

Congress of the United States
Washington, DC 20515

March 20, 2023

Mr. Alvin L. Bragg, Jr.
District Attorney
New York County
One Hogan Place
New York, NY 10013

Dear Mr. Bragg:

You are reportedly about to engage in an unprecedented abuse of prosecutorial authority: the indictment of a former President of the United States and current declared candidate for that office. This indictment comes after years of your office searching for a basis—any basis—on which to bring charges, ultimately settling on a novel legal theory untested anywhere in the country and one that federal authorities declined to pursue. If these reports are accurate, your actions will erode confidence in the evenhanded application of justice and unalterably interfere in the course of the 2024 presidential election. In light of the serious consequences of your actions, we expect that you will testify about what plainly appears to be a politically motivated prosecutorial decision.

The New York County District Attorney's Office has been investigating President Trump since at least 2018, looking for some legal theory on which to bring charges.¹ The facts surrounding the impending indictment have "been known for years."² Michael Cohen, President Trump's disgraced former lawyer, pleaded guilty over four years ago to charges based on the same facts at issue in the impending indictment.³ By July 2019, however, federal prosecutors determined that no additional people would be charged alongside Cohen.⁴ Now, in the words of one legal scholar, you are attempting to "shoehorn[]" the same case with identical facts into a new prosecution, resurrecting a so-called "zombie" case against President Trump.⁵ Even the *Washington Post* quoted "legal experts" as calling your actions "unusual" because "prosecutors have repeatedly examined the long-established details but decided not to pursue charges."⁶

¹ Andrew Feinberg, *New York prosecutors warn Trump of possible indictment, report says*, THE INDEPENDENT (Mar. 10, 2023).

² Mark Berman et al., *The prosecutor, the ex-president and the 'zombie' case that came back to life*, WASH. POST (Mar. 17, 2023).

³ Shawna Chen, *Timeline: The probe into Trump's alleged hush money payments to Stormy Daniels*, AXIOS (Mar. 18, 2023).

⁴ *Id.*; see Barrett et al., *supra* note 2.

⁵ Jonathan Turley, *Get ready for Manhattan DA's made-for-TV Trump prosecution: high on ratings, but short on the law*, THE HILL (Mar. 18, 2023); Berman et al., *supra* note 2.

⁶ Berman et al., *supra* note 2.

The legal theory underlying your reported prosecution appears to be tenuous and untested.⁷ Bringing charges for falsifying business records is ordinarily a misdemeanor subject to a two-year statute of limitations,⁸ which would have expired long ago. State law, however, allows a district attorney to “elevate nominal misdemeanor conduct” to a felony charge if the “intent to defraud includes an intent to commit another crime or to aid or conceal the commission thereof.”⁹ Such a showing would extend the statute of limitations to five years¹⁰—which would likely expire soon and thus explains your rush to indictment. The only potential speculated crime that could be alleged here would be a violation of campaign finance law, according to one scholar, a charge that the Justice Department has already declined to bring.¹¹

In addition to the novel and untested legal theory, your star witness for this prosecution has a serious credibility problem—a problem that you have reportedly recognized.¹² This case relies heavily on the testimony of Michael Cohen, a convicted perjurer with a demonstrable prejudice against President Trump.¹³ Cohen pleaded guilty to lying to Congress in 2018.¹⁴ In 2019, when he testified before Democrats on the House Oversight Committee to aid their fruitless investigation into President Trump, Cohen lied again—six times.¹⁵ Cohen has been vocal about his deeply personal animus toward President Trump.¹⁶ Under these circumstances, there is no scenario in which Cohen could fairly be considered an unbiased and credible witness.

The inference from the totality of these facts is that your impending indictment is motivated by political calculations. In January 2022, soon after you took office, you expressed doubts about President Trump’s case and suspended the investigation.¹⁷ This decision caused two of your top investigators, Carey Dunne and Mark Pomerantz, to resign in protest and publicly denounce your work.¹⁸ Pomerantz, in particular, heavily criticized you for declining to bring charges at that time,¹⁹ and “Dunne and others” are now “weighing ways” to bar President Trump from holding future office.²⁰ Pomerantz has published a book in the past month

⁷ Turley, *supra* note 5.

⁸ *Id.*

⁹ N.Y. Penal Law § 175.10.

¹⁰ Turley, *supra* note 5; Jeremy Saland, *First Degree Falsifying Business Records: NY Penal Law 175.10*, SALAND LAW PC (page last visited Mar. 19, 2023).

¹¹ *Id.*

¹² Berman et al., *supra* note 2.

¹³ Christopher Lopez, *Progressive DA Alvin Bragg’s case against Trump hinges on witnesses with ‘credibility problems’*: Andy McCarthy, FOX NEWS (Mar. 19, 2023); Marisa Schultz, *Jim Jordan, Mark Meadows ask Justice Department to probe Cohen for perjury*, N.Y. POST (Feb. 28, 2019).

¹⁴ *Michael Cohen pleads guilty to lying to Congress*, ASSOC. PRESS (Nov. 29, 2018).

¹⁵ Letter from Jim Jordan & Mark Meadows, H. Comm. on Oversight & Reform, to William P. Barr, Att’y Gen., Dep’t of Justice (Feb. 28, 2019).

¹⁶ See, e.g., Nicholas Fandos & Maggie Haberman, *In Congressional Testimony, Cohen Plans to Call Trump a ‘Con Man’ and a ‘Cheat’*, N.Y. TIMES (Feb. 26, 2019).

¹⁷ Shayna Jacobs et al., *Prosecutor who resigned over stalled Trump probe says ex-president committed felonies*, WASH. POST (Mar. 23, 2022).

¹⁸ *Id.*

¹⁹ *Read the Full Text of Mark Pomerantz’s Resignation Letter*, N.Y. TIMES (Mar. 23, 2022).

²⁰ Shayna Jacobs, *Lawyers who investigated Trump form group to oppose anti-democratic policies*, WASH. POST (Jan. 11, 2023).

excoriating you for not aggressively prosecuting President Trump.²¹ The *Washington Post* reported that you were “deeply stung” by this criticism.²²

The facts of this matter have not changed since 2018 and no new witnesses have emerged.²³ The Justice Department examined the facts in 2019 and opted not to pursue further prosecutions at that time. Even still, according to reporting, the investigation “gained some momentum this year,” and your office “convened a new grand jury in January to evaluate the issue.”²⁴ The only intervening factor, it appears, was President Trump’s announcement that he would be a candidate for President in 2024.²⁵

Your decision to pursue such a politically motivated prosecution—while adopting progressive criminal justice policies that allow career “criminals [to] run[] the streets” of Manhattan²⁶—requires congressional scrutiny about how public safety funds appropriated by Congress are implemented by local law-enforcement agencies. In addition, your apparent decision to pursue criminal charges where federal authorities declined to do so requires oversight to inform potential legislative reforms about the delineation of prosecutorial authority between federal and local officials. Finally, because the circumstances of this matter stem, in part, from Special Counsel Mueller’s investigation,²⁷ Congress may consider legislative reforms to the authorities of special counsels and their relationships with other prosecuting entities. Accordingly, to advance our oversight, please produce the following documents and information for the period January 1, 2017, to the present:

1. All documents and communications between or among the New York County District Attorney’s Office and the U.S. Department of Justice, its component entities, or other federal law enforcement agencies referring or relating to your office’s investigation of President Donald Trump;
2. All documents and communications sent or received by former employees Carey Dunne and Mark Pomerantz referring or relating to President Donald Trump; and
3. All documents and communications referring or relating to the New York County District Attorney Office’s receipt and use of federal funds.

