

Congress of the United States
Washington, DC 20515

March 20, 2023

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

Dear Mr. Bragg:

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

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

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

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

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

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

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

⁶ Berman et al., *supra* note 2.

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

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

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

⁷ Turley, *supra* note 5.

⁸ *Id.*

⁹ N.Y. Penal Law § 175.10.

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

¹¹ *Id.*

¹² Berman et al., *supra* note 2.

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

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

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

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

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

¹⁸ *Id.*

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

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

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

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

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

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

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

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

²² Berman et al., *supra* note 2.

²³ *Id.*

²⁴ *Id.*

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

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

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

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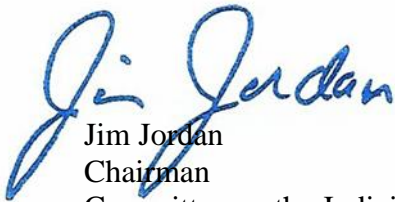
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matters as soon as possible. Please provide this information and contact Committee staff to schedule your transcribed interview as soon as possible but not later than 10:00 a.m. on March 23, 2023.

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

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

Sincerely,



Jim Jordan
Chairman
Committee on the Judiciary



Bryan Steil
Chairman
Committee on House Administration



James Comer
Chairman
Committee on Oversight and Accountability

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

The Honorable Joseph Morelle, Ranking Member
Committee on House Administration

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