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One Hundred Eighteenth Congress
U.S. House of Representatives
Committee on Foreign Affairs
2170 Rayburn House Office Building
Washington, DC 20515

May 21, 2024

Emily Loeb
Partner
Jenner & Block, LLP
1099 New York Ave, NW, Suite 900
Washington, DC 20001

Dear Ms. Loeb:

Thank you for your September 18 and 28, 2023 letters on behalf of your client Jen Psaki in response to the Committee's September 2023 request that she appear for a transcribed interview regarding her role in the U.S. withdrawal from Afghanistan.¹ We are also in receipt of the September 18 and 28, 2023 letters from Special Counsel to the President Richard Sauber, which fail to justify Ms. Psaki's deliberate noncompliance with a Congressional inquiry.² As a private citizen and former federal employee, the Committee expects Ms. Psaki to appear before it to answer questions regarding her role in the catastrophic withdrawal, which killed 13 U.S. servicemembers and over 170 Afghan civilians, and injured 45 U.S. servicemembers and countless Afghans.

Upon taking the chairmanship, I launched a fact-based investigation into the U.S. withdrawal from Afghanistan in the interest of oversight and accountability, and to help prevent another such disaster from occurring in the future. To date, the Committee has interviewed 17 current and former U.S. Department of State and Department of Defense officials involved in the U.S. withdrawal from Afghanistan. The Committee has also held numerous public hearings with senior government officials, including former Chairman of the Joint Chiefs of Staff, General Mark Milley, and Commander of U.S. Central Command, General Frank McKenzie. Further, the Committee has led a rigorous discovery process, and has reviewed over 10,000 pages of agency documents, including interview notes from the Department of State's After-Action Review led by Ambassador Dan Smith.

¹ Letter from Emily Loeb, Partner, Jenner & Block LLP, to Chairman Michael T. McCaul, H. Comm. Foreign on Affairs (HFAC) (Sept. 28, 2023); Letter from Emily Loeb, Partner, Jenner & Block LLP, to Chairman Michael T. McCaul, HFAC (Sept. 18, 2023).

² Letter from Richard Sauber, Spec. Couns. to the President, to Chairman Michael T. McCaul, HFAC (Sept. 18, 2023); Letter from Richard Sauber, Spec. Couns. to the President, to Chairman Michael T. McCaul, HFAC (Sept. 28, 2023).

The Committee's thorough investigation points to Ms. Psaki as having played an important role in the U.S. withdrawal from Afghanistan and the deadly August 2021 non-combatant evacuation operation. As White House Press Secretary throughout this period, Ms. Psaki was charged with communicating the withdrawal to the American people and possesses key insights into the planning and decision-making regarding the Afghanistan withdrawal, the rapid Taliban takeover, and the evacuation of American citizens and Afghan allies. Ms. Psaki unfortunately advanced narratives regarding the withdrawal and evacuation that my investigation has proven untrue.

It appears Ms. Psaki acknowledges her own involvement, given her recent memoir, *Say More: Lessons from Work, the White House, and the World*, which includes information related to the Afghanistan withdrawal, including a false claim that President Biden never looked at his watch during the ceremony for the 13 U.S. servicemembers killed under his leadership.³ It is troubling that Ms. Psaki seeks to profit off the Afghanistan tragedy, and has felt comfortable writing accounts and making them available to the general public, but refuses to make herself available to Congress, the branch dedicated to representing the interest and will of the American people.

Pursuant to the request for exhaustion raised in Mr. Sauber's September 18 and 28, 2023 letters, the Committee has already attempted to obtain the information it needs to complete its investigation from the State Department, Department of Defense, and other relevant entities and individuals. It, however, has been unable to do so with respect to the narrative Ms. Psaki shaped and public relations strategy she led. My request is in accordance with standard precedent,⁴ including established practice during the Biden administration.⁵ Given that the Biden White House publicly supported Congressional interviews of former Trump officials, I fail to understand why

³ Alex Thompson, *Psaki's new book falsely recounts Biden's watch check in troop ceremony*, AXIOS, May 3, 2024, <https://www.axios.com/2024/05/13/psaki-book-biden-watch-check-afghanistan>.

