

September 22, 2022

Chairman Christopher A. Coons  
Senate Select Committee on Ethics  
220 Hart Senate Office Building  
Washington, D.C. 20510  
Fax: (202) 224-7416

**Re: Request for Investigation into Senator Ron Johnson**

Dear Chairman:

I request that the Senate Select Committee on Ethics (“Committee”) investigate Senator Ron Johnson for violating federal law and Senate Ethics rules by using official Senate resources for campaign purposes.<sup>1</sup> In particular, Senator Johnson’s official website, as well as Twitter and Facebook accounts posted content advocating for the people of Wisconsin to vote against Senator Johnson’s 2022 general election opponent. Senator Johnson used official Senate resources for campaign purposes, violating 31 U.S.C. § 1301(a) and the Committee’s longstanding interpretation of 31 U.S.C. § 1301(a), which makes it “inappropriate to use any official resources to conduct campaign or political activities.”<sup>2</sup> I request that the Committee investigate these claims and take appropriate remedial action against Senator Johnson for improper conduct.

### **Factual Background**

Ron Johnson serves as a U.S. Senator for the state of Wisconsin.<sup>3</sup> He is a candidate for re-election to the U.S. Senate in the 2022 election in Wisconsin.<sup>4</sup> Senator Johnson maintains an official Senate website, Twitter account and Facebook account.<sup>5</sup> Senator Johnson’s official Twitter account is @SenRonJohnson and his official Facebook account is Senator Ron Johnson.<sup>6</sup>

Senator Johnson’s opponent in the 2022 election is Wisconsin Lieutenant Governor Mandela Barnes.<sup>7</sup>

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<sup>1</sup> Rule 2 of the Rules of Procedure of the Senate Select Comm. on Ethics authorizes any person to file a sworn complaint with the Committee “alleging that any Senator . . . has violated a law [or] the Senate Code of Official Conduct . . . in the performance of his or her duty as a Member . . . or has engaged in improper conduct which may reflect upon the Senate.” S. Select. Comm. on Ethics, Rules of Procedure Sec. 2(a) (Reprinted Jan. 2015).

<sup>2</sup> Senate Select Comm. on Ethics, 108th Cong., 1st Sess., Senate Ethics Manual (“Senate Ethics Manual”), <https://www.ethics.senate.gov/downloads/pdf/files/manual.pdf> at 153.

<sup>3</sup> About Ron, U.S. Senate (accessed Sept. 8, 2022), <https://www.ronjohnson.senate.gov/biography>.

<sup>4</sup> FEC, Statement of Organization, Ron Johnson for Senate, Inc. (Apr. 20, 2022), <https://docquery.fec.gov/pdf/367/202204209500163367/202204209500163367.pdf>.

<sup>5</sup> Senator Ron Johnson, U.S. Senate (accessed Sept. 14, 2022), <https://www.ronjohnson.senate.gov/>.

<sup>6</sup> Senator Ron Johnson, Twitter, <https://twitter.com/senronjohnson> (the account also links to [ronjohnson.senate.gov](https://www.ronjohnson.senate.gov/)); Senator Ron Johnson, Facebook, <https://www.facebook.com/senronjohnson> (the account also links to [ronjohnson.senate.gov](https://www.ronjohnson.senate.gov/)).

<sup>7</sup> FEC, Statement of Organization, Mandela Barnes for Wisconsin (July 15, 2022), <https://docquery.fec.gov/pdf/421/202207159521771421/202207159521771421.pdf>. About Lieutenant Governor Mandela Barnes, State of Wisconsin (accessed Sept. 8, 2022), [https://evers.wi.gov/Pages/Newsroom/About\\_Mandela.aspx](https://evers.wi.gov/Pages/Newsroom/About_Mandela.aspx).

On August 23, 2022, Senator Johnson posted to all three accounts that the “people of Kenosha are still suffering because of Gov. Evers and Lt. Gov. Barnes lack of leadership.”<sup>8</sup> Senator Johnson’s posts refer to the police shooting of Jacob Blake in Kenosha and the civil unrest that ensued.<sup>9</sup> The posts were sent on the two-year anniversary of the shooting.<sup>10</sup>

Senator Johnson stated, “Wisconsin’s corporate media refuses to hold Gov. Evers and Lt. Gov. Barnes accountable for their actions that exacerbated the riots. I hope the people of Wisconsin will.”<sup>11</sup> A screenshot of the tweet is below,:



Senator Ron Johnson @SenRonJohnson · Aug 23

On the 2nd anniversary of the Kenosha riots, the people of Kenosha are still suffering because of Gov. Evers and Lt. Gov. Barnes lack of leadership.

They released incendiary statements before they had all the facts & refused to provide sufficient manpower to quell the rioting.

### Sen. Johnson Releases Statement on Two-Year Anniversary of Kenosha Riots

OSHKOSH - On Tuesday, U.S. Sen. Ron Johnson (R-Wis.) released the following statement on the second anniversary of the beginning of the Kenosha riots.

