United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510–6275

July 15, 2025

Dear Senators:

I write in response to your request for an additional hearing on the nomination of Emil J. Bove III to be a judge on the United States Court of Appeals for the Third Circuit. While I appreciate your letter, it is unnecessary to hold an additional hearing on this nomination, and I will not depart from our usual Committee practice.

The issues raised in your letter were discussed in depth at Mr. Bove's lengthy hearing. You also had an opportunity to send Mr. Bove written questions, and received 165 pages of his written responses. There is no doubt that members of this Committee have had a full and fair opportunity to address the issues you raise. Following a comprehensive review of the additional documents that you published following the hearing and discussed in the media, I do not believe that they substantiate any misconduct by Mr. Bove.

Almost none of the additional documents you published include, reference, or even cite Mr. Bove. Most of the communications merely reflect Administration attorneys internally debating or discussing litigation strategy and the scope of court orders. Debate about the scope of court orders is fundamentally inconsistent with an intention to ignore them. Moreover, many of the legal positions discussed in the documents were ultimately advanced in federal court as the formal position of the United States, and the Administration has received at least some appellate relief in each of the cases described.

I respect whistleblowers and the whistleblowing process and have taken this matter seriously. I note that the available documents and the public record are inconsistent with some of the whistleblower's assertions, which have been reviewed in good faith. The gravamen of the allegations is that Mr. Bove directed Justice Department attorneys to ignore court orders, but (1) the meeting with Mr. Bove occurred *before* there was any litigation or court order to follow; and (2) Mr. Reuveni himself clarified that he departed the meeting with Mr. Bove with the express understanding that "DOJ would tell DHS to follow all court orders."

At his hearing, under oath, Mr. Bove firmly stated, "I have never advised a Department of Justice attorney to violate a court order." The Deputy Attorney General issued a statement confirming that he also attended the meeting, and "at no time did anyone suggest a court order should not be followed." In another statement, the Attorney General unequivocally said that "no one was ever asked to defy a court order."

Recent public reporting provides further support for the veracity of Mr. Bove's testimony under oath. In an April 8th letter addressed to the Justice Department's Human Resources Division, August Flentje—Mr. Reuveni's former supervisor—stated: "The Principal Associate Deputy Attorney General [Bove] advised our team that we must avoid a court order halting an upcoming

operation to implement the Act at all costs."[1] This statement was made under penalty of perjury months *before* Mr. Reuveni made the claims in his whistleblower disclosure, and directly contradicts his assertions. Mr. Bove's comments to subordinate Justice Department litigators—made in advance of anticipated litigation—advising them to avoid a court order that would negatively impact a mission is inconsistent with instructions to ignore a court order, and entirely consistent with Mr. Bove's sworn testimony.

The whistleblower also claims his termination was the result of his efforts to ensure agency compliance with court orders. The documents Mr. Reuveni produced, however, reveal that the ultimate termination decision was made and signed by Deputy Attorney General Blanche—not Mr. Bove. Moreover, Mr. Blanche explained in his letter that Mr. Reuveni was being placed on leave for "failure to follow a directive from your superiors; failure to zealously advocate on behalf of the United States; and engaging in conduct prejudicial to your client." Documents in the public record support these rationales. Indeed, the whistleblower made public statements in open court expressing dissatisfaction with the client (the Agencies he represented) and disclosed privileged legal advice he gave his clients—conduct that is plainly inappropriate for any lawyer and lends further support to the rationale set forth by Mr. Blanche.

In light of these facts, I see no reason to deviate from our Committee practice and hold an additional hearing.

Moreover, during the last Administration, Republicans requested additional hearings on at least four nominees to address serious concerns about their fitness. In each instance, then-Chairman Durbin flatly rejected the request.

