

# **INITIAL FINDINGS REPORT**

**ON THE FAILURES AND POLITICIZATION OF THE JANUARY 6TH  
SELECT COMMITTEE AND THE ACTIVITIES ON AND LEADING UP TO  
JANUARY 6, 2021**

**FIRST SESSION OF THE 118TH CONGRESS  
PREPARED AT THE DIRECTION OF CHAIRMAN BARRY LOUDERMILK  
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**HOUSE ADMINISTRATION  
SUBCOMMITTEE ON  
OVERSIGHT**

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## TOPLINE

The Committee on House Administration Subcommittee on Oversight (“Subcommittee”) Chairman Barry Loudermilk, since early 2023, has been investigating the failures at the United States Capitol on January 6, 2021, which House Democrats failed to do in the 117th Congress. The purpose of this investigation is to identify and review the numerous security failures on and leading up to January 6, 2021, and to review the creation, operation, and results of Speaker Nancy Pelosi’s Select Committee to Investigate the January 6th Attack on the United States Capitol (“Select Committee”).

Speaker Pelosi and House Democrats spent millions of taxpayer dollars on their politically motivated Select Committee<sup>1</sup> yet failed to thoroughly investigate and review the security failures at the Capitol on and before January 6, 2021. Instead, the members of the Select Committee were laser-focused on their effort to promote their pre-determined narrative that President Trump was responsible for the breach of the Capitol on January 6 and should therefore be held accountable, by any means necessary.

Throughout its nearly two years of work, the Select Committee presented uncorroborated, cherry-picked evidence that fit its narrative. The Select Committee did not attempt to hide its bias and, in fact, memorialized its own failures and prejudice when it published its Final Report in December 2022.<sup>2</sup> A review of the nearly one-thousand-page report reveals Speaker Pelosi’s multimillion-dollar Select Committee was a political weapon with a singular focus on promoting the narrative that President Trump was responsible for the violence on January 6.

The Select Committee failed to sufficiently investigate the security failures, and as a result, the Capitol is no safer today than it was when the Select Committee was created. In order to properly protect the institution that the framework of American democracy rests upon, Congress must take a serious look at why the Capitol was ill-prepared and what security changes are needed to ensure adequate protection for Members of Congress, the thousands of staff who work in the Capitol complex, and the millions of people who visit the site each year.

The events of January 6, 2021, were preventable. The politicization of Capitol security directly contributed to the many structural and procedural failures witnessed that day. Through the Subcommittee’s robust oversight of the United States Capitol Police (“USCP”) and supporting entities, we are committed to ensuring necessary reforms to USCP operations and the Capitol’s physical security.

## INTRODUCTION

The January 6, 2021, attack at the United States Capitol was a dark day for our country. Some individuals broke the law by assaulting United States Capitol Police officers and forcefully breaking through windows and doors to gain access to the Capitol. Thousands of other Americans participated in protests outside of the Capitol. Since January 6, 2021, over one

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<sup>1</sup> Warren Rojas, *House weaponization panel seeks to eclipse January 6 committee's \$18M+ budget despite rocky start*, Business Insider, Mar 8, 2023.

<sup>2</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

thousand Americans have been charged with federal crimes by the United States Attorney for the District of Columbia.<sup>3</sup>

Many Members of Congress were in the Capitol on January 6, 2021. That includes the Chairman and multiple members of the Committee on House Administration Subcommittee on Oversight who experienced firsthand the violence that occurred that day and mourn the lives lost both on January 6 and thereafter. Reflecting on and analyzing a traumatic event such as January 6 is never an easy task, but it is essential that the American public have access to the facts so that they may draw their own conclusions.

In advance of January 6, 2021, there were known threats against Congress. Due to the anticipated large scale of the scheduled protest activity derived from gathered intelligence, the Capitol and much of the surrounding city adopted an enhanced security posture.<sup>4</sup> However, it was not adequate to stop hundreds of protesters determined to get into the Capitol building.

The Subcommittee must investigate the USCP failures that, at least in part, led to the security breakdown that day. The USCP's mission is to "[p]rotect the Congress — its Members, employees, visitors, and facilities — so it can fulfill its constitutional and legislative responsibilities in a safe, secure and open environment."<sup>5</sup> USCP's leadership failed in its responsibilities on January 6, 2021. They lacked the leadership, equipment, and training necessary for officers to deal with the challenges of a protest of this size and scale.

To provide full transparency, it is vital for the Subcommittee to review the actions of Congress in the aftermath. After House Democrats impeached President Trump over the events of January 6, 2021, but failed to secure a conviction in the Senate, Speaker Nancy Pelosi established the *Select Committee to Investigate the January 6th Attack on the United States Capitol* ("Select Committee").<sup>6</sup> The Select Committee had one purpose: advance a political narrative using cherry-picked information that supports its overall narrative.

After Speaker Pelosi refused to seat two of the Republican members named by Minority Leader Kevin McCarthy to the Select Committee — further entrenching its partisan purpose — the group of five original Republican appointees, led by Representative Jim Banks, conducted their own investigation. Representative Banks subsequently published the *Report of Investigation: Security Failures at the United States Capitol on January 6, 2021* ("Banks Report"). The Banks Report identified many government intelligence shortcomings including the failure to adequately transmit and act on information obtained in advance of January 6, 2021.<sup>7</sup> However, because Speaker Pelosi refused to appoint these Republican members to the Select Committee, they lacked authority to issue subpoenas or access the millions of pages of records collected by the Select Committee.

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<sup>3</sup> Press Release: 30 Months Since the Jan. 6 Attack on the Capitol, United States Attorney's Office, District of Columbia (Oct. 6, 2023).

<sup>4</sup> Jacqueline Alemany, et al., *Red Flags*, Washington Post, Oct. 31, 2021.

<sup>5</sup> *The Department*, USCP, Accessed Feb. 27, 2024.

<sup>6</sup> H.R. Res. 503, 117th Cong. (2021).

<sup>7</sup> STAFF OF H. COMMITTEE ON H. ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2022).

The Subcommittee’s goal is not to rewrite the events of January 6 nor to promote a political narrative. It is the firm belief of the Subcommittee that it is Congress’s duty to provide full transparency to the American people so they can draw their own conclusions based on the information available, not just the information that supports one perspective. This report summarizes more than one year of independent investigation by the Subcommittee and findings based on nonpartisan evidence, firsthand accounts of events, and thorough comparisons of official records, official hearings, and letters at the direction of Chairman Barry Loudermilk.

## SUBCOMMITTEE ON OVERSIGHT JURISDICTION

Rule X of the House Rules states that the Committee on House Administration (“Committee”) has jurisdiction over “services to the House” which includes the “administration of the House Office Buildings and of the House wing of the Capitol.”<sup>8</sup> Included in the services to the House is the Committee’s responsibility to oversee the USCP. Additionally, federal law provides that Congress has the authority and responsibility to oversee the security of the Capitol. This statute provides that the “maintenance of the security systems of the Capitol buildings and grounds” is to be carried out at the direction of the Committee on House Administration.<sup>9</sup>

When the Select Committee was created in the 117th Congress, its establishing resolution stated that “the records of the Select Committee shall become the records of such committee or committees designated by the Speaker[.]”<sup>10</sup> On December 29, 2022, Speaker Pelosi wrote a letter pursuant to that clause directing Select Committee Chairperson Bennie Thompson to transfer Select Committee records to the Committee at the close of the 117th Congress.<sup>11</sup> At the start of the 118th Congress, the resolution adopting the Rules of the House further reiterated that “any records obtained” by the Select Committee be transferred to the Committee.<sup>12</sup>

The rules of the Committee grant the Subcommittee jurisdiction over all “matters relating to congressional security, accountability of the legislative branch security and safety apparatus, legislative branch operations, and such other matters as may be referred.”<sup>13</sup> The rules of the Committee empower the Subcommittee to gather evidence on matters within its jurisdiction, specifically, with respect to congressional security and the accountability of legislative branch security.<sup>14</sup>

## I: THE SELECT COMMITTEE

Democrats wasted no time before pointing fingers at President Trump for the events of January 6, 2021. The Select Committee’s conclusion—that President Trump was at fault for every tragedy that occurred at the Capitol that day—was determined before the Select Committee was even established. On January 7, 2021, Speaker Pelosi and Majority Leader Schumer called for President Trump to be immediately removed from office, whether it took using the 25th

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<sup>8</sup> Rule X, Rules of the House of Representatives, 118th Congress (Jan. 10, 2023).

<sup>9</sup> 2 U.S. Code § 1965 (1996); The code states this authority is granted to “the Committee on House Oversight” which, in 1999, was renamed the Committee on House Administration.

<sup>10</sup> H.R. Res. 503, 117th Cong. (2021).

<sup>11</sup> Letter from Nancy Pelosi to Bennie Thompson (Dec. 29, 2022). (on file with the Subcommittee).

<sup>12</sup> H.R. Res. 5, 118th Cong. (2023).

<sup>13</sup> Rule 17, Rules of the Committee on House Administration for the 118th Congress, 118th Congress (2023).

<sup>14</sup> Rule 19, Rules of the Committee on House Administration for the 118th Congress, 118th Congress (2023).

Amendment or impeachment.<sup>15</sup> A few weeks later, Speaker Pelosi went as far as to say that President Trump could be an “accessory to murder.”<sup>16</sup> When it became evident that President Trump was not going to be held accountable in the way that Speaker Pelosi wanted him to be, she then turned to establish the Select Committee in June of 2021.<sup>17</sup> Without question, the Select Committee was used as a tool for Speaker Pelosi and House Democrats’ to manipulate the facts surrounding January 6 and place the blame solely at the feet of President Trump, regardless of where an actual investigation would take them.

## FORMATION OF SPEAKER PELOSI'S PARTISAN SELECT COMMITTEE

The Select Committee was procedurally flawed before holding its first hearing. Unlike every previous select committee, House Democrats and Speaker Pelosi refused to permit the minority party to select the minority members appointed to the Select Committee. Additionally, because of this decision, despite House Democrats attempts to argue otherwise, the Select Committee did not have a ranking minority member. The Select Committee operated with a singular focus, not on the objectives specified in the resolution that created it, but on the partisan political objectives of Speaker Pelosi and the members of the Select Committee. On June 30, 2021, House Democrats passed H.Res. 503, *establishing the Select Committee to Investigate the January 6th Attack on the United States Capitol* with a vote of 222-190.<sup>18</sup> All Democrat Members voted in favor of creating the Select Committee, while only two Republican Members, Representatives Adam Kinzinger and Liz Cheney, joined them in supporting this resolution.<sup>19</sup>

House Democrats modeled the Select Committee after the *Select Committee on the Events Surrounding the 2012 Terrorist Attack in Benghazi* (“Select Committee on Benghazi”). Unlike the Select Committee on Benghazi where the Speaker allowed the Minority Leader to select their own minority members, Speaker Pelosi refused to allow the Minority Leader to select minority members resulting in a solely partisan exercise determined to blame President Trump for the breach of the Capitol on January 6.<sup>20</sup>

## SPEAKER PELOSI'S UNPRECEDENTED DECISION TO REJECT MINORITY MEMBER APPOINTMENTS

The resolution establishing the Select Committee stated that the “Speaker *shall* appoint 13 members to the Select Committee.”<sup>21</sup> The resolution allowed Speaker Pelosi to appoint eight members unilaterally and required Speaker Pelosi to appoint an additional five members after consultation with the minority leader.<sup>22</sup> Speaker Pelosi appointed Representatives Zoe Lofgren,

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<sup>15</sup> Julian Borger, *Democratic leaders call for Trump's removal from office*, The Guardian, Jan. 7, 2021.

<sup>16</sup> Evan Semones, *Pelosi says Trump could be accessory to murder after Capitol riot*, Politico, Jan. 20, 2021.

<sup>17</sup> Claudia Grisales, *House Speaker Nancy Pelosi Launches Select Committee To Probe Jan. 6 Insurrection*, NPR, June 24, 2021.

<sup>18</sup> Roll Call 197, H.R. Res. 503, 117th Cong. (2021).

<sup>19</sup> *Id.*

<sup>20</sup> Jonathan Weisman, *Pelosi Picks 5 Democrats for Panel on Benghazi*, N.Y. Times, May 21, 2024.

<sup>21</sup> H.R. Res. 503, 117th Cong. § 2 (2021) (emphasis added).

<sup>22</sup> H.R. Res. 503, 117th Cong. § 2 (2021).

Adam Schiff, Pete Aguilar, Stephanie Murphy, Jamie Raskin, and Bennie Thompson, who Speaker Pelosi selected to serve as chairperson. Speaker Pelosi also appointed Representative Liz Cheney to the Select Committee as one of her original eight majority selections.<sup>23</sup> Minority Leader Kevin McCarthy selected Representatives Jim Jordan, Rodney Davis, Kelly Armstrong, and Troy Nehls, with Representative Jim Banks to serve as ranking member.<sup>24</sup>

Speaker Pelosi then made the unprecedented decision to deny seating two of the five Members Minority Leader McCarthy recommended — Representatives Banks and Jordan. Both of these Members were outspoken supporters of President Trump and likely would have disrupted Speaker Pelosi’s desire to use the Select Committee as a political messaging tool in her mission to prevent President Trump from holding public office again. Representative Schiff confirmed this when he said, “[h]ad the Speaker seated on the committee the circus clowns [referring to Representatives Banks and Jordan], the insurrection sympathizers, it would’ve been just a shit show... *It wouldn’t have been worth watching.*”<sup>25</sup>

After refusing Minority Leader McCarthy’s selections, Speaker Pelosi then appointed Representative Kinzinger, leaving the committee with nine members, not thirteen. As a result, the Select Committee only included Speaker Pelosi’s hand-picked Members.<sup>26</sup> The Select Committee held hearings, issued subpoenas, and published a flawed report without the number of members required by H.Res. 503.

House Democrats failed to identify any other previous example of a Speaker of the House refusing to seat minority-recommended members to a select committee as justification for Speaker Pelosi’s decision. House Democrats attempted to justify their decision for the Select Committee proceeding without minority-selected members by pointing to the 2005 *Select Bipartisan Committee to Investigate the Preparation for and Response to Hurricane Katrina* (“Katrina Select Committee”).<sup>27</sup> The House resolution establishing the Katrina Select Committee instructed that committee membership “shall be composed of twenty members appointed by the Speaker, of whom nine shall be appointed after consultation with the Minority Leader.”<sup>28</sup> The Katrina Select Committee failed to seat twenty members only because then-Minority Leader Pelosi refused to submit minority members to be appointed to the committee.<sup>29</sup> In court filings, House Democrats asserted the Katrina Select Committee established a precedent for a select committee operating with no participation from the minority.<sup>30</sup> However, House Democrats failed to acknowledge an important distinction between a select committee where the *minority refuses* to recommend members, as was the case with the Katrina Select Committee, and a select committee where the *majority refuses* to seat the minority selections, like in the case of the Select Committee.

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<sup>23</sup> Press Release, Speaker Nancy Pelosi, Pelosi Names Members to Select Committee to Investigate January 6th Attack on the U.S. Capitol (July 1, 2021).

<sup>24</sup> Olivia Beavers, *McCarthy makes his 5 GOP picks for Jan. 6 select committee*, Politico, July 19, 2021.

<sup>25</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023. (emphasis added).

<sup>26</sup> Brian Naylor, *Pelosi Rejects 2 GOP Nominees For The Jan. 6 Panel, Citing The Integrity Of The Probe*, NPR, July 21, 2021.

<sup>27</sup> Kyle Cheney, *Jan. 6 committee rebuts challenges to its legitimacy, citing Katrina and Benghazi probes*, Politico, Jan. 13, 2022.

<sup>28</sup> H.R. Res. 437, 109th Congress.

<sup>29</sup> Carl Hulse, *G.O.P. in House Plans Inquiry Despite Democrats’ Boycott*, N.Y. Times, Sep. 22, 2005.

<sup>30</sup> Def. Memo of Law in Opp. to Plaintiffs at 18, *Budowich v. Pelosi*, 1:21-cv-03366-JEB (D.D.C).



Speaker Pelosi knew her actions were unprecedented. She specifically acknowledged the unprecedented nature of her decision in her July 2021 press release announcing her decision to reject two Republican Members.<sup>31</sup> This decision to reject minority representation on the Select Committee underscores the partisan nature of its formation, thus casting a partisan shadow on all its hearings and reports.

## VICE CHAIR—NOT RANKING MEMBER

The Select Committee did not have a ranking minority member, it had a vice chair. Instead, shortly before hearings began the Select Committee named Representative Cheney as “Vice Chair.” The position of vice chair is distinct and different from a ranking minority member as clearly understood by House Rules, conference and caucus rules, and precedent.<sup>32</sup>

H. Res. 503 specifically required the Chair of the Select Committee to “consult with the ranking minority member” in certain circumstances. For example, the Chair of the Select Committee could only issue a subpoena “upon consultation with the ranking minority member.”<sup>33</sup> When House Democrats drafted and passed H Res. 503, they could have given the Select Committee Chair unilateral authority to issue subpoenas; however, H. Res. 503 included the requirement that the Select Committee Chair should only have the ability to issue a subpoena after “consultation with the ranking minority member.”<sup>34</sup>

## VICE CHAIR CHENEY

Vice Chair is a common and well-understood term under House Rules. Rule XI of the Rules of the House for the 117th Congress stated that a “member of the majority party on each standing committee or subcommittee shall be designated by the chair of the full committee as the vice chair.”<sup>35</sup> This provision goes on to articulate that if the chair of the committee is not present then the vice chair—who is a member of the same party as the chair—shall preside over the proceeding.<sup>36</sup> Additionally, both the Democratic Caucus and Republican Conference use the term vice chair to describe a position junior to the chair to be filled by a Member from the same political party.<sup>37</sup>

Chairperson Bennie Thompson selected a Vice Chair of the Select Committee in the same manner House Rule XI instructs chairs of standing committees to select a vice chair. Chairperson Thompson initially offered the role of Vice Chair to Representative Jamie Raskin, a fellow Democrat,<sup>38</sup> but Raskin declined and instead suggested that Representative Liz Cheney be named Vice Chair.<sup>39</sup> Representative Raskin recommended Representative Cheney be named Vice Chair

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<sup>31</sup> Press Release, Speaker Nancy Pelosi, Pelosi Statement on Republican Recommendations to Serve on the Select Committee to Investigate the January 6th Attack on the U.S. Capitol (July 21, 2021).

<sup>32</sup> Rule XI, Rules of the U.S. House of Representatives, 117th Cong. (2021); Rule 14, Rules of the House Republican Conference, 118th Congress (2023); Rule 21, Rules of the Democratic Caucus, 118th Congress (2023).

<sup>33</sup> H.R. Res. 503, 117th Cong. § 2 (2021).

<sup>34</sup> H.R. Res. 503, 117th Cong. § 5 (2021).

<sup>35</sup> Rule XI, Rules of the U.S. House of Representatives, 117th Cong. (2021).

<sup>36</sup> *Id.*

<sup>37</sup> *House Republican Conference Vice Chair Blake Moore*, House GOP, Accessed Feb. 22, 2024.

<sup>38</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023.

<sup>39</sup> *Id.*

to give the impression that the Select Committee was bipartisan.<sup>40</sup> Ultimately, Chairperson Thompson announced that he offered Representative Cheney the title of Vice Chair.<sup>41</sup> Chairperson Thompson named Representative Cheney Vice Chair of the Select Committee in the same manner Vice Chairs are named under rule XI. Thus, Representative Cheney fulfilled the traditional Vice Chair role for the majority party on the Select Committee—not the role of a ranking minority member.

## NO RANKING MINORITY MEMBER

House Democrats incorrectly asserted that Representative Cheney was the ranking minority member of the Select Committee. A ranking minority member is not just a member of the minority party, but is a member of the minority party selected by the minority party to serve as ranking minority member. Although Representative Cheney was a member of the Republican party, she was not chosen by the minority as the Select Committee ranking minority member. Speaker Pelosi appointed Representative Cheney to the Select Committee as one of the eight selections specifically allocated by H. Res. 503 for the Democrat majority.

The term ranking minority member has a clear and understood meaning under House Rules. According to House Rule X Clause 5, the members of standing committees shall be elected “from nomination submitted by the respective party caucus or conference.”<sup>42</sup> In the same manner that minority members of a committee are selected by the respective caucus, respective minority parties also select ranking minority members to serve on standing committees. Both the Republican Conference and Democratic Caucus Rules have procedures for appointing ranking members to committees, with their respective Steering Committees first nominating members for the role and then the conference or caucus voting on those recommendations.<sup>43</sup> Both use similar language in their process to select members for chair and ranking member, and neither gives the opposing party’s leadership the power to select their ranking members.<sup>44</sup> Based on House Rules and precedent, a ranking minority member is commonly understood to be the minority party member selected by the minority party.

Former White House Chief of Staff Mark Meadows filed a lawsuit challenging the validity of a Select Committee subpoena for numerous reasons, including because H. Res. 503 required the Chair of the Select Committee to consult with the Ranking Member to order a deposition, including pursuant to a subpoena.<sup>45</sup> In a Motion for Summary Judgment, House Democrats argued that Representative Cheney “by virtue of being the first minority party Member appointment to the Select Committee, is, by definition, the senior ranking minority member of the Select Committee.”<sup>46</sup> The filing also incorrectly asserted that this interpretation of the term

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<sup>40</sup> *Id.*

<sup>41</sup> Annie Grayer et. al., *Liz Cheney named vice chair of the January 6 select committee* (Sept. 2, 2021).

<sup>42</sup> Rule X, Rules of the U.S. House of Representatives, 118th Cong. (2023).

<sup>43</sup> Rule 14, Rules of the House Republican Conference, 118th Cong. (2023); Rule 21, Rules of the Democratic Caucus, 118th Cong. (2023).

<sup>44</sup> *Id.*

<sup>45</sup> Luke Broadwater, *Meadows Sues Pelosi in Bid to Block Jan. 6 Committee Subpoena* (Dec. 8, 2021); Complaint, at 28, *Meadows v. Pelosi*, 1:21-cv-3217-CJN (D.D.C.).

<sup>46</sup> Def. Mot. For Summ. J., at 25, *Meadows v. Pelosi*, 1:21-cv-3217-CJN (D.D.C.).

ranking minority member is “consistent with House practice and precedent,” as noted above.<sup>47</sup> Both of these assertions are incorrect.

In the Motion for Summary Judgment, House Democrats cited H. Res. 10 as justification for this interpretation of the term ranking minority member.<sup>48</sup> H. Res. 10 appointed ranking minority members to standing committees in the 117th Congress.<sup>49</sup> However, House Democrats failed to acknowledge that while ranking minority members are the first minority members appointed to standing committees, ranking minority members are first selected according to conference rules, offered by the minority, and not blocked by the majority. H. Res. 10 demonstrates the House practice that the ranking minority member is selected by the minority conference, not simply the first minority members named to a committee.

## A COMMITTEE WITHOUT RULES

House Democrats made yet another unprecedented decision when they chose to exempt the Select Committee from the clause in House Rule XI which requires all committees to adopt internal committee rules to govern committee operations.<sup>50</sup> Rule XI requires that committee rules provide for equal time for majority and minority member asking alternate questions.<sup>51</sup> Under Rule XI, committees “may adopt a rule” allotting more than five minutes for each member to ask witness questions but that time must be “equal for the majority party and the minority party.”<sup>52</sup> This rule, and the concept of minority voice, is longstanding precedent of the House.

Instead of adopting committee rules, the Select Committee relied on H. Res. 503 as their quasi-rules which gave Chairperson Bennie Thompson an unprecedented level of power over every action of the Select Committee allowing it to operate in ways other House Committees could not.

## STATED SELECT COMMITTEE OBJECTIVES

The Select Committee focused its work on President Donald Trump instead of investigating the issues outlined by the resolution that established the panel. H. Res. 503 contained specific objectives for the Select Committee, but its hearings and work product, specifically the Final Report, failed to adequately address those objectives. According to H. Res. 503, the Select Committee’s purpose was to identify, review, and evaluate:

- (A) activities of intelligence agencies, law enforcement agencies, and the Armed Forces, including with respect to intelligence collection, analysis, and dissemination and information sharing among the branches and other instrumentalities of government;
- (B) the structure, coordination, operational plans, policies, and procedures of the Federal Government, including as such relate to State and local governments and nongovernmental entities, and particularly with respect to detecting, preventing, preparing for, and responding to targeted violence and domestic terrorism;

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

<sup>48</sup> *Id.*

<sup>49</sup> H.R. Res. 10, 117th Cong. (2021).

<sup>50</sup> H.R. Res. 503, 117th Cong. § 5 (c)(1) (2021).

<sup>51</sup> Rule XI, Rules of the U.S. House of Representative, 118th Cong. (2023).

