

HOUSE SELECT COMMITTEE ON INVESTIGATION



March 17, 2022

Governor Kristi Noem
State Capitol Building

Hand-delivered

Dear South Dakota Executive Branch:

As you are likely aware, Article XVI, § 1 of the South Dakota Constitution places “the sole power of impeachment” with the House of Representatives. Article XVI, § 2 requires the Senate to try an impeachment, with the Senators sitting as the jury under oath “to do justice according to law and evidence.” Pursuant to House Resolution 7001, the House Select Committee shall investigate whether the conduct of Jason Ravnsborg, Attorney General of the State of South Dakota, surrounding the death of Joe Boever, involved impeachable offenses pursuant to S.D. Const. Art. XVI, § 3. All three of these bodies must take care to follow the law, fairly afford the Attorney General the process due, avoid tainting “the jury pool” of Senators with inadmissible and irrelevant evidence, and avoid judicial intervention for violating any of these legal principals. The House Select Committee has and continues to carefully and solemnly undertake these important tasks.

The House Select Committee, along with the other members of the House, understand they currently have non-public access to the confidential investigative files and other confidential information gathered by the House Select Committee. Such materials are not public documents under SDCL § 1-27-1.5. Much of the materials contain sensitive and/or confidential information or are irrelevant to these proceedings. The Secretary of Public Safety previously recognized these legal principles in his letter to Speaker Spencer Gosch dated September 1, 2021. On page one, Secretary Price stated that the “full file is being provided with the understanding that you will limit any further distribution to only those individuals directly involved in your impeachment process.” On page 10, the Secretary stated “the investigatory file is not subject to disclosure as a public record during the pendency of the House’s investigation under SDCL 1-27-1.5(5).” The letter concludes by requesting the Speaker to redact “personal information relative to unrelated third-parties” should the Speaker decide to disclose the file publicly. These precepts wisely recognize the importance of affording all parties the legal process due, avoiding tainting the Senator jury pool with inadmissible or irrelevant evidence, and avoiding the release private third-party information. Unfortunately, the Executive Branch no longer adheres to these important principles in this matter.

You may recall that in February of 2021, Attorney General Ravnsborg’s defense counsel moved the court for an order precluding “the Department of Public Safety, law enforcement, or any member of the state government, including Governor Kristi Noem” from producing any more of the investigative file to the public. The motion cited the “extremely unprecedented, and unusual early release of information regarding a criminal investigation.” The prosecutors were in agreement that the file should not be released to the public. The motion cited numerous South Dakota Supreme Court cases regarding the

importance of preserving a defendant's right to a fair trial and avoiding tainting the jury pool with inadmissible evidence. I invite you to review that case law.

The Honorable John Brown agreed with the defense counsel, the prosecutors, and the South Dakota Supreme Court case law. The Court ordered "that the Department of Public Safety, law enforcement, or any member of state government, including Governor Kristi Noem, is precluded from producing any further criminal reports . . . or anything whatsoever related to the above-captioned matter to the public" and that all State agencies remove links to video interviews of the Attorney General. A court order was required to enforce the rule of law during the pendency of the criminal matter. Unfortunately, the Executive Branch is now engaged in attempting to taint the Senator jury pool with irrelevant and confidential information, that which it previously recognized as not subject to disclosure and containing personal information of third parties. These efforts have been continuous and are aimed at bringing misinformation to the public and undue pressure on the Select Committee Members. These efforts are both harmful and unwelcome and subject the outcome to judicial scrutiny. Our previous requests to refrain from such conduct have gone unheeded. Therefore, we hereby request the Executive Branch cease and desist from all further disclosures of the investigative file to the public and all further attempts to pressure and influence the Select Committee Members and the House of Representatives.

Cordially,

Speaker Spencer Gosch – Committee Chair
Representative Mike Stevens – Committee Co Chair
Majority Leader Kent Peterson – Committee Member
Minority Leader Jamie Smith – Committee Member
Speaker Pro Tempore Jon Hansen – Committee Member
Representative Kevin Jensen – Committee Member
Representative Doug Barthel – Committee Member
Representative Ryan Cwach – Committee Member
Representative Steven Haugaard – Committee Member

CC: Craig Price, Secretary of Public Safety