY, in her official  
capacity as a member of the United States  
House of Representatives;

ADAM B. SCHIFF, in his official  
capacity as a member of the United States  
House of Representatives;

JAMIE B. RASKIN, in his official  
capacity as a member of the United States  
House of Representatives;

SUSAN E. LOFGREN, in her official  
capacity as a member of the United States  
House of Representatives;

ELAINE G. LURIA, in her official  
capacity as a member of the United States  
House of Representatives;

PETER R. AGUILAR, in his official  
capacity as a member of the United States  
House of Representatives;

STEPHANIE MURPHY, in her official	)
capacity as a member of the United States	)
House of Representatives;	)
	)
ADAM D. KINZINGER, in his official	)
capacity as a member of the United States	)
House of Representatives;	)
	)
SELECT COMMITTEE TO	)
INVESTIGATE THE JANUARY 6TH	)
ATTACK ON THE UNITED STATES	)
CAPITOL;	)
	)
	)
<i>Defendants.</i>	)
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## **COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

### **INTRODUCTION**

1. Plaintiff, the Honorable Mark Meadows (“Mr. Meadows”), a private citizen who previously served as a Member of Congress and subsequently as Chief of Staff to the President of the United States, brings this complaint for declaratory and injunctive relief to invalidate and prohibit the enforcement of two overly broad and unduly burdensome subpoenas from a select committee of the U.S. House of Representatives (the “Select Committee”) issued in whole or part without legal authority in violation of the Constitution and laws of the United States.

2. The Select Committee wrongly seeks to compel both Mr. Meadows and a third-party telecommunications company to provide information to the Select Committee that the Committee lacks lawful authority to seek and to obtain. The Select Committee acts absent any valid legislative power and threatens to violate longstanding principles of executive privilege and immunity that are of constitutional origin and dimension. Without intervention by this Court, Mr. Meadows faces the harm of both being illegally coerced into violating the Constitution and having

a third party involuntarily violate Mr. Meadows rights and the requirements of relevant laws governing records of electronic communications. Only this Court can prevent these grave harms.

3. For months, Mr. Meadows has consistently sought in good faith to pursue an accommodation with the Select Committee whereby it could obtain relevant, non-privileged information. While the Committee and Mr. Meadows engaged over a period of time in an effort to achieve such reasonable accommodation, the Select Committee adamantly refused to recognize the immunity of present and former senior White House aides from being compelled to appear before Congress and likewise refused to recognize a former president's claims of Executive Privilege and instructions to Mr. Meadows to maintain such privilege claims in addressing the Select Committee's inquiries.

4. The current President of the United States, through counsel, purported to waive the former president's claims of privilege and immunity.

5. As a result, Mr. Meadows, a witness, has been put in the untenable position of choosing between conflicting privilege claims that are of constitutional origin and dimension and having to either risk enforcement of the subpoena issued to him, not merely by the House of Representatives, but through actions by the Executive and Judicial Branches, or, alternatively, unilaterally abandoning the former president's claims of privileges and immunities. Thus, Mr. Meadows turns to the courts to say what the law is.

### **PARTIES**

1. Plaintiff Mark Meadows served as Chief of Staff to President Donald J. Trump from March 31, 2020 until January 20, 2021. Mr. Meadows is currently a senior partner at the Conservative Partnership Institute in Washington, D.C. Mr. Meadows previously served as a

Republican member of the U.S. House of Representatives, representing North Carolina's 11th Congressional District, from January 3, 2013 to March 30, 2020.

2. Defendant Nancy Pelosi ("Speaker Pelosi") is a Democrat member of the U.S. House of Representatives and Speaker of the House.

3. Defendant Bennie G. Thompson ("Chairman Thompson") is a Democrat member of the U.S. House of Representatives and Chairman of the Select Committee to Investigate the January 6th Attack on the United States Capitol. Subpoenas challenged herein were issued with his authority as Chair.

4. Defendant Elizabeth L. Cheney is a Republican member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

5. Defendant Adam B. Schiff is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

6. Defendant Jamie B. Raskin is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

7. Defendant Susan E. Lofgren is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

8. Defendant Elaine G. Luria is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.



9. Defendant Peter R. Aguilar is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

10. Defendant Stephanie Murphy is a Democrat member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

11. Defendant Adam D. Kinzinger is a Republican member of the U.S. House of Representatives and members of the Select Committee to Investigate the January 6th Attack on the United States Capitol.

12. Defendant Select Committee to Investigate the January 6th Attack on the United States Capitol (the “Select Committee”) is a select committee created by House Resolution 503 (“H. Res. 503”) passed by the U.S. House of Representatives on June 30, 2021.

### **JURISDICTION AND VENUE**

13. This Court has subject matter jurisdiction, pursuant to 28 U.S.C. § 1331, because this action arises under the Constitution and laws of the United States.

14. This Court has personal jurisdiction over Speaker Pelosi because she sponsored H. Res. 503 and oversaw its passage in the House. She also approved and ratified the issuance of the Meadows and Verizon Subpoenas from Washington, D.C.

15. This Court has personal jurisdiction over Chairman Thompson because he presides over the Select Committee and issued the Meadows and Verizon Subpoenas from his office address in Washington, D.C.

16. This court has personal jurisdiction over Elizabeth L. Cheney, Adam B. Schiff, Jamie B. Raskin, Susan E. Lofgren, Elaine G. Luria, Peter R. Aguilar, Stephanie Murphy, Adam

D. Kinzinger because they serve as members of the Select Committee that issued the Meadows and Verizon Subpoenas from Washington, D.C.

17. This Court has personal jurisdiction over the Select Committee because it is located and operates in Washington, D.C.

18. Venue is proper under 28 U.S.C. § 1391(b) as a substantial part of the events giving rise to the claim occurred in Washington, DC.

### **RELEVANT FACTS**

19. At the times relevant here, Mr. Meadows served as Chief of Staff to President Donald J. Trump, including for the period following the 2020 Presidential Election up to the Inauguration of President Joseph R. Biden, Jr., on January 20, 2021.

20. In a well-known episode on January 6, 2021, a large group of protestors in Washington, D.C., entered the U.S. Capitol, breached security, and disrupted the counting of Electoral College votes until order was restored. The U.S. Department of Justice has arrested more than 500 individuals in connection with the activities on January 6th.

#### **A. Formation, Composition, and Authority of the Select Committee**

21. Earlier this year, Congress considered establishing a “National Commission to Investigate the January 6 Attack on the United States Capital Complex.”

22. Chairman Thompson introduced H.R. 3233 on May 14, 2021. H.R. 3233 would have established the Commission for four “purposes”:

- a. “To investigate and report upon the facts and causes relating to the January 6, 2021, domestic terrorist attack upon the United States Capitol Complex (hereafter referred to as the “domestic terrorist attack on the Capitol”) and relating to the interference with the peaceful transfer of power, including facts and causes relating to the preparedness and response of the United States Capitol Police and other Federal, State, and local law enforcement in the National Capitol Region and other instrumentality of government, as well as the influencing factors that fomented such

attack on American representative democracy while engaged in a constitutional process.”

- b. “To examine and evaluate evidence developed by relevant Federal, State, and local governmental agencies, in a manner that is respectful of ongoing law enforcement activities and investigations regarding the domestic terrorist attack upon the Capitol, regarding the facts and circumstances surrounding such terrorist attack and targeted violence and domestic terrorism relevant to such terrorist attack.”
- c. “To build upon the investigations of other entities and avoid unnecessary duplication by reviewing the findings, conclusions, and recommendations of other Executive Branch, congressional, or independent bipartisan or non-partisan commission investigations into the domestic terrorist attack on the Capitol and targeted violence and domestic terrorism relevant to such terrorist attack, including investigations into influencing factors related to such terrorist attack.”
- d. “To investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that may include changes in law, policy, procedures, rules, or regulations that could be taken to prevent future acts of targeted violence and domestic terrorism, including to prevent domestic terrorist attacks against American democratic institutions, improve the security posture of the United States Capitol Complex while preserving accessibility of the Capitol Complex for all Americans, and strengthen the security and resilience of the Nation and American democratic institutions against domestic terrorism.”

23. The Commission would have included a bipartisan group of ten members: (1) a “Chairperson” “appointed jointly by the Speaker of the House of Representatives and the majority leader of the Senate”; (2) a “Vice Chairperson” “appointed jointly by the minority leader of the House of Representatives and the minority leader of the Senate”; (3) “two members . . . appointed by the Speaker of the House of Representatives”; (4) “two members . . . appointed by the minority leader of the House of Representatives”; (5) “two members . . . appointed by the majority leader of the Senate”; and (6) “two members . . . appointed by the minority leader of the Senate.” Because Democrats control both chambers in the current Congress, the Commission would have included five members appointed by Democrats and five members appointed by Republicans.

24. The House passed H.R. 3233 on May 19, 2021.

25. The Senate considered a cloture motion to proceed on H.R. 3233 on May 28, 2021. The motion failed by a vote of 54 yeas and 35 nays.

26. On June 28, 2021, Speaker Pelosi introduced H. Res. 503, “Establishing the Select Committee to Investigate the January 6th Attack on the United States Capitol.” Two days later, the House passed H. Res. 503 on a near party-line vote of 222 yeas and 190 nays. Only two Republicans, Rep. Liz Cheney of Wyoming and Rep. Adam Kinzinger of Illinois, voted in favor of H. Res. 503.

27. In contrast to H.R. 3233, which contemplated an evenly balanced Commission, H. Res. 503 instructs the Speaker of the House to appoint thirteen members to the Select Committee, only five of which “shall be appointed after consultation with the minority leader.”

28. Speaker Pelosi appointed Chairman Thompson, the original sponsor of H.R. 3233, to serve as Chair of the Select Committee and appointed six additional Democrat members: Rep. Zoe Lofgren of California, Rep. Adam Schiff of California, Rep. Pete Aguilar of California, Rep. Stephanie Murphy of Florida, Rep. Jamie Raskin of Maryland, and Rep. Elaine Luria of Virginia. She also appointed Republican Rep. Liz Cheney of Wyoming without any designation of position. 167 Cong. Rec. H3597 (2021).

29. House Minority Leader Kevin McCarthy recommended five Republican members to serve on the Select Committee, consistent with H. Res. 503: Rep. Jim Banks of Indiana, to serve as Ranking Member, and Rep. Rodney Davis of Illinois, Rep. Jim Jordan of Ohio, Rep. Kelly Armstrong of North Dakota, and Rep. Troy Nehls of Texas, to serve as additional minority members.

30. Speaker Pelosi did not appoint Rep. Banks to serve as Ranking Member, nor did she appoint any other of Minority Leader McCarthy’s recommended minority members. In a

public statement, she acknowledged that her refusal to appoint the members recommended by the Minority Leader was an “unprecedented decision.” Nancy Pelosi, Speaker, U.S. House of Representatives, Pelosi Statement on Republican Recommendations to Serve on the Select Committee to Investigate the January 6th Attack on the U.S. Capitol (July 21, 2021), <https://www.speaker.gov/newsroom/72121-2>.

31. Instead, Speaker Pelosi appointed Rep. Adam Kinzinger and Rep. Liz Cheney—the only other Republicans who voted in favor of H. Res. 503—and left four vacancies. *See* 167 Cong. Rec. H3885 (2021).

32. Without reference to any authority, on September 2, 2021, Chairman Bennie Thompson announced in a press release that “he has named Representative Liz Cheney (R-WY) to serve as the Vice Chair of the Select Committee.” *See* Press Release, Bennie Thompson, Chairman, Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Chairman Thompson Announces Representative Cheney as Select Committee Vice Chair (Sept. 2, 2021), <https://january6th.house.gov/news/press-releases/chairman-thompson-announces-representative-cheney-select-committee-vice-chair>. H. Res. 503 does not mention a vice chair, much less authorize the chair to appoint a vice chair. *See* generally H. Res. 503, 117th Cong. (2021).

33. The official letterhead of the Select Committee indicates that Bennie Thompson is “Chairman” and lists the other members, including Cheney and Kinzinger, without designation. *See, e.g.*, Ex. A. The Select Committee’s website provides a list of its members, including Thompson as Chairman, but no other members receive designation. *See* Membership, Select Comm. to Investigate the Jan. 6 Attack on the U.S. Capitol, <https://january6th.house.gov/about/membership> (last visited Dec. 6, 2021).

34. H. Res. 503 provides that “[t]he Select Committee may not hold a markup of legislation.”

35. H. Res. 503 sets forth the purposes of the Select Committee, which are substantially similar to those of the Commission contemplated by H.R. 3233, except that H. Res. 503 omits the fourth purpose: “[t]o investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that may include changes in law, policy, procedures, rules, or regulations. . . .”

36. H. Res. 503 establishes three “functions” of the Select Committee: (1) to “investigate the facts, circumstances, and causes relating to the domestic terrorist attack on the Capitol”; (2) to “identify, review, and evaluate the causes of and the lessons learned from the domestic terrorist attack on the Capitol”; and (3) to “issue a final report to the House containing such findings, conclusions, and recommendations for corrective measures described in subsection (c) as it may deem necessary.”

37. Subsection (c) of Section 4 describes three categories of “corrective measures”: “changes in law, policy, procedures, rules, or regulations that could be taken” (1) “to prevent future acts of violence, domestic terrorism, and domestic violent extremism, including acts targeted at American democratic institutions”; (2) “to improve the security posture of the United States Capitol Complex while preserving accessibility of the Capitol Complex for all Americans”; and (3) “to strengthen the security and resilience of the United States and American democratic institutions against violence, domestic terrorism, and domestic violent extremism.”

38. H. Res. 503 provides that “[t]he chair of the Select Committee, upon consultation with the ranking minority member, may order the taking of depositions, including pursuant to subpoena, by a Member or counsel of the Select Committee, in the same manner as a standing

committee pursuant to section 3(b)(1) of House Resolution 8, One Hundred Seventeenth Congress.” Section 3(b)(1) of H. Res. 8 provides that, “[d]uring the One Hundred Seventeenth Congress, the chair of a standing committee. . . , upon consultation with the ranking minority member of such committee, may order the taking of depositions, including pursuant to subpoena, by a member or counsel of such committee.”

**B. Activities of the Select Committee**

39. Since its inception in July 2021, the Select Committee has held only one public hearing. During that hearing, the Select Committee heard testimony from officers of the U.S. Capitol Police and D.C. Metropolitan Police Departments who were present at the Capitol on January 6, 2021.

40. The Select Committee has issued a wide range of subpoenas for documents and the testimony of witnesses.

41. In August, the Select Committee demanded records from fifteen different social media companies, including Facebook, Reddit, Twitter, and YouTube. *See* Press Release, Bennie G. Thompson, Chairman, Select Comm. to Investigate the Jan. 6th Attack on the U.S. Capitol, Select Committee Demands Records related to January 6th Attack from Social Media Companies (Aug. 27, 2021). The subpoenas directed these companies to produce all internal company policies and actions taken relating to “misinformation” about the 2020 election, efforts to interfere with the 2020 election or electoral results, violent domestic extremists, foreign interference with the 2020 election, and more. *See, e.g.*, Zuckerberg Subpoena, Aug. 26, 2021.

42. The Select Committee has also issued what it describes as “sweeping” demands for presidential records from the National Archives and Records Administration (“NARA”) and seven other Executive Branch agencies. *See* Press Release, Bennie G. Thompson, Chairman, Select

Committee to Investigate the January 6th Attack on the United States Capitol, Select Committee Issues Sweeping Demand for Executive Branch Records (Aug. 25, 2021).

43. Pursuant to the procedures set forth in the Presidential Records Act of 1978, former President Trump has asserted executive privilege over some of the responsive documents in NARA's custody. *See* Compl. Ex. 5, *Trump v. Thompson*, No. 1:21-cv-2769 (D.D.C. 2021).

44. On October 8, 2021 the Biden White House instructed the Archivist of the United States to release the documents requested by the Select Committee on the grounds that President Biden wishes to waive executive privilege over subpoenaed records over which former President Trump has asserted executive privilege. *See* Second Letter from Dana A. Remus, Counsel to the President, to David Ferriero, Archivist of the United States (Oct. 8, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/10/13/second-letter-from-dana-a-remus-counsel-to-the-president-to-david-ferriero-archivist-of-the-united-states-dated-october-8-2021/>.

45. On October 18, 2021, former President Trump filed a lawsuit in the U.S. District Court for the District of Columbia, seeking declaratory and injunctive relief to stop NARA from producing any privileged documents in response to the Select Committee's requests. Former President Trump described the Committee's NARA subpoena as "an illegal, unfounded, and overbroad records request." *See* Compl. *Trump v. Thompson*, No. 1:21-cv-2769 (D.D.C. 2021).

46. On November 9, District Judge Tanya S. Chutkan denied former President Trump's motion for a preliminary injunction. *See* Mem. Op. 17, *Trump v. Thompson*, No. 1:21-cv-2769 (D.D.C. Nov. 9, 2021).



47. Former President Trump appealed the district court's order, and the D.C. Circuit Court of Appeals enjoined NARA from releasing the disputed Presidential records pending its ruling. *See* Mem. Op. 17, *Trump v. Thompson*, No. 1:21-cv-2769 (D.D.C. Nov. 9, 2021).

48. On November 30, 2021, the D.C. Circuit held oral argument on the merits of former President Trump's appeal. This case is still pending.

49. The Select Committee has also issued numerous subpoenas seeking the production of documents and compelled testimony from individual witnesses, including more than a dozen former Trump Administration officials.

### **C. The Select Committee's Meadows Subpoena**

50. On September 23, 2021, the Select Committee served a subpoena on Mr. Meadows (the "Meadows Subpoena"). Ex. A.

51. The Meadows Subpoena includes a sweeping set of document requests that relate to his tenure as White House Chief of Staff, including twenty-seven categories:

- a. "Communications referring or relating in any way to plans, efforts, or discussions regarding challenging, decertifying, overturning, or contesting the results of the 2020 Presidential election."
- b. "All documents and communications concerning the role of the Vice President as the Presiding Officer in the certification of the votes of the electoral college."
- c. "From November 3, 2020, through January 20, 2021, all documents and communications referring or relating to the 2020 election results sent or transmitted between White House officials and officials of state or local governments."
- d. "From November 3, 2020, through January 6, 2021, all documents and communications referring or relating to actual or potential court decisions, deliberations, or processes involving challenges to the 2020 Presidential election."
- e. "All recordings, transcripts, notes (including electronic and hand-written notes), summaries, memoranda of conversation, readouts, or other documents memorializing communications between you and President Trump and/or Members of Congress on January 6, 2021, relating or referring in any way to the attack on the Capitol."

- f. “All documents that refer or relate to efforts, plans, or attempts by President Trump to activate the National Guard on January 6, 2021.”
- g. “From November 3, 2020, through January 19, 2021, all documents and communications concerning the resignation of any White House personnel or any politically appointed personnel of any Federal department or agency (including the resignation of any member of the President's Cabinet) and mentioning or referring (explicitly or implicitly) to the 2020 Presidential election or the events of January 6, 2021.”
- h. “All documents and communications relating to planned protests, marches, public assemblies, allies, or speeches in Washington, DC, on November 14, 2020, December 12, 2020, or January 5, 2021, or January 6, 2021.”
- i. “All documents and communications related to security of the Capitol or other Federal facilities on January 5, 2021, and January 6, 2021.”
- j. “From December 1, 2020, through January 20, 2021, any documents and communications involving White House personnel and any Member of Congress, referring or relating to (a) civil unrest, violence, and/or attacks at the Capitol; (b) challenging, overturning, or questioning the validity of the 2020 election results; (c) the counting of the electoral college vote on January 6, 2021; or (d) appealing or challenging the decisions of courts related to the 2020 Presidential election.”
- k. “All documents and communications related to social media information monitored, gathered, reviewed, shared, or analyzed by White House personnel on January 6, 2021.”
- l. “All documents and communications related to any plan for the President to march or walk to the Capitol on January 6, 2021. This request includes any such documents or communications related to a decision not to march or walk to the Capitol on January 6, 2021.”
- m. “From November 3, 2020, to January 20, 2021, all documents and communications reporting, summarizing, or detailing the voting returns and election results of the 2020 Presidential election.”
- n. “All documents and communications related to Donald Trump's response or reaction to the election results of the 2020 Presidential election, including but not limited to any planned public remarks.”
- o. “All documents and communications regarding a November 9, 2020, memorandum from Attorney General William Barr concerning investigation of voter fraud allegations.”

- p. “From November 3, 2020, through January 20, 2021, all documents provided to you or Donald Trump reviewing, assessing, or reporting on the security of election systems in the United States.”
- q. “From November 3, 2020, through January 20, 2021, all documents and communications provided to Donald Trump regarding purported election irregularities, election-related, fraud, or other election related malfeasance.”
- r. “From April 1, 2020, through January 20, 2021, all documents and communications provided to you or Donald Trump referring to a stolen election, stealing the election, or a ‘rigged’ election.”
- s. “From November 3, 2020, through January 20, 2021, all documents and communications related to the Twenty-Fifth Amendment to the U.S. Constitution.”
- t. “Any documents and communications relating to instructions to stop or delay preparation for the transition of administrations.”
- u. “All communications between White House personnel and General Services Administration (GSA) Administrator Emily Murphy or other GSA officials relating to ‘ascertainment’ under the Presidential Transition Act. This includes but is not limited to communications discussing the recognition of Joseph Biden as the winner of the 2020 Presidential election.”
- v. “All documents and communications concerning the potential invocation of the Insurrection Act.”
- w. “From November 3, 2020, through January 20, 2021, all documents and communications related to martial law.”
- x. “All documents and communications concerning the use of Federal law enforcement or military personnel during voting or vote counting in the 2020 Presidential election.”
- y. “Any documents and communications relating to foreign influence in the United States 2020 Presidential election through social media narratives and disinformation.”
- z. “All documents and communications related to the January 3, 2021, letter from ten former Defense Secretaries warning of use of the military in election disputes.”
- aa. “All documents and communications to or from the United States Secret Service concerning individuals in attendance at the January 6 rally in body armor, ballistic helmets, radio equipment, and ‘military grade’ backpacks.” See Ex. A.

52. The Meadows Subpoena directed Plaintiff to produce all responsive documents by October 7, 2021 at 10 AM, which was two weeks after its issuance.

53. The Meadows subpoena also demanded that Mr. Meadows appears for a deposition to provide testimony at 2 PM on October 15, 2021.

**D. Plaintiff's efforts to accommodate**

54. On October 6, former President Trump sent a letter to Mr. Meadows instructing him to maintain executive privilege in connection with any response to the Meadows Subpoena. The letter specifically instructed Mr. Meadows that he should

(a) where appropriate, invoke any immunities and privileges he may have from compelled testimony in response to the Subpoena; (b) not produce any documents concerning his official duties in response to the Subpoena; and (c) not provide any testimony concerning his official duties in response to the Subpoena.

55. Having served as both a Member of Congress and as White House Chief of Staff, Mr. Meadows understands the importance of the Separation of Powers and of the accommodations process that has traditionally been used to try to resolve disputes over executive privilege. He therefore endeavored to find an accommodation that would allow him to provide information to the Select Committee without violating former President Trump's claims of executive privilege.

56. To that end, Mr. Meadows informed the Select Committee, through counsel, on October 7 that he would likely require additional time to respond to the subpoena. Ex. B. He also noted that many of the records responsive to the Select Committee's subpoena were no longer in his custody and control but were instead among the Presidential records held at the National Archives.

57. In seeking to compel a deposition on October 15, the Select Committee offered Mr. Meadows no opportunity to review any of the "thousands of pages of records" already produced

by other sources, many of which were potentially relevant to the Select Committee's inquiry into Mr. Meadows.

58. Mr. Meadows promptly took steps to clarify the scope of the issues raised by the subpoena.

59. On October 11, Mr. Meadows, through counsel, sent a letter to White House Counsel Dana Remus seeking to clarify the position of the current White House. Ex. C. Among other things, Mr. Meadows noted the longstanding position of the Executive Branch, reflected in Attorney General opinions and opinions of the Office of Legal Counsel at the U.S. Department of Justice, that current and former senior White House aides like Mr. Meadows are immune from compelled congressional testimony. *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, O.L.C. slip op., at \*2 (May 20, 2019) ("*Testimonial Immunity Before Congress*"); *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 192 (2007).

60. In discussions through counsel in October, the White House declined either to affirm or depart from its traditional position. Although the White House Counsel's Office engaged in conversations with Mr. Meadows regarding the subpoena process, it declined to formally respond to Mr. Meadows' letter or to make any official representations regarding the White House's views on executive privilege or testimonial immunity.

61. Despite the need to maintain executive privilege and concerns about the breadth of the subpoena, Mr. Meadows continued to pursue the possibility of an accommodation that would allow the Select Committee to obtain non-privileged information.

62. On October 12, Mr. Meadows, through counsel, asked the Select Committee to identify topics of inquiry on which he might be able to provide useful non-privileged information.