<sup>52</sup> *Id.*

- (C) the structure, authorities, training, manpower utilization, equipment, operational planning, and use of force policies of the United States Capitol Police;
- (D) the policies, protocols, processes, procedures, and systems for the sharing of intelligence and other information by Federal, State, and local agencies with the United States Capitol Police, the Sergeants at Arms of the House of Representatives and Senate, the Government of the District of Columbia, including the Metropolitan Police Department of the District of Columbia, the National Guard, and other Federal, State, and local law enforcement agencies in the National Capital Region on or before January 6, 2021, and the related policies, protocols, processes, procedures, and systems for monitoring, assessing, disseminating, and acting on intelligence and other information, including elevating the security posture of the United States Capitol Complex, derived from instrumentalities of government, open sources, and online platforms; and
- (E) the policies, protocols, processes, procedures, and systems for interoperability between the United States Capitol Police and the National Guard, the Metropolitan Police Department of the District of Columbia, and other Federal, State, and local law enforcement agencies in the National Capital Region on or before January 6, 2021.<sup>53</sup>

The mandate for the Select Committee does not mention “President Trump,” yet the Select Committee’s Final Report mentions him more than 1,900 times, revealing the actual focus of the Select Committee’s investigation. The Select Committee did not try to hide their partisan intent to legislatively prosecute President Trump — it memorialized it.

## BUDGET AND STAFF

H. Res 503 empowered and enabled the Select Committee’s partisan agenda with an unlimited budget.<sup>54</sup> The Select Committee leveraged its unlimited budget to hire Hollywood producers and consultants to push the Select Committees narrative to the American public.<sup>55</sup> The Select Committee also spent a significant amount of taxpayer dollars on outside contractors.<sup>56</sup> Based on the House of Representatives Statement of Disbursements, the Select Committee spent \$13,840,833.80 in 2021 and 2022 combined.<sup>57</sup> However, it is estimated that the Select Committee spent around \$19,000,000 in other expenses.<sup>58</sup> In comparison, this amount is significantly higher than the \$7,000,000 spent by the Select Committee on Benghazi, which is the only select committee in history to operate with the same blank-check appropriation.<sup>59</sup>

The Select Committee also had the authority and ability to hire an unlimited number of staff.<sup>60</sup> In total, the Select Committee had a staff of nearly 80 people, including former television producers hired specifically to choreograph the Select Committee’s made-for-tv hearings.<sup>61</sup> The Select

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<sup>53</sup> H.R. Res. 503, 117th Cong. (2021).

<sup>54</sup> H.R. Res. 503, 117th Cong. § 6 (f) (2021).

<sup>55</sup> *Id.*

<sup>56</sup> H. Doc. No. 117-84; H. Doc. No. 118-5.

<sup>57</sup> *Id.*

<sup>58</sup> Warren Rojas, *House weaponization panel seeks to eclipse January 6 committee's \$18M+ budget despite rocky start*, Business Insider, Mar 8, 2023.

<sup>59</sup> *Two years, \$7 million, 800 pages later, GOP Benghazi report lands with a thud*, PBS News Hour, Jun 28, 2016.

<sup>60</sup> H.R. Res. 503, 117th Cong. (2021).

<sup>61</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023.

Committee also recruited hand-picked investigators such as the Select Committee’s Chief Investigative Counsel who, in 2009, was nominated by President Obama to serve as the United States Attorney for the Western District of Virginia.<sup>62</sup> The Chief Investigative Counsel served as a U.S. Attorney under Attorney General Eric Holder and, according to Holder, the two had “a long history.”<sup>63</sup> While serving as the U.S. Attorney for the Western District of Virginia, the Chief Investigative Counsel even served on Attorney General Holder’s Advisory Committee which advised the Attorney General on “emerging policy issues.”<sup>64</sup>

Traditionally, budget and staff slots are allocated between the majority and minority on committees and select committees under House precedent and practice.<sup>65</sup> However, because Speaker Pelosi hand-picked every member of the Select Committee, there was no division of resources between the majority and minority. The Select Committee, with its unlimited budget, operated as one unified body with no minority or dissenting views.

## PRIMETIME MEDIA HEARINGS

The Select Committee did not want to hold hearings; it wanted to grab the American public’s attention and present a political narrative. The Select Committee enlisted the help of Hollywood producers to edit USCP closed circuit television (“CCTV”) footage, as well as videos of depositions and transcribed interviews, for use at public hearings.<sup>66</sup> The Select Committee held eleven hearings, with multiple hearings airing live during the coveted 8:00 p.m. to 10:00 p.m. “primetime” slot. With the help of their well-connected Hollywood producer, they secured primetime coverage from most major networks.<sup>67</sup>

During the Select Committee’s hearings, they had a full production team located everywhere from Chicago to Las Vegas, dedicated to producing graphics, creating compelling narrative videos, and monitoring social media to gauge public reaction in real time.<sup>68</sup> According to New York Times investigative reporting, “The committee’s intention was to aim for the impact of the televised 1973 Senate Watergate Committee hearings — which started off with little public attention, facing the headwinds of President Richard Nixon’s overwhelming re-election, but would convince skeptical Republicans and help turn the tide of public opinion.”<sup>69</sup>

The format of the Select Committee’s hearings was unlike other House hearings where majority and minority members alternate asking questions with five minutes intervals for each member to ask questions. The format of questioning is traditionally specified in each committee’s rules.<sup>70</sup> The Select Committee’s hearings were tightly choreographed, with each one requiring multiple, meticulous rehearsals which could last up to five hours.<sup>71</sup> Only two members of the Select

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<sup>62</sup> Press Release, United States Attorney’s Office, United States Attorney Timothy J. Heaphy Western District of Virginia (Nov. 24, 2014).

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

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

<sup>65</sup> H.R. Res. 316, 117th Cong. (2021).

<sup>66</sup> Annie Karni, *The committee hired a TV executive to produce the hearings for maximum impact*, N.Y. Times, June 9, 2022.

<sup>67</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023.

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

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

<sup>70</sup> Rule 9, Rules of the Committee on House Administration for the 118th Congress, 118th Cong. (2023).

<sup>71</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023.

Committee had active roles during each of the Select Committee’s highly scripted hearings — a strategy adopted for maximum messaging impact at each hearing.

The Select Committee’s goal was sensationalism. According to public reporting, every word in every hearing was fully scripted.<sup>72</sup> During hearings, the Member of the Select Committee designated to speak read their script from a teleprompter in front of the dais. The scripts were also sent to news outlets in advance of the hearings to “help facilitate coverage and cue camera angles for dramatic moments.”<sup>73</sup> The Select Committee focused more on pushing their predetermined narrative and presenting a show-trial to the American public than investigating the security failures of January 6, 2021.

## CONCLUSION

The Select Committee was a partisan exercise from the beginning and its work product and findings must be carefully weighed against its partisan formation. The Select Committee’s hearings and final report are tainted by the unprecedented partisan decisions made by Speaker Pelosi. The Select Committee’s Final Report contains some facts, but the conclusions and findings presented were predetermined due to the committee’s partisan nature.

Speaker Pelosi’s unprecedented decision to reject the minority party’s selections for the Select Committee set the tone for how the Select Committee would function. It meant that the Select Committee lacked a ranking minority member and instead operated with a vice chair, two distinctly different roles which House Democrats incorrectly asserted were interchangeable. As a result, some Select Committee actions were procedurally flawed. The Select Committee effectively operated as a federal prosecutor targeting President Trump. However, this was a prosecution without due process. There was no cross-examination of the witnesses, and the Select Committee was determined to obtain one narrative while failing to effectively question witnesses and uncover the truth based on facts.

House Democrats had the power to establish a Select Committee with no rules and without a requirement that the ranking minority member be consulted for certain actions. Instead, they included a requirement that the Chair of the Select Committee consult with the ranking minority member — which was impossible after Speaker Pelosi rejected the minority party’s selected members for the Select Committee.

This allowed Democrats to hand-pick the Republican members *they* thought were suitable while also claiming to be bipartisan for the sake of good television. The Select Committee accomplished its mission — for almost two years it promoted their predetermined narrative through made-for-Hollywood trials to the American public rather than investigating the security failures of January 6, 2021.

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

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

## II: ACCOUNTABILITY AND TRANSPARANCY: WHAT THE SELECT COMMITTEE DID NOT SHOW THE AMERICAN PUBLIC

The Select Committee collected and reviewed significantly more information about the underlying causes of January 6 than it released on its website. At the conclusion of the 117th Congress, the Select Committee released its highly promoted Final Report and carefully selected records to accompany it, that as their website suggests, supports the Select Committee’s narrative. However, the documents released on the U.S. Government Publishing Office (“GPO”) website do not represent all documents obtained by the Select Committee during its existence, and specifically excludes information that did not support the Select Committee’s narrative.



Chairperson Thompson admitted that the Select Committee did not preserve hundreds of video recordings made by the Select Committee during transcribed interviews and depositions.<sup>74</sup> Chairperson Thompson also admitted that as Chair of the Select Committee, he failed to archive certain transcripts of transcribed interviews conducted by the Select Committee, in violation of House Rules.<sup>75</sup> This raises the obvious question: why did Chairperson Thompson not want House Republicans to see these records?

Additionally, the Select Committee selectively interviewed certain witnesses and publicly released their testimony before interviewing other witnesses who may have provided contradictory testimony. One example of this is the Select Committee’s decision to invite Cassidy Hutchinson for a public hearing before interviewing firsthand witnesses whose testimony may have corroborated or contradicted hers. On June 20, 2022, Cassidy Hutchinson participated in her fourth transcribed interview with the Select Committee, in which she leveled

<sup>74</sup> Letter from Bennie Thompson to Barry Loudermilk (July 7, 2023). (on file with the Subcommittee).

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

previously unheard allegations. During this interview, Hutchinson testified that while in his motorcade after his speech at the Ellipse, President Trump attempted to grab the vehicle’s steering wheel from the United States Secret Service (“USSS”) driver and lunged at another USSS agent in the vehicle. Eight days later, the Select Committee – knowing that this new testimony would garner significant media attention – scheduled a public hearing with Hutchinson as the witness.

During these eight days, the Select Committee did not interview either of the two USSS agents referenced in her testimony, nor did the Select Committee interview any other individual implicated in her testimony. Although the Subcommittee was not provided transcripts of the interviews with these USSS agents, which is in violation of House Rules, records obtained by the Subcommittee indicate that the Select Committee waited until November 2022 to interview them – well over four months after Hutchinson’s public testimony, and when it was obvious Republicans would win control of the House.

The Select Committee failed to archive all of its records at the end of the 117th Congress. These records include evidence that undermines some of the most headline-grabbing themes of the Select Committee hearings, as well as evidence that pertains to the Select Committee’s investigation but did not align with its narrative. While the Subcommittee has endeavored to recover all of the missing records, the fact that the Select Committee did not archive or publicly disclose this information must be considered when evaluating the Select Committee’s hearings and Final Report. The Select Committee should have archived all materials, not just the *supporting materials*.

## MISSING SELECT COMMITTEE RECORDS

All committee chairs have a responsibility to archive noncurrent committee records at the end of each Congress.<sup>76</sup> It is a chair’s responsibility to transfer these records to the Clerk of the House (“House Clerk”), who subsequently stores those records with the National Archives and Records Administration (“NARA”).<sup>77</sup> The House Clerk’s office generally holds these records for two years prior to sending them to NARA.<sup>78</sup> The resolution establishing the Select Committee added an additional reporting requirement by mandating all records of the committee be transferred to any committee designated by the Speaker of the House.<sup>79</sup> Days before the new Republican majority was sworn in, Speaker Pelosi sent a letter to Chairperson Thompson designating Select Committee records be transferred to the Committee on House Administration.<sup>80</sup> At the beginning of the 118th Congress, H. Res. 5 reiterated that all records from the Select Committee would be transferred to the Committee on House Administration.<sup>81</sup>

Republicans on the Committee on House Administration Subcommittee on Oversight immediately inventoried all records turned over by the Select Committee. This included both printed documents and digital records. While some records were organized and inventoried, most

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<sup>76</sup> Rule VII, Rules of the U.S. House of Representatives, 117th Cong. (2021).

<sup>77</sup> CONGRESSIONAL RESEARCH SERVICE, ARCHIVAL RECORDS OF CONGRESS: FREQUENTLY ASKED QUESTIONS (2023).

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

<sup>79</sup> H.R. Res. 503, 117th Cong. (2021).

<sup>80</sup> Letter from Nancy Pelosi to Bennie Thompson (Dec. 29, 2022). (on file with the Subcommittee).

<sup>81</sup> H.R. Res. 5, 118th Cong. (2023).



of the records turned over by the Select Committee were contained on two hard drives labeled as a production from their e-discovery software. During this initial document review, the Subcommittee determined that the Select Committee archived and provided to the Subcommittee roughly 270 transcribed interviews of witness testimonies and fewer than three terabytes of digital data.

House Rule VII requires committees to submit noncurrent records to the House Clerk at the end of each Congress.<sup>82</sup> While recordkeeping practices vary by congressional office, the House Clerk operates the Office of Art and Archives to assist committees with identifying which records must be retained permanently.<sup>83</sup> Under House Rule VII, it is the responsibility of “the chair of each committee” to “transfer to the House Clerk any noncurrent records of such committee.”<sup>84</sup> House Rules continue to define noncurrent records as “an official, permanent record of the committee (including any record of a legislative, oversight, or other activity of such committee).”<sup>85</sup> The House Clerk created a manual to provide additional guidance to committee chairs for the process of archiving records under House Rule VII. In that manual, the House Clerk specifies that depositions, transcripts, executive branch communications, et al. are among the records that should be archived pursuant to House Rules.<sup>86</sup>

Nevertheless, as part of its investigation, the Subcommittee learned that the Select Committee failed to archive and subsequently provide the Subcommittee any of its video recordings of witness interviews, as many as 900 interview summaries or transcripts, more than one terabyte of digital data, and over 100 deleted or encrypted documents. The failure to provide the Subcommittee with these records raises serious concerns about the content of these records and their implication on the Select Committee’s narrative. Furthermore, the failure to archive these records rests on Chairperson Thompson who had an obligation under House Rule VII to “transfer to the Clerk any noncurrent records.”<sup>87</sup> Failure to archive all noncurrent records, the corresponding transcript, and the recovered password-protected files is in violation of House Rules and obstructs the Subcommittee’s investigation into Capitol security failures.

## OVER ONE TERABYTE OF DIGITAL DATA MISSING

The Select Committee produced a significant amount of digital data. Based on an inventory of this digital data and statements from Chairperson Thompson, the Subcommittee discovered that the Select Committee failed to archive more than an entire terabyte of digital data.

In a July 7, 2022, letter to Chairman Loudermilk, Representative Thompson claimed that the Select Committee archived “over 4-terabyte[s]” of digital data.<sup>88</sup> Specifically, Representative Thompson wrote that the Select Committee “used an e-discovery platform to manage its investigative records” and “worked with its e-discovery platform contractor to create an archive file.”<sup>89</sup> Representative Thompson went on to say that permanent records, totaling over four

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<sup>82</sup> Rule VII, Rules of the U.S. House of Representatives, 118th Cong. (2023).

<sup>83</sup> Records Management Manual for Committees, Office of the Clerk, House of Representatives (September 2023).

<sup>84</sup> Rule VII, Rules of the U.S. House of Representatives, 118th Cong. (2023).

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

<sup>86</sup> Records Management Manual for Committees, Office of the Clerk, House of Representatives (September 2023).

<sup>87</sup> Rule VII, Rules of the U.S. House of Representatives, 118th Cong. (2023).

<sup>88</sup> Letter from Bennie Thompson to Barry Loudermilk (July 7, 2023). (on file with the Subcommittee).

<sup>89</sup> *Id.*

terabytes of data, “were electronically archived in that file.”<sup>90</sup> However, after reviewing this archive file, the Subcommittee received less than three terabytes of digital data from the Select Committee. One terabyte is a substantial amount of missing data. One terabyte of data is equivalent to 6.5 million document pages such as PDFs or office files, 500 hours of high-definition video, or 250,000 photos.

COMMITTEE RECORDS INVENTORY SHEET		
Office of Art and Archives		Cheryl L. Johnson, Clerk Office of the Clerk U.S. House of Representatives
COMMITTEE or OFFICE	CONGRESS	SESSION
<b>Select Committee to Investigate the January 6th Attac</b>	<b>117TH</b>	<b>2ND</b>
Subcommittee	BOX NO.	PAGE
	<b>81</b>	<b>1 of 1</b>
<b>TITLE OR DESCRIPTION OF CONTENTS</b> (Bill, Jacket, Resolution, Report, or Document Number)		
Electronic Media - Photos from NARA - password - [REDACTED]		
Electronic Media - Driven - PRD0005742 - serial NACAZDML - password - [REDACTED]		
Electronic Media - Driven - PRD0005743 - serial NACAXZJX - password - [REDACTED]		
Electronic Media - CDR Data - Bitlocker password - [REDACTED] - RAT password [REDACTED]		
Electronic Media - SC Production media - password - [REDACTED]		
Electronic Media - Select Committee Archive - see memo		
Transferred to NATIONAL ARCHIVES		OFFICE OF ART AND ARCHIVES NO.
Phone: (202) 226-1300 E-mail: archives@mail.house.gov		<b>SCJ6.2023.01.02</b> Washington, DC 20515-5501

The Subcommittee received a total of six hard drives from the Select Committee. Contained in these hard drives were document productions from individuals, agencies, departments, and other entities that responded to the Select Committee’s requests for information. These files included emails, text messages, and other communications. The Select Committee also archived some of its incoming and outgoing correspondence with these individuals, agencies, departments, or other entities. Lastly, the Select Committee archived only some of the interview transcripts it conducted as well as the accompanying exhibits.

<sup>90</sup> *Id.*

Included in the physical files the Select Committee archived was a memorandum from the Select Committee’s e-discovery platform contractor, dated December 28, 2022, in which the contractor explicitly states that the Select Committee excluded “Committee work-product” and “[select] documents the [Select Committee] deemed as sensitive” from its archiving process.<sup>91</sup> It is unclear what files were excluded, but it is clear that the Select Committee instructed its e-discovery contractor to proactively remove certain files from the archive it prepared and subsequently turned over to the Subcommittee.

## DELETED & ENCRYPTED FILES

The Select Committee also deleted or failed to turn over more than 100 digital documents from the hard drives the Select Committee provided to the Subcommittee. This included numerous password-protected and encrypted files, and in some cases, these files were deleted just days before Republicans took over the majority in January 2023.

In order to reconcile the significant discrepancy between the four terabytes, that Chairperson Thompson claimed he turned over and the less than three terabytes actually received, the Subcommittee contracted with a digital forensics team to conduct a forensic analysis. As a result, the forensics team recovered over 100 deleted or password-protected documents that would otherwise not have been accessible by simply plugging the hard drives into a computer. After recovering these password-protected documents, Chairman Loudermilk sent Representative Thompson a letter dated January 18, 2024, requesting “a list of passwords for all password-protected files created by the Select Committee.”<sup>92</sup> In response, Representative Thompson claimed to have no knowledge about any passwords, writing, “I have absolutely no idea what you are talking about.”<sup>93</sup>

One recovered file, which was not encrypted but was deleted on January 1, 2023, revealed the identity of a witness who worked in the White House and sat for a transcribed interview with the Select Committee. This witness had firsthand knowledge of President Trump’s actions on January 6. This witness’ testimony was not archived by the Select Committee, and until the Subcommittee recovered this file, the Subcommittee had no record of this individual providing testimony to the Select Committee. At this time, the Subcommittee will not release the witness’ name.

Archived files that are encrypted serve no purpose other than to hide information from successive Congresses. Responding to Chairman Loudermilk’s letter, Representative Thompson, however, either no longer could or refused to provide such passwords.

## MISSING VIDEO RECORDINGS OF WITNESS INTERVIEWS

Despite playing a prominent role in the Select Committee hearings, the Select Committee chose not to archive any of the video recordings of witness interviews or depositions. During their primetime hearings, the Select Committee used numerous, selectively edited clips from these

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<sup>91</sup> Memorandum from Innovative Driven, Inc. to National Archives and Records Administration (Dec. 28, 2022). (on file with the Subcommittee).

<sup>92</sup> Letter from Barry Loudermilk to Bennie Thompson (Jan. 18, 2024). (on file with the Subcommittee).

<sup>93</sup> Letter from Bennie Thompson to Barry Loudermilk (Jan. 23, 2024). (on file with the Subcommittee).

video recordings.<sup>94</sup> These video recordings served a critical purpose: to promote the Select Committee’s predetermined narrative by using selective clips of witness testimony. Former Representative Liz Cheney noted in her memoir that the Select Committee decided that reading witness transcripts during their primetime hearings was “unlikely to be effective” and that instead they “needed the public to see” the witness on camera recounting their testimony.<sup>95</sup> According to Representative Cheney, these video recordings were indispensable in the Select Committee’s efforts to convey their narrative.<sup>96</sup>

Since none of the video recordings were archived with the House Clerk, on June 26, 2023, Chairman Loudermilk sent Representative Thompson a letter seeking additional information about these recordings.<sup>97</sup> Representative Thompson replied on July 7, 2023, stating that the Select Committee did not archive any of the unedited video recordings of witness interviews or depositions.<sup>98</sup> As a result, neither the Subcommittee nor the House has records of these recordings. In the July 7, 2023, letter, Representative Thompson argued that the Select Committee was “not obligated to archive all video recordings of transcribed interviews or depositions.”<sup>99</sup> Representative Thompson claimed this determination was based on guidance the Select Committee received from the House Clerk. However, according to official guidance from the House Clerk on what records should be archived and which do not need to be, “video[s] of events, testimonies, and interviews” should be archived.<sup>100</sup> Representative Thompson also failed to produce any records of the guidance he claims he received.

Without the full videos of these transcribed interviews and depositions, neither the Subcommittee nor the American public are able to review and understand the full context of video clips shown during the Select Committee’s hearings. A printed transcript does not convey emotion, movements, or voice inflections. If the Select Committee and Representative Liz Cheney thought the videos were so important, why did they refuse to archive them with the House Clerk?

## MISSING TRANSCRIPTS FROM WITNESS INTERVIEWS

In addition to these missing video recordings, the Select Committee also failed to archive transcripts from numerous transcribed interviews or depositions of White House and USSS personnel interviewed by the Select Committee.<sup>101</sup> According to the House Clerk, a committee record is “any document, regardless of format, that ... Select Committee members create, receive, or maintain.”<sup>102</sup> The House Clerk specifically notes that “records that should be archived” include “depositions” and “transcripts.”<sup>103</sup> Therefore, these transcripts should have been archived

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<sup>94</sup> Hearing: On the January 6th Investigation, Select Committee to Investigate the January 6th Attack on the United States Capitol, 117th Cong. (2022).

<sup>95</sup> Liz Cheney, *Oath and Honor at 244* (2023).

<sup>96</sup> *Id.*

<sup>97</sup> Letter from Barry Loudermilk to Bennie Thompson (June 26, 2023). (on file with the Subcommittee).

<sup>98</sup> Letter from Bennie Thompson to Barry Loudermilk (July 7, 2023). (on file with the Subcommittee).

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

<sup>100</sup> Records Management Manual for Committees, Office of the Clerk, House of Representatives (September 2023).

<sup>101</sup> Brooke Singman, *House Jan. 6 Committee deleted more than 100 encrypted files days before GOP took majority: sources*, Fox News (Jan. 22, 2024).

<sup>102</sup> Records Management Manual for Committees, Office of the Clerk, House of Representatives (September 2023).

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

and transferred to the Clerk.<sup>104</sup> Chairperson Thompson admitted that he failed to comply with House Rules when he acknowledged that he refused to archive these transcripts, which are House records, with the House Clerk at the end of the Congress.<sup>105</sup>

Many of these White House and USSS employees were either with President Trump or aware of his actions on January 6, yet none of their witness transcripts were archived with the House Clerk or provided to the Subcommittee. Notably, the Select Committee published over 200 transcripts online, but did not publish these select transcripts.<sup>106</sup> This raises serious questions about the content of these transcripts and the Select Committee’s reasons for hiding them from House Republicans – questions the Subcommittee is committed to answering.

On December 30, 2022, Select Committee Chairperson Bennie Thompson sent letters to the White House and Department of Homeland Security (“DHS”) stating that the Select Committee was lending transcripts of witness interviews for “appropriate review” and “timely return.”<sup>107</sup> The testimony contained in these transcripts was apparently so significant that President Biden waived the executive privilege with respect to these individuals and their testimony. The White House wrote to DHS specifically stating that President Biden was waiving executive privilege to allow certain USSS employees to testify before the Select Committee.<sup>108</sup> In these letters, the White House’s Deputy Counsel, Richard Sauber, acknowledges that “no congressional committee [had] ever sought to compel the testimony” of USSS agents regarding “what they saw or heard while performing protective functions.”<sup>109</sup> Despite this waiver being unprecedented, President Biden waived this executive privilege and allowed the Select Committee to compel USSS agents to testify about what they saw and heard while protecting President Trump. Sauber also noted that these USSS agents are “the only available primary sources of information concerning interactions that are vital to the Select Committee’s inquiries.”<sup>110</sup> By the White House’s own admission, these interviews were not only unprecedented but were also “vital” to the Select Committee’s investigation.<sup>111</sup> Despite this, these transcripts were not archived by the Select Committee.