In addition, your testimony is necessary to advance our oversight and to inform potential legislative reforms. We therefore ask that you testify in a transcribed interview about these

²¹ MARK POMERANTZ, *PEOPLE VS. DONALD TRUMP: AN INSIDE ACCOUNT* (2023).

²² Berman et al., *supra* note 2.

²³ *Id.*

²⁴ *Id.*

²⁵ Max Greenwood, *Trump announces 2024 run for president*, THE HILL (Nov. 15, 2022).

²⁶ Alyssa Guzman, *Priorities, eh? Woke DA Alvin Bragg who’s set to indict Trump is one of America’s most controversial prosecutors after charging self-defense shopkeeper with murder and sending soft-on-crime memo*, DAILY MAIL (Mar. 18, 2023); Andrea Cavallier, *REVEALED: Woke Manhattan DA Alvin Bragg has downgraded over HALF of felony cases to misdemeanors as criminals are free to roam streets of the Big Apple*, DAILY MAIL (Nov. 27, 2022).

²⁷ Ben Protess et al., *How Michael Cohen turned against President Trump*, N.Y. Times (Apr. 21, 2019).

Mr. Alvin L. Bragg, Jr.

March 20, 2023

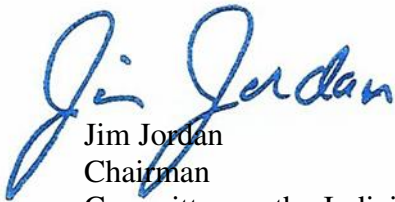
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matters as soon as possible. Please provide this information and contact Committee staff to schedule your transcribed interview as soon as possible but not later than 10:00 a.m. on March 23, 2023.

Pursuant to Rule X of the Rules of the House of Representatives, the Committee on the Judiciary has jurisdiction over criminal justice matters in the United States. The Committee on House Administration has jurisdiction over matters concerning federal elections. The Committee on Oversight and Accountability may examine "any matter" at any time.

If you have any questions about this request, please contact Committee staff at (202) 225-6906. Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



Bryan Steil
Chairman
Committee on House Administration



James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Joseph Morelle, Ranking Member
Committee on House Administration

The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability



**DISTRICT ATTORNEY
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New York, N. Y. 10013
(212) 335-9000**

ALVIN L. BRAGG, JR.
DISTRICT ATTORNEY

LESLIE B. DUBECK
GENERAL COUNSEL

March 23, 2023

By email

The Honorable Jim Jordan
Chairman, House Committee on the Judiciary

The Honorable Bryan Steil
Chairman, House Committee on House Administration

The Honorable James Comer
Chairman, House Committee on Oversight and Accountability

Dear Chairman Jordan, Chairman Steil, and Chairman Comer:

The District Attorney of New York County is investigating allegations that Donald Trump engaged in violations of New York State penal law. The investigation is one of thousands conducted by the Office of the District Attorney in its long history of pursuing justice and protecting New Yorkers. The investigation has been conducted consistently with the District Attorney's oath to faithfully execute the laws of the State of New York. The District Attorney pledged that the DA's Office would "publicly state the conclusion of our investigation—whether we conclude our work without bringing charges, or move forward with an indictment."¹ He stands by that pledge. And if charges are brought at the conclusion, it will be because the rule of law and faithful execution of the District Attorney's duty require it.

Your letter dated March 20, 2023 (the "Letter"), in contrast, is an unprecedented inquiry into a pending local prosecution. The Letter only came after Donald Trump created a false expectation that he would be arrested the next day² and his lawyers reportedly urged you to intervene.³ Neither fact is a legitimate basis for congressional inquiry.

¹ Statement by Manhattan District Attorney Alvin Bragg on Ongoing Investigation Concerning the Trump Organization (April 7, 2022), available at: <https://www.manhattanda.org/statement-by-manhattan-district-attorney-alvin-bragg-on-ongoing-investigation-concerning-the-trump-organization/>.

² *Trump says 'illegal leaks' indicate he'll be arrested Tuesday*, FoxNews, March 18, 2023, available at: <https://www.foxnews.com/politics/trump-says-illegal-leaks-indicate-arrested-tuesday>.

³ Shane Goldmacher, et al., *For the G.O.P., a Looming Trump Indictment Takes Center Stage*, N.Y. Times (March 20, 2023) (quoting a letter from Joseph Tacopina, a lawyer for Donald Trump, to Chairman Jordan, encouraging Congress to investigate the District Attorney).

In New York, the District Attorney is a constitutional officer charged with “the responsibility to conduct all prosecutions for crimes and offenses cognizable by the courts of the county in which he serves.” *People v Di Falco*, 44 N.Y.2d 482, 486 (1978); *see also Matter of Haggerty v. Himelein*, 89 N.Y.2d 431, 436 (1997); *Matter of Schumer v. Holtzman*, 60 N.Y.2d 46, 52 (1983). These are quintessential police powers belonging to the State, and your letter treads into territory very clearly reserved to the states. It suggests that Congress’s investigation is being “conducted solely for the personal aggrandizement of the investigators or to ‘punish’ those investigated,” and is, therefore, “indefensible.” *Watkins v. United States*, 354 U.S. 178, 187 (1957).

As articulated below, the District Attorney is obliged by the federal and state constitutions to protect the independence of state law enforcement functions from federal interference. The DA’s Office therefore requests an opportunity to meet and confer with committee staff to better understand what information the DA’s Office can provide that relates to a legitimate legislative interest and can be shared consistent with the District Attorney’s constitutional obligations.