63. On October 25, without any negotiation over a possible accommodation, Chairman Thompson demanded full compliance with the subpoena under threat of contempt. Ignoring the offers of accommodation from Mr. Meadows, he wrote: “It now appears that Mr. Meadows may still believe that his appearance cannot be compelled and that his testimony is privileged. Given the impasse, the Select Committee must proceed and insist, pursuant to the subpoena, that Mr. Meadows produce all responsive documents by November 5, 2021, and appear for testimony on November 12, 2021.” Ex. D.

64. Despite the Committee’s complete refusal to accommodate Mr. Meadows’ concerns regarding executive privilege and his duty to preserve long-held Executive Branch positions, Mr. Meadows remained willing to pursue accommodation.

65. On November 3, he reiterated his position in a letter to the Select Committee, informing it that he was “willing to explore with the Select Committee whether, outside the confines of the subpoena, an accommodation could be reached by which he might be able to answer, under agreed upon and appropriate circumstances, a limited set of questions that would further a valid legislative purpose within the scope of the Select Committee’s inquiry.” Ex. E.

66. In another letter through counsel on November 3, Mr. Meadows explained to the Select Committee that he was working diligently to ensure any documents responsive to the subpoena were either produced to the Select Committee or in the possession of the Archivist of the United States pursuant to the Presidential Records Act of 1978. Ex. F.

67. On November 5, the Committee responded with overtures of a compromise but no offer. Ex. G. Instead, it provided a list of topics it believed did not “implicate any cognizable claim of executive privilege” and on which it intended to question Mr. Meadows. That list consisted of:

- 1) Messaging to or from the White House, Trump reelection campaign, party officials, and others about purported fraud, irregularities, or malfeasance in

the November 2020 election. This includes, but is not limited to, Mr. Trump's and others frequent use of the "Stop the Steal" slogan, even after lawsuits, investigations, public reporting, discussions with agency heads, and internally created documents revealed that there had not been widespread election fraud

- 2) White House officials' understanding of purported election-related fraud, irregularities, or malfeasance in the November 2020 election.
- 3) Efforts to pressure federal agencies, including the Department of Justice, to take actions to challenge the results of the presidential election, advance allegations of voter fraud, interfere with Congress's count of the Electoral College vote, or otherwise overturn President Biden's certified victory. This includes, but is not limited to, Mr. Trump's and others' efforts to use the Department of Justice to investigate alleged election-related conduct, file lawsuits, propose that state legislatures take election-related actions, or replace senior leadership. It also includes similar efforts at other agencies such as the Department of Homeland Security, the Department of Defense, and, among others, the Cybersecurity and Infrastructure Security Agency.
- 4) Efforts to pressure state and local officials and entities, including state attorneys general, state legislators, and state legislatures, to take actions to challenge the results of the presidential election, advance unsubstantiated allegations of voter fraud, interfere with Congress's count of the Electoral College vote, de-certify state election results, appoint alternate slates of electors, or otherwise overturn President Biden's certified victory. This includes, but is not limited to, an Oval Office meeting with legislators from Michigan, as well as a January 2, 2021 call with, among others, state officials, members of Congress, Mr. Trump, and Mr. Meadows.
- 5) Theories and strategies regarding Congress and the Vice President's (as President of the Senate) roles and responsibilities when counting the Electoral College vote. This includes, but is not limited to, the theories and/or understandings of John Eastman, Mark Martin, former Vice President Pence, and others.
- 6) Efforts to pressure former Vice President Pence, members of his staff, and members of Congress to delay or prevent certification of the Electoral College vote. This includes, but is not limited to, meetings between, or including, the former Vice President, Mr. Trump, aides, John Eastman, members of Congress, and others.
- 7) Campaign-related activities, including efforts to count, not count, or audit votes, as well as discussions about election-related matters with state and local officials. This includes, but is not limited to, Mr. Meadows' travel to Georgia to observe vote counting, as well as his or Mr. Trump's

communications with officials and employees in the Georgia Secretary of State's Office. This also includes similar activities related to state and local officials in Michigan, Wisconsin, Nevada, Arizona, and Pennsylvania.

- 8) Meetings or other communications involving people who did not work for the United States government. This includes, but is not limited to, an Oval Office meeting on December 18, at which Mr. Trump, Michael Flynn, Patrick Byrne, and others discussed campaign-related steps that Mr. Trump purportedly could take to change the outcome of the November 2020 election and remain in office for a second term, such as seizing voting machines, litigating, and appointing a special counsel. It also includes communications with organizers of the January 6 rally like Amy Kremer of Women for America First.
- 9) Communications and meetings with members of Congress about the November 2020 election, purported election fraud, actual or proposed election-related litigation, and election-related rallies and/or protests. This includes, but is not limited to, a December 21, 2021 meeting involving Mr. Trump, members of his legal team, and members of the House and Senate, during which attendees discussed objecting to the November 2020 election's certified electoral college votes as part of an apparent fight "against mounting evidence of voter fraud."
- 10) Efforts by federal officials, including White House staff, Mr. Trump, the Trump reelection campaign, and members of Congress to plan or organize rallies and/or protests in Washington, D.C. related to the election, including, but not limited to, the January 6 rally on the Ellipse.
- 11) Advance knowledge of, and any preparations for, the possibility of violence during election-related rallies and/or protests in Washington, D.C.
- 12) Events in the days leading up to, and including, January 6. This includes, but is not limited to, campaign-related planning and activities at the Willard Hotel, planning and preparation for Mr. Trump's speech at the Ellipse, Mr. Trump and other White House officials' actions during and after the attack on the U.S. Capitol, and contact with members of Congress, law enforcement, the Department of Defense, and other federal agencies to address or respond to the attack.
- 13) The possibility of invoking martial law, the Insurrection Act, or the 25th Amendment based on election-related issues or the events in the days leading up to, and including, January 6.
- 14) The preservation or destruction of any information relating to the facts, circumstances, and causes relating to the attack of January 6th, including



any such information that may have been stored, generated, or destroyed on personal electronic devices.

15) Documents and information, including the location of such documents and information, that are responsive to the Select Committee's subpoena. This includes, but is not limited to, information stored on electronic devices that Mr. Meadows uses and has used.

16) Topics about which Mr. Meadows has already spoken publicly. This includes, but is not limited to, Mr. Meadows' February 11, 2021, appearance on the Ingraham Angle show to discuss the January 6 attack on the U.S. Capitol, Mr. Trump's reactions to the attack, and the National Guard.

68. Notwithstanding Chairman Thompson's suggestion that this list implicated no "cognizable claim of executive privilege," it expressly includes, among other things, communications with the Vice President, two Oval Office meetings, White House Officials' understanding of election security, and Mr. Meadows' conversations with the President.

69. Chairman Thompson also asserted that this list was "non-exclusive and may be supplemented" but assured Mr. Meadows that the Select Committee did not intend to "seek information from [him] unrelated to the 2020 election and what led to and occurred on January 6."

70. The letter then requested that Mr. Meadows provide his "input on the topics" contained in the list no later than November 8, three days after the letter was sent.

71. Mr. Meadows promptly responded on November 8 and sought clarification of the Committee's position in two respects: (1) whether the Committee was open to Mr. Meadows providing written responses to interrogatories from the Select Committee in which he would clearly articulate the basis for any assertion of executive privilege; and (2) whether the Committee would be amenable to narrowing the topics of inquiry. Ex. H.

72. On November 9, Chairman Thompson responded with a letter criticizing Mr. Meadows for not setting forth his privilege objections in writing and stating that "it appears that

the accommodation process has reached its natural conclusion,” notwithstanding Mr. Meadows’ continued efforts to define the contours of an accommodation. Ex. I.

73. On November 10, Mr. Meadows responded to point out that he had, in fact, offered written explanations of his positions on multiple occasions but that the Select Committee had repeatedly refused in favor of live testimony with no opportunity for written responses. Ex. J.

74. On November 11, Chairman Thompson responded by baselessly accusing Mr. Meadows of failing to negotiate in good faith and, in keeping with his previous positions, stated that “there is no valid legal basis for Mr. Meadows’ continued resistance to the Select Committee’s subpoena. As such, the Select Committee expects Mr. Meadows to produce all responsive documents and appear for deposition testimony tomorrow, November 12, 2021, at 10:00 a.m.” Ex. K.

75. The same day—the day before the Select Committee’s scheduled deposition—Mr. Meadows received a letter from the Deputy Counsel to the President informing him that President Biden had determined that would not assert executive privilege with respect to certain categories of testimony or documents. Ex. L.

76. Consistent with his prior representations to the Select Committee, Mr. Meadows did not appear for a deposition on November 12.

77. Despite the previous breakdown in negotiations, Mr. Meadows continued his attempts to reach an agreement with the Select Committee.

78. On November 19, Mr. Meadows sent a letter to the Select Committee clearly communicating a list of topics on which he would be willing to provide responses to written interrogatories. Ex. M. He also noted that his “expectation would be that, after working through this written process and after further consultation with counsel for the Select Committee, Mr.

Meadows could agree outside of compulsion by subpoena to appear voluntarily for a deposition within the parameters established through the initial process.”

79. On November 22, the Monday before the Thanksgiving holiday, Chairman Thompson again rejected Mr. Meadows’ proposal to begin the accommodation process with written interrogatories and reiterated his accusation that Mr. Meadows was not negotiating in good faith. Ex. N. He demanded that Mr. Meadows produce all responsive documents by Friday, November 26—the day after Thanksgiving—and that he appear for a new deposition the following Monday, November 29, at 10 AM. Chairman Thompson refused to commit to avoiding questions that plainly implicate privilege, stating only that Select Committee intended to “*begin* by asking questions address obviously non-privileged topics.” (Emphasis added.) While couched as an effort “accommodation,” Chairman Thompson’s letter required Mr. Meadows to produce the same information demanded by the subpoena in the same manner demanded by the subpoena with no respect for executive privilege.

80. Believing that the Select Committee would act as it had promised, Mr. Meadows agreed to appear for a deposition. Such deposition would necessarily be voluntary—that is, not subject to the Select Committee’s compulsion and was expressly agreed to as such. It would also be limited in scope to those matters the Select Committee believed to be outside the scope of privilege. Counsel would be present for the deposition and able to assert claims of executive privilege where appropriate, and Mr. Meadows’ counsel would also have the opportunity at least three business days in advance to review any documents the Select Committee intended to show or question Mr. Meadows about during the deposition. Ex. O.

81. The same day that Mr. Meadows agreed to appear before the Select Committee for a voluntary deposition, his counsel made a generous initial document production to the Select

Committee. Ex. P. On that day, Mr. Meadows' counsel provided the Select Committee non-privileged emails and other documents potentially responsive to the subpoena, which were obtained from Mr. Meadows' personal Gmail account. This initial production consisted of 1,139 documents and 6,836 total pages, along with a privilege log for any documents withheld. Mr. Meadows' counsel also explained that it was in the process of reviewing Mr. Meadows' personal text messages, which were forthcoming but delayed due to technical issues in retrieving this information.

82. The Select Committee accepted Mr. Meadows' offer to provide a voluntary deposition on December 8, 2021 at 10 a.m., on the condition that Mr. Meadows produce all documents responsive to the subpoena by December 3, 2021. Ex. Q. The Select Committee also agreed to provide Mr. Meadows' counsel the documents it expected to show or question Mr. Meadows about during the deposition.

83. Mr. Meadows' counsel worked diligently to produce all responsive, non-privileged documents to the Select Committee by December 3, which it did. On December 3, Mr. Meadows' counsel produced 2,319 text messages and metadata from his personal cell phone to the Select Committee and provided a privilege log for any withheld text messages. Mr. Meadows also produced 20 more documents recovered from Mr. Meadows' personal computer. Ex. R.

#### **E. The Select Committee's Verizon Subpoena**

84. Mr. Meadows believed that the Select Committee would act in good faith and in accordance with their agreement that he appear for a voluntary deposition on issues outside the scope of executive privilege, until on December 4, 2021 he was blindsided by a letter from Verizon Wireless, the carrier for his previous personal cell phone. Ex. S. The letter references a cell phone registered to Meadows for Congress that was used by Mr. Meadows as his personal cell phone

during his tenure as White House Chief of Staff. It is also the same cell phone from which Mr. Meadows' counsel had reviewed and produced records to the Select Committee on December 3.

85. The letter from Verizon Wireless relayed the fact that it had received a subpoena ("Verizon subpoena") from the Select Committee requesting certain phone records. Verizon noted that it would comply with the subpoena by producing the records unless it received "a court document challenging the subpoena by December 15, 2021."

86. The Verizon subpoena, issued by the Select Committee on November 22, 2021, instructs Verizon to produce subscriber information and cell phone data associated with Mr. Meadows's personal cell phone number. The subscriber information requested includes subscriber names and contact information, authorized users, time of service provided, account changes, associated IP addresses, and other metadata. The cell phone data requested could include all calls, text messages, and other records of communications associated with that phone number. This data can be used for historic cell site analysis. The Verizon subpoena requested all Mr. Meadows' personal cell phone data for four months: from October 1, 2020 and January 31, 2021.

87. The breadth and invasiveness of the Verizon subpoena also gave the appearance of a criminal investigation, not a legislative fact-finding mission. It seeks private data used to track an individual person's communications and location, information that would bear on an investigation into that individual, not on potential legislation to be passed by Congress. It also requests this data for a period more than three months prior to January 6, the ostensible focus of the Committee's supposed legislative recommendations.

88. Public reports released on December 7, 2021 indicate that the Select Committee has issued subpoenas to collect the phone data of more than 100 individuals. *See Zachary Cohen, et al., Exclusive: January 6 committee casts a wide net with over 100 subpoenas for phone records,*

CNN (Dec. 7, 2021) <https://www.cnn.com/2021/12/07/politics/january-6-committee-phone-records/index.html>. This type of investigation to analyze the location and communication, with the clear intent to determine possible coordination between individuals, is reminiscent of a criminal investigation, not legislative intent.

89. Supporting Mr. Meadows' decision not to appear for the deposition, Chairman Thompson made a public statement on December 2, 2021 that those who appear before his Select Committee and invoke their Fifth Amendment privilege against self-incrimination are "part and parcel guilty to what occurred." Tim Hains, *Jan. 6 Committee Chairman Bennie Thompson: If You Plead The Fifth, You're "Part & Parcel Guilty"*, RealClear Politics, Dec. 2, 2021, [https://www.realclearpolitics.com/video/2021/12/02/january\\_6\\_committee\\_chairman\\_bennie\\_thompson\\_if\\_you\\_plead\\_the\\_fifth\\_youre\\_part\\_and\\_parcel\\_guilty.html](https://www.realclearpolitics.com/video/2021/12/02/january_6_committee_chairman_bennie_thompson_if_you_plead_the_fifth_youre_part_and_parcel_guilty.html).

90. Therefore, on December 7, 2021, counsel for Mr. Meadows provided formal notice to the Select Committee that in light of the Verizon subpoena and Chairman Thompson's comments, Mr. Meadows must withdraw his offer to appear voluntarily for a deposition. Ex. T. Counsel offered, again, that the Select Committee propound written interrogatories on Mr. Meadows, such that he would be able to produce a clear record of his answers to certain questions while asserting appropriate privileges.

## **REASONS WHY THE SUBPOENAS ARE INVALID**

### **A. The subpoenas are not validly issued by a duly authorized committee.**

91. The composition of the House Select Committee to Investigate the January 6th Attack on the United States Capitol is governed by Section 2 of H. Res. 503. Section 2(a) states "Appointment Of Members.—The Speaker shall appoint 13 Members to the Select Committee, 5

of whom shall be appointed after consultation with the minority leader.” H. Res. 503 117th Cong. (2021).

92. Speaker Pelosi has appointed only nine members to the Select Committee: seven Democrats and two Republicans. None of these members was appointed from the selection of five GOP congressman put forth by Minority Leader Kevin McCarthy.

93. Authorized congressional committees have subpoena authority implied by Article I of the Constitution. *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927). The Select Committee, however, is not an authorized congressional committee because it fails to comport with its own authorizing resolution, House Resolution 503.

94. Congress’ failure to act in accordance with its own rules is judicially cognizable. *Yellin v. United States*, 374 U.S. 109, 114 (1963). This is particularly significant where a person’s fundamental rights are involved.

95. Speaker Pelosi failed to appoint members consistent with the authorizing resolution of the Select Committee. Pelosi has appointed only nine members of Congress to serve on the Select Committee; whereas the authorizing resolution instructs the Speaker “shall” appoint thirteen members. H. Res. 503 § 2(a), 117th Cong. (2021).

96. Further, of those nine members Speaker Pelosi has appointed, none of them was appointed after consultation with the minority member, as is required by the authorizing resolution. H. Res. 503 § 2(a), 117th Cong. (2021).

97. Thus, the Select Committee as it currently stands—and stood at the time it issued the subpoenas in question—has no authority to conduct business because it is not a duly constituted Select Committee. Chairman Thompson’s subpoenas are invalid and unenforceable.

98. Chairman Thompson derives the authority to issue subpoenas solely from § 5(c)(6) of the Select Committee’s authorizing statute, but this authority is qualified, not absolute. The Select Committee chairman may not order the taking of depositions without consultation with the ranking minority member of the Select Committee.

99. As the Select Committee has no ranking minority member, Chairman Thompson failed to make the requisite consultation before issuing the subpoena that compelled Mr. Meadows to appear for a deposition. The ordering of Mr. Meadows’ deposition runs afoul of the Select Committee’s authorizing resolution, making it invalid and unenforceable.

**B. The subpoenas are not issued to further a valid legislative purpose.**

100. The subpoenas issued to Mark Meadows and Verizon were issued by the Select Committee as part of an unconstitutional attempt to usurp the Executive Branch’s authority to enforce the law and to expose what the Select Committee believes to be problematic actions by a political opponent. Congress has no authority to issue subpoenas for these purposes.

101. Congress has no freestanding power to issue subpoenas. Instead, its investigative powers are ancillary to its legislative authority. *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020). Because of this tie between the investigative and legislative powers, Congress may only issue subpoenas that serve a valid legislative purpose.

102. Law enforcement and the punishment of perceived legal wrongs are not valid legislative purposes. To the extent Congress seeks to utilize subpoenas to investigate and punish perceived criminal wrongdoing, it unconstitutionally intrudes on the prerogatives of the Executive Branch.

103. Similarly, a desire to “expose for the sake of exposure” cannot sustain a congressional subpoena. *Watkins v. United States*, 354 U.S. 178, 200 (1957). Bringing information to light for the sake of bringing it to light is not a valid legislative end.



104. Even if Congress uses a subpoena to seek information relevant to contemplated legislation, the subpoena may still be invalid if the contemplated legislation would be unconstitutional—such as an impermissible limit on the conduct or authority of the executive. *See McGrain v. Daugherty*, 273 U.S. 135, 171 (1927); *Kilbourn v. Thompson*, 103 U.S. 168, 195 (1880); *Nixon v. Fitzgerald*, 457 U.S. 731, 749 (1982).

105. The legislative purpose inquiry analyzes whether a particular subpoena serves a valid purpose, not whether an investigation as a whole serves a valid purpose. *See Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020).

106. The Select Committee has failed to identify any legislative purpose served by the Meadows Subpoena. It has not considered any draft legislation, nor has it provided any explanation for why its requests to Mr. Meadows would further any valid legislative end.

107. Instead of identifying any valid end or proposed legislation, the Select Committee has issued public statements explicitly identifying law enforcement and the desire to expose for the sake of exposure as its motivations for subpoenaing Mr. Meadows.

108. Chairman Thomas and Vice-Chair Cheney have reiterated in their public statements that the purpose of their investigation is to ensure “those responsible are held accountable,” to “tell[] the complete story of the unprecedented and extraordinary events of January 6th,” and to “get answers for the American people about what happened on January 6th.” *The Law Enforcement Experience on January 6th: Hearing Before the H. Select Committee to Investigate the January 6th Attack on the United States Capitol*, 117th Cong. (2021) Statement of Elizabeth Cheney, Vice-Chair); Press Release, *Thompson & Cheney Statement on Pentagon Officials’ Reported Actions After January 6th* (Sept. 16, 2021); Press Release, *Thompson Statement on Cooperation of Witnesses* (Oct. 14, 2021).

109. The Select Committee’s authorizing resolution also fails to identify its legislative purpose. It is vague to the point of meaninglessness, authorizing the Select Committee to “investigate the facts, circumstances, and causes relating to the domestic terrorist attack on the Capitol, including facts and circumstances relating to... entities of the public and private sector as determined relevant by the Select Committee for such investigation.”

110. Nor is the nature of the information sought by the subpoena of a kind that would further a valid legislative purpose.

111. The subpoena seeks Executive Branch deliberative material, information temporally and logically disconnected from the events of January 6, and information that is irrelevant to any conceivable legislation.

112. This information has no bearing on any contemplated constitutional legislation. It is relevant only to serve the Select Committee’s stated purpose of engaging in ad-hoc law enforcement and its unstated purpose of antagonizing its political adversary.

**C. The Select Committee seeks to use an excessively broad third-party subpoenas to obtain personal cell phone data.**

113. The Verizon subpoena also seeks information unrelated to any potential legislation.

114. The Verizon subpoena seeks Mr. Meadows’ cell phone metadata, despite the fact that he has already provided the Select Committee with his responsive text messages, emails, and the metadata attached thereto.

115. The only additional information that could be gleaned by the Verizon subpoena is either privileged or concerns Mr. Meadows’ internet protocol and data-connection detail records.

116. The subpoena is also sufficiently broad to sweep in privileged details regarding Mr. Meadows’s communications with his attorneys and his communications and actions as a senior executive official.

117. Mr. Meadows’ location and IP records dating back to the October 1, 2020 would not serve to inform any valid legislative action. There is simply no way that kind of granular information about a senior executive official could serve Congress in the permissible execution of its constitutional functions.

118. In addition to seeking information that could not possibly bear on the passage of any law, the Verizon subpoena represents a novel and sweeping vision of Congressional investigative authority—the Select Committee has taken upon itself to subpoena a third-party corporation in order to ascertain the precise location of the Chief of Staff over a four-month period.

119. This subpoena represents an attempt to extend Congressional fact-finding authority beyond even the powers of the Executive Branch, which cannot obtain this kind of information without a warrant. And it does so with barely a perfunctory attempt at identifying a legislative purpose.

**C. The Select Committee cannot obtain records under the Verizon Subpoena consistent with the Stored Communications Act**

120. The Stored Communications Act prohibits the Select Committee from obtaining the subpoenaed records from Verizon.

121. To the extent the Select Committee is seeking production of the contents of communications, that request is prohibited under Section 2702(a)(1) of Title 18.

122. The Stored Communications Act generally provides that “a person or entity providing electronic communication service to the public shall not knowingly divulge to any person or entity the contents of a communication while in electronic storage by that service.” 18 U.S.C. § 2702(a)(1).

123. Verizon is “a person or entity providing electronic communication service to the public” within the meaning of the Stored Communications Act.

124. The Select Committee qualifies as “any person or entity” within the meaning of the Stored Communications Act.

125. Section 2702(a)(1) therefore prohibits knowing disclosure of “the contents of a communication” stored by Verizon to the Select Committee absent an express statutory exception outlined in Section 2702(b).

126. None of the statutory exceptions in Section 2702(b) applies to the Select Committee’s subpoena.

127. To the extent the Select Committee is seeking production of non-communication records and information, that request is prohibited under Section 2702(c) of Title 18.

128. The Stored Communications Act provides that “[a] provider described in [Section 2702(a)] may divulge a record or other information pertaining to a subscriber to or customer of such service (not including the contents of communications covered by subsection (a)(1) or (a)(2))” if one of seven criteria is met.

129. Mr. Meadows is “a subscriber to or customer of [Verizon’s] service” within the meaning of the Stored Communication Act.

130. The Select Committee cannot obtain the subpoenaed records under Section 2702(c)(1) because disclosure would not be “as otherwise authorized in section 2703.” 18 U.S.C. § 2702(c)(1). Specifically, on information and belief, the Select Committee has not obtained and cannot obtain “a warrant issued using the procedures described in the Federal Rules of Criminal Procedure . . . by a court of competent jurisdiction,” as would be required to obtain records “in electronic storage in an electronic communications system for one hundred days or less.” *Id.* § 2703(a). Nor has the Select Committee provided Mr. Meadows with “prior notice” and obtained either (i) “an administrative subpoena authorized by a Federal or State statute or a Federal or State

grand jury or trial subpoena” or (ii) “a court order,” as would be required to obtain records “in electronic storage . . . for more than one hundred and eighty days.” Id. § 2703(a), (b)(1).

131. The Select Committee does not have lawful consent to obtain the subpoenaed records. See id. § 2702(c)(2).

132. The Select Committee does not constitute or represent “a law enforcement agency” within the meaning of the Stored Communications Act. Id. § 2702(c)(7).

133. The Select Committee may represent a “governmental entity” but, on information and behalf, have not shown and cannot demonstrate “in good faith” “that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of information relating to the emergency.” Id. § 2702(c)(4), (6).