## WHITE HOUSE EMPLOYEE TRANSCRIPTS

On August 8, 2023, Chairman Loudermilk wrote to the White House insisting that the transcripts of the witness interviews be immediately returned in the original and unredacted form.<sup>112</sup> The White House responded in an August 22, 2023, letter which acknowledged that the Select Committee “sent the[se] transcripts to the White House” instead of archiving them with the House Clerk.<sup>113</sup> The White House asserted that it was conducting a review of the transcripts and

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<sup>104</sup> Rule VII, Rules of the U.S. House of Representatives, 118th Cong. (2023).

<sup>105</sup> *Id.*

<sup>106</sup> Saren Habeshian, *All the transcripts the Jan. 6 committee has released so far*, Axios (Dec. 30, 2022).

<sup>107</sup> Letter from Bennie Thompson and Liz Cheney to Richard Sauber (Dec. 30, 2022); Letter from Bennie Thompson and Liz Cheney to Jonathan Meyer (Dec. 30, 2022). (on file with the Subcommittee).

<sup>108</sup> Letter from Richard Sauber to Jackson Eaton (Nov. 3, 2022). (on file with the Subcommittee).

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*

<sup>112</sup> Letter from Barry Loudermilk to Richard Sauber (Aug. 8, 2023). (on file with the Subcommittee).

<sup>113</sup> Letter from Richard Sauber to Barry Loudermilk (Aug. 22, 2023). (on file with the Subcommittee).

would return the transcripts with “appropriate redactions.”<sup>114</sup> Chairman Loudermilk responded in an August 25, 2023, letter where he again demanded the immediate return of these transcripts in their “original form without alteration or redaction.”<sup>115</sup> Chairman Loudermilk’s letter emphasized that the original documents remain the “current records of the U.S. House of Representatives” and therefore “must be returned to the Committee on House Administration” immediately.<sup>116</sup>

On September 6, 2023, the White House provided Chairman Loudermilk four heavily redacted transcribed interviews of White House employees.<sup>117</sup> On January 18, 2024, Chairman Loudermilk again wrote to the White House with a final demand to return “all original records, including the unedited and unredacted transcripts” that the Select Committee provided to the White House.<sup>118</sup> Chairman Loudermilk reiterated that these transcripts remain the “property” of the House of Representatives, and that the Select Committee did not have the “authority to relinquish possession of these records.”<sup>119</sup> The White House subsequently offered to “make the unredacted transcripts available...for [in camera] review.”<sup>120</sup> While Chairman Loudermilk maintains that these are House records and therefore must be returned to the House, he agreed initially review the transcripts *in camera*.<sup>121</sup>

The testimony of these four White House employees directly contradicts claims made by Cassidy Hutchinson and by the Select Committee in the Final Report. None of the White House employees corroborated Hutchinson’s sensational story about President Trump lunging for the steering wheel of the Beast. However, some witnesses did describe the President’s mood after the speech at the Ellipse. It is highly improbable that the other White House Employees would have heard about the President’s mood in the SUV following his speech at the Ellipse, but not heard the sensational story that Hutchinson claims Anthony Ornato, the White House Deputy Chief of Staff for Operations, told her after returning to the White House on January 6.

The Select Committee Final Report specifically implies these witnesses confirmed Hutchinson’s story, but that is incorrect. The Select Committee said that it “regarded both Hutchinson and the corroborating testimony by the White House employee with national security responsibilities as earnest and has no reason to conclude that either had a reason to invent their accounts.”<sup>122</sup> However, as shown in the full transcribed interview of the White House employee with national security responsibilities, their testimony did not corroborate Hutchinson’s. It was an entirely different version of events. The witnesses told a different story, one about the President’s mood and none of them ever testified they heard anything even similar to the story recounted by Hutchinson.

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<sup>114</sup> *Id.*

<sup>115</sup> Letter from Barry Loudermilk to Richard Sauber (Aug. 25, 2023). (on file with the Subcommittee).

<sup>116</sup> *Id.*

<sup>117</sup> Letter from Richard Sauber to Barry Loudermilk (Sept. 6, 2023). (on file with the Subcommittee).

<sup>118</sup> Letter from Barry Loudermilk to Richard Sauber (Jan. 18, 2024). (on file with the Subcommittee).

<sup>119</sup> *Id.*

<sup>120</sup> Letter from Richard Sauber to Barry Loudermilk (Jan. 25, 2024). (on file with the Subcommittee).

<sup>121</sup> Press Release, Committee on House Administration, Chairman Loudermilk to Review Vital January 6th Witness Testimonies from White House (Jan. 30, 2024).

<sup>122</sup> H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022), p. 74.

**The Committee has regarded both Hutchinson and the corroborating testimony by the White House employee with national security responsibilities as earnest and has no reason to conclude that either had a reason to invent their accounts. A Secret Service agent who worked on one of the details in the White House and was present in the Ellipse motorcade had this comment:**

The White House employees also contradict the Select Committee's claim that President Trump had the intent to go to the Capitol on January 6.<sup>123</sup> None of the White House employees testified that they were instructed to plan for the President to go to the White House prior to January 6. In fact, more than one of the White House employees testified to the exact opposite: that there was never any plan for the President to go to the Capitol on January 6. The testimony of the White House employee refutes this claim and leaves no doubt that the Select Committee's claim is false.

**The Committee's principal concern was that the President actually intended to participate personally in the January 6th efforts at the Capitol, leading the attempt to overturn the election either from inside the House Chamber, from a stage outside the Capitol, or otherwise. The Committee regarded those facts as important because they are relevant to President Trump's intent on January 6th. There is no question from all the evidence assembled that President Trump *did have that intent*.<sup>451</sup>**

One White House employee was asked directly about Hutchinson's shocking testimony that President Trump made a comment implying Vice President Pence should be hanged.<sup>124</sup> White House Employee One confirmed he heard the chants of hang Mike Pence from his position close to the President on January 6. However, he testified that neither the President nor any other staff made comments about those chants. White House Employee One specifically refuted Hutchinson's claim that the President said anything at all about the chants.

**Evidence developed in the Committee's investigation showed that the President, when told that the crowd was chanting "Hang Mike Pence," responded that perhaps the Vice President deserved to be hanged.<sup>642</sup> And**

The Select Committee chose to selectively cite to these unnamed White House employees instead of releasing their full testimony, which directly contradicts specific claims made by the Select Committee. The content of these witness transcripts makes clear why the Select Committee chose not to release these transcripts, despite releasing nearly every other witness transcript. These witnesses directly undermine claims made by Hutchinson and the Select

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<sup>123</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022), p. 75.

<sup>124</sup> *Id.* at 111.

Committee and underscore that the Select Committee only showed the public what it wanted them to see.

### **Interview of White House Employee One, June 10, 2022:**

The interview of White House Employee One occurred on June 10, 2022. The redacted version of the transcript lists the witness as a “White House Employee.”<sup>125</sup> Based on the unredacted portions of the transcript, this individual had firsthand knowledge related to President Trump’s demeanor and actions on January 6.<sup>126</sup> The Select Committee asked White House Employee One if they recalled President Trump ever expressing a desire to go to the Capitol prior to January 6, 2021.<sup>127</sup> White House Employee One testified that they did not recall hearing President Trump express a desire to go to the Capitol prior to January 6, 2021.<sup>128</sup>

15	Q	In the President's speech at the Ellipse that day, he made comments
16		indicating that he was going to be with the crowd as they went to the Capitol that
17		afternoon.
18		Do you remember any discussions about the President wanting to go to the
19		Capitol on January the 6th?
20	A	I do not.
21	Q	And just to be clear in my question, which is not always the case, do you
22		remember the President ever expressing a desire to go to the Capitol, even if it was
23		before the 6th? So saying, I'd like to go on the 6th, whether it happened in December or
24		early January?
25	A	No. I never heard that. Yeah. And there was never like -- typically, I

White House Employee One continued that if President Trump planned to go to the Capitol, it is information that this individual, according to their own testimony, would have known.<sup>129</sup> White House Employee One testified that “typically, [they] would hear something like that if we were, like, going down to the Capitol, because it’s like a whole. . . movement of things that still have to be coordinated, and [they] didn't hear any of that being organized or him ever mentioning wanting to walk or go down to the Capitol at all.”<sup>130</sup>

The Select Committee also asked White House Employee One if they were aware of any conversations or recommendations that the President needed to call the National Guard on

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<sup>125</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee One (Redacted) (June 10, 2022), p. 1.

<sup>126</sup> *Id.* at 2.

<sup>127</sup> *Id.* at 34.

<sup>128</sup> *Id.*

<sup>129</sup> *Id.* at 34-35.

<sup>130</sup> *Id.*



January 6.<sup>131</sup> This individual testified that the only thing they recalled with respect to the National Guard was that, upon learning of the riots at the Capitol, President Trump said he wanted to call General Milley, the Chairman of the Joint Chiefs of Staff, and Speaker Pelosi.<sup>132</sup>

6 Q Are you aware of any conversations or recommendations that the President  
7 needed to call the National Guard on the 6th?  
8 A What I remember about the National Guard -- what I remember about the  
9 National Guard was him wanting to talk to National -- or talk to General Milley and  
10 Speaker Pelosi about the National Guard. Those were two of the three conversations  
11 that I knew he wanted -- or telephone calls that he wanted to make, was to Speaker  
12 Pelosi and General Milley about the National Guard. I remember hearing that just  
13 [REDACTED]  
14 Q Do you know whether the President, in fact, spoke to General Milley on the  
15 afternoon of the 6th?  
16 A I do not know if any of those phone calls were connected or not.

The Select Committee asked White House Employee One if they remembered any discussions about the President wanting National Guard troops in Washington on January 6.<sup>133</sup> White House Employee One testified that they “didn’t hear about National Guard being mentioned until on January 6 when things were happening.”<sup>134</sup> However, as a preface to this question the Select Committee acknowledged that they are aware and understand President Trump raised the idea of 10,000 National Guardsmen supporting law enforcement on January 6.<sup>135</sup>

White House Employee One also testified that they never heard the President try to pressure the Vice President either directly or through White House counsel that he had that the authority to change the outcome of the 2020 presidential election.<sup>136</sup> The Select Committee asked White House Employee One about the chants of “hang Mike Pence” on January 6. White House Employee One testified that he did remember hearing those chants, but the President did not make any comments about the chants.<sup>137</sup> The Select Committee specifically asked White House Employee One if he recalled the President saying something to the effect of “maybe he should be fucking hung, maybe he deserves it.”<sup>138</sup> White House Employee One testified that he did not recall hearing the President saying anything to that effect.<sup>139</sup>

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<sup>131</sup> *Id.* at 46.

<sup>132</sup> *Id.* at 46-47.

<sup>133</sup> *Id.* at 62.

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.* at 63-64.

<sup>137</sup> *Id.* at 42.

<sup>138</sup> *Id.* at 42-43.

<sup>139</sup> *Id.*

19 Q We understand that during the events at the Capitol, there were a number  
20 of chants, one of which was, "hang Mike Pence."  
21 Do you remember any comments that the President or anybody around him made  
22 with respect to those chants, "hang Mike Pence"?

23 A No. I remember that happening, but I don't remember any comments  
24 from the President or anybody on staff.

25 Q This is one of those places where I'm going to ask you if you remember  
1 something specifically, only to see if it refreshes your recollection. But we do have  
2 information indicating that the President said something like, and excuse my language,  
3 but, Maybe he should be fucking hung, maybe he deserves it.  
4 Do you remember hearing the President expressing any sentiment like that in the  
5 afternoon of the 6th?

6 A I don't, sir. No, sir.

7 Q And so it could have happened, you just don't recall it, or do you actually  
8 know for a fact it didn't happen, in your memory?

9 A I don't recall. Again, I don't know if it happened or not.

### **Interview of White House Employee Two, July 11, 2022:**

The Select Committee interviewed White House Employee Two on July 11, 2022.<sup>140</sup> White House Employee Two was a desk officer within the Situation Room on January 6.<sup>141</sup> According to White House Employee Two's testimony they were responsible for conducting the "day-to-day activities" of the Situation Room and for "push[ing] information...to the President[,]. Vice President[,], and National Security Adviser."<sup>142</sup> White House Employee Two was also in constant communication with the President's Secret Service detail and was aware of the President's movements.<sup>143</sup> The Select Committee used audio from this witness' interview during the Select

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<sup>140</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Two (Redacted) (July 11, 2022), p. 1.

<sup>141</sup> *Id.* at 5.

<sup>142</sup> *Id.* at 6.

<sup>143</sup> *Id.* at 14.

Committee’ July 12, 2022, live hearing, just one day after this witness’ transcribed interview, and subsequently cited this witness in the final report.<sup>144</sup>

White House Employee Two testified that they first became aware of discussions of a possible movement to the Capitol at approximately 11:24 a.m. on January 6—just minutes before the President departed for the Ellipse.<sup>145</sup> White House Employee Two testified that, around this time, Situation Room staff were trying to determine “if [President Trump] truly wanted to go” to the Capitol.<sup>146</sup> White House Employee testified that the scene in the Situation Room at that moment was “chaotic.”<sup>147</sup> When the Select Committee asked White House Employee Two what the response was among fellow staff to the idea of the President going to the Capitol, the witness testified that everyone was “in a state of shock.”<sup>148</sup>

White House Employee Two testified that staff in the Situation Room were “watching the [camera] feed” to see if President Trump’s motorcade was heading toward the Capitol and that they saw President Trump sitting inside the vehicle for over a minute before it departed the Ellipse.<sup>149</sup> The Select Committee subsequently asked White House Employee Two if by “watching the feed, [they] mean the actual visual of [President Trump] in the car,” to which White House Employee answered, “Correct.”<sup>150</sup>

The Select Committee also asked White House Employee Two if they knew about anything that occurred within the [President’s] vehicle following the rally.<sup>151</sup> White House Employee Two responded, “no.”<sup>152</sup> The Select Committee did not push the witness on this question unlike in other interviews. The Select Committee settled for a simple “no” from an individual who worked in the White House, in an interview conducted shortly after Hutchinson’s explosive public testimony.

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<sup>144</sup> *Hearing: On the January 6th Investigation*, Select Committee to Investigate the January 6th Attack on the United States Capitol, 117th Cong. (2022); STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>145</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Two (Redacted) (July 11, 2022), p. 35.

<sup>146</sup> *Id.* at 36.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.* at 45.

<sup>149</sup> *Id.* at 60-63.

<sup>150</sup> *Id.* at 60.

<sup>151</sup> *Id.* at 98.

<sup>152</sup> *Id.*

5           Q    Did you ever learn in the days, weeks, months following about anything that  
6           occurred within the vehicle after the President left the stage and was sitting in the  
7           motorcade?  
8           A    No.  
9           Q    Did you ever -- was there ever a discussion about whether the route that you  
10          entered in was just discussed or established or selected versus secured? Was there any  
11          kind of particular language that was used?  
12          A    No. I honestly never heard of -- never heard any more details about that  
13          route until Ms. Cheney's hearing the other week.

**Interview of White House Employee Three, July 19, 2022:**

The Select Committee interviewed White House Employee Three on July 19, 2022.<sup>153</sup> White House Employee Three was a White House employee with national security responsibilities.<sup>154</sup> The Select Committee Final Report quoted him directly, without disclosing his name or releasing the full transcript of his testimony.<sup>155</sup> The quote from the Final Report directly matches testimony provided by White House Employee Three’s redacted transcript.<sup>156</sup> According to White House Employee Three’s transcript, this witness was in close proximity to the President on January 6 and helped to coordinate all presidential movements.<sup>157</sup>

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<sup>153</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Three (Redacted) (July 19, 2022), p.1.

<sup>154</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>155</sup> *Id.*

<sup>156</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022); Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Three (Redacted) (July 19, 2022), p.73.

<sup>157</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Three (Redacted) (July 19, 2022), p.50.

6 Q Thanks, [REDACTED] I just wanted to go back to the time frame of, you're  
7 in the vehicle, and then you hear in the President's speech -- and I'm going to give you the  
8 time stamp of 12:16 approximately when he says, I'll be there with you, we're going to  
9 walk down.

10 I want to be clear on this, but is that the first time, on January 6th, that you hear  
11 of the President's intent to go to the Capitol?

12 A Yes, ma'am.

13 Q There were no conversations conveyed to you or any rumors or any  
14 discussion on that day prior to him stating it on that stage?

15 A Again, ma'am, going back to my previous comments about our discussion  
16 during [REDACTED], you know, the Secret Service was telling me that  
17 this was not a thing. We had the generic discussion, you know, just in case.

18 My understanding at that point was that, you know, there was no follow-on  
19 movement to the Capitol and that -- so at the speech was the first time I heard from an  
20 administration official that there was a desire to go, and that was -- yeah, that was  
21 President Trump's speech.

The Select Committee asked White House Employee Three extensively about President Trump's intent or lack thereof to go to the Capitol on January 6.<sup>158</sup> The Select Committee specifically asked White House Employee Three about the chat logs that White House Employee Two referenced was their basis for testifying that the President intended to go to the Capitol.<sup>159</sup> White House Employee Three dismissed the premise that President Trump planned to go to the Capitol and testified they did not know where the other individual got this information.<sup>160</sup> White House Employee Three's testimony implies White House Employee Two was citing information they claimed was from White House Employee Three.

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<sup>158</sup> *Id.* at 54.

<sup>159</sup> *Id.* at 66.

<sup>160</sup> *Id.*

18 Q Was there any discussion, after leaving the Ellipse but before you got to the  
19 White House, about the reasons for why the President would not be going to the Capitol?  
20 A While we were driving up to the White House, ma'am?  
21 Q Correct.  
22 A No, there wasn't anything specifically discussed. My assumption was that  
23 the Chief of Staff relayed to the President the same thing he relayed to me, that they  
24 weren't going to go. But I didn't have any specific, you know -- no, I didn't have anything  
25 specifically directed my way about that.

5 But moving on to the 12:32, [REDACTED] has confirmed that he wants to walk. "He,"  
6 meaning the President.  
7 A And that -- that I don't know where they got that, ma'am. The only -- I  
8 talked to the Chief of Staff that one time [REDACTED] and again in the vehicle, I  
9 believe -- again, to the best of my recollection.  
10 And in that discussion it was really was, no, we're not going, and, you know, there  
11 was [inaudible] --  
12 Q You're breaking up.  
13 A -- you know, people --  
14 No. There was a lot of back-and-forth discussion to inform the operational plan,  
15 ma'am, but, you know, the speech was ongoing, and the Chief of Staff told me, No, we're  
16 not going, so. That's my -- that is 100 percent, you know -- you know, as I remember  
17 and understand it.

White House Employee Three testified repeatedly that the President was not going to the Capitol, and there was no plan for the President going to the Capitol, nor would assets be in place for to support this movement.<sup>161</sup> Vice Chair Cheney then continued by asking if the only movement plan for that day was to go to the Ellipse, but the answer to that question is significantly redacted.<sup>162</sup>

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<sup>161</sup> *Id.* at 56.

<sup>162</sup> *Id.* at 32.

1 So, [REDACTED], was there  
2 any discussion about any movement to the Capitol?  
3 [REDACTED] Yes, ma'am. So that's where I [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]  
9 Ms. Cheney. And can you give us a sense of that discussion? So did you -- you  
10 raised the issue?  
11 [REDACTED] Yes, ma'am.  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED] all those things were part of that discussion.

White House Employee Three also testified that they were in Ornato’s office after the President returned from the Ellipse.<sup>163</sup> However, this witness is not mentioned by Ornato or Beau Harrison, Ornato’s assistant, in their publicly released transcribed interviews. Despite White House Employee Three testifying they were in the same area around the same time Hutchinson claimed to have been in Ornato’s office, the Select Committee did not specifically ask this witness about Hutchinson’s version of events inside the SUV after the President’s speech at the Ellipse.<sup>164</sup>

White House Employee Three, however, did testify that Ornato told him that the President was “irate” on the drive back to the White House.<sup>165</sup> White House Employee Three consistently answered that Ornato told him about President Trump’s mood and never testified that President Trump lunged, grabbed, or made any aggressive movements as claimed by Hutchinson.

<sup>163</sup> *Id.* at 69.

<sup>164</sup> *Id.*

<sup>165</sup> *Id.*

17 Q Tell me more, if you can, [REDACTED] about the part about the  
18 President being irate. Do you remember specifically what Mr. Ornato said? Did he  
19 describe a behavior that was irate or a manifestation of that emotion?  
20 A No, sir, just that he was irate, he was really angry, you know, that we  
21 proceeded back to the White House. I mean, that's the extent of my recollection,  
22 unfortunately.  
23 Q All right.

### **Interview of White House Employee Four, September 12, 2022:**

The Select Committee interviewed White House Employee Four on September 12, 2022.<sup>166</sup> White House Employee Four was a White House employee with national security responsibilities.<sup>167</sup> White House Employee Four was in close proximity to the Vice President throughout January 6 and was responsible in part for “[coordinating] with the Secret Service as well as the White House staff” regarding the Vice President’s movements.<sup>168</sup> Throughout the interview, the Select Committee asked White House Employee Four about their knowledge of the President’s plan to go to the Capitol, any discussions related to the Vice President’s role on January 6, and the Vice President’s decision to remain at the Capitol.<sup>169</sup>

The Select Committee asked White House Employee Four specifically about their knowledge of any plans President Trump had to go to the Capitol.<sup>170</sup> Representative Cheney asked this witness whether there was any discussion about plans for the President to go to the Capitol, to which White House Employee Four said, “No.”<sup>171</sup> In response to a follow-up question about when the witness first learned of a possible movement of the President to the Capitol, White House Employee Four testified that they first became aware of a possible movement “sometime in the 1 o’clock hour.”<sup>172</sup> Despite this, Representative Cheney repeated a similar question, asking “[h]ad you heard any prior discussion, whether in the morning meeting or anywhere else, about the possibility of the President going to the Capitol?”<sup>173</sup> White House Employee Four’s response to this question, however, was redacted.<sup>174</sup> The Select Committee asked the witness if, before January 6th, there were “aware of any discussions, whether rumors, actual conversations, or planning, about the President going to the Capitol on the 6th?”<sup>175</sup> The witness testified that they

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<sup>166</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of White House Employee Four (Redacted) (Sept. 12, 2022) p. 1.

<sup>167</sup> *Id.* at 2.

<sup>168</sup> *Id.* at 5.

<sup>169</sup> *Id.* at 11.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.* at 19.

<sup>172</sup> *Id.* at 20.

<sup>173</sup> *Id.*

<sup>174</sup> *Id.*

<sup>175</sup> *Id.* at 31.



could not recall any such conversations and restated that the first time they learned of a possible movement was earlier that afternoon.<sup>176</sup>

The Select Committee also asked White House Employee Four specifically about the communications between the Vice President and the President on January 6. The Select Committee asked the witness if they were “aware of calls that the President was trying to make to the Vice President” on the morning of January 6. White House Employee Four testified that they could not remember. The Select Committee then asked whether the witness heard anyone suggesting the Vice President did not want to talk to the President. The witness testified that “no [such] conversations” occurred. The Select Committee, however, revisited this line of questioning, asking the witness if they heard after January 6 that the Vice President did not want to talk to the President that morning. Again, White House Employee Four responded “no.”

Finally, the Select Committee asked White House Employee Four about the Vice President’s decision to remain at the Capitol. In an unredacted section of the transcript, the witness recalled the Vice President’s lead USSS agent saying that the Vice President “did not desire to leave...the Capitol.”<sup>177</sup> The witness reiterates this in response to subsequent questions, again testifying they recalled that the Vice President “did not want to leave.”<sup>178</sup> The Select Committee also asked White House Employee Four if there were any discussions to move the Vice President later in the afternoon or evening.<sup>179</sup> The response to this question, however, was redacted.

## DHS EMPLOYEE TRANSCRIPTS

Chairman Loudermilk sent a letter to the Department of Homeland Security on August 8, 2023, insisting that DHS return all transcripts the Select Committee sent them.<sup>180</sup> Chairman Loudermilk sent a second letter on January 18, 2024, after DHS did not respond or acknowledge the initial August 8, 2023, letter.<sup>181</sup> DHS first responded on February 26, 2024, more than five months after Chairman Loudermilk’s initial letter.<sup>182</sup>

In the February 26 letter, DHS acknowledged they are in possession of twelve transcripts of “ten current and former employees” of the United States Secret Service.<sup>183</sup> These transcripts were not publicly released by the Select Committee. DHS asserted that they are not returning all twelve transcripts because their internal review is not yet complete and includes “inter-governmental equities.”<sup>184</sup> However, DHS did provide six redacted transcripts. These transcripts are from Secret Service employees with relevant firsthand knowledge of January 6.

DHS’s claim that it needs time to review these transcripts prior to returning them to the House is questionable given that, in 2022, the White House explicitly waived executive privilege for many

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<sup>176</sup> *Id.*

<sup>177</sup> *Id.* at 56.

<sup>178</sup> *Id.* at 62.

<sup>179</sup> *Id.* at 64.

<sup>180</sup> Letter from Barry Loudermilk to Jonathan Meyer (Aug. 8, 2023). (on file with the Subcommittee).

