

## House Calendar No.

117TH CONGRESS }  
1st Session } HOUSE OF REPRESENTATIVES { REPORT  
117-

---

---

RESOLUTION RECOMMENDING THAT THE HOUSE OF REPRESENTATIVES FIND MARK RANDALL MEADOWS IN CONTEMPT OF CONGRESS FOR REFUSAL TO COMPLY WITH A SUBPOENA DULY ISSUED BY THE SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE UNITED STATES CAPITOL

---

DECEMBER 13, 2021.—Referred to the House Calendar and ordered to be printed

---

Mr. THOMPSON of Mississippi, from the Select Committee to Investigate the January 6th Attack on the United States Capitol, submitted the following

### R E P O R T

The Select Committee to Investigate the January 6th Attack on the United States Capitol, having considered this Report, reports favorably thereon and recommends that the Report be approved.

The form of the Resolution that the Select Committee to Investigate the January 6th Attack on the United States Capitol would recommend to the House of Representatives for citing Mark Randall Meadows for contempt of Congress pursuant to this Report is as follows:

*Resolved*, That Mark Randall Meadows shall be found to be in contempt of Congress for failure to comply with a congressional subpoena.

*Resolved*, That pursuant to 2 U.S.C. §§ 192 and 194, the Speaker of the House of Representatives shall certify the report of the Select Committee to Investigate the January 6th Attack on the United States Capitol, detailing the refusal of Mark Randall Meadows to appear for a deposition before the Select Committee to Investigate the January 6th Attack on the United States Capitol as directed by subpoena, to the United States Attorney for the District of Columbia, to the end that Mr. Meadows be proceeded against in the manner and form provided by law.

*Resolved*, That the Speaker of the House shall otherwise take all appropriate action to enforce the subpoena.

## CONTENTS

|   | Page |
|---|------|
| Purpose and Summary .....                                   |      |
| Background on the Select Committee's Investigation .....    |      |
| Select Committee Consideration .....                        |      |
| Select Committee Votes .....                                |      |
| Select Committee Oversight Findings .....                   |      |
| C.B.O. Estimate .....                                       |      |
| Statement of General Performance Goals and Objectives ..... |      |
| Appendix .....  |      |

## PURPOSE AND SUMMARY

On January 6, 2021, a violent mob breached the security perimeter of the United States Capitol, assaulted and injured scores of police officers, engaged in hand-to-hand violence with those officers over an extended period, terrorized Members of Congress and staff, and invaded and occupied the Capitol building, all in an effort to halt the lawful counting of electoral votes and reverse the results of the 2020 election. In the words of many of those who participated in the violence, the attack was a direct response to statements by then-President Donald J. Trump—beginning on election night 2020 and continuing through January 6, 2021—that the 2020 election had been stolen by corrupted voting machines, widespread fraud, and otherwise.

In response, the House adopted House Resolution 503 on June 30, 2021, establishing the Select Committee to Investigate the January 6th Attack on the United States Capitol (hereinafter referred to as the “Select Committee”).

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 how the events of January 6th were planned, what actions and statements motivated and contributed to the attack on the Capitol, how the violent riot that day was coordinated with a political and public relations strategy to reverse the election outcome, and why Capitol security was insufficient to address what occurred. The Select Committee will evaluate all facets of these issues, create a public record of what occurred, and recommend to the House, and its relevant committees, corrective laws, policies, procedures, rules, or regulations.

According to documents and testimony obtained by the Select Committee, Mark Randall Meadows is uniquely situated to provide critical information about the events of January 6, 2021, as well as efforts taken by public officials and private individuals to spread the message of widespread fraud in the November 2020 election and to delay or prevent the peaceful transfer of power. Mr. Meadows served as chief of staff to President Trump during the final year of the Trump administration. As detailed in public reporting, Mr. Meadows was with or in the vicinity of then-President Trump on January 6 as Mr. Trump learned about the attack on the U.S. Capitol and decided whether to issue a statement that could help to stop the rioters.<sup>1</sup>

Mr. Meadows has refused to provide the Select Committee with information and testimony that has no conceivable, associated

<sup>1</sup>Jonathan Karl, *Betrayal: The Final Act of the Trump Show*, (New York: Dutton, 2021), pp. 297–299.

privilege claims. To complete its investigation, the Select Committee needs access to testimony on this non-privileged information. The Select Committee offers here just several examples: Mr. Meadows has refused to provide testimony on the documents he himself produced to the Select Committee without any claim of privilege; Mr. Meadows has refused to provide testimony about his reported communications with organizers of various protest events before January 6, 2021;<sup>2</sup> Mr. Meadows personally travelled to Georgia to inspect a county audit related to the presidential election, but the Select Committee has not been able to obtain testimony from Mr. Meadows about these events;<sup>3</sup> and Mr. Meadows has also denied the Select Committee the opportunity to question him about a call with Georgia State officials in which Mr. Trump insisted that he had won Georgia and told the Georgia secretary of state that he wanted to “find” enough votes to ensure his victory.<sup>4</sup> Yet another topic on which Mr. Meadows has frustrated the Select Committee’s investigative efforts relates to the Select Committee’s attempt to locate and discover highly relevant documents. Based on Mr. Meadows’s production of documents and recently reported information, it appears that Mr. Meadows may not have complied with legal requirements to retain or archive documents under the Presidential Records Act.<sup>5</sup> He has denied the Select Committee the opportunity to question him about these circumstances so that the Select Committee can fully understand the location of highly relevant materials to its investigation and which materials may now be lost to the historical record.

To be clear, Mr. Meadows’s failure to comply, and this contempt recommendation, are not based on good-faith disagreements over privilege assertions. Rather, Mr. Meadows has failed to comply and warrants contempt findings because he has wholly refused to appear to provide any testimony and refused to answer questions regarding even clearly non-privileged information—information that he himself has identified as non-privileged through his own document production.

Mr. Meadows’s relevant documents and testimony are necessary to the Select Committee’s investigation for many additional reasons. Mr. Meadows also reportedly participated in meetings and communicated with senior Department of Justice (DOJ) officials about unsupported election-fraud claims and litigation aimed at disrupting or overturning the election results.<sup>6</sup> Mr. Meadows reportedly participated in a contentious meeting at the White House

<sup>2</sup> Documents on file with the Select Committee; Joshua Kaplan and Joaquin Sapien, “New Details Suggest Senior Trump Aides Knew Jan. 6 Rally Could Get Chaotic,” ProPublica, (June 25, 2021), available at <https://www.propublica.org/article/new-details-suggest-senior-trump-aides-knew-jan-6-rally-could-get-chaotic>.

<sup>3</sup> Joe Walsh, “Trump Chief of Staff Observes Georgia County’s Ballot Audit Amid Ongoing Baseless Fraud Claims,” *Forbes*, (Dec. 22, 2020), available at <https://www.forbes.com/sites/joewalsh/2020/12/22/trump-chief-of-staff-observes-georgia-countys-ballot-audit-amid-ongoing-baseless-fraud-claims/?sh=379f2627b411>.

<sup>4</sup> “Here’s the full transcript and audio of the call between Trump and Raffensperger,” *Washington Post*, (Jan. 2, 2021), available at <https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356—story.html>.

<sup>5</sup> Nicholas Wu, Kyle Cheney, and Josh Gerstein, “National Archives: Meadows may not have stored all Trump-era records ‘properly,’” *Politico*, (Dec. 9, 2021), available at <https://www.politico.com/news/2021/12/09/national-archives-meadows-trump-524043>.

<sup>6</sup> U.S. Senate, Committee on the Judiciary, “Subverting Justice: How the Former President and His Allies Pressured DOJ to Overturn the 2020 Election,” (Oct. 7, 2021) (“Senate Report”), at pp. 4, 5, 14, 29–39; Documents on file with the Select Committee.

with private individuals and others linked to Mr. Trump's re-election campaign during which Mr. Trump and others discussed seizing voting machines and invoking certain laws including the National Emergencies Act for election-related purposes because of purported fraud in the election.<sup>7</sup> Mr. Meadows reportedly joined a January 2 call with Mr. Trump and State and Federal officials to discuss overturning certain States' electoral college results on January 6,<sup>8</sup> and later sent the former Vice President's staff a memo drafted by a Trump campaign lawyer urging the Vice President to delay or decline the counting of votes from certain States.<sup>9</sup> Mr. Meadows was also reportedly in contact with at least one of the individuals who planned and organized a January 6 rally, one of whom may have expressed safety concerns to Mr. Meadows about the event.<sup>10</sup> In short, Mr. Meadows appears to have participated in, and been a witness to, critically important communications and events that took place before and on January 6, and the Congress is entitled to hear his first-hand testimony regarding his actions and knowledge. The Select Committee expects such testimony to be directly relevant to its report and recommendations for legislative and other action.

On September 23, 2021, the Select Committee issued a subpoena to Mr. Meadows for documents and testimony, and transmitted it along with a cover letter and schedule to Mr. Meadows's then-counsel, who accepted service on Mr. Meadows's behalf on that same day. The subpoena required that Mr. Meadows produce responsive documents by October 7, 2021, and that Mr. Meadows appear for a deposition on October 15, 2021. After Mr. Meadows retained separate counsel, the Select Committee agreed to postpone the subpoena deadlines to enable his counsel to understand the requests associated with the subpoena and work with Mr. Meadows. Ultimately, by letter dated October 25, 2021, the Select Committee accommodated Mr. Meadows's interest in moving back the date of his appearance and document production and instructed Mr. Meadows to produce documents by November 5, 2021, and appear for a deposition on November 12, 2021.

Mr. Meadows's resistance came after the Select Committee agreed to that postponement, after the Select Committee identified specific subject matters for inquiry that did not implicate any privilege, and after inviting Mr. Meadows to explain with specificity his position as to whether any of those areas would trigger any claims of executive privilege. Mr. Meadows provided no such explanation. Instead, he declined to produce a single document. He refused to carry out the commonly accepted practice of producing a privilege log in response to the Select Committee's subpoena. And he failed to appear at the scheduled deposition, as ordered by the lawful subpoena.

<sup>7</sup> Jonathan Swan and Zachary Basu, "Bonus episode: Inside the craziest meeting of the Trump presidency," Axios, (Feb. 2, 2021), available at <https://www.axios.com/trump-oval-office-meeting-sidney-powell-a8e1e466-2e42-42d0-9cf1-26eb267f8723.html>.

<sup>8</sup> Caitlin McFall, "Trump, House Republicans held call to discuss Electoral College rejection: Brooks," Fox News, (Jan. 2, 2021), available at <https://www.foxnews.com/politics/gop-splits-electoral-college-certification>; Documents on file with the Select Committee.

<sup>9</sup> Karl, *Betrayal*, pp. 259–260.

<sup>10</sup> Documents on file with the Select Committee; Joshua Kaplan and Joaquin Sapien, "New Details Suggest Senior Trump Aides Knew Jan. 6 Rally Could Get Chaotic," ProPublica, (June 25, 2021), available at <https://www.propublica.org/article/new-details-suggest-senior-trump-aides-knew-jan-6-rally-could-get-chaotic>.

A week after Mr. Meadows failed to appear for his deposition and 2 weeks after his deadline to produce documents, Mr. Meadows re-engaged with the Select Committee by letter. The Select Committee gave Mr. Meadows an opportunity to cure his previous non-compliance with the Select Committee’s subpoena by asking that he produce documents and appear at a deposition that, ultimately, was scheduled for December 8, 2021. Through counsel, Mr. Meadows agreed. Mr. Meadows produced a large number of responsive documents that were not subject to any claim of privilege, while withholding many others. But the day before his deposition, Mr. Meadows changed course once more and told the Select Committee that he would not be attending his deposition after all, even to answer questions about the documents that he agrees are relevant and non-privileged that he had just produced. He did this even though that very same day his book was released in which he recounts specific conversations that he had with former-President Trump, including conversations about whether the former President planned to join a march to the United States Capitol on January 6 after encouraging rally-goers to do so.<sup>11</sup> On December 8, 2021, Mr. Meadows failed to appear for his deposition.

Although Mr. Meadows’s counsel has referenced claims of testimonial immunity and executive privilege purportedly relayed by Mr. Trump’s counsel, no such claims have been presented by Mr. Trump to the Select Committee. Moreover, the current White House has informed Mr. Meadows that the incumbent President is *not* asserting claims of testimonial immunity or executive privilege to prevent Mr. Meadows from complying with the Select Committee’s subpoena.<sup>12</sup>

The Select Committee is confident that there is no conceivable immunity or executive privilege claim that could bar *all* of the Select Committee’s requests or justify Mr. Meadows’s blanket refusal to appear for the required deposition. Indeed, the Chairman’s written responses on October 25, 2021, November 5, 2021, and November 11, 2021, addressed the legal arguments raised by Mr. Meadows’s counsel and made clear that the Select Committee expected—as the law demands—that Mr. Meadows produce documents and appear before the Select Committee at his deposition to raise any privilege or other concerns regarding specific questions on the record of that proceeding.