Compliance with the Letter Would Interfere with Law Enforcement

The Letter seeks non-public information about a pending criminal investigation, which is confidential under state law. CPL § 190.25(4)(a) (“Grand jury proceedings are secret”); Penal Law § 215.70 (prosecutor’s disclosure of grand jury evidence is a felony unless “in the proper discharge of his official duties or upon written order of the court”); *Sanchez v. City of New York*, 201 A.D.2d 325, 326 (1st Dept. 1994) (witness statements to the District Attorney’s Office protected by the public interest privilege); Public Officers Law § 87(2)(e) (shielding materials “compiled for law enforcement purposes” from public disclosure where disclosure would “interfere with law enforcement investigations” or “disclose confidential information relating to a criminal investigation”).⁴

These confidentiality provisions exist to protect the interests of the various participants in the criminal process—the defendant, the witnesses, and members of the grand jury—as well as the integrity of the grand jury proceeding itself. Like the Department of Justice, as a prosecutor exercising sovereign executive powers, the District Attorney has a constitutional obligation to “protect the government’s ability to prosecute fully and fairly,” to “independently and impartially uphold the rule of law,” to “protect witnesses and law enforcement,” to “avoid flight by those implicated in our investigations,” and to “prevent additional crimes.”⁵

⁴ That the investigation relates to a former President does not change this analysis. Even Donald Trump has conceded that he is not immune from local criminal prosecution. *See Trump v. Vance*, 591 U.S. ___, 140 S. Ct. 2412, 2426-27 (2020) (noting that the President “concedes—consistent with the position of the Department of Justice—that state grand juries are free to investigate a sitting President with an eye toward charging him after the completion of his term”).

⁵ Letter from Assistant Attorney General Carlos Uriarte to Chairman Jordan, dated January 20, 2023, at page 3-4. (Available at <https://www.politico.com/f/?id=00000185-d087-dde8-a9af-d4afeba70000>).

Consistent with these constitutional obligations, the DA's Office is cognizant of DOJ's "[l]ongstanding" policy of not providing Congress with non-public information about investigations.⁶

With regard to pending federal investigations, "Congress seems generally to have been respectful of the need to protect material contained in open criminal investigative files. There is almost no precedent for Congress attempting to subpoena such material, and even fewer examples of the DOJ actually producing such documents."⁷

Requests Regarding the Exercise of State Police Powers Violate New York's Sovereignty

The Letter's requests are an unlawful incursion into New York's sovereignty. Congress's investigative jurisdiction is derived from and limited by its power to legislate concerning federal matters. *See, e.g., Eastland v. U. S. Servicemen's Fund*, 421 U.S. 491, 503-05 (1975); *Barenblatt v. United States*, 360 U.S. 109, 111-12 (1959); *Kilbourn v. Thompson*, 103 U.S. 168, 195-96 (1880).

The Constitution limits Congress's powers to those specifically enumerated; and the Tenth Amendment ensures that any unenumerated powers are reserved to the States. *New York v. United States*, 505 U.S. 144, 155-56 (1992). It is therefore generally understood that a Congressional committee may not "inquire into matters which are . . . reserved to the States." Charles W. Johnson, *et al.*, *House Practice: A Guide to the Rules, Precedents, and Procedures of the House* at 254 (GPO 2017)⁸; *see also Watkins*, 354 U.S. at 187 ("The power of the Congress to conduct investigations . . . comprehends probes into departments of the *Federal Government* . . .") (emphasis added).⁹

Among the powers reserved to the states, "[p]erhaps the clearest example of traditional state authority is the punishment of local criminal activity." *Bond v. United States*, 572 U.S. 844, 858 (2014). Thus, federal interference with state law enforcement "is peculiarly inconsistent with our federal framework." *Cameron v. Johnson*, 390 U.S. 611, 618 (1968); *see also Printz v. United*

⁶ *Id.* at 3.

⁷ Todd David Peterson, *Congressional Oversight of Open Criminal Investigations*, 77 Notre Dame L. Rev. 1373, 1410 (2002); *see also* Alissa M. Dolan & Todd Garvey, *CRS Report for Congress: Congressional Investigations of the Department of Justice, 1920-2012: History, Law, and Practice*, 2 (Nov. 5, 2012) (available at <https://sgp.fas.org/crs/misc/R42811.pdf>) ("Department [of Justice] rarely releases—and committees rarely subpoena—material relevant to open criminal investigations.").

⁸ Available at <https://www.govinfo.gov/content/pkg/GPO-HPRACTICE-115/pdf/GPO-HPRACTICE-115.pdf>.

⁹ Consistent with this general understanding, this type of inquiry appears to be unprecedented. The only precedent is one aimed at an ongoing state *civil* investigation that was never enforced. *See* Lemos, et al. Letter to House Committee on Science & Technology (Sept. 13, 2016) (scholarly review of subpoenas from the House Committee on Science & Technology to state Attorneys General regarding pending *civil* investigations, and stating: "To our knowledge, Congress has *never* before attempted to use its investigatory authority to interfere with an ongoing state investigation."), available at page 814 of <https://docs.house.gov/meetings/SY/SY00/20160914/105259/HHRG-114-SY00-20160914-SD004.pdf>.

States, 521 U.S. 898, 931 n.15 (1997) (Tenth Amendment limits federal power over local law enforcement). Invoking these principles of comity, equity, and federalism, the Supreme Court held, in *Younger v. Harris*, that federal courts may not interfere in pending state criminal prosecutions absent extraordinary circumstances. 401 U.S. 37 (1971). This holding reflects a “continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways.” *Id.* at 44.

Against this history, it is clear that Congress cannot have any legitimate legislative task relating to the oversight of local prosecutors enforcing state law. To preserve the Constitution’s federalist principles, the District Attorney is duty bound by his constitutional oath to New York’s sovereign interest in the exercise of police powers reserved to the States under the Tenth Amendment.

Congressional Review of a Pending Criminal Investigation Usurps Executive Powers

Congress is not the appropriate branch to review pending criminal matters. As the Supreme Court noted in *Watkins*, “Congress [is not] a law enforcement or trial agency. These are functions of the executive and judicial departments of government.” 354 U.S. at 187. “[T]he power [of Congress] to investigate must not be confused with any of the powers of law enforcement; those powers are assigned under our Constitution to the Executive and the Judiciary.” *Quinn v. United States*, 349 U.S. 155, 161 (1955).

If a grand jury brings charges against Donald Trump, the DA’s Office will have an obligation, as in every case, to provide a significant amount of discovery from its files to the defendant so that he may prepare a defense. The Letter’s allegation that the DA’s Office is pursuing a prosecution for political purposes is unfounded, and regardless, the proper forum for such a challenge is the Courts of New York, which are equipped to consider and review such objections. In addition, review by the U.S. Supreme Court would be available to the extent any criminal case raises federal issues. That is the mechanism afforded to every defendant in a criminal case. Congress has no role to play in that review, especially as to a pending *state* criminal proceeding. *See Younger*, 401 U.S. at 43-45.

Federal Funding is an Insufficient Basis to Justify These Unconstitutional Requests

The Letter indicates that its requests may be related to a review of federal public safety funds. But the Letter does not suggest any way in which either the District Attorney’s testimony about his prosecutorial decisions or the documents and communications of former Assistant District Attorneys on a pending criminal investigation would shed light on that review.

Nonetheless, to assist Congress in understanding the ways in which the DA’s Office has used federal funds, we are preparing and will submit a letter describing its use of federal funds.

The Honorable Jim Jordan, et al.

