

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL**



**ATTORNEY GENERAL
BRIAN L. SCHWALB**

January 2, 2024

The Honorable Jim Jordan
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

The Honorable James Comer
Chairman
Committee on Oversight and Accountability
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Jordan and Chairman Comer:

I write in response to your December 18, 2023 letter, which repeats requests made in your October 30 letter for “documents and communications” regarding the Office of the Attorney General’s (OAG) alleged “efforts to target Leonard Leo and certain nonprofit organizations with which he is affiliated.”¹ After thoughtful consideration, I must reiterate what I stated in my prior correspondence of November 13, 2023: our office has a longstanding policy—consistent with the policies of law enforcement agencies across the country—not to confirm, deny, or otherwise comment on potential or pending investigations. That approach preserves the integrity of the investigative function, and nothing in your latest letter sets forth a persuasive reason for deviating from that principled, well-established policy.

As you know, Congress has traditionally—and responsibly—refrained from requesting information from federal, state, and local law enforcement agencies while potential or pending investigations may be ongoing. Congress’s customary judicious approach recognizes that “such inquiries inescapably create the risk that the public and the courts will perceive undue political and Congressional influence over law enforcement and litigation decisions.”² Even for completed law enforcement investigations, Congress’s investigatory power is not unlimited. As the Supreme Court has held, Congress is limited to compelling responses to an inquiry only

¹ Letter from Chairman Jim Jordan and Chairman James Comer to Attorney General Brian Schwalb (Dec. 18, 2023).

² *See, e.g.*, Letter from Assistant Attorney General Robert Raben to Chairman John Linder (Jan. 27, 2000).

The Honorable Jim Jordan
The Honorable James Comer
January 2, 2024

when it has identified a “valid legislative purpose” for the inquiry, one that is “detailed and substantial” rather than “vague and loosely worded.”³

Your December 18 letter does not recognize OAG’s legitimate law enforcement interests, nor does it identify a valid “detailed and substantial” legislative purpose for your inquiry. Moreover, none of the cases cited in your letter support diverging from the legislative branch’s long-standing practice of eschewing interference in potential or pending law enforcement investigations.

Equally troubling, your December 18 letter reflects a continued misapprehension of OAG’s authority regarding nonprofits doing business in the District. Your letter implies that our office seeks to enforce the District’s Nonprofit Corporation Act against individuals and groups with only fleeting or even one-time interactions with federal government offices in the District of Columbia. This distorts our position, which is simply that nonprofits that register, maintain an office, or regularly conduct business in the District are subject to District laws. As stated in my prior letter, it is well-established—even self-evident—that corporations operating within a particular jurisdiction must comply with the laws of that jurisdiction.

Your December 18 letter repeats several other points from your original letter. I addressed those points in my prior correspondence and so, rather than repeating, I incorporate my prior correspondence here.

I remain open to a productive and constructive discussion about whether we can help your Committees pursue a valid legislative purpose while not compromising long-standing, universally held law enforcement principles. However, your correspondence’s refusal to acknowledge these principles or identify any valid legislative purpose, coupled with its thoroughly politicized rhetoric, would seem to cast doubt on whether such a productive discussion is possible. To the contrary, it strongly suggests that you would use any effort by our office to more fully engage with your inquiry for no purpose other than to amplify your erroneous and ill-founded accusation that our office is influenced by political interests. OAG is a law enforcement agency. Without fear or favor, we impartially investigate the facts, wherever they lead, and faithfully apply the law. We do not play politics. I respectfully request that your Committees not interfere with us doing our job.

³ *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2036 (2020).

The Honorable Jim Jordan
The Honorable James Comer
January 2, 2024

If you have any additional questions about our position or our jurisdiction, please have your staff contact Candyce Phoenix, Deputy Attorney General for Policy and Legislative Affairs, to make arrangements.

Sincerely,

A handwritten signature in blue ink, appearing to read "B. Schwalb".

Brian L. Schwalb
D.C. Attorney General

cc:

The Honorable Jerrold Nadler
Ranking Member
House Committee on the Judiciary

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