134. No other exception in Section 2702(c) would authorize the Select Committee to obtain the subpoenaed records.

**D. The subpoenas violate executive privilege.**

135. The Select Committee’s subpoena to Mr. Meadows unlawfully seeks information covered by executive privilege and improperly attempts to compel testimony by a senior Executive Branch official.

136. During his time as Chief of Staff, Mr. Meadows was among the most senior Executive Branch officials and his communications and deliberations were covered by executive privilege.

137. That privilege reaches Mr. Meadows’ communications “in the course of preparing advice for the President,” *In re Sealed Case*, 121 F.3d 729, 752 (D.C. Cir. 1997) and any materials that reveal his or other executive officials’ predecisional deliberative processes. See *Army Times Publ'g Co. v. Department of the Air Force*, 998 F.2d 1067, 1070 (D.C. Cir. 1993).

138. The subpoena served on Mr. Meadows clearly seeks information protected by executive privilege.

139. Among other things, the subpoena expressly requests summaries of Mr. Meadows' conversations with the President, records of his conversations with other senior executive officials, and the contents of advice provided to the President by his senior advisors.

140. Throughout the course of negotiations regarding potential accommodations, the Select Committee has repeatedly clarified that the subpoena seeks privileged information.

141. Most notably, the Select Committee provided Mr. Meadows with a list of topics for his deposition, informing him that it believed these topics did not "implicate any cognizable claim of executive privilege." That list expressly included Mr. Meadows' conversations with the President, his communications with the Vice President, two Oval Office meetings, and White House Officials' deliberations regarding election security. *See* Ex. G, November 5, 2021 Letter from Chairman Bennie Thompson to counsel for Mr. Meadows.

142. Mr. Meadows' conversations with the President, Vice President, and other senior executive officials are covered by executive privilege, as is any information regarding executive officials' deliberative processes regarding election security.

143. The subpoena's twenty-seven demands also demand substantial amounts of privileged information not specifically enumerated here.

144. Despite Mr. Meadows' good faith attempts to negotiate with the Select Committee to provide relevant, nonprivileged information, the Select Committee has insisted on pursuing the full breadth of information identified in the subpoena.

145. When a congressional committee uses its subpoena power to seek information covered by executive privilege, the subpoena will only be enforced where "the subpoenaed

evidence is demonstrably critical to the responsible fulfillment of the Select Committee's functions.” *Senate Select Comm. on Presidential Campaign Activities v. Nixon*, 498 F.2d 725, 731 (D.C. Cir. 1974).

146. The information sought by the Select Committee is not demonstrably critical to its functions as it is not relevant to any legislative purpose and could be obtained from alternative sources.

147. As alleged previously, the information is not relevant to a valid legislative purpose.

148. Additionally, the vast majority of the information sought by the Select Committee could be obtained from other sources. Very little, if any, of the information sought by the Select Committee is in Mr. Meadows’ sole possession. Much of it could be obtained via subpoenas to individuals outside the Executive Branch or individuals who lie farther from the core of executive privilege.

149. The subpoena also purports to compel Mr. Meadows to appear and give testimony regarding the topics identified therein.

**E. The Select Committee violates longstanding testimonial immunity for senior advisors to the President.**

150. Senior executive officials are immune from such compelled testimony because of their close relationship to the President and attending importance with respect to the operation of the executive and relationship between the branches of government. *Immunity of the Assistant to the President*, 38 Op. O.L.C. 5, 1 (2014); *Immunity of the Former Counsel*, 31 Op. O.L.C. 191, 191 (2007); *Assertion of executive privilege with Respect to Clemency Decision*, 23 Op. O.L.C. 1, 4 (1999); *Immunity of the Counsel to the President from Compelled Congressional Testimony*, 20 Op. O.L.C. 308, 308 (1996).

151. Because Mr. Meadows as Chief of Staff at the White House was so inextricably involved in the President’s decision-making, “[s]ubjecting [him] to the congressional subpoena power would be akin to requiring the President himself to appear before Congress on matters relating to the performance of his constitutionally assigned executive functions.” *Assertion of executive privilege*, 23 Op. O.L.C. at 5.

152. Despite Mr. Meadows’ role as Chief of Staff, the Select Committee, both implicitly in its subpoena and explicitly in its letters to Mr. Meadows, has rejected any claim of testimonial immunity, demanded that Mr. Meadows appear for testimony, and threatened to refer him for contempt of Congress if he declines.

153. This demand and the attending threat contravene Mr. Meadows’ testimonial immunity as a senior executive official.

**E. Compelled production under the Verizon Subpoena would violate the Fourth Amendment.**

154. The Verizon Subpoena instructs Verizon to produce subscriber information and cell phone data associated with the phone number previously used by Mr. Meadows.

155. On December 5, 2021, Mr. Meadows received a letter dated December 2 from Verizon Security Subpoena Compliance notifying him of its duty to comply with the subpoena. The letter provided that Verizon would comply with the subpoena unless it “receives a court document challenging the subpoena by December 15, 2021.”

156. This cell phone number was used by Mr. Meadows as his personal cell phone during his tenure as White House Chief of Staff.

157. The subscriber information requested includes subscriber names and contact information, authorized users, time of service provided, account changes, associated IP addresses, and other metadata.



158. The cell phone data requested includes all calls, text messages, and other records of communications associated with that phone number.

159. This data can be used for historic cell site analysis.

160. The requested data covers four full months: October 1, 2020 through January 31, 2021.

161. Mr. Meadows produced to the Select Committee on December 3, 2021 content, including metadata, from this cell phone that was responsive to his September 23, 2021 subpoena.

162. Mr. Meadows has a reasonable expectation of privacy in his personal cell phone data.

163. The Fourth Amendment enumerates the right of private individuals to be free from unreasonable search and seizure by the government into their persons, houses, papers, and effects. It also protects a person's reasonable privacy expectations. *Katz v. United States*, 389 U.S. 347, 351 (1967).

164. The fact that a third party at least temporarily stores a person's cell phone data does not alter his expectation or its reasonableness. *Carpenter v. United States*, 138 S. Ct. 2206, 2217 (2018).

165. The Fourth Amendment restricts the ability of the Select Committee to issue sweeping subpoenas untethered from any valid legislative purpose. *See Oklahoma Press Pub. Co. v. Walling*, 327 U.S. 186, 196 (1946) .

166. If the government, including the Select Committee, seeks to obtain documents or data protected by the Fourth Amendment, it must be obtained by consent or otherwise authorized by law. Mr. Meadows has not provided his consent for Verizon to produce his cell phone data to

the Select Committee. And for the reasons discussed *infra*, the Select Committee's subpoenas are invalid.

167. A congressional subpoena must be reasonable. An all-encompassing subpoena for personal, nonofficial documents falls outside the scope of Congress' legitimate legislative power. See *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2040 (2020).

168. The Select Committee's subpoena to both Verizon and Mr. Meadows are so broad and indefinite as to exceed the lawfully authorized purpose of the Select Committee. See *McPhaul v. United States*, 364 U.S. 372, 381 (1960). The subpoena to Verizon, in particular, contains no limitations seeking to preserve applicable privileges or prevent violations of constitutional rights.

169. For the Select Committee to subpoena Verizon for all Mr. Meadows' personal cell phone data over the course of four months is entirely unreasonable. Such a request is so broad both temporally and with respect to the collected data, that the Select Committee exceeds any lawfully authorized purpose.

170. Likewise, the Select Committee's subpoena seeking Mr. Meadows' documents and testimony throughout the course of his entire tenure as White House Chief of Staff is overly broad. The request is overly broad with respect both to the timeframe and the subject matters in question. It exceeds any authorized purpose of the Select Committee.

171. As the subpoenas in question exceed the lawfully authorized purpose of the Select Committee, full compliance with such subpoenas would violate Mr. Meadows' Fourth Amendment protection against unlawful search and seizure. The subpoenas are thus invalid and unenforceable.

**F. Compelled production of cell phone data under the Verizon Subpoena would violate the First Amendment.**

172. The subpoena of Mr. Meadows' private cell phone data violates his right to free association and chills the exercise of free speech rights.

173. The Committee's subpoena of Verizon identifies Mr. Meadows' personal cell phone number and requests the data associated with it—data which Mr. Meadows has already provided with respect to his responsive documents.

174. Additionally, Mr. Meadows used his personal phone to engage in protected advocacy and other speech, including privileged speech with his attorneys and spouse.

175. Mr. Meadows also used his personal phone to engage in private conversations with friends and family.

176. All of these associational and expressive activities are protected by the First Amendment. *See Buckley v. Valeo*, 424 U.S. 1, 64 (1976); *Black Panther Party v. Smith*, 661 F.2d 1243, 1267 (D.C. Cir. 1981); *Am. Fed'n of Lab. & Cong. of Indus. Organizations v. Fed. Election Comm'n*, 333 F.3d 168, 179 (D.C. Cir. 2003).

177. The Committee has no legitimate purpose for seeking the protected information demanded by the subpoena. Mr. Meadows has already provided the Committee with the substance and metadata of his responsive emails and text messages. Additional information will not meaningfully aid the Committee in any valid pursuit.

178. Even if had a valid reason to seek protected information, the Committee has put in place no safeguards to protect Mr. Meadows' rights. It provided Mr. Meadows with no notice of the subpoena and has provided him with no opportunity to assert claims of privilege or other legal protections over the demanded information. It also has no provisions for a taint team or analogous filter for privileged information. The entirety of the demanded information, including that which

is constitutionally or otherwise protected, will be turned over to the Committee to do with as it pleases.

179. The Verizon subpoena is also a clear effort to chill the speech of the Committee Member's political adversaries.

180. The body that issued this subpoena is composed of 9 members, 7 of whom belong to the political party that opposed the President under which Mr. Meadows served.

181. As noted above, the subpoena served no substantive purpose in the Committee's investigation—it will not turn up any new relevant information.

182. Allowing an entirely partisan select committee of Congress to subpoena the personal cell phone data of executive officials would work a massive chilling of current and future Executive Branch officials' associational and free speech rights

183. The Committee's asserted interest is insufficient and its alternative means of obtaining this information are too obvious to justify such a drastic chilling of speech

### **PRAYER FOR RELIEF**

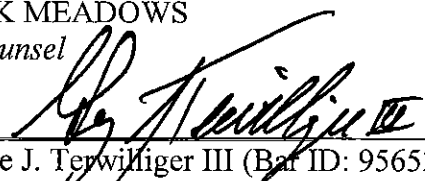
Wherefore, Plaintiff asks the Court to enter judgment in his favor and against Defendants and to order the following relief:

- a. A declaratory judgment that the Meadows Subpoena and the Verizon Subpoena are ultra vires, unlawful, and unenforceable;
- b. A declaratory judgment that the Meadows Subpoena and the Verizon Subpoena serve no valid legislative purpose and exceed the Select Committee's Constitutional authority;
- c. A declaratory judgment that compliance with the Verizon Subpoena would violate the Stored Communications Act;
- d. A declaratory judgment that the Meadows Subpoena improperly compels testimony of a senior executive official;
- e. A declaratory judgment that the Verizon Subpoena violates Mr. Meadows First Amendment rights;
- f. A declaratory judgment that the Verizon Subpoena violates Mr. Meadows Fourth Amendment rights;
- g. In the alternative, an order modifying the Meadows Subpoena and the Verizon Subpoena to seek only unprivileged information that does not infringe on Mr. Meadows's constitutional rights;
- h. In the alternative, a declaration that Mr. Meadows may validly assert executive privilege over communications and deliberations related to his service of the President;

- i. An injunction quashing the Meadows Subpoena and the Verizon Subpoena and prohibiting their enforcement by Defendants;
- j. An injunction prohibiting Defendants from imposing sanctions for noncompliance with the Meadows Subpoena and/or the Verizon Subpoena;
- k. An injunction prohibiting Defendants from inspecting, using, maintaining, or disclosing any information obtained as a result of the Meadows Subpoena and/or the Verizon Subpoena;
- l. An award in favor of Plaintiff for his reasonable expenses, including attorneys' fees and costs, incurred as a result of the Meadows Subpoena and Verizon Subpoena; and
- m. Any and all other relief that the Court deems just and proper.

Dated: December 8, 2021

Respectfully submitted,  
MARK MEADOWS  
*By Counsel*



---

George J. Terwilliger III (Bar ID: 956532)  
MCGUIREWOODS LLP  
888 16th Street NW, Suite 500  
Washington, DC 20006  
Phone: (202) 857-1700  
Fax: (202) 857-1737

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bspears@mcguirewoods.com

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Pro Hac Vice Application Forthcoming  
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Pro Hac Vice Application Forthcoming

## EXHIBIT A



## SUBPOENA

### BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

Mark Meadows

To \_\_\_\_\_

You are hereby commanded to be and appear before the  
Select Committee to Investigate the January 6th Attack on the United States Capitol

\_\_\_\_\_ of the House of Representatives of the United States at the place, date, and time specified below.

- ☒ **to produce the things identified on the attached schedule** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 1540A Longworth House Office Building, Washington DC 20515

Date: October 7, 2021

Time: 10:00 a.m.

- ☒ **to testify at a deposition** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 1540A Longworth House Office Building, Washington DC 20515

Date: October 15, 2021

Time: 2:00 p.m.

- ☐ **to testify at a hearing** touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

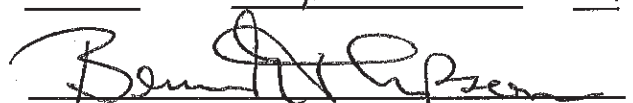
Date: \_\_\_\_\_

Time: \_\_\_\_\_

To any authorized staff member or the United States Marshals Service

\_\_\_\_\_ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at  
the city of Washington, D.C. this 23<sup>rd</sup> day of September, 2021.

  
Chairman or Authorized Member

Attest

  
Clerk

## PROOF OF SERVICE

---

Subpoena for Mark Meadows

c/o Scott Gost, attorney for Mr. Meadows

Address 606 Wind Flower Drive

Sunset, SC 29685

before the Select Committee to Investigate the January 6th Attack on the United States Capitol

*U.S. House of Representatives  
117th Congress*

Served by (print name) KRISTIN AMERLING

Title CHIEF COUNSEL + DEPUTY STAFF DIRECTOR

Manner of service Email to Attorney for Mr. Meadows,

Scott Gost of Compass Legal Services (sgost@compasslegal.org)

Date 9/23/2021

Signature of Server Kristin Amerling

Address Longworth HOB, Washington, DC 20515 (Room 1540A)

Select Committee to Investigate the January 6 Attack

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

**One Hundred Seventeenth Congress**  
**Select Committee to Investigate the January 6th Attack on the United States Capitol**

September 23, 2021

The Honorable Mark R. Meadows  
c/o Mr. Scott Gast  
Compass Legal Services  
300 Independence Avenue SE  
Washington, DC 20003

Dear Mr. Meadows:

Pursuant to the authorities set forth in House Resolution 503 and the rules of the House of Representatives, the Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”) hereby transmits a subpoena that compels you to produce the documents set forth in the accompanying schedule by October 7, 2021, and to appear for a deposition on October 15, 2021.

The Select Committee is investigating the facts, circumstances, and causes of the January 6th attack and issues relating to the peaceful transfer of power, in order to identify and evaluate lessons learned and to recommend to the House and its relevant committees corrective laws, policies, procedures, rules, or regulations. The inquiry includes examination of how various individuals and entities coordinated their activities leading up to the events of January 6, 2021.

The investigation has revealed credible evidence of your involvement in events within the scope of the Select Committee’s inquiry. You were the President’s Chief of Staff and have critical information regarding many elements of our inquiry. It appears that you were with or in the vicinity of President Trump on January 6, had communications with the President and others on January 6 regarding events at the Capitol, and are a witness regarding activities of that day. Moreover, it has been reported that you were engaged in multiple elements of the planning and preparation of efforts to contest the presidential election and delay the counting of electoral votes. In addition, according to documents provided by the Department of Justice, while you were the President’s Chief of Staff, you directly communicated with the highest officials at the Department of Justice requesting investigations into election fraud matters in several states.<sup>1</sup> We understand that in the weeks after the November 2020 election, you contacted several state officials to encourage investigation of allegations of election fraud, even after such allegations had been dismissed by state and federal courts, and after the Electoral College had met and voted on December 14, 2020.<sup>2</sup> Moreover, at least one press report indicates you were in communication with organizers of the January 6 rally, including Amy Kremer of Women for America First.<sup>3</sup>

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<sup>1</sup> Documents on file with the Committee.

<sup>2</sup> Linda So, *Trump’s Chief of Staff Could Face Scrutiny in Georgia Criminal Probe* (Reuters, March 19, 2021); Documents on file with the Committee.

<sup>3</sup> Joshua Kaplan & Joaquin Sapient, *New Details Suggest Senior Trump Aides Knew Jan. 6 Rally Could Get Chaotic*, PROPUBLICA (June 25, 2021), <https://www.propublica.org/article/new-details-suggest-senior-trump-aides-knew-jan-6-rally-could-get-chaotic>.

The Honorable Mark R. Meadows

Page 2

Accordingly, the Select Committee seeks both documents and your deposition testimony regarding these and other matters that are within the scope of the Select Committee's inquiry.

A copy of the rules governing Select Committee depositions, and document production definitions and instructions are attached. Please contact staff for the Select Committee at 202-225-7800 to arrange for the production of documents.

Sincerely,

A handwritten signature in blue ink, reading "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent.

Bennie G. Thompson  
Chairman

The Honorable Mark R. Meadows  
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### SCHEDULE

In accordance with the attached Definitions and Instructions, you, Mr. Mark Meadows, are hereby required to produce, all documents and communications in your possession, custody, or control—including any such documents or communications stored or located on personal devices (e.g., personal computers, cellular phones, tablets, etc.), in personal or campaign accounts, and/or on personal or campaign applications (e.g., email accounts, contact lists, calendar entries, etc.)—referring or relating to the following items. If no date range is specified below, the applicable dates are for the time period April 1, 2020-present.

1. Communications referring or relating in any way to plans, efforts, or discussions regarding challenging, decertifying, overturning, or contesting the results of the 2020 Presidential election.
2. All documents and communications concerning the role of the Vice President as the Presiding Officer in the certification of the votes of the electoral college.
3. From November 3, 2020, through January 20, 2021, all documents and communications referring or relating to the 2020 election results sent or transmitted between White House officials and officials of state or local governments.
4. From November 3, 2020, through January 6, 2021, all documents and communications referring or relating to actual or potential court decisions, deliberations, or processes involving challenges to the 2020 Presidential election.
5. All recordings, transcripts, notes (including electronic and hand-written notes), summaries, memoranda of conversation, readouts, or other documents memorializing communications between you and President Trump and/or Members of Congress on January 6, 2021, relating or referring in any way to the attack on the Capitol.
6. All documents that refer or relate to efforts, plans, or attempts by President Trump to activate the National Guard on January 6, 2021.
7. From November 3, 2020, through January 19, 2021, all documents and communications concerning the resignation of any White House personnel or any politically appointed personnel of any Federal department or agency (including the resignation of any member of the President's Cabinet) and mentioning or referring (explicitly or implicitly) to the 2020 Presidential election or the events of January 6, 2021.
8. All documents and communications relating to planned protests, marches, public assemblies, rallies, or speeches in Washington, DC, on November 14, 2020, December 12, 2020, or January 5, 2021, or January 6, 2021.
9. All documents and communications related to security of the Capitol or other Federal facilities on January 5, 2021, and January 6, 2021.
10. From December 1, 2020, through January 20, 2021, any documents and communications involving White House personnel and any Member of Congress, referring or relating to (a) civil unrest, violence, and/or attacks at the Capitol; (b) challenging, overturning, or questioning the validity of the 2020 election results; (c) the counting of the electoral college vote on January 6, 2021; or (d) appealing or challenging the decisions of courts related to the 2020 Presidential election.



The Honorable Mark R. Meadows

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11. All documents and communications related to social media information monitored, gathered, reviewed, shared, or analyzed by White House personnel on January 6, 2021.
12. All documents and communications related to any plan for the President to march or walk to the Capitol on January 6, 2021. This request includes any such documents or communications related to a decision not to march or walk to the Capitol on January 6, 2021.
13. From November 3, 2020, to January 20, 2021, all documents and communications reporting, summarizing, or detailing the voting returns and election results of the 2020 Presidential election.
14. All documents and communications related to Donald Trump's response or reaction to the election results of the 2020 Presidential election, including but not limited to any planned public remarks.
15. All documents and communications regarding a November 9, 2020, memorandum from Attorney General William Barr concerning investigation of voter fraud allegations.
16. From November 3, 2020, through January 20, 2021, all documents provided to you or Donald Trump reviewing, assessing, or reporting on the security of election systems in the United States.
17. From November 3, 2020, through January 20, 2021, all documents and communications provided to Donald Trump regarding purported election irregularities, election-related fraud, or other election-related malfeasance.
18. From April 1, 2020, through January 20, 2021, all documents and communications provided to you or Donald Trump referring to a stolen election, stealing the election, or a "rigged" election.
19. From November 3, 2020, through January 20, 2021, all documents and communications related to the Twenty-Fifth Amendment to the U.S. Constitution.
20. Any documents and communications relating to instructions to stop or delay preparation for the transition of administrations.
21. All communications between White House personnel and General Services Administration (GSA) Administrator Emily Murphy or other GSA officials relating to "ascertainment" under the Presidential Transition Act. This includes but is not limited to communications discussing the recognition of Joseph Biden as the winner of the 2020 Presidential election.
22. All documents and communications concerning the potential invocation of the Insurrection Act.
23. From November 3, 2020, through January 20, 2021, all documents and communications related to martial law.
24. All documents and communications concerning the use of Federal law enforcement or military personnel during voting or vote counting in the 2020 Presidential election.
25. Any documents and communications relating to foreign influence in the United States 2020 Presidential election through social media narratives and disinformation.
26. All documents and communications related to the January 3, 2021, letter from ten former Defense Secretaries warning of use of the military in election disputes.

The Honorable Mark R. Meadows

Page 5

27. All documents and communications to or from the United States Secret Service concerning individuals in attendance at the January 6 rally in body armor, ballistic helmets, radio equipment, and "military grade" backpacks.

**DOCUMENT PRODUCTION DEFINITIONS AND INSTRUCTIONS**

1. In complying with this request, produce all responsive documents, regardless of classification level, that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Select Committee to Investigate the January 6th Attack on the United States Capitol ("Committee").
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in a protected electronic form (i.e., password protected CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions. With specific reference to classified material, you will coordinate with the Committee's Security Officer to arrange for the appropriate transfer of such information to the Committee. This includes, but is not necessarily limited to: a) identifying the classification level of the responsive document(s); and b) coordinating for the appropriate transfer of any classified responsive document(s).
5. Electronic document productions should be prepared according to the following standards:
  - a. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - b. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH, PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.



6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
9. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
10. The pendency of or potential for litigation shall not be a basis to withhold any information.
11. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
12. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
13. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production, as well as a date certain as to when full production will be satisfied.
14. In the event that a document is withheld on any basis, provide a log containing the following information concerning any such document: (a) the reason it is being withheld, including, if applicable, the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the withholding.
15. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control. Additionally, identify where the responsive document can now be found including name, location, and contact information of the entity or entities now in possession of the responsive document(s).
16. If a date or other descriptive detail set forth in this request referring to a document

is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

17. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
18. All documents shall be Bates-stamped sequentially and produced sequentially.
19. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and  
(2) all documents located during the search that are responsive have been produced to the Committee.

#### **Definitions**

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of classification level, how recorded, or how stored/displayed (e.g. on a social media platform) and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, computer or mobile device screenshots/screen captures, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, through a social media or online platform, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, assignee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

January 4, 2021

## CONGRESSIONAL RECORD—HOUSE

H41

health, safety, and well-being of others present in the Chamber and surrounding areas. Members and staff will not be permitted to enter the Hall of the House without wearing a mask. Masks will be available at the entry points for any Member who forgets to bring one. The Chair views the failure to wear a mask as a serious breach of decorum. The Sergeant-at-Arms is directed to enforce this policy. Based upon the health and safety guidance from the attending physician and the Sergeant-at-Arms, the Chair would further advise that all Members should leave the Chamber promptly after casting their votes. Furthermore, Members should avoid congregating in the rooms leading to the Chamber, including the Speaker's lobby. The Chair will continue the practice of providing small groups of Members with a minimum of 5 minutes within which to cast their votes. Members are encouraged to vote with their previously assigned group. After voting, Members must clear the Chamber to allow the next group a safe and sufficient opportunity to vote. It is essential for the health and safety of Members, staff, and the U.S. Capitol Police to consistently practice social distancing and to ensure that a safe capacity be maintained in the Chamber at all times. To that end, the Chair appreciates the cooperation of Members and staff in preserving order and decorum in the Chamber and in displaying respect and safety for one another by wearing a mask and practicing social distancing. All announced policies, including those addressing decorum in debate and the conduct of votes by electronic device, shall be carried out in harmony with this policy during the pendency of a covered period.