March 23, 2023

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We trust that you appreciate the importance of our federal system, state law enforcement activities, and the critical need to maintain the integrity and independence of state criminal law enforcement from federal interference. While the DA's Office will not allow a Congressional investigation to impede the exercise of New York's sovereign police power, this Office will always treat a fellow government entity with due respect. Therefore, again, we request a meet and confer to understand whether the Committee has any legitimate legislative purpose in the requested materials that could be accommodated without impeding those sovereign interests. We simply expect that our office also be treated "in a manner consistent with [New York's] status as a residuary sovereign[] and joint participant[] in the governance of the Nation." *Alden v. Maine*, 527 U.S. 706, 748 (1999) (Kennedy, J.).

Respectfully Submitted,



Leslie B. Dubeck
General Counsel

cc: Honorable Jerrold Nadler, Ranking Member, Committee on the Judiciary

Honorable Joseph Morelle, Ranking Member, Committee on House Administration

Honorable Jamie Raskin, Ranking Member, Committee on Oversight and Accountability

Majority Staff, Committee on the Judiciary

Minority Staff, Committee on the Judiciary

Congress of the United States
Washington, DC 20515

March 25, 2023

Mr. Alvin L. Bragg, Jr.
District Attorney
New York County
One Hogan Place
New York, NY 10013

Dear Mr. Bragg:

Our Committees are conducting oversight of your reported effort to indict a former President of the United States and current declared candidate for that office. On March 20, 2023, we wrote to you requesting that you voluntarily cooperate with our oversight by providing relevant documents and testimony.¹ We received a reply letter sent on your behalf dated March 23, 2023, which set forth several purported reasons for why you could not cooperate with our investigation.²

Notably, your reply letter did not dispute the central allegations at issue—that you, under political pressure from left-wing activists and former prosecutors in your office, are reportedly planning to use an alleged federal campaign finance violation, previously declined by federal prosecutors, as a vehicle to extend the statute of limitations on an otherwise misdemeanor offense and indict for the first time in history a former President of the United States. Moreover, you are apparently attempting to *upgrade* a misdemeanor charge to a felony using an untested legal theory at the same time when you are simultaneously downgrading felony charges to misdemeanors in a majority of other cases in your jurisdiction.³

Contrary to the central argument set forth in your letter, this matter does not simply involve *local* or *state* interests. Rather, the potential criminal indictment of a former President of the United States by an elected local prosecutor of the opposing political party (and who will face the prospect of re-election) implicates substantial *federal* interests, particularly in a jurisdiction where trial-level judges also are popularly elected. If state or local prosecutors are able to engage in politically motivated prosecutions of Presidents of the United States (former or current) for personal acts, this could have a profound impact on how Presidents choose to

¹ Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, et al., to Mr. Alvin L. Bragg, Jr., Manhattan District Attorney (Mar. 20, 2023).

² Letter from Leslie B. Dubeck, Gen. Counsel, N.Y. Co. District Att’y Off., to Rep. Jim Jordan, H. Comm. on the Judiciary, et al. (Mar. 23, 2023) [hereinafter “Letter from Dubeck”].

³ See, e.g., Melissa Klein, *NYC Convictions Plummet, Downgraded Charges Surge under Manhattan DA Bragg*, N.Y. Post (Nov. 26, 2022).

exercise their powers while in office. For example, a President could choose to avoid taking action he believes to be in the national interest because it would negatively impact New York City for fear that he would be subject to a retaliatory prosecution in New York City.

Likewise, because the federal government has a compelling interest in protecting the physical safety of former or current Presidents, any decision to prosecute a former or current President raises difficult questions concerning how to vindicate that interest in the context of a state or local criminal justice system. For these reasons and others, we believe that we now must consider whether Congress should take legislative action to protect former and/or current Presidents from politically motivated prosecutions by state and local officials, and if so, how those protections should be structured. Critically, due to your own actions, you are now in possession of information critical to this inquiry.

I. The Arguments in Defense of Your Unprecedented Prosecutorial Conduct Are Conclusory and Unconvincing.

The Supreme Court has recognized that Congress has a “broad and indispensable” power to conduct oversight, which “encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys in our social, economic or political system for the purpose of enabling Congress to remedy them.”⁴ In *Wilkinson v. United States*, the Supreme Court articulated a three-prong test to determine the legal sufficiency of a congressional subpoena: “(1) the Committee’s investigation of the broad subject matter area must be authorized by Congress; (2) the investigation must be pursuant to ‘a valid legislative purpose’; and (3) the specific inquiries involved must be pertinent to the broad subject matter areas which have been authorized by Congress.”⁵

A. The Committees Are Authorized to Conduct Such an Inquiry.

Contrary to your assertion otherwise, the Committees’ inquiry plainly satisfies this three-prong test. First, the Committee on the Judiciary is charged by the House of Representatives with upholding fundamental American civil liberties and with promoting fairness and consistency in our nation’s criminal justice system. In fact, Rule X of the Rules of the House of Representatives authorizes the Committee on the Judiciary to conduct oversight of criminal justice matters to inform potential legislation.⁶ In the Committees’ view, the circumstances of any prosecutorial decision to indict a former President of the United States on a novel and untested legal theory based on facts known for years and conduct previously uncharged by federal prosecutors, shortly after your former high-ranking employee has publicly criticized you for *not* making such an indictment, require an examination of the facts and potential consequences of this unprecedented decision. The Committee on the Judiciary has an interest in the fair and evenhanded application of justice at both the state and federal level.

⁴ See, e.g., *Trump v. Mazars LLP*, No. 19-715 at 11 (U.S. slip op. July 9, 2020) (internal quotation marks and citations omitted).

⁵ *Wilkinson v. United States*, 365 U.S. 399, 408-09 (1961); see *Ashland Oil, Inc. v. FTC*, 409 F. Supp. 297, 305 (D.D.C. 1976).

⁶ Rules of the U.S. House of Representatives, R. X(1)(5) (2023).

B. The Inquiry Is on a Matter on Which Legislation Could be Had.

Second, the Committees' inquiry has an obvious legitimate legislative purpose and is "a subject on which legislation could be had."⁷ To begin with, as discussed above, Congress has a specific and manifestly important interest in preventing politically motivated prosecutions of current and former Presidents by elected state and local prosecutors, particularly those tried before elected state and local trial-level judges. Therefore, the Committee on the Judiciary, as a part of its broad authority to develop criminal justice legislation, must now consider whether to draft legislation that would, if enacted, insulate current and former presidents from such improper state and local prosecutions. These legislative reforms may include, for example, broadening the existing statutory right of removal of certain criminal cases from state court to federal court. Because your impending indictment of a former President is an issue of first impression, the Committees require information from your office to inform our oversight.

Moreover, as discussed above, your prosecutorial decision to indict a former President may cause a potential confrontation between federal and local law-enforcement authorities. Federal law requires the United States Secret Service to protect a former President.⁸ Therefore, your unprecedented prosecutorial decision raises the potential for conflict between the federal law-enforcement officials required to protect the former President and local law-enforcement officials required to enforce your indictment and exercise control of him throughout his presence in the local criminal justice system. Such a novel and potentially fraught collision of federal and local law-enforcement officials with the safety of a former President at stake is certainly a matter of interest for the Committees. The Committees' oversight is necessary to inform potential legislation that would address or remedy any potential conflicts between federal and local authorities.

