

Congress of the United States
House of Representatives

SELECT SUBCOMMITTEE ON THE CORONAVIRUS CRISIS

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MEMORANDUM

November 18, 2021

To: Members of the Select Subcommittee on the Coronavirus Crisis

Fr: Chairman James E. Clyburn

Re: Issuance of Subpoena to Peter Navarro

This memorandum informs the Members of the Select Subcommittee on the Coronavirus Crisis of the basis for a subpoena I have authorized to be issued to Peter Navarro for documents and a deposition related to the Select Subcommittee's ongoing investigations into the federal government's response to the coronavirus pandemic. The Select Subcommittee sent a document request to Mr. Navarro on September 14, 2021.¹ Mr. Navarro has failed to provide documents, despite extensive efforts to secure voluntary cooperation. For these reasons, and those set forth below, the Select Subcommittee has issued a subpoena compelling Mr. Navarro to produce the documents that he has withheld and to appear for a deposition.

I. PETER NAVARRO'S PRIORITIZATION OF POLITICS UNDERMINED THE PANDEMIC RESPONSE

As Director of the White House Office of Trade and Manufacturing Policy and an Assistant to the President, Mr. Navarro was integrally involved in the prior Administration's pandemic response including its procurement efforts. Documents previously released by the Select Subcommittee show that rather than implement a coordinated national strategy to alleviate critical supply shortages, Mr. Navarro and other Trump Administration officials pushed responsibility to the states and pursued a haphazard and ineffective approach to procurement—contributing to severe shortages of critically needed supplies and putting American lives at risk. White House officials, including Mr. Navarro, also appear to have sidelined career procurement officials and exercised inappropriate influence over contract awards, leading to the award of contracts without adequate diligence or competition. As cases surged in the autumn of 2020, Mr. Navarro and other Trump Administration officials appear to have prioritized politics over the pandemic response—focusing their attention on the 2020 presidential election and promoting former President Trump's Big Lie that the election results were fraudulent.

¹ See Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Peter K. Navarro, Professor Emeritus, Paul Merage School of Business, University of California, Irvine (Sept. 14, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-09-14.Clyburn%20to%20Peter%20Navarro%20re%20Production%20Request.pdf>).

a. Mr. Navarro Was Centrally Involved in the Trump Administration’s Haphazard and Ineffective Approach to Procurement

Documents previously released by the Select Subcommittee shed light on the Trump Administration’s awareness of the impending coronavirus crisis in the early weeks of the pandemic and failure to execute an effective strategy to contain the virus. On February 29, 2020, Dr. Steven Hatfill, an advisor who worked closely with Mr. Navarro at the White House on the pandemic response, sent Mr. Navarro an email privately warning about the impact of early testing failures, predicting an imminent “first wave” of infections, and calling for a series of immediate actions to help combat the coronavirus.² The following day, on March 1, 2020, Mr. Navarro echoed these warnings in a memorandum to President Trump and urged the Administration to take immediate steps to address the pandemic.³

Rather than heed this warning and implement a coordinated national strategy to alleviate critical supply shortages, senior White House officials including Mr. Navarro abdicated responsibility to the states and pursued a haphazard and ineffective approach to procurement. On March 30, 2021, the Select Subcommittee found that the Administration’s failure to execute an effective strategy to procure personal protective equipment (PPE) contributed to severe shortages and to states and cities competing on the open market for scarce supplies.⁴ The Select Subcommittee also found on September 23, 2021, that Dr. Hatfill appears to have refused to pursue leads to purchase critically needed N95 masks in the spring of 2020 because the goods were not manufactured in the United States—a refusal that not only risked further exacerbating shortages of PPE but that also put American lives at risk. Many questions remain regarding Mr. Navarro’s and the White House’s role in setting the Administration’s failed procurement strategy during the pandemic and in Dr. Hatfill’s decision to turn down leads to purchase supplies manufactured abroad.⁵

² See Memorandum from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus, to Members of the Select Subcommittee on the Coronavirus Crisis, *Issuance of a Subpoena to Dr. Steven J. Hatfill* (Sept. 23, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.09.23%20Memorandum%20from%20Chairman%20Clyburn%20re%20S.%20Hatfill%20Subpoena.pdf>).

³ Memorandum from Peter Navarro through NSA O’Brien to the President, *Move in ‘Trump Time’ to Stay Ahead of Virus Curve* (Mar. 1, 2020) (PHLOW_SSCC_0017388 – 97) (online at https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/PHLOW_SSCC_0017388_Redacted.pdf).

⁴ See Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to David S. Ferriero, Archivist of the United States, National Archives and Records Administration (Mar. 30, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-03-30.Select%20Sub%20to%20Ferriero%20re%20NARA%20Supply%20Chain%20.pdf>).