#### 117TH CONGRESS REGULATIONS FOR USE OF DEPOSITION AUTHORITY

COMMITTEE ON RULES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 4, 2021.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(b) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding the conduct of depositions by committee and select committee counsel for printing in the Congressional Record.

Sincerely,

JAMES P. MCGOVERN,  
Chairman, Committee on Rules.

#### REGULATIONS FOR THE USE OF DEPOSITION AUTHORITY

1. Notices for the taking of depositions shall specify the date, time, and place of examination. Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths. Depositions may continue from day to day.

2. Consultation with the ranking minority member shall include three days' notice before any deposition is taken. All members of the committee shall also receive three days written notice that a deposition will be taken, except in exigent circumstances. For purposes of these procedures, a day shall not include Saturdays, Sundays, or legal holidays except when the House is in session on such a day.

3. Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.

4. The chair of the committee noticing the deposition may designate that deposition as part of a joint investigation between committees, and in that case, provide notice to the members of the committees. If such a designation is made, the chair and ranking minority member of the additional committee(s) may designate committee staff to attend pursuant to regulation 3. Members and designated staff of the committees may attend and ask questions as set forth below.

5. A deposition shall be conducted by any member or committee counsel designated by the chair or ranking minority member of the Committee that noticed the deposition. When depositions are conducted by committee counsel, there shall be no more than two committee counsel permitted to question a witness per round. One of the committee counsel shall be designated by the chair and the other by the ranking minority member per round.

6. Deposition questions shall be propounded in rounds. The length of each round shall not exceed 60 minutes per side, and shall provide equal time to the majority and the minority. In each round, the member(s) or committee counsel designated by the chair shall ask questions first, and the member(s) or committee counsel designated by the ranking minority member shall ask questions second.

7. Objections must be stated concisely and in a non-argumentative and non-suggestive manner. A witness's counsel may not instruct a witness to refuse to answer a question, except to preserve a privilege. In the event of professional, ethical, or other misconduct by the witness's counsel during the deposition, the Committee may take any appropriate disciplinary action. The witness may refuse to answer a question only to preserve a privilege. When the witness has refused to answer a question to preserve a privilege, members or staff may (i) proceed with the deposition, or (ii) either at that time or at a subsequent time, seek a ruling from the Chair either by telephone or otherwise. If the Chair overrules any such objection and thereby orders a witness to answer any question to which an objection was lodged, the witness shall be ordered to answer. If a member of the committee chooses to appeal the ruling of the chair, such appeal must be made within three days, in writing, and shall be preserved for committee consideration. The Committee's ruling on appeal shall be filed with the clerk of the Committee and shall be provided to the members and witness no less than three days before the reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the chair may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed by the committee on appeal.

8. The Committee chair shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days after the witness has been notified of the opportunity to review the transcript, the witness may submit suggested changes to the chair. Committee staff may make any typographical and technical changes. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness's reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

9. The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the committee for the committee's use. The chair and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

10. The chair and ranking minority member shall consult regarding the release of deposition testimony, transcripts, or recordings, and portions thereof. If either objects in writing to a proposed release of a deposition testimony, transcript, or recording, or a portion thereof, the matter shall be promptly referred to the committee for resolution.

11. A witness shall not be required to testify unless the witness has been provided with a copy of section 3(b) of H. Res. 8, 117th Congress, and these regulations.

#### REMOTE COMMITTEE PROCEEDINGS REGULATIONS PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

COMMITTEE ON RULES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 4, 2021.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(s) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding remote committee proceedings for printing in the CONGRESSIONAL RECORD.

Sincerely,

JAMES P. MCGOVERN,  
Chairman,  
Committee on Rules.

#### REMOTE COMMITTEE PROCEEDINGS REGULATIONS PURSUANT TO HOUSE RESOLUTION 8

##### A. PRESENCE AND VOTING

1. Members participating remotely in a committee proceeding must be visible on the software platform's video function to be considered in attendance and to participate unless connectivity issues or other technical problems render the member unable to fully participate on camera (except as provided in regulations A.2 and A.3).

2. The exception in regulation A.1 for connectivity issues or other technical problems does not apply if a point of order has been made that a quorum is not present. Members participating remotely must be visible on the software platform's video function in order to be counted for the purpose of establishing a quorum.

3. The exception in regulation A.1 for connectivity issues or other technical problems does not apply during a vote. Members participating remotely must be visible on the software platform's video function in order to vote.

4. Members participating remotely off-camera due to connectivity issues or other technical problems pursuant to regulation A.1 must inform committee majority and minority staff either directly or through staff.

5. The chair shall make a good faith effort to provide every member experiencing connectivity issues an opportunity to participate fully in the proceedings, subject to regulations A.2 and A.3.

## EXHIBIT B



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October 7, 2021

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

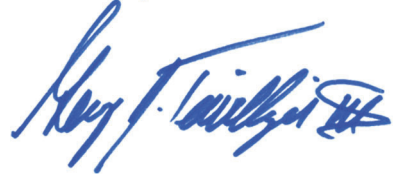
Please be advised that I have been retained to serve as counsel to Mr. Meadows in connection with the January 6th Select Committee's investigation and specifically, Committee subpoenas served on Mr. Meadows.

Inasmuch as I was retained yesterday in this matter, please understand that my opportunity to, on behalf of my client, begin our cooperation with your investigation has been extremely limited. Nonetheless, I can inform the Committee of the following in response to the subpoena for production of documents with a return date of October 7, 2021. We believe that any documents responsive to that subpoena would not be in Mr. Meadows personal care, custody or control, but rather would be in the possession of the Archivist of the United States pursuant to the Presidential Records Act of 1978, 44 U.S.C. §§ 2201-2207. Despite that belief, we are undertaking due diligence to ascertain whether Mr. Meadows is in personal possession of any responsive documents and will report further to the Committee in that regard as soon as we have any pertinent and/or definitive information.

As to the subpoena for testimony with a return date of October 15, 2021, I anticipate being in touch forthwith with the Committee's investigative staff in that regard.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
October 7, 2021  
Page 2

Sincerely yours,

A handwritten signature in blue ink, appearing to read "George J. Terwilliger III", with a stylized flourish at the end.

George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## EXHIBIT C



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McGUIREWOODS

October 11, 2021

Honorable Dana A. Remus  
Counsel to the President  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Re: Congressional Subpoena to Former White House Chief of Staff Mark R. Meadows

Dear Ms. Remus:

I write on behalf of my client, Mark R. Meadows, regarding a subpoena he recently received from the Select Committee to the Investigate the January 6th Attack on the United States Capitol of the U.S. House of Representatives. While now a private citizen, Mr. Meadows served as White House Chief of Staff under President Donald J. Trump during the period that is the focus of the Select Committee's investigation. I write now because, as detailed below, Presidents and Presidential Administrations of both parties have long maintained the position that Congress cannot compel senior advisors to the President to testify or to produce records of their communications with and on behalf of the President. The Select Committee's subpoena to Mr. Meadows threatens these important principles which safeguard the separation of powers enshrined in the U.S. Constitution.

The Select Committee's subpoena, which Mr. Meadows received on September 23, 2021, seeks both records and testimony regarding Mr. Meadows's tenure as White House Chief of Staff, including his communications with the President of the United States and other senior Executive Branch officials. A copy of the subpoena is attached. Mr. Meadows also received a letter, through counsel, on October 6, 2021, from an attorney for President Trump regarding the subpoena. A copy of the letter is attached as well.

Mr. Meadows has profound respect both for the Congress and for the Presidency as integral parts of the Federal Government established under the U.S. Constitution. He served four terms in the U.S. House of Representatives, representing North Carolina's 11th District, before serving as White House Chief of Staff. He is committed both to fulfilling his legal obligations and to protecting the balance of power that underpins our American system of government.

Honorable Dana A. Remus  
October 11, 2021  
Page 2

I am therefore writing to you in hopes of clarifying information we have seen in public reports regarding President Biden's position on the Select Committee's subpoenas (which include subpoenas to other individuals from both inside and outside the Executive Branch) and to request the opportunity to discuss these important matters with you.

### ***Executive Branch Precedent***

As you know, Presidential Administrations of both parties have consistently maintained that privileged communications within the Executive Branch are immune from congressional subpoena. *See, e.g., Assertion of Executive Privilege Over Deliberative Materials Regarding Inclusion of Citizenship Question on 2020 Census Questionnaire*, O.L.C. slip. op. (June 11, 2019) (Atty. Gen. William P. Barr); *Assertion of Executive Privilege Over Documents Generated in Response to Congressional Investigation into Operation Fast and Furious*, 36 Op. O.L.C. 1 (2012) (Atty. Gen. Eric H. Holder, Jr.); *Assertion of Executive Privilege Concerning Special Counsel's Interviews of the Vice President and Senior White House Staff*, 32 Op. O.L.C. 7 (2008) (Atty. Gen. Michael B. Mukasey); *Assertion of Executive Privilege Regarding White House Counsel's Office Documents*, 20 Op. O.L.C. 2 (1996) (Atty. Gen. Janet Reno). Among other things, this position guards against "the chilling effect that compliance with [a congressional] subpoena would have on future White House deliberations." 32 Op. O.L.C. at 13.

Considering this longstanding, bi-partisan tradition and its importance to the effective functioning of the Executive Branch, we were surprised to hear reports that you had directed the production of privileged White House documents without consulting the officials from whom they originated. Of course, mistaken media reports would not be unprecedented. We also understand that not all recipients of the Select Committee's subpoenas may be similarly situated to Mr. Meadows. We therefore respectfully ask for you to clarify whether you have directed the Archivist to produce privileged materials arising from Mr. Meadows' tenure as Chief of Staff to Congress, and if so, to clarify the scope of that directive. We also ask that, at an appropriate time and subject to appropriate conditions, you make any such production available to Mr. Meadows and to us as his counsel for the limited purpose of responding to the Select Committee's subpoena.

### ***Document Production***

In response to the subpoena, we informed the Select Committee on October 7, 2021, of our belief that all the potentially responsive records from Mr. Meadows' tenure as Chief of Staff would be in the custody and control of the Archivist of the United States, consistent with the Presidential Records Act of 1978, 44 U.S.C. §§ 2201–07. We also expressed our intention to take appropriate steps to confirm that belief. On October 8, 2021, multiple media outlets reported that you had already instructed the Archivist of the United States to produce responsive materials to the Select

Honorable Dana A. Remus  
 October 11, 2021  
 Page 3

Committee without any withholding or redaction based on executive privilege.<sup>1</sup> Mr. Meadows recognizes that, as a public servant, he created records belonging to the United States and not to him personally. He asserts no personal stake in the disposition of these records. But as former White House Chief of Staff, he also wants to ensure that the institution of the Presidency is protected and that the long-standing traditions which protect its operations are not traded away for political expediency.

### ***Testimony***

Aside from its request for documents, the Select Committee has also sought to compel testimony from Mr. Meadows. We believe that, consistent with Executive Branch practice, Mr. Meadows is immune from being compelled to testify before Congress regarding his service as White House Chief of Staff.

Long-standing Executive Branch tradition recognizes that senior White House officials enjoy an absolute immunity from compelled testimony before Congress. *See* Memorandum for All Heads of Offices, Divisions, Bureaus and Boards of the Department of Justice, from John M. Harmon, Acting Assistant Attorney General, Office of Legal Counsel, *Re: Executive Privilege* at 5 (May 23, 1977); Memorandum for John D. Ehrlichman, Assistant to the President for Domestic Affairs, from William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, *Re: Power of Congressional Committee to Compel Appearance or Testimony of “White House Staff”* (Feb. 5, 1971). This immunity continues to apply even after senior officials leave the White House. *See, e.g., Testimonial Immunity Before Congress of the Former Counsel to the President*, O.L.C. slip op., at \*2 (May 20, 2019) (“*Testimonial Immunity Before Congress*”); *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 Op. O.L.C. 191, 192 (2007). Testimonial immunity is also “distinct from, and broader than, executive privilege” in that it “extends beyond answers to particular questions, precluding Congress from compelling even the appearance of a senior presidential adviser—as a function of the independence and autonomy of the President himself.” *Testimonial Immunity Before Congress*, O.L.C. slip op. at \*4.

Notwithstanding the public reports about the Select Committee’s document requests, we have no reason to believe that President Biden has purported to waive testimonial immunity for Mr. Meadows in connection with the Select Committee’s subpoena. In the attached letter, former President Trump expressed his view that “Mr. Meadows is immune from compelled testimony on matters related to his official responsibilities.” Ex. B (citing *Testimonial Immunity Before Congress*, O.L.C. slip op.). There are good reasons to preserve that immunity for the White House Chief of Staff, even if a decision has already been made to produce some otherwise privileged documents.

---

<sup>1</sup> *See, e.g.,* Nicholas Wu et al., *Biden White House waives executive privilege for initial set of Trump-era documents sought by Jan. 6 panel*, POLITICO (Oct. 81, 2021), available at <https://www.politico.com/news/2021/10/08/bannon-jan-6-subpoena-515681>.

Honorable Dana A. Remus  
October 11, 2021  
Page 4

The testimonial privilege vindicates the constitutional separation of powers. The President, as the head of a co-equal branch of government, stands on equal constitutional footing with the Congress. For Congress to compel an immediate Presidential advisor—who serves as “an extension of the President”—“to appear and testify would ‘promote a perception that the President is subordinate to Congress, contrary to the Constitution’s separation of governmental powers into equal and coordinate branches.’” *Testimonial Immunity Before Congress*, O.L.C. slip op. at \*4 (quoting *Immunity of the Assistant to the President and Director of the Office of Political Strategy and Outreach from Congressional Subpoena*, 38 Op. O.L.C. 5, 8 (2014) (“*Immunity of the Assistant to the President*”).

The testimonial privilege also protects the prerogative of current and future White House officials to provide the President with the frank and candid advice required to discharge faithfully the duties of the office. The Office of Legal Counsel emphasized this point in 2014 to explain why David Simas, Assistant to President Obama, was not required to testify in response to a subpoena from the House Committee on Oversight and Government Reform:

[A] congressional power to subpoena the President’s closest advisers to testify about matters that occur during the course of discharging their official duties would threaten Executive Branch confidentiality, which is necessary (among other things) to ensure that the President can obtain the type of sound and candid advice that is essential to the effective discharge of his constitutional duties.

*Immunity of the Assistant to the President*, 38 Op. O.L.C. at 8. That office noted the Supreme Court’s recognition in *United States v. Nixon*, 418 U.S. 683 (1974), of “‘the necessity for protection of the public interest in candid, objective, and even blunt or harsh opinions in presidential decisionmaking.’” *Immunity of the Assistant to the President*, 38 Op. O.L.C. at 8 (quoting *Nixon*, 418 U.S. at 708).

Past Presidents have thus asserted privilege and testimonial immunity to protect senior officials from prior Administrations from opposite parties. *See, e.g.*, Ellen Nakashima, *Bush Invokes Executive Privilege on Hill*, THE WASHINGTON POST (Dec. 14, 2001) (discussing assertion of privilege by President George W. Bush over materials from the Administration of President William J. Clinton), *available at* <https://www.washingtonpost.com/archive/politics/2001/12/14/bush-invokes-executive-privilege-on-hill/b05753f1-baf9-494b-ab52-33eb8ef7bd98/>.

We recognize that Congress has placed immense political pressure on the White House to waive executive privilege in connection with the Select Committee’s investigation, and that the Administration has already chosen to do so in some circumstances. It is precisely when the political pressure is at its strongest that the longstanding safeguards of the separation of powers become most important.

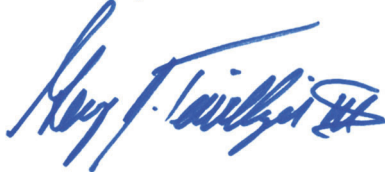
We respectfully request an opportunity to discuss these matters with you before any decision is made that would purport to require Mr. Meadows to act contrary to Executive Branch precedent.

Honorable Dana A. Remus  
October 11, 2021  
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\* \* \*

We appreciate your consideration of these important matters. We hope that you can clarify the record on the Select Committee's request for documents and afford us the opportunity to speak with you about the testimonial immunity that shields Mr. Meadows from the Select Committee's subpoena. We are happy to make ourselves available to meet with you at your convenience. In the meantime, please do not hesitate to reach out with any questions.

Sincerely yours,



George J. Terwilliger III

Counsel to Mr. Meadows

Enclosures

cc: Honorable Timothy J. Heaphy  
Chief Investigative Counsel  
Select Committee to Investigate the January 6th Attack on the United States Capitol

## EXHIBIT D

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

October 25, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger,

The Select Committee to Investigate the January 6th Attack (“Select Committee”) is in receipt of your October 7, 2021, letter and your October 13, 2021, email and attached documents (the “correspondence”) regarding the September 23, 2021, subpoena for documents and testimony served on your client Mark R. Meadows (the “subpoena”). The Select Committee is also in receipt of your October 11, 2021, letter addressed to Counsel to the President Dana A. Remus (the “letter to the White House”). You have also had calls with Select Committee staff about the subpoena, the most recent of which occurred on October 20, 2021. Based on the correspondence, the letter to the White House, and calls, I understand that Mr. Meadows believes that, as a former advisor to President Donald Trump, he may be immune from testifying before the Select Committee. In addition, I understand that Mr. Meadows believes that, even if he is not immune from testifying, his testimony may nonetheless be covered by a claim of executive privilege.

Mr. Scott Gast accepted service of the subpoena on Mr. Meadows’s behalf on September 23, 2021. The subpoena demanded that Mr. Meadows produce documents by October 7 and appear for testimony by October 15. The requested documents and testimony relate directly to the inquiry being conducted by the Select Committee, serve a legitimate legislative purpose, and are within the scope of the authority expressly delegated to the Select Committee pursuant to House Resolution 503. In the letter accompanying the subpoena, the Select Committee set forth the basis for its determination that the documents and records sought by the subpoena and Mr. Meadows’s deposition testimony are of critical importance to the issues being investigated by the Select Committee.

Your correspondence to the Select Committee, calls, and letter to the White House have suggested Mr. Meadows’s belief in the potential existence of testimonial and subject-matter privileges. No such blanket testimonial immunity exists, and the Select Committee does not believe that executive privileges bar the Select Committee from legally obtaining any aspects of Mr. Meadows’s deposition testimony.



Mr. George Terwilliger III  
Page 2

*First*, the Select Committee has not received any assertion, formal or otherwise, of any privilege from ex-President Trump with respect to Mr. Meadows's production of documents or appearance to provide testimony.<sup>1</sup> Even assuming that, as a former President, Mr. Trump is permitted to formally invoke executive privilege, he has not done so. The Select Committee is not aware of any legal authority, and your letter cites none, holding that a vague statement by somebody who is not a government official that an ex-President has an intention to assert a privilege absolves a subpoena recipient of his duty to comply.

*Second*, your correspondence, communications with Select Committee staff, and letter to the White House indicate that Mr. Trump "believes that Mr. Meadows is immune from compelled congressional testimony on matters related to his official responsibilities." Even setting aside the fact that the Select Committee is interested in questioning Mr. Meadows, in part, about actions that cannot be considered part of his "official responsibilities," Mr. Meadows is not permitted by law to assert the type of blanket testimonial immunity that Mr. Trump and your letter to the White House suggest. To the contrary, every court that has considered the absolute immunity Mr. Trump alludes to has rejected it. *See, e.g., Harlow v. Fitzgerald*, 457 U.S. 800 (1982); *Comm. on the Judiciary v. Miers*, 558 F. Supp. 2d 53, 106 (D.D.C. 2008) (rejecting former White House counsel's assertion of absolute immunity from compelled congressional process). Those cases make clear that even the most senior presidential advisors may not resist a congressional subpoena "based solely on their proximity to the President." *Miers* at 101 (citing *Harlow*, 457 U.S. at 810).<sup>2</sup> And, although your letter to the White House cites several Department of Justice Office of Legal Counsel ("OLC") opinions in which OLC insists that such immunity exists even after *Miers*, yet another judge has forcefully rejected that position *after* OLC's last memorandum opinion addressing absolute immunity. *See Comm. on Judiciary v. McGahn*, 415 F. Supp. 3d 148 (D.D.C. 2019) ("To make the point as plain as possible, it is clear to this Court ... that, with respect to senior-level presidential aides, absolute immunity from compelled congressional process simply does not exist.").

*Third*, your correspondence, communications with Select Committee staff, and letter to the White House indicate that Mr. Meadows also believes that his potential testimony would be protected as privileged communications within the executive branch. That is not the case. Executive privilege is a qualified privilege—not an absolute one—that may be invoked to prevent disclosure of communications with the President related to his official responsibilities, as well as deliberations about official responsibilities within the executive branch. With respect to Mr. Meadows, I understand that Select Committee staff has already discussed with you a non-exhaustive list of deposition topics that fall outside of any executive-privilege claim, including:

---

<sup>1</sup> By civil complaint filed on October 19, 2021, in the United States District Court for the District of Columbia, Mr. Trump has formally alleged that executive privileges should prevent the National Archives from producing Mr. Trump's White House documents to the Select Committee. That lawsuit does not formally assert any privilege with respect to Mr. Meadows and does not seek any relief related to the subpoena served on Mr. Meadows.

<sup>2</sup> It is also worth noting that the court in *Miers* rejected the former White House Counsel's claim of absolute immunity from congressional testimony even though the sitting President had formally invoked executive privilege. *Id.* at 62.



Mr. George Terwilliger III  
Page 3

communications and meetings involving people who did not work for the United States government; communications and meetings with members of Congress; Mr. Meadows's campaign-related activities; communications and meetings about topics for which the Department of Justice and the White House have expressly declined to assert executive privilege; and, topics about which Mr. Meadows has already spoken publicly. Mr. Meadows must comply with the subpoena to answer questions about those and other issues, and his apparent reliance on a categorical claim of executive privilege runs afoul of long-standing caselaw requiring that any claim of executive privilege be asserted narrowly and specifically. *See, e.g., In re Sealed Case (Espy)*, 121 F.3d 729 (D.C. Cir. 1997); *Comm. on Oversight & Gov't Reform v. Holder*, No. 12-cv-1332, 2014 WL 12662665, at \*2 (D.D.C. 2014) (rejecting a "blanket" executive-privilege claim over subpoenaed documents).

The Select Committee appreciates your ongoing willingness to discuss Mr. Meadows's appearance, and the Select Committee agreed to postpone the subpoena deadlines to give you and Mr. Meadows an opportunity to consult with the White House counsel's office to facilitate our discussion of this and other scoping issues. It now appears that Mr. Meadows may still believe that his appearance cannot be compelled and that his testimony is privileged. Given the impasse, the Select Committee must proceed and insist, pursuant to the subpoena, that Mr. Meadows produce all responsive documents by November 5, 2021, and appear for testimony on November 12, 2021. The Select Committee expects Mr. Meadows's production of documents and appearance for testimony on these dates. If there are specific questions at that deposition that you believe raise privilege issues, Mr. Meadows should state them at that time for the deposition record for the Select Committee's consideration and possible judicial review.

Please be advised that the Select Committee will view Mr. Meadows's failure to respond to the subpoena as willful non-compliance. Such willful non-compliance with the subpoena would force the Select Committee to consider invoking the contempt of Congress procedures in 2 U.S.C. §§ 192, 194—which could result in a referral from the House to the Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the subpoena brought against Mr. Meadows in his personal capacity.

Sincerely,

A handwritten signature in blue ink, reading "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" and last name "Thompson" clearly legible.

Bennie G. Thompson  
Chairman

## EXHIBIT E

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November 3, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capital  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

Thank you for your letter of October 25, 2021, and thanks to you and to the Select Committee for your willingness to engage with us on the important issues raised by the Select Committee's subpoena to former White House Chief of Staff Mark Meadows. As your letter recognizes, these issues have been the frequent subject of litigation and of conflicting views between Congress and the Executive.

One of the important themes coming out of that litigation, and out of over 200 years of conflict between the branches, is that efforts to reach mutual accommodations to resolve differences have been the norm. *See, e.g., Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2029–31 (2020). Considering that history of engagement to find accommodation—which the courts obviously favor—the Select Committee's position, as expressed in your letter, is rather surprising, and indeed disappointing. The Select Committee apparently rejects each and every consideration raised in our correspondence with the Select Committee and with the White House Counsel that bears on whether and to what extent Mr. Meadows would be in a position to supply information to the Select Committee pursuant to its subpoena.

The purpose of this letter is to explore whether the Select Committee is willing to pursue some accommodation with Mr. Meadows that respects the position in which he finds himself and allows

Select Committee to Investigate the January 6th Attack on the United States Capital  
November 3, 2021  
Page 2

the Committee to obtain information without abridging what Mr. Meadows believes in good faith to be his legal obligations arising from his tenure as White House Chief of Staff.