<sup>181</sup> Letter from Barry Loudermilk to Jonathan Meyer (Jan. 18, 2024). (on file with the Subcommittee).

<sup>182</sup> Letter from Jonathan Meyer to Barry Loudermilk (Feb. 26, 2024) (on file with the Subcommittee).

<sup>183</sup> *Id.*

<sup>184</sup> *Id.*

of these individuals.<sup>185</sup> Additionally, DHS has been in possession of these transcripts for more than a year.

In November 2022, the White House sent four letters to DHS, stating that President Biden was waiving executive privilege to allow certain USSS employees to testify before the Select Committee.<sup>186</sup> These letters identify the USSS employees by name and include the date of each individual's interview.<sup>187</sup> These USSS employees were physically with and around President Trump on January 6, and whose firsthand testimony is directly relevant to the narrative presented by the Select Committee—however these transcripts were not archived or published by the Select Committee.

One of the transcribed interviews the Select Committee did not properly archive and has never been publicly released is an interview of Anthony Ornato, the White House Deputy Chief of Staff for Operations. The Select Committee conducted three transcribed interviews with Ornato, on January 28, March 29, and November 29, 2022.<sup>188</sup> The Select Committee saved a copy of Ornato's January 28 transcribed interview in a folder associated with the exhibits from Ornato's public November 29 transcribed interview. Ornato's January 28 transcribed interview with the Select Committee was not archived in the transcribed interviews folder with the other witness transcripts, which included Ornato's November 29 transcript. It is not clear if the Select Committee intended to turn over this transcript to the Subcommittee.

Ornato was a key figure in Cassidy Hutchinson's version of events in President Trump's SUV on January 6.<sup>189</sup> Any transcribed interview Ornato did with the Select Committee prior to Hutchinson's June 2022 testimony are important factors to consider in weighing Hutchinson's credibility. Similarly, Ornato's testimony in any interviews with the Select Committee reflect on the accuracy of the Select Committee's choice to promote Hutchinson's version of events following President Trump's speech at the Ellipse. While it is unknown if the Select Committee meant to hide the January 28 interview, the Select Committee did not make the interview publicly available. The Select Committee's failure to disclose this transcript is additional evidence that the Select Committee only released evidence that fit their narrative.

## CASSIDY HUTCHINSON: THE "STAR WITNESS"

Cassidy Hutchinson participated in a total of six transcribed interviews and one prime-time hearing with the Select Committee. Four of Hutchinson's transcribed interviews were held prior to her June 28, 2022, Select Committee public hearing and two additional interviews were completed after her public testimony. Hutchinson's testimony in her fourth transcribed interview and her public testimony are directly contradicted by the White House employees' and USSS agent's transcribed interviews which were never released publicly.

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<sup>185</sup> Letter from Richard Sauber to Jackson Eaton (Nov. 3, 2022). (on file with the Subcommittee).

<sup>186</sup> *Id.*

<sup>187</sup> *Id.*

<sup>188</sup> Brandi Buchman, *Jan. 6 probe releases transcripts for Ginni Thomas, Rudy Giuliani, Tony Ornato, other key witnesses*, Daily Kos, Dec. 30, 2022.

<sup>189</sup> *Hearing: On the January 6th Investigation*, Select Committee to Investigate the January 6th Attack on the United States Capitol, 117th Cong. (2022), (Testimony of Cassidy Hutchinson).

The Select Committee conducted its fourth transcribed interview with Hutchinson on June 20, 2022 — eight days before Hutchinson would ultimately testify publicly.<sup>190</sup> In Hutchinson’s fourth transcribed interview she tells a new version of events and explicitly contradicts many statements she made under oath in her initial three transcribed interviews.

In her fourth transcribed interview Hutchinson recounted a sensational new story about what happened in the presidential limo after President Trump’s speech at the Ellipse.<sup>191</sup> Hutchinson claimed that when she returned to the White House after the speech, she saw Tony Ornato, President Trump’s Deputy Chief of Staff and former USSS Agent, lingering in the hallway of the West Wing.<sup>192</sup> Hutchinson testified that Ornato waived her into his office and then shared a story about the President that Agent Robert (“Bobby”) Engel, the head of President Trump’s Secret Service detail, supposedly told him just moments before.<sup>193</sup> Ornato was not at the Ellipse that day but instead remained at the White House during President Trump’s speech.<sup>194</sup> This new story is the version of events the Select Committee rushed Hutchinson to share at the Select Committee’s highly publicized “emergency” hearing.<sup>195</sup>

In Ornato’s November 29, 2022, transcribed interview, he directly refuted Hutchinson’s testimony that she allegedly heard the story about what happened in the Beast. Ornato testified that the first time he had ever heard the story Hutchinson claims Ornato told her on January 6, was during Hutchinson’s public testimony.<sup>196</sup>

3	Ms. <u>Cheney</u> . Did you speak with the Secret Service spokesperson following Ms.
4	Hutchinson's testimony?
5	The <u>Witness</u> . I recall, that day after Ms. Hutchinson's testimony, going to the
6	Secret Service Counsel and being in his office and then the Secret Service spokesperson
7	asking me about what my recollection was of that story. And I relayed that that is not a
8	story I recollect and I don't recall that story happening and the first time hearing it is
9	when she had said it.
10	Ms. <u>Cheney</u> . Thank you.

Hutchinson’s testimony was also contradicted by the USSS agent who was with President Trump on January 6. On November 7, 2022, the Select Committee conducted a transcribed interview

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<sup>190</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (June 20, 2022).

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*, at 5.

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

<sup>195</sup> Robert Draper, *Cassidy Hutchinson: Why the Jan. 6 Committee Rushed Her Testimony*, N.Y. Times, July 10, 2022.

<sup>196</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Anthony Ornato, (Nov. 29, 2022), p. 135.

with the USSS agent who drove President Trump and Engel to and from the Ellipse on January 6, 2021. In this interview, the Select Committee did not ask the driver specifically about Hutchinson’s testimony. Hutchinson’s accusation came up only after the Secret Service agent’s attorney proactively brought up the subject. The driver testified that he specifically refuted the version of events as recounted by Hutchinson. The driver of the SUV testified that he “did not see him reach [redacted]. [President Trump] never grabbed the steering wheel. I didn’t see him, you know, lunge to try to get into the front seat at all.”<sup>197</sup>

Despite the driver of the President’s SUV testifying under oath that the Hutchinson story was false, the Select Committee chose to validate and promote Hutchinson’s version of the story as fact. The Select Committee hid the driver’s full testimony and only favorably mentioned his testimony in its Final Report, it did not release the full transcript.

### **Hutchinson’s Fourth Transcribed Interview and Public Testimony**

The fourth transcribed interview was not conducted like most other transcribed interviews. Hutchinson’s fourth interview was conducted in Representative Cheney’s U.S. Capitol hideaway with only Representative Cheney and one Select Committee staffer present.<sup>198</sup> Additionally, according to Hutchinson, when she walked into Representative Cheney’s office, “Liz embraced [her].”<sup>199</sup>

Shortly after Hutchinson completed her fourth transcribed interview, Representative Cheney held a meeting with Chairperson Thompson and other senior Select Committee staff, including “Pelosi advisor Jamie Fleet” where Representative Cheney showed the group a video recording of the transcribed interview just completed with Hutchinson.<sup>200</sup> It was apparently Fleet, the Pelosi advisor, who called the other seven Select Committee members and told them there would be a hearing next week — but Fleet did not disclose that this hearing would feature Hutchinson or her new testimony.<sup>201</sup>

The other seven members of the Select Committee were not told who the witness would be or even the subject of the hearing until the morning of June 28, 2022.<sup>202</sup> That morning, Representative Cheney informed the other members that they had been “summoned back because Cassidy Hutchinson had shared explosive new revelations pertinent to their investigation.”<sup>203</sup> According to Chairperson Thompson, the other members of the Select Committee were shown Hutchinson’s fourth transcribed interview testimony for the first time in a SCIF just hours before the hearing was scheduled to begin.<sup>204</sup>

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<sup>197</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of United States Secret Service Agent, (Nov. 7, 2022), pg. 83.

<sup>198</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (June 20, 2022).

<sup>199</sup> Cassidy Hutchinson, ENOUGH at 128 (2023).

<sup>200</sup> Robert Draper, et al., *Inside the Jan. 6 Committee*, N.Y. Times, Dec. 23, 2023.

<sup>201</sup> *Id.*

<sup>202</sup> *Id.*

<sup>203</sup> *Id.*

<sup>204</sup> *Id.*

During a public hearing on June 28, 2022, Hutchinson testified that President Donald Trump, while in his motorcade, after his speech at the Ellipse on January 6, attempted to grab the steering wheel from a USSS employee driving the vehicle and lunged at USSS Agent Bobby Engel.<sup>205</sup> Hutchinson did make clear that this sensational claim was not based on firsthand knowledge, but this version of events was entirely new and had not been corroborated with the Select Committee by any other witness to this point, including Hutchinson's prior testimony.<sup>206</sup> The Select Committee did not seek interviews with the two USSS agents in the vehicle with former President Trump to corroborate this story before rushing to a public hearing to promote Hutchinson's new story. Despite this, news outlets characterized this testimony as "explosive" and a "damning inside account of Trump's actions."<sup>207</sup>

In Hutchinson's first three transcribed interviews on February 23, 2022, March 7, 2022, and May 17, 2022, she never mentioned this sensational story about Trump lunging toward the driver in the Beast after his speech on the Ellipse. Hutchinson claims the reason she did not testify about this sensational series of events sooner was because of her attorney Stefan Passantino, who represented Hutchinson during the first three interviews.<sup>208</sup>

In a letter from Hutchinson's attorney to the Subcommittee, they explain that the sensational new testimony in her *fourth* transcribed interview was a result of Stefan Passantino, Hutchinson's previous counsel.<sup>209</sup> Hutchinson repeatedly claims Passantino is the reason she did not come forward with the story about President Trump lunging at USSS Agent Engel in the Beast after his speech at the ellipse sooner.<sup>210</sup> However, Hutchinson's own words in her book call into question her claims that Passantino was the reason her story changed so significantly.<sup>211</sup>

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<sup>205</sup> *Hearing: On the January 6th Investigation*, Select Committee to Investigate the January 6th Attack on the United States Capitol, 117th Cong. (2022), (Testimony of Cassidy Hutchinson).

<sup>206</sup> *Id.*

<sup>207</sup> Jake Tapper et. al., *Cassidy Hutchinson's new book reveals a Trump White House even more chaotic than previously known*, CNN, Sept. 26, 2023.

<sup>208</sup> Katelyn Polantz, et al., *Exclusive: Trump's former White House ethics lawyer told Cassidy Hutchinson to give misleading testimony to January 6 committee, sources say*, CNN, Dec. 21, 2022.

<sup>209</sup> Letter from William Jordan to Barry Loudermilk (Jan. 29, 2024).

<sup>210</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Sep. 14, 2022).

<sup>211</sup> Cassidy Hutchinson, *ENOUGH* (2023), p.294.

She asked if I wanted a new lawyer. I told her I needed to do this in a way that wouldn't alert Trump World to what I was up to. I couldn't fire Stefan without tripping alarms at Mar-a-Lago.

"You can make the break, Cassidy," she said, with frustration in her voice.

"I think I'm in too deep, Alyssa. Can we try something else first?"

We talked over my options, and she agreed to contact Liz Cheney on my behalf about scheduling another interview. I cautioned her that there would likely be aggressive resistance from Stefan. I would probably need a subpoena or he would reject the request. I had every intention of complying fully, I told her, but without another subpoena, Stefan may encourage me not to cooperate.

Alyssa nodded and said, "Liz will probably ask for a few things you wanted to talk about before she agrees to do another interview." I knew she was right, but I couldn't proffer information already covered in my earlier depositions. That would tip Stefan off.

According to her book, Hutchinson went into her third transcribed interview in May 2022 ready to provide testimony to questions she fed to the Select Committee without Passantino's knowledge.<sup>212</sup> In her book, Hutchinson explains how she spoke with Alyssa Farah Griffin after her second transcribed interview in order to orchestrate the Select Committee inviting her back for a third interview.<sup>213</sup> This conversation with Farah occurred on April 26, 2022.<sup>214</sup> Hutchinson explains how she did not want to fire her attorney but did want to provide additional testimony to the Select Committee.<sup>215</sup> Hutchinson even claims she provided information to the Select Committee through Alysa Farah Griffin, or another individual, to lead the Select Committee to ask her specific questions.<sup>216</sup>

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<sup>212</sup> *Id.* at p.288.

<sup>213</sup> Cassidy Hutchinson, *ENOUGH* at 282 (2023); Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Sep. 14, 2022), p. 109.

<sup>214</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Sep. 14, 2022), p. 103.

<sup>215</sup> *Id.*

<sup>216</sup> *Id.* at 109.

4 I essentially had just told her like, "Can you just back  
5 channel to the committee and say that there is a few things that  
6 I want to talk about," because I was trying to think of things  
7 that the committee had not asked me in my first few interviews  
8 where it wouldn't set off alarm bells to Stefan.

9 Like, if you guys had asked -- you guys asked questions  
10 about the Beast, what happened in the Presidential SUV. So we  
11 came back and -- to me, someone would be like, okay, she let them  
12 know that she has more on this.

Hutchinson explained how she was so nervous because Passantino had no knowledge of the things she was about to say in the third interview, that she had to walk out of the room and gather herself.<sup>217</sup> Despite Hutchinson arranging for the third interview and planning to provide testimony without Passantino's knowledge, Hutchinson did not recount the story she supposedly heard from Ornato about President Trump grabbing the steering wheel and lunging at USSS Agent Engel in the presidential limo.<sup>218</sup>

12 I knew what I was going to be asked. I was confident in  
13 my responses to those questions. I mostly, in my mind, was  
14 thinking, "How is Stefan going to react? Is he going to catch  
15 on to this?" And I kept, in my head, hoping. I was like,  
16 "Please, please, don't ask me the questions. Don't make it  
17 obvious that this came from me." And -- which it didn't.

18 But I think I walked in, and I just had this moment of panic.  
19 And I think I set my bag down and just walked right back out.  
20 I was like, "Hey, I'll be right back," and walked right back out,  
21 because I just needed a second to kind of like calm myself down  
22 so I wouldn't freak out in front of Stefan and not -- you know,  
23 I was trying to just get myself in this mindset of, "I have no  
24 idea what they're going to ask me. I have nothing to be scared  
25 about."

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<sup>217</sup> *Id.* at 119 to 121.

<sup>218</sup> *Id.* at 122.

Hutchinson admits that on June 6, 2022, after her third transcribed interview, she reached out to Representative Cheney directly.<sup>219</sup> Hutchinson described scrolling through her contacts and texting the only person she “had not yet turned to for guidance.”<sup>220</sup> According to Hutchinson, Representative Cheney responded almost immediately. Hutchinson goes on to explain that she sought assistance from Representative Cheney to identify a new attorney, and that Representative Cheney subsequently called with contact information for multiple attorneys, including Hutchinson’s subsequent attorneys at Alston & Bird.<sup>221</sup>

### **Hutchinson Made Significant Revisions to Earlier Testimony Using Errata Sheet**

After her fourth transcribed interview and public testimony, Hutchinson made significant revisions to multiple earlier transcribed interviews with one errata sheet.<sup>222</sup> The Select Committee never published this errata sheet despite publishing Hutchinson’s previous transcribed interview transcripts.

Included in the documents archived by the Select Committee was an errata sheet that Hutchinson submitted to the Select Committee on September 12, 2022.<sup>223</sup> Hutchinson’s errata sheet was over fifteen pages in length and touched on nearly all major parts of her testimony.<sup>224</sup> Hutchinson’s errata sheet made numerous substantive changes to her first three transcribed interviews, many of which were changes in her testimony from these interviews to match her testimony in her fourth transcribed interview.<sup>225</sup> Notably, Hutchinson’s errata sheet, also included changes to her fourth transcribed interview, specifically with respect to her recollection of the incident with President Trump in his SUV after concluding his speech.<sup>226</sup>

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<sup>219</sup> Cassidy Hutchinson, ENOUGH at 123 (2023).

<sup>220</sup> *Id.*

<sup>221</sup> *Id.*

<sup>222</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022).

<sup>223</sup> *Id.*

<sup>224</sup> *Id.* at 11.

<sup>225</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022).

<sup>226</sup> *Id.* at 6.



**ERRATA SHEET**

INSTRUCTIONS: After reading the interview transcript, please note any change, addition, or deletion on this sheet. DO NOT make any marks or notations on the actual transcript. Use additional paper if needed.

<b>Witness Name</b>	Cassidy Hutchinson
<b>Dates of Interviews</b>	1. February 23, 2022 2. March 7, 2022 3. May 17, 2022 4. June 20, 2022

**First Transcript from Interview on February 23, 2022**

<b>PAGE</b>	<b>LINE</b>	<b>CORRECTION</b>	<b>APPROVED</b>
10	8-10	<b>Q:</b> Ms. Hutchinson was asked, “What’d you do after you left the White House?”  <b>A:</b> Ms. Hutchinson responded, “I was with the former President in his post-Presidential operation. I primarily stayed up in D.C., but I traveled down to Florida a couple times.”	Ms. Hutchinson went to Florida one time in 2021 after she left the White House. That visit was a personal vacation and was not related to work.
35	9-23	“. . . and potentially having media <b>circuits</b> encourage people to go up to the Capitol.” (emphasis added).	“. . . and potentially having media <b>surrogates</b> encourage people to go up to the Capitol.” (emphasis added). <i>See</i> Trans. 4, pgs. 108:21–109:7.
43	9-11	<b>Q:</b> Ms. Hutchinson was asked, “Was [sic] there discussions about it needing to happen before the Joint Session started at 1 p.m. on January the 6 <sup>th</sup> ?”  <b>A:</b> Ms. Hutchinson responded, “Not to my recollection right now.”	There were discussions about the timing of the rally. Those discussions included the sentiment that the rally should take place in the morning so that the protestors could move to the Capitol as Congress convened. <i>See</i> Trans. 4, pgs. 112:9-13:10.

There was significant public interest in testimony related to weapons at the Ellipse on January 6, which was included in Hutchinson’s public testimony on June 28, 2022. Hutchinson originally testified in her February 23, 2022, interview that she did not recall the word dangerous with respect to weapons in the crowd.<sup>227</sup> In that interview, she only recalled hearing about flags being too large and that some people in the crowd had bear spray and pocketknives.<sup>228</sup> She also testified that she did not recall any reports of firearms.<sup>229</sup> Hutchinson similarly only referred to flag poles in her third transcribed interview—the one Hutchinson went into prepared to provide new testimony without Passantino’s knowledge.<sup>230</sup> Hutchinson later revised her testimony from the February 23, 2022 in the September 12, 2022 errata sheet, where Hutchinson claimed that she actually recalled hearing there were “knives, guns in the forms of pistols and rifles, bear spray, body armor, spears, and flagpoles” in the crowd on the morning of January 6, thereby amending her first three transcribed interviews to be consistent with her new testimony in her fourth transcribed interview.<sup>231</sup>

84	8-9	<p><b>Q:</b> Ms. Hutchinson was asked, “What about firearms, do you remember any reports of firearms coming in?”</p> <p><b>A:</b> Ms. Hutchinson responded, “Not that I can recall specifically that morning or</p>	<p>Ms. Hutchinson recalls that there were reports of firearms at the rally site. <i>See</i> Trans. 4, pgs. 13:16-14:9.</p>
89-90	23-19	<p><b>Q:</b> Ms. Hutchinson was asked several times about whether anyone told President Trump that there weapons in the crowd before, during, or after the rally. For instance, Ms. Hutchinson was asked, “So are you aware of whether or not the President was ever told that there were people outside of the gates that had flags or pocketknives or bear spray or other items that wouldn’t make it through the magnetometers?”</p> <p><b>A:</b> Ms. Hutchinson responded to those questions stating that she did not know whether anyone told the President that there were weapons in the crowds at the Ellipse.</p>	<p>Ms. Hutchinson was aware that President Trump had been told that there were weapons in the crowd prior to the rally. <i>See</i> Trans. 4, pgs. 15:9-16:3.</p>

<sup>227</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), p. 83.

<sup>228</sup> *Id.* at 81.

<sup>229</sup> *Id.* at 84.

<sup>230</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (May 17, 2022), p. 98.

<sup>231</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022), p. 3.

However, in Ornato's January 28, 2022, unreleased transcribed interview, he states that he had no knowledge of weapons on January 6.<sup>232</sup> Ornato provided this testimony months before Hutchinson's public claims about weapons, and directly contradicts Hutchinson's claims.

4           A    I recall Tony and I having a conversation with Mark, probably around  
5   10:00 a.m., 10:15 a.m., where I remember Tony mentioning knives, guns in the form of  
6   pistols and rifles, bear spray, body armor, spears, and flagpoles.

7           Spears were one item, flagpoles were one item, but then Tony had relayed to me  
8   something to the effect of, "And these F'ing people are fastening spears onto the ends of  
9   flagpoles."

10          Q    And did Mr. Ornato or is it your understanding that Mr. Ornato told the  
11   President that people with weapons who didn't want to go through the mags were also  
12   there to march to the Capitol that afternoon?

13          A    Could you repeat your question?

14          Q    Yes.  Absolutely.

15          Is it your understanding that Mr. Ornato or somebody else told the President that  
16   the people who did not want to come through the mags, potentially because they had  
17   weapons, also wanted to march to the Capitol on January 6th?

18          A    It's my understanding -- I don't know if he explicitly said, "They have  
19   weapons, and they want to use these weapons to march to the Capitol."  But it's my  
20   understanding that it was just more of a consensus that it was widely known that the  
21   people were going to march to the Capitol, and that's how Tony had relayed it to the  
22   President, if that makes sense --

Hutchinson also revised her testimony with respect to her recollection of statements made related to chants of "hang Mike Pence" on January 6. In Hutchinson's first transcribed interview on February 23, 2022, Hutchinson was asked what the President was doing after his speech at the

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<sup>232</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Anthony Ornato, (Jan 28, 2022), p. 94.

Ellipse.<sup>233</sup> However, Hutchinson testified in her fourth transcribed interview that she overheard a conversation where Meadows said President Trump thought Pence deserved to be hanged.<sup>234</sup> White House Employee One directly refutes Hutchinson’s testimony.

137-38	16-2	<p><b>Q:</b> Ms. Hutchinson was asked, “Do you know what Mr. Meadows -- or what the President was doing in the dining room during those periods [<i>i.e.</i>, on January 6<sup>th</sup> in the afternoon]?”</p> <p><b>A:</b> Ms. Hutchinson responded, “I’m trying to be specific and draw the line</p>	<p>Ms. Hutchinson was aware of “Hang Mike Pence” chants that occurred in the dining room. <i>See</i> Trans. 4, pg. 23:21-28:18.</p>
		<p>between like, obviously, what’s been reported after the fact. That day, you know, I knew that there were people in and out of the Oval dining with him that afternoon. The TV was on. I knew he was watching the news, which wasn’t anything out of the ordinary at all. But substantively I’m not sure that I could speak to his specific activities or conversations other than what was reported on after the fact.”</p>	

In her February 23, 2022, transcribed interview with the Select Committee, Hutchinson stated, “There was nothing that happened in the motorcade from the Ellipse back to the White House that was out of touch or a new development from the conversations that had ensued in the days prior.”<sup>235</sup> Hutchinson did not mention the story about the Beast in either her second transcribed interview or her third transcribed interview.<sup>236</sup> However, in a September 12, 2022, errata sheet, Hutchinson revised her first transcribed interview to make it consistent with her new version of events.<sup>237</sup>

<sup>233</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), p. 137.

<sup>234</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (June 20, 2022), p. 27.

<sup>235</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), p. 106.

<sup>236</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (May 17, 2022), p. 84.

<sup>237</sup> *Hearing: On the January 6th Investigation*, Select Committee to Investigate the January 6th Attack on the United States Capitol, 117th Cong. (2022), (Testimony of Cassidy Hutchinson).

105-06	25-13	<p><b>Q:</b> Ms. Hutchinson was asked, “Did you ever find out what happened with that conversation in the Beast between the President and Mr. Engel?”</p> <p><b>A:</b> Ms. Hutchinson responded, “Just that Mr. Engel had relayed the message that him and Mr. Ornato had discussed previously and knowing there was no – there were no developments that would’ve changed the guidance he was given before the rally had begun, that we didn’t have the assets available, and that was just reconveyed to the President.”</p>	<p>President Trump rode from the rally to the White House in an SUV. Ms. Hutchinson was told by Deputy White House Chief of Staff Anthony Ornato that President Trump got into the SUV with Mr. Engle and a driver, that President Trump insisted the car to go to the Capitol, that Mr. Engle told President Trump it was not safe to take him to the Capitol, that President Trump then lunged forward to grab at the steering wheel, that Mr. Engle reached for President Trump’s hand, and that President Trump then lunged towards Mr. Engle. <i>See</i></p>
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Hutchinson even revised some of her testimony from her fourth—and most sensational—transcribed interview in the errata sheet.<sup>238</sup> In her fourth transcribed interview, Hutchinson for the first time told the Select Committee the story of President Trump lunging at USSS Agent Engel in the Beast.<sup>239</sup> However, President Trump was not in the Beast on January 6.<sup>240</sup> Trump was taken from the Ellipse back to the White House in an SUV.<sup>241</sup>

Hutchinson was at the Ellipse on January 6 and, according to her own testimony, she rode in the motorcade.<sup>242</sup> She would have known that USSS did not use the Beast that day because she was there. Hutchinson’s errata sheet subsequently revised her fourth transcribed interview where she on multiple occasions referred to the Beast—to instead say “SUV.”<sup>243</sup>

<sup>238</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022).