The contempt of Congress statute, 2 U.S.C. § 192, provides that a witness summoned before Congress must appear or be “deemed guilty of a misdemeanor” punishable by a fine of up to \$100,000 and imprisonment for up to 1 year.<sup>13</sup> Further, the Supreme Court in *United States v. Bryan* (1950) emphasized that the subpoena power is a “public duty, which every person within the jurisdiction of the Government is bound to perform when properly summoned.”<sup>14</sup> The Supreme Court recently reinforced this clear obligation by stating that “[w]hen Congress seeks information needed for

<sup>11</sup> Mark Meadows, *The Chief’s Chief*, (All Seasons Press, 2021), p. 259.

<sup>12</sup> See Appendix, Ex. 3 (Letter from White House Counsel to Counsel for Mr. Meadows, Nov. 11, 2021).

<sup>13</sup> The prison term for this offense makes it a Class A misdemeanor. 18 U.S.C. § 3559(a)(6). By that classification, the penalty for contempt of Congress specified in 2 U.S.C. § 192 increased from \$1,000 to \$100,000. 18 U.S.C. § 3571(b)(5).

<sup>14</sup> *United States v. Bryan*, 339 U.S. 323, 331 (1950).

intelligent legislative action, it unquestionably remains the duty of *all* citizens to cooperate.”<sup>15</sup>

Mr. Meadows did not produce documents as required by the subpoena’s October 7, 2021, deadline or the extended deadline of November 5, 2021. Similarly, Mr. Meadows did not appear for a deposition scheduled for October 15, 2021, or the extended deadline of November 12, 2021, as ordered by the subpoena and in contravention of the clear instructions by the Select Committee Chairman’s letters dated October 25, 2021, November 5, 2021, November 9, 2021, and November 11, 2021, to appear at the deposition and raise any privilege concerns in response to specific questions on the record. Furthermore, Mr. Meadows chose not to appear before the Select Committee on December 8, 2021, to cure his previous non-compliance and after specifically agreeing to do so. Mr. Meadows’s refusal to comply with the Select Committee’s subpoena constitutes willful default under the law and warrants contempt of Congress and referral to the United States Attorney for the District of Columbia for prosecution as prescribed by law. The denial of the information sought by the subpoena impairs Congress’s central powers under the United States Constitution.

#### BACKGROUND ON THE SELECT COMMITTEE’S INVESTIGATION

House Resolution 503 sets out the specific purposes of the Select Committee, including:

- To investigate and report upon the facts, circumstances, and causes “relating to the January 6, 2021, domestic terrorist attack upon the United States Capitol Complex”;
- To investigate and report upon the facts, circumstances, and causes “relating to the interference with the peaceful transfer of power”; and
- To investigate and report upon the facts, circumstances, and causes relating to “the influencing factors that fomented such an attack on American representative democracy while engaged in a constitutional process.”

The Supreme Court has long recognized Congress’s oversight role. “The power of the Congress to conduct investigations is inherent in the legislative process.”<sup>16</sup> Indeed, Congress’s ability to enforce its investigatory power “is an essential and appropriate auxiliary to the legislative function.”<sup>17</sup> “Absent such a power, a legislative body could not ‘wisely or effectively’ evaluate those conditions ‘which the legislation is intended to affect or change.’”<sup>18</sup>

The oversight powers of House and Senate committees are also codified in law. For example, the Legislative Reorganization Act of 1946 directed committees to “exercise continuous watchfulness” over the executive branch’s implementation of programs within its jurisdictions,<sup>19</sup> and the Legislative Reorganization Act of 1970 au-

<sup>15</sup> *Trump v. Mazars USA LLP*, 140 S.Ct. 2019, 2036 (2020) (emphasis in original; internal quotation marks removed). See also *Watkins v. United States*, 354 U.S. 178, 187–88 (1957) (stating of citizens that “It is their unremitting obligation to respond to subpoenas, to respect the dignity of the Congress and its committees, and to testify fully with respect to matters within the province of proper investigation.”).

<sup>16</sup> *Watkins v. United States*, 354 U.S. 178, 187 (1957). See also *Trump v. Mazars USA, LLP*, 140 S.Ct. 2019, 2031 (2020).

<sup>17</sup> *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927).

<sup>18</sup> *Ashland Oil, Inc. v. FTC*, 409 F.Supp. 297, 305 (D.D.C. 1976), *aff’d*, 548 F.2d 977 (D.C. Cir. 1976) (quoting *McGrain*, 273 U.S. at 175).

<sup>19</sup> Pub. L. 79–601, 79th Cong. § 136, (1946).

thorized committees to “review and study, on a continuing basis, the application, administration, and execution” of laws.<sup>20</sup>

The Select Committee was properly constituted under section 2(a) of House Resolution 503, 117th Congress. As required by that resolution, Members of the Select Committee were selected by the Speaker, after “consultation with the minority leader.”<sup>21</sup> A bipartisan selection of Members was appointed pursuant to House Resolution 503 on July 1, 2021, and July 26, 2021.<sup>22</sup>

Pursuant to House rule XI and House Resolution 503, the Select Committee is authorized “to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of books, records, correspondence, memoranda, papers, and documents as it considers necessary.”<sup>23</sup> That same House rule expressly allows House committees to compel information from the President and his aides.<sup>24</sup> Further, section 5(c)(4) of House Resolution 503 provides that the Chairman of the Select Committee may “authorize and issue subpoenas pursuant to clause 2(m) of rule XI in the investigation and study” conducted pursuant to the enumerated purposes and functions of the Select Committee. The Select Committee’s authorizing resolution further states that the Chairman “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.”<sup>25</sup> The subpoena to Mr. Meadows was duly issued pursuant to section 5(c)(4) of House Resolution 503 and clause 2(m) of rule XI of the Rules of the House of Representatives.<sup>26</sup>

*A. The Select Committee seeks information from Mr. Meadows central to its investigative purposes.*

The Select Committee seeks information from Mr. Meadows central to its investigative responsibilities delegated to it from the House of Representatives. This includes the obligation to investigate and report on the facts, circumstances, and causes of the attack on January 6, 2021, and on the facts, circumstances, and causes “relating to the interference with the peaceful transfer of power.”<sup>27</sup>

The events of January 6, 2021, involved both a physical assault on the Capitol building and law enforcement personnel protecting it and an attack on the constitutional process central to the peaceful transfer of power following a presidential election. The counting

<sup>20</sup> Pub. L. 91–510, 91st Cong. § 118, (1970).

<sup>21</sup> Speaker Pelosi detailed such consultation and her selection decisions in a July 21, 2021, press release, available at <https://www.speaker.gov/newsroom/72121-2>.

<sup>22</sup> 167 Cong. Rec. 115 (July 1, 2021), at p. H3597 and 167 Cong. Rec. 130 (July 26, 2021), at p. H3885. The January 4, 2021, order of the House provides that the Speaker is authorized to accept resignations and to make appointments authorized by law or by the House. See 167 Cong. Rec. 2 (Jan. 4, 2021), at p. H37.

<sup>23</sup> House rule XI, cl. 2(m)(1)(B), 117th Cong. (2021); H. Res. 503, 117th Cong. § 5(c)(4) (2021).

<sup>24</sup> See clause 2(m)(3)(D) of rule XI (“Subpoenas for documents or testimony may be issued to . . . the President, and the Vice President, whether current or former, in a personal or official capacity, as well as the White House, the Office of the President, the Executive Office of the President, and any individual currently or formerly employed in the White House, Office of the President, or Executive Office of the President.”).

<sup>25</sup> H. Res. 503, 117th Cong. § 5(c)(6) (2021).

<sup>26</sup> Section 5(c)(4) of H. Res. 503 invokes clause 2(m)(3)(A)(i) of rule XI, which states in pertinent part: “The power to authorize and issue subpoenas under subparagraph (1)(B) may be delegated to the chair of the committee under such rules and under such limitations as the committee may prescribe.”

<sup>27</sup> H. Res. 503, 117th Cong. § 3(1) (2021).

of electoral college votes by Congress is a component of that transfer of power that occurs every January 6 following a presidential election. This event is part of a complex process, mediated through the free and fair elections held in jurisdictions throughout the country, and through the statutory and constitutional processes set up to confirm and validate the results. In the case of the 2020 presidential election, the January 6 electoral college vote count occurred following a series of efforts in the preceding weeks by Mr. Trump and his supporters to challenge the legitimacy of, disrupt, delay, and overturn the election results.

According to eyewitness accounts as well as the statements of participants in the attack on January 6, 2021, a purpose of the assault was to stop the process of validating what then-President Trump, his supporters, and his allies had falsely characterized as a “stolen” or “fraudulent” election. The claims regarding the 2020 election results were advanced and amplified in the weeks leading up to the January 6 assault, even after courts across the country had resoundingly rejected Trump campaign lawsuits claiming election fraud and misconduct, and after all States had certified the election results. As part of this effort, Mr. Trump and his associates spread false information about, and cast doubts on, the elections in Arizona, Pennsylvania, Michigan, and Georgia, among other states, and pressed Federal, State, and local officials to use their authorities to challenge the election results.

To fulfill its investigative responsibilities, the Select Committee needs to understand the events and communications in which Mr. Meadows reportedly participated or that he observed.

Mr. Meadows was one of a relatively small group of people who witnessed the events of January 6 in the White House and with then-President Trump. Mr. Meadows was with or in the vicinity of then-President Trump on January 6 as he learned about the attack on the U.S. Capitol and decided whether to issue a statement that could stop the rioters.<sup>28</sup> In fact, as the violence at the Capitol unfolded, Mr. Meadows received many messages encouraging him to have Mr. Trump issue a statement that could end the violence, and one former White House employee reportedly contacted Mr. Meadows several times and told him, “[y]ou guys have to say something. Even if the president’s not willing to put out a statement, you should go to the [cameras] and say, ‘We condemn this. Please stand down.’ If you don’t, people are going to die.”<sup>29</sup>

Moreover, Mr. Meadows reportedly spoke with Kashyap Patel, who was then the chief of staff to former Acting Secretary of Defense Christopher Miller, “nonstop” throughout the day of January 6.<sup>30</sup> And, among other things, Mr. Meadows apparently knows if and when Mr. Trump was engaged in discussions regarding the National Guard’s response to the Capitol riot, a point that is contested but about which Mr. Meadows provided documents to the

<sup>28</sup> Karl, *Betrayal*, pp. 297–299.

<sup>29</sup> Documents on file with the Select Committee (Meadows production); Carol Leonnig and Philip Rucker, *I Alone Can Fix It*, (New York: Penguin, 2021), p. 476.

<sup>30</sup> Adam Ciralsky, “The President Threw Us Under the Bus: Embedding with Pentagon Leadership in Trump’s Chaotic Last Week,” *Vanity Fair*, (Jan. 22, 2021), available at <https://www.vanityfair.com/news/2021/01/embedding-with-pentagon-leadership-in-trumps-chaotic-last-week>.

Select Committee and spoke publicly on national television after President Trump left office.<sup>31</sup>

Beyond those matters, the Select Committee seeks information from Mr. Meadows about issues including the following:

- Mr. Meadows exchanged text messages with, and provided guidance to, an organizer of the January 6th rally on the Ellipse after the organizer told him that “[t]hings have gotten crazy and I desperately need some direction. Please.”<sup>32</sup>
- Mr. Meadows sent an email to an individual about the events on January 6 and said that the National Guard would be present to “protect pro Trump people” and that many more would be available on standby.<sup>33</sup>
- Mr. Meadows received text messages and emails regarding apparent efforts to encourage Republican legislators in certain States to send alternate slates of electors to Congress, a plan which one Member of Congress acknowledged was “highly controversial” and to which Mr. Meadows responded, “I love it.” Mr. Meadows responded to a similar message by saying “[w]e are” and another such message by saying “Yes. Have a team on it.”<sup>34</sup>
- Mr. Meadows forwarded claims of election fraud to the Acting leadership of DOJ for further investigation, some of which he may have received using a private email account and at least one of which he had received directly from people associated with Mr. Trump’s re-election campaign.<sup>35</sup>
- He also reportedly introduced Mr. Trump to then-DOJ official Jeffrey Clark.<sup>36</sup> Mr. Clark went on to recommend to Mr. Trump that he be installed as Acting Attorney General and that DOJ should send a letter to State officials urging them to take certain actions that could affect the outcome of the November 2020 election by, among other things, appointing alternate slates of electors to cast electoral votes for Mr. Trump rather than now-President Biden.<sup>37</sup>
- Mr. Meadows participated in meetings and calls during which the participants reportedly discussed the need to “fight” back against “mounting evidence” of purported voter fraud after courts had considered and overwhelmingly rejected Trump campaign claims of voter fraud and other election irregularities. He participated in one such meeting in the Oval Office with Mr. Trump and Members of Congress, which he publicly tweeted about from his personal Twitter account shortly after.<sup>38</sup> He participated in another such call just days before

<sup>31</sup> Documents on file with the Select Committee (Meadows production); Transcript, “The Ingraham Angle,” Fox News, (Feb. 11, 2021), available at <https://www.foxnews.com/transcript/biden-warns-china-could-eat-our-lunch-after-phone-call-with-xi>; Transcript, “Hannity,” Fox News, (Feb. 12, 2021), available at <https://www.foxnews.com/transcript/new-yorker-who-lost-mother-in-law-in-nursing-home-blasts-disgrace-cuomo>; Testimony of Hon. Christopher C. Miller, U.S. House of Representatives Committee on Oversight and Reform, (May 12, 2021), available at <https://oversight.house.gov/sites/democrats.oversight.house.gov/files/Miller%20Testimony.pdf>.

