

Congress of the United States  
House of Representatives  
Washington, DC 20515-0913

June 24, 2024

Dear Colleague,

The Department of Justice's blatant disregard for Congress as an institution, exemplified by its refusal to prosecute Attorney General Merrick Garland, is a direct threat to this legislative body. Attorney General Garland's defiance of two lawful subpoenas is a clear violation of our authority. This is why, earlier this month, this body voted to hold him in criminal contempt of Congress. However, on June 14, 2024, the Department of Justice informed Speaker Mike Johnson that they would not uphold the law and prosecute the attorney general for contempt of Congress. While that response was expected, it set a dangerous precedent. The executive branch will continue to withhold information from Congress if there are no consequences for their actions. It is imperative that Congress uses its inherent contempt powers and instructs the Sergeant at Arms to bring Attorney General Garland to the House for questioning and compel him to produce the requested evidence.

For Congress to legislate effectively, we must have access to the information that will enable us to make informed decisions. When Congress is denied this crucial information, we are left to navigate complex issues in the dark. That is why the Supreme Court has long recognized that Congress has the power to compel information from witnesses. This power is not a mere formality, but a vital tool for us to carry out our legislative responsibilities. It is not enough to issue a subpoena; we must also have the power to enforce it.

The Supreme Court has upheld that "the power of the Congress to conduct investigations is inherent in the legislative process. That power is broad. It encompasses inquiries concerning the administration of existing laws as well as proposed or possibly needed statutes." *Watkins v. United States*, 354 U.S. 178, 187 (1957). This power is not only broad but also crucial for effective legislation. Equally vital is Congress's ability to enforce its requests for information, a power that must not be undermined. It is this power that ensures our role in the legislative process and makes us integral to the functioning of our republic.

When an individual refuses to comply with Congress's request for information, Congress is left with three options. We can proceed with criminal, civil, or inherent contempt. However, both criminal and civil contempt rely on the other branches for enforcement, a situation that would have been unimaginable to our founding fathers. They never envisioned a scenario where the legislative branch would be subordinate to the other branches. Yet, this is the reality when the House resorts to civil or criminal contempt. We are then at the mercy of the other branches, which can significantly impede our ability to carry out our legislative duties effectively. This reliance on other branches not only undermines the separation of powers but also puts the integrity and effectiveness of our legislative process at risk.

Inherent contempt is a process that allows Congress to rely on its constitutional authority to hold an individual accountable for refusing to comply with congressional demands. This is a broad power that

courts have recognized as necessary for Congress to fulfill its legislative functions. Under inherent contempt, the individual is brought before the bar of the House by the Sergeant at Arms, tried by the body, and can then be detained either in the Capitol or in D.C. This process demonstrates the seriousness with which Congress views non-compliance and the potential consequences for those who refuse to cooperate.

The power of inherent contempt, first utilized by Congress in 1795, has a rich tradition in the American and British systems. Furthermore, the Supreme Court has consistently recognized the vital importance of Congress having the power to enforce its own requests for information. In *Anderson v. Dunn*, 19 U.S. 204, 228 (1821), the court stated that without the power of contempt, the House would "be exposed to every indignity and interruption, that rudeness, caprice, or even conspiracy, may meditate against it." In *McGrain v. Daugherty*, 273 U.S. 135, 174 (1927), the court held that both the power to investigate and the power to enforce the request for information was "an essential and appropriate auxiliary to the legislative function." This power, deeply rooted in history and law, is crucial to the legislative function, and Congress must utilize it to ensure that executive branch officials comply with Congress's demands.

The Department of Justice and the attorney general cannot be the ultimate deciders of whether or not a congressional subpoena is enforced. If Congress allows this to happen, we risk being subordinated to the attorney general and being completely neutered in our ability to legislate. Why would anyone from the executive branch comply with our demands for information if the enforcement of those demands relies on the actions of another department in its own branch? Congress must never rely on the actions of the other branches. To do so would betray the Constitution and take us down a road where Congress is a subordinate of the executive branch. Nor can Congress rely on the courts to enforce its subpoenas. This takes too much time and, just as with the executive, requires Congress to rely on another branch. We must remain vigilant and assert our authority to ensure the balance of power in our republic.

The only option to ensure compliance with our subpoena is to use our constitutional authority of inherent contempt. In the next few days, I will call up my resolution holding Attorney General Merrick Garland in inherent contempt of Congress, and I look forward to each of you voting in favor of it. The urgency of this situation cannot be overstated. Our ability to legislate effectively and fulfill our constitutional duties is at stake. We must act now to protect the integrity and independence of the legislative branch.

Sincerely,



Anna Paulina Luna  
Member of Congress