<sup>239</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (June 20, 2022), p. 5.

<sup>240</sup> Andrew Stanton, *Trump Denies Being in ‘The Beast’ on Jan. 6 After Committee Released Video*, Newsweek, July 12, 2022.

<sup>241</sup> Maggie Haberman, *Jan. 6 Report Leaves Questions About What Happened in Trump’s S.U.V.*, N.Y. Times, Dec. 23, 2022.

<sup>242</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (Feb. 23, 2022), p. 105.

<sup>243</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022), p.14.

<b>Fourth Transcript from Interview on June 20, 2022</b>			
6	4-7	When recounting President Trump’s trip from the Ellipse to the White House, Ms. Hutchinson stated that President Trump rode in the presidential limo. Ms. Hutchinson stated, “When the car started moving, I’m under the impression, from the story as Tony had retold it, it just made Mr. Trump irate, and he lunged forward into what I believe is the – would be called the cab of the Presidential limo and went to grab at the steering wheel.”	On the trip from the rally to the White House, Mr. Trump rode in an SUV.
7	5-17	Ms. Hutchinson was asked, “Did they explain, Cassidy, given how the Beast – the layout of the Beast, the distance that it would be, you know, for the President to have to get to lunge at the steering wheel?”	On the trip from the rally to the White House, Mr. Trump rode in an SUV.

This revision of Hutchinson’s testimony is significant. In her June 20, 2022, interview Hutchinson testified that Ornato told her these events happened in the Beast.<sup>244</sup> However, if Ornato did tell Hutchinson this story, it is highly unlikely that Ornato or Engel would have referred to the Beast when describing the alleged events because they both knew the President rode in an SUV that day.<sup>245</sup>

The Select Committee, despite knowing that Hutchinson’s testimony changed substantially over time to be more dramatic, rushed into yet another Hollywood hearing even though they were not able to verify the story. The Select Committee latched onto a sensational and uncorroborated story in its attempt to publicly prosecute Donald Trump.<sup>246</sup>

Hutchinson’s sensational testimony provided the Select Committee exactly what it wanted: an explosive story that the Select Committee could use to attack President Trump. Without minority representation on the Select Committee, there was no cross examination of Hutchinson’s testimony or the testimony of other witnesses. The Select Committee was unified in its effort to prove a narrative, as is clear from its failure to rigorously question witnesses. In many ways the Select Committee functioned as a federal prosecutor—determined to make a case against President Trump. However, there was no cross-examination of the witnesses put forward by the Select Committee, there was no due process, and there was no productive debate. There are

<sup>244</sup> Select Committee to Investigate the January 6th Attack on the United States Capitol, Transcribed Interview of Cassidy Hutchinson, (June 20, 2022), p. 5.

<sup>245</sup> Select Committee to Investigate the January 6<sup>th</sup> Attack on the United States Capitol, Errata of Cassidy Hutchinson, (Sep. 12, 2022), p. 14.

<sup>246</sup> Kyle Cheney, *How the Jan. 6 panel’s star witness drew a roadmap for Trump’s culpability*, Politico, June 28, 2022.

significant questions about Hutchinson’s testimony that the Select Committee chose not to pursue.

Despite a firsthand witness testifying that Hutchinson’s version of events did not happen, and Hutchinson’s changing testimony and factual inaccuracies, all of which the Select Committee was aware of, Chairman Thompson and Representative Cheney determined this story was credible. The Select Committee was also aware that Hutchinson, despite three previous interviews, had never previously testified about this version of events. The Select Committee did not attempt to corroborate Hutchinson’s story before inviting her to share it in a public hearing and never identified any other witnesses who could confirmed the version of events Hutchinson shared—despite Hutchinson herself apparently encouraging the Select Committee to seek out a Secret Service agent who could corroborate her story.<sup>247</sup>

## UNFOUNDED ACCUSATIONS AGAINST MEMBERS OF CONGRESS

The Select Committee made unfounded allegations against Members of Congress in an attempt to blame certain Republican members as key instigators to the events of January 6, 2021. Chairperson Bennie Thompson and Vice Chair Liz Cheney specifically targeted Subcommittee Chairman Barry Loudermilk. In letters to Chairman Loudermilk, they implied he led individuals on a ‘reconnaissance tour’ of the Capitol on January 5, 2021.<sup>248</sup> The Subcommittee identified records showing that the Select Committee knew that this allegation was verifiably false but continued to make public accusations and ultimately included this lie in their Final Report.<sup>249</sup> On January 5, 2021, Chairman Loudermilk met with a family with young children and their guests in his office in the Rayburn House Office Building, escorted them to the House cafeteria in the Longworth House Office Building, and then led them on a short tour of public areas of the House office buildings. At no point did the tour enter the U.S. Capitol.<sup>250</sup> At the time, the House office buildings were open to official business visitors with an escort, and the Capitol was closed to all visitors.<sup>251</sup>

On April 7, 2022, the Select Committee conducted a deposition of Trevor Hallgren, one of the participants on this alleged ‘reconnaissance tour.’<sup>252</sup> During this deposition, the Select Committee repeatedly attempted to lead Hallgren into assigning a malicious motive to Chairman Loudermilk.<sup>253</sup>

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<sup>247</sup> Cassidy Hutchinson, ENOUGH at 123-131 (2023).

<sup>248</sup> Letter from Bennie Thompson to Barry Loudermilk (May 19, 2022). (on file with the Subcommittee); Mary Clare Jalonick, *WATCH: Jan. 6 panel releases video of Rep. Loudermilk leading a Capitol tour day before attack*, AP, June 15, 2022.

<sup>249</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Trevor Hallgren (April. 7, 2022).

<sup>250</sup> Mary Clare Jalonick, *WATCH: Jan. 6 panel releases video of Rep. Loudermilk leading a Capitol tour day before attack*, AP, June 15, 2022.

<sup>251</sup> Alexa Lardieri, *Capitol, White House Closed to Public Due to Coronavirus*, U.S. News, Mar. 12, 2020; Ameer Latour, *Much of Capitol to reopen to visitors on Tuesday*, The Hill, (Dec. 30, 2022).

<sup>252</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Trevor Hallgren (April. 7, 2022).

<sup>253</sup> *Id.*

Towards the beginning of the deposition, the Select Committee asked Hallgren how he came to participate in the tour that Chairman Loudermilk led.<sup>254</sup> Hallgren noted that he was on a bus from Atlanta with a family that had a scheduled meeting on Capitol Hill. According to Hallgren, the family, who personally knew Chairman Loudermilk, invited others on the bus to join them for the meeting with the Congressman. Hallgren accepted the invite but admitted in his deposition that he did not know the family beforehand, highlighting how his participation in the tour was unplanned.<sup>255</sup>

The Select Committee also asked Hallgren if he knew in advance whether the tour would “involve [Chairman] Loudermilk,” to which Hallgren said he “[was not] really sure.”<sup>256</sup> Hallgren further elaborated on the question, saying that he did not even know if the tour would be “guided.”<sup>257</sup>

The Select Committee then asked Hallgren about the topics of conversations during the tour. Hallgren noted that much of the conversation during the tour was about “general information,” including the “history” of the House office buildings and the Capitol.<sup>258</sup> Specifically, the Select Committee asked Hallgren if it would be fair to say that any conversations specifically about January 6 were merely “procedural,” to which Hallgren said “Yeah.”<sup>259</sup>

4	Q	What sorts of things were pointed out?
5	A	You know, just different offices and, you know -- I don't know -- I think
6		history about, you know what I mean, whose office that -- a particular office may have
7		been. Just things that I really don't remember, but, again, just general information. I
8		mean, nothing of any real relevance, but -- but -- but history, you know, to -- to the
9		Capitol. You know what I mean?
10		This is, you know, what may have happened here or, you know what I mean,
11		certain sign -- I remember something about certain signs that were placed on certain
12		doors, like -- again, nothing of relevance at all of anything to this -- but, again, just the
13		history of, yeah I mean, somebody had this office in, you know, 1800 or something like
14		that, or you know what I mean, or, you know, early 1900s and, you know what I mean,
15		this is their office or whatever, or whatever the -- whenever the building was actually
16		built. I mean, this was somebody's offices way back then.

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<sup>254</sup> *Id.* at 33-34.

<sup>255</sup> *Id.* at 45.

<sup>256</sup> *Id.* at 36.

<sup>257</sup> *Id.*

<sup>258</sup> *Id.* at 41.

<sup>259</sup> *Id.* at 39.



5 Q So to summarize and you tell me if this is wrong, it sounds like most of that  
6 conversation about the 6th with the Congressman was procedural. It was about what  
7 Congress was going to do on the 6th with certifying the election or what the Vice  
8 President was going to do?  
9 A Yeah, yeah, basically.

Additionally, one of the accusations the Select Committee leveled was that tour participants were taking photos of tunnels where Members may evacuate.<sup>260</sup> However, the Select Committee acknowledged in the interview with Hallgren that the group was merely taking photos of Chairman Loudermilk on the subway from the Rayburn House Office Building to the Capitol.<sup>261</sup>

16 Here's a picture of a picture of you all taking photos of the tunnel. Do you  
17 remember this?  
18 A Yes. That was -- and that was photos of him, like, on the little -- I can't  
19 remember if it was a golf cart or if it's actually like one of those old coal cars that runs on  
20 a set of tracks or something, but anyways, he got like into this transportation vehicle or  
21 whatever. I can't remember.  
22 I don't know if it was a golf cart or, like I said -- it seemed, like, it ran on a set of  
23 tracks. Do I have that right or am I --  
24 Q That's right. There's something similar to what you described in this area.  
25 So this is a picture of him leaving for the Capitol, Representative Loudermilk --

1 A Right. That was the end of things and that's what we were all doing there,  
2 I'm sure, is taking -- you know, taking the last photos of him that, you know, we would  
3 have been able to capture.

At one point, the Select Committee asked Hallgren if he was aware that some people were “trying to gather information about the layout of the Capitol” before January 6, to which Hallgren bluntly responded, “No.”<sup>262</sup>

On May 19, 2022, after taking the sworn deposition of the individual who stated in no uncertain terms there was nothing unusual about the tour, the Select Committee sent a letter to Chairman Loudermilk implying he led a reconnaissance tour and was involved in some plot to breach the

<sup>260</sup> *Id.* at 52.

<sup>261</sup> *Id.*

<sup>262</sup> *Id.* at 58.

Capitol.<sup>263</sup> Despite the video evidence and sworn testimony, the Select Committee ignored this, and publicly accused Chairman Loudermilk of being complicit in the breach of the Capitol.<sup>264</sup>

In an interview with The Hill, Representative Jared Huffman stated that “this evidence it’s just so obvious that these were, indeed, reconnaissance tours – there’s no other way to look at it.”<sup>265</sup> Representative Huffman observed that the “clip appears to be insurrectionists conducting reconnaissance for January 6. The truth is coming out.”<sup>266</sup> In the same interview, Representative Raul Grijalva told The Hill he has “credible suspicion that Loudermilk’s tour was reconnaissance.”<sup>267</sup>

The Select Committee’s allegations were subsequently dismissed by Capitol Police in a letter from Thomas Manger, Chief of United States Capitol Police.<sup>268</sup> In the letter sent on June 13, 2022, Chief Manger concludes, “There is no evidence that Representative Loudermilk entered the U.S. Capitol with this group on January 5, 2021... and we do not consider any of the activities we observed as suspicious.”<sup>269</sup>

Despite this statement from USCP, the Select Committee sent a second letter to Chairman Loudermilk on June 15, 2022, doubling down on these allegations.<sup>270</sup> In this letter, Chairperson Thompson included images of Chairman Loudermilk walking individuals through the Rayburn, Longworth, and Cannon House Office Buildings, and accused these individuals of behaving in a way that “raises concerns about their activity and intent while inside the Capitol complex.”<sup>271</sup>

Select Committee records, including the transcribed interviews of two participants on the tour on January 5, make it clear the Select Committee knew there was nothing connecting Chairman Loudermilk’s constituent tour to the events of January 6. Despite this, the Select Committee still sent its May 19, 2022, letter, accusing him. The public accusations led to death threats directed toward Chairman Loudermilk, his family, and his staff. While some of the individuals on the tour were at the National Mall on January 6, they never went into the Capitol.<sup>272</sup> None of the individuals in question have been charged with crimes related to January 6.

## COLLUSION WITH FULTON COUNTY DISTRICT ATTORNEY FANI WILLIS

During its initial review of records archived by the Select Committee, the Subcommittee discovered a letter from Fulton County District Attorney Fani Willis to the Select Committee

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<sup>263</sup> Letter from Bennie Thompson to Barry Loudermilk (May 19, 2022). (on file with the Subcommittee).

<sup>264</sup> *Id.*

<sup>265</sup> Michael Schnell, *House Democrats double down on claims of reconnaissance tours following Loudermilk video release*, The Hill, June 15, 2022.

<sup>266</sup> *Id.*

<sup>267</sup> *Id.*

<sup>268</sup> Letter from J. Thomas Manger to Rodney Davis (June 13, 2022). (on file with the Subcommittee).

<sup>269</sup> *Id.*

<sup>270</sup> Letter from Bennie Thompson to Barry Loudermilk (June 15, 2023). (on file with the Subcommittee).

<sup>271</sup> *Id.*

<sup>272</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Trevor Hallgren (April. 7, 2022), p. 75.

dated December 17, 2021.<sup>273</sup> In this letter, Willis requested access to any Select Committee records relevant to her investigation into President Trump’s actions to challenge the 2020 presidential election, including “recordings and transcripts of witness interviews and depositions, electronic and print records of communications, and records of travel.”<sup>274</sup>

Based on public reporting, the Select Committee shared important records with Willis and the Fulton County District Attorney’s Office.<sup>275</sup> According to the Atlanta Journal-Constitution, the Select Committee provided “Fulton County prosecutors...key evidence about what former President Trump and his top advisers knew” with respect to Georgia’s 2020 election results.<sup>276</sup> Politico also reported that Fani Willis’ staff met with the Select Committee in April 2022 and participated in multiple phone calls with the Fulton County District Attorney’s Office.<sup>277</sup> The same video recordings that the Fulton County District Attorney requested were never archived by the Select Committee.

Although no additional communications between the Select Committee and the Fulton County District Attorney’s Office were archived by the Select Committee, the prospect of the Select Committee sharing video recordings of witness interviews with Willis but not this Subcommittee remains particularly concerning. The Subcommittee has opened an investigation into the extent of the coordination between Willis and the Select Committee and is committed to uncovering answers to these questions.

## III: DOING THE WORK THE SELECT COMMITTEE FAILED TO DO

### JANUARY 6: SECURITY FAILURES

Most Americans are aware and would agree that the events of January 6 were the convergence of factors related to security and politics. Few Americans would favor the presence of military forces at the U.S. Capitol, particularly during an event like the certification of a Presidential Election. However, when the mobilization of D.C. National Guard (“DCNG”) was necessary to maintain order and safety, it appears the process of their mobilization was slowed due to these perceived political factors. Analysis to date of the events and response to the January 6 breach have left many unanswered questions. A full and unbiased review is necessary to ensure these delays never happen again.

January 6, 2021, highlighted a culmination of failures at many levels, leaving the Subcommittee with questions regarding what and who is ultimately responsible for the intelligence, leadership, and structural failures of that day. In the aftermath of January 6, congressional committees initiated various investigations into the security, intelligence, and leadership failures at the U.S.

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<sup>273</sup> Letter from Fani Willis to Bennie Thompson (December 17, 2021). (on file with the Subcommittee).

<sup>274</sup> *Id.*

<sup>275</sup> Tamar Hallerman, *Jan. 6 committee aids Fulton prosecutors in their investigation of Trump*, Atlanta Journal-Constitution, Oct. 25, 2022.

<sup>276</sup> *Id.*

<sup>277</sup> Kyle Cheney et. al., *Jan. 6 committee helped guide early days of Georgia Trump probe*, Politico, Jan. 10, 2024.

Capitol.

## USCP APPROVAL TO REQUEST D.C. NATIONAL GUARD ON JANUARY 6 RESULTED IN DELAYS

Prior to January 6, 2021, the U.S. Capitol Police Chief was required by law to receive approval from the Capitol Police Board before directly requesting assistance from the D.C. National Guard.<sup>278</sup> This requirement caused significant delays in the deployment of the National Guard and therefore delayed law enforcement's efforts to secure the Capitol.<sup>279</sup>

In the days leading up to January 6, both the House and Senate Sergeant at Arms received requests from USCP Chief of Police Steven Sund for approval to request National Guard assistance.<sup>280</sup> Chief Sund testified that he first requested National Guard assistance from the House and Senate Sergeant at Arms during the morning of January 3, 2021.<sup>281</sup> According to his testimony before the Subcommittee on September 19, 2023, Chief Sund decided to expand the security perimeter around the Capitol and believed National Guard assistance would be needed to man the expanded perimeter due to the staffing constraints that a Joint Session placed on the Department.<sup>282</sup>

Chief Sund testified that on the morning of January 3, 2021, he walked into House Sergeant at Arms ("HSAA") Paul Irving's office and asked that he approve a request for National Guard assistance to support the expanded perimeter.<sup>283</sup> According to Chief Sund's testimony, HSAA Paul Irving, upon learning of the request, said he did not like the "optics" of National Guard troops on Capitol Grounds and did not think the intelligence justified National Guard deployment.<sup>284</sup> It should be noted, however, that HSAA Irving has testified that he does not recall ever using the term 'optics' in relation to National Guard deployment, and claims Chief Sund ultimately agreed with his conclusion that the intelligence did not support requesting National Guard assistance.<sup>285</sup> Before departing, HSAA Irving then urged Chief Sund to speak to the Senate Sergeant at Arms ("SSAA") and then-Chairman of the Capitol Police Board, Michael Stenger, about the request.<sup>286</sup> Later on January 3, Chief Sund conferred with SSAA Stenger, who like HSAA Irving, delayed Chief Sund's request.<sup>287</sup> SSAA Stenger did, however, suggest that

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<sup>278</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>279</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Steven Sund (Apr. 20, 2022), p. 180.

<sup>280</sup> Jaelyn Diaz, *Ex-Capitol Police Chief Says Requests for National Guard Denied 6 Times in Riots*, NPR, Jan. 11, 2021.

<sup>281</sup> *Hearing: Oversight of United States Capitol Security: Assessing Security Failures on January 6, 2021*, Comm. on House Admin., Subcomm. on Oversight, 118th Cong. (2023), (Testimony of Steven Sund).

<sup>282</sup> *Id.*

<sup>283</sup> *Id.*

<sup>284</sup> *Id.*

<sup>285</sup> Joint Hearing: Senate Committee on Rules and Administration and Senate Committee on Homeland Security & Governmental Affairs, Examining the January 6th Attack on the U.S. Capitol (Feb. 23, 2021), (Testimony of Paul Irving).

<sup>286</sup> *Id.*

<sup>287</sup> Steven Sund, COURAGE UNDER FIRE: UNDER SIEGE AND OUTNUMBERED 58 TO 1 ON JANUARY 6, p. 82.

Chief Sund reach out to D.C. National Guard Commanding General William Walker and inquire about what National Guard resources he could have ready for deployment if needed.<sup>288</sup> Chief Sund later wrote in his book:

“Several weeks after January 6, I had the chance to ask Stenger if he had been given a heads-up that I was coming to request the Guard, and he told me that Irving had called him and said, ‘Sund just came to my office asking for national Guard assistance. We need to come up with another plan. I will never get this by Pelosi.’”<sup>289</sup>

Had the House and Senate Sergeant at Arms approved Chief Sund’s request, it is likely the Capitol’s outer perimeter would never have been breached.

Beginning on December 31, 2020, Major General (“MG”) William Walker of the D.C. National Guard received two letters from the Washington, D.C. government. The first was from Dr. Christopher Rodriguez, the Director of the D.C. Homeland Security and Emergency Management Agency, who issued a request for assistance (“RFA”) from the D.C. National Guard to assist the Metropolitan Police Department (“MPD”) at metro stations and traffic control points (“TCP”) on January 5 and January 6 due to planned protests throughout the city.<sup>290</sup> The second letter came from the Mayor of Washington, D.C., Muriel Bowser, urging General Walker to immediately connect with Dr. Rodriguez regarding the RFA.<sup>291</sup>

These requests for the D.C. National Guard were directly related to the intelligence received by the D.C. government regarding the scheduled demonstrations.<sup>292</sup> In addition to requesting the National Guard, Mayor Bowser also publicly requested non-residents of D.C. to “stay out of the District” in anticipation of these protests.<sup>293</sup>

### *January 1, 2021*

On January 1, 2021, MG Walker sent a letter to the Secretary of the Army, Ryan McCarthy, seeking approval for the D.C. Government's request for assistance.<sup>294</sup> Following a mission analysis, the D.C. National Guard initially offered a troop cap of 250 guardsmen.<sup>295</sup> The following day, on January 2, 2021, the Acting Secretary of Defense, Christopher Miller, discussed the D.C. Government’s RFA with the Chairman of the Joint Chiefs of Staff, Mark

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<sup>288</sup> *Id.* at 83.

<sup>289</sup> *Id.* at 84.

<sup>290</sup> Letter from Christopher Rodriguez to William Walker (Dec. 31, 2020). (on file with the Subcommittee).

<sup>291</sup> Letter from Muriel Bowser to William Walker (Dec. 31, 2020). (on file with the Subcommittee).

<sup>292</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Tony Ornato (Nov. 29, 2022), p.61.

<sup>293</sup> *Id.*

<sup>294</sup> Email from William Walker to Ryan McCarthy (Jan. 1, 2021). (on file with the Subcommittee).

<sup>295</sup> *Id.*

Milley, and Secretary McCarthy.<sup>296</sup> Further mission analysis determined the need for 340 National Guardsmen.<sup>297</sup>

### *January 3, 2021*

On January 3, 2021, the Department of Defense (“DOD”) confirmed with USCP that there was no request for DOD support on January 5 or January 6.<sup>298</sup> Also on January 3, 2021, Acting Secretary Miller and Chairman Milley met with President Trump regarding the D.C. Government’s RFA.<sup>299</sup> In this meeting, President Trump approved Acting Secretary Miller activating the D.C. National Guard to support law enforcement.<sup>300</sup> Acting Secretary Miller told the President, “[w]e’ve got a plan, and we’ve got it covered.”<sup>301</sup> Once President Trump approved the D.C. Government’s RFA, Secretary McCarthy notified Mayor Bowser of the approval.<sup>302</sup>

Acting Secretary Miller and Secretary McCarthy were also hyper-aware of where the National Guard would be stationed around D.C., especially after reading a Washington Post op-ed signed by all living former Secretaries of Defense warning of the optics of interfering in elections.<sup>303</sup> Acting Secretary Miller took this into account when positioning the National Guard and told the DOD IG that he “made a very deliberate decision that I would not put U.S. Military people. . . East of the 9th Street, northwest.”<sup>304</sup> In a transcribed interview, Colonel Craig Hunter, the Joint Task Force Guardian Commander, testified that the Metropolitan Police Department asked him to move a vehicle one intersection north but that he could not authorize that.<sup>305</sup> Hunter continues, “I had to request that up through the Secretary of the Army, and it took 3 hours. But 3 hours later I received approval.”<sup>306</sup>

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<sup>296</sup> Memorandum for the Record from the Secretary of the Army (Jan. 7, 2021).; Memorandum for the Record from the office of the Secretary of Defense (Jan. 7, 2021). (on file with the Subcommittee).

<sup>297</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Secretary Ryan McCarthy (Feb. 4, 2022), p. 68.

<sup>298</sup> DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

<sup>299</sup> *Id.*

<sup>300</sup> *Id.*

<sup>301</sup> *Id.*

<sup>302</sup> *Id.*

<sup>303</sup> Ashton Carter et. al., *Opinion: All 10 living former defense secretaries: Involving the military in election disputes would cross into dangerous territory*, The Washington Post (Jan. 3, 2021).

<sup>304</sup> Hearing: House Committee on Oversight and Reform, The Capitol Insurrection: Unexplained Delays and Unanswered Questions (May 12, 2021) (Testimony of Christopher Miller); DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

<sup>305</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Craig Hunter, (Jan. 20, 2022), p. 12.