<sup>32</sup> Documents on file with the Select Committee (Meadows production).

<sup>33</sup> Documents on file with the Select Committee (Meadows production).

<sup>34</sup> Documents on file with the Select Committee (Meadows production).

<sup>35</sup> Documents on file with the Select Committee.

<sup>36</sup> Michael Bender, *Frankly, We Did Win This Election: The Inside Story of How Trump Lost*, (New York: Grand Central Publishing, 2021), p. 369.

<sup>37</sup> Documents on file with the Select Committee.

<sup>38</sup> Marissa Schultz, “Trump meets with members of Congress plotting Electoral College objections on Jan. 6,” Fox News, (Dec. 21, 2021), available at <https://www.foxnews.com/politics/mem->

the January 6 attack with Mr. Trump, Members of Congress, attorneys for the Trump re-election campaign, and “some 300” State and local officials to discuss the goal of overturning certain States’ electoral college results on January 6, 2021.<sup>39</sup>

- Mr. Meadows traveled to Georgia to observe an audit of the votes days after then-President Trump complained that the audit had been moving too slowly and claimed that the signature-match system was rife with fraud.<sup>40</sup> That trip precipitated Mr. Trump’s calls to Georgia’s Deputy secretary of state and, later, secretary of state.<sup>41</sup> In the call with Georgia’s secretary of state, which Mr. Meadows and an attorney working with the campaign also joined, Mr. Trump pressed his unsupported claims of widespread election fraud, including claims related to deceased people voting, forged signatures, out-of-State voters, shredded ballots, triple-counted ballots, Dominion voting machines, and suitcase ballots, before telling the secretary of state that he wanted to find enough votes to ensure his victory.<sup>42</sup> At one point during the call, Mr. Meadows asked “in the spirit of cooperation and compromise, is there something that we can at least have a discussion to look at some of these allegations to find a path forward that’s less litigious?”<sup>43</sup> At that point, Mr. Trump had filed two lawsuits in his personal capacity and on behalf of the campaign in Georgia, but the United States had not filed—and never did file—any. Mr. Meadows used a personal account in his attempts to reach the secretary of state before.<sup>44</sup>

- Mr. Meadows was chief of staff during the post-election period when other White House staff, including the press secretary, advanced claims of election fraud. In one press conference, the press secretary claimed that there were “very real claims” of fraud that the Trump re-election campaign was pursuing and said that mail-in voting was one that “we have identified as being particularly prone to fraud.”<sup>45</sup>

bers-of-congress-trump-electoral-college-objections-on-jan-6; Tweet, @MarkMeadows, (Dec. 21, 2020 at 6:03 p.m.) (“Several members of Congress just finished a meeting in the Oval Office with President @realDonaldTrump, preparing to fight back against mounting evidence of voter fraud. Stay tuned.”).

<sup>39</sup> Caitlin McFall, “Trump, House Republicans held call to discuss Electoral College rejection: Brooks,” Fox News, (Jan. 2, 2021), available at <https://www.foxnews.com/politics/gop-splits-electoral-college-certification>; Tweet, @RepMoBrooks, (Jan. 2, 2021 at 7:17 p.m.) (“Our fight for honest & accurate elections gains momentum! @Jim\_Jordan & I co-lead conference call w 50+ Congressmen who join & fight for America’s Republic! . . . President Trump & CoS Mark Meadows speaking. Morale is HIGH! FIGHT!”); Paul Bedard, “Exclusive: Trump urges state legislators to reject electoral votes, ‘You are the real power,’” *Washington Examiner*, (Jan. 3, 2021), available at <https://www.washingtonexaminer.com/washington-secrets/exclusive-trump-urges-state-legislators-to-reject-electoral-votes-you-are-the-real-power>.

<sup>40</sup> Linda So, “Trump’s chief of staff could face scrutiny in Georgia criminal probe,” Reuters, (March 19, 2021), available at <https://www.reuters.com/article/us-usa-trump-georgia-meadows-insight-idUSKBN2BB0XX>.

<sup>41</sup> *Id.*

<sup>42</sup> “AP FACT CHECK: Trump’s made-up claims of fake Georgia votes,” Associated Press, (Jan. 3, 2021), <https://apnews.com/article/ap-fact-check-donald-trump-georgia-elections-atlanta-c23d10e5299e14daee6109885f7dafa9>; “Here’s the full transcript and audio of the call between Trump and Raffensperger,” *Washington Post*, (Jan. 2, 2021), <https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356-story.html>.

<sup>43</sup> “Here’s the full transcript and audio of the call between Trump and Raffensperger,” *Washington Post*, (Jan. 2, 2021), <https://www.washingtonpost.com/politics/trump-raffensperger-call-transcript-georgia-vote/2021/01/03/2768e0cc-4ddd-11eb-83e3-322644d82356-story.html>.

<sup>44</sup> Documents on file with the Select Committee.

<sup>45</sup> Transcript of November 20, 2020, White House Press Conference, available at <https://www.rev.com/blog/transcripts/press-secretary-kayleigh-mcnenany-white-house-press-conference-transcript-november-20>.

- Mr. Meadows participated in a meeting that reportedly occurred on December 18, 2020, with Mr. Trump, the White House counsel, an attorney associated with the campaign, White House staff, and private citizens, on proposals relating to challenging the 2020 election results.<sup>46</sup> During the meeting, the participants reportedly discussed purported foreign interference in the election, seizing voting machines, invoking certain Federal laws like the National Emergencies Act, and appointing one of the attendees as a special counsel with a Top Secret security clearance to investigate fraud in the election.<sup>47</sup> White House officials, including Mr. Meadows, may have resisted some of the proposals,<sup>48</sup> but, at one point, Mr. Trump reportedly said: “You [White House] guys are offering me nothing. These guys are at least offering me a chance. They’re saying they have the evidence. Why not try this?”<sup>49</sup>

- Mr. Meadows reportedly sent an email—subject line “Constitutional Analysis of the Vice President’s Authority for January 6, 2021, Vote Count”—to a member of then-Vice President Pence’s senior staff containing a memo written by an attorney affiliated with Mr. Trump’s re-election campaign. The memo argued that the Vice President could declare electoral votes in six States in dispute when they came up for a vote during the Joint Session of Congress on January 6, 2021, which would require those States’ legislatures to send a response to Congress by 7 p.m. EST on January 15 or, if they did not, then congressional delegations would vote for Mr. Trump’s re-election.<sup>50</sup>

- Mr. Meadows was in contact with at least some of the private individuals who planned and organized a January 6 rally, one of whom reportedly may have expressed safety concerns to Mr. Meadows about January 6 events.<sup>51</sup> Mr. Meadows used his personal cell phone to discuss the rally in the days leading up to January 6.<sup>52</sup>

- Mr. Meadows described in his book, *The Chief’s Chief*, specific conversations that he had with Mr. Trump while he was the President about, among other things, fraud in the election and the January 6th attack on the United States Capitol. In one passage about the election, Mr. Meadows quotes Mr. Trump.<sup>53</sup> In another passage about January 6, Mr. Meadows describes a conversation he had with Mr. Trump after Mr.

<sup>46</sup> Jonathan Swan and Zachary Basu, “Bonus episode: Inside the craziest meeting of the Trump presidency,” Axios, (Feb. 2, 2021), available at <https://www.axios.com/trump-oval-office-meeting-sidney-powell-a8e1e466-2e42-42d0-9cf1-26eb267f8723.html>.

<sup>47</sup> *Id.*

<sup>48</sup> Maggie Haberman and Zolan Kanno-Youngs, “Trump Weighed Naming Election Conspiracy Theorist as Special Counsel,” *New York Times*, (Dec. 19, 2020), available at <https://www.nytimes.com/2020/12/19/us/politics/trump-sidney-powell-voter-fraud.html>.

<sup>49</sup> Jonathan Swan and Zachary Basu, “Bonus episode: Inside the craziest meeting of the Trump presidency,” Axios, (Feb. 2, 2021) available at <https://www.axios.com/trump-oval-office-meeting-sidney-powell-a8e1e466-2e42-42d0-9cf1-26eb267f8723.html>.

<sup>50</sup> Karl, *Betrayal*, pp. 259–60.

<sup>51</sup> Documents on file with the Select Committee; Joshua Kaplan and Joaquin Sapien, “New Details Suggest Senior Trump Aides Knew Jan. 6 Rally Could Get Chaotic,” ProPublica, (June 25, 2021), available at <https://www.propublica.org/article/new-details-suggest-senior-trump-aides-knew-jan-6-rally-could-get-chaotic>.

<sup>52</sup> Documents on file with the Select Committee.

<sup>53</sup> Meadows, *The Chief’s Chief*, p. 261.

Trump spoke to rally goers and, presumably, just after the attack on the Capitol had started.<sup>54</sup>

It is apparent that Mr. Meadows's testimony and document production are of critical importance to the Select Committee's investigation. Congress, through the Select Committee, is entitled to discover facts concerning what led to the attack on the U.S. Capitol on January 6, as well as White House officials' actions and communications during and after the attack. Mr. Meadows is uniquely situated to provide key information, having straddled an official role in the White House and unofficial role related to Mr. Trump's reelection campaign since at least election day in 2020 through January 6.

*B. Mr. Meadows has refused to comply with the Select Committee's subpoena.*

On September 23, 2021, the Select Committee sent a subpoena to Mr. Meadows ordering the production of both documents and testimony relevant to the Select Committee's investigation.<sup>55</sup> The accompanying letter set forth a schedule specifying categories of related documents sought by the Select Committee on topics including, but not limited to, documents and communications regarding the 2020 election results sent or transmitted between White House officials and officials of State or local governments; communications regarding challenging, decertifying, overturning, or contesting the results of the 2020 presidential election; communications with Members of Congress on January 6 relating to or referring to the attack on the Capitol; documents and communications related to security of the Capitol or other Federal facilities on January 5, 2021, and January 6, 2021; and documents and communications regarding any plan for the former President to march or walk to the Capitol.<sup>56</sup>

The subpoena required Mr. Meadows to produce the requested documents to the Select Committee on October 7, 2021, and to provide testimony on October 15, 2021. As authorized by Mr. Meadows, attorney Scott Gast accepted service of this subpoena on behalf of Mr. Meadows on September 23, 2021. On October 7, 2021, George J. Terwilliger, III sent a letter to the Select Committee advising that he had been retained to serve as counsel to Mr. Meadows for purposes of the Select Committee's inquiry.<sup>57</sup>

On October 12, 2021, Mr. Terwilliger and staff for the Select Committee had a telephone call to discuss the Select Committee's subpoena to Mr. Meadows. During that call, staff for the Select Committee previewed certain topics of inquiry they intended to develop during Mr. Meadows's deposition and for which claims of executive privilege should not apply.<sup>58</sup> Chairman THOMPSON included that list of topics in a later letter to Mr. Terwilliger dated October 25, 2021.

On October 13, 2021, Mr. Terwilliger emailed staff for the Select Committee and referenced "the potential for conflicting directions from former-President Trump and President Biden as to preserva-

<sup>54</sup> Meadows, *The Chief's Chief*, p. 259.

<sup>55</sup> See Appendix, Ex. 1 (Subpoena to Mark Meadows).

<sup>56</sup> *Id.*

<sup>57</sup> See Appendix, Ex. 2 (Various Correspondence).