“On the second year anniversary of the Kenosha riots, the people of Kenosha are still suffering because of Governor Evers and Lieutenant Governor Barnes lack of leadership. Lives were lost, people were seriously injured, and Kenosha suffered millions of dollars of property damage. The community is still rebuilding. I’ve visited and spoken to Kenosha business owners who watched their stores burn to the ground during the nights of rioting. I’ve met with Sheriffs and others in law enforcement who are having trouble recruiting police officers because of the defund police movement and lack of support from Democrat elected officials.

“The Kenosha riots should have ended after one night, but they didn’t because Gov. Evers and Lt. Gov. Barnes released incendiary statements before they had all the facts. They incited the rioters and refused to provide the type of manpower to quell the rioting. Instead, they compounded their incitement by refusing to accept former President Trump’s offer to immediately send a sufficient number of National Guard troops to end the rioting. Wisconsin’s corporate media refuses to hold Gov. Evers and Lt. Gov. Barnes accountable for their actions that exacerbated the riots. I hope the people of Wisconsin will.”

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<sup>8</sup> Senator Ron Johnson, U.S. Senate (Aug. 23, 2022), <https://www.ronjohnson.senate.gov/2022/8/sen-johnson-releases-statement-on-two-year-anniversary-of-kenosha-riots>; Senator Ron Johnson, Twitter (Aug. 23, 2022), <https://twitter.com/SenRonJohnson/status/1562151588378075137>; Senator Ron Johnson, Facebook (Aug. 23, 2022), [https://www.facebook.com/senronjohnson/posts/623726069098785?\\_cft\\_\\_\[0\]=AZU0RJeZ0-w1voTXrh5K19gcsKovv-CplxsKcNSSi\\_QlsHPvZ-pWicC9FIMfLGLovP9QYgiYHVFy6wHPNixEq-0QqhxlSct\\_x3Af-pVq4cX2aWhemL6HAiOM25PStuIWvMI6PEv5E0R12j\\_ig7I4tmHa\\_IkaLCLx43YXFUqbqDulSxhvaFQd1dWf4TVQJO3vs1I&\\_tn\\_=%20C0%20CP-R](https://www.facebook.com/senronjohnson/posts/623726069098785?_cft__[0]=AZU0RJeZ0-w1voTXrh5K19gcsKovv-CplxsKcNSSi_QlsHPvZ-pWicC9FIMfLGLovP9QYgiYHVFy6wHPNixEq-0QqhxlSct_x3Af-pVq4cX2aWhemL6HAiOM25PStuIWvMI6PEv5E0R12j_ig7I4tmHa_IkaLCLx43YXFUqbqDulSxhvaFQd1dWf4TVQJO3vs1I&_tn_=%20C0%20CP-R).

<sup>9</sup> Hillary Mintz, *It's been two years since Kenosha police officer shot Jacob Blake seven times, sparking unrest*, WISN 12 (Aug. 23, 2022).

<sup>10</sup> See Senator Ron Johnson, U.S. Senate (Aug. 23, 2022), <https://www.ronjohnson.senate.gov/2022/8/sen-johnson-releases-statement-on-two-year-anniversary-of-kenosha-riots>.

<sup>11</sup> See *id.*

In response to the official post on Facebook, commenters responded to “Remember that in the voting booth,” “VOTE BLUE,” and to “pray that the people in Wisconsin vote for new leadership in November.”<sup>12</sup>

The year prior, on August 23, 2021, Senator Johnson’s official Twitter account tweeted about the then one-year anniversary of the events in Kenosha. Neither of those tweets mention Lt. Gov. Barnes nor include a call to action.<sup>13</sup> Senator Johnson’s official Senate website and official Facebook account did not include either a press release or a post from the then one-year anniversary of the events in Kenosha.<sup>14</sup>

### Legal Analysis

Senator Johnson appears to have violated federal law and the Senate Code of Official Conduct by misusing official resources for campaign purposes. Under 31 U.S.C. § 1301(a), federally appropriated funds “shall be applied only to the objects for which the appropriations were made [...]”<sup>15</sup> The Senate Ethics Manual clarifies that it is “inappropriate to use any official resources to conduct campaign or political activities.”<sup>16</sup> Instead, Senate appropriations are for official representational and legislative duties.<sup>17</sup>

Senate space, equipment, staff time, and resources generally should not be used to assist campaign organizations.”<sup>18</sup> The prohibition on the use of official resources for political activities extends to Internet resources. The Senate’s Internet Services and Technology Resources Usage Rules dictate that the “[u]se of Senate Internet Services and Senate technology resources is for activities and duties directly connected with the official business of the Senate.”<sup>19</sup> The Rules explain that Senate technology resources are prohibited for “campaign, fundraising, commercial, or promotional purposes [...]”<sup>20</sup> A Senate office can maintain an Official Third-Party Website,