<sup>306</sup> *Id.*

### *January 4, 2021*

On January 4, 2021, White House Chief of Staff Mark Meadows contacted Mayor Bowser to ensure the D.C. government was ready for the Joint Session.<sup>307</sup> Meadows, according to public reporting, offered 10,000 National Guardsmen to assist the mayor, significantly more than the 340 previously requested.<sup>308</sup>

Tony Ornato, President Trump’s Deputy Chief of Staff for Operations, confirmed this version of events.<sup>309</sup> In Ornato’s January 28, 2022, previously unreleased transcribed interview with the Select Committee, he stated, “I do recall a conversation, I believe, it was with Mr. Meadows and the mayor, Mayor Bowser. . . I had walked in for something, and I was there, and he was on the phone with her and wanted to make sure she had everything that she needed. . . and I remember the number 10,000 coming up of, you know, the President wants to make sure that you have enough.”<sup>310</sup>

Also on January 4, 2021, Secretary McCarthy wrote to Jeffrey Rosen, the Acting Attorney General of the United States to confirm his approval of the Defense Support for Civil Authorities (“DSCA”) RFA from the D.C. government, pursuant to Executive Order 11485, which grants the Secretary of Defense authority over the DCNG.<sup>311</sup>

One of the most decisive decisions made on January 4 was in a memorandum from Acting Secretary Miller to Secretary McCarthy regarding the D.C. Government’s RFA. This memorandum listed guidelines for the D.C. National Guard during a deployment.<sup>312</sup> The D.C. National Guard was not authorized to have or use “batons, or ballistic protection equipment such as helmets and body armor.”<sup>313</sup> Furthermore, Acting Secretary Miller delegated Secretary McCarthy unilateral authority to approve a forty-person Quick Reaction Force (“QRF”) stationed at Joint Base Andrews (“JBA”), but only as a last resort.<sup>314</sup> The Acting Secretary of Defense delegating authority to the Secretary of the Army was not unusual and is routine in DOD.<sup>315</sup>

### *January 5, 2021*

On January 5, 2021, Secretary McCarthy sent a memorandum to MG Walker relaying most of the information from Acting Secretary Miller.<sup>316</sup> Notably, Secretary McCarthy’s memorandum did not convey that the DCNG was not able to have body armor and retained authority to deploy

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<sup>307</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Tony Ornato (Jan. 28, 2022), p. 78.

<sup>308</sup> *Id.* at 83.

<sup>309</sup> Brandi Buchman, *Jan. 6 probe releases transcripts for Ginni Thomas, Rudy Giuliani, Tony Ornato, other key witnesses*, Daily Kos (Dec. 30, 2022).

<sup>310</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Tony Ornato (Jan. 28, 2022), p. 78.

<sup>311</sup> Letter from Ryan McCarthy to Jeffrey Rosen (Jan. 4, 2021). (on file with the Subcommittee); Exec. Order No. 11,485, 34 Fed. Reg. 15411 (Oct. 1, 1969).

<sup>312</sup> Memorandum from Christopher Miller, Acting Secretary of Defense to Secretary of the Army Ryan McCarthy (Jan. 4, 2021). (on file with the Subcommittee).

<sup>313</sup> *Id.*

<sup>314</sup> *Id.*

<sup>315</sup> Exec. Order No. 11,485, 34 Fed. Reg. 15411 (Oct. 1, 1969).

<sup>316</sup> Memorandum from Ryan McCarthy to William Walker (Jan. 5, 2021). (on file with the Subcommittee).

the QRF with the Secretary of the Army instead of delegating to the Commanding General of the D.C. National Guard.<sup>317</sup> Furthermore, in order for Secretary McCarthy to approve the release of the QRF, he also requested MG Walker provide a concept of operations plan (“con-op”) prior to the QRF’s deployment.<sup>318</sup> Secretary McCarthy withholding this authority from MG Walker and adding the constraint of a concept of operations plan prior to QRF deployment is inconsistent with previous guidance provided by the Secretary of the Army.<sup>319</sup>

## CONTRADICTING TIMELINES: DoD, D.C. NATIONAL GUARD, AND THE SELECT COMMITTEE

On January 6, 2021, the House and Senate Sergeant at Arms denied Chief Sund’s initial requests for D.C. National Guard support, resulting in at least a 70-minute delay in authorizing the deployment of National Guard troops.<sup>320</sup> Chief Sund first requested National Guard assistance on January 6 from HSAA Irving at 12:58 p.m., five minutes after the breach of the Capitol’s outer perimeter.<sup>321</sup> Chief Sund’s phone records confirm a call between HSAA Irving and Chief Sund at this time.<sup>322</sup> While on this call, HSAA Irving advised Chief Sund that he would “run [his request] up the chain” – a reference to Speaker Pelosi.<sup>323</sup>

At 1:40 p.m., HSAA Irving sought out Speaker Pelosi’s Chief of Staff, Terri McCullough, to relay Chief Sund’s request for National Guard support to the Speaker.<sup>324</sup> At 1:43 p.m., McCullough wrote down a note regarding the request and handed it to the Speaker.<sup>325</sup> Speaker Pelosi stated, “Absolutely. Go.”<sup>326</sup> McCullough also informed Speaker Pelosi at this time that Senate Majority Leader Mitch McConnell needed to approve the order as well.<sup>327</sup> Shortly after, Speaker Pelosi and Majority Leader McConnell met and were “perplexed to learn that the two sergeants-at-arms had not yet approved the request for troops.”<sup>328</sup> HSAA Irving was not required by law to wait for the approval from Speaker Pelosi but insisted upon doing so anyway.<sup>329</sup> Between roughly 1:00 p.m. when Chief Sund first requested National Guard assistance and approximately 2:10 p.m. when he received Capitol Police Board approval, Chief Sund placed

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<sup>317</sup> *Id.*

<sup>318</sup> *Id.*

<sup>319</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of William Walker (Dec. 13, 2021), p. 89; DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

<sup>320</sup> Jaclyn Diaz, *Ex-Capitol Police Chief Says Requests for National Guard Denied 6 Times in Riots*, NPR, Jan. 11, 2021.

<sup>321</sup> *Id.*

<sup>322</sup> Phone Records of Steven Sund. (on file with the Subcommittee).

<sup>323</sup> Steven Sund, COURAGE UNDER FIRE: UNDER SIEGE AND OUTNUMBERED 58 TO 1 ON JANUARY 6, p.143.

<sup>324</sup> Mark Mazzetti et. al., *The Lost Hours: How Confusion and Inaction at the Capitol Delayed a Troop Deployment*, N.Y. Times (Feb. 21, 2021).

<sup>325</sup> *Id.*

<sup>326</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>327</sup> *Id.*

<sup>328</sup> Mark Mazzetti et. al., *The Lost Hours: How Confusion and Inaction at the Capitol Delayed a Troop Deployment*, N.Y. Times (Feb. 21, 2021).

<sup>329</sup> Steven Sund, COURAGE UNDER FIRE: UNDER SIEGE AND OUTNUMBERED 58 TO 1 ON JANUARY 6, p.324.



several calls to the House and Senate Sergeant at Arms asking for updates<sup>330</sup> The Capitol Police Board took over 70 minutes to approve Chief Sund’s request.<sup>331</sup>

According to the timelines produced by the D.C. National Guard, Secretary of the Army, and Office of the Secretary of Defense, at 1:49 p.m. on January 6, 2021, United States Capitol Police Chief Steven Sund called D.C. National Guard Major General William Walker to request immediate assistance.<sup>332</sup> At 2:12 p.m., the United States Capitol was physically breached.<sup>333</sup> The D.C. National Guard did not arrive at the Capitol until approximately 5:55 p.m. to support the federal civil disturbance mission to restore order at the Capitol.<sup>334</sup>

According to the DOD, Acting Secretary Miller and Secretary McCarthy authorized mobilization of the D.C. National Guard at approximately 3:04 p.m. on January 6, 2021.<sup>335</sup> According to the D.C. National Guard, it took over two hours for this order to be transmitted.<sup>336</sup> When Secretary McCarthy was asked about the delay in a transcribed interview with the Select Committee, he testified that he “had started to get a flurry of phone calls... And literally it was the Speaker, the majority leader, pick just about any Member of Congress calling and obviously very upset.”<sup>337</sup> Secretary McCarthy continued, “The Speaker of the House is on my cell phone; I’m going to take the call.”<sup>338</sup> While Secretary McCarthy testified he was fielding calls from Speaker Pelosi and other politicians, the D.C. National Guard alleges he had not yet communicated the order to mobilize the D.C. National Guard.<sup>339</sup>

Unfortunately, the Select Committee failed to answer many obvious questions and instead accepted conflicting accounts without analyzing the veracity of the information in its Final Report. While it is not surprising that there are varied accounts of an event, hours’ worth of recollection provided by the DOD and the D.C. National Guard paint two completely different narratives.

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<sup>330</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>331</sup> Steven Sund, COURAGE UNDER FIRE: UNDER SIEGE AND OUTNUMBERED 58 TO 1 ON JANUARY 6, p.372.

<sup>332</sup> Memorandum for the Record from Joint Force Headquarters, District of Columbia National Guard (Jan. 7, 2021).; Memorandum for the Record from the Secretary of the Army (Jan. 7, 2021).; Memorandum for the Record from the office of the Secretary of Defense (Jan. 7, 2021). (on file with the Subcommittee).

<sup>333</sup> *Id.*

<sup>334</sup> DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

<sup>335</sup> *Id.*

<sup>336</sup> Memorandum for the Record from the Secretary of the Army (Jan. 7, 2021).; Memorandum for the Record from the office of the Secretary of Defense (Jan. 7, 2021).

<sup>337</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Ryan McCarthy, (Feb. 4, 2022), p. 27.

<sup>338</sup> *Id.* at 125.

<sup>339</sup>

Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of William Walker (April 10, 2022), p.47.

- The Select Committee’s Final Report includes that “on January 3rd... the President asked, ‘in passing’ about January 6 preparations.”<sup>340</sup> The report continues, “From then on, if not earlier, the [Acting Defense] Secretary ‘felt like I had all the authorities I needed and did not need to discuss anything with the President regarding authorities.’”<sup>341</sup>
  - The Select Committee’s Final Report draws the conclusion that President Trump was absent in the decision-making process for January 6, yet Acting Secretary Miller states that President Trump was engaged in January 6 preparations and provided the authorization needed to secure the Capitol.<sup>342</sup>
- The Select Committee’s Final Report states that Secretary McCarthy learned of the violence unfolding at the U.S. Capitol on a 2:30 p.m. conference call with Chief Sund and Major General Walker.<sup>343</sup> In a transcribed interview with the Select Committee, Secretary McCarthy states, “You know, this is 14 days from when I’m leaving the Department of Defense...you’re writing notes to people, goodbye, good luck, call me if you need me.”<sup>344</sup> Secretary McCarthy continues, “I mean, obviously, we were trying to pay attention to what was going on but it was – you know, you’re continually going through the motions of leaving.”<sup>345</sup>
  - In contrast, General Flynn testified that Secretary McCarthy did not participate in the 2:30 p.m. conference call,<sup>346</sup> which was further corroborated by both the USCP and the D.C. National Guard.<sup>347</sup> The purpose of the call was to provide an update on the urgent situation and to formally request D.C. National Guard support. As a required approver, it was unfortunate that Secretary McCarthy was not actively monitoring the situation or able to make himself available to receive this update and to hear this urgent request firsthand.
- The Select Committee’s Final Report included General Piatt’s response to the claim that he referenced concerns with the “optics” of deploying the DCNG on the 2:30 p.m. call stating, “I don’t recall ever saying [optics] on [the 2:30 p.m.] phone call, because at the

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<sup>340</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>341</sup> *Id.*

<sup>342</sup> *Id.*

<sup>343</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>344</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Ryan McCarthy, (Feb. 4, 2022), p. 95.

<sup>345</sup> *Id.*

<sup>346</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of General Charles Anthony Flynn, (Oct. 28, 2021)), p. 39.

<sup>347</sup> Memorandum for the Record from Joint Force Headquarters, District of Columbia National Guard (Jan. 7, 2021); DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

time it just wasn't important."<sup>348</sup>

- Multiple individuals with firsthand knowledge specifically recount General Piatt stating an issue with the “optics of the National Guard standing in a line with the Capitol in the background.”<sup>349</sup> The chances of multiple witnesses from different agencies recalling the exact same quote, on separate instances, is highly unlikely. It is unknown to the Subcommittee why the Select Committee would not seek further clarification regarding substantiated claims that the Department of Defense prioritized optics over safety.
- The Select Committee report states that the directive from Secretary McCarthy to MG Walker to move the QRF occurred during a 3:04 p.m. call from Secretary McCarthy to MG Walker.<sup>350</sup>
  - MG Walker denies the call ever took place and stated that he moved the QRF on his own volition.<sup>351</sup> The Select Committee was aware of this contradiction but failed to resolve this important discrepancy. Fully equipped National Guardsmen, including a Quick Reaction Force originating from Joint Base Andrews, were ready and waiting at the D.C. Armory for authorization that could only be granted by the Department of Defense.<sup>352</sup>
- The Select Committee’s Final Report states that “Secretary McCarthy developed a con-op” and claimed that “crafting a strategy was his job.”<sup>353</sup> According to the Select Committee Final Report, Secretary McCarthy developed this “plan” with Chief Contee and Mayor Bowser at MPD Headquarters.<sup>354</sup>
  - According to D.C. National Guard leadership, no one ever saw this plan.<sup>355</sup> This also raises questions as to why Secretary McCarthy was creating a tactical-level plan without input from those who would be executing it and why he was at MPD Headquarters despite receiving an RFA from USCP.<sup>356</sup> It is important to

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<sup>348</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Walter Piatt (Nov. 3, 2021), p. 61.

<sup>349</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Steven Sund (April 20, 2022), p. 157.

<sup>350</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>351</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of William Walker (April 21, 2022), p. 47.

<sup>352</sup> Memorandum from Earl G. Matthews, The Harder Right: An Analysis of a Recent DoD Inspector General Investigation and Other Matters (Dec. 1, 2021).

<sup>353</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>354</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Ryan McCarthy, (Feb. 4, 2022), p. 127.

<sup>355</sup> Memorandum from Earl G. Matthews, The Harder Right: An Analysis of a Recent DoD Inspector General Investigation and Other Matters (Dec. 1, 2021).

<sup>356</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of William Walker (Dec. 13, 2021), p. 108; Letter from Stephen Sund to William Walker (Jan. 6, 2021). (on file with the Subcommittee).

remember that the D.C. National Guard were being provided to support the USCP's law enforcement mission.<sup>357</sup> DOD's job was to provide for the forces, not to develop a detailed plan for their use.<sup>358</sup> Adding this requirement was, if not an intentional delay, a costly and impractical burden that resulted in a delay of vital forces.

- In a transcribed interview with the Select Committee, Acting Secretary Miller stated, “And I just want to be clear: At 4:32, I did not—there was not—it was not necessary, nor did I decree or require approval of the employment of the District of Columbia National Guard at the Capitol...The order goes out at 3:04. There is some confusion, I understand, based on—some people thought that they could not go to the Capitol without me approving that [plan]. That’s not accurate.”<sup>359</sup>
  - It is clear that Secretary McCarthy and Acting Secretary Miller did not have the same understanding related to approval for the D.C. National Guard following the 3:04 p.m. call. Secretary McCarthy had a duty to relay time critical orders immediately.
- The Select Committee’s Final Report states that, “Acting Secretary Miller did not understand why Major General Walker... did not deploy troops as soon as his 3 p.m. order allowed it.”<sup>360</sup>
  - According to the D.C. National Guard, the authorization to deploy was not transmitted to Major General Walker until 5:08 p.m. despite claims that the approval to deploy was communicated earlier.<sup>361</sup> This delay of over two hours is significant, particularly when considering that several Army staff Officers were not supportive of the deployment of D.C. National Guard troops to the Capitol.<sup>362</sup> This is an important discrepancy, and the Subcommittee will work to determine the exact orders Secretary McCarthy recalls communicating to MG Walker. The Select Committee failed to obtain this information which is essential to reconciling the National Guard delay.
- The Select Committee’s Final Report concludes that ***“[w]hile the delay seems unnecessary and unacceptable, it was the byproduct of military processes, institutional caution, and a revised deployment approval process. We have no evidence that the***

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<sup>357</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of William Walker (Dec. 13, 2021), p. 122.

<sup>358</sup> *Id.*

<sup>359</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Christopher Miller, (Jan. 14, 2022), p. 115.

<sup>360</sup> *Id.*

<sup>361</sup> Memorandum for the Record from Joint Force Headquarters, District of Columbia National Guard (Jan. 7, 2021).; Memorandum for the Record from the Secretary of the Army (Jan. 7, 2021).; Memorandum for the Record from the office of the Secretary of Defense (Jan. 7, 2021).

<sup>362</sup> DEP’T OF DEFENSE OFF. OF INSPECTOR GENERAL, REP. DODIG-2022-039, REVIEW OF THE DOD’S ROLE, RESPONSIBILITIES, AND ACTIONS TO PREPARE FOR AND RESPOND TO THE PROTEST AND ITS AFTERMATH AT THE U.S. CAPITOL CAMPUS ON JANUARY 6, 2021 (2021).

*delay was intentional.*”<sup>363</sup>

- However, in the Select Committee’s Final Report Chairperson Thompson also claims, “[t]he shortfall of communications, intelligence and law enforcement around January 6 was much less about what they did or did not know. It was more about what they could not know.”<sup>364</sup> Chairperson Thompson continued, **“Whatever weaknesses existed in the policies, procedures, or institutions, they were not to blame for what happened that day.”**<sup>365</sup>

Clearly, Chairperson Thompson was more focused on his blind determination to bring down President Trump than he was on conducting necessary oversight.

- The Select Committee Final Report states that Acting Secretary Miller arrived at MPD Headquarters from the Pentagon at 4:10 p.m. and cites Secretary McCarthy’s transcribed interview to corroborate this.<sup>366</sup>
  - Secretary McCarthy does not mention Acting Secretary of Defense Miller arriving at MPD headquarters in his transcribed interview.<sup>367</sup> Additionally, the Secretary of the Army, Secretary of Defense, the National Guard, and the Department of Defense Inspector General all do not mention Acting Secretary Miller traveling to MPD headquarters.

Three years removed from January 6, 2021, we now know that early assistance from the D.C. National Guard would have made a significant difference in creating and maintaining an expanded perimeter. At the very least, the presence of National Guardsmen would have assisted the United States Capitol Police and Metro Police Department officers by indicating the intent to restore order.

Unfortunately, on January 6, it appears that the House Sergeant at Arms, Senate Sergeant at Arms, United States Capitol Police Board, and the Department of Army prioritized concerns regarding “optics” over the physical safety and security of Congress.<sup>368</sup> The Select Committee failed to answer this question. Former Representative Liz Cheney insisted that the Select Committee “focus extensively on [Trump’s] conduct — and not what she views as other sideshows.”<sup>369</sup> Unfortunately, the Select Committee’s Final Report shows that the facts related to the security response on January 6, 2021, were just “sideshowes” in Representative Liz Cheney’s

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<sup>363</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>364</sup> *Id.*

<sup>365</sup> *Id.*

<sup>366</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>367</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Ryan McCarthy, (Feb. 4, 2022).

<sup>368</sup> Examining the January 6th Attack on the U.S. Capitol: Hearing Before the Senate Committee on Rules and Administration and the Senate Homeland Security and Governmental Affairs Committee, 117th Cong., (2021) (statement of Steven A. Sund).

<sup>369</sup> Jacqueline Alemany et. al., *Jan. 6 panel staffers angry at Cheney for focusing so much of report on Trump*, The Washington Post, Nov. 23, 2022.

political mission against former President Trump.

## CAPITOL SECURITY: POLITICIZATION AND ACCOUNTABILITY

After January 6, the Speaker of the House and her office remained closely involved in and exerted enormous pressure on the House Sergeant at Arms with respect to the security decisions at the Capitol. For example, Speaker Pelosi installed metal detectors outside the House chamber after January 6 and required members to go through security before entering the chamber.<sup>370</sup> Members who did not comply faced fines of up to \$10,000.<sup>371</sup>

On June 16, 2020, Speaker Pelosi required masks to be worn in committee proceedings.<sup>372</sup> The Sergeant at Arms was directed to deny non-compliant members entry.<sup>373</sup> The COVID-19 pandemic allowed Speaker Pelosi to grow her authority into the day-to-day operations of the House by requiring masks in committees and on the House floor, beginning on July 29, 2020.<sup>374</sup> Speaker Pelosi used her influence to command Capitol Police to enforce her directives in coordination with the House Sergeant at Arms.

In a memorandum written by Chief Manger on July 28, 2021, the Capitol Police were directed to “enforce this mask policy on all staff and visitors” in the House office buildings and House Committee meetings.<sup>375</sup> USCP was directed to report noncompliant members to the House Sergeant at Arms.<sup>376</sup> Public statements by USCP and the HSSA leave little doubt that Speaker Pelosi was directly influencing security decisions at the Capitol before and after January 6, 2021. Despite clear evidence to the contrary, Speaker Pelosi stated publicly in a press conference on February 9, 2022, that “I have no power over Capitol Police.”<sup>377</sup> This statement was false.

## CAPITOL POLICE BOARD AND SERGEANT AT ARMS

The responsibility for security at the United States Capitol and its property lies primarily with the Capitol Police Board (“CPB”). CPB consists of four members, including the House Sergeant at Arms, the Senate Sergeant at Arms, the Architect of the Capitol, and the Chief of Police for the United States Capitol Police.<sup>378</sup> Specifically, the House and Senate Sergeant at Arms and the Architect of the Capitol serve as voting members of the CPB whereas the Chief of Police serves as an ex-officio, non-voting member.<sup>379</sup> The CPB is statutorily responsible for “oversee[ing] and support[ing] the Capitol Police in its mission and [for] advanc[ing] coordination between the Capitol Police and the [House and Senate] Sergeant at Arms...in their law enforcement

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<sup>370</sup> *The Latest: Pelosi wants fines for bypassing House security*, AP (Jan. 13, 2021).

<sup>371</sup> *Id.*

<sup>372</sup> Manu Raju et. al., *Pelosi directs committee chairs to require face masks during proceedings*, CNN, (June 17, 2020).

<sup>373</sup> *Id.*

<sup>374</sup> Kevin Breuninger, *Nancy Pelosi imposes mandatory mask policy for House floor after GOP Rep. Gohmert tests positive for coronavirus*, CNBC (July 29, 2020).

<sup>375</sup> Bulletin 21.96 from J. Thomas Manger, *Wearing of Masks Mandatory at All Times for USCP Personnel in Interior Spaces on Capitol Grounds*, (July 28, 2021).

<sup>376</sup> *Id.*

<sup>377</sup> Press Conference, *House Speaker Weekly Briefing* (Feb. 9, 2021).

<sup>378</sup> 2 U.S.C. § 1901 (2007).

<sup>379</sup> *Id.*

capabilities.”<sup>380</sup>

The House Sergeant at Arms serves in an ostensibly nonpartisan position designed to “maintain order under the direction of the Speaker and other presiding officer” and to “execute the commands of the House.”<sup>381</sup> Similarly, the Senate Sergeant at Arms serves a nonpartisan role as the Senate’s “chief law enforcement and protocol officer and is the administrative manager for a host of support services in the Senate.”<sup>382</sup>

As nonpartisan law enforcement officials, their responsibilities revolve around maintaining security on the Capitol campus without deferring to political considerations. As outlined below, considerations beyond merely the safety and security of the Capitol campus appeared part of the decision-making process in the lead up to and on January 6, resulting in significant delays in obtaining National Guard assistance, as previously described.

Speaker Pelosi had direct and substantial influence on the security decisions made by the non-partisan HSAA. The HSAA erected a perimeter fence around the Capitol at the direction of Speaker Pelosi, which remained installed until July 2021. Speaker Pelosi allowed the fence to be removed only after Congressional leaders and the public pressured her to remove it.<sup>383</sup> This was not the first time the HSAA acted at the direction of the Speaker. The HSAA “had a pattern and practice of seeking and obtaining permission from the Speaker for all security decisions”<sup>384</sup> prior to January 6, which significantly politicized the agency. The HSAA’s desire to get permission from the Speaker to issue an emergency declaration, even when not necessary, unquestionably delayed the law enforcement response on January 6.<sup>385</sup>

Former House Sergeant at Arms Paul Irving, who served on the Capitol Police Board by virtue of his position, succumbed to political pressures from the Office of Speaker Pelosi and House Democrat leadership leading up to January 6, 2021. Rather than coordinate in a meaningful way, HSAA Irving only provided information to Republicans after receiving instruction from the Speaker’s office to do so.<sup>386</sup> In one case, HSAA Irving even asked a senior Democratic staffer to “act surprised” when he sent to him and his Republican counterpart key information about plans for the Joint Session on January 6, 2021.<sup>387</sup>

The impact political influence and interference has on Capitol security and readiness is an essential issue that must be investigated further. This Subcommittee’s work will include a

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<sup>380</sup> *Id.*

<sup>381</sup> Rule II, Rules of the United States House of Representatives, 118th Cong., Paragraph 3(a) and 3(c).

<sup>382</sup> *About the Sergeant at Arms*, United State Senate, Accessed Feb. 22, 2024.