<sup>58</sup> *Id.*

tion of privileges concerning senior presidential advisors and communication by the same in that role.”<sup>59</sup> Mr. Terwilliger stated that he was scheduled to discuss “privilege issues” with the White House [c]ounsel’s office on October 14 but indicated that it was “not clear . . . that, in whole or in part, relevant privileges would not attach to Mr. Meadows[’] testimony” as to topics that staff for the Select Committee outlined during the October 12 telephone call.<sup>60</sup> Accordingly, he informed the Select Committee that he “could not advise” Mr. Meadows to “commit to testifying” on the subpoena designated date of October 15.<sup>61</sup> Mr. Terwilliger also emailed to staff for the Select Committee an October 6, 2021, letter from former-President Trump’s counsel, Justin Clark, to Mr. Meadows’s then-counsel, Mr. Gast, expressing former-President Trump’s apparent belief that “Mr. Meadows is immune from compelled congressional testimony on matters related to his official responsibilities.”<sup>62</sup> The letter also purports to “instruct[’]” Mr. Meadows “(a) where appropriate, invoke any immunities and privilege he may have from compelled testimony in response to the [s]ubpoena; (b) not produce any documents concerning his official duties in response to the [s]ubpoena; and (c) not provide any testimony concerning his official duties in response to the [s]ubpoena.”<sup>63</sup>

On October 25, 2021, Chairman THOMPSON responded to Mr. Terwilliger’s October 7, 2021, letter and October 13, 2021, email. He stated that even assuming that, as a former President, Mr. Trump is permitted to formally invoke executive privilege, Mr. Trump had not communicated an invocation of privilege, either formally or informally, to the Select Committee with respect to Mr. Meadows’s production of documents or appearance to provide testimony.<sup>64</sup> The October 25 response from Chairman THOMPSON further stated that—even assuming a privilege applied to Mr. Meadows’s documents and testimony and former-President Trump had formally invoked a privilege (which was not the case)—Mr. Meadows does not enjoy anything like the type of blanket testimonial immunity former-President Trump and Mr. Terwilliger suggested would insulate Mr. Meadows from an obligation to comply with the Select Committee’s subpoena.<sup>65</sup> The letter also noted that, regardless, the information the Select Committee seeks from Mr. Meadows involves a range of subjects that cannot be considered part of Mr. Meadows’s “official responsibilities,” including but not limited to “communications and meetings involving people who did not work for the United States government”; “Mr. Meadows[’] campaign-related activities”; and “communications and meetings about topics for which the Department of Justice and the White House have expressly declined to assert executive privilege.”<sup>66</sup>

The Chairman’s October 25 letter extended the subpoena’s document production deadline to November 5, 2021, and extended Meadows’s appearance for deposition testimony to November 12,

---

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

2021.<sup>67</sup> It also made clear that the Select Committee would view failure to respond to the subpoena as willful non-compliance, which would force the Select Committee to consider invoking the contempt of Congress procedures pursuant to 2 U.S.C. §§ 192 and 194, as well as the possibility of civil enforcement proceedings.<sup>68</sup>

On November 3, 2021, Mr. Terwilliger transmitted a letter to the Select Committee, responding to Chairman THOMPSON's October 25, 2021, letter with respect to the production of documents. In it, Mr. Terwilliger stated that he was "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," and that he "therefore ha[d] no documents to produce to the Select Committee."<sup>69</sup>

That same day, Mr. Terwilliger transmitted to the Select Committee a second letter. In it, Mr. Terwilliger suggested that Mr. Meadows maintains a "good faith" belief that he cannot comply with the subpoena and testify before Congress and, instead, proposed unspecified accommodations.<sup>70</sup> Notably, Mr. Terwilliger acknowledged that courts had universally rejected Mr. Meadows's position on absolute testimonial immunity, but claimed that the executive branch had never "retreated from that position" and that the Supreme Court had never weighed in.<sup>71</sup>

On November 5, 2021, Chairman THOMPSON responded to Mr. Terwilliger's November 3 letters. Chairman THOMPSON noted that although Mr. Terwilliger stated that Mr. Meadows had no documents to produce to the Select Committee, Mr. Terwilliger had previously indicated that he had gathered documents from Mr. Meadows and was reviewing those documents for responsiveness.<sup>72</sup> The November 5 letter also reiterated Mr. Meadows's obligation to provide a privilege log detailing each document and each privilege that he believes applied for any responsive documents so the Select Committee could evaluate whether any additional actions are appropriate, reminded Mr. Terwilliger that categorical claims of executive privilege are improper and that Mr. Meadows must assert any such claim made by former-President Trump narrowly and specifically.<sup>73</sup> Chairman THOMPSON further noted that the Select Committee had received information suggesting that Mr. Meadows used his personal cell phone for communications relevant to the Select Committee's inquiry, some of which potentially would fall under Presidential Records Act requirements.<sup>74</sup> Accordingly, Chairman THOMPSON requested that Mr. Terwilliger identify for the Select Committee the current location of Mr. Meadows's cell phone and whether Mr. Meadows provided his texts and other relevant cell phone records to the National Archives.<sup>75</sup>

In an effort to reach an accommodation with respect to Mr. Meadows's deposition, the November 5, 2021, letter provided further information regarding the topics the Select Committee intended to develop with Mr. Meadows during the deposition, some

---

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

of which the Chairman had previously identified in his October 25, 2021, letter. These topics included but were not limited to “[m]essaging to or from the White House, Trump reelection campaign, party officials, and others about purported fraud, irregularities, or malfeasance in the November 2020 election”; “[e]fforts 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”; “[e]fforts to pressure former Vice President Pence, members of his staff, and Members of Congress to delay or prevent certification of the Electoral College vote”; “[c]ampaign related activities” including Mr. Meadows’s “travel to Georgia” and contacts with “officials and employees in the Georgia secretary of state’s Office”; “[m]eetings or other communications involving people who did not work for the United States government” including “Michael Flynn, Patrick Byrne,” and “organizers of the January 6 rally like Amy Kremer”; and “[a]dvance knowledge of, and any preparations for, the possibility of violence during election-related rallies and/or protests in Washington, D.C.”<sup>76</sup> The letter made clear that the Select Committee did not expect to seek information from Mr. Meadows unrelated to the 2020 election and what led to and occurred on January 6, and indicated a willingness to discuss and negotiate any additional areas or subjects about which the Select Committee would seek information from Mr. Meadows as the Select Committee continued its investigation.<sup>77</sup> Chairman THOMPSON invited input from Mr. Meadows on the delineated topics by November 8.<sup>78</sup> As in previous correspondence, Chairman THOMPSON stated that the Select Committee would view failure to respond to the subpoena as willful non-compliance, which would force the Select Committee to consider invoking the contempt of Congress procedures pursuant to 2 U.S.C. §§ 192 and 194, in addition to the possibility of civil enforcement proceedings.<sup>79</sup>

On November 8, 2021, Mr. Terwilliger responded, stating that he was “reiterate[ing]” Mr. Meadows’s position that he “cannot be compelled to provide congressional testimony” as a former White House chief of staff.<sup>80</sup> As a purported “accommodation,” Mr. Terwilliger proposed “that the Select Committee propound written interrogatories to Mr. Meadows on any topics about which the Select Committee may wish to inquire.”<sup>81</sup> Mr. Terwilliger also indicated that Mr. Meadows had provided him with access to electronic images from his personal accounts and devices, the review of which was “ongoing.”<sup>82</sup> Regarding the list of topics outlined in the November 5 letter, Mr. Terwilliger asserted, without specifically and narrowly addressing on a topic-by-topic basis, that the topics “plainly implicate executive privilege even under a narrow interpretation of

---

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

it,” and expressed the belief that Mr. Meadows could not testify about the topics without implicating executive privilege.<sup>83</sup>

In a November 9, 2021, letter to Mr. Terwilliger, Chairman THOMPSON stated that Mr. Terwilliger’s November 8 letter failed to respond with any specificity about the topics of inquiry by the Select Committee, leading the Select Committee to assume that Mr. Terwilliger believed that all of the topics potentially implicated executive privilege.<sup>84</sup> Chairman THOMPSON further stated that without further input on those topics, which the Select Committee had requested in its November 5 letter, the Select Committee must insist that Mr. Meadows appear for a deposition on November 12, as required by the subpoena, and that written interrogatories were not an acceptable substitute for live, in-person testimony.<sup>85</sup> The November 9 letter further stated that the Select Committee had identified evidence regarding Mr. Meadows’s use of personal cellular phone and email accounts, and, because of that, it would be a subject of inquiry during the November 12 deposition.<sup>86</sup> The letter listed eight specific questions concerning the information that the Select Committee would seek to develop regarding this issue, none of which implicated any executive or other privilege.<sup>87</sup>

Meanwhile, on November 9, 2021, the Federal District Court for the District of Columbia issued a ruling rejecting Donald Trump’s attempt to prohibit disclosure of White House documents to the Select Committee by asserting the executive privilege.<sup>88</sup> The Federal court held “that the public interest lies in permitting—not enjoining—the combined will of the legislative and executive branches to study the events that led to and occurred on January 6, and to consider legislation to prevent such events from ever occurring again.”<sup>89</sup> The United States Court of Appeals for the District of Columbia Circuit affirmed the district court’s ruling on December 9, 2021.

On November 10, 2021, Mr. Terwilliger acknowledged receipt of Chairman THOMPSON’s November 9, 2021, letter, but did not address the eight specific questions Chairman THOMPSON included in his letter, instead stating that “Mr. Meadows cannot agree to appear at 10 AM Friday” and again claiming that Mr. Meadows believed that “senior aides to the president cannot be compelled to provide congressional testimony.”<sup>90</sup>

On November 11, 2021, the White House Counsel’s Office issued a letter to Mr. Terwilliger regarding the Select Committee’s subpoena to Mr. Meadows. That letter stated: “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.”<sup>91</sup> The letter further noted

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*

<sup>87</sup> *Id.*

<sup>88</sup> *Trump v. Thompson*, Case No. 1:21-cv-02769-TSC, Doc. 35 (D.D.C. Nov. 9, 2021) (citations and quotation marks omitted).

<sup>89</sup> *Id.*, at p. 39.

<sup>90</sup> See Appendix, Ex. 2.

<sup>91</sup> *Id.*

that, consistent with this determination, President Biden “will not assert executive privilege with respect to [Mr. Meadows’s] deposition testimony on these subjects, or any documents your client may possess that may bear on them,” and “will not assert immunity to preclude [Mr. Meadows] from testifying before the Select Committee.”<sup>92</sup>

Later on November 11, 2021, Chairman THOMPSON sent another letter to Mr. Terwilliger. This letter summarized the correspondence between Mr. Terwilliger and the Select Committee, and again noted that Mr. Meadows’s reliance on opinions regarding absolute immunity from the Department of Justice Office of Legal Counsel (“OLC”) was misguided given that their reasoning has been rejected by all Federal courts to have considered the issue of absolute immunity.<sup>93</sup> The Chairman’s letter emphasized that, in any event, the White House Counsel’s Office letter from earlier that day “eviscerates any plausible claim of testimonial immunity or executive privilege, and compels compliance with the Select Committee’s subpoena.”<sup>94</sup>

On November 12, 2021, at 10 a.m., Mr. Meadows failed to appear at the designated location to provide testimony relevant to the Select Committee’s inquiry in response to questions posed, as was required by the subpoena. He also failed to produce any responsive documents or a privilege log identifying the specific basis for withholding any documents believed to be protected by privilege.

On November 19, 2021, a full week after Mr. Meadows failed to appear for a deposition and two weeks after the deadline to produce documents, Mr. Terwilliger sent a letter to Chairman THOMPSON purportedly seeking an accommodation and suggesting, again, that the Select Committee send interrogatories to Mr. Meadows as a first step in a longer accommodation process that “could,” depending on certain negotiations and parameters, result in a limited “deposition” “outside of compulsion by subpoena.”<sup>95</sup> Mr. Terwilliger made clear that Mr. Meadows would only answer interrogatories on a narrow range of topics, and even on those topics would not provide any information regarding communications with the former President, former senior White House aides, and other individuals with whom Mr. Meadows spoke on behalf of the President unless the former President explicitly authorized him to do so.<sup>96</sup>

Chairman THOMPSON responded to Mr. Terwilliger on November 22, 2021. In his response, the Chairman rejected Mr. Terwilliger’s proposal to proceed by interrogatories instead of lawfully-compelled testimony and production of documents.<sup>97</sup> In rejecting Mr. Terwilliger’s proposal for a second time, the Chairman noted that “[w]hen 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>98</sup>

<sup>92</sup> *Id.*

<sup>93</sup> *Id.*

<sup>94</sup> *Id.*

<sup>95</sup> See Appendix, Ex. 5 (Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 19, 2021), at p. 2.

<sup>96</sup> *Id.*, at pp. 1–2.

<sup>97</sup> See Appendix, Ex. 6 (Letter from Chairman THOMPSON to Counsel to Mark Meadows, Nov. 22, 2021).

<sup>98</sup> *Id.*, at p. 1.

The Chairman further noted, “[n]ow, after his failure to comply with the Select Committee’s subpoena, [Mr. Meadows] 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.”<sup>99</sup> Chairman THOMPSON then walked through the Select Committee’s lengthy correspondence with Mr. Terwilliger, and explained that “[t]his 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.”<sup>100</sup> Nevertheless, the Chairman extended Mr. Meadows an opportunity to show that he was operating in good faith by instructing Mr. Meadows to provide documents responsive to the original subpoena by November 26, 2021, and to appear for a deposition that the Chairman would convene on November 29, 2021 (later moved to December 8, 2021).<sup>101</sup> In doing so, Chairman THOMPSON reiterated that Mr. Meadows may object to specific questions that he believes raise privilege concerns so that he and the Select Committee could engage in further discussions about his privilege arguments.<sup>102</sup> In closing, Chairman THOMPSON indicated that the Select Committee would “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.”<sup>103</sup>

Mr. Terwilliger responded to Chairman THOMPSON’s letter by two separate letters dated November 26, 2021. In his first letter, Mr. Meadows, through counsel, specifically agreed to appear for a “deposition to answer questions on what you believe to be non-privileged matters” subject to certain proposed conditions.<sup>104</sup> In his separate letter, Mr. Michael Francisco, another attorney representing Mr. Meadows, explained that Mr. Meadows was making an “initial” document production of 1,139 documents responsive to the Select Committee’s subpoena that were found in Mr. Meadows’s personal Gmail account and that counsel was reviewing information from Mr. Meadows’s personal cell phone, which Mr. Meadows “did not retain . . . after January 2021.”<sup>105</sup> Mr. Francisco also provided a privilege log with that document production showing that Mr. Meadows was withholding hundreds more documents found in his personal Gmail account due to claims of executive, marital, and other protective privileges.

On November 28, 2021, Chairman THOMPSON responded to counsel’s letters and indicated that he was willing to accommodate Mr. Meadows’s request for a deposition during the week of December 6 *provided that* he complete his production of documents no later

<sup>99</sup> *Id.*

<sup>100</sup> *Id.*, at p. 2.

<sup>101</sup> *Id.*, at pp. 2–3.