In addition, the federal campaign finance charges you are reportedly attempting to use to upgrade a misdemeanor charge to a felony have previously been considered—and rejected—by federal prosecutors.⁹ In light of this fact, to bring uniformity to the law and prevent future attempts by state or local prosecutors to pursue politically motivated prosecutions related to campaign finance regulations applicable to federal elections, Congress may elect to consider legislation that broadens the preemption provision in the Federal Election Campaign Act. This reform could have the effect of better delineating the prosecutorial authorities of federal and local officials in this area and blocking the selective or politicized enforcement by state and local prosecutors of campaign finance restrictions pertaining to federal elections.

Furthermore, your reported decision to indict a former President requires congressional scrutiny about how federal public safety funds appropriated by Congress are implemented by

⁷ See, e.g., *Mazars*, No. 19-715 at 12 (internal quotation marks and citations omitted).

⁸ 18 U.S.C. § 3056.

⁹ Jonathan Turley, "America's Got Trump": Get Ready for a Truly Made-for-TV Prosecution, *Res Ipsa Loquitur – The Thing Itself Speaks* (Mar. 20, 2023) ("Although it may be politically popular, the case is legally pathetic. Bragg is struggling to twist state laws to effectively prosecute a federal case long ago rejected by the Justice Department . . .").

local law-enforcement agencies and how limited resources are prioritized. Under your leadership, the New York County District Attorney's Office has adopted and defended your progressive criminal justice policies, which includes "downgrad[ing] 52 percent of felony cases to misdemeanors."¹⁰ Even with downgrading more than half of your felony cases to misdemeanors, your office's conviction rate when prosecuting serious felony charges was reported to be just 51 percent.¹¹ Your conviction rate for misdemeanors also dropped sharply—from 53 percent to 28 percent.¹² Your policies have allowed career "criminals [to] run[] the streets" of Manhattan¹³—creating such a danger that a judge in your district has taken notice.¹⁴

To the extent that you are receiving federal funds and are choosing to prioritize apparent political prosecutions over commonsense public safety measures, the Committee on the Judiciary certainly may consider legislation to tie federal funds to improved public safety metrics. In fact, last year, a Judiciary Subcommittee heard testimony from the mother of an army veteran murdered in your district,¹⁵ who criticized your office's handling of her son's murder by offering plea deals to the defendants despite the fact that "the murder and their roles were caught on video"¹⁶ Her testimony crystallized the need for legislation to prevent dangerous criminals from running free. Additionally, if our oversight determines that improper partisan or political considerations are motivating your prosecutorial decisions, the Committee on the Judiciary may consider legislation to place conditions on federal funding for state and local law-enforcement jurisdictions to ensure that funds are not used to engage in discrimination on the basis of partisan affiliation or political beliefs.

Lastly, because the circumstances of this matter stem, in part, from Special Counsel Mueller's investigation,¹⁷ Congress may consider legislative reforms to the authorities of special counsels and better delineate their relationships with other prosecuting entities.

¹⁰ Andrea Cavallier, *REVEALED: Woke Manhattan DA Alvin Bragg has downgraded over HALF of felony cases to misdemeanors as criminals are free to roam streets of the Big Apple*, DAILY MAIL (Nov. 28, 2022); Georgett Roberts and Melissa Klein, *Manhattan DA Alvin Bragg surprised by 'push back' – defends policies*, N.Y. Post (Jan. 8, 2022).

¹¹ *Numbers show the grim consequences of Manhattan DA Alvin Bragg's pro-crime principles*, N.Y. Post (Nov. 27, 2022).

¹² *Id.*

¹³ Alyssa Guzman, *Priorities, eh? Woke DA Alvin Bragg who's set to indict Trump is one of America's most controversial prosecutors after charging self-defense shopkeeper with murder and sending soft-on-crime memo*, DAILY MAIL (Mar. 18, 2023); Cavallier, *supra* note 10.

¹⁴ Joe Marino and Bruce Golding, *Ex-con would have faced 'long time in jail' if not for new Manhattan DA: judge*, N.Y. Post (Jan. 12, 2022) (A career criminal "accused of threatening a drug store worker with a knife was told in court that he should "feel lucky" he got busted after new Manhattan District Attorney Alvin Bragg took office "Based on your record, you would have faced a long period of time in jail if convicted," [Manhattan Criminal Court Judge Jay] Weiner said during the court proceeding")

¹⁵ *Reimagining Public Safety in the COVID-19 Era, Hearing Before the Subcomm. on Crime, Terrorism, and Homeland Sec. of the H. Comm. on the Judiciary*, 117th Cong. (Mar. 8, 2022) (testimony from Madeline Brame).

¹⁶ Jack Morphet and Gabrielle Fonrouge, *Mother of slain Army vet Hason Correa rips Manhattan DA Alvin Bragg for giving plea deals in case*, N.Y. Post (June 10, 2022).

¹⁷ Ben Protess et al., *How Michael Cohen turned against President Trump*, N.Y. Times (Apr. 21, 2019).

C. The Requests Are Pertinent to the Committees' Inquiry.

The Committees' inquiry satisfies *Wilkinson*'s third prong of pertinence to the oversight. Federal courts have interpreted this prong broadly, requiring "only that the specific inquiries be reasonably related to the subject matter under investigation."¹⁸ The information sought by the Committees will allow us to assess the extent to which your reported effort to indict a former President and current declared candidate for that office is politically motivated and whether Congress should therefore draft legislative reforms to, among other things, protect former and current Presidents from politically motivated prosecutions.

II. Your State Law-Based Defenses Are Insufficient.

Your conclusory claim that our constitutional oversight responsibilities will interfere with law enforcement is misplaced and unconvincing. As a threshold matter, whether your office is, in fact, fairly enforcing the law or abusing prosecutorial discretion to engage in a politically motivated indictment of a former President is a serious matter that, as discussed above, implicates significant federal interests. The Committees require information from the New York County District Attorney's Office to advance our oversight over the very matter that you claim is a basis to obstruct our investigation.

In support of your broad claim that compliance with the Committees' requests for documents and a transcribed interview would interfere with law enforcement, you note two New York State statutes that prohibit the disclosure of grand jury materials. The Committees' information requests, however, relate to numerous areas of inquiry that in no way implicate grand jury materials or seek information that would be confidential under New York law. For example, the request for your office's use of federal funds has no connection to any grand jury proceedings. Similarly, the vast majority of the questions that the Committees intend to ask you in an interview also would not implicate grand jury secrecy. Moreover, to the extent that questions are asked that you believe you are not permitted to answer, you would retain the ability to decline to answer or to assert an applicable privilege. Likewise, you remain free to decline to produce certain responsive documents on the basis of appropriate privileges or statutes that preclude production, provided you provide the Committees with a detailed privilege log that will enable us to review and evaluate your claims. The laws cited in your letter do not establish a basis for a complete refusal to cooperate. At best, they provide arguments that may be asserted on either a question-by-question or a document-by-document basis.