For context, former President Trump has directed Mr. Meadows, both in writing and orally, to maintain such privileges and immunities as apply to the demands of the Select Committee's subpoena. As you note in your letter, the former President has also filed a lawsuit challenging on various grounds the Select Committee's subpoena to the Archivist of the United States. While that lawsuit does not directly implicate the Select Committee's subpoena for Mr. Meadows's testimony, there is no reasonable doubt that the issues of privilege and valid legislative purpose raised in that lawsuit also bear on Mr. Meadows. Moreover, to date, and notwithstanding a specific inquiry through counsel to the Biden White House, Mr. Meadows has received no direction from the current President that contradicts or otherwise conflicts with the direction he has received from former President Trump.

Under these circumstances, it would be untenable for Mr. Meadows to decide unilaterally that he will waive privileges that not only protected his own work as a senior White House official but also protect current and future White House officials, who rely on executive privilege in giving their best, most candid advice to the President.

Thus, if we were forced to litigate whether Mr. Meadows must comply with the Select Committee's subpoena, we would of necessity assert executive privilege, among other challenges to the subpoena. That is especially necessary since, as mentioned above, your letter gives no indication of any willingness on the part of Select Committee to accommodate executive privilege or any of the other relevant considerations that inform Mr. Meadows's legal position.

In addition, the Select Committee's apparent unwillingness to pursue accommodation would compel Mr. Meadows to maintain his position, consistent with multiple opinions from a bipartisan group of Attorneys General, that senior White House aides cannot be compelled to testify before Congress in relation to their duties. I recognize, as your letter points out, that to date, the lower courts have not shared that view. But to our best knowledge, the Executive Branch has never retreated from that position, and of course, the Supreme Court has never had the opportunity to address it. What remains inescapable, in any event, is that compelling senior White House officials to testify before Congress has a chilling effect on the ability of senior aides, current and future, to communicate with and on behalf of the President they serve. For that reason, Mr. Meadows would resist being so compelled unless and until a court orders him to do otherwise, including after full appellate review.

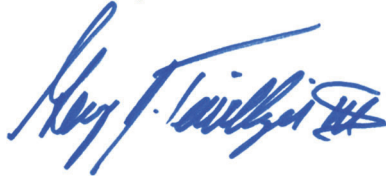
Mr. Meadows is not resisting the Select Committee's subpoena to pick a fight or to hide unflattering information. To the contrary, it would be in his personal interest for members of the Select Committee and the public at large to understand the basic facts as to what occurred. For example, we anticipate that, if we were to be able to reach some accommodation with the Committee without vitiating privilege considerations, the Select Committee would learn that neither Mr. Meadows, nor to this knowledge anyone on the White House staff, had advanced knowledge of violent acts or a plan to infiltrate the Capitol Building, and that there was no delay

Select Committee to Investigate the January 6th Attack on the United States Capital  
November 3, 2021  
Page 3

when the Administration was called to help restore order. Mr. Meadows is acting in good faith to protect the privileges and institutional prerogatives of the Executive Branch which attach to his tenure at the White House, as one would expect from any responsible former Chief of Staff.

It is not unusual for Congress and executive officials to have competing views about Congress's authority and executive officials' privileges and immunities. As noted above, such disputes have been a common feature of this sort of episode for more than two centuries. But equally common has been a willingness of both sides to discuss and negotiate in good faith to determine whether an accommodation can be reached. In that spirit, Mr. Meadows is willing to explore with the Select Committee whether, outside the confines of the subpoena, an accommodation could be reached by which he might be able to answer, under agreed upon and appropriate circumstances, a limited set of questions that would further a valid legislative purpose within the scope of the Select Committee's inquiry.

Sincerely yours,



George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## EXHIBIT F

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November 3, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capital  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

I write on behalf of Mr. Meadows in response to the request for production of documents in the Select Committee's subpoena. In your letter of October 25, 2021, you indicated that you were extending the return date for the production of documents to Friday, November 5, 2021.

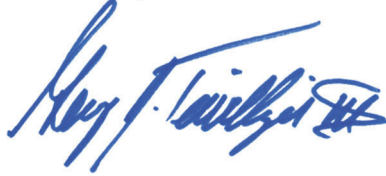
As I previously indicated in my letter of October 7, 2021, we believe that documents responsive to that subpoena are not in Mr. Meadows's personal custody or control, but rather are in the possession of the Archivist of the United States pursuant to the Presidential Records Act of 1978, 44 U.S.C. §§ 2201-2207. We understand that the Select Committee has separately requested those records from the Archivist and that production of those letters is a current subject of litigation in the U.S. District Court for the District of Columbia. *See Trump v. Thompson*, No. 1:21-cv-2769-TSC (D.D.C.). Mr. Meadows is not a party to that litigation, though we understand that at least some of the documents at issue are from his former records. To the extent that responsive documents reside with the Archivist, they are outside Mr. Meadows's custody and control, and he is therefore unable to produce them in response to the Select Committee's subpoena. We expect that the Select Committee will obtain any portions of Mr. Meadows's former records to which it may be entitled through its request to the Archivist, subject to any applicable rulings from the courts.

Select Committee to Investigate the January 6th Attack on the United States Capital  
November 3, 2021  
Page 2

As I further indicated in my October 7 letter, and as I have explained our process to the Select Committee's counsel again this week, we are diligently taking steps to confirm that Mr. Meadows does not retain custody and control over documents that are responsive to the Select Committee's request, including through review of personal e-mail accounts and electronic devices. To date, we have not identified any such documents and therefore have no documents to produce. If we do discover any responsive, non-privileged documents, however, we will be prepared to produce them.

To summarize, we are not aware at this time of any documents that are responsive to the Select Committee's subpoena and maintained in Mr. Meadows's custody or control. We therefore have no documents to produce to the Select Committee this Friday, November 5. We are, however, diligently taking steps to confirm that no such documents exist. And we agree that we would produce any responsive, non-privileged documents we might find. I would be happy to discuss these matters further with you or with the Select Committee's investigative staff.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "George J. Terwilliger III", with a stylized flourish at the end.

George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel



## EXHIBIT G

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
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JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

November 5, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger,

The Select Committee to Investigate the January 6<sup>th</sup> Attack (“Select Committee”) is in receipt of your letters dated November 3, 2021, regarding the subpoena for documents and testimony served on your client, Mark R. Meadows (the “subpoena”). In your letter regarding deposition testimony, you suggest that Mr. Meadows maintains a “good faith” belief that he cannot appear before the Select Committee to answer any questions and, instead, proposes unspecified accommodations. In your letter regarding the production of documents, you said that there are “no documents to produce to the Select Committee” because you “are not aware at this time of any documents that are responsive to the Select Committee’s subpoena and maintained in Mr. Meadows’s custody or control.”

Per the Select Committee’s October 25, 2021 letter, the responsive date for Mr. Meadows to produce documents has been extended until November 5 and his deposition is scheduled for November 12. For the reasons that follow, the Select Committee cannot agree to further postponements.

*First*, regarding documents, you suggest that Mr. Meadows does not have any documents to produce, despite indicating, via telephone, earlier this week that you have gathered documents and continue to review them for responsiveness. If Mr. Meadows has responsive documents but believes that they are covered by an applicable privilege, please provide a privilege log that specifically identifies each document and each privilege that he believes applies so that the Select Committee can evaluate whether any additional actions are appropriate. As explained in the Select Committee’s October 25, 2021 letter, categorical claims of executive privilege are improper and Mr. Meadows must assert any claim of executive privilege narrowly and specifically. *See, e.g., In re Sealed Case (Espy)*, 121 F.3d 729 (D.C. Cir. 1997); *Comm. on Oversight & Gov’t Reform v. Holder*, No. 12-cv-1332, 2014 WL 12662665, at \*2 (D.D.C. Aug. 20, 2014) (rejecting a “blanket” executive-privilege claim over subpoenaed documents). We also note that the Select Committee has received information suggesting that Mr. Meadows regularly communicated by text and verbally on his private cell phone when conducting government and campaign business. We expect that a number of those communications are

Mr. George Terwilliger III  
Page 2

likely records covered and protected by the Presidential Records Act. We ask that you identify for us the current location of Mr. Meadows's cell phone and whether Mr. Meadows supplied his texts and other relevant cell phone records to the Archives.

*Second*, with respect to Mr. Meadows's deposition, the Select Committee appreciates your apparent willingness to seek an accommodation and have Mr. Meadows appear to testify before the Select Committee. To that end, we will provide further information about the topics we intend to develop with Mr. Meadows during the deposition. We have already identified some of those topics and articulated why they do not implicate executive privilege. *See* our October 25, 2021 letter.

After reviewing that letter and those topics, you indicated in a November 2 telephone conference with staff that Mr. Meadows may assert executive privilege with respect to even those areas and disagreed the Select Committee's position that those areas would be outside of any recognized privilege.

Despite this significant disagreement over the scope of executive privilege, we write today in a continued effort to reach an accommodation with Mr. Meadows. More specifically, we identify below the areas that we will seek to develop during Mr. Meadows' deposition. At present, the Select Committee plans to question Mr. Meadows about his knowledge, actions, and communications, including communications involving Mr. Trump and others, with respect to the following:

- (1) Messaging to or from the White House, Trump reelection campaign, party officials, and others about purported fraud, irregularities, or malfeasance in the November 2020 election. This includes, but is not limited to, Mr. Trump's and others frequent use of the "Stop the Steal" slogan, even after lawsuits, investigations, public reporting, discussions with agency heads, and internally created documents revealed that there had not been widespread election fraud.
- (2) White House officials' understanding of purported election-related fraud, irregularities, or malfeasance in the November 2020 election.
- (3) Efforts to pressure federal agencies, including the Department of Justice, to take actions to challenge the results of the presidential election, advance allegations of voter fraud, interfere with Congress's count of the Electoral College vote, or otherwise overturn President Biden's certified victory. This includes, but is not limited to, Mr. Trump's and others' efforts to use the Department of Justice to investigate alleged election-related conduct, file lawsuits, propose that state legislatures take election-related actions, or replace senior leadership. It also includes similar efforts at other agencies such as the Department of Homeland Security, the Department of Defense, and, among others, the Cybersecurity and Infrastructure Security Agency.

Mr. George Terwilliger III  
Page 3

- (4) Efforts to pressure state and local officials and entities, including state attorneys general, state legislators, and state legislatures, to take actions to challenge the results of the presidential election, advance unsubstantiated allegations of voter fraud, interfere with Congress's count of the Electoral College vote, de-certify state election results, appoint alternate slates of electors, or otherwise overturn President Biden's certified victory. This includes, but is not limited to, an Oval Office meeting with legislators from Michigan, as well as a January 2, 2021 call with, among others, state officials, members of Congress, Mr. Trump, and Mr. Meadows.
- (5) Theories and strategies regarding Congress and the Vice President's (as President of the Senate) roles and responsibilities when counting the Electoral College vote. This includes, but is not limited to, the theories and/or understandings of John Eastman, Mark Martin, former Vice President Pence, and others.
- (6) Efforts to pressure former Vice President Pence, members of his staff, and members of Congress to delay or prevent certification of the Electoral College vote. This includes, but is not limited to, meetings between, or including, the former Vice President, Mr. Trump, aides, John Eastman, members of Congress, and others.
- (7) Campaign-related activities, including efforts to count, not count, or audit votes, as well as discussions about election-related matters with state and local officials. This includes, but is not limited to, Mr. Meadows' travel to Georgia to observe vote counting, as well as his or Mr. Trump's communications with officials and employees in the Georgia Secretary of State's Office. This also includes similar activities related to state and local officials in Michigan, Wisconsin, Nevada, Arizona, and Pennsylvania.
- (8) Meetings or other communications involving people who did not work for the United States government. This includes, but is not limited to, an Oval Office meeting on December 18, at which Mr. Trump, Michael Flynn, Patrick Byrne, and others discussed campaign-related steps that Mr. Trump purportedly could take to change the outcome of the November 2020 election and remain in office for a second term, such as seizing voting machines, litigating, and appointing a special counsel. It also includes communications with organizers of the January 6 rally like Amy Kremer of Women for America First.
- (9) Communications and meetings with members of Congress about the November 2020 election, purported election fraud, actual or proposed election-related litigation, and election-related rallies and/or protests. This includes, but is not limited to, a December 21, 2021 meeting involving Mr. Trump, members of his legal team, and members of the House and Senate, during which attendees discussed objecting to the November 2020 election's certified electoral college votes as part of an apparent fight "against mounting evidence of voter fraud."

Mr. George Terwilliger III  
Page 4

- (10) Efforts by federal officials, including White House staff, Mr. Trump, the Trump reelection campaign, and members of Congress to plan or organize rallies and/or protests in Washington, D.C. related to the election, including, but not limited to, the January 6 rally on the Ellipse.
- (11) Advance knowledge of, and any preparations for, the possibility of violence during election-related rallies and/or protests in Washington, D.C.
- (12) Events in the days leading up to, and including, January 6. This includes, but is not limited to, campaign-related planning and activities at the Willard Hotel, planning and preparation for Mr. Trump's speech at the Ellipse, Mr. Trump and other White House officials' actions during and after the attack on the U.S. Capitol, and contact with members of Congress, law enforcement, the Department of Defense, and other federal agencies to address or respond to the attack.
- (13) The possibility of invoking martial law, the Insurrection Act, or the 25<sup>th</sup> Amendment based on election-related issues or the events in the days leading up to, and including, January 6.
- (14) The preservation or destruction of any information relating to the facts, circumstances, and causes relating to the attack of January 6<sup>th</sup>, including any such information that may have been stored, generated, or destroyed on personal electronic devices.
- (15) Documents and information, including the location of such documents and information, that are responsive to the Select Committee's subpoena. This includes, but is not limited to, information stored on electronic devices that Mr. Meadows uses and has used.
- (16) Topics about which Mr. Meadows has already spoken publicly. This includes, but is not limited to, Mr. Meadows's February 11, 2021, appearance on the Ingraham Angle show to discuss the January 6 attack on the U.S. Capitol, Mr. Trump's reactions to the attack, and the National Guard.

Again, this list is non-exclusive and may be supplemented as our investigation continues, but we do not expect to seek information from Mr. Meadows unrelated to the 2020 election and what led to and occurred on January 6. We also continue to interview additional witnesses who have personal knowledge of these issues and Mr. Meadows's involvement. As our investigation continues, we may develop additional information about the above-described areas or identify additional subjects about which we will seek information from your client. We will discuss those issues with you on an ongoing basis provided we are continuing to negotiate about these issues and Mr. Meadows's potential privilege assertions.

Mr. George Terwilliger III  
Page 5

We believe that these topics either do not implicate any cognizable claim of executive privilege or raise issues for which the Select Committee's need for the information is sufficiently compelling that it overcomes any such claim. To that end, **please provide your input on the topics that the Select Committee has reiterated by way of this letter no later than Monday, November 8.** If there are areas listed above that you agree implicate no executive or other privilege, please identify those areas. Conversely, please articulate which privilege you believe applies to each area and how it is implicated. Our hope is that this process will sharpen our differences on privilege issues and allow us to develop unobjectionable areas promptly.

Mr. Meadows's deposition scheduled for November 12 can proceed on at least the agreed-upon topics, and we can move one step closer towards the resolution of outstanding issues.

Finally, it is worth emphasizing an additional point that is also addressed in the pending litigation involving the National Archives. For purposes of executive privilege, Mr. Meadows apparently sees no significant difference between himself and Mr. Trump as *former* executive branch officials, and President Biden and his chief of staff as *current* executive branch officials. That distinction, however, is meaningful because it is the incumbent President that is responsible for guarding executive privilege, not former officials. *Dellums v. Powell*, 561 F.2d 242, 247 (D.C. Cir. 1977); *see also Nixon v. GSA*, 433 U.S. 425, 449 (1977) (even the one residual privilege that a former president might assert, the communications privilege, exists "for the benefit of the Republic," rather than for the former "President as an individual"). With respect to the Select Committee's work, the incumbent President has actually expressly declined to assert executive privilege on a number of subjects on which the Select Committee has sought testimony or documents. *See Trump v. Thompson*, Case No. 1:21-cv-2769 (TSC), Doc. 21 (brief for the NARA defendants); *see also* Doc. 21-1 (Declaration of B. John Laster).

The accommodations process regarding potential claims of executive privilege is a process engaged in between the Executive Branch and the Legislative Branch. *See Trump v. Mazars USA LLP*, 140 S. Ct. 2019, 2030-31 (2020). Mr. Meadows represents neither. Nevertheless, we have in good faith considered your concerns and have proposed a course of action that reflects both that consideration and the Select Committee's urgent need for information.

Mr. George Terwilliger III

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Our hope is that this description of topics allows us to narrow the list of potentially disputed issues and move forward with Mr. Meadows' deposition. You have asked for negotiation, and we have responded in good faith. As was true before, however, the Select Committee will view Mr. Meadows's failure to respond to the subpoena as willful non-compliance. Such willful non-compliance with the subpoena would force the Select Committee to consider invoking the contempt of Congress procedures in 2 U.S.C. §§ 192, 194—which could result in a referral from the House to the Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the subpoena brought against Mr. Meadows in his personal capacity.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent and the last name "Thompson" following in a similar style.

Bennie G. Thompson  
Chairman

## EXHIBIT H



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George J. Terwilliger III  
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gterwilliger@mcguirewoods.com  
Fax: 202.828.2965

November 8, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

I write in response to Chairman Thompson's letter of Friday, November 5, 2021. Thank you for your willingness to discuss the important issues raised by the Select Committee's subpoena. You asked that I respond by today, Monday, November 8, 2021, and so I am writing to so respond and to further seek some reasonable accommodation of the Select Committee's demands.

Please allow me to reiterate a fundamental point: Mr. Meadows position regarding testimony to the Select Committee is driven by his intent to maintain privileges that obviously attach to most subject matters arising from his tenure as White House Chief of Staff. Put simply, whether or not we agree that he lacks standing to assert privilege, it is obvious that he has no authority to unilaterally waive privilege. Moreover, as a responsible former Chief of Staff, he is abiding by the uniform, bi-partisan position of the Department of Justice that senior-most White House Staff cannot be compelled to provide congressional testimony. Unless the Department changes its position, and a court of competent authority directs him, after full appellate review, to do otherwise, that is the position we must maintain.

Despite that position, we have, now on several occasions, sought to find, outside the context of compulsion, accommodation with the Select Committee that would allow it to obtain some information from Mr. Meadows legitimately within the purview of a proper legislative purpose.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 8, 2021  
Page 2

We have gone so far as to proffer some information about a core aspect of apparent interest to the Select Committee. Unfortunately, our efforts have been met, including in your letter of November 5, with ever-broadening topical demands from the Select Committee (as detailed below), rather than an attempt to narrow our differences by focusing on a more particularized band of inquiry.

Nonetheless, we would propose yet again a means to accommodation outside the scope of subpoena that does not require Congress or Mr. Meadows to waive any legal rights. To that end, we would propose that the Select Committee propound written interrogatories to Mr. Meadows on any topics about which the Select Committee might wish to inquire. If the Select Committee is willing to do so, we are willing to respond to them as quickly as is feasible. That would allow Mr. Meadows to provide what information he can and/or to articulate clear assertions of privilege where applicable to specific questions. We believe doing so, at least initially, would present an orderly approach of far greater promise than would attempting to do so in a live setting.

With respect to the Select Committee's request for documents, please allow me to clarify as I believe your letter may misapprehend what we have related to your staff. While serving as White House Chief of Staff, Mr. Meadows conducted business on a computer and cell phone provided by the Federal Government. We believe that those devices contain the documents that are responsive to the Select Committee's subpoena. But those devices, and the documents on them, are no longer in Mr. Meadows's custody and control. He returned those devices to the Federal Government on January 20, 2021, and we believe them to be in the custody and control of the Archivist. We understand that the Select Committee is already in the process of seeking those and other documents from the National Archives, but Mr. Meadows does not have any formal role in that process.

Separately, to ensure that nothing has been missed, Mr. Meadows has provided us with access to electronic images from his personal accounts and devices. We do not expect those personal accounts and devices to contain much, if any, responsive material, but it is that review which is ongoing. My letter of November 3, 2021 was to indicate that we would agree to produce any responsive materials if we should identify any, without waiving attorney-client or any other applicable privilege. If we identify responsive materials that we conclude must be withheld based on an assertion of privilege, we will most certainly provide a privilege log as you request.

While we appreciate the Select Committee's expressed openness to an accommodation, we are concerned, as referenced above, that your latest letter expands, rather than narrows the scope of topics that any proposed accommodation might address. On October 12, I received from counsel for the Select Committee a list of topics that I was told reflected the Select Committee's view of what lay outside the scope of executive privilege. We had a different view about the applicability of executive privilege to those categories, but we appreciated the effort to reach common ground.

In your latest letter of November 5, however, there is listed an expanded set of categories that plainly implicate executive privilege even under a narrow interpretation of it. For instance, you ask Mr. Meadows to testify about "White House officials' understanding of purported election-related fraud, irregularities, or malfeasance in the November 2020 election." As you

Select Committee to Investigate the January 6th Attack on the United States Capitol  
 November 8, 2021  
 Page 3

know, the Executive Branch is responsible for enforcing federal election laws, and it is natural for federal officials to discuss and deliberate on those issues. We do not see how Mr. Meadows could testify about that topic without implicating executive privilege. You also ask Mr. Meadows to testify about President Trump's "and others' efforts to use the Department of Justice to investigate alleged election-related conduct, file lawsuits, propose that state legislatures take election-related actions, or replace senior leadership." As you know, the President is Chief Executive and oversees the Department of Justice, as well as other federal agencies. We do not see how Mr. Meadows could testify about that topic without implicating executive privilege. If we are misunderstanding the Select Committee's position, and there is some narrower subset of these categories that the Select Committee genuinely believes to be outside executive privilege, we would welcome the clarification.

In addition to your expanded list of topics, you also maintain that "this list is non-exclusive and may be supplemented." You also state that the Select Committee "continue[s] to interview additional witnesses who have personal knowledge of these issues and Mr. Meadows's involvement." In addition to raising concerns about the Select Committee moving away from a reasonable accommodation, these statements also raise questions about why the Select Committee feels the need to subpoena the former White House Chief of Staff at all and, in particular, why the Select Committee is insisting on a November 12 date for such testimony. The courts have made clear that an important factor in assessing whether Congress can compel production of information about the President and his senior advisors is whether Congress has alternative means of getting the same information. *See Nixon v. Adm'r of Gen. Servs.*, 433 U.S. 425, 482 (1977); *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2025 (2020). If the Select Committee is already gathering documents and testimony about Mr. Meadows and his conduct during the relevant period, as your letter suggests, it is not clear why the Select Committee needs to gather that information again from him—in a posture that would threaten long-term effects for executive privilege.

The Executive Branch has prudently and consistently maintained in Administrations under both parties that Congress does not have the authority to compel testimony from the President's most senior advisors without the need to parse underlying questions of executive privilege. As the Supreme Court has noted, it can be very difficult to parse out the official and non-official duties of the President, who must serve as a one-man branch of government. *See Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2024 (2020). It is all the more difficult to conduct that parsing during live testimony. Therefore, we believe that the alternate approach we respectfully suggest would provide the best path forward. We hope the Committee will give careful consideration to our suggestion for the use of voluntary interrogatory questions and answers.

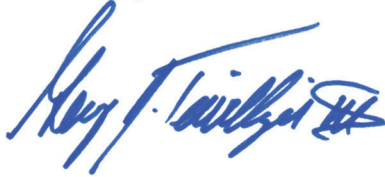
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Again, I want to thank you and the Select Committee for your willingness to engage on these important topics. We recognize that the Select Committee and Mr. Meadows have very different views about the scope of Congress' authority and the protections afforded to Mr. Meadows.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 8, 2021  
Page 4

You also note in your letter that, if we do not reach an accommodation, you intend to pursue a contempt citation against Mr. Meadows. We do not believe that would be warranted under the circumstances, but we understand that the Select Committee will do what it sees most fit. We respectfully request, however, that, if the Select Committee does decide to pursue a contempt citation against Mr. Meadows, in fairness to him that our mutual correspondence would be entered into the official record at that time.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "George J. Terwilliger III", with a stylized flourish at the end.

George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## EXHIBIT I

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
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LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

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## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

November 9, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger:

The Select Committee to Investigate the January 6<sup>th</sup> Attack (“Select Committee”) is in receipt of your letter dated November 8, 2021.

As explained in the Select Committee’s letter dated November 5, 2021, we have been, and remain, interested in reaching an accommodation with Mr. Meadows that allows the Select Committee to fulfill its purpose of understanding the complete picture of what led to and occurred on January 6<sup>th</sup>, making recommendations for changes to the law that will protect our democracy, and help ensure that nothing like January 6<sup>th</sup> ever happens again. To that end, we have endeavored to identify discrete areas of inquiry that we seek to develop with Mr. Meadows.

As you are aware, the Select Committee has identified sixteen subject matters for inquiry and asked that you explain your position as to whether any of those areas would trigger any claims of executive privilege. In your November 8 letter, you did not respond with any specificity about those areas, which we assume means that you believe all potentially implicate executive privilege. Without further input on those areas, it appears that the accommodation process has reached its natural conclusion.