<sup>102</sup> *Id.*, at p. 3.

<sup>103</sup> *Id.*

<sup>104</sup> See Appendix, Ex. 7 (Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 26, 2021), at p. 2.

<sup>105</sup> See Appendix, Ex. 8 (Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 26, 2021), at p. 2.

than Friday, December 3, 2021.<sup>106</sup> Chairman THOMPSON also explained that the Select Committee would ask questions of Mr. Meadows relevant to the investigation and consistent with Chairman THOMPSON's previous letters about executive privilege. Chairman THOMPSON again explained his hope that Mr. Meadows would answer the questions posed, but also said that Mr. Meadows should assert any privileges that he believed applied on a question-by-question basis on the record to inform continued discussions.<sup>107</sup> As an accommodation, Chairman THOMPSON also agreed to provide in advance of the depositions the documents that the Select Committee intended to use in its questioning.<sup>108</sup> Mr. Terwilliger agreed to the deposition format as explained in the November 28 letter during a call with Select Committee staff.

As requested by Chairman THOMPSON, on December 3, 2021, Mr. Francisco produced approximately 2,300 text messages obtained from data backed up from Mr. Meadows's personal cell phone.<sup>109</sup> In doing so, Mr. Francisco also produced a privilege log with the document production showing that Mr. Meadows was withholding over 1,000 more text messages from his personal cell phone due to claims of executive, marital, and other protective privileges.

Then, on December 7, 2021, Mr. Terwilliger send a letter explaining that Mr. Meadows would not attend a deposition on December 8, as he had previously agreed to do.<sup>110</sup> During a call with Select Committee staff that same day, Mr. Terwilliger indicated that Mr. Meadows would not appear at all, even to discuss the documents that he had already provided to the Select Committee and that were not covered by any claim of protective privilege.

To date, and despite the opportunity that the Select Committee gave to Mr. Meadows to cure his previous non-compliance with the Select Committee's subpoena, Mr. Meadows has never appeared for a compelled or voluntary deposition to answer any of the Select Committee's questions, even questions about the documents that Mr. Meadows has produced to the Select Committee.

*C. Mr. Meadows's purported basis for non-compliance is wholly without merit.*

As explained above, as part of its legislative function, Congress has the power to compel witnesses to testify and produce documents.<sup>111</sup> An individual—whether a member of the public or an executive branch official—has a legal (and patriotic) obligation to comply with a duly issued and valid congressional subpoena, unless a valid and overriding privilege or other legal justification permits

<sup>106</sup> See Appendix, Ex. 9 (Letter from Chairman THOMPSON to Counsel to Mark Meadows, Nov. 28, 2021), at p. 1.

<sup>107</sup> *Id.*, at p. 2.

<sup>108</sup> *Id.*

<sup>109</sup> See Appendix, Ex. 10 (Letter from Counsel to Mark Meadows to Chairman THOMPSON, Dec. 3, 2021).

<sup>110</sup> See Appendix, Ex. 11 (Letter from Counsel to Mark Meadows to Chairman THOMPSON, Dec. 7, 2021).

<sup>111</sup> *McGrain*, 273 U.S. at 174 (“We are of opinion that the power of inquiry—with process to enforce it—is an essential and appropriate auxiliary to the legislative function.”); *Barenblatt v. United States*, 360 U.S. 109, 111 (1959) (“The scope of the power of inquiry, in short, is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.”).

non-compliance.<sup>112</sup> In *United States v. Bryan*, the Supreme Court stated:

A subpoena has never been treated as an invitation to a game of hare and hounds, in which the witness must testify only if cornered at the end of the chase. If that were the case, then, indeed, the great power of testimonial compulsion, so necessary to the effective functioning of courts and legislatures, would be a nullity. We have often iterated the importance of this public duty, which every person within the jurisdiction of the Government is bound to perform when properly summoned.<sup>113</sup>

It is important to note that the Select Committee sought testimony from Mr. Meadows on information for which there can be no conceivable privilege claim. Examples of that information are provided in this report, and the non-privileged nature of some key information has been recognized by Mr. Meadows's own production documents. The Select Committee has been entitled to Mr. Meadows's testimony on that information, regardless of his claims of privilege over other categories of information.

In *United States v. Nixon*, 418 U.S. 683, 703–16 (1974), the Supreme Court recognized an implied constitutional privilege protecting presidential communications. The Court held though that the privilege is qualified, not absolute, and that it is limited to communications made “in performance of [a President’s] responsibilities of his office and made in the process of shaping policies and making decisions.”<sup>114</sup> Executive privilege is a recognized privilege that, under certain circumstances, may be invoked to bar congressional inquiry into communications covered by the privilege.

Mr. Meadows has refused to testify in response to the subpoena ostensibly based on broad and undifferentiated assertions of various privileges, including claims of executive privilege purportedly asserted by former-President Trump. As the Select Committee has repeatedly pointed out to Mr. Meadows, his claims of testimonial immunity and executive privilege do not justify Mr. Meadows's conduct with respect to the Select Committee's subpoena. His legal position is particularly untenable in light of the incumbent President's decision to not assert testimonial immunity or executive privilege with respect to subjects on which the Select Committee seeks information from Mr. Meadows. And it is untenable in light of Mr. Meadows's public descriptions of events in the book that he is trying to sell and during his numerous television appearances.<sup>115</sup>

Even if privileges were applicable to some aspects of Mr. Meadows's testimony, he was required to appear before the Select Committee for his deposition, answer any questions concerning non-privileged information, and assert any such privilege on a question-by-question basis. After promising to appear, Mr. Meadows has now reversed course and resumed his contemptuous behavior. Mr. Meadows's conduct in response to the Select Commit-

<sup>112</sup> *Watkins*, 354 U.S. at 187–88 (“It is unquestionably the duty of all citizens to cooperate with the Congress in its efforts to obtain the facts needed for intelligent legislative action.”); see also *Committee on the Judiciary v. Miers*, 558 F. Supp.2d 53, 99 (D.D.C. 2008) (“The Supreme Court has made it abundantly clear that compliance with a congressional subpoena is a legal requirement.”) (citing *United States v. Bryan*, 339 U.S. 323, 331 (1950)).

<sup>113</sup> *United States v. Bryan*, 339 U.S. 323, 331 (1950).

<sup>114</sup> *Nixon v. Administrator of General Services (GSA)*, 433 U.S. 425, 449 (1977) (internal quotes and citations omitted).

<sup>115</sup> See, e.g., Meadows, *The Chief's Chief*; “Hannity,” Fox News, (Dec. 7, 2021), available at <https://video.foxnews.com/v/6285715473001#sp=show-clips>; “The Ingraham Angle,” Fox News, (Dec. 9, 2021), available at <https://www.foxnews.com/media/mark-meadows-potential-contempt-charges-january-6-committee>.

tee’s subpoena constitutes a violation of the contempt of Congress statutory provisions.

*1. The incumbent President has declined to assert claims of executive privilege and testimonial immunity.*

President Biden has declined to assert claims of executive privilege or testimonial immunity regarding subjects about which the Select Committee seeks documents and testimony from Mr. Meadows. That fact matters because, even if a former President attempts to prevent disclosure of certain information through assertions of executive privilege, the former President’s privilege is subordinate to executive privilege determinations made by the incumbent President. “[I]t is the new President [not his predecessor] who has the information and attendant duty of executing the laws in the light of current facts and circumstances,” and “the primary, if not the exclusive” duty of deciding when the need of maintaining confidentiality in communications “outweighs whatever public interest or need may reside in disclosure.” *Dellums v. Powell*, 561 F.2d 242, 247 (D.C. Cir. 1977).

Indeed, in briefings in *Trump v. Thompson*, litigation involving a lawsuit against the Select Committee and the National Archives and Records Administration, DOJ has explained, even more specifically, why President Biden’s decision controls whether information relevant to the Select Committee’s investigation should be disclosed. DOJ said, among other things, that “[a] former President has no responsibility for the current execution of the law” and “[a]bsent unusual circumstances, allowing a former President to override decisions by the incumbent President regarding disclosure of Executive Branch information would be an extraordinary intrusion” into executive branch authority.<sup>116</sup>

In other words, “[a]llowing a former President to block disclosure of Executive Branch information that the incumbent President has determined is in the national interest to share with Congress would be even more clearly contrary to well-established principles governing the exercise of sovereign authority.”<sup>117</sup> This is consistent with the District Court’s decision in the same litigation, in which it rejected Mr. Trump’s position and explained that Mr. Trump “is no longer situated to protect executive branch interests with the information and attendant duty of executing the laws in the light of current facts and circumstances” and because “he no longer remains subject to political checks against potential abuse of that power.”<sup>118</sup>

In his November 3 letter, Mr. Terwilliger stated that “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.”<sup>119</sup> Of course, Mr. Meadows appears to have already done that by recounting in his book and on national television specific conversations and deliberations he

<sup>116</sup>Brief for Executive Branch Defendants, *Trump v. Thompson*, Case No. 21-5254, Doc. No. 1923461, at p. 28 (D.C. Cir. Nov. 22, 2021) (emphasis in original).

<sup>117</sup>*Id.*, at p. 19.

<sup>118</sup>*Trump v. Thompson*, Case No. 1:21-cv-02769-TSC, Doc. No. 35, at p. 19 (D.D.C. Nov. 9, 2021) (citations and quotation marks omitted).

<sup>119</sup>See Appendix, Ex. 2.

had with Mr. Trump about events related to the January 6th attack on the United States Capitol. But, even if he had not done all of that, he still need not worry about making such decisions “unilaterally” because the incumbent President has already declined to assert executive privilege or testimonial immunity regarding subjects about which the Select Committee seeks information. Mr. Meadows has known since he received the White House’s letter on November 11, 2021, that President Biden determined that “an assertion of privilege is not justified with respect to testimony and documents” and that President Biden “will not assert executive privilege with respect to [Mr. Meadows] deposition testimony on these subjects, or any documents [Mr. Meadows] may possess that bear on them relevant to the Select Committee’s investigation.”<sup>120</sup> President Biden came to this conclusion “in recognition of these unique and extraordinary circumstances, where Congress is investigating an effort to obstruct the lawful transfer of power under our Constitution.”<sup>121</sup> Despite all of this, Mr. Meadows failed to appear for his deposition on November 12. When given the opportunity to cure his earlier contempt and appear for a deposition well after the subpoena’s deadlines, he, once again, failed to do so.

*2. Mr. Trump has not formally invoked executive privilege.*

Former President Trump has had no communication with the Select Committee. In an October 11 email to the Select Committee, Mr. Meadows’s attorney attached an October 6, 2021, letter from Mr. Trump’s attorney, Justin Clark, in which Mr. Clark claimed that the Select Committee subpoena seeks information that is “unquestionably protected from disclosure by the executive and other privileges, including among others the presidential communications, deliberative process, and attorney-client privileges.” Mr. Clark stated that former-President Trump “is prepared to defend these fundamental privileges in court.” Mr. Clark also relayed that, “to the fullest extent permitted by law, President Trump instructs Mr. Meadows to: (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.”<sup>122</sup> But without a formal assertion by Mr. Trump to the Select Committee, Mr. Meadows cannot establish the foundational element of a claim of executive privilege: an invocation of the privilege by the executive.

In *United States v. Reynolds*, 345 U.S. 1, 7–8 (1953), the Supreme Court held that executive privilege:

[B]elongs to the Government and must be asserted by it; it can neither be claimed nor waived by a private party. It is not to be lightly invoked. There must be a formal claim of privilege, lodged by the head of the department which has control over the matter, after actual personal consideration by that officer.

Here, the Select Committee has not been provided by Mr. Trump with any formal invocation of executive privilege. There is no legal authority—and neither Mr. Meadows nor former-President Trump

<sup>120</sup> See Appendix, Ex. 3, at p. 2. White House Deputy Counsel has also made clear that the White House’s position has remained unchanged as of December 8, 2021.

<sup>121</sup> *Id.*, at p. 1.

<sup>122</sup> See Appendix, Ex. 2.

nor his counsel have cited any—holding that a vague statement by someone who is not a government official that a former President has an intention to assert a privilege absolves a subpoena recipient of his duty to comply. Such indirect, non-specific assertion of privilege, without any description of the documents or testimony over which privilege is claimed, is insufficient to activate a claim of executive privilege.

### 3. *Mr. Meadows is not entitled to absolute immunity.*

Mr. Meadows has refused to appear for a deposition based on his purported reliance on alleged absolute testimonial immunity. However, even if Mr. Trump had invoked executive privilege, and even if executive privilege reached certain testimony sought by the Select Committee, Mr. Meadows would not be immune from compelled testimony before the Select Committee, especially given the fact that he is no longer a high-level White House official.

All courts that have reviewed this issue have been clear: even senior White House aides who advise the President on official government business are not immune from compelled congressional process.<sup>123</sup> Instead, Mr. Meadows acknowledges that this theory of immunity is based entirely on internal memoranda from OLC that courts, in relevant parts, have uniformly rejected.<sup>124</sup> Nevertheless, Mr. Meadows refused to appear at his deposition.