⁵ Memorandum from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus, to Members of the Select Subcommittee on the Coronavirus Crisis, *Issuance of a Subpoena to Dr. Steven J. Hatfill* (Sept. 23, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.09.23%20Memorandum%20from%20Chairman%20Clyburn%20re%20S.%20Hatfill%20Subpoena.pdf>).

b. Mr. Navarro May Have Exercised Inappropriate Influence over the Award of Lucrative Contracts

On March 30, 2021, the Select Subcommittee released evidence that raises questions about whether White House officials, including Mr. Navarro, exercised inappropriate influence over contract awards for PPE and medical supplies that should have been handled by career procurement staff—leading the previous Administration to award lucrative contracts without adequate diligence or competition. These documents also raise questions about the Trump Administration’s use of unaccountable outside advisors, rather than career federal procurement and public health experts, to manage the federal government’s pandemic response. Documents show that Mr. Navarro involved at least one outside advisor in negotiating multimillion-dollar agreements on behalf of the federal government.⁶

c. Mr. Navarro and Trump Administration Officials Neglected the Pandemic Response to Focus on the Election and the Big Lie

On September 23, 2021, the Select Subcommittee released emails that raise additional questions about whether Mr. Navarro and other Trump White House officials working on the coronavirus may have allowed the pandemic response to take a “back-seat” to focus their efforts on the 2020 presidential election and to promote former President Trump’s Big Lie that the election results were fraudulent. For example, in an October 22, 2020, email, Dr. Hatfill noted that, “This is 24/7 time for elections” and indicated that Mr. Navarro would be “out of pocket now until the elections are over.” On January 5, 2021, an academic colleague sent Dr. Hatfill an email asking him why he was not “fixing the virus.” Dr. Hatfill made an apparent reference to Mr. Navarro in his reply, stating: “Because the election thing got out of control. I go where my team goes.”⁷ Former White House Coronavirus Response Coordinator Dr. Deborah Birx confirmed that Trump White House officials “were actively campaigning and not as present in the White House as previously” in the fall of 2020 and that the narrow focus on campaigning “took people’s time away from and distracted them away from the pandemic.”⁸ The Select Subcommittee seeks to understand whether Trump White House officials diverted their efforts

⁶ Dr. Hatfill appears to have been involved in negotiating the Federal Emergency Management Agency’s \$96 million contract with AirBoss Defense Group, a company offering to supply powered respirators, and the Department of Health and Human Services’ \$354 million contract for pharmaceutical ingredients to a newly formed company. See Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to David S. Ferriero, Archivist of the United States, National Archives and Records Administration (Mar. 30, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-03-30.Select%20Sub%20to%20Ferriero%20re%20NARA%20Supply%20Chain%20.pdf>).

⁷ Memorandum from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus, to Members of the Select Subcommittee on the Coronavirus Crisis, *Issuance of a Subpoena to Dr. Steven J. Hatfill* (Sept. 23, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.09.23%20Memorandum%20from%20Chairman%20Clyburn%20re%20S.%20Hatfill%20Subpoena.pdf>).

⁸ Select Subcommittee on the Coronavirus Crisis, *Press Release: Select Subcommittee Releases Initial Findings from Transcribed Interview of Dr. Deborah Birx* (Oct. 26, 2021) (online at <https://coronavirus.house.gov/news/press-releases/select-subcommittee-releases-initial-findings-transcribed-interview-dr-deborah>).

from working on the coronavirus response to campaigning for President Trump and invalidating the 2020 election, at a time when the pandemic continued to worsen in the United States.

d. Mr. Navarro May Be Withholding Additional Relevant Material

Mr. Navarro has stated that he maintained a “daily journal” during his tenure at the White House, in which he “dictated what had happened that day” including events related to the prior Administration’s response to the pandemic.⁹ Documents previously obtained by the Select Subcommittee also show that Mr. Navarro communicated extensively about official business relating to the pandemic using private email accounts. On September 23, 2021, the Select Subcommittee found that Mr. Navarro exchanged more than 80 messages with White House personnel through an encrypted ProtonMail account between February 2020 and January 2021.¹⁰ This evidence raises troubling questions about whether Mr. Navarro and other Trump Administration officials used personal accounts to intentionally shield official communications about the pandemic and suggests that Mr. Navarro may possess documents and communications relevant to the Select Subcommittee’s investigation, including in private accounts and personal devices.

II. REFUSAL TO VOLUNTARILY COMPLY

Mr. Navarro has refused to voluntarily comply with the Select Subcommittee’s requests—ignoring repeated attempts to gain his voluntarily compliance and otherwise failing to communicate with Select Subcommittee staff. In my September 14, 2021, letter to Mr. Navarro, I requested, among other things, the production of all documents and communications in Mr. Navarro’s possession, custody, or control related to his involvement in the federal government’s response to the coronavirus; identification of non-government-issued or personal accounts used for official business; and a description of the steps Mr. Navarro took to timely comply with federal law relating to the preservation of Presidential records. The letter provided a deadline of September 28.¹¹ Select Subcommittee staff did not receive a response from Mr. Navarro.