As a result, the Select Committee must insist that Mr. Meadows appear for a deposition on November 12, 2021, as required by the subpoena. The deposition will begin at 10:00 a.m. in Room 4480 of the O’Neill House Office Building, 200 C St., SW, Washington, DC. Although you have stated a preference to proceed by written interrogatories, there is simply no substitute for live, in-person testimony and the Select Committee respectfully declines your suggestion to proceed otherwise. At Friday’s deposition, we will inquire about the areas identified in the November 5 letter. We continue to believe they do not implicate any privilege, though we understand that Mr. Meadows may assert executive privilege as to certain questions. Our intention is to develop the areas that are outside of any privilege claim, and to give you and Mr. Meadows the opportunity to state privilege objections to specific questions on the record.

As we discussed by telephone today, our investigation has identified evidence regarding your client’s use of personal cellular telephones and email accounts. Mr. Meadows’s use of such personal devices and accounts will be a subject of inquiry at Friday’s deposition. More specifically,

Mr. George Terwilliger III

Page 2

we will seek to develop the following information, none of which implicates any executive or other privilege:

- (1) Between the dates November 3, 2020, and January 20, 2021, did Mr. Meadows use any electronic application with encryption technology to communicate any government-related messages? If so, which applications did Mr. Meadows use? Does Mr. Meadows still have access to these messages? Were these messages searched in response to the Select Committee's subpoena?
- (2) Between the dates November 3, 2020, and January 20, 2021, did Mr. Meadows use any personal communications devices, including but not limited to cell phones assigned the numbers (828) 200-2544 and (828) 506-3883?
- (3) If Mr. Meadows had such personal communications devices, did he use them for any government-related communications?
- (4) If Mr. Meadows had such personal communications devices, does he still have those devices and any text messages stored therein?
- (5) If so, have those devices been searched for records responsive to the Select Committee's subpoena to Mr. Meadows?
- (6) If Mr. Meadows no longer has such personal communications devices or no longer has the text messages from the date range mentioned above, what did he do with those devices and messages? Did he turn them over to the National Archives? If he no longer has possession of them, does he have knowledge regarding their disposition?
- (7) During the date ranges mentioned above, did Mr. Meadows utilize a non-government email account, such as a Gmail account? If so, did Mr. Meadows use that account for any government-related communications? Does Mr. Meadows still have access to the account? Has any such account been searched for records responsive to the Select Committee's subpoena to Mr. Meadows?
- (8) If Mr. Meadows had a non-government email account during the dates mentioned above, but no longer has access to that account or no longer has emails from the date range mentioned above, what happened to that account or those emails? Did he provide all government-related emails to the National Archives?

As we discussed, it would be helpful to have information about these issues before Friday's deposition.

Please confirm receipt of this letter and Mr. Meadows' intent to appear for his deposition on Friday. Our staff is available to talk with you about logistical information such as building access. The Select Committee will view Mr. Meadows's failure to appear for the deposition and respond to the subpoena as willful non-compliance. Such willful non-compliance with the subpoena would force the Select Committee to consider invoking the contempt of Congress procedures in 2 U.S.C. §§ 192, 194—which could result in a referral from the House to the

Mr. George Terwilliger III

Page 3

Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the subpoena brought against Mr. Meadows in his personal capacity. Upon completion of Friday’s deposition, we will have a record on which to base decisions about possible enforcement action.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent than the last name "Thompson".

Bennie G. Thompson  
Chairman



## EXHIBIT J

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November 10, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

I write to acknowledge receipt of your letter of yesterday, November 9, 2021, in which you reject yet again a proposal for accommodation and ignore our suggestion to seek an accommodation outside the compulsion of a committee subpoena. Rather, the Select Committee insists that Mr. Meadows appear pursuant to a subpoena for a deposition this Friday, November 12, 2021, pertaining—without limitation in light of the privilege concerns we have raised—to sixteen wide-ranging subject matters as to which he would be questioned. You have made this demand notwithstanding the numerous outstanding issues that we have been discussing. Not least among these, we have asserted that Mr. Meadows feels duty bound to respect the bi-partisan positions of multiple presidential administrations, as expressed by the Department of Justice, that senior aides to the president cannot be compelled to provide congressional testimony. Mr. Meadows cannot agree to appear at 10 AM Friday.

The Select Committee has already threatened to enforce its subpoena against Mr. Meadows if he does not appear for live testimony, but I urge you to reconsider that position. It would be an extraordinary step for the Select Committee to seek to force Mr. Meadows to testify under these circumstances: The Select Committee's subpoena directly seeks information about Mr. Meadows's tenure as White House Chief of Staff, including information that he knows only from discussions with then-President Trump in the course of official duties. President Trump has instructed him to maintain and assert privilege and testimonial immunity to the full extent of the law, and Mr. Meadows has not received any contrary instruction from the current Administration. There is active litigation in the federal courts over related privilege issues that

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 10, 2021  
Page 2

could bear on Mr. Meadows's testimony. And as expressed in your letter of last Friday, November 5, 2021, the Select Committee still has not determined the full scope of information that it intends to seek from Mr. Meadows under its broad subpoena.

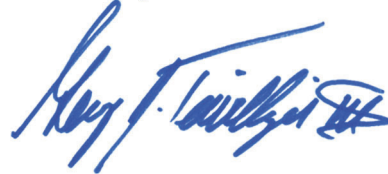
We also regret that we have not been able to reach an accommodation with the Select Committee outside the contours of the subpoena, as Congress has often been able to do with senior Executive officials over the past two centuries. Curiously, your letter insists that the accommodation process has stalled because the Select Committee does not have written views from Mr. Meadows on which subjects of the Select Committee's inquiry would be subject to legal privileges, including executive privilege. And yet that is precisely what we proposed to provide in response to written interrogatories from the Select Committee. We have never suggested that, by agreeing to propound interrogatories as a next step in the accommodation process, the Select Committee would forfeit the ability to seek live testimony. Nor would Mr. Meadows forfeit his ability to object to this request. That is the nature of an accommodation. It is therefore unfortunate that the Select Committee has rushed to compel live testimony now.

Mr. Meadows has proudly served in the House of Representatives. He fully appreciates Congress's role in our constitutional system. But in these circumstances, that appreciation for our constitutional system and the separation of powers dictates that he cannot appear on Friday to testify about his tenure as White House Chief of Staff. Mr. Meadows does not resist the Select Committee's subpoena out of self-interest. He instead feels duty-bound as former White House Chief of Staff to protect the prerogatives of that office and of Executive Branch in which he served. Mr. Meadows cannot, in good conscience, undermine the office and all who will hold it through a unilateral waiver of privilege and testimonial immunity.

\* \* \* \* \*

I hope you will accept my sincere thanks for the opportunity to have engaged in this dialogue with you and the Select Committee concerning Mr. Meadows's compelled appearance before it. I regret that this frank exchange of views has not apparently led to an agreed upon resolution. As stated above, we do hope that the Select Committee will reconsider its apparent decision to enforce its subpoena against Mr. Meadows. But if not, we reiterate our request for the Select Committee to enter our mutual correspondence, including this letter, into the official record of any associated proceedings.

Sincerely yours,



George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## EXHIBIT K

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

November 11, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger:

The Select Committee to Investigate the January 6<sup>th</sup> Attack (“Select Committee”) is in receipt of your letter dated November 10, 2021, in which you state that Mr. Meadows feels “duty bound” to disregard the Select Committee’s subpoena requiring him to produce documents and appear for testimony. Mr. Meadows’s conclusion about his duty, however, relies on a misunderstanding of his legal obligations under the subpoena. The law requires that Mr. Meadows comply with the subpoena absent an applicable immunity or valid assertion of a Constitutionally based privilege. The attached letter from the White House Counsel’s Office, dated today, eviscerates any plausible claim of testimonial immunity or executive privilege, and compels compliance with the Select Committee’s subpoena.

In your letters and telephone conversations with the Select Committee since October 7, 2021, you have indicated that Mr. Meadows “is immune from compelled congressional testimony on matters related to his official responsibilities.” That position is based on Department of Justice Office of Legal Counsel (“OLC”) opinions in which OLC has advised past presidents to claim that senior advisors cannot be required to provide testimony to Congress about official actions. These opinions, however, do not justify Mr. Meadows’s refusal to provide the Select Committee information about one of the most significant events in our Nation’s history. As we previously conveyed, every federal court that has considered the issue of absolute immunity has rejected it, *even after* OLC last opined on the matter. *See, e.g., Comm. on the Judiciary v. Miers*, 558 F. Supp. 2d 53, 106 (D.D.C. 2008) (rejecting former White House counsel’s assertion of absolute immunity from compelled congressional process); *Comm. on Judiciary v. McGahn*, 415 F. Supp. 3d 148 (D.D.C. 2019) (“To make the point as plain as possible, it is clear to this Court ... that, with respect to senior-level presidential aides, absolute immunity from compelled congressional process simply does not exist.”).

Your letters also broadly suggest that Mr. Meadows’s testimony is covered by claims of executive privilege. At the same time, you have failed to respond with specificity about any of the areas of inquiry the Select Committee has identified that do not implicate any privilege at all. For example, my most recent letter to you listed eight questions on which the Select Committee seeks Mr. Meadows’s testimony related to his use of personal cellular devices and email accounts. Your

Mr. George Terwilliger III  
Page 2

letter in response did not address those issues and, instead, made general and unspecified blanket assertions of immunity and executive privilege. But, as you know and, as explained in my letter dated October 25, categorical claims of executive privilege run afoul of caselaw requiring that any claim of executive privilege be asserted narrowly and specifically. *See, e.g., In re Sealed Case (Espy)*, 121 F.3d 729, 752 (D.C. Cir. 1997) (“the presidential communications privilege should be construed as narrowly...”); *Comm. on Oversight & Gov’t Reform v. Holder*, 2014 WL 12662665, at \*2 (rejecting a “blanket” executive-privilege claim over subpoenaed documents). We find it hard to consider your offer to answer questions in writing as genuine when you failed to respond to the questions we explicitly asked. Please respond to those questions no later than tomorrow.

In addition, Mr. Meadows has not produced even a single document in response to the Select Committee’s subpoena. Although you previously indicated that your firm was searching records that Mr. Meadows provided to you, more than enough time has passed for you to complete your review. Please immediately inform the Select Committee whether Mr. Meadows has any records responsive to the subpoena. Your search for responsive records should include (but not be limited to) any text messages, emails, or application-based messages associated with the cellular phone numbers and private email address the Select Committee has identified. If Mr. Meadows has records that you believe are protected by some form of privilege, you must provide the Select Committee a log describing each such record and the basis for the privilege asserted.

Further, the Select Committee understands that today, November 11, 2021, you received the attached letter from the White House Counsel’s Office addressing your previously stated concern that “Mr. Meadows has not received any contrary instruction from the current Administration.” The White House Counsel’s letter clearly explains the current President’s position: “[t]he President believes that the constitutional protections of executive privilege should not be used to shield information reflecting an effort to subvert the Constitution itself, and indeed believes that such an assertion in this circumstance would be at odds with the principles that underlie the privilege.” For that reason, and others, your client has now been advised that (i) “an assertion of privilege is not justified with respect to testimony and documents” relevant to the Select Committee’s investigation, and (ii) the President will not be asserting any claims of executive privilege or testimonial immunity regarding subjects about which the Select Committee seeks documents and testimony from Mr. Meadows.<sup>1</sup>

Simply put, there is no valid legal basis for Mr. Meadows’s continued resistance to the Select Committee’s subpoena. As such, the Select Committee expects Mr. Meadows to produce

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<sup>1</sup> Your letter states that Mr. Meadows cannot “in good conscience” give testimony out of an “appreciation for our constitutional system and the separation of powers” because doing so would “undermine the office and all who hold it.” You also acknowledge, however, that Congress has successfully obtained information from “senior Executive officials over the past two centuries,” as you must, because there is a long history of senior aides providing testimony to Congress without upending our constitutional system. *See, e.g., Trump v. Thompson*, No. 21-cv-2769 at 19-20 (D.D.C. Nov. 9, 2021) (describing congressional testimony of White House staff during the Nixon and Reagan administrations, as well as President George W. Bush’s interview with the 9/11 Commission); *see also Presidential Advisers’ Testimony Before Congressional Committees: An Overview*, CRS REPORT FOR CONGRESS (April 10, 2007) (providing numerous examples of presidential aides testifying before Congress including, Lloyd Cutler (Counsel to the President), Samuel Berger (Assistant to the President), Harold Ickes (Assistant to the President and Deputy Chief of Staff)).

Mr. George Terwilliger III  
Page 3

all responsive documents and appear for deposition testimony tomorrow, November 12, 2021, at 10:00 a.m. If there are specific questions during that deposition that you believe raise legitimate privilege issues, Mr. Meadows should state them at that time on the record for the Select Committee's consideration and possible judicial review.

The Select Committee will view Mr. Meadows's failure to appear at the deposition, and to produce responsive documents or a privilege log indicating the specific basis for withholding any documents you believe are protected by privilege, as willful non-compliance. Such willful non-compliance with the subpoena would force the Select Committee to consider invoking the contempt of Congress procedures in 2 U.S.C. §§ 192, 194—which could result in a referral from the House of Representatives to the Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the subpoena brought against Mr. Meadows in his personal capacity.

Sincerely,

A handwritten signature in blue ink, reading "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" and last name "Thompson" clearly legible.

Bennie G. Thompson  
Chairman

## EXHIBIT L





THE WHITE HOUSE  
WASHINGTON

November 11, 2021

George J. Terwilliger III  
McGuireWoods LLP  
888 16th Street, N.W., Suite 500  
Black Lives Matter Plaza  
Washington, D.C. 20006

Dear Mr. Terwilliger:

I write in response to your letter of October 11, 2021, regarding a subpoena issued by the House Select Committee to Investigate the January 6th Attack on the United States Capitol (the “Select Committee”) to your client, Mark R. Meadows.

In an October 8, 2021 letter to the Archivist of the United States regarding the Select Committee’s request for documents relevant to its investigation, the Counsel to the President wrote:

[T]he insurrection that took place on January 6, and the extraordinary events surrounding it, must be subject to a full accounting to ensure nothing similar ever happens again. Congress has a compelling need in service of its legislative functions to understand the circumstances that led to . . . the most serious attack on the operations of the Federal Government since the Civil War.<sup>1</sup>

President Biden recognizes the importance of candid advice in the discharge of the President’s constitutional responsibilities and believes that, in appropriate cases, executive privilege should be asserted to protect former senior White House staff from having to testify about conversations concerning the President’s exercise of the duties of his office. But in recognition of these unique and extraordinary circumstances, where Congress is investigating an effort to obstruct the lawful transfer of power under our Constitution, President Biden has already determined that an assertion of executive privilege is not in the public interest, and is therefore not justified, with respect to particular subjects within the purview of the Select Committee. These subjects include: events within the White House on or about January 6, 2021; attempts to use the Department of Justice to advance a false narrative that the 2020 election was tainted by widespread fraud; and other efforts to alter election results or obstruct the transfer of power. The President believes that the constitutional protections of executive privilege should not be used to shield information reflecting an effort to subvert the Constitution itself, and indeed believes that such an assertion in this circumstance would be at odds with the principles that underlie the privilege.

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<sup>1</sup> See Letter to David S. Ferriero, Archivist of the United States, from Dana A. Remus, Counsel to the President (Oct. 8, 2021).

Consistent with President Biden's determination that an assertion of privilege is not justified with respect to testimony and documents relating to these particular subjects, he has determined that he will not assert executive privilege with respect to your client's deposition testimony on these subjects, or any documents your client may possess that bear on them. For the same reasons underlying his decisions on executive privilege, President Biden has determined that he will not assert immunity to preclude your client from testifying before the Select Committee.

Please contact me if you have any questions about the matters described herein.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jonathan C. Su', with a stylized, flowing script.

Jonathan C. Su  
Deputy Counsel to the President

cc: Kristin L. Amerling  
Chief Counsel and Deputy Staff Director  
Select Committee to Investigate the January 6th Attack on the United States Capitol

## EXHIBIT M

McGuireWoods LLP  
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www.mcguirewoods.com

George J. Terwilliger III  
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gterwilliger@mcguirewoods.com  
Fax: 202.828.2965

November 19, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

I write further to our discussions about the Select Committee's subpoena to former White House Chief of Staff Mark R. Meadows and to propose again, in greater detail, that we explore an accommodation that would allow the Select Committee to obtain useful information to further its legislative purpose while allowing both the Committee and Mr. Meadows to maintain their respective positions on relevant legal issues. We recognize that the Select Committee believes that it is entitled to enforce the full scope of its subpoena. The Select Committee likewise is in a position to recognize that Mr. Meadows disagrees with that position. If pressed, we would expect that disagreement to require judicial resolution, which could take a substantial amount of time and resources.

Therefore, consistent with the long tradition and practice in disputes between Congress and Executive Branch officials (both current and former), we propose below an accommodation that would allow the Select Committee to obtain information outside the compulsion of the subpoena and without requiring either side to give up its legal position.

We propose that, as an initial step, Mr. Meadows provide written responses to written interrogatories from the Select Committee on a defined set of topics, with the specific subject matter for questions to be discussed between the Select Committee's counsel and counsel for Mr. Meadows. In a letter dated November 11, 2021, which was copied to the Select Committee, the Office of White House Counsel informed me that President Biden is not asserting privilege over

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 19, 2021  
Page 2

certain categories of information within the scope of the Select Committee's inquiry. Within those categories, we would propose an initial focus on the following topics:

***Events on or about January 6, 2021.*** Mr. Meadows can provide written responses to the Select Committee about his conduct, activities, and communications on January 5–6, 2021, with the caveat that he is not able to disclose communications with or on behalf of the President, or with other senior White House aides, absent the former President's agreement. (As discussed further below, we are willing to seek that agreement in connection with specific questions or sets of questions concerning a particular topic). To the extent the Select Committee already has records of Mr. Meadows's activities from Presidential records or other sources, he is willing to provide context or other relevant background, consistent with the limitations described above.

***Communications with the Department of Justice.*** Mr. Meadows can provide written responses to the Select Committee about his communications with the Department of Justice concerning the events of January 6 and concerning other post-election issues, consistent with the limitations described above.

***Other Post-Election Communications.*** We also understand that the Select Committee is interested in other post-election efforts and discussions regarding the results of the election and allegations of election fraud, including any discussions between White House officials and state officials in Georgia and elsewhere. It has been publicly announced that the district attorney in Fulton, Georgia, has impaneled or soon will impanel a special grand jury to investigate such communications. We therefore would propose deferring discussion of questions on this topic until Mr. Meadows's status, if any, in that matter can be established.

As indicated above, Mr. Meadows has a reasonable basis in fact and law to take the position that private communications that he had with or on behalf of the President, or with other senior White House aides, are subject to claims of Executive Privilege, as those communications lie at the core of Executive Privilege. Even though President Biden has purported to waive Executive Privilege in this regard, President Trump has instructed Mr. Meadows to maintain the privilege. It is not for Mr. Meadows as a witness to be forced to choose between these conflicting instructions. Nevertheless, as part of an effort to accommodate the Select Committee outside the compulsion of the subpoena, we are willing to seek the former President's agreement for Mr. Meadows to provide selective information through the means outlined above to the extent it would inform the Select Committee in furthering a valid legislative purpose. Our goal in doing so would be to avoid a dispute over Executive Privilege that might require lengthy and costly judicial resolution for all parties involved. To the extent the former President agrees, Mr. Meadows will also include that information in written responses to the Select Committee.

We submit this proposal as an initial step. Our expectation would be that, after working through this written process and after further consultation with counsel for the Select Committee, Mr. Meadows could agree outside of compulsion by subpoena to appear voluntarily for a deposition within the parameters established through the initial process.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 19, 2021  
Page 3

\* \* \* \* \*

Thank you again for your willingness to discuss these important issues with us. We hope you will agree that the process outlined above can serve the interests of both parties and potentially avoid the prospect of time-consuming and resource-intensive litigation, all without prejudice to the prerogatives of the Select Committee or of Mr. Meadows as a former White House Chief of Staff. We will continue to stay in communication with counsel for the Select Committee, and if the Select Committee finds this proposal agreeable as an initial step, we will work quickly with them to identify the Select Committee's initial interrogatories and to begin preparing Mr. Meadows's responses.

Sincerely yours,



George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## EXHIBIT N

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

November 22, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger,

The Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol (“Select Committee”) has received and considered the letter you sent on November 19, 2021, a full week after your client, Mr. Mark Meadows, failed to appear for a deposition and two weeks after a deadline to produce documents.

Despite these failures, you again seek an accommodation via written interrogatories. Let me be clear, once more, on this issue: the Select Committee will not proceed with Mr. Meadows by submitting written interrogatories to him because we disagree that obtaining information from your client in writing is an appropriate accommodation. When Mr. Meadows first proposed interrogatories, he asked that the Select Committee “propound” them, but did not say that he would actually provide any substantive information in response.<sup>1</sup> Now, after his failure to comply with the Select Committee’s subpoena, he has added conditions: (1) the interrogatories can only ask questions about two days in January 2021 and Mr. Meadows’s communications with the Department of Justice; and (2) Mr. Meadows will only respond to questions about his communications “with or on behalf of the [former] president, *or* with other senior White House aides” *provided that* he first obtains the former President’s approval. These conditions stop short of an agreement to provide interrogatory responses, even if the Select Committee were inclined to consider them.

The Select Committee has attempted, on many occasions, to resolve the issues you have raised about Mr. Meadows’s compliance with the Select Committee’s subpoena. At your request, the Select Committee agreed to move the original subpoena compliance dates. When you asked for an overview of topics that the Select Committee planned to raise with your client, we accommodated your request. When you requested further accommodations, we provided additional details about the questions that the Select Committee intended to pose to Mr. Meadows in the form of a list of 16 specific topics. When you then raised, for the first time, your

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<sup>1</sup> Letter to Chairman Thompson from George Terwilliger dated November 8, 2021 (in connection with his proposal to receive interrogatories, Mr. Meadows vaguely added that he would “provide what information he can and/or articulate clear assertions of privilege where applicable to specific questions”).



Mr. George Terwilliger III  
Page 2

suggestion of written interrogatories, the Select Committee provided a list of eight questions about Mr. Meadows's use of communications accounts and devices. To date, Mr. Meadows has never provided a meaningful response to the Select Committee's attempts at accommodation, has never provided any documents or any privilege log, and has not even responded to written questions that he himself invited.

This history has led the Select Committee to suspect that you are simply engaged in an effort to delay, and that Mr. Meadows has no genuine intent to offer any testimony on any relevant topic. As you know, Mr. Meadows has extensive information unequivocally relevant to this investigation, including specific knowledge regarding former President Trump's failure for over three hours to demand that his supporters leave the Capitol during the violent confrontation on January 6<sup>th</sup> and his broader efforts to undercut the results of the fall 2020 election. Given that you have now for the first time identified Mr. Meadows's potential willingness to "appear voluntarily for a deposition," we will now supply you with that opportunity so that you can demonstrate that you and your client are operating in good faith. To that end, the Select Committee will agree to convene a deposition for your client on November 29, 2021, at 10:00 a.m. At that deposition, the Select Committee will begin by asking questions addressing obviously non-privileged topics that we have raised in earlier letters.<sup>2</sup> As indicated previously, we intend to ask Mr. Meadows about his communications with individuals outside of the executive branch, including Members of Congress, state officials, and third parties. We also intend to ask Mr. Meadows questions related to his use of private email accounts, cell phones, and other communications devices on January 6<sup>th</sup> and other relevant dates, as well as the required preservation of communications and other information on such accounts and devices.<sup>3</sup> Those questions unequivocally call for non-privileged responses and are directly pertinent to the Select Committee's statutory right to obtain appropriate records from the National Archives under the Presidential Records Act. In short, there are multiple non-privileged subject matters within the scope of the Select Committee's investigation, as your most recent letter acknowledges. Again, we can conceive of no appropriate basis for your client's continued failure to appear and, at a minimum, answer these types of questions.

Your November 19 letter does not suggest any accommodation with respect to the production of documents, which to date your client has not produced. As I have stated previously, the Select Committee expects Mr. Meadows to produce documents in his possession that are responsive to the schedule set forth in the subpoena, and to assert in a privilege log any claims of executive privilege that he believes cover such documents, and on a document-by-document basis. To date, he has produced neither a single document nor a privilege log and, as a result, he remains in contempt of Congress for his failure to produce documents. Again, I have specifically asked Mr. Meadows to confirm his use and preservation of information contained within the specific cellular telephones and a personal email account mentioned above – issues that could not conceivably be covered by a privilege. He has failed to provide any information contained in those devices or accounts, or answer even those basic questions. Nonetheless, I will

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<sup>2</sup> Letters to George Terwilliger from Chairman Thompson dated October 25, November 5, November 9, and November 11, 2021.

<sup>3</sup> Letters to George Terwilliger from Chairman Thompson dated November 9 and November 11, 2021.

Mr. George Terwilliger III

Page 3

provide him one final opportunity to produce documents responsive to the September 23 subpoena and/or a privilege log. That information must be provided no later than Friday, November 26, 2021.