Moreover, by their own terms, the OLC opinions on which Mr. Meadows relies are limited, applying only to testimony “about [a senior official’s] official duties,” not testimony about unofficial duties.<sup>125</sup> Many of the topics that Chairman THOMPSON identified in his correspondence are unrelated to Mr. Meadows’s official duties and would neither fall under the reach of the “absolute immunity” theory nor any privilege whatsoever. For instance:

- Mr. Meadows was not conducting official and privileged business when he participated in a January 2021 call with campaign lawyers and State officials in which the participants urged State legislators to overturn the results of the November 2020 election and guarantee a second term for Mr. Trump;
- Mr. Meadows was not conducting official and privileged business when he participated in another call with campaign lawyers and the Georgia secretary of state in which Mr. Trump urged the Georgia secretary of state to “find” enough votes to ensure his campaign’s victory in Georgia; and
- Mr. Meadows was not engaged in official and privileged business when he used his personal accounts and/or devices to contact the Georgia secretary of state or speak with private or-

<sup>123</sup> See *Committee on the Judiciary v. McGahn*, 415 F. Supp.3d 148, 214 (D.D.C. 2019) (and subsequent history) (“To make the point as plain as possible, it is clear to this Court for the reasons explained above that, with respect to senior-level presidential aides, absolute immunity from compelled congressional process simply does not exist.”); *Committee on the Judiciary v. Miers*, 558 F. Supp.2d 53, 101 (D.D.C. 2008) (holding that White House counsel may not refuse to testify based on direction from the President that testimony will implicate executive privilege).

<sup>124</sup> *Id.*; see also Appendix, Ex. 2 (“I recognize, as your letter points out, that to date, the lower courts have not shared [OLC’s] view.”).

<sup>125</sup> Memorandum Opinion for the Counsel to the President, Office of Legal Counsel, *Testimonial Immunity Before Congress of the Former Counsel to the President*, 43 O.L.C. 1 at 1 (May 20, 2019); see also Memorandum Opinion for the Counsel to the President, Office of Legal Counsel, *Immunity of the Former Counsel to the President from Compelled Congressional Testimony*, 31 O.L.C. 191 at 193 (July 10, 2007) (“we conclude that Ms. Miers is immune from compelled congressional testimony about matters . . . that arose during her tenure as Counsel to the President and that relate to her official duties in that capacity” (emphasis added)).

ganizers of a rally on the Ellipse that occurred just before the attack on the U.S. Capitol.

The Select Committee specifically identified to Mr. Meadows these and other topics as subjects for his deposition testimony, and he had the legal obligation to appear before the Select Committee and address them on the record.

Mr. Meadows's production of documents to the Select Committee highlights that he has information relevant to the Select Committee's inquiry that he himself acknowledges is not subject to any privilege. His refusal to provide testimony on such subjects further evidences willful non-compliance with the Select Committee's deposition subpoena. Mr. Meadows produced to the Select Committee certain communications with campaign staff, Members of Congress, and acquaintances that do not involve official business, while withholding others that presumably do involve official business because of "executive privilege." In doing so, Mr. Meadows has clearly acknowledged that he has relevant information that is not related to his official conduct. And because the relevant information that he has is not related to his official conduct, Mr. Meadows cannot avoid a deposition in which he would be asked questions about those documents by invoking an OLC opinion that is limited to testimony about "official duties."

4. *Even if Mr. Trump had properly invoked executive privilege and Mr. Meadows had properly asserted it, the privilege would not bar the Select Committee from obtaining evidence from Mr. Meadows.*

The law is clear that executive privilege does not extend to discussions relating to non-governmental business or among private citizens.<sup>126</sup> In *In re Sealed Case (Espy)*, 121 F.3d 729, 752 (D.C. Cir. 1997), the court explained that the presidential communications privilege covers "communications authored or solicited and received by those members of an immediate White House adviser's staff who have broad and significant responsibility for investigating and formulating the advice to be given the President on the particular matter to which the communications relate." The court stressed that the privilege only applies to communications intended to advise the President "on official government matters."<sup>127</sup>

As noted above, the Select Committee seeks information from Mr. Meadows on a wide range of subjects that executive privilege cannot conceivably reach. For example, the Select Committee seeks information from Mr. Meadows about his interactions with private citizens, Members of Congress, or others outside the White House related to the 2020 election or efforts to overturn its results. Mr. Meadows has repeatedly refused to answer any questions about these matters. He has even refused to answer questions about the documents that he himself produced to the Select Committee without any assertions of privilege.

Even with respect to Select Committee inquiries that involve Mr. Meadows's direct communications with Mr. Trump, executive privilege does not bar Select Committee access to that information. Only communications that relate to official government business can be

<sup>126</sup> See *Nixon v. GSA*, 433 U.S. at 449.

<sup>127</sup> *Id.*

covered by the presidential communications privilege.<sup>128</sup> Here, Mr. Meadows’s conduct regarding several subjects of concern to the Select Committee is not related to official government business, such as: Meadows’s participation in calls and meetings that clearly concerned Mr. Trump’s campaign rather than his official duties; or, Mr. Meadows’s participation in meetings with Mr. Trump and private individuals about seizing voting machines or taking other steps related to the election that could reportedly, in Mr. Trump’s words, “offer[] me a chance”; or, Mr. Meadows’s contacts with organizers of the January 6th rally on the Ellipse.

Moreover, even with respect to any subjects of concern that arguably involve official government business, the Select Committee’s need for this information to investigate the facts and circumstances surrounding the horrific January 6 assault on the U.S. Capitol and the Nation’s democratic institutions far outweighs any possible executive branch interest at this point in maintaining confidentiality. As noted by the executive, “the constitutional protections of executive privilege should not be used to shield information reflecting an effort to subvert the Constitution itself, and indeed [the President] believes that such an assertion in this circumstance would be at odds with the principles that underlie the privilege.”<sup>129</sup>

Finally, when explaining his claim of privilege to the Select Committee, Mr. Meadows has suggested that he has no choice but to avoid testifying because, as White House chief of staff, he had “assumed responsibility to protect Executive Privilege during and after his tenure,” and that he had “assumed that responsibility not for his own benefit but for the benefit of all those who will serve after him, including future presidents.”<sup>130</sup> He included in a separate letter a passage about the importance of executive branch confidentiality to “ensure that the President can obtain . . . sound and candid advice.”<sup>131</sup> Those words are belied by Mr. Meadows’s conduct.

To be sure, the Supreme Court has made clear that executive privilege is rooted in the need for confidentiality to ensure that presidential decision-making is informed by honest advice and full knowledge: “[h]uman experience teaches that those who expect public dissemination of their remarks may well temper candor with a concern for appearances and for their own interests to the detriment of the decision-making process.”<sup>132</sup> In *Nixon v. GSA*, the Supreme Court again considered issues related to executive privilege and balanced the important interests served by the Presidential Records Act against the intrusion into presidential confidentiality caused by compliance with the Act.<sup>133</sup> Thus, a valid claim of executive privilege presumes that the information sought to be discovered

<sup>128</sup> See *Espy*, 121 F.3d at 752 (“the privilege only applies to communications . . . in the course of performing their function of advising the President on official government matters”); cf. *In re Lindsey*, 148 F.3d 1100, 1106 (D.C. Cir. 1998) (Deputy White House Counsel’s “advice [to the President] on political, strategic, or policy issues, valuable as it may have been, would not be shielded from disclosure by the attorney-client privilege”).

<sup>129</sup> See Appendix, Ex. 2.

<sup>130</sup> See Appendix, Ex. 11, at p. 2.

<sup>131</sup> See Appendix, Ex. 2.

<sup>132</sup> *U.S. v. Nixon*, 418 U.S. 683, 705–06 (1974).

<sup>133</sup> *Nixon v. GSA*, 433 U.S. at 455 (“But given the safeguards built into the Act to prevent disclosure of such materials and the minimal nature of the intrusion into the confidentiality of the Presidency, we believe that the claims of Presidential privilege clearly must yield to the important congressional purposes of preserving the materials and maintaining access to them for lawful governmental and historical purposes.”).

is confidential and that the need to maintain that confidentiality outweighs the interests promoted by disclosure.

Here, however, executive privilege and the need to maintain confidentiality is severely undermined, if not entirely vitiated, by Mr. Meadows's own extensive public disclosure of his communications with the former President, including on issues directly implicated by the Select Committee's subpoena. Mr. Meadows has appeared on national television discussing the January 6th attack on the U.S. Capitol and related conversations with former-President Trump.<sup>134</sup> And he has written about what former-President Trump told him on January 6th in his newly released book.<sup>135</sup> Mr. Meadows's conduct relating to the very subjects of interest to the Select Committee foreclose a claim of executive privilege with respect to those disclosures.<sup>136</sup> Moreover, Mr. Meadows's statements to the Select Committee about his professed need to protect presidential confidentiality rings hollow in the face of his cavalier and repeated disclosure of presidential communications in circumstances where doing so appears to suit his personal or political interests. Mr. Meadows has shown his willingness to talk about issues related to the Select Committee's investigation across a variety of media platforms—anywhere, it seems, except to the Select Committee.

For the reasons stated above, Mr. Meadows's own conduct and the determination by the current executive overrides any claim by Mr. Trump (even assuming Mr. Trump had invoked executive privilege with respect to Mr. Meadows). Furthermore, Mr. Meadows has refused Chairman THOMPSON's numerous invitations to assert executive privilege on a question-by-question basis, making it impossible for the Select Committee to consider any good-faith executive privilege assertions. And, as discussed above, such concerns are wholly inapplicable to the broad range of subjects about which the Select Committee seeks Mr. Meadows's testimony that Mr. Meadows has acknowledged involve non-privileged matters.

*D. Precedent supports the Select Committee's position to proceed with holding Mr. Meadows in contempt.*

An individual who fails or refuses to comply with a House subpoena may be cited for contempt of Congress.<sup>137</sup> Pursuant to 2 U.S.C. § 192, the willful refusal to comply with a congressional subpoena is punishable by a fine of up to \$100,000 and imprisonment for up to 1 year.<sup>138</sup> In *Quinn v. United States*, the Supreme Court said that "Section 192, like the ordinary federal criminal statute, requires a criminal intent—in this instance, a deliberate, inten-

<sup>134</sup> See, e.g., Transcript, "The Ingraham Angle," Fox News, (Feb. 11, 2021), available at <https://www.foxnews.com/transcript/biden-warns-china-could-eat-our-lunch-after-phone-call-with-xi>; Transcript, "Hannity," Fox News, (Feb. 12, 2021), available at <https://www.foxnews.com/transcript/new-yorker-who-lost-mother-in-law-in-nursing-home-blasts-disgrace-cuomo>; Transcript, "Hannity," Fox News, (Dec. 7, 2021), available at <https://video.foxnews.com/v/6285715473001#sp=show-clips>; Transcript, "The Ingraham Angle," Fox News, (Dec. 9, 2021), available at <https://www.foxnews.com/media/mark-meadows-potential-contempt-charges-january-6-committee>.

<sup>135</sup> Meadows, *The Chief's Chief*, at p. 259.

<sup>136</sup> See, e.g., *Espy*, 121 F.3d at 741-42 (discussing waiver and concluding that "the White House has waived its claims of [executive] privilege in regard to the specific documents that it voluntarily revealed to third parties outside the White House").

<sup>137</sup> *Eastland v. United States Servicemen's Fund*, 421 U.S. 491, 515 (1975).

<sup>138</sup> See *supra*. The prison term for this offense makes it a Class A misdemeanor. 18 U.S.C. § 3559(a)(6). By that classification, the penalty for contempt of Congress specified in 2 U.S.C. § 192 increased from \$1,000 to \$100,000. 18 U.S.C. § 3571(b)(5).

tional refusal to answer.”<sup>139</sup> And proving criminal intent in this context is no more than showing a “deliberate” “refusal to answer pertinent questions”; it does not require a showing of “moral turpitude.”<sup>140</sup> A committee may vote to seek a contempt citation against a recalcitrant witness. This action is then reported to the House. If a resolution to that end is adopted by the House, the matter is referred to a U.S. Attorney, who has a duty to refer the matter to a grand jury for an indictment.<sup>141</sup>

Mr. Meadows has previously recognized the importance of congressional access to information from executive branch officials to advance congressional investigations. As a Representative in Congress, he served as ranking member of the House Committee on Oversight and Reform. In that position, he expected that even senior executive branch officials such as the Deputy Attorney General comply with Congress’s subpoenas.<sup>142</sup> Indeed, such an expectation is consistent with precedent spanning Republican and Democratic administrations under which top White House aides have provided testimony to Congress.<sup>143</sup> Further, his recent assertion to the Select Committee that he “cannot be compelled to provide congressional testimony” as a former White House chief of staff runs directly counter to precedent under which top White House aides have provided testimony to Congress under subpoena. For example, former White House Chief of Staff John Podesta and former White House Counsel Beth Nolan testified in 2001 under subpoena regarding President Clinton’s pardons before the House Committee on Government Reform.<sup>144</sup>

Mr. Meadows did not need to be informed of his responsibility to comply with the Select Committee’s subpoena, but Chairman THOMPSON informed him anyway. In his November 11, 2021, letter to Mr. Meadows’s counsel, Chairman THOMPSON advised Mr. Meadows that his claims of executive privilege were not well-founded and did not absolve him of his obligation to produce documents and appear for deposition testimony. The Chairman made clear that the Select Committee expected Mr. Meadows to appear for his sched-

<sup>139</sup> *Quinn v. United States*, 349 U.S. 155, 165 (1955).