<sup>383</sup> Claudia Grisales, *Capitol Police are Upping Security Ahead of A Rally In Support Of The Jan. 6 Rioters*, NPR, Sept. 13, 2021.

<sup>384</sup> STAFF OF H. COMMITTEE ON ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2021).

<sup>385</sup> *Id.*

<sup>386</sup> *Id.* at 4.

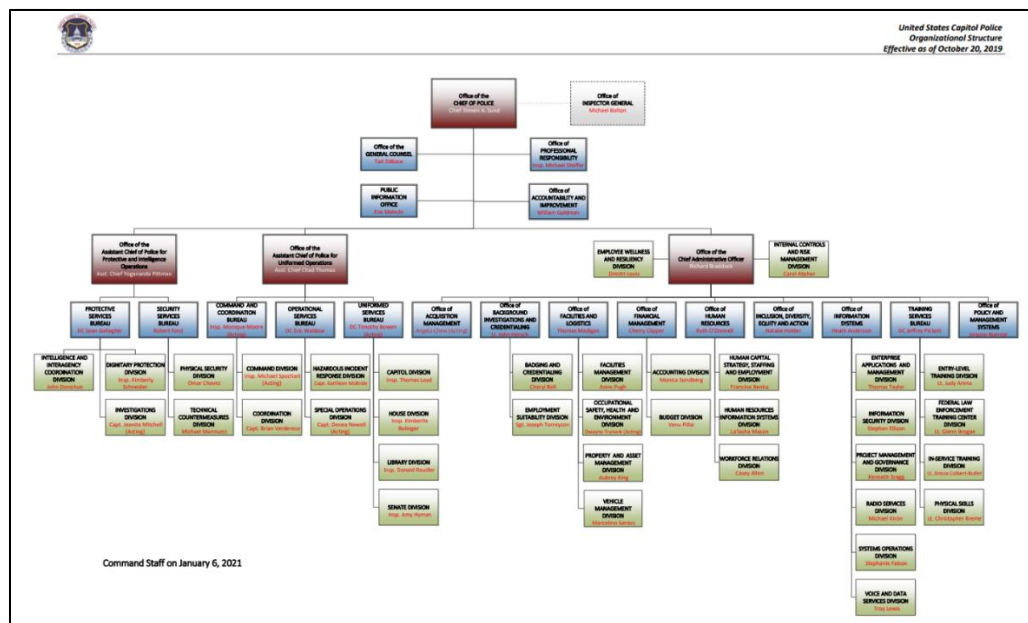
<sup>387</sup> STAFF OF H. COMMITTEE ON ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2021).

substantial review of the impacts of politicization within the HSAA.

## UNITED STATES CAPITOL POLICE

Politicization and a lack of accountability within the United States Capitol Police directly contributed to the security failures on January 6. USCP is responsible for “polic[ing] the United States Capitol Buildings and Grounds under the direction of the Capitol Police Board.”<sup>388</sup> Since its inception, USCP has grown from an organization of four members in 1828 to one with over 2,300 officers and civilian employees in 2024.<sup>389</sup> USCP currently maintains a budget of \$734,600,000 and its jurisdiction includes the “U.S. Capitol building, the Capitol Visitor Center, Capitol grounds, the House and Senate office buildings, the U.S. Botanic Garden, Capitol Police buildings, Library of Congress buildings, and adjacent grounds.”<sup>390</sup> USCP’s jurisdiction also empowers its officers to respond to any crimes committed in the presence of or against any Member of Congress.<sup>391</sup>

On January 6, 2021, Steven Sund was the USCP Chief of Police and had served in that role since 2019.<sup>392</sup> Following January 6, Chief Sund resigned his position after Speaker Pelosi directly pressured him to do so.<sup>393</sup> Assistant Chief Pittman was subsequently promoted to Acting Chief of Police by the Capitol Police Board in 2021.<sup>394</sup>



<sup>388</sup> 2 U.S.C. § 1961 (2010).

<sup>389</sup> *USCP Fast Facts*, United States Capitol Police (Accessed Feb. 22, 2024).

<sup>390</sup> CONGRESSIONAL RESEARCH SERVICE, *THE U.S. CAPITOL POLICE: BRIEF BACKGROUND* (2023).

<sup>391</sup> 2 U.S.C. § 1966 (2010).

<sup>392</sup> Steven Sund, *COURAGE UNDER FIRE: UNDER SIEGE AND OUTNUMBERED 58 TO 1 ON JANUARY 6*, p.6.

<sup>393</sup> Chris Marquette et. al., *Capitol Police chief resigns a day after Congress was taken by a violent pro-Trump mob*, *Roll Call* (Jan. 7, 2021).

<sup>394</sup> Whitney Wild, *US Capitol Police assistant chief who oversaw intelligence operations for the department will retire*, *CNN* (Nov. 21, 2022).



## INTELLIGENCE FAILURES BEFORE JANUARY 6

Before and on January 6, USCP’s intelligence division failed to fully process and disseminate actionable intelligence which directly contributed to the overall security failures at the Capitol. The intelligence reports to USCP leadership, including to Chief Sund, were incomplete and inhibited USCP’s operational planning, leaving USCP unprepared for the attack on the Capitol.

Prior to January 6, USCP maintained two intelligence-related divisions: the Intelligence and Interagency Coordination Division (“IICD”) and the investigations division.<sup>395</sup> The investigations division is divided into the Threat Assessment Section (“TAS”) and the Intelligence Operations Section (“IOS”).<sup>396</sup> All three of these intelligence-related entities within USCP fall under the command of the Assistant Chief of Police for Protective and Intelligence Operations, who on January 6 was Assistant Chief Yogananda Pittman.

Although these three intelligence-related entities are designed to support each other in their mission to collect and analyze relevant intelligence, all three have specific roles. TAS is tasked with “investigating any threat” against Members of Congress whereas IOS is responsible for “[providing] overt and covert patrol” of the Capitol campus in order to “relay information concerning field activity to IICD.”<sup>397</sup> IICD – USCP’s main intelligence arm – is responsible for “(1) maximizing the collection and analysis of all source information and intelligence; (2) identifying potential threats; (3) disseminating products and reports on events and incidents of interest to, or that may impact, the U.S. Capitol, the legislative process, Members, staff, or visitors; and (4) briefing USCP leadership on threats.”<sup>398</sup>

IICD issued four special event assessments related to January 6 and multiple daily intelligence reports, including in the days prior to and on January 6.<sup>399</sup> Prior to January 6, 2021, IICD possessed actionable intelligence, indicating the potential for violence, yet failed to incorporate the “full scope” of this information into its assessments.<sup>400</sup>

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<sup>395</sup> STAFF OF H. COMMITTEE ON H. ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2022).

<sup>396</sup> *Id.*

<sup>397</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022); UNITED STATES CAPITOL POLICE OFF. OF INSPECTOR GEN., 117TH CONG. NO. 2021-I-0003-A, REVIEW OF EVENTS SURROUNDING THE JANUARY 6, 2021, TAKEOVER OF THE U.S. CAPITOL, FLASH REPORT: OPERATIONAL PLANNING AND INTELLIGENCE (2021); UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL, 117TH CONG. NO. 2021-I-0003-B, REVIEW OF EVENTS SURROUNDING THE JANUARY 6, 2021, TAKEOVER OF THE U.S. CAPITOL, FLASH REPORT: CIVIL DISTURBANCE UNIT AND INTELLIGENCE (2021).

<sup>398</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>399</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT DECEMBER 15, 2020; U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT DECEMBER 21, 2020; U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT, DECEMBER 30, 2020; U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT JANUARY 3, 2021. (on file with the Subcommittee).

<sup>400</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

On December 21, 2020, IICD compiled a “seven-page ‘Investigative Research and Analysis Report’” (“December 21 Report”) that detailed posts on a pro-Trump blog called, thedonald.win.<sup>401</sup> Included in the December 21 Report were references to blog posts, calling for protesters to be armed, confront Members of Congress, and shoot law enforcement officers.<sup>402</sup>

On December 22, IICD received email tips underscoring the heightened possibility of violence.<sup>403</sup> IICD also received reports from the D.C. Homeland Security and Emergency Management Agency of “threats towards the US Congress and elected officials” posted to a far-right online chat.<sup>404</sup>

Despite IICD’s awareness of these threats, its second Special Event Assessment, which was released on December 23, (“December 23 Report”) failed to reflect the gravity of the intelligence. In fact, the December 23 Report noted that “no information regarding specific disruptions or acts of civil disobedience.”<sup>405</sup> The December 23 Report also made “no reference” to the December 21 Report.<sup>406</sup>

One week later, IICD issued its third Special Event Assessment (“December 30 Report”), which again failed to reflect the threat environment. The December 30 Report contained the same “overall analysis as the two prior assessments” – the December 16 Report and December 23 Report.<sup>407</sup> IICD even included conflicting information about the expected attendance of the various planned demonstrations on January 6. For example, the December 30 Report noted that the “number of people who indicate they are going to the event listed on these social media postings is relatively low;” however, IICD analysts also included intelligence indicating a “60%-100% increase” in bookings at D.C. hotels.<sup>408</sup>

In the days immediately before January 6, IICD received additional concerning intelligence, indicating plans to attack the Capitol. On January 1, IICD learned of “detailed plans to storm federal buildings” through their tip line.<sup>409</sup> Around this time, IICD also became aware that members of the Proud Boys planned to attend events on January 6 in D.C. and issued a report specific to the Proud Boys, which noted that the “presence of Proud Boys at a protest increases

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<sup>401</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT DECEMBER 21, 2020. (on file with the Subcommittee).

<sup>402</sup> *Id.*

<sup>403</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>404</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>405</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT DECEMBER 21, 2020. (on file with the Subcommittee).

<sup>406</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>407</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT, DECEMBER 30, 2020. (on file with the Subcommittee).

<sup>408</sup> *Id.*

<sup>409</sup> Email from Metropolitan Police Department to IICD (Jan. 1, 2021). (on file with the Subcommittee).

the likelihood of violence.”<sup>410</sup> Despite this intelligence, IICD failed to incorporate this information into its fourth and final Special Event Assessment.

On January 3, 2021, IICD issued its final Special Event Assessment (“January 3 Report”) related to the demonstrations planned for January 6.<sup>411</sup> The January 3 Report’s initial topline section, known as the “Bottom Line Up Front” failed to capture the intelligence IICD possessed. While the January 3 Report’s “Bottom Line Up Front” section did note that some protesters planned to be armed and that white supremacists were likely to join some of the demonstrations, it did not convey any of the specific intelligence about plans to storm the Capitol or infiltrate the Capitol’s tunnel system.<sup>412</sup> Buried on the thirteenth page of a fifteen-page report in its “overall analysis” section, IICD analysts indicated that the “threat of disruptive actions or violence cannot be ruled out” and that the “sense of desperation and disappointment [regarding the election results] may lead to more of an incentive to become violent.”<sup>413</sup> The final section of the January 3 Report added that “unlike previous post-election protests...Congress itself is the target” on January 6 and that the presence of extremist groups “may lead to a significantly dangerous situation for law enforcement and the general public alike.”<sup>414</sup> The failure to incorporate any of the specific intelligence IICD possessed or to convey the gravity of the threat environment earlier in the January 3 Report left USCP leadership uninformed and unable to properly plan.

While the last section of the January 3 Report conveyed a tone more reflective of the intelligence, this same analysis was absent from the reports IICD released in the days immediately before January 6. As a result, IICD’s daily intelligence reports and special event assessments reflected inconsistent threat analysis. On January 4, January 5, and January 6, IICD released three separate Daily Intelligence Reports (“DIR”).<sup>415</sup> All three of these DIRs detailed the planned demonstrations for January 6 and assigned the likelihood of civil disobedience at these events as “Remote” or “Improbable.”<sup>416</sup> Despite the warning contained in the last section of the January 3 Report, these DIRs once again failed to reflect the intelligence IICD possessed.

The IICD was not equipped to receive and act on all incoming information, amplified by the decentralized nature of USCP’s intelligence gathering operation.<sup>417</sup> On January 5, an employee in another USCP intelligence department received intelligence from the FBI that protestors were

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<sup>410</sup> INTELLIGENCE & INTERAGENCY COORDINATION DIV., U.S. CAPITOL POLICE, INFORMATION PAPER #21-A-0594: THE PROUD BOYS, Jan. 3, 2021. (on file with the Subcommittee).

<sup>411</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT JANUARY 3, 2021. (on file with the Subcommittee).

<sup>412</sup> *Id.*

<sup>413</sup> *Id.*

<sup>414</sup> U.S. CAPITOL POLICE INTELLIGENCE AND INTERAGENCY COORDINATION DIV., SPECIAL EVENT ASSESSMENT, JANUARY 3, 2021. (on file with the Subcommittee).

<sup>415</sup> U.S. Capitol Police Intelligence and Interagency Coordination Div., Daily Intelligence Report, January 3, 2021. (on file with the Subcommittee), U.S. Capitol Police Intelligence and Interagency Coordination Div., Daily Intelligence Report, January 4, 2021. (on file with the Subcommittee), U.S. Capitol Police Intelligence and Interagency Coordination Div., Daily Intelligence Report, January 5, 2021. (on file with the Subcommittee).

<sup>416</sup> *Id.*

<sup>417</sup> STAFF OF H. COMMITTEE ON H. ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2022).

coming to Congress “ready for war.”<sup>418</sup> USCP leadership, including Yogananda Pittman, Assistant Chief of Police for Protective and Intelligence Operations, who oversaw IICD, did not distribute this information to USCP leadership, rank-and-file officers, or other agency partners, leaving them vulnerable on January 6.<sup>419</sup>

Julie Farnam, the Assistant Director of IICD, subsequently testified to the Select Committee about the issues within IICD prior to January 6:<sup>420</sup>

24	Q	In the lead-up to January 6th, how would you characterize the influence that
25		IICD and intelligence more broadly had on the operational side of the department?
1	A	Not much influence. And I think it's because IICD had such a bad
2		reputation in the department. And that was an earned reputation. I'm not going to try
3		to sugarcoat it. Like, the team was dysfunctional. It was underperforming. Everyone
4		knew it. And the products that they were putting out prior to my arrival were not
5		necessarily very good, so their products weren't taken very seriously.

Farnam also spoke about some of the changes she implemented, including dividing up the IICD:<sup>421</sup>

12		Did you institute any changes upon arriving at IICD? And what were they, and
13		what were the purpose behind those changes?
14	A	I instituted a lot of changes.

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<sup>418</sup> Federal Bureau of Investigation, Norfolk Division, *FBI Situational Information Report Potential for Violence in Washington, D.C. Area in Connection with Planned 'StopTheSteal' Protest on 6 January 2021* (Jan. 5, 2021) (on file with the Subcommittee).

<sup>419</sup> *Id.*

<sup>420</sup> Select Committee to Investigate the Jan. 6th Attack on the U.S. Capitol, Transcribed Interview of Julie Farnam (Dec. 15, 2021), p. 16-17.

<sup>421</sup> *Id.* at 11.

2           The other thing that I did that was a major change for them: The team was split  
3           up into two groups; one was called the Open Source Section, and the other one was  
4           called the Intelligence Analysis Section. But what I found out pretty quickly was Open  
5           Source did open source, but 95 percent of everything the team did was open source  
6           intelligence. So to have one team that said they weren't doing open source didn't make  
7           sense to me, especially where we were such a small team.

However, these changes caused significant issues in the team’s dynamic and work product. These changes meant that right before January 6, the IICD “did almost no sharing” of intelligence, making all the intelligence they gathered meaningless.<sup>422</sup> IICD’s inability to effectively share information put the Capitol at risk.

At Farnam’s direction, IICD released a Special Event Assessment on January 3 that stated, “protestors have indicated they plan to be armed” and “[u]nlike previous protests . . . Congress itself is the target on the 6th.”<sup>423</sup> However, these threats were not revisited in Daily Intelligence Reports on January 4, 5, or 6.<sup>424</sup> Farnam stated publicly that she “was providing relevant, necessary information to the leadership. But it didn’t result in action” and blames higher ups for the failures of herself and her division on January 6.<sup>425</sup> However, significant questions remain about the emphasis of the actual intelligence in this report and its distribution to senior leadership at USCP prior to January 6. USCP’s intelligence divisions failed to fully disseminate actionable intelligence and, as a result, issued inconsistent assessments about the probability of violence on January 6, which directly affected the operational planning and execution of officers on the ground.

## FAILURES IN OPERATIONAL PLANNING AND EXECUTION ON JANUARY 6

One of the many factors that contributed to USCP’s lack of preparedness on January 6 was the failure to create a department-wide, operational plan. The lack of an operational plan impacted USCP’s ability to establish a coordinated response to the attack unfolding at the U.S. Capitol.

According to USCP’s Office of Inspector General (“OIG”) *Flash Report: Operational Planning and Intelligence*, certain segmented divisions or bureaus within the department devised operational plans in the lead up to January 6, but the department as a whole “did not prepare a comprehensive, department-wide operational plan” and “lacked adequate guidance for

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<sup>422</sup> *Id.* at 14.

<sup>423</sup> STAFF OF H. COMMITTEE ON H. ADMINISTRATION, 117TH CONG., REP. OF INVESTIGATION: SECURITY FAILURES AT THE UNITED STATES CAPITOL ON JAN. 6, 2021 (Comm. Print 2022).

<sup>424</sup> *Id.*

<sup>425</sup> Julie Farnam, *The Capitol Police Weren’t Ready on Jan. 6, and They Aren’t Ready Now*, Daily Beast (Jan. 22, 2024).

operational planning.”<sup>426</sup> In the lead up to January 6, USCP’s Operational Services Bureau, Hazardous Materials Response Team, and Uniformed Services Bureau prepared brief operational plans; however, these plans, which in some cases were only one page in length, lacked sufficient detail to prepare for demonstrations.<sup>427</sup> According to USCP’s OIG report, one of these plans noted that USCP would use its Containment and Emergency Response Team (“CERT”) to “disarm or extract protesters;” however, the plan failed to outline how CERT would specifically achieve this mission.<sup>428</sup>

Additionally, a Senate Report noted that the USCP’s operational plan failed to outline the “overall numbers of officers on duty on January 6; where these officers would be stationed; the officers’ responsibilities; the command-and-control system for January 6; or any contingencies in the event of emergencies.”<sup>429</sup>

Furthermore, USCP lacked “adequate guidance for operational planning.”<sup>430</sup> Specifically, the USCP OIG detailed how USCP lacked policies outlining “which personnel were responsible for operational planning, what type of operational planning documents its personnel should prepare, or when its personnel should prepare operational planning documents.”<sup>431</sup> Former Chief Sund, according to the USCP OIG, said that the department typically used a “Plan of Action” document for large events. USCP OIG investigators, however, were unable to “find any policies that clearly addressed creation of those specific planning documents.”<sup>432</sup>

The report recommends USCP implement detailed guidance for operational planning.<sup>433</sup> This guidance includes policies and procedures that “designate the entity or entities responsible for overseeing the operational planning and execution process,” require “documentation of supervisory review and approval,” and “[standardize] planning document formats.”<sup>434</sup> Additionally, USCP operational planning guidance should require that individual USCP units coordinate to develop a department-wide plan.<sup>435</sup> The lack of planning and directions was not sufficiently investigated by the Select Committee despite contributing directly to the security failures on January 6.

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<sup>426</sup> UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL, 117TH CONG. NO. 2021-I-0003-A, REVIEW OF EVENTS SURROUNDING THE JANUARY 6, 2021, TAKEOVER OF THE U.S. CAPITOL, FLASH REPORT: OPERATIONAL PLANNING AND INTELLIGENCE (2021).

<sup>427</sup> *Id.*

<sup>428</sup> *Id.*

<sup>429</sup> STAFF OF S. COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS AND S. COMM. ON RULES AND ADMIN., 117TH CONG., EXAMINING THE U.S. CAPITOL ATTACK, A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JAN. 6 (Comm. Print 2022).

<sup>430</sup> UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL, 117TH CONG. NO. 2021-I-0003-A, REVIEW OF EVENTS SURROUNDING THE JANUARY 6, 2021, TAKEOVER OF THE U.S. CAPITOL, FLASH REPORT: OPERATIONAL PLANNING AND INTELLIGENCE (2021).

<sup>431</sup> *Id.*

<sup>432</sup> *Id.*

<sup>433</sup> *Id.*

<sup>434</sup> *Id.*

<sup>435</sup> *Id.*

## CIVIL DISTURBANCE UNIT

In addition to the lack of guidance for operational planning, USCP’s lack of preparedness was amplified by a failure to provide proper equipment and training to its front-line officers. The CDU serves as USCP’s riot control unit, enabling USCP to respond to civil unrest on Capitol grounds.<sup>436</sup>

According to USCP OIG’s *Flash Report: Civil Disturbance Unit and Intelligence*, USCP did not maintain “adequate policies or procedures” that outlined the CDU’s “responsibilities duties, composition, equipment, and training.”<sup>437</sup> In fact, the USCP OIG noted in their report that USCP “did not have established policies” related to the “process for activating CDU, responsibilities of CDU officers, [and the] issuance of [CDU] gear,” and stated that many of these policies were not “up to date.”<sup>438</sup> In one example, USCP had an informal, unwritten policy requiring officers to receive training “every 3 years” in order to be eligible to carry a specific type of baton; however, USCP did not have such a requirement formally outlined in writing.<sup>439</sup>

According to the USCP OIG, USCP did not maintain proper training standards for its CDU.<sup>440</sup> At the time the USCP OIG report was published, USCP offered each recruit forty hours of CDU basic training and subsequent refresher classes.<sup>441</sup> The USCP OIG, however, noted that as of the date of their report, USCP did not have “formal training standards and lesson plans for its CDU refresher training.”<sup>442</sup> The USCP OIG also outlined how USCP did not offer “leadership development training for CDU officers.”<sup>443</sup>

In terms of equipment, USCP maintained outdated protective gear and lacked adequate guidance for determining the proper “life cycles” for its equipment.<sup>444</sup> For example, the USCP OIG received reports from USCP officials that on January 6, CDU riot shields “shatter[ed] upon impact.”<sup>445</sup> When USCP officials were asked about this, they attributed the ease with which these shields shattered to either “improper storage” or the equipment’s age.<sup>446</sup> USCP OIG also learned that certain less-than-lethal weapons were not used because the weapons were “obsolete,” outdated, and lacked “proper functionality.”<sup>447</sup>

Lastly, the USCP OIG determined that USCP “did not have adequate inventory standards and controls for the CDU armory.”<sup>448</sup> Specifically, the USCP OIG learned that USCP lacked proper

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<sup>436</sup> UNITED STATES CAPITOL POLICE OFFICE OF INSPECTOR GENERAL, 117TH CONG. NO. 2021-I-0003-A, REVIEW OF EVENTS SURROUNDING THE JANUARY 6, 2021, TAKEOVER OF THE U.S. CAPITOL, FLASH REPORT: OPERATIONAL PLANNING AND INTELLIGENCE (2021).

<sup>437</sup> *Id.*

<sup>438</sup> *Id.*

<sup>439</sup> *Id.*

<sup>440</sup> *Id.*

<sup>441</sup> *Id.*

<sup>442</sup> *Id.*

<sup>443</sup> *Id.*

<sup>444</sup> *Id.*

<sup>445</sup> *Id.*

<sup>446</sup> *Id.*

<sup>447</sup> *Id.*

<sup>448</sup> *Id.*

“controls...for signing out munitions and weapons from the armory, for disposing of expired munitions, and for tracking...used munitions.”<sup>449</sup>

The failure to clearly define and maintain updated policies related to CDU training and equipment left USCP in a state of unpreparedness on January 6. As such, the Subcommittee remains committed to conducting oversight of USCP with a specific goal of ensuring USCP’s riot control unit is positioned to properly respond to potentially volatile situations in the future.

## PIPE BOMBS NEAR THE RNC AND DNC

One of the biggest unanswered questions from January 6 relates to two pipe bombs found near the Republican National Committee (“RNC”) and Democratic National Committee (“DNC”) on January 6. According to the Federal Bureau of Investigation (“FBI”), there are no suspects in their investigation at this time.<sup>450</sup> Despite the threat the pipe bombs posed and the possible role they played in diverting resources away from the Capitol, the Select Committee invested almost no resources into investigating the pipe bombs. In fact, the Select Committee’s 845-page report, astonishingly, only referenced the pipe bombs five times in passing.<sup>451</sup>

On January 6, at approximately 12:45 p.m., USCP received reports of an explosive device found next to the RNC.<sup>452</sup> Based on a review of USCP CCTV footage, at roughly 1:05 p.m., a second device was discovered at the DNC while Vice President-elect Kamala Harris was inside the building. According to federal authorities, the pipe bombs were likely planted the night before, on January 5, by an individual carrying a backpack and wearing a grey hooded sweatshirt, a mask, gloves, glasses, and a pair of Nike Air Max Speed Turf sneakers.<sup>453</sup> According to the FBI, both explosive devices consisted of 8-inch threaded galvanized pipes, end caps, wires, homemade black powder, kitchen timers, and metal clips and were deemed viable by law enforcement officials.<sup>454</sup>

Despite the suspect’s appearance on numerous USCP CCTV cameras and the FBI’s efforts interviewing over 800 individuals and assessing more than 300 tips, the suspect remains at large more than three years after the pipe bombs were planted.<sup>455</sup> Furthermore, the FBI has failed to provide substantive updates on the investigation despite numerous requests from congressional committees, leaving Congress concerned about the status of the investigation.