<sup>12</sup> Senator Ron Johnson, Facebook (Aug. 23, 2022),

[https://www.facebook.com/senronjohnson/posts/623726069098785?\\_cft\\_\\_\[0\]=AZU0RJeZ0-w1voTXrh5Kt9gcsKovv-CplxsKcNSSi\\_QlsHPvZ-pWicC9FIMfLGLovP9QYgiYHVFy6wHPnixEq-0QqhxlSct\\_x3Af-pVq4cX2aWhemL6HAiOM25PSIulWvM16PEv5E0R12j\\_ig7I4tmHa\\_lkaLCLx43YXFU bqDulSxhvaFQdIdWf4TVQJO3vs1l&\\_tn\\_=%2CO%2CP-R](https://www.facebook.com/senronjohnson/posts/623726069098785?_cft__[0]=AZU0RJeZ0-w1voTXrh5Kt9gcsKovv-CplxsKcNSSi_QlsHPvZ-pWicC9FIMfLGLovP9QYgiYHVFy6wHPnixEq-0QqhxlSct_x3Af-pVq4cX2aWhemL6HAiOM25PSIulWvM16PEv5E0R12j_ig7I4tmHa_lkaLCLx43YXFU bqDulSxhvaFQdIdWf4TVQJO3vs1l&_tn_=%2CO%2CP-R)

<sup>13</sup> Senator Ron Johnson, Twitter (Aug. 23, 2022), <https://twitter.com/SenRonJohnson/status/1429924559986233347>, <https://twitter.com/SenRonJohnson/status/1429905228942479367>.

<sup>14</sup> See Senator Ron Johnson Press Releases, U.S. Senate, [https://www.ronjohnson.senate.gov/press-releases?month=8&year=2021&label\\_id=](https://www.ronjohnson.senate.gov/press-releases?month=8&year=2021&label_id=); Senator Ron Johnson, Facebook, <https://www.facebook.com/senronjohnson>.

<sup>15</sup> 31 U.S.C. § 1301(a).

<sup>16</sup> Senate Ethics Manual, at 153.

<sup>17</sup> *Id.* at 140.

<sup>18</sup> *Id.* at 150.

<sup>19</sup> Senate Rules Comm., Internet Services and Technology Resources Usage Rules, Rule 2.1, <https://www.senate.gov/usage/internetpolicy.htm#:~:text=Use%20of%20Senate%20Internet%20Services%20and%20Senate%20technology%20resources%20for,Use%20of%20Official%20Websites>.

<sup>20</sup> *Id.* Rule 2.2.

such as Facebook or Twitter, but it must operate pursuant to the Internet Services and Technology Resources Usage Rules.<sup>21</sup>

Senator Johnson maintains an Official Senate Website. His Facebook and Twitter accounts are Official Third-Party Websites. The website and social media accounts must operate pursuant to the Senate Rules Committee guidance. Therefore, using these accounts for campaign purposes is prohibited.

Here, Senator Johnson's posts are styled as a statement about the "anniversary" of the Kenosha "riots" and the alleged failure of executive leadership. **However, the purpose of the posts is to advocate for the defeat of his campaign opponent, Lt. Gov. Barnes in their upcoming election.** Senator Johnson clearly identifies Lt. Gov. Barnes on three different occasions in each post and then urges the "people of Wisconsin" to hold Lt. Gov. Barnes "accountable" for his actions. On the first anniversary of the events in Kenosha, prior to Lt. Gov. Barnes becoming Senator Johnson's 2022 general election opponent, Senator Johnson's tweets made no reference to Lt. Gov. Barnes or for the people of Wisconsin to take any action.

The clear intention of these pre-election posts is to highlight Lt. Gov. Barnes's alleged conduct related to the 2020 events in Kenosha and then ask voters to respond by defeating him at the ballot box. Unsurprisingly, the public perceived the content of the posts in this manner, with several commenters responding by referencing the upcoming election (e.g., "pray that the people in Wisconsin vote for new leadership in November").

Couching electoral messaging in requests to hold an election opponent "accountable" cannot absolve an underlying campaign purpose. Any conclusion to the contrary would inappropriately signal to Senate incumbents that negative hits on election opponents can be conducted through official resources, so long as the language does not explicitly reference an election.

Senator Johnson used official Senate resources for a campaign purpose in direct contravention of the text and spirit of the law that prevents taxpayer funds from being used to attack an election opponent. The use of official Senate resources for campaign purposes, including staff time, is a clear violation of 31 U.S.C. § 1301(a) and Senate Rules. I urge the Committee to immediately investigate this violation and take appropriate action.

Sincerely,

  
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STATE OF Wisconsin )

County of Dane )

SUBSCRIBED AND SWORN to before me this 22 day of September, 2022.

  
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<sup>21</sup> See *id.* Rule 1.6.

Kelsie T Kufahl

Notary Public

My Commission Expires:

10/22/2024