The accommodations process regarding potential claims of executive privilege typically involves discussions between the executive branch and the legislative branch. Mr. Meadows represents neither. The current administration has not asserted claims of absolute immunity or executive privilege. To the contrary, the White House Counsel's Office has specifically indicated in its letter dated November 11 that "an assertion in this circumstance would be at odds with the principles that underlie the privilege."<sup>4</sup>

Nevertheless, I have in good faith considered your concerns and have proposed a course of action that reflects both that consideration and the Select Committee's need for information to fulfill its purpose of understanding the complete picture of what led to and occurred on January 6<sup>th</sup>, making recommendations for changes to the law that will protect our democracy, and help ensure that nothing like January 6<sup>th</sup> ever happens again.

If Mr. Meadows seeks further engagement with the Select Committee in a good-faith effort to begin complying with the Select Committee's subpoena, he must produce documents and/or a privilege log by noon on Friday, November 26, 2021, and appear for his deposition at 10:00am on Monday, November 29, 2021. If at that time, you believe that the Committee's questions address topics for which you intend to continue to press a privilege claim, I trust that you will object and we can continue discussing your privilege arguments. The Select Committee will defer consideration of enforcement steps regarding Mr. Meadows's non-compliance with the Select Committee's subpoena pending the November 26 production of documents and November 29 deposition.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent.

Bennie G. Thompson  
Chairman

---

<sup>4</sup> Letter to George Terwilliger from the White House dated November 11, 2021.

## EXHIBIT O

McGuireWoods LLP  
888 16th Street N.W.  
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George J. Terwilliger III  
Direct: 202.857.2473

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gterwilliger@mcguirewoods.com  
Fax: 202.828.2965

November 26, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

We have reviewed and considered your letter of November 23, 2021. We appreciate the efforts the Select Committee has made to discuss with us in correspondence the pertinent legal issues raised by the Select Committee's subpoena and to articulate the Select Committee's legal position on those issues, which you no doubt believe in good faith to be correct. Nonetheless, your letter is mistaken in several material respects which I will address just briefly.

Contrary to your suggestion that we are operating in bad faith, we have asserted the position that Mr. Meadows, as a former senior White House Official, is immune to being compelled to appear before Congress, period. That is the same position taken by the Department of Justice under Administrations of both political parties on numerous occasions and in fact asserted forcefully by then Attorney General Janet Reno. We have also taken the position that much of the matters about which the Committee would inquire of Mr. Meadows are subject to Executive Privilege, which is both generally and specifically recognized by the courts as a valid basis for a witness to refuse to answer such questions.

You state in your letter: "The accommodation process regarding potential claims of executive privilege typically involves discussions between the executive branch and the legislative branch. Mr. Meadows represents neither." We agree. Mr. Meadows has served in Congress, and at the times relevant to the Select Committee's inquiry, he served in the Executive Branch. But today, he is a private citizen. That is precisely why he, as a witness answering questions which would require him to provide information subject to claims of Executive Privilege arising from his

Select Committee to Investigate the January 6th Attack on the United States Capitol  
November 26, 2021  
Page 2

former service as Chief of Staff to President Trump, is not the person responsible for deciding whether to waive that privilege. In addition, I would respectfully remind you that Congress is also not the arbiter of Executive Privilege. Thus, while you have indicated in your letter that you believe there are many non-privileged subjects of inquiry that Mr. Meadows could discuss in a deposition, we may not agree with your assessment of the applicability of privilege to any given topic or specific question. When disputes about Executive Privilege arise, they are traditionally resolved by the Executive Branch itself, through a negotiated accommodation between Congress and the Executive, or through the Courts if necessary. Mr. Meadows, as a former senior White House aide, has no legal authority of which we are aware to unilaterally waive the privilege, nor is there any legal authority that obligates him to accept whatever position the Select Committee may take as to the scope or applicability of such privilege.

We also understand that the Select Committee believes that President Biden is the sole arbiter of Executive Privilege, to the exclusion of former President Trump, over questions arising from President Trump's tenure. But as you know, that is a legal question that the Supreme Court has so far left open and the subject of a pending appeal in the U.S. Court of Appeals for the D.C. Circuit. So long as that issue remains unresolved, Mr. Meadows is not in a position to disregard instructions from former President Trump to maintain privilege.

Given these disagreements and unresolved legal issues, Mr. Meadows has not been able to appear for testimony in response to the Select Committee's subpoena. But we have nevertheless been and remain willing to find mutually agreeable means to share relevant information with the Select Committee outside the context of the testimonial subpoena.

Contrary to your letter's characterization of our offer to compromise, however, our suggestion of having a voluntary interview or deposition was only *to follow* a successful effort to engage in answers to interrogatories from the Select Committee. I should note that the use of written interrogatories is specifically provided for in the Select Committee's authorizing resolution. *See* H. Res. 503, § 5(c)(5) ("The chair of the Select Committee is authorized to compel by subpoena the furnishing of information by interrogatory."). Without any substantive response whatsoever, you have rejected this offer out of hand.

Nonetheless, your letter invites Mr. Meadows to appear voluntarily for a deposition to answer questions on what you believe to be non-privileged matters. We will agree to so appear, subject to the Select Committee's agreement to the following understandings and conditions:

1. *Mr. Meadows's appearance is voluntary, that is, not subject to the compulsion of the subpoena of September 23, 2021.*
2. *The Select Committee or its staff will in good faith limit the matters of inquiry and specific questions to that which it believes to be outside the scope of Executive Privilege.*
3. *Mr. Meadows, through counsel, retains full right to decline to answer questions that he believes in good faith, with the advice of counsel, would require him to answer with information subject to a claim of Executive Privilege.*

Select Committee to Investigate the January 6th Attack on the United States Capitol  
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Page 3

4. *The Select Committee will provide to Mr. Meadows's counsel, at least 3 business days in advance of the session, any and all documents it intends to show or question him about in the session.*
5. *The duration of the deposition, exclusive of any agreed upon breaks or time off the record, will not exceed 4 hours.*
6. *The Select Committee will timely provide Mr. Meadows with the written record of the deposition.*

Your letter asks for any such appearance to occur on November 29, 2021. For separate reasons as to each of us, neither Mr. Meadows nor I could appear on that date.<sup>1</sup> In addition, that date, as you know, follows a traditionally long holiday weekend, and we have not received any of the documents that the Select Committee would like Mr. Meadows to be prepared to discuss. A deposition of Monday, November 29, would therefore not permit us adequate time to prepare for the session. We are prepared, however, to work with your staff to identify a date soon thereafter for Mr. Meadows to appear as outlined above.

As to the production of documents pursuant to the subpoena to Mr. Meadows, which you also raised in your letter, we are addressing that today in a separate communication to the Select Committee.

Sincerely yours,



George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

---

<sup>1</sup> I would be happy to explain to staff orally the reasons we could not attend on that date.

## EXHIBIT P

McGuireWoods LLP  
888 16th Street N.W. #500  
Washington, DC 20006  
Phone: 202.857.1700  
www.mcguirewoods.com

Michael Francisco  
Direct: 202.857.1722

McGUIREWOODS

mfrancisco@mcguirewoods.com

November 26, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: *Subpoenas Served on Honorable Mark R. Meadows – Request for Production of Documents*

Dear Chair Thompson and Vice Chair Cheney:

On behalf of our client, the Honorable Mark R. Meadows, I write in response to the subpoena from the Select Committee on Finance dated September 23, 2021, and to your letter of November 23, 2021. As described below, Mr. Meadows is today making an initial production of documents in response to the subpoena and will continue working with the Select Committee to complete his response in a timely fashion. This initial production includes 1,139 documents and 6,836 pages.

As previously discussed, we believe that the vast majority of the documents responsive to the Select Committee's subpoena are Presidential records now in the custody and control of the Archivist. We have nevertheless undertaken a review of Mr. Meadows's personal devices and accounts to ascertain whether there are any responsive documents that remain in his custody and control. Previously we committed to producing any responsive, non-privileged documents that we identify. The documents included in today's production were collected from Mr. Meadows's personal Gmail account.



Select Committee to Investigate the January 6th Attack on the United States Capital  
November 26, 2021 – Documents  
Page 2

This production is based on our careful review of all incoming and outgoing messages in Mr. Meadows personal Gmail account between the dates of November 3, 2020 to January 21, 2021. In response to the Committee's focus on this time frame in its subpoena, the review was done for all emails in this entire date range instead of through application of more limited search terms, for instance.

These documents are being produced in response to the Select Committee's subpoena. This letter and its attachments, any copies thereof, and any past or future correspondence regarding this matter, are not intended to waive any of Mr. Meadows's privileges or rights. They should not be construed as a waiver of any privilege or right. To the extent that we have identified responsive documents that are nevertheless privileged, we are providing a privilege log in connection with the production that identifies the documents withheld and the nature of the privileges asserted.

The materials included in today's production are produced in electronic format and Bates numbered: MM000001 through MM010784. The production file is password protected. We will provide instructions on accessing the production by separate email, and you should not hesitate to contact us should any issues arise.

This production and our related correspondence may include sensitive personal information. We respectfully request that these materials, including this letter and our other correspondence with the Select Committee and its staff, be treated as confidential under the House Rules; that they be afforded the fullest protection available by law and policy; and that they be treated as confidential and exempt from disclosure beyond the Select Committee. The production of any privileged or otherwise protected information which is not responsive to the subpoena is unintentional, and we request the prompt return of any such information if identified or upon our request. We further request that confidential treatment be accorded to any notes, memoranda, or other records created by or at the direction of the Select Committee or employees that reflect, refer, or relate to this letter or to any portion of the enclosed productions.

Please promptly inform me, at the address and phone number listed above, of any request seeking access to the documents or any of the above-mentioned records, including this letter, to enable us to substantiate the grounds for confidential treatment, unless the Select Committee intends to deny such request for access. At the conclusion of the Select Committee's review of the enclosed documents, we request that all copies be returned to me at the address above.

In addition, we will review text messages and other potentially responsive information from Mr. Meadows' personal cell phone. As of the date of this initial production, we have encountered technical challenges that have prevented us from reviewing these materials for potentially responsive documents. We have previously explained to staff that Mr. Meadows did not retain his cell phone after January 2021. However, some information may have been retained in the form of a backup data set from the phone. After our initial efforts to access that backup were unsuccessful, we have retained a new outside vendor to assist us in our efforts to access and review the material. We expect to have a more detailed update on the status of this data next week. We continue to use substantial diligence to seek to obtain any potentially responsive material.

Select Committee to Investigate the January 6th Attack on the United States Capital  
November 26, 2021 – Documents  
Page 3

If you have any questions regarding the enclosed materials or any issues relating to this matter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael Francisco", with a stylized, flowing script.

Michael Francisco<sup>\*</sup>

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

---

<sup>\*</sup> Not admitted in DC; admitted in CO. Application for admission to the DC bar filed; working under the direct supervision of an enrolled, active member of the DC bar

## EXHIBIT Q

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

November 28, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger,

The Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol (“Select Committee”) has received and considered the letters you sent on November 26, 2021. One letter addressed Mr. Meadows’ potential deposition testimony, and the other addressed an initial production of documents and a privilege log. Separately, staff for the Select Committee received a link from your law firm to download Mr. Meadows’s initial document production that same day.

The Select Committee is working to download and process the documents Mr. Meadows produced and will review them as soon as practicable. As your letter indicates, that production includes 1,139 documents and 6,836 pages that are responsive to the Select Committee’s subpoena, as well as a privilege log describing hundreds more responsive documents that Mr. Meadows has withheld. I understand that this is an initial production, and that you are working to provide additional responsive documents including text messages taken from a personal cell phone that Mr. Meadows used during the relevant timeframe. Mr. Meadows’ production and privilege log comes well after the original and revised dates by which he was required to produce documents: October 7 and November 5, respectively. Given this delay and for the reasons stated below, I request that you complete the remaining production expeditiously, and no later than Friday, December 3, 2021.

In addition, the Select Committee is encouraged to hear that Mr. Meadows is interested in appearing for deposition testimony without further delay. I understand the extenuating circumstances for your request that we schedule the deposition for the week of December 6. I am willing to accommodate your request, *provided that* you complete production of documents from Mr. Meadows no later than Friday, December 3, 2021. More specifically, the Select Committee will convene a deposition on Wednesday, December 8, 2021, at 10:00 a.m. The deposition will be conducted pursuant to H. Res. 503, section 3(b) of H. Res. 8, and the Rules of the House of Representatives. Specifically, Mr. Meadows will be placed under oath to answer questions posed by staff and Members of the Select Committee. He will answer the questions asked or specifically articulate a privilege or other objection to such questions. As Chairman of the Select

Mr. George Terwilliger III  
Page 2

Committee, I will consider and may rule upon those objections, as provided by the Rules of the House of Representatives. For your reference, I have enclosed the House Deposition Authority Regulations.

During the deposition, counsel and Members of the Select Committee will ask questions of your client that are relevant to the Select Committee's investigation. To be clear, the Select Committee's view of applicable executive privilege will be consistent with the prior letters that we have sent to you as well as the November 11, 2021, White House letter addressed to Mr. Meadows. Our hope is that Mr. Meadows will answer all questions put forth during the deposition. If, however, the Select Committee's questions address topics which you believe are protected by privilege, you will state such privilege objection on the record. After the deposition concludes, we will have a specific record on which to base continued discussion of your privilege claims.

The Select Committee hopes to limit the number of times Mr. Meadows must appear for testimony, but also recognizes that it might be necessary to continue the deposition to address issues that are not covered in this deposition, such as areas where you assert some executive-privilege-based objection that is later resolved. At this deposition, Select Committee staff will raise, in good faith, all relevant topics with Mr. Meadows in order to both obtain information that is relevant and necessary to its inquiry and narrow the scope of questions to which Mr. Meadows objects. If Mr. Meadows is forthcoming and cooperative, this process may take more than four hours, and the Select Committee cannot agree to such a time limit.

The Select Committee will endeavor to provide you, as counsel for Mr. Meadows, access to the nonpublic documents that it intends to show or question him about during the deposition that the Select Committee has received from sources other than your document production, *provided that* both you and Mr. Meadows agree to keep the documents confidential and not produce them, or otherwise disclose their contents, to any third parties. As noted above, it is imperative that we receive a complete production of documents from Mr. Meadows by December 3. This production must include, but not be limited to, production of text messages and other information contained in Mr. Meadows' personal cellular device(s). The Select Committee is also willing to provide access to the written record of the deposition upon the completion of the deposition pursuant to House rules.

I trust that Mr. Meadows' stated position indicates a willingness to cooperate with the Select Committee. If so, he must complete his document production by Friday, December 3, 2021, and appear for a deposition at 10:00 a.m. on Wednesday, December 8, 2021. As was true in the letter that I sent dated November 22, 2021, the Select Committee will defer consideration of enforcement steps regarding Mr. Meadows' non-compliance with the Select Committee's September 23, 2021, subpoena pending the December 8, 2021, deposition.

Mr. George Terwilliger III  
Page 3

Please find the previously mentioned enclosures to this letter below. I look forward to your speedy reply.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is written in a cursive, flowing style.

Bennie G. Thompson  
Chairman

Enclosures.

## H. Res. 8

### *In the House of Representatives, U. S.,*

*January 4, 2021.*

*Resolved,*

#### **SECTION 1. ADOPTION OF THE RULES OF THE ONE HUNDRED SIXTEENTH CONGRESS.**

The Rules of the House of Representatives of the One Hundred Sixteenth Congress, including applicable provisions of law or concurrent resolution that constituted rules of the House at the end of the One Hundred Sixteenth Congress, are adopted as the Rules of the House of Representatives of the One Hundred Seventeenth Congress, with amendments to the standing rules as provided in section 2, and with other orders as provided in this resolution.

#### **SEC. 2. CHANGES TO THE STANDING RULES.**

(a) CONFORMING CHANGE.—In clause 2(i) of rule II—

(1) strike the designation of subparagraph (1); and

(2) strike subparagraph (2).

(b) OFFICE OF DIVERSITY AND INCLUSION AND OFFICE OF THE WHISTLEBLOWER OMBUDS.—

**SEC. 3. SEPARATE ORDERS.**

(a) **MEMBER DAY HEARING REQUIREMENT.**—During the first session of the One Hundred Seventeenth Congress, each standing committee (other than the Committee on Ethics) or each subcommittee thereof (other than a subcommittee on oversight) shall hold a hearing at which it receives testimony from Members, Delegates, and the Resident Commissioner on proposed legislation within its jurisdiction, except that the Committee on Rules may hold such hearing during the second session of the One Hundred Seventeenth Congress.

(b) **DEPOSITION AUTHORITY.**—

(1) During the One Hundred Seventeenth Congress, the chair of a standing committee (other than the Committee on Rules), and the chair of the Permanent Select Committee on Intelligence, upon consultation with the ranking minority member of such committee, may order the taking of depositions, including pursuant to subpoena, by a member or counsel of such committee.

(2) Depositions taken under the authority prescribed in this subsection shall be subject to regulations issued by the chair of the Committee on Rules and printed in the Congressional Record.

(c) **WAR POWERS RESOLUTION.**—During the One Hundred Seventeenth Congress, a motion to discharge a measure introduced pursuant to section 6 or section 7 of the War



January 4, 2021

CONGRESSIONAL RECORD—HOUSE

H41

health, safety, and well-being of others present in the Chamber and surrounding areas. Members and staff will not be permitted to enter the Hall of the House without wearing a mask. Masks will be available at the entry points for any Member who forgets to bring one. The Chair views the failure to wear a mask as a serious breach of decorum. The Sergeant-at-Arms is directed to enforce this policy. Based upon the health and safety guidance from the attending physician and the Sergeant-at-Arms, the Chair would further advise that all Members should leave the Chamber promptly after casting their votes. Furthermore, Members should avoid congregating in the rooms leading to the Chamber, including the Speaker's lobby. The Chair will continue the practice of providing small groups of Members with a minimum of 5 minutes within which to cast their votes. Members are encouraged to vote with their previously assigned group. After voting, Members must clear the Chamber to allow the next group a safe and sufficient opportunity to vote. It is essential for the health and safety of Members, staff, and the U.S. Capitol Police to consistently practice social distancing and to ensure that a safe capacity be maintained in the Chamber at all times. To that end, the Chair appreciates the cooperation of Members and staff in preserving order and decorum in the Chamber and in displaying respect and safety for one another by wearing a mask and practicing social distancing. All announced policies, including those addressing decorum in debate and the conduct of votes by electronic device, shall be carried out in harmony with this policy during the pendency of a covered period.

# 117TH CONGRESS REGULATIONS FOR USE OF DEPOSITION AUTHORITY

COMMITTEE ON RULES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 4, 2021.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(b) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding the conduct of depositions by committee and select committee counsel for printing in the Congressional Record.

Sincerely,

JAMES P. MCGOVERN,  
Chairman, Committee on Rules.

## REGULATIONS FOR THE USE OF DEPOSITION AUTHORITY

1. Notices for the taking of depositions shall specify the date, time, and place of examination. Depositions shall be taken under oath administered by a member or a person otherwise authorized to administer oaths. Depositions may continue from day to day.

2. Consultation with the ranking minority member shall include three days' notice before any deposition is taken. All members of the committee shall also receive three days written notice that a deposition will be taken, except in exigent circumstances. For purposes of these procedures, a day shall not include Saturdays, Sundays, or legal holidays except when the House is in session on such a day.

3. Witnesses may be accompanied at a deposition by personal, nongovernmental counsel to advise them of their rights. Only members, committee staff designated by the chair or ranking minority member, an official reporter, the witness, and the witness's counsel are permitted to attend. Observers or counsel for other persons, including counsel for government agencies, may not attend.

4. The chair of the committee noticing the deposition may designate that deposition as part of a joint investigation between committees, and in that case, provide notice to the members of the committees. If such a designation is made, the chair and ranking minority member of the additional committee(s) may designate committee staff to attend pursuant to regulation 3. Members and designated staff of the committees may attend and ask questions as set forth below.

5. A deposition shall be conducted by any member or committee counsel designated by the chair or ranking minority member of the Committee that noticed the deposition. When depositions are conducted by committee counsel, there shall be no more than two committee counsel permitted to question a witness per round. One of the committee counsel shall be designated by the chair and the other by the ranking minority member per round.

6. Deposition questions shall be propounded in rounds. The length of each round shall not exceed 60 minutes per side, and shall provide equal time to the majority and the minority. In each round, the member(s) or committee counsel designated by the chair shall ask questions first, and the member(s) or committee counsel designated by the ranking minority member shall ask questions second.

7. Objections must be stated concisely and in a non-argumentative and non-suggestive manner. A witness's counsel may not instruct a witness to refuse to answer a question, except to preserve a privilege. In the event of professional, ethical, or other misconduct by the witness's counsel during the deposition, the Committee may take any appropriate disciplinary action. The witness may refuse to answer a question only to preserve a privilege. When the witness has refused to answer a question to preserve a privilege, members or staff may (i) proceed with the deposition, or (ii) either at that time or at a subsequent time, seek a ruling from the Chair either by telephone or otherwise. If the Chair overrules any such objection and thereby orders a witness to answer any question to which an objection was lodged, the witness shall be ordered to answer. If a member of the committee chooses to appeal the ruling of the chair, such appeal must be made within three days, in writing, and shall be preserved for committee consideration. The Committee's ruling on appeal shall be filed with the clerk of the Committee and shall be provided to the members and witness no less than three days before the reconvened deposition. A deponent who refuses to answer a question after being directed to answer by the chair may be subject to sanction, except that no sanctions may be imposed if the ruling of the chair is reversed by the committee on appeal.

8. The Committee chair shall ensure that the testimony is either transcribed or electronically recorded or both. If a witness's testimony is transcribed, the witness or the witness's counsel shall be afforded an opportunity to review a copy. No later than five days after the witness has been notified of the opportunity to review the transcript, the witness may submit suggested changes to the chair. Committee staff may make any typographical and technical changes. Substantive changes, modifications, clarifications, or amendments to the deposition transcript submitted by the witness must be accompanied by a letter signed by the witness requesting the changes and a statement of the witness's reasons for each proposed change. Any substantive changes, modifications, clarifications, or amendments shall be included as an appendix to the transcript conditioned upon the witness signing the transcript.

9. The individual administering the oath, if other than a member, shall certify on the transcript that the witness was duly sworn. The transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall be filed, together with any electronic recording, with the clerk of the committee in Washington, DC. Depositions shall be considered to have been taken in Washington, DC, as well as the location actually taken once filed there with the clerk of the committee for the committee's use. The chair and the ranking minority member shall be provided with a copy of the transcripts of the deposition at the same time.

10. The chair and ranking minority member shall consult regarding the release of deposition testimony, transcripts, or recordings, and portions thereof. If either objects in writing to a proposed release of a deposition testimony, transcript, or recording, or a portion thereof, the matter shall be promptly referred to the committee for resolution.

11. A witness shall not be required to testify unless the witness has been provided with a copy of section 3(b) of H. Res. 8, 117th Congress, and these regulations.

## REMOTE COMMITTEE PROCEEDINGS REGULATIONS PURSUANT TO HOUSE RESOLUTION 8, 117TH CONGRESS

COMMITTEE ON RULES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 4, 2021.

Hon. NANCY PELOSI,  
Speaker, House of Representatives,  
Washington, DC.

MADAM SPEAKER: Pursuant to section 3(s) of House Resolution 8, 117th Congress, I hereby submit the following regulations regarding remote committee proceedings for printing in the CONGRESSIONAL RECORD.

Sincerely,

JAMES P. MCGOVERN,  
Chairman,  
Committee on Rules.

## REMOTE COMMITTEE PROCEEDINGS REGULATIONS PURSUANT TO HOUSE RESOLUTION 8

### A. PRESENCE AND VOTING

1. Members participating remotely in a committee proceeding must be visible on the software platform's video function to be considered in attendance and to participate unless connectivity issues or other technical problems render the member unable to fully participate on camera (except as provided in regulations A.2 and A.3).

2. The exception in regulation A.1 for connectivity issues or other technical problems does not apply if a point of order has been made that a quorum is not present. Members participating remotely must be visible on the software platform's video function in order to be counted for the purpose of establishing a quorum.

3. The exception in regulation A.1 for connectivity issues or other technical problems does not apply during a vote. Members participating remotely must be visible on the software platform's video function in order to vote.

4. Members participating remotely off-camera due to connectivity issues or other technical problems pursuant to regulation A.1 must inform committee majority and minority staff either directly or through staff.

5. The chair shall make a good faith effort to provide every member experiencing connectivity issues an opportunity to participate fully in the proceedings, subject to regulations A.2 and A.3.