Based on a thorough review of USCP CCTV footage, USCP radio transcripts, and documents obtained as part of its investigation, the Subcommittee has serious concerns about the law enforcement response to the discovery of the pipe bombs. While the Subcommittee’s

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<sup>449</sup> *Id.*

<sup>450</sup> Press release, \$500,000 Reward Remains in Effect for Information About Capitol Hill Pipe Bomber (Jan. 4, 2024).

<sup>451</sup> STAFF OF H. SELECT COMM. TO INVESTIGATE THE JAN. 6TH ATTACK ON THE U.S. CAPITOL, 117TH CONG., FINAL REP. (Comm. Print 2022).

<sup>452</sup> Dalton Bennet et. al., *Pipe bombs found near Capitol on Jan. 6 are believed to have been placed the night before*, Washington Post, Jan. 29, 2021.

<sup>453</sup> Press release, PIPE BOMBS IN WASHINGTON, D.C. (Jan. 5, 2021).

<sup>454</sup> *Id.*

<sup>455</sup> Press release, FBI Washington Field Office Releases Video and Additional Information Regarding the Pipe Bomb Investigation (Sep. 8, 2021).



investigation into the pipe bombs and the law enforcement response remains ongoing, the Subcommittee has obtained evidence indicating that law enforcement personnel:

1. Failed to properly secure and maintain a perimeter around the pipe bombs, allowing pedestrians and vehicular traffic to cross within feet of the explosive devices;
2. Allowed commuter trains to transit along a bridge adjacent to the DNC, placing civilians within close proximity to one of the viable devices;
3. Transmitted inaccurate information over USCP radio channels, resulting in civilians and law enforcement units breaching the security perimeter; and
4. Failed to prevent contamination of the bomb scene after disruption and prior to evidence collection by allowing vehicular and pedestrian traffic to enter the crime scene.

Additionally, the Subcommittee is concerned about the integrity of the security sweep conducted by the United States Secret Service on the morning of January 6. As a result of the USSS's failure to properly sweep the DNC, Vice President-elect Kamala Harris came within feet of a viable pipe bomb, which if detonated could have caused serious bodily harm to the Vice President-elect as well as her security detail. It is obvious that the security sweep was not successful, allowing the Vice President-elect to transit within mere feet of the pipe bomb. It is also surprising for a K9 bomb dog to be working in the area and fail to detect the device just a few feet away.

As the investigation into the pipe bombs on January 6 continues, the Subcommittee remains committed to conducting proper oversight of the security failures that day. Specifically, effective oversight must ensure that the next time viable pipe bombs or explosive devices are found on Capitol grounds, law enforcement personnel are prepared to respond appropriately and in accordance with standard operating procedures.

## **GALLOWS: WHY DO WE NOT KNOW WHO BUILT THEM**

One of the photos associated with the events of January 6, 2021, is the placing of the gallows erected on the grounds of the Capitol that morning.<sup>456</sup> Photos of the infamous gallows were featured prominently by the Select Committee. Despite the infamy of this event, those responsible for its construction have never been identified.<sup>457</sup>

At approximately 6:25 a.m. on January 6, 2021, a group of individuals appear in camera on 1st Street NW rolling a large bundle of lumber with wheels. The group walked the bundle across Constitution Avenue and onto the grass at Union Square.

According to USCP CCTV obtained by the Subcommittee, between 6:30 a.m. and 7:15 a.m. the group constructed the platform and two main pillars of the gallows, only leaving off the crossbeam. During this time, the apparent group leader along with one other person, left the group and walked down 3rd Street, heading north. They returned a few minutes later with coffee,

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<sup>456</sup> Paul Bedard, *New suspicions on who built Jan. 6 'gallows'*, Washington Examiner, Oct. 20, 2023.

<sup>457</sup> Hearing: House Select Committee to Investigate the January 6th Attack on the United States Capitol Holds Hearing on the January 6th Investigation (June 13, 2022).

and the entire group left the scene. Despite the leader’s distinctive description, a man wearing a long trench coat, long white scarf, fedora-type hat, and walking with a cane, he has never been identified by investigators.

Based on USCP CCTV footage, at approximately 1:00 p.m., the group of five returned to the scene and the presumed leader, now wearing a baseball cap, installed the final crossbeam and added the noose made of bright orange rope. Shortly after construction was complete, all five men left.

The Capitol Police Guidelines for Conducting an Event on United States Capitol Grounds explicitly state, “[t]emporary structures of any kind may not be erected on Capitol Grounds,” which would imply that gallows—a temporary structure—may not be allowed on Capitol Grounds and would immediately be addressed and/or removed once discovered.<sup>458</sup> However, these gallows were left untouched by USCP officers from 6:00 a.m. on January 6 until 9:15 a.m. on January 7.

With dozens of cameras focused on the events on the west side of the Capitol, combined with the active patrolling by USCP officers, it is questionable why this structure—in clear violation of USCP guidelines<sup>459</sup>—was able to be assembled in multiple phases and stay up throughout the duration of the day without any intervention from USCP. Through a review of the recordings of USCP radio transmissions on January 6, there was no mention of the gallows throughout the whole day.

## IV: SUBCOMMITTEE CORRESPONDENCE AND HEARINGS

To date, Chairman Loudermilk has sent over twenty letters to law enforcement, Capitol Police officials, Secret Service, the White House, the Department of Homeland Security, and former Chairperson of the Select Committee Bennie Thompson attempting to get information pertaining to the Subcommittee’s investigation. This includes preservation letters to Capitol Police and previous Select Committee witnesses. While some of the letters have been ignored, the Subcommittee has gained further insight from the responses that it has received, including records that were not obtained by the Select Committee.

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<sup>458</sup> UNITED STATES CAPITOL POLICE, GUIDELINES FOR CONDUCTING AN EVENT ON UNITED STATES CAPITOL GROUNDS (updated Jan. 2024).

<sup>459</sup> *Id.*

## CORRESPONDENCE OF THE 118TH CONGRESS

**Topline:** The Subcommittee began its investigation without important operational information and had to seek out records from responding agencies on January 6, 2021.

Action: On April 27, 2023, Chairman Loudermilk sent a letter to United States Capitol Police Chief of Police J. Thomas Manger requesting he provide original and unredacted documents, files, and records related to USCP radio broadcast recordings. Chairman Loudermilk requested Chief Manger provide a list of radio channels in use and all recordings of radio communications from January 6, 2021, by May 11, 2023.<sup>460</sup>

Action: On May 16, 2023, Chairman Loudermilk sent a letter to Metropolitan Police Department (“MPD”) Chief of Police Robert J. Contee III requesting information on all MPD officers on duty on January 6, 2021, reports related to their shifts, radio channels and communications, and other documentation.<sup>461</sup>

Response: On May 30, 2023, MPD Chief of Police Robert J. Contee III responded to Chairman Loudermilk and provided information about officers, radio channels, radio communications, body camera recordings, electronic surveillance, and all intelligence gathered from December 20, 2020, to January 6, 2021.<sup>462</sup> There were no after-action reports produced by the MPD following the attack.

Action: On June 9, 2023, Chairman Loudermilk sent a letter to United States Capitol Police Chief of Police J. Thomas Manger requesting all complete, original, and unredacted USCP CCV for every camera on the Capitol Complex, including the Library of Congress buildings, on January 5, 2021, and January 6, 2021.<sup>463</sup> The footage previously provided neglected to include exterior video from the Jefferson Building of the Library of Congress.

Action: On June 14, 2023, Chairman Loudermilk sent a joint letter with Representatives Massie, Biggs, and Jordan to Federal Bureau of Investigation Director Christopher Wray regarding the pipe bomb investigation and requested all FBI reports, assessments, memoranda, transcripts, and other information pertaining to the investigation of pipe bombs placed outside the Democratic National Committee and Republican National Committee.<sup>464</sup> Chairman Loudermilk requested these documents by June 28, 2023.

Action: On May 18, 2023, Chairman Loudermilk sent a letter to Archivist of the United States, Colleen Shogan, regarding documents that the Select Committee provided to the National Archives and Records Administration (“NARA”).<sup>465</sup> Chairman Loudermilk requested that Shogan provide an inventory of all documents, communications, recorded

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<sup>460</sup> Letter from Barry Loudermilk to J. Thomas Manger (Apr. 27, 2023). (on file with the Subcommittee).

<sup>461</sup> Letter from Barry Loudermilk to Robert J. Contee III (May 16, 2023). (on file with the Subcommittee).

<sup>462</sup> Letter from Robert J. Contee III to Barry Loudermilk (May 30, 2023). (on file with the Subcommittee).

<sup>463</sup> Letter from Barry Loudermilk to J. Thomas Manger (June 9, 2023). (on file with the Subcommittee).

<sup>464</sup> Letter from Thomas Massie, Andy Biggs, Jim Jordan, and Barry Loudermilk to Christopher Wray (June 14, 2023). (on file with the Subcommittee).

<sup>465</sup> Letter from Barry Loudermilk to Colleen Shogan (May 18, 2023). (on file with the Subcommittee).

depositions, pictures, videos or other materials created by the Select Committee or any other congressional entity or person in possession of NARA, and any materials in the possession of NARA that originated from the White House, Department of Homeland Security, or any other executive branch agency or private institution in possession of NARA. Chairman Loudermilk requested answers to these questions by May 31, 2023.

Response: On May 30, 2023, Dr. Shogan responded to Chairman Loudermilk stating that as of the letter, NARA had not received any of the documents from the Select Committee. NARA indicated it is standard practice for the House to wait four years after the conclusion of a Congress to send records for permanent archiving with NARA.<sup>466</sup>

Action: On May 24, 2023, Chairman Loudermilk sent a letter to former United States Capitol Police Assistant Chief Yogananda Pittman requesting she make herself available for a transcribed interview with the Subcommittee.<sup>467</sup>

Response: Yogananda Pittman sat for a transcribed interview on June 16, 2023. As a result of this transcribed interview, the Subcommittee gained valuable information about internal operations issues within the USCP, specifically related to discipline and accountability.

Action: On June 16, 2023, Chairman Loudermilk sent a letter to United States Capitol Police Chief of Police J. Thomas Manger requesting that USCP preserve all information pertained in Acting Chief of Police Yogananda Pittman's cell phone, network user account, desktop or laptops, physical storage, documents, messages, emails, and calendar records.<sup>468</sup> Chairman Loudermilk requested that Manger provide these records by June 23, 2023.

## U.S. DEPARTMENT OF HOMELAND SECURITY

**Topline:** The Select Committee sent transcripts and other records to the executive branch to avoid archiving documents to be turned over to the Subcommittee, as required by House Rules.

Action: On August 8, 2023, Chairman Loudermilk sent a letter to Department of Homeland Security General Counsel Jonathan Meyer requesting the return of all original documents that DHS has that originated from the Select Committee.<sup>469</sup> Chairman Loudermilk requested an unredacted copy of the December 30, 2022, letter, original copies of all documents and correspondence in its original, unredacted form. General Counsel Jonathan Meyer never responded.

Action: On January 18, 2024, Chairman Loudermilk sent a letter to Department of Homeland Security General Counsel Jonathan Meyer requesting records sent by the Select Committee once again instructing him return all original records, including

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<sup>466</sup> Letter from Colleen Shogan to Barry Loudermilk (May 30, 2023). (on file with the Subcommittee).

<sup>467</sup> Letter from Barry Loudermilk to Yogananda Pittman (May 24, 2023). (on file with the Subcommittee).

<sup>468</sup> Letter from Barry Loudermilk to J. Thomas Manger (June 16, 2023). (on file with the Subcommittee).

<sup>469</sup> Letter from Barry Loudermilk to Jonathan Meyer (Aug. 8, 2023). (on file with the Subcommittee).

unedited and unredacted transcripts.<sup>470</sup> Based on records the Subcommittee has obtained, President Biden chose to waive executive privilege to allow select Secret Service agents to participate in interviews with the Select Committee, for the first time in history allowing a congressional committee to pierce the confidentiality expected between protectees and agents.<sup>471</sup>

Response: On February 26, 2024, the Department of Homeland Security responded that they are working on an official response.<sup>472</sup>

## WHITE HOUSE

**Topline:** The White House has shown no initiative to return documents loaned to them by the Select Committee until Chairman Loudermilk repeatedly and publicly demanded the White House to comply with his requests.

Action: On August 8, 2023, Chairman Loudermilk sent a letter to Special Counsel to the President Richard Sauber requesting the return of all original documents and records the White House had from the Select Committee.<sup>473</sup> A redacted letter from then-Chairman Thompson on December 30, 2022, stated that the Select Committee provided certain transcripts to the White House for “appropriate review” and “timely return.”<sup>474</sup> Chairman Loudermilk requested a copy of the unredacted December 30 letter, all documents referenced, unredacted copies of all correspondence between Sauber and the White House and the Select Committee.<sup>475</sup>

Response: On August 22, 2023, White House Special Counsel to the President Richard Sauber responded to Chairman Loudermilk and did not provide the information requested claiming that individuals interviewed served in “positions with national security responsibilities.”<sup>476</sup> Eight months later, Sauber claimed that the White House was still conducting their review of the documents provided by the Select Committee and stated that redacted transcripts would be provided to the Subcommittee once their review is complete.

Action: On August 25, 2023, Chairman Loudermilk sent a letter to Special Counsel to the President Richard Sauber regarding his August 22, 2023, response.<sup>477</sup> Demanding records be returned “immediately in their original form without alteration or redaction.” Chairman Loudermilk stated he was willing to discuss the appropriate redactions and storage to protect classification status once the original unredacted files were produced.

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<sup>470</sup> Letter from Barry Loudermilk to Jonathan Meyer (Jan. 18, 2024). (on file with the Subcommittee).

<sup>471</sup> Letter from Richard Sauber to Jackson Eaton (Nov. 3, 2022). (on file with the Subcommittee).

<sup>472</sup> Letter from Jonathan Meyer to Barry Loudermilk (Feb. 26, 2024). (on file with the Subcommittee).

<sup>473</sup> Letter from Barry Loudermilk to Richard Sauber (Aug. 8, 2023). (on file with the Subcommittee).

<sup>474</sup> Letter from Bennie Thompson to Richard Sauber (Dec. 30, 2022). (on file with the Subcommittee).

<sup>475</sup> Letter from Barry Loudermilk to Richard Sauber (Aug. 8, 2023). (on file with the Subcommittee).

<sup>476</sup> Letter from Richard Sauber to Barry Loudermilk (Aug. 22, 2023). (on file with the Subcommittee).

<sup>477</sup> Letter from Barry Loudermilk to Richard Sauber (Aug. 25, 2023). (on file with the Subcommittee).

These records were provided by the Select Committee as a courtesy and were not returned. Chairman Loudermilk asked again for these documents to be provided by August 30, 2023.

Response: On September 6, 2023, Richard Sauber responded to Chairman Loudermilk and stated that the White House had finally concluded its review and was transmitting the transcripts to NARA<sup>478</sup>—nine months after the Select Committee provided documents to the White House and a month after Chairman Loudermilk requested copies.

Action: On January 18, 2024, Chairman Loudermilk sent a third letter to Richard Sauber stating that the transcripts provided to the Subcommittee were so heavily redacted that not even individual’s names or key details were reflected.<sup>479</sup> Chairman Loudermilk demanded that Sauber provide all original records be turned over to the Subcommittee on January 24, 2024.

Response: On January 25, 2024, Richard Sauber responded to Chairman Loudermilk and stated that he would allow him to view their unredacted transcripts at the White House to protect the identity of the interviewees.<sup>480</sup> On February 5, 2024, Chairman Loudermilk made the trip to the White House to view the documents.

## SELECT COMMITTEE CHAIRPERSON THOMPSON

**Topline:** Chairperson Thompson did not ensure the preservation of all documents from the Select Committee as is required by House Rules and in the interest of transparency.

Action: On June 26, 2023, Chairman Loudermilk sent a letter to Representative Bennie Thompson stating that records were not archived from the Select Committee in accordance with House Rules. Chairman Loudermilk requested that Representative Thompson assist in locating the missing records by July 7, 2023.<sup>481</sup>

Response: On July 7, 2023, Representative Thompson responded to Chairman Loudermilk and stated that documents were archived in accordance with House Rules, including on the Government Publishing Office’s website.<sup>482</sup> The documents published online were heavily redacted and not complete.

Action: On December 5, 2023, Chairman Loudermilk sent a letter to Representative Bennie Thompson regarding the Select Committee’s failure to preserve and archive documents, transcripts of witness interviews, and video recordings of the interviews in

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<sup>478</sup> Letter from Richard Sauber to Barry Loudermilk (Sept. 6, 2023). (on file with the Subcommittee).

<sup>479</sup> Letter from Barry Loudermilk to Richard Sauber (Jan. 18, 2024). (on file with the Subcommittee).

<sup>480</sup> Letter from Richard Sauber to Barry Loudermilk (Jan. 25, 2024). (on file with the Subcommittee).

<sup>481</sup> Letter from Barry Loudermilk to Bennie Thompson (June 26, 2023). (on file with the Subcommittee).

<sup>482</sup> Letter from Bennie Thompson to Barry Loudermilk (July 7, 2023). (on file with the Subcommittee).

accordance with House Rules.<sup>483</sup> Among the documents unearthed by the current Subcommittee was a letter from the Fulton County, Georgia, District Attorney Fani Willis. This letter requested records that may be relevant to her ongoing investigation.<sup>484</sup> She requested “recordings and transcripts of witness interviews and depositions, electronic and print records of communications, and records of travel.”<sup>485</sup> Chairman Loudermilk requested that Representative Thompson respond to his questions regarding communications between Willis and the Select Committee by December 11, 2023.

Response: On December 13, 2023, Representative Thompson responded to Chairman Loudermilk and did not provide any records or information pertaining to the unarchived documents nor communications between the Select Committee and Willis.<sup>486</sup>

Action: On January 18, 2024, Chairman Loudermilk sent a letter to Representative Thompson with specific examples of the Select Committee failing to archive documents.<sup>487</sup> Among the examples listed are the claims that the Select Committee archived four terabytes of digital files, yet the Subcommittee only received less than three terabytes of data. The Subcommittee has been able to recover some files that are password protected, and Chairman Loudermilk requested a list of passwords so the Subcommittee could access the files.

Response: On January 23, 2024, Representative Thompson responded by mocking the requests and shrugging Chairman Loudermilk’s letter as MAGA propaganda.<sup>488</sup>

## OVERSIGHT HEARINGS OF THE 118<sup>th</sup> CONGRESS

### LOOKING AHEAD SERIES: OVERSIGHT OF THE UNITED STATES CAPITOL POLICE

**TOPLINE:** The Capitol Police had serious deficiencies that resulted in the events of January 6, 2021, that have not yet been addressed — over 2 years later.

- On May 16, 2023, the Committee on House Administration held a full committee hearing entitled, “Looking Ahead Series: Oversight of the United States Capitol Police.”<sup>489</sup>

Witness: United States Capitol Police Chief of Police J. Thomas Manger. Manger was sworn in as Chief of Police on July 23, 2021.

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<sup>483</sup> Letter from Barry Loudermilk to Bennie Thompson (Dec. 5, 2023). (on file with the Subcommittee).

<sup>484</sup> Letter from Fani Willis to Bennie Thompson (Dec. 17, 2021). (on file with the Subcommittee).

<sup>485</sup> *Id.*

<sup>486</sup> Letter from Barry Loudermilk to Bennie Thompson (Jan. 18, 2024). (on file with the Subcommittee).

<sup>487</sup> Letter from Barry Loudermilk to Bennie Thompson (Jan. 18, 2024). (on file with the Subcommittee).

<sup>488</sup> Letter from Bennie Thompson to Barry Loudermilk (Jan. 23, 2024). (on file with the Subcommittee).

<sup>489</sup> Hearing: Looking Ahead Series: Oversight of the United States Capitol Police, Comm. on H. Admin., 118th Cong. (2023).

Purpose: The purpose of this hearing was to investigate the failures of January 6, 2021. After the breach of the Capitol, USCP was asked to implement numerous recommendations, with a sizable budget increase to coincide with it. However, this hearing investigated the ways in which USCP has failed to fully implement recommendations regarding intelligence sharing, equipment, training, leadership, and accountability.

## **OVERSIGHT OF THE U.S. CAPITOL POLICE OFFICE OF INSPECTOR GENERAL**

**TOPLINE:** The Capitol Police Inspector General was ineffective at identifying and sharing publicly its recommendations to make the Capitol safer and the Capitol Police Force better equipped for the future.

- On July 19, 2023, the Committee on House Administration’s Subcommittee on Oversight held a hearing entitled, “Hearing of the Capitol Police Office of Inspector General.”<sup>490</sup>

Purpose: The purpose of this hearing was to review and analyze the recommendations made by the Inspector General (“OIG”) to Capitol Police pertaining to the security failures on January 6, 2021. At the hearing, the OIG had not published four of the six flash reports it produced publicly regarding specific failures related to operations, intelligence, training, and other specialized units.

Witness: United States Capitol Police Inspector General Ronald P. Russo. Russo assumed his post as Inspector General on January 29, 2023, until January 28, 2024.

## **OVERSIGHT OF THE CAPITOL POLICE BOARD**

**TOPLINE:** As a result of this hearing, Subcommittee members secured a commitment from the Capitol Police Board to send a letter from the Board to the FBI asking for a briefing on the investigation into the pipe bomb investigation. The Capitol Police Board ultimately sent this letter. Prior to members of the Subcommittee’s questioning, the Capitol Police Board had not received any updates on the investigation since early 2021.

- On July 26, 2023, the Committee on House Administration and the Senate Committee on Rules and Administration held a joint hearing entitled, “Oversight of the Capitol Police Board.”<sup>491</sup>

Purpose: The purpose of this hearing was to have unprecedented oversight over the Capitol Police Board. The joint hearing was the first time in modern history that the full Capitol Police Board testified before its authorizing committees in both the House and the Senate. Among the questions raised include the authorization of the fence around the Capitol that remained for months.

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<sup>490</sup> Hearing: Oversight of the U.S. Capitol Police Office of Inspector General, Comm. on H. Admin., 118th Cong. (2023).

<sup>491</sup> Hearing: Oversight of the Capitol Police Board, Comm. on H. Admin. and S. Comm. On Rules, 118th Cong. (2023).



Witnesses:

- Acting Architect of the Capitol, Chere Rexroat. Rexroat assumed her post after the President Biden fired the previous Architect, J. Brett Blanton in April 2023 amid controversy over his personal use of a taxpayer-funded vehicle and questions about his adherence to agency policies.<sup>492</sup>
- United States Capitol Police Chief of Police, J. Thomas Manger. Manger was sworn in on July 23, 2023, and came out of retirement to rebuild the Capitol Police after the events of January 6, 2021.
- Acting House Sergeant at Arms, General William McFarland. General McFarland was sworn in on January 7, 2023, as the Acting Sergeant at Arms and sworn in as the Sergeant at Arms on September 20, 2023.
- Senate Sergeant at Arms, Karen Gibson. Gibson was sworn in on March 22, 2021.

**OVERSIGHT OF THE UNITED STATES CAPITOL SECURITY: ASSESSING SECURITY FAILURES ON JANUARY 6, 2021**

**TOPLINE:** Sund testified about numerous issues with USCP on January 6, 2021, including the direct politicization of the Capitol Police by former Speaker Pelosi and the delay in activating the National Guard to assist Capitol Police on January 6, 2021, caused by the House and Senate Sergeant at Arms.

- On September 19, 2023, the Committee on House Administration's Subcommittee on Oversight held a hearing entitled, "Oversight of United States Capitol Security: Assessing Security Failures on January 6, 2021."<sup>493</sup>

Purpose: The purpose of this hearing was to question Chief Sund, who was in charge and responsible for the security failures of his officers on January 6, 2021. Additionally, Chief Sund was heavily questioned about the delay in calling for backup once the Capitol was breached.

Witness: Former United States Capitol Police Chief of Police Steven Sund. Chief Sund was Chief of Police on January 6, 2021. He was sworn in on June 14, 2019, and resigned on January 8, 2021, after Speaker Pelosi publicly called for his resignation.<sup>494</sup>

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<sup>492</sup> Scott MacFarlane, *Fired Biden admin Brett Blanton must give up some of his final pay after spending controversy*, CBS News, May 18, 2023.

<sup>493</sup> Hearing: Oversight of United States Capitol Security: Assessing Security Failures on January 6, 2021, Comm. on H. Admin. Subcomm. on Oversight, 118th Cong. (2023).

<sup>494</sup> Jorge Fitz-Gibbon, *Capitol Police Chief Steven Sund resigns in wake of turbulent DC protests*, NY Post, Jan. 7, 2021.