⁴ See *Comm. on Judiciary v. McGahn*, 415 F. Supp. 3d 148, 215 (D.D.C. 2019) (“[A]s far as the duty to appear is concerned, this Court holds that Executive branch officials are not absolutely immune from compulsory congressional process—no matter how many times the Executive branch has asserted as much over the years—even if the President expressly directs such officials’ non-compliance.”); *Comm. on Judiciary v. Miers*, 558 F. Supp. 2d 53, 107 (D.D.C. 2008) (“Clear precedent and persuasive policy reasons confirm that the Executive cannot be the judge of its own privilege and hence Ms. Miers is not entitled to absolute immunity from compelled congressional process.”)

⁵ See Mike Memoli and Pete Williams, *Biden declines Trump request to withhold White House records from Jan. 6 committee*, NBC NEWS, Oct. 8, 2021, <https://www.nbcnews.com/politics/white-house/biden-declines-trump-request-withhold-white-house-records-jan-6-n1281120> (“President Biden has determined that an assertion of executive privilege is not in the best interests of the United States, and therefore is not justified as to any of the documents. . . . These are unique and extraordinary circumstances,” [White House Counsel] Remus added.”); Morgan Chalfant and Rebecca Beitsch, *White House won't assert privilege over Meadows documents*, THE HILL, Nov. 11, 2021, <https://thehill.com/policy/national-security/581165-white-house-wont-assert-privilege-over-meadows-documents-sought-by/> (“White House deputy counsel Jonathan Su penned a letter to Meadows’s attorney on Thursday notifying him that President Biden would not assert executive privilege over the documents requested by the committee from Meadows, citing a ‘compelling need’ by Congress to access the documents in the course of its investigation into the deadly attack.”); Hans Nichols and Jonathan Swan, *Scoop: Biden to deny executive privilege for Flynn and Navarro*, AXIOS, Feb. 28, 2022, <https://www.axios.com/2022/03/01/scoop-biden-deny-executive-privilege-flynn-navarro> (“President Biden will deny the shield of executive privilege for two top advisers to former President Donald Trump[.]”); Jacqueline Alemany, *Biden White House waives executive privilege for more Trump records*, THE WASHINGTON POST, April 13, 2022, <https://www.washingtonpost.com/politics/2022/04/13/biden-trump-records-jan6-committee/> (“The President has determined that an assertion of executive privilege is not in the best interests of the United States, and therefore is not justified.”).

Ms. Psaki insists on a double standard, now rejecting similar calls for accountability, unless it is her contention that the deaths of Americans and allies are not extraordinary circumstances.⁶

Accordingly, the Committee requests that arrangements be made by Ms. Psaki to schedule her transcribed interview no later than May 28, 2024. Given the evasions by Ms. Psaki throughout this investigation, the Committee requests Ms. Psaki's appearance before it on one of the specified dates below.

1. June 12, 2024
2. June 26, 2024
3. July 9, 2024

As a private citizen, willing and able to publish a memoir on her tenure as White House Press Secretary, I encourage Ms. Psaki to refrain from relying on thin legal arguments to dodge her responsibility to appear before Congress. The Committee will not tolerate Ms. Psaki's continued obstruction of its critical investigation and is prepared to use all the tools at its disposal to ensure America's representatives speak with her.⁷

I look forward to your prompt reply.

Sincerely,



Michael T. McCaul
Chairman
House Foreign Affairs Committee

CC:

Rep. Gregory W. Meeks, Ranking Member
House Foreign Affairs Committee

⁶ See Joseph R. Biden, Jr., *Remarks by President Biden on Inflation and Actions Taken to Lower Prices and Address Supply Chain Challenges*, THE WHITE HOUSE, June 10, 2022, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/01/06/remarks-by-president-biden-at-presentation-of-the-presidential-citizens-medal/> (“It’s important that the American people understand what truly happened and to understand that the same forces that led January 6th remain at work today. It’s about our democracy itself. . . . That’s what those hearings are all about.”)

⁷ See Rules of the House of Representatives, 118th Congress, Jan. 10, 2023, Rule X (“In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee shall review and study on a continuing basis . . . any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction[.]”); *id.* at Rule XI (“For the purpose of carrying out any of its functions and duties under this rule and rule X [], a committee or subcommittee is authorized . . . to require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as it considers necessary.”); *id.* (“Subpoenas for documents or testimony may be issued to any person or entity, whether governmental, public, or private, within the United States[.]”).