Furthermore, your invocation of certain New York laws as precluding you from complying with our oversight request is, at a minimum, overbroad. For example, New York's Freedom of Information Law (Public Officers Law § 87(2)) provides that agencies *may* decline to make certain records available for *public* inspection; it neither requires them to do so nor directly speaks to formal requests from congressional committees. Thus, that statutory provision does not preclude you from providing us with records that were "compiled for law enforcement

¹⁸ MORTON ROSENBERG, *WHEN CONGRESS COMES CALLING: A STUDY ON THE PRINCIPLES, PRACTICES, AND PRAGMATICS OF LEGISLATIVE INQUIRY* 18 (2017).

purposes.”¹⁹ Indeed, the statute in question states that even when an agency receives a request from a member of the public, as opposed to congressional committees, a “denial of access shall not be based solely on the category or type of such record and shall be valid only when there is a particularized and specific justification for such denial.”²⁰

III. The Inquiry Does Not Intrude on Federalism Powers Because Congress Is Exercising Its Core Authority to Legislate.

Your letter raises unfounded and unpersuasive objections to our oversight based on federalism—arguing, in part, that our “requests are an unlawful incursion into New York’s sovereignty.”²¹ You go on to note that “the District Attorney is duty bound by his constitutional oath to New York’s sovereign interest in the exercise of police powers reserved to the States under the Tenth Amendment.”²² Contrary to your assertions, this inquiry does not infringe on New York’s sovereignty.

To begin with, your argument hinges on your assertion that “Congress cannot have any legitimate legislative task relating to the oversight of local prosecutors enforcing state law.” But this claim is simply wrong; as discussed at length above, this matter involves substantial federal interests. Moreover, the cases that you cite, *Younger v. Harris*, 401 U.S. 37 (1971), and *Cameron v. Johnson*, 390 U.S. 611 (1968), involve the question of when federal courts can enjoin prosecutions of state law. And needless to say, our oversight requests do no such thing; they would not block you from conducting any prosecution. Rather, we are simply seeking information to carry out constitutional duties.

Finally, our oversight requests do not implicate what is commonly referred to as the anti-commandeering principle.²³ In establishing the anti-commandeering principle in *New York v. United States*, the Supreme Court concluded that Congress cannot compel states to enact, enforce, or administer federal policies.²⁴ Unlike the matter before the Court in *New York*, our requests here simply do not compel the state “to enact, enforce, or administer federal policies.”²⁵ Rather, the Committees are merely seeking information pertaining to a matter that is directly within the purview of our jurisdiction and is necessary to inform potential legislative reforms.

IV. The Inquiry Does Not Usurp Executive Powers

In your reply letter, you cited the Supreme Court of the United States in *Watkins v. United States* as saying, “Congress [is not] a law enforcement or trial agency.”²⁶ We agree. The Committees do not seek to step into the shoes of the Executive Branch or usurp its powers.

¹⁹ Public Officers Law § 87(2)(e).

²⁰ *Id.* at § 87(2).

²¹ Letter from Dubeck, *supra* note 2.

²² *Id.*

²³ The Committee’s oversight does not involve the federal spending power. As such, the anti-coercion principle cannot be reasonably implicated.

²⁴ 505 U.S. 144, 188 (1992).

²⁵ *Id.*

²⁶ Letter from Dubeck, *supra* note 2 (citing *Watkins v. United States*, 354 U.S. 178, 187 (1957)).

Rather, as explained, we are exercising the broad powers afforded Congress by the Constitution to conduct oversight to inform potential legislative reforms. This power

encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste.²⁷

Indeed, as the Supreme Court has recognized, Congress retains broad authority to conduct oversight of ongoing civil and criminal investigations. In *Sinclair v. United States*, the Supreme Court noted that the pendency of litigation does not stop Congress's ability to investigate, stating:

It may be conceded that Congress is without authority to compel disclosures for the purpose of aiding the prosecution of pending suits; but the authority of that body, directly or through its committees, to require pertinent disclosures in aid of its own constitutional power is not abridged because the information sought to be elicited may also be of use in such suits.²⁸

The Court has further noted that “a congressional committee . . . engaged in legitimate legislative investigation need not grind to a halt whenever responses to its inquiries might potentially be harmful to a witness in some distinct proceeding . . . or when crime or wrongdoing is exposed.”²⁹ Phrased another way, the Committees’ oversight will in no way “stop [your] prosecution or set limits on the management of a particular case.”³⁰ Accordingly, your refusal to cooperate with our oversight inquires on this basis is therefore unavailing.

V. Your Offer to Provide Information About Your Office’s Use of Federal Funds Is Insufficient

While we appreciate your offer to submit a letter detailing the District Attorney’s Office’s use of federal funds, and we look forward to that submission, such a letter alone does not satisfy our oversight requests or preclude the Committees from proceeding with them. For example, as we have explained in detail, the Committee on the Judiciary is examining whether legislative reforms are necessary to insulate former and current Presidents from politically motivated prosecutions by state and local officials. And while your letter regarding your office’s use of federal funds will not shed meaningful light on that question, we expect that your response to our other information requests will do so.

²⁷ *Id.*

²⁸ 279 U.S. 263, 295 (1929).

²⁹ *Hutcheson v. United States*, 369 U.S. 599, 617 (1962).

³⁰ See MORTON ROSENBERG, CONGRESSIONAL RESEARCH SERVICE, INVESTIGATIVE OVERSIGHT: AN INTRODUCTION TO THE LAW, PRACTICE AND PROCEDURE OF CONGRESSIONAL INQUIRY (1995).

Mr. Alvin L. Bragg, Jr.

March 25, 2023

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Accordingly, we reiterate the requests in our March 20 letter and ask that you comply in full as soon as possible but no later than March 31, 2023. We trust the information in this letter satisfies your request to “understand whether the Committee has any legitimate legislative purpose”³¹ Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



Bryan Steil
Chairman
Committee on House Administration



James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jerrold Nadler, Ranking Member
Committee on the Judiciary

The Honorable Joseph Morelle, Ranking Member
Committee on House Administration

The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability

³¹ Letter from Dubeck, *supra* note 2.



ALVIN L. BRAGG, JR.
DISTRICT ATTORNEY

**DISTRICT ATTORNEY
COUNTY OF NEW YORK
ONE HOGAN PLACE
New York, N. Y. 10013
(212) 335-9000**

March 31, 2023

By email

The Honorable Jim Jordan
Chairman, House Committee on the Judiciary

The Honorable Bryan Steil
Chairman, House Committee on House Administration

The Honorable James Comer
Chairman, House Committee on Oversight and Accountability

Dear Chairman Jordan, Chairman Steil, and Chairman Comer:

Yesterday, the District Attorney of New York County filed charges against Donald Trump for violations of New York law.¹ The charges filed yesterday were brought by citizens of New York, doing their civic duty as members of a grand jury, who found probable cause to accuse Mr. Trump of having committed crimes in New York.

