



House of Representatives  
**Judiciary**  
Committee  
Chairman Jim Jordan



**Resolution recommending that the House of Representatives find United States Attorney General Merrick B. Garland in contempt of Congress for refusal to comply with a subpoena duly issued by the Committee on the Judiciary**

The Committee on the Judiciary and the Committee on Oversight and Accountability issued subpoenas to Attorney General Merrick Garland compelling him to produce documents and materials relating to Special Counsel Robert Hur's investigation, including the audio recordings of Special Counsel Hur's interviews with President Biden and ghostwriter Mark Zwonitzer. The Attorney General has refused to produce the audio recordings. This resolution upholds the institutional power of the House by recommending that the House find Attorney General Garland in contempt of Congress for failing to comply with the Committees' subpoenas.

- **The audio recordings of these interviews are the best evidence of what was actually said.** Transcription does not capture revealing verbal cues and nonverbal context. When interviewed, a subject's pauses and inflections can provide indications of a witness's recall of events or whether the individual is giving evasive or nonresponsive answers. Moreover, the refusal to produce the audio recordings amounts to a demand that the Committees rely only on Justice Department created and produced interview transcripts. There is recent evidence, however, of the White House doctoring an official transcript to hide a verbal slip from President Biden, and only fixing the transcript after being caught.
- **The audio recordings are vital to the Committees' legislative oversight.** While Special Counsel Hur declined to recommend that President Biden be prosecuted, in part, because of his poor memory, Special Counsel Jack Smith is prosecuting President Trump for similar allegations. To determine whether the Justice Department is applying the law fairly and impartially, it is necessary to fully assess the Special Counsel's evaluation of President Biden's memory and to do so, the Committees require the best evidence available, the audio recordings. The Committee's determination regarding whether the Justice Department is dispensing fair and impartial justice will inform its consideration of reforms to the Special Counsel process, including appointments, duration, mandates, and funding sources.
- **President Biden's assertion of executive privilege fails.** Until the morning of the Committees' markups of the contempt resolutions, neither the Department nor the White House had asserted any Constitutional or legal privilege over the audio recordings. The President's belated assertion of executive privilege over the recordings lacks merit. Any privilege claim over the interviews was waived when the Department released the transcripts. Further, the Department took no steps to protect the information; in fact, the transcripts were released to the media even before the Department sent them to the Committees, providing additional evidence of waiver. Finally, President Biden's assertion of privilege was untimely,

he should have asserted the privilege on the subpoena's return date—not two months after the deadline passed.

- **The audio recordings are also relevant to the ongoing impeachment inquiry.** As a part of the impeachment inquiry, the Committees have sought information regarding President Biden's mishandling of classified information to determine whether President Biden willfully retained classified information and documents related to his family's business dealings or to enrich his family.