- In a letter responding to our request for a second hearing on the nomination of Nusrat Choudhury to resolve her inconsistent testimony before the Committee, then-Chairman Durbin wrote: "the Committee has received more than enough information and opportunity to make a thorough assessment of Ms. Choudhury's record and cast an informed vote."[2]

- In a letter responding to our request for a second hearing on the nomination of David Chipman, then-Chairman Durbin described our request as "the latest in a string of efforts meant to unfairly derail Mr. Chipman's nomination and tarnish his record and reputation."[3]

- In a letter responding to our request for a second hearing on the nomination of Vanita Gupta, then-Chairman Durbin described our request as "little more than a delay tactic

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[1] Shawn Fleetwood, *New Docs Shatter Leftist Claims Emil Bove Ordered Former DOJ Official To 'Defy' Court Orders*, THE FEDERALIST (July 11, 2025), https://thefederalist.com/2025/07/11/new-docs-shatter-leftist-claims-emil-bove-ordered-former-doj-official-to-defy-court-orders/.

[2] Letter from Chair Durbin to Republican Senators (May 23, 2022) (on file with Committee).

[3] Letter from Chair Durbin to Republican Senators (Aug. 2, 2021), https://www.judiciary.senate.gov/imo/media/doc/Letter%20to%20Committee%20Republicans%20re%20Chipman%20-%208.2.2021%20-%20Final.pdf.

aimed not at gathering more information, but at obstructing a highly qualified and historic nominee."[4]

- In a letter responding to a Republican request for a second hearing on the nomination of Alexander Mayorkas, then-Chairman Durbin described the request as "unnecessary" and "a departure from longstanding Senate practice."[5]

You also raised concern about the role of privilege during Mr. Bove's hearing. As I have previously explained, Mr. Bove responded in a manner consistent with prior nominees from both Republican and Democratic administrations. I note that with respect to congressional investigations, as distinct from nominations proceedings, I reject all assertions of privilege, and my public oversight work has made clear how I handle privileges and improper redactions no matter which party is in charge of the executive branch. But this matter concerns a nomination, and I intend to follow our Committee practice in that context.

Respect for the attorney-client privilege in the nominations process is longstanding and routine. Any suggestion to the contrary is unfounded. Our standard Senate Judiciary Committee questionnaire, going back at least to 1987, explicitly instructs nominees to "omit any information protected by the attorney-client privilege."[6] My Democratic colleagues didn't object last year when Biden-nominee Chris Fonzone relied on attorney-client privilege in response to a question from Senator Hawley at his hearing. And when Justice Jackson invoked it in her written responses to questions, there was no Democratic objection. Those responses were so routine and unremarkable that I doubt they were even noticed.

This Committee has also respected executive privilege in the nominations process. The late-Senator Feinstein and I explicitly agreed to respect the invocation of privilege during the nomination of Justice Gorsuch, and we cited the precedent set by Chairman Leahy during Justice Kagan's nomination. And many nominees—appointed by Presidents of both parties—have declined to describe certain kinds of internal legal advice given through the Department of Justice, or otherwise relied on executive privilege in some capacity. A few examples include Chief Justice Roberts, Justice Kagan, Justice Kavanaugh, Judge Srinivasan, Judge Katsas, and Solicitor General Prelogar. These examples are far from exhaustive.

Many times during the last Administration, then-Chairman Durbin said "there cannot be one set of rules for Republicans on this Committee and another set of rules for Democrats." I agree with this statement and intend to adhere to the precedent of then-Chairman Durbin. The Committee will vote on the nomination of Mr. Bove on Thursday.

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[4] Letter from Chair Durbin to Republican Senators (Mar. 24, 2021), https://int.nyt.com/data/documenttools/durbin-letter-to-senate-judiciary-committee-republicans-re-gupta-second-hearing/8ba53c32374fc31a/full.pdf.

[5] Letter from Chair Durbin to Republican Senators (Jan. 26, 2021), https://www.durbin.senate.gov/imo/media/doc/Letter%20to%20Cornyn%20et%20al%20re%20Mayorkas%20Hearing%20with%20signature.pdf.

[6] United States Senate Committee on the Judiciary, Questionnaire for Judicial Nominees, Question 18.

Sincerely,

Charles E. Grassley
Chairman
Committee on the Judiciary