Like any other defendant, Mr. Trump is entitled to challenge these charges in court and avail himself of all processes and protections that New York State's robust criminal procedure affords. What neither Mr. Trump nor Congress may do is interfere with the ordinary course of proceedings in New York State. Your first letter made an unprecedented request to the District Attorney for confidential information about the status of the state grand jury investigation—now indictment—of Mr. Trump. Your second letter asserts that, by failing to provide it, the District Attorney somehow failed to dispute your baseless and inflammatory allegations that our investigation is politically motivated. That conclusion is misleading and meritless. We did not engage in a point-by-point rebuttal of your letter because our Office is legally constrained in how it publicly discusses pending criminal proceedings, as prosecutorial offices are across the country and as you well know. That secrecy is critical to protecting the privacy of the target of any criminal investigation as well as the integrity of the independent grand jury's proceedings.²

¹ The charges contained in the indictment are merely allegations, and the defendant is presumed innocent unless and until proven guilty.

² See, e.g., *McKeever v. Barr*, 920 F.3d 842, 844 (D.C. Cir. 2019) ("The Supreme Court has long maintained that the proper functioning of our grand jury system depends upon the secrecy of grand jury proceedings. That secrecy safeguards vital interests in (1) preserving the willingness and candor of witnesses called before the grand jury; (2) not alerting the target

The Committees Lack Jurisdiction to Oversee a State Criminal Prosecution

Your recent letter states that the purpose of your inquiry is to conduct “an examination of the facts” relating to the investigation of Mr. Trump.³ But Congress has no warrant for interfering with individual criminal investigations—much less investigations conducted by a separate sovereign. See *United States v. Lopez*, 514 U.S. 549, 561 (1995) (“Under our federal system, the States possess primary authority for defining and enforcing the criminal law.”); *Younger v. Harris*, 401 U.S. 37, 44 (1971) (“This underlying reason for restraining courts of equity from interfering with criminal prosecutions is reinforced by an even more vital consideration, the notion of ‘comity,’ that is, a proper respect for state functions.”); cf. *Gamble v. United States*, 139 S. Ct. 1960 (2019) (recognizing state sovereign interests in the criminal justice context). The Committees’ attempted interference with an ongoing state criminal investigation—and now prosecution—is an unprecedented and illegitimate incursion on New York’s sovereign interests.

Moreover, your examination of the facts of a single criminal investigation, for the supposed purpose of determining whether any charges against Mr. Trump are warranted, is an improper and dangerous usurpation of the executive and judicial functions. See *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2032 (2020) (“Congress may not issue a subpoena for the purposes of ‘law enforcement’ because ‘those powers are assigned under our Constitution to the Executive and the Judiciary.’”); *Plaut v. Spendthrift Farm, Inc.*, 514 U.S. 211, 219, 224 (1995) (“The Framers of our Constitution lived among the ruins of a system of intermingled legislative and judicial powers” and accordingly created a system that separated “the legislative power to make general law from the judicial power to apply that law in particular cases.”). Even worse, based on your reportedly close collaboration with Mr. Trump in attacking this Office and the grand jury process,⁴ it appears you are acting more like criminal defense counsel trying to gather evidence for a client than a legislative body seeking to achieve a legitimate legislative objective.

The Committees’ Vague and Shifting Legislative Purpose is Insufficient

You suggest that your request has a valid legislative purpose because Congress may consider legislation to shield former presidents from state criminal investigations for “personal acts” that do not involve their conduct in office. You did not identify any such legislative purpose in your initial letter, suggesting that your proposal to “insulate current and former presidents”

of an investigation who might otherwise flee or interfere with the grand jury; and (3) preserving the rights of a suspect who might later be exonerated.” (citations omitted; internal quotation marks omitted)); *People v. DiNapoli*, 27 N.Y.2d 229, 235 (1970) (identifying five policy reasons for maintaining the secrecy of grand jury proceedings).

³ See also The Lead with Jake Tapper, CNN, Mar. 26, 2023 (<https://www.cnn.com/videos/politics/2023/03/26/sotu-rep-comer-full.cnn>) (Comer: “[Bragg] should come explain to us exactly what he’s investigating”).

⁴ Annie Grayer et al., *Inside the backchannel communications keeping Donald Trump in the loop on Republican investigations*, CNN.com (March 28, 2023), <https://tinyurl.com/mr3n675p>.

from state criminal investigations is a baseless pretext to interfere with our Office’s work.⁵ Indeed, we doubt that Congress would have authority to place a single private citizen—including a former president or candidate for president—above the law or to grant him unique protections, such as removal to federal court, that are unavailable to every other criminal defendant. “[E]very President takes office knowing that he will be subject to the same laws as all other citizens upon leaving office. This is a feature of our democratic republic, not a bug.” *Comm. on Ways and Means v. U.S. Dep’t of Treasury*, 45 F.4th 324, 338 (D.C. Cir. 2022).

Even if you were seriously considering such legislation and had the constitutional authority to enact it (which you do not), your request for information from the District Attorney and his former attorneys concerning an ongoing criminal probe is unnecessary and unjustified. Congress has many sources from which it could seek information on the wisdom of this legislation, including from former federal or state prosecutors not involved in this pending matter. The “unique constitutional position” our Constitution affords the states with respect to the criminal law “means that Congress may not look” to active state investigations “as a ‘case study’ for general legislation.” *Trump*, 140 S. Ct. at 2035-36 (2020). Likewise, it is unclear what pertinence the requested documents have to Congress’s evaluation of whether to grant a former president or presidential candidate with immunity from prosecution for state crimes. The documents and information relating to the pending criminal case would be relevant only if Congress is intending to specifically prevent this prosecution—an intent that you purport to disclaim.⁶

The DA’s Office Uses Limited Federal Funds to Effectively Fight Crime & Help Victims

The Committees’ initial rationale for its inquiry related to this Office’s use of federal funds. Over the last decade and a half, this Office has *contributed* to the federal fisc. Indeed, the DA’s Office has helped the Federal Government secure more than one billion dollars in asset forfeiture funds in the past 15 years. The DA’s Office receives only a small fraction of those forfeited funds.

⁵ This concern is heightened given that some committee members have explicitly stated an intent to interfere with the state proceeding. For example, responding to Trump’s statement that he would be arrested, Representative Marjorie Taylor Greene stated that “Republicans in Congress MUST subpoena these communists and END this! We have the power to do it and we also have the power to DEFUND their salaries and departments!”, Rep. Marjorie Taylor Greene (@RepMTG), Twitter (Mar. 18, 2023, 8:59 AM), <https://twitter.com/RepMTG/status/1637076244708614144>, and that Republicans who “do nothing to stop” the prosecution “will be exposed to the people and will be remembered, scorned, and punished by the base”, Rep. Marjorie Tylor Greene (@mtgreenee), Twitter (Mar. 18, 2023, 7:57 AM) <https://twitter.com/mtgreenee/status/1637060574314917888>. See also Rep. Anna Paulina Luna (@realannapaulina), Twitter (Mar. 18, 2023, 3:42 PM), <https://twitter.com/realannapaulina/status/1637177616225501191> (“Pay attention to who is being silent on what is currently happening to Trump.”).