<sup>140</sup> *Sinclair v. United States*, 279 U.S. 263, 299 (1929); see also *In re Chapman*, 166 U.S. 661, 672 (1897) (“deliberately refusing to answer questions pertinent [to a matter properly under consideration by Congress] shall be a misdemeanor against the United States”); *Licavoli v. United States*, 294 F.2d 207, 209 (D.C. Cir. 1961) (“[W]illfully means merely a deliberate intention; an evil motive is not a necessary part of the intent thus required.”)

<sup>141</sup> See 2 U.S.C. § 192.

<sup>142</sup> Mary Papenfuss, “Watch Mark Meadows Slam Official Who ‘Stonewalled’ Subpoenas from GOP Congress,” Yahoo News, (Nov. 14, 2021), available at <https://news.yahoo.com/watch-mark-meadows-slam-official-001107830.html> (containing video clip of then-Rep. Mark Meadows criticizing the Deputy Attorney General for ignoring a subpoena); Tweet, @MarkMeadows (July 25, 2018 at 7:01 p.m.) (“I just filed a resolution with @Jim\_Jordan and several colleagues to impeach Rod Rosenstein. The DOJ has continued to hide information from Congress and repeatedly obstructed oversight—even defying multiple Congressional subpoenas.”); “Non-Profit Organizations and Politics,” Hearing of the Subcommittee on Government Operations, U.S. House Committee on Oversight and Government Reform, (December 13, 2018), (at which then-Chairman Meadows chided the Department of Justice for declining to make available as a witness the prosecutor appointed to investigate alleged wrongdoing by the Clinton Foundation), available at <https://www.c-span.org/video/?455872-1/profit-organizations-politics>.

<sup>143</sup> See, e.g., “White House Office of Political Affairs: Is Supporting Candidates and Campaign Fund-Raising an Appropriate Use of a Government Office?” Hearing of the Committee on Oversight and Government Reform, U.S. House of Representatives, (July 16, 2014), (at which Chairman Darrell Issa noted the House Oversight Committee in 2007 had obtained testimony of 18 Bush administration political appointees included White House political directors; and at which Rep. Meadows was present); see also “Presidential Advisers’ Testimony before Congressional Committees: An Overview,” Congressional Research Service, (RL31351, Apr. 10, 2007).

<sup>144</sup> “Clinton Aides Testify They Opposed Rich Pardon,” *New York Times*, (Mar. 1, 2001), available at <https://www.nytimes.com/2001/03/01/national/clinton-aides-testify-they-opposed-rich-pardon.html>.

uled deposition on November 12th and produce the requested documents at that time. The Chairman warned Mr. Meadows that his continued non-compliance would put him in jeopardy of a vote to refer him to the House to consider a criminal contempt referral. Mr. Meadows did not produce documents and did not show up for his deposition. And, when given the opportunity to cure his earlier contempt, Mr. Meadows produced documents but still chose to withhold testimony. Mr. Meadows's failure to appear for deposition testimony in the face of this clear advisement and warning by the Chairman, and after being given a second chance to cooperate with the Select Committee, constitutes a willful failure to comply with the subpoena.

#### SELECT COMMITTEE CONSIDERATION

The Select Committee met on Monday, December 13, 2021.  
[ . . . ]

#### SELECT COMMITTEE VOTES

Clause 3(b) of rule XIII requires the Select Committee to list the recorded votes during consideration of this Report:  
[ . . . ]

#### SELECT COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII, the Select Committee advises that the oversight findings and recommendations of the Select Committee are incorporated in the descriptive portions of this Report.

#### CONGRESSIONAL BUDGET OFFICE ESTIMATE

The Select Committee finds the requirements of clause 3(c)(2) of rule XIII and section 308(a) of the Congressional Budget Act of 1974, and the requirements of clause 3(c)(3) of rule XIII and section 402 of the Congressional Budget Act of 1974, to be inapplicable to this Report. Accordingly, the Select Committee did not request or receive a cost estimate from the Congressional Budget Office and makes no findings as to the budgetary impacts of this Report or costs incurred to carry out the Report.

#### STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

Pursuant to clause 3(c)(4) of rule XIII, the objective of this Report is to enforce the Select Committee's authority to investigate 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 problems and to recommend corrective laws, policies, procedures, rules, or regulations; and to enforce the Select Committee's subpoena authority found in section 5(c)(4) of House Resolution 503.

APPENDIX

The official transcript that memorialized Mr. Meadows’s failure to appear at his November 12, 2021, deposition as ordered by subpoena, along with exhibits included in that record, is as follows:

**SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, DC**

**DEPOSITION OF: MARK MEADOWS (NO-SHOW)**

**FRIDAY, NOVEMBER 12, 2021**

**WASHINGTON, DC**

**The deposition in the above matter was held in \* \* \* commencing at 10:00 a.m.**

**APPEARANCES:**

**FOR THE SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:**

\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*

\* \* \* \* Good morning. We are on the record.  
Today is November 12th, 2021, the time is 10 a.m., and we are convened in \* \* \* for the deposition of Mark Meadows to be conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol.

My name is \* \* \* \*. I am the designated select committee staff counsel for this proceeding. I’m accompanied by \* \* \* \*, deputy staff director and chief counsel to the select committee; \* \* \* \*, select committee staff counsel; \* \* \* \*, select committee staff counsel; \* \* \* \*, select committee parliamentarian.

And joining us virtually is \* \* \* \* and \* \* \* \*, who are select committee staff, as well as chief clerk to the select committee, \* \* \* \*.

For the record, it is now 10:01 a.m., and Mr. Meadows is not present. The person transcribing this proceeding is the House stenographer and notary public authorized to administer oaths.

On September 23rd, 2021, Chairman Bennie THOMPSON issued a subpoena to Mr. Meadows, both to produce documents by October 7th, 2021, and to testify at a deposition on October 15th of 2021 at 10 a.m.

The subpoena is in connection with the select committees investigation into 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.

After Mr. Meadows retained counsel, who is George Terwilliger, III, the select committee agreed to postpone the subpoena deadlines to enable his counsel to understand the requests associated with the subpoena and work with Mr. Meadows.

Ultimately, by letter dated October 25th, 2021, the select committee set new deadlines to produce documents and appear for testimony. Mr. Meadows was required to produce documents by November 5th, 2021, and appear for testimony on November 12th, 2021.

By letters dated between October 25th and November 11th, the select committee engaged with counsel for Mr. Meadows. In the letters, the select committee addressed Mr. Meadows’ claims of, among other things, absolute testimonial immunity and executive privilege.

In the letters, the select committee also instructed Mr. Meadows to assert his privilege claims in a privilege log for responsive documents and on a question by question basis at the deposition.

On November 10th, 2021, Mr. Meadows, through counsel, informed the select committee that he would not appear at today’s deposition citing testimonial immu-

nity and privileges. Specifically, counsel said that, quote, “Mr. Meadows cannot agree to appear at 10 a.m. Friday,” end quote.

Following that letter, the White House Counsel’s Office sent counsel for Mr. Meadows a letter dated November 11th, indicating that the White House would not assert claims of testimonial immunity or executive privilege to prevent Mr. Meadows’ testimony before the select committee.

Specifically, the letter states that President Biden, quote, “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 decision on executive privilege, President Biden has determined that he will not assert immunity to preclude your client from testifying before the Select Committee,” end quote.

The select committee then sent counsel for Mr. Meadows a final letter in light of the White House Counsel’s Office’s stated position. To date, the select committee has not received a response.

In the letters, the select committee informed Mr. Meadows, quote, “the Select Committee will view Mr. Meadows’ 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., sections 192 and section 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,” end quote.

Mr. Meadows has not provided any documents or a privilege log, and Mr. Meadows has not appeared today to answer questions or assert privilege objections.

I will mark as exhibit 1 and enter into the record the select committee’s subpoena to Mr. Meadows, included with which are the materials that accompanied the subpoena; namely, a letter from the chairman, a document schedule with accompanying production instructions, and a copy of the deposition rules.

**Exhibit 1 — Subpoena to Mark Meadows**

\* \* \* \*. I will mark as exhibit 2 and enter into the record a series of letters and emails exchanged between the select committee and counsel for Mr. Meadows. The records include email service of the subpoena by \* \* \* \*, which Mr. Scott Gast accepted on Mr. Meadows' behalf on September 23rd, 2021.

The records in exhibit 2 also include the letters and emails between counsel for the select committee and Mr. George Terwilliger, which I described moments ago. And, specifically, they are a letter from George Terwilliger to the select committee on October 7th; an email from George Terwilliger to the select committee on October 13th; letters provided by George Terwilliger to the select committee, one of which is a letter from him to the White House Counsel's Office dated October 11th, 2021, and the other is a letter to George Terwilliger dated October 6th from Mr. Justin Clark, as counsel to former President Trump; a letter from the select committee to George Terwilliger on October 25th; two letters from George Terwilliger to the select committee on November 3rd; a letter from the select committee to George Terwilliger on November 5th; a letter from George Terwilliger to the select committee on November 8th; a letter from the select committee to George Terwilliger on November 9th; a letter from George Terwilliger to the select committee on November 10th; and a letter from the select committee to George Terwilliger on November 11th.

**Exhibit 2 — Various Correspondence**

\* \* \*. I will mark as exhibit 3 and enter into the record a letter dated November 11th, 2021, from the White House Counsel's Office to Mr. George Terwilliger as counsel for Mr. Meadows.

**Exhibit 3 — Letter from White House Counsel to  
Counsel for Mr. Meadows, Nov. 11, 2021**

\* \* \* \*. I will mark as exhibit 4 and enter into the record an email dated November 9th, 2021, and corresponding attachments from \* \* \* \*, chief investigative counsel to the select committee, to George Terwilliger, with subject line, "Deposition Rules." The attachments consist of, one, a document called "Document Production Definitions and Instructions"; two, "Deposition Rules," which is a copy of the House Congressional Record page H41 from January 4th, 2021; third, which is a copy of section 3(b) of House Resolution 8 dated January 4th, 2021.

**Exhibit 4 — Select Committee Staff Email to  
Counsel for Mr. Meadows, Nov. 9, 2021**

\* \* \*. And, with that, I will note for the record that it is 10:07 a.m., and Mr. Meadows still has not appeared or communicated to the select committee that he will appear today as required by the subpoena.  
Accordingly, the record is now closed as of 10:07 a.m.  
[Whereupon, at 10:07 a.m., the deposition was concluded.]

The official transcript for Mr. Meadows’s voluntary deposition on December 8, 2021, is as follows:

**SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL, U.S. HOUSE OF REPRESENTATIVES, WASHINGTON, DC**

**DEPOSITION OF: MARK MEADOWS (NO-SHOW)**

**WEDNESDAY, DECEMBER 8, 2021**

**WASHINGTON, DC**

**The deposition in the above matter was held in \* \* \* \* commencing at 10:00 a.m.**

**PRESENT:** Representatives SCHIFF and LOFGREN.

**APPEARANCES:**

**FOR THE SELECT COMMITTEE TO INVESTIGATE THE JANUARY 6TH ATTACK ON THE U.S. CAPITOL:**

\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*  
\* \* \* \* \*

\* \* \* \*. All right. It’s 10 a.m. So we’ll go ahead and get started going on the record.

This is a deposition of Mark Meadows, conducted by the House Select Committee to Investigate the January 6th Attack on the United States Capitol, pursuant to House Resolution 503.

My name is \* \* \* \*. That’s \* \* \* \*, and I’m the chief investigative counsel to the select committee. With me today are \* \* \* \*, who is a senior investigative counsel, and Ms. ZOE LOFGREN, who is a member of the select committee, is also participating remotely.

Based on an agreement with counsel to Mr. Meadows, this deposition was to begin at 10 a.m. It is now 10 a.m., and Mr. Meadows has not appeared.

Mr. Meadows received a subpoena, dated September 23rd, 2021, requiring him to produce documents to the select committee and appear for a deposition. Staff engaged in several discussions with Mr. Meadows’ counsel regarding the scope of his production and the subject matters to be developed at his deposition.

Staff provided Mr. Meadows’ counsel with specific areas in which it is interested and asked Mr. Meadows to identify those that would trigger a privilege assertion. Rather than engage with the select committee, Mr. Meadows asserted that, as a former White House chief of staff, he cannot be compelled to provide information to Congress. He communicated his blanket assertion of immunity, in addition to claims of executive privilege, in writing to Chairman THOMPSON.

On November 12th, 2021, the select committee convened the scheduled deposition of Mr. Meadows after the current White House indicated, in writing, that President Biden would not assert any immunity or privilege that would prevent Mr. Meadows from appearing and answering the committee’s questions.

Mr. Meadows did not appear for that deposition on November 12th, as indicated in his prior correspondence.

He also failed to produce any documents responsive to the select committee’s subpoena or a privilege log asserting claims of privilege for specific documents.

After Mr. Meadows failed to appear for his deposition or produce documents, select committee staff engaged in further discussions with Mr. Meadows’ counsel regarding the status of his noncooperation.

Mr. Meadows ultimately agreed to produce some documents and to appear for a deposition today, December 8th, 2021, at 10 a.m., an offer which the chairman extended to him as a good faith effort to enable Mr. Meadows to cure his failure to comply with the September 23rd subpoena and provide information relevant to the select committee’s investigation.

