



## One Hundred Seventeenth Congress

### Select Committee to Investigate the January 6th Attack on the United States Capitol

December 9, 2021

Mr. Stanley E. Woodward, Jr.

Mr. Stan M. Brand

Dear Messrs. Woodward and Brand,

The Select Committee to Investigate the January 6th Attack on the U.S. Capitol (“Select Committee”) is in receipt of your November 26, 2021, letter and subsequent communications regarding the requested testimony and documents from your client, Daniel J. Scavino, Jr.

Pursuant to the Select Committee’s October 6, 2021, subpoena, Mr. Scavino was required to produce documents by October 21, 2021, and to appear for testimony on October 28, 2021.<sup>1</sup> The Select Committee has extended those deadlines five times. In our correspondence dated November 23, 2021, the Select Committee noted that a fifth and final continuance would be granted to November 29, 2021, for documents, and to December 1, 2021, for deposition testimony.

During a phone call on November 30, 2021, Mr. Woodward, counsel for Mr. Scavino confirmed that his client would not appear for testimony the following day and demanded the Select Committee identify in detail each inquiry that would be posed to Mr. Scavino during the deposition. Mr. Woodward asserted that his client could not properly prepare, nor could he advise his client regarding privilege, without more detail, including regarding the pertinence of the Select Committee’s inquiries.

My letter dated letter dated November 9, 2021, identified with sufficient detail the items we intend to discuss with Mr. Scavino. The Select Committee is not obligated to provide a question-by-question preview to Mr. Scavino in advance of the deposition.

Additionally, counsel has demanded that the Select Committee explain the pertinence of its investigation of Mr. Scavino’s knowledge and activities as outlined in the subpoena and the November 9, 2021, letter. As stated in the subpoena, pursuant to House Resolution 503, the Select Committee is investigating the facts, circumstances, and causes of the January 6th attack and issues relating to the peaceful transfer of power, in order to identify and evaluate lessons learned and to

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<sup>1</sup> Though counsel, for the first time on November 18, challenged service of the October 6, 2021, subpoena, counsel has produced a letter from President Trump’s attorney dated October 6, 2021, requesting that Mr. Scavino assert privilege. Additionally, counsel has represented Mr. Scavino since at least October 20, and at no time indicated that he did not have access to the original subpoena or knowledge of the subjects therein. Thus, as of the date of this letter, Mr. Scavino has had at least seven weeks to produce responsive documents and identify topics that he believes to be beyond the scope of privilege. To date, he has done neither.

recommend to the House and its relevant committees corrective laws, policies, procedures, rules, or regulations. The inquiry includes examination of how various individuals and entities coordinated their activities leading up to the events of January 6, 2021, and the messages, videos, and internet communications that were disseminated to the public concerning the election, the transition in administrations, and the constitutional and statutory processes that effect that transition.

The Select Committee has reason to believe that Mr. Scavino has information relevant to understanding important activities that led to and informed the events at the Capitol on January 6, 2021, and relevant to former President Trump's activities and communications in the period leading up to and on January 6. For example, the Select Committee has reason to believe that he has knowledge regarding the communications strategy of the former President and his supporters leading up to the events on January 6. Mr. Scavino served the former President in various roles advising on or running social media, from the 2016 presidential campaign through his service in the Trump White House across the tenure of the Trump Administration. As the Deputy Chief of Staff for Communications, reporting indicates that he was with the former President on January 5, when he and others were considering how to convince Members of Congress not to certify the election for Joe Biden.<sup>2</sup> Mr. Scavino's public Twitter account makes clear that he was tweeting messages from the White House on January 6, 2021, including after President Trump was suspended from several social media platforms.<sup>3</sup> Mr. Scavino was reportedly with or in the vicinity of former President Trump on January 6 and is a witness regarding his activities that day. He may also have materials relevant to his videotaping and tweeting messages on January 6.

Prior to January 6, 2021, Mr. Scavino promoted, through his Twitter messaging, the January 6 March for Trump, which encouraged people to "be a part of history,"<sup>4</sup> and also used his personal, unofficial social media accounts to post messages about President Trump, including content that many of the President's followers interpreted as covert messaging about "stop the steal" and January 6.

Mr. Scavino was also reportedly present for meetings in November 2020 where President Trump consulted with outside advisors about ways to challenge and/or overturn the results of the 2020 election, including when and whether Mr. Trump should concede.<sup>5</sup>

The items identified in the Select Committee's subpoena and the November 9, 2021, letter regarding deposition topics are tailored to illuminate Mr. Scavino's understanding and knowledge of events leading up to, on, and in the aftermath of January 6. As such, they are unquestionably pertinent to the Select Committee's jurisdiction as outlined in House Resolution 503.

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<sup>2</sup> Bob Woodward & Robert Costa, *Peril* at 231 (2021).

<sup>3</sup> *E.g.*, Dan Scavino (@DanScavino), Twitter (Jan. 6, 2021, 11:12 AM, from The White House), <https://twitter.com/DanScavino/status/1346584866964598785?s=20>; Dan Scavino[American flag][eagle] (@DanScavino), Twitter (Jan. 6, 2021, 10:50 AM, from The White House), <https://twitter.com/danscavino/status/1346846609905168385?lang=en>.

<sup>4</sup> Dan Scavino (@DanScavino), Twitter (Jan. 2, 2021, 9:04 PM), <https://twitter.com/DanScavino/status/1345551501440245762?s=20>.

<sup>5</sup> Carol Leonnig & Phillip Rucker, *I Alone Can Fix It* (2021).

Though counsel for Mr. Scavino has indicated a desire to cooperate with the Select Committee's investigation, Mr. Scavino has repeatedly rebuffed every request that he identify particularized assertions of privilege, as required by law, areas of inquiry for which he does not intend to assert a privilege, areas of inquiry for which he has no responsive information, and/or areas of inquiry for which he does not object as to pertinence.<sup>6</sup> If Mr. Scavino believes he can respond to any of the Select Committee's inquiries without an assertion of privilege, he had an opportunity to do so on the record at the scheduled December 1, 2021, deposition, during which he also could have made the particularized assertions of privilege in response to specific questions as required.

However, Mr. Scavino did not appear for his deposition on December 1, nor has he produced a single document to date. The Select Committee conducted the deposition proceeding on that date and recorded Mr. Scavino's absence and failure to comply with the subpoena. As Mr. Scavino has yet to meaningfully cooperate with any of the pending requests, the Select Committee is considering enforcement action, including the contempt of Congress procedures in 2 U.S.C. §§192, 194—which could result in a referral from the House to the Department of Justice for criminal charges—as well as the possibility of having a civil action to enforce the subpoena brought against Mr. Scavino in his personal capacity. If Mr. Scavino wishes to avoid this enforcement, he should move expeditiously to cure his non-compliance.

Sincerely,



Bennie G. Thompson  
Chairman

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<sup>6</sup> Contrary to counsel's assertion, the Select Committee has not asked Mr. Scavino to identify items of relevance to its investigation; rather, the Select Committee has asked Mr. Scavino to identify which areas of inquiry already described by the Select Committee do not trigger any assertions of privilege or objections to pertinence. To date, Mr. Scavino has refused to inform the Select Committee whether there are any items of agreement between the parties.