⁶ Letter from Rep. Jim Jordan, H. Comm. on the Judiciary, et al. to Hon. Alvin L. Bragg, Jr., District Attorney, New York County (March 23, 2023) at 7 (asserting that “the Committees’ oversight will in no way ‘stop [the] prosecution or set limits on the management of a particular case”).

Our review of the Office's records reflect that, of the federal forfeiture money that the Office helped collect, approximately \$5,000 was spent on expenses incurred relating to the investigation of Donald J. Trump or the Trump Organization. These expenses were incurred between October 2019 and August 2021. Most of those costs are attributed to the Supreme Court case, *Trump v. Vance*—subpoena-related litigation in which the DA's Office prevailed and which led to the indictment and conviction of Trump Organization CFO Allen Weisselberg and two Trump organizations. No expenses incurred relating to this matter have been paid from funds that the Office receives through federal grant programs.

Federal Grant Programs

Currently, the DA's Office participates in three federal grant programs relating to our casework.⁷ Award letters relating to these programs are attached. The Office can provide additional documentation regarding these grants on a rolling basis to be agreed upon in the previously requested meet and confer.

Stop Violence Against Women Act Program. The DA's Office receives \$50,000 in federal grant money yearly via New York State's Division of Criminal Justice Services during our current award period, which runs from January 1, 2021, to December 31, 2025, for work to hold accountable those who commit acts of violence against women. These funds are used to help pay a portion of the salaries for senior positions in the Special Victims Division of the Office, including those who prosecute the most serious acts of violence and who directly interface and help victims of crime through the process. We note that, according to the National Coalition Against Domestic Violence, New York has the third lowest rate of domestic violence victimization for women of all 50 states.⁸

Victims of Crime Act, Victim and Witness Assistance Grant Program. The DA's Office receives \$583,111.04 in federal grant money yearly during our current award period, which runs from October 1, 2022, to September 30, 2025, from the Victims of Crime Act Victim and Witness Assistance Grant Program, which is sub-granted from the federal government through the New York State Office of Victim Services to our Office. All these funds are used by our Witness Aid Services Unit (WASU). WASU provides a variety of court-related services, social services, and counseling services designed to meet the needs of crime victims, witnesses, and their families. The Unit also provides information related to the prosecution of the case, assists victims in understanding the criminal justice system, and provides information regarding crime victims' rights. WASU ensures that crime victims, witnesses, and their families can access the

⁷ In addition, to support the Federal Government's High Intensity Drug Trafficking Areas (HIDTA) program, the DA's Office receives funds and acts as the financial fiduciary recipient for grant funding for the New York/New Jersey HIDTA. Expenditure of these funds is directed by an executive board of law enforcement partners; the DA's Office does not control decision-making on the use of these funds.

⁸ National Coalition Against Domestic Violence, State-By-State Statistics, available at: <https://ncadv.org/state-by-state>.

services they need to address their trauma and rebuild their lives, while also helping them navigate New York's complex court system. All these efforts help make our city safer; by ensuring victims participate in court processes, they help hold those who commit crimes accountable for their actions, and by addressing trauma they help prevent future criminality. Our Office's focus on public safety in every aspect of our work, including WASU, is one thing that helps explain why an expert analysis of the overall impact of the cost of crime per resident, taking into account the cost of both violent and property crime, found New York City the fifth safest large city in America.⁹

Department of Justice, Justice Assistance Grant. The DA's Office receives \$204,730 in federal grant money during our current award period, which runs from October 1, 2020, to September 30, 2024, from the Department of Justice's Justice Assistance Grant program which is sub-granted from the City of New York. These funds go towards addressing violent and other felony crimes in our jurisdiction. With the help of these funds, New York City has the fifth lowest rate of homicides of the top 50 most populated cities in the United States.¹⁰

* * *

Finally, as you are no doubt aware, former President Trump has directed harsh invective against District Attorney Bragg and threatened on social media that his arrest or indictment in New York may unleash "death & destruction." As Committee Chairmen, you could use the stature of your office to denounce these attacks and urge respect for the fairness of our justice system and for the work of the impartial grand jury. Instead, you and many of your colleagues have chosen to collaborate with Mr. Trump's efforts to vilify and denigrate the integrity of elected state prosecutors and trial judges and made unfounded allegations that the Office's investigation, conducted via an independent grand jury of average citizens serving New York State, is politically motivated. *See, e.g., Annie Grayer et al., Inside the backchannel communications keeping Donald Trump in the loop on Republican investigations*, CNN.com (March 28, 2023), <https://tinyurl.com/mr3n675p> ("House GOP Conference Chair Elise Stefanik ... and Trump spoke several times last week alone, where she walked him through the GOP's plans for an aggressive response to Bragg."). We urge you to refrain from these inflammatory accusations, withdraw your demand for information, and let the criminal justice process proceed without unlawful political interference.

⁹ Deb Gordon, Safest Cities In America 2023: Violent Crime Rate Increases Drive Per Capita Cost of Crime, available at <https://www.moneygeek.com/living/safest-cities/>, analyzing 263 cities with populations of over 100,000 using FBI data and relying on academic measurement of the cost of crime to society.

¹⁰ Bloomberg News analysis of murder rates in the top 50 most populated cities in America, using data from the Major Cities Chiefs Association, Federal Bureau of Investigation, local police departments, media reports, and the US Census Bureau, available at: <https://www.bloomberg.com/opinion/articles/2023-03-03/pandemic-murder-wave-has-crested-here-s-the-postmortem>.

The Honorable Jim Jordan, et al.

March 31, 2023

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If you will not withdraw your request, we reiterate our willingness to meet and confer with you or your staff about how we can accommodate your request without violating our obligations as prosecutors to protect the integrity of an ongoing criminal prosecution. We respectfully request that you provide us with a list of questions you wish to ask District Attorney Bragg and to describe the type of documents you think we could produce that would be relevant to your inquiry without violating New York grand jury secrecy rules or interfering with the criminal case now before a court. We trust you will make a good-faith effort to reach a negotiated resolution before taking the unprecedented and unconstitutional step of serving a subpoena on a district attorney for information related to an ongoing state criminal prosecution.

Respectfully Submitted,



Leslie B. Dubeck
General Counsel

cc: Honorable Jerrold Nadler, Ranking Member, Committee on the Judiciary

Honorable Joseph Morelle, Ranking Member, Committee on House Administration

Honorable Jamie Raskin, Ranking Member, Committee on Oversight and Accountability

Majority Staff, Committee on the Judiciary

Minority Staff, Committee on the Judiciary