⁹ *Virtual Discussion with Peter Navarro*, The Claremont Institute (Nov. 1, 2021).

¹⁰ Memorandum from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus, to Members of the Select Subcommittee on the Coronavirus Crisis, *Issuance of a Subpoena to Dr. Steven J. Hatfill* (Sept. 23, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021.09.23%20Memorandum%20from%20Chairman%20Clyburn%20re%20S.%20Hatfill%20Subpoena.pdf>). ProtonMail is a private, encrypted email service hosted by a Swiss-based technology firm, which promises to keep user data outside of the jurisdiction of the United States government as a “security” feature. ProtonMail’s website assures users that “ProtonMail is outside of US and EU jurisdiction, only a court order from the Cantonal Court of Geneva or the Swiss Federal Supreme Court can compel us to release the extremely limited user information we have.” Among other features, ProtonMail promises that communications are “encrypted at all times” and users can send and receive “Self Destructing Messages.” ProtonMail, *Security Details Page* (online at <https://protonmail.com/security-details>) (accessed on Nov. 18, 2021).

¹¹ Letter from Chairman James E. Clyburn, Select Subcommittee on the Coronavirus Crisis, to Peter K. Navarro, Professor Emeritus, Paul Merage School of Business, University of California, Irvine (Sept. 14, 2021) (online at <https://coronavirus.house.gov/sites/democrats.coronavirus.house.gov/files/2021-09-14.Clyburn%20to%20Peter%20Navarro%20re%20Production%20Request.pdf>).

Mr. Navarro appears to have received notice of my September 14, 2021, letter, as he tweeted in response to a CNN segment about the Select Subcommittee’s investigation.¹² Select Subcommittee staff also received notifications that the September 14 letter was delivered to Mr. Navarro’s ProtonMail and University of California, Irvine email accounts. Between September 16 and the date of this memorandum, Select Subcommittee staff have attempted to communicate with Mr. Navarro more than a dozen times, including through phone calls, voicemail messages, emails, and text messages. Select Subcommittee staff have confirmed that the messages were delivered, but Mr. Navarro has hung up and otherwise refused to respond to staff’s attempts to contact him.¹³

III. NEED FOR SUBPOENA

Mr. Navarro has demonstrated his unwillingness to voluntarily cooperate with the Select Subcommittee’s investigation. Given his central role in the pandemic response, the importance of the Select Subcommittee’s investigation, and his continued refusal to cooperate voluntarily, this subpoena is necessary.

The Select Subcommittee has a broad mandate from the House of Representatives “to conduct a full and complete investigation” of “issues related to the coronavirus crisis,” including the “preparedness for and response to the coronavirus crisis,” “executive branch policies, deliberations, decisions, activities, and internal and external communications related to the coronavirus crisis,” and “reports of waste, fraud, abuse, price gouging, profiteering, or other abusive practices related to the coronavirus crisis.”¹⁴ The federal government’s preparedness for and response to a global public health crisis, mobilization of agency resources, and management of the medical supply chain are central to the Select Subcommittee’s mandate and may be the subject of legislation. In particular, understanding what went wrong with the Trump Administration’s pandemic response would help inform legislation to better respond to the ongoing pandemic and prepare for future public health crises. As a result of its investigation, including a review of the subpoenaed documents, the Select Subcommittee may make recommendations on the merits of legislative proposals and help tailor them to ensure their efficiency and effectiveness towards their intended goals.

For the reasons described above, the Select Subcommittee has issued a subpoena to Mr. Navarro compelling the production of the documents and information by December 8, 2021, and his appearance at a deposition on December 15.

¹² On September 14, 2021, I appeared on CNN’s *New Day* for an interview with John Berman about the September 14 letter. Later that morning, Mr. Navarro tweeted that CNN produced a “vicious hit piece” about him and called Mr. Berman a “Coward.” Peter Navarro (@RealPNavarro), *Twitter* (Sept. 14, 2021, 2:01 PM) (online at <https://twitter.com/RealPNavarro/status/1437838848164339714>).

¹³ Select Subcommittee staff have left messages on Mr. Navarro’s voicemail, which identifies Mr. Navarro by name. After receiving a text message from Mr. Navarro’s cell phone, Select Subcommittee staff also responded by text message to provide a link to the September 14, 2021, letter and ask for confirmation that he would voluntarily comply with the requests but Mr. Navarro did not respond. Select Subcommittee staff have also reached Mr. Navarro on the telephone, but he hung up abruptly after they identified themselves.

¹⁴ H.R. 8, sec. 4(f); H.R. 935, 116th Cong. (2020).