

December 15, 2021

James E. Clyburn, Chair
Committee on Oversight and Reform
Subcommittee on the Coronavirus Crisis
2157 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Clyburn:

I am in receipt of your threatening letter of December 11, 2021. It comes on the heels of an unnecessary early morning visit by one of your gendarmes to deliver a subpoena which I already acknowledged the receipt of to your assistant Beth Mueller. She assured me that acknowledgment of receipt of the subpoena would obviate the need for any show of force. Yet bang on my door your jackboot did in the early hours of the morning. Clearly, the game afoot here is to try to intimidate me.

In reviewing your letter, I was surprised at the shoddiness of the legal work. Most notably, you brazenly ignore considerable legal precedent and facts demonstrating why executive privilege is applicable in this instance.

While I have no intention of doing your legal work for you, you may want to review at least *Nixon v. Adm'r of Gen Services*, 433 U.S. 425, 448-49 (1977), *Loving v. DOD*, 550 F.3d 32 (D.C. Cir. 2008); *Comm. On the Judiciary v. McGahn*, 415 F. Supp. 3d 148, FN 34 (D.D.C. 2019); *Mapother v. U.S. Dep't of Justice*, 3 F.3d 1533, 1537 (D.C. Cir. 1993); *Russell v. Dep't of Air Force*, 682 F.2d 1045, 1048 (D.C. Cir. 1982) (en banc); *Dep't of Interior v. Klamath Water Users Protective Ass'n.*, 532 U.S. 1, 8-9 (2001); and *Coastal States Gas Corp. v. U.S. Dep't of Energy*, 617 F.2d 854, 868 (D.C. Cir. 1980) just to name several. You may want to do this before you push this case on a path to the Supreme Court.

In the meantime, the abiding facts of the case are quite simple. President Donald John Trump, my Commander in Chief, has invoked Executive Privilege with respect to any interactions with your Subcommittee; and the law is very clear on this. This is not my privilege to waive. Only President Trump can waive the privilege.

Based on foregoing legal precedent and President Trump's invocation of executive privilege, I therefore cannot produce the communications sought by the Subcommittee in the Subpoena.

Clearly, the best and proper course of action for your Subcommittee is to negotiate any waiver of the privilege with the president and his attorneys directly, not through me. The law is clear that this is not my privilege to waive. Only the president can waive privilege. Therefore, I refer you directly to the president's attorneys.

Until the scope and extent of the privilege is either negotiated by President Trump's attorneys or adjudicated by a Court of law (free of partisan leanings), I cannot produce documents responsive to the subpoena or otherwise appear for the Subcommittee's deposition.

In this regard, the recent decision of the Democrat-stacked appeals court regarding the January 6 Committee that a sitting president can revoke the privilege of a former president is about the most stupid and dangerous court ruling I have ever seen. Talk about an open invitation to the politicization of executive privilege. That, too, is a Supreme Court decision waiting to happen.

Let me also restate something I noted in my original letter: I have no intention of allowing you or your Subcommittee to drain me financially by forcing me to hire a high-priced Washington lawyer. I am a man of modest means on the edge of retirement and have no intention of burning cash on this matter.

Likewise with respect to your shoddy legal work, I was surprised to see you cite *Harlow V. Fitzgerald* as the centerpiece for your claim that I should bend to your will. This case is clearly and readily distinguishable from the instant case and even the greenest law clerk would know this.

The citing of this case also implies that you intend to pursue to some type of criminal charges against me related to the White House handling of the pandemic. This is all the more reason why I will not be coerced into sitting for a deposition before your Star Chamber.

Finally, as I document in my new book *In Trump Time*, my actions during my government service no doubt led to the saving of hundreds of thousands, and perhaps millions, of American lives. That you would try to use me as a pawn in your cynical witch hunt game to blame the Trump administration for mismanagement of the pandemic – even as you imply possible criminal charges against me – frankly disturbs me and should disturb the American people.

Let me remind you here, and as I document in *In Trump Time*, when I was arguing on behalf of the ban on travel from Communist China in January of 2020 and writing a dozen memos jumpstarting our pandemic efforts in February of 2020, you, Tony Fauci, and other Democrats like Bill de Blasio and Andrew Cuomo of New York, and Nancy Pelosi of California were totally oblivious to the dangers of the pandemic and were urging people to go out dancing in the streets.

Let me also remind the American people here that it is you, sir, who is arguably the person most responsible for the feckless fool with obviously diminished mental capacity now sitting behind the Resolute desk in the White House. Your endorsement of Joe Biden during the Democratic primary in South Carolina is generally regarded as the turning point in the career of a man who should otherwise have been relegated to the dustbin of history along with his venal son Hunter Biden, who is a congressional investigation waiting to happen.

Because of your political efforts, the Biden regime has now spawned a stagflationary crisis the likes of which we have not seen since the 1970s. Our supply chains are in shambles. China and Russia are both getting ready to expand their territorial reach. Over 2 million illegal aliens are flooding over our border in this year alone; and it will be black and brown Americans who will bear the economic burden of this invasion through higher unemployment and depressed wages.

Here is something to consider: When the Republicans take over in 2022, and if the Pelosi Congress is successful in establishing the precedent of weaponizing the investigatory powers of the Congress for partisan ends, what exactly do you think is going to happen to every single Democrat official surrounding Joe Biden in the White House? It won't be you threatening subpoenas and jail. It will be somebody like Steve Scalise – and all he will say to you when you complain is “I warned you not to go there.”

The second fact I would remind you of sir is that more people have now died from Communist China's virus on the watch of Joe Biden and Anthony Fauci than during the last year of the Trump administration. And we've seen this high death toll despite the fact that the Trump administration handed over a suite of vaccines that I personally jumpstarted in a February 9, 2020, memo.

Perhaps your Subcommittee should shift its focus to why Anthony Fauci and Francis Collins used American taxpayer money to fund dangerous gain-of-function experiments at a bioweapons lab in Wuhan, China where the pandemic no doubt originated.

Or perhaps you might want to investigate why hydroxychloroquine was sabotaged as a useful therapeutic by people like the current FDA Commissioner Janet Woodcock and again Tony Fauci. If hydroxychloroquine had been widely available to the American public since the dawn of the pandemic, over 400,000 Americans would be alive today instead of being buried in the ground – and it's not too late to use this life-saving medicine. The science is now abundantly clear on that. How about investigating that?

In closing, I remain intrigued by your claim that current or former White House officials have been successfully compelled to testify before Congress despite the implication of executive privilege. In consideration of this claim, I note that the rank of Assistant to the President is the highest rank within the White House. Pursuant to your claim, I respectfully ask the committee to *promptly provide the following information*:

1. Please name any Assistants to the President who have been subpoenaed by the U.S. Congress, provide the dates of those subpoenas, the general topic upon which they were asked to testify, whether it was a criminal investigation, whether executive privilege was invoked by the relevant president, and whether the privilege claim was ignored by the Assistant to the President.

2. Have you subpoenaed any other Assistants to the President at the Trump White House to testify or to provide documents. If so, who and which of these individuals have voluntarily complied? For example, is Jared Kushner, who public press reports suggest played a key role in ventilators, on your target list or list of cooperating witnesses?

In closing, I once again reiterate that the privilege is not mine to give away; and I direct you to President Trump's attorneys to litigate this.

I likewise reiterate – this was a point curiously absent from your threatening letter – much of what you have requested can be sourced directly from White House records if President Trump waives the privilege. It is not mine to waive.

Regards,

Peter Navarro

Peter K. Navarro