Mr. Meadows has now produced documents. Counsel made clear that Mr. Meadows intended to withhold some responsive information due to a claim of executive privilege. He agreed to produce documents he believes are not covered by that or any other privilege and to produce a privilege log identifying responsive documents withheld due to such privilege assertions.

He also agreed to appear for a deposition, at which he would be asked questions on subject matters relevant to the select committee’s inquiry, as identified in our

prior correspondence, and either answer the questions or articulate a claimed privilege.

We agreed with Mr. Meadows' counsel that this production and deposition would clarify Mr. Meadows' position on the application of various privileges and create a record for further discussion and consideration of possible enforcement by the select committee.

Consistent with that agreement, Mr. Meadows did produce documents and privilege logs. More specifically, he produced approximately 6,600 pages of records taken from personal email accounts he used to conduct official business, as well as a privilege log describing other emails over which he claims privilege protection. He also produced approximately 2,000 text messages, which Mr. Meadows sent or received using a personal device which he used for official business, in addition to a privilege log, in which he describes privilege claims over other withheld text messages.

Mr. Meadows was scheduled to appear today, December 8th, 2021, for a deposition. However, he has not appeared and is not present today. We received correspondence from Mr. Meadows' attorney yesterday indicating that, despite his prior agreement to appear today, his position has changed and he would not appear.

We are disappointed in Mr. Meadows' failure to appear as planned, as it deprives the select committee of an opportunity to develop relevant information in Mr. Meadows' possession and to, more specifically, understand the contours of his executive privilege claim.

Again, the purpose of today's proceeding was to ask Mr. Meadows questions that we believe would be outside of any cognizable claim of executive, attorney client, Fifth Amendment, or other potentially applicable privilege.

Our hope is that he would answer those questions, which would materially advance the select committee's investigation, given Mr. Meadows' service as White House chief of staff. We expected that he would assert privileges in response to various questions, articulating the specific privilege he believes is implicated and how it applies to the question asked. We planned to evaluate Mr. Meadows' privilege assertions after today's proceeding, engage in further discussions with Mr. Meadows' counsel, and consider whether enforcement steps were appropriate and necessary.

Mr. Meadows' failure to appear for today's deposition deprives us of the opportunity to engage in that process. Instead, we are left with Mr. Meadows' complete refusal to appear for his deposition or cure his willful noncompliance with the select committee's subpoena.

Had Mr. Meadows appeared for his deposition today, we would have asked him a series of questions about subjects that we believe are well outside of any claim of executive privilege. More specifically, we would have asked Mr. Meadows questions about his use of personal email and cellular phones.

Mr. Meadows' document production includes documents taken from two Gmail accounts. We would've asked him how and for what purpose he used those Gmail accounts and when he used one of them as opposed to his official White House email account. We would've similarly asked him about his use of a personal cellular telephone.

We would have sought to develop information about when Mr. Meadows used his personal cell phone for calls and text messages and when he used his official White House cell phone for those purposes.

Mr. Meadows' production of documents shows that he used the Gmail accounts and his personal cellular phone for official business related to his service as White House chief of staff. Given that fact, we would ask Mr. Meadows about his efforts to preserve those documents and provide them to the National Archives, as required by the Presidential Records Act. Finally, we would have asked Mr. Meadows about his use of a signal account, which is reflected in the text messages he produced.

In addition, we would have asked Mr. Meadows about particular emails that he produced to the select committee. We do not believe these emails implicate any valid claim of executive or other privilege, given that Mr. Meadows has produced the emails to the select committee.

Specifically, we would've asked Mr. Meadows about emails about the Electoral Count Act and the prospect of State legislators sending alternate slates of electors to Congress, including a November 7th, 2020, email with attachments. We would've asked him about emails reflecting the Trump campaign's effort to challenge election results, including a December 23rd email from Mr. Meadows indicating that, quote, "Rudy was put in charge. That was the President's decision," end quote, that reflects a direct communication between Mr. Meadows and the President.

We would've asked him about emails from Mr. Meadows to leadership at the Department of Justice on December 29th and 30th, 2020, and January 1st, 2021, encouraging investigations of suspected voter fraud, including claims that had been previously rebutted by State and Federal investigators and rejected by Federal courts.

We would have asked Mr. Meadows about emails regarding the deployment of the National Guard on January 6th, including a January 5th email from Mr. Meadows in which he indicates that the Guard would be present at the Capitol to, quote, “protect pro Trump people,” end quote.

In addition, we would have asked Mr. Meadows about specific text messages he sent or received that he has produced to the select committee. Given Mr. Meadows’ production of these text messages to the select committee, they do not, in our view, implicate any valid claim of executive or other privilege.

We would’ve specifically asked Mr. Meadows about text messages regarding efforts to encourage Republican legislators in certain States to send alternate slates of electors to Congress, including a message sent by Mr. Meadows on December 8th, 2020, in which Mr. Meadows said, quote, “We are,” end quote, and another text from Mr. Meadows to someone else in which he said that, quote, “We have a team on it,” end quote.

We would have asked Mr. Meadows about text messages sent to and from Members of Congress, including text messages received from a Member of Congress in November of 2020 regarding efforts to contact State legislators because, as Mr. Meadows indicates in his text messages, quote, “POTUS wants to chat with them,” end quote, which reflects a direct communication with the President, as well as texts in December of 2020 regarding the prospect of the President’s appointment of Jeffrey Clark as Acting Attorney General.

We would’ve asked Mr. Meadows about text messages sent to and from another Member of Congress in November of 2020, in which the member indicates that, quote, the President asked him to call Governor Ducey, end quote, and in which Mr. Meadows asks for contact information for the attorney general of Arizona to discuss allegations of election fraud.

We would’ve asked Mr. Meadows about text messages sent to and received from Members of the House of Representatives and the Senate about objections to the certification of electors in certain States on January 6th. We would have asked him about text messages sent to and received from a Senator regarding the Vice President’s power to reject electors, including a text in which Mr. Meadows recounts a direct communication with President Trump who, according to Mr. Meadows in his text messages, quote, “thinks the legislators have the power, but the VP has power too,” end quote.

We would have asked Mr. Meadows about text messages sent to and received from a media personality on December 12th, 2021, regarding the negative impact of President Trump’s election challenges on the Senate runoff elections in Georgia, President Trump’s prospects for election in 2024, and Mr. Meadows possible employment by a news channel.

We would’ve asked Mr. Meadows about text messages sent to and received from an organizer of the January 6th events on the Ellipse about planning the event, including details about who would speak at the event and where certain individuals would be located.

We’d ask Mr. Meadows about text messages regarding President Trump’s January 2nd, 2021, phone call with Georgia Secretary of State Brad Raffensperger, including texts to and from participants in the call as it took place, as well as text messages to and received from Members of Congress after the call took place regarding strategy for dealing with criticism of the call.

We would’ve asked Mr. Meadows about text messages exchanged with various individuals, including Members of Congress, on January 6th, both before, during, and after the attack on the United States Capitol, including text messages encouraging Mr. Meadows to facilitate a statement by President Trump discouraging violence at the Capitol on January 6th, including a text exchange with a media personality who had encouraged the presidential statement asking people to, quote, “peacefully leave the Capitol,” end quote, as well as a text sent to one of—by one of the President’s family members indicating that Mr. Meadows is, quote, “pushing hard,” end quote, for a statement from President Trump to, quote, “condemn this shit,” end quote, happening at the Capitol.

Text messages: We would ask Mr. Meadows questions about text messages reflecting Mr. Meadows’ skepticism about public statements regarding allegations of election fraud put forth by Sidney Powell and his skepticism about the veracity of claims of tampering with Dominion voting machines.

In addition, we would’ve asked Mr. Meadows questions about specific representations in a book he has authored, *The Chief’s Chief*, in which he recounts various facts relevant to the select committee’s investigation and directly describes communications with the President, including on page 259, quote, “A few sentences later, President Trump ad libbed a line that no one had seen before, saying, ‘Now it is up to Congress to confront this egregious assault on our democracy. After this, we’re going to walk down—and I’ll be there with you—we’re going to walk down to the

Capitol and we're going to cheer on our brave Senators and Congressmen and women. We're probably not going to be cheering so much for some of them because you'll never take back our country with weakness. You have to show strength. You have to be strong.' When he got off stage, President Trump let me know that he had been speaking metaphorically about the walk to the Capitol. He knew as well as anyone that we wouldn't organize a trip like that on such short notice," end quote.

We would've asked Mr. Meadows about another passage in his book that appears on page 261. Quote, "In the aftermath of the attack, President Trump was mortified. He knew the media would take this terrible incident and twist it around. He also knew his days on Twitter were probably numbered," end quote.

We would've asked Mr. Meadows about another passage on page 261 in his book. Quote, "'Mark,' Trump would say to me, 'Look, if I lost, I'd have no problem admitting it. I would sit back and retire and probably have a much easier life, but I didn't lose. People need me to get back to work. We're not done yet,'" end quote.

We would've asked Mr. Meadows about another passage in his book on page 264 that reflects, quote, "On January 20th, with less than 5 hours left in his historic Presidency, at a time when most outgoing Presidents would be quietly making notes for their memoirs and taking stock of their time in the White House, President Trump was being forced to defend his legacy yet again. 'How do we look in Congress?' President Trump asked. 'I've heard that there are some Republicans who might be turning against us. That would be a very unwise thing for them to do,'" end quote.

We would've asked him about another passage on page 265 of his book. Quote, "But I assured President Trump, once again, that all would be well with the impeachment trial, and we discussed what my role in the proceedings would be after we left the White House," end quote.

We would've asked him about the passage on page 266 in his book where he recounts, quote, "On the phone on January 20th, President Trump spoke as if he wasn't planning to go anywhere. He mentioned the long list of pardons we hadn't been able to complete largely due to the slowness on the part of various attorneys in the Federal Government. He wondered again about the precise details of the impeachment trial, including how much money the new lawyers would charge and how we could best defend him against the Democrats' attacks," end quote.

These passages reflect direct communications between Mr. Meadows and President Trump directly impacting his claims of executive privilege.

Finally, we would ask Mr. Meadows questions about statements in his book about his interactions with the Department of Justice. Specifically, he addresses such interactions with the Department of Justice on pages 257 and 258 of his book, in which he says, quote, "It didn't surprise me that our many referrals to the Department of Justice were not seriously investigated. I never believed they would, given the track record of that Department in President Trump's first term," end quote.

Again, statements in Mr. Meadows' book directly reflect subject matters that the select committee seeks to develop, and his public statements directly impact his claims of executive privilege.

But, as of the current time, which is now 10:17, Mr. Meadows still has not appeared to cure his earlier noncompliance with the select committee's September 23rd, 2021, subpoena. So we will not be able to ask any of those questions about the documents and messages that he apparently agrees are relevant to the select committee and not protected by any protective privilege.

I'd also note for the record that Congressman ADAM SCHIFF, a member of the select committee, has joined and, again, that member of the committee, Representative LOFGREN, has joined.

Before we close the record, Mr. SCHIFF or Ms. LOFGREN, do either of you have any comments to make for the record?

Mr. SCHIFF. I do not. Thank you.

\* \* \* Ms. LOFGREN, anything?

Ms. LOFGREN. I'm good.

\* \* \* Okay. Thank you.

Accordingly, the record of this deposition of Mark Meadows, now at 10:18 a.m., is closed.

[Whereupon, at 10:18 a.m., the deposition was concluded.]

Additional correspondence between the Select Committee and counsel for Mr. Meadows is as follows (continuing the exhibit numbering from above):

5. Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 19, 2021.

6. Letter from Chairman THOMPSON to Counsel to Mark Meadows, Nov. 22, 2021.

7. Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 26, 2021.

8. Letter from Counsel to Mark Meadows to Chairman THOMPSON, Nov. 26, 2021.

9. Letter from Chairman THOMPSON to Counsel to Mark Meadows, Nov. 28, 2021.

10. Letter from Counsel to Mark Meadows to Chairman THOMPSON, Dec. 3, 2021.

11. Letter from Counsel to Mark Meadows to Chairman THOMPSON, Dec. 7, 2021.

12. Letter from Chairman THOMPSON to Counsel to Mark Meadows, Dec. 7, 2021.

**Exhibit 5 — Letter from Counsel to Mark  
Meadows to Chairman Thompson, Nov. 19, 2021**

**Exhibit 6 — Letter from Chairman Thompson to  
Counsel to Mark Meadows, Nov. 22, 2021**

**Exhibit 7 — Letter from Counsel to Mark  
Meadows to Chairman Thompson, Nov. 26, 2021**

**Exhibit 8 — Letter from Counsel to Mark  
Meadows to Chairman Thompson, Nov. 26, 2021**

**Exhibit 9 — Letter from Chairman Thompson to  
Counsel to Mark Meadows, Nov. 28, 2021**

**Exhibit 10 — Letter from Counsel to Mark  
Meadows to Chairman Thompson, Dec. 3, 2021**

**Exhibit 11 — Letter from Counsel to Mark  
Meadows to Chairman Thompson, Dec. 7, 2021**

**Exhibit 12 — Letter from Chairman Thompson to  
Counsel to Mark Meadows, Dec. 7, 2021**