## EXHIBIT R

McGuireWoods LLP  
888 16th Street N.W. #500  
Washington, DC 20006  
Phone: 202.857.1700  
www.mcguirewoods.com

Michael Francisco  
Direct: 202.857.1722

McGUIREWOODS

mfrancisco@mcguirewoods.com

December 3, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: *Subpoenas Served on Honorable Mark R. Meadows – Request for Production of Documents*

Dear Chair Thompson and Vice Chair Cheney:

On behalf of our client, the Honorable Mark R. Meadows, I write in response to the subpoena from the Select Committee to Investigate the January 6th Attack on the United States Capitol dated September 23, 2021, and to your letter of November 23, 2021. As described below, Mr. Meadows is today making a continuing production of documents in response to the subpoena. This production includes 2,319 documents and 2,514 pages. For text messages withheld as privileged, there are 38 text message threads with attorney-client privilege and 23 text message threads with executive privilege.

Previously we committed to producing any responsive, non-privileged documents that we identify. The documents included in today's production were collected primarily from backup data from Mr. Meadows's personal devices. As we have previously explained, Mr. Meadows no longer has his personal cell phone available to him; this production is based on all remaining available data from that device.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
December 3, 2021 – Documents  
Page 2

This production is based on our careful review of all incoming and outgoing text messages in Mr. Meadows's custody or control between the dates of November 3, 2020 to January 21, 2021 as well as any available attachments or other identifiable documents from Mr. Meadows's personal computer. In response to the Select Committee's focus on this time frame in its subpoena, the review was done for all text messages in this entire date range instead of through application of more limited search terms, for instance.

These documents are being produced in response to the Select Committee's subpoena. This letter and its attachments, any copies thereof, and any past or future correspondence regarding this matter, are not intended to waive any of Mr. Meadows's privileges or rights. They should not be construed as a waiver of any privilege or right. To the extent that we have identified responsive documents that are nevertheless privileged, we are providing a privilege log in connection with the production that identifies the documents withheld and the nature of the privileges asserted.

The materials included in today's production are produced in electronic format and Bates numbered: MM010785 through MM015356. The production file is password protected. We will provide instructions on accessing the production by separate email, and you should not hesitate to contact us should any issues arise.

Today Mr. Meadows is also producing some non-privileged, responsive emails and attachments that were recovered from his personal computer. Most communications recovered from this device were associated with his personal email account. Thus, we have previously reviewed for responsiveness and privilege and produced appropriate communications to the Select Committee. Any responsive, nonprivileged documents not previously reviewed are being produced today. This production includes 20 documents in 42 pages.

As with the initial production, this production and our related correspondence may include sensitive personal information. We respectfully request that these materials, including this letter and our other correspondence with the Select Committee and its staff, be treated as confidential under the House Rules; that they be afforded the fullest protection available by law and policy; and that they be treated as confidential and exempt from disclosure beyond the Select Committee. The production of any privileged or otherwise protected information which is not responsive to the subpoena is unintentional, and we request the prompt return of any such information if identified or upon our request. We further request that confidential treatment be accorded to any notes, memoranda, or other records created by or at the direction of the Select Committee or employees that reflect, refer, or relate to this letter or to any portion of the enclosed productions.

Please promptly inform me, at the address and phone number listed above, of any request seeking access to the documents or any of the above-mentioned records, including this letter, to enable us to substantiate the grounds for confidential treatment, unless the Select Committee intends to deny such request for access. At the conclusion of the Select Committee's review of the enclosed documents, we request that all copies be returned to me at the address above.

Select Committee to Investigate the January 6th Attack on the United States Capitol  
December 3, 2021 – Documents  
Page 3

If you have any questions regarding the enclosed materials or any issues relating to this matter, please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Michael Francisco", with a stylized flourish at the end.

Michael Francisco<sup>\*</sup>

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

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<sup>\*</sup> Not admitted in DC; admitted in CO. Application for admission to the DC bar filed; working under the direct supervision of an enrolled, active member of the DC bar

## EXHIBIT S



VERIZON SECURITY SUBPOENA COMPLIANCE  
180 WASHINGTON VALLEY ROAD  
BEDMINSTER NJ 07921  
Phone: 888-483-2600 Fax: 325-949-6916

December 2, 2021

Meadows for Congress  
PO Box 97275  
Raleigh, NC 27624-7275

Verizon Case #: 21518536  
Docket / File #: House Subcommittee 11 22 21  
Phone Number: 828-200-2544

Dear Customer,

This is to notify you that Verizon has received a subpoena requiring the production of certain records associated with the phone number referenced above. According to our records, you are the subscriber of that phone number.

A copy of the subpoena is attached.

Because the address of record is a PO Box, we are also sending this notification to the addresses we have for the Account Managers.

Any questions you have should be directed to the party who issued the subpoena.

Please be advised that unless Verizon receives a court document challenging the subpoena by December 15, 2021, Verizon is compelled to comply with the subpoena. Copies of any court documents challenging the subpoena can be sent to Verizon via fax number 325-949-6916.

Very truly yours,

VERIZON SECURITY SUBPOENA COMPLIANCE

Enclosure

## SUBPOENA

### BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

Verizon  
Attn: VSAT

To

You are hereby commanded to be and appear before the  
Select Committee to Investigate the January 6th Attack on the United States Capitol

of the House of Representatives of the United States at the place, date, and time specified below.

- ☒ to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: 1540A Longworth House Office Building, Washington, DC 20515

Date: December 6, 2021

Time: 10:00 a.m.

- ☐ to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

- ☐ to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: \_\_\_\_\_

Date: \_\_\_\_\_

Time: \_\_\_\_\_

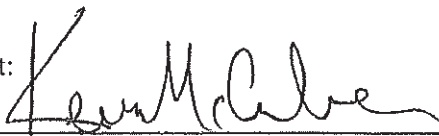
To any authorized staff member or the United States Marshals Service

\_\_\_\_\_ to serve and make return.

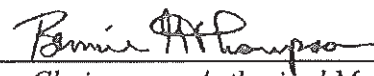
Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 22nd day of November, 2021.

Attest:



Clerk



Chairman or Authorized Member



## SCHEDULE

In accordance with the attached definitions and instructions, you, Verizon, are hereby required to produce the documents and records ("Records") listed in Section A, below, for the time period October 1, 2020, to January 31, 2021, concerning the phone numbers 828-200-2544 (the "Phone Numbers").

Please email the records to **SELECT\_CLERKS@MAIL.HOUSE.GOV** or, in the alternative, send them by mail to 1540A Longworth House Office Building, Washington, DC 20515, care of Jacob Nelson, Select Committee to Investigate the January 6th Attack on the U.S. Capitol.

### Section A – Records to Be Produced for Each Phone Number

1. Subscriber Information: All subscriber information for the Phone Number, including:
  - a. Name, subscriber name, physical address, billing address, e-mail address, and any other address and contact information;
  - b. All authorized users on the associated account;
  - c. All phone numbers associated with the account;
  - d. Length of service (including start date) and types of service utilized;
  - e. Telephone or instrument numbers (including MAC addresses), Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifier ("MEID"), Mobile Identification Numbers ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"), International Mobile Subscriber Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI") associated with the accounts;
  - f. Activation date and termination date of each device associated with the account;
  - g. Any and all number and/or account number changes prior to and after the account was activated;
  - h. Other subscriber numbers or identities (including temporarily assigned network addresses and registration Internet Protocol ("IP") addresses); and
2. Connection Records and Records of Session Times and Durations: All call, message (SMS & MMS), Internet Protocol ("IP"), and data-connection detail records associated with the Phone Numbers, including all phone numbers, IP addresses, or devices that communicated with the Phone Number via delivered and undelivered inbound, outbound, and routed calls, messages, voicemail, and data connections.

**DOCUMENT PRODUCTION DEFINITIONS AND INSTRUCTIONS**

1. In complying with this request, produce all responsive documents, regardless of classification level, that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. Produce all documents that you have a legal right to obtain, that you have a right to copy, or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party.
2. Requested documents, and all documents reasonably related to the requested documents, should not be destroyed, altered, removed, transferred, or otherwise made inaccessible to the Select Committee to Investigate the January 6th Attack on the United States Capitol ("Committee").
3. In the event that any entity, organization, or individual denoted in this request is or has been known by any name other than that herein denoted, the request shall be read also to include that alternative identification.
4. The Committee's preference is to receive documents in a protected electronic form (i.e., password protected CD, memory stick, thumb drive, or secure file transfer) in lieu of paper productions. With specific reference to classified material, you will coordinate with the Committee's Security Officer to arrange for the appropriate transfer of such information to the Committee. This includes, but is not necessarily limited to: a) identifying the classification level of the responsive document(s); and b) coordinating for the appropriate transfer of any classified responsive document(s).
5. Electronic document productions should be prepared according to the following standards:
  - a. If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
  - b. All electronic documents produced to the Committee should include the following fields of metadata specific to each document, and no modifications should be made to the original metadata:

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,  
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME,  
SENTDATE, SENTTIME, BEGINDATE, BEGINTIME, ENDDATE,  
ENDTIME, AUTHOR, FROM, CC, TO, BCC, SUBJECT, TITLE,  
FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED,  
DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER,  
NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.



6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, zip file, box, or folder is produced, each should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers, or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph(s) or request(s) in the Committee's letter to which the documents respond.
9. The fact that any other person or entity also possesses non-identical or identical copies of the same documents shall not be a basis to withhold any information.
10. The pendency of or potential for litigation shall not be a basis to withhold any information.
11. In accordance with 5 U.S.C. § 552(d), the Freedom of Information Act (FOIA) and any statutory exemptions to FOIA shall not be a basis for withholding any information.
12. Pursuant to 5 U.S.C. § 552a(b)(9), the Privacy Act shall not be a basis for withholding information.
13. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production, as well as a date certain as to when full production will be satisfied.
14. In the event that a document is withheld on any basis, provide a log containing the following information concerning any such document: (a) the reason it is being withheld, including, if applicable, the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author, addressee, and any other recipient(s); (e) the relationship of the author and addressee to each other; and (f) the basis for the withholding.
15. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (by date, author, subject, and recipients), and explain the circumstances under which the document ceased to be in your possession, custody, or control. Additionally, identify where the responsive document can now be found including name, location, and contact information of the entity or entities now in possession of the responsive document(s).
16. If a date or other descriptive detail set forth in this request referring to a document

is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, produce all documents that would be responsive as if the date or other descriptive detail were correct.

17. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data, or information not produced because it has not been located or discovered by the return date shall be produced immediately upon subsequent location or discovery.
18. All documents shall be Bates-stamped sequentially and produced sequentially.
19. Upon completion of the production, submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control that reasonably could contain responsive documents; and  
(2) all documents located during the search that are responsive have been produced to the Committee.

#### Definitions

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of classification level, how recorded, or how stored/displayed (e.g. on a social media platform) and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, data, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, communications, electronic mail (email), contracts, cables, notations of any type of conversation, telephone call, meeting or other inter-office or intra-office communication, bulletins, printed matter, computer printouts, computer or mobile device screenshots/screen captures, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape, or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.



2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, mail, releases, electronic message including email (desktop or mobile device), text message, instant message, MMS or SMS message, message application, through a social media or online platform, or otherwise.
3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information that might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neutral genders.
4. The term “including” shall be construed broadly to mean “including, but not limited to.”
5. The term “Company” means the named legal entity as well as any units, firms, partnerships, associations, corporations, limited liability companies, trusts, subsidiaries, affiliates, divisions, departments, branches, joint ventures, proprietorships, syndicates, or other legal, business or government entities over which the named legal entity exercises control or in which the named entity has any ownership whatsoever.
6. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual’s complete name and title; (b) the individual’s business or personal address and phone number; and (c) any and all known aliases.
7. The term “related to” or “referring or relating to,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is pertinent to that subject in any manner whatsoever.
8. The term “employee” means any past or present agent, borrowed employee, casual employee, consultant, contractor, de facto employee, detailee, assignee, fellow, independent contractor, intern, joint adventurer, loaned employee, officer, part-time employee, permanent employee, provisional employee, special government employee, subcontractor, or any other type of service provider.
9. The term “individual” means all natural persons and all persons or entities acting on their behalf.

## EXHIBIT T

BENNIE G. THOMPSON, MISSISSIPPI  
CHAIRMAN

ZOE LOFGREN, CALIFORNIA  
ADAM B. SCHIFF, CALIFORNIA  
PETE AGUILAR, CALIFORNIA  
STEPHANIE N. MURPHY, FLORIDA  
JAMIE RASKIN, MARYLAND  
ELAINE G. LURIA, VIRGINIA  
LIZ CHENEY, WYOMING  
ADAM KINZINGER, ILLINOIS



U.S. House of Representatives  
Washington, DC 20515

january6th.house.gov  
(202) 225-7800

## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

December 7, 2021

Mr. George Terwilliger III  
McGuire Woods LLP  
888 16<sup>th</sup> Street N.W., Suite 500  
Washington, D.C. 20006

Dear Mr. Terwilliger:

The Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”) is in receipt of your letter dated December 7, 2021, regarding your client, Mr. Mark Meadows. Your letter confirms that, despite our prior efforts to facilitate a deposition for Mr. Meadows, he does not intend to cooperate with the Select Committee.

As you no doubt recall, on November 22, 2021, I sent you a letter which explained to you that Mr. Meadows had wholly failed to comply with the subpoena that the Select Committee issued to him on September 23, 2021, and offered him, in good faith, a course of action that would cure his previous non-compliance. That course required Mr. Meadows to produce documents and appear for a deposition.

Mr. Meadows has produced documents. On November 26, 2021, Mr. Meadows provided to the Select Committee certain documents that you obtained from Mr. Meadows’s personal email account and determined were responsive to the Select Committee’s subpoena. In doing so, you also provided a privilege log indicating that you withheld several hundred additional documents from Mr. Meadows’s personal email account based on claims of executive, attorney-client, or other privilege. Despite your very broad claims of privilege, Mr. Meadows has also produced documents that you apparently agree are relevant and *not* protected by any privilege at all. Those documents include: a November 7, 2020, email discussing the appointment of alternate slates of electors as part of a “direct and collateral attack” after the election; a January 5, 2021, email regarding a 38-page PowerPoint briefing titled “Election Fraud, Foreign Interference & Options for 6 JAN” that was to be provided “on the hill”; and, among others, a January 5, 2021, email about having the National Guard on standby.

Then, on December 3, 2021, you provided to the Select Committee certain relevant messages that you obtained from saved and backed up phone data from Mr. Meadows’s personal cell phone. According to representations made to us, Mr. Meadows reportedly turned in this personal device to his cell phone provider in the weeks following January 6, 2021. You also produced a privilege log indicating that you withheld over 1,000 text messages from Mr. Meadows’s personal cell phone based on similarly broad claims of executive, attorney-client, and other privileges. The text messages you did produce include a November 6, 2020, text exchange

Mr. George Terwilliger III

Page 2

with a Member of Congress apparently about appointing alternate electors in certain states as part of a plan that the Member acknowledged would be “highly controversial” and to which Mr. Meadows apparently said, “I love it”; an early January 2021 text message exchange between Mr. Meadows and an organizer of the January 6th rally on the Ellipse; and text messages about the need for the former President to issue a public statement that could have stopped the January 6th attack on the Capitol.

All of those documents raise issues about which the Select Committee would like to question Mr. Meadows and about which you appear to agree are not subject to a claim of privilege. Yet, despite your recent agreement to have Mr. Meadows to come in and answer questions in a deposition, Mr. Meadows now, once again, refuses to do so. In your December 7, 2021, letter, you specifically indicated that Mr. Meadows’s refusal to appear is motivated by, among other things, the documents that Select Committee staff provided to you in advance, pursuant to your request for an accommodation. You go on to suggest that those documents somehow indicate that the “Select Committee has no intention of respecting boundaries concerning Executive Privilege.” That assertion runs counter to the stated purpose of the December 8, 2021, deposition, which was to give Mr. Meadows a chance to answer the Select Committee’s questions or assert and articulate a specific privilege he believes protects that information from disclosure.

Indeed, the Select Committee has tried repeatedly to identify with specificity the areas of inquiry that Mr. Meadows believes are protected by a claim of executive privilege, but neither you nor Mr. Meadows has meaningfully provided that information. As a result, and as I have said numerous times, the Select Committee planned to ask Mr. Meadows questions during a deposition that are relevant to the investigation, while giving Mr. Meadows the opportunity to answer those questions or assert a claim of privilege on a question-by-question basis. That is not a lack of respect for the boundaries of executive privilege but rather an appreciation for the proper process for asserting any protective privilege.

It is also worth noting that your identification of executive privilege issues with documents that came from Mr. Meadows’ personal email account and personal cell phone raises the question of whether these materials have been transferred to the National Archives in compliance with the Presidential Records Act.

In your December 7, 2021, letter, you also cite “wide ranging subpoenas for information from a third party communications provider” that the Select Committee has issued “without regard to either the breadth of the information sought . . . nor to the potentially privileged status of the information demanded.” I assume that this representation refers to the Select Committee’s compulsion of call data records regarding particular cellular telephone numbers. Contrary to your assertion, that information does not implicate privilege, but rather concerns the date, time, and dialing information about calls and messages sent or received by the specific phone numbers indicated on the subpoena. Moreover, production of that information does not impact Mr. Meadows’s production of documents and text messages, which are the areas we seek to develop during his deposition tomorrow.

Finally, you reference news accounts regarding another witness’s “assertion of 5th Amendment rights before the Select Committee” and claim that my comments suggest that a



Mr. George Terwilliger III

Page 3

witness's assertion of 5th Amendment rights is "tantamount to an admission of guilt." That is not an accurate characterization of my position on the 5th Amendment, nor is that interpretation of my comments consistent with our discussions about the purpose of tomorrow's deposition – *i.e.*, a proceeding in which your client can assert privilege claims with sufficient particularity for further consideration. The Select Committee is trying to ascertain facts that place the January 6th attack on the Capitol in context, not conduct a law enforcement inquiry. If you appear, the Select Committee would consider and evaluate your assertion of any privilege. Your failure to do so prevents that evaluation, which brings us once again to a consideration of enforcement options. This occurs at the same time Mr. Meadows has published a book in which he discusses the January 6th attack. That he would sell his telling of the facts of that day while denying a congressional committee the opportunity to ask him about the attack on our Capitol marks an historic and aggressive defiance of Congress.

In summary, on November 12, 2021, Mr. Meadows failed to appear for the deposition required by the Select Committee's subpoena. On November 22, 2021, the Select Committee gave Mr. Meadows an opportunity to cure his non-compliance by appearing for a deposition, which was ultimately scheduled for December 8, 2021. Now, the day before the deposition, Mr. Meadows has rejected the opportunity to cure his non-compliance and made it clear that he does not intend to participate in a deposition. There is no legitimate legal basis for Mr. Meadows to refuse to cooperate with the Select Committee and answer questions about the documents he produced, the personal devices and accounts he used, the events he wrote about in his newly released book,<sup>1</sup> and, among other things, his other public statements. The Select Committee is left with no choice but to advance contempt proceedings and recommend that the body in which Mr. Meadows once served refer him for criminal prosecution.

Sincerely,

A handwritten signature in blue ink that reads "Bennie G. Thompson". The signature is fluid and cursive, with the first name "Bennie" being more prominent.

Bennie G. Thompson  
Chairman

---

<sup>1</sup> See Mark Meadows, *THE CHIEF'S CHIEF* (2021) (released December 7, 2021).

## EXHIBIT U

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Washington, DC 20006  
Phone: 202.857.1700  
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George J. Terwilliger III  
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McGUIREWOODS

gterwilliger@mcguirewoods.com  
Fax: 202.828.2965

December 7, 2021

VIA EMAIL

Honorable Bennie G. Thompson, Chairman  
Honorable Liz Cheney, Vice Chair  
Select Committee to Investigate the January 6th Attack on the United States Capitol  
U.S. House of Representatives  
1540A Longworth House Office Building  
Washington, DC 20515

Re: Subpoenas Served on Honorable Mark R. Meadows

Dear Chair Thompson and Vice Chair Cheney:

Over the last several weeks, Mr. Meadows has consistently sought in good faith to pursue an accommodation with the Select Committee and up until yesterday we believed that could be obtained. We acted on the belief that the Select Committee would receive, also in good faith, relevant, responsive but non-privileged facts. We have consistently communicated to the Select Committee that Mr. Meadows is precluded from making a unilateral decision to waive Executive Privilege claims asserted by the former president.

We agreed to provide thousands of pages of responsive documents and Mr. Meadows was willing to appear voluntarily, not under compulsion of the Select Committee's subpoena to him, for a deposition to answer questions about non-privileged matters. Now actions by the Select Committee have made such an appearance untenable. In short, we now have every indication from the information supplied to us last Friday - upon which Mr. Meadows could expect to be questioned - that the Select Committee has no intention of respecting boundaries concerning Executive Privilege. In addition, we learned over the weekend that the Select Committee had, without even the basic courtesy of notice to us, issued wide ranging subpoenas for information from a third party communications provider without regard to either the broad breadth of the information sought, which would include intensely personal communications of no moment to any legitimate matters of interest to the Select Committee, nor to the potentially privileged status of the information demanded. Moreover, Mr. Chairman, your recent comments in regard to another

Select Committee to Investigate the January 6th Attack on the United States Capitol  
December 7, 2021  
Page 2

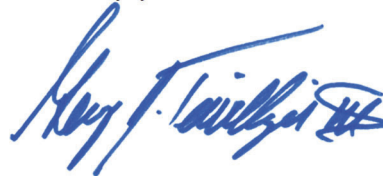
witness that his assertion of 5th Amendment rights before the Select Committee is tantamount to an admission of guilt calls into question for us what we had hoped would be the Select Committee's commitment to fundamental fairness in dealing with witnesses.

As a result of careful and deliberate consideration of these factors, we now must decline the opportunity to appear voluntarily for a deposition. It is well-established that Congress's subpoena authority is limited to the pursuit of a legitimate legislative purpose. Congress has no authority to conduct law enforcement investigations or free-standing "fact finding" missions. Even where there is a legislative purpose, requests that implicate the Separation of Powers by targeting current or former Executive officials must be narrowly tailored. Yet again, with the breadth of its subpoenas and its pugnacious approach, the Select Committee has made clear that it does not intend to respect these important constitutional limits.

\* \* \* \* \*

Mr. Meadows proudly served as Chief of Staff to President Trump and in that role assumed responsibility to protect Executive Privilege during and after his tenure. He assumed that responsibility not for his own benefit but for the benefit of all those who will serve after him, including future presidents. His appreciation for our constitutional system and for the Separation of Powers dictates that he cannot voluntarily appear under these circumstances. Nonetheless, as we have before, we reiterate our willingness to consider an interrogatory process of Select Committee written questions and answers from Mr. Meadows so that there might be both an orderly process and a clear record of questions and related assertions of privilege where appropriate.

Sincerely yours,



George J. Terwilliger III

cc: Honorable Timothy J. Heaphy, Chief Investigative Counsel  
Honorable John F. Wood, Senior Investigative Counsel

## CIVIL COVER SHEET

JS-44 (Rev. 11/2020 DC)

<b>I. (a) PLAINTIFFS</b> Mark Meadows  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>88888</u> (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b> Nancy Pelosi, Bennie G. Thompson, Elizabeth L. Cheney, Adam B. Schiff, Jamie B. Raskin, Susan E. Lofgren, Elaine G. Luria, Peter R. Aguilar, Stephanie Murphy, Adam D. Kinzinger. Select Committee to Investigate the January 6th COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER) George J. Terwilliger III McGuireWoods LLP 888 16th Street NW, Suite 500 Washington, DC 20006	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN X IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <u>FOR DIVERSITY CASES ONLY:</u>																								
<div style="display: flex; justify-content: space-between;"> <div> <input type="radio"/> 1 U.S. Government Plaintiff         </div> <div> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party)         </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div> <input checked="" type="radio"/> 2 U.S. Government Defendant         </div> <div> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)         </div> </div>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

## IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  <input type="checkbox"/> 410 Antitrust	<input type="radio"/> <b>B. Personal Injury/ Malpractice</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  <input type="checkbox"/> 151 Medicare Act  <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>		OR	<input type="radio"/> <b>F. Pro Se General Civil</b>	
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property  <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement  <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other  <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 465 Other Immigration Actions <input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 485 Telephone Consumer Protection Act (TCPA) <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input checked="" type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> <b>M. Contract</b>  <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
☒ 1 Original Proceeding  
 ☐ 2 Removed from State Court  
 ☐ 3 Remanded from Appellate Court  
 ☐ 4 Reinstated or Reopened  
 ☐ 5 Transferred from another district (specify)  
 ☐ 6 Multi-district Litigation  
 ☐ 7 Appeal to District Judge from Mag. Judge  
 ☐ 8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**  
 Fed. R. Civ. P. 8 for declaratory and injunctive relief challenging two invalid subpoenas issued by Select Committee

**VII. REQUESTED IN COMPLAINT**      ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23      **DEMAND \$**      **JURY DEMAND:**      Check YES only if demanded in complaint  
 YES ☐      NO ☐

**VIII. RELATED CASE(S) IF ANY**      (See instruction)      YES ☐      NO ☒      If yes, please complete related case form

**DATE:** December 8, 2021      **SIGNATURE OF ATTORNEY OF RECORD:**

**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III. CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV. CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII. RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.