

March 15, 2023

Senator Sheldon Whitehouse
Chairman, Senate Judiciary Subcommittee on Federal Courts, Oversight, Agency Action and Federal Rights
Hart Senate Office Bldg., Rm. 530
Washington, DC 20510

Congressman Henry C. "Hank" Johnson
Ranking Member, House Judiciary Subcommittee on Courts, Intellectual Property, and the Internet
2240 Rayburn HOB
Washington, DC 20510

Chairman Whitehouse and Ranking Member Johnson,

Please find my responses to your inquiry dated February 23, 2023, below.

1. Who at the Supreme Court contacted you, and when, to ask whether you would "consult" on the Court's investigation into the Dobbs leak? Please describe precisely the service you were asked to provide as part of this consultation, and provide any contract or written terms of the agreement.

Answer: In November 2022, the office of Chief Justice John Roberts reached out to me and my firm, The Chertoff Group (the "firm") in view of our past support and ongoing work as security consultants to the Supreme Court (the "Court") and asked us to: (1) review and assess the thoroughness of the investigation into the Dobbs draft opinion leak; and (2) recommend any additional useful investigative measures that we could recommend the Supreme Court to consider. We also were asked to identify specific actions that would enhance information security and improve the handling of sensitive documents in the future. We were not asked to provide any legal or direct investigative support.

We were retained for this engagement under attorney-client privilege and at the direction of the Court's legal counsel through an Addendum dated November 30, 2022, to our Statement of Services contract with the Court for a Physical Security Assessment dated Feb. 19, 2021 ("Primary Contract"). The Addendum tasked Chertoff Group with providing an assessment of the Court's investigation of the unauthorized disclosure of the draft majority opinion in Dobbs and provided that our terms of service were to be governed by the Primary Contract.

2. Your statement states that "Court officials provided a detailed account of their investigative process and all documents associated with the investigation, including the interview transcripts and notes of the investigators." When and how was that account provided, and did it include the "call and text detail records and billing statements for personal devices" provided by Court personnel to the Marshal?

Answer: In December 2022, Supreme Court officials provided detailed briefings to the firm on the investigation that had occurred and the process that was followed by the investigators. We were also provided access to the investigative files and interview transcripts as part of our review so we could accurately assess the thoroughness of the investigation. Some of the investigative files included transcripts or summaries of phone conversations that were provided to investigators, but our primary focus was on a review of documentary evidence.

3. As part of your consultation, did you have the opportunity to conduct additional interviews with any Court employees, or have the ability to take additional investigative measures if you deemed them necessary?

Answer: Our firm was not asked, and did not participate in the investigative process, including conducting interviews with subjects of the investigation. However, we had discussions with court employees who were involved in the planning and execution of the Dobbs leak investigation. Our role was to review the thoroughness of the concluded investigation. If we had found material gaps in the investigation, we would have raised these with the Court, and subject to the Court's approval, suggested and undertaken appropriate additional steps.

4. Please describe the extent of your or The Chertoff Group's work conducted on behalf of the Supreme Court prior to consultation on the Dobbs leak, and any information you have regarding the process by which you or The Chertoff Group applied for or were selected to perform those services.

Answer: I founded The Chertoff Group in 2009 following my tenure as the Secretary of Homeland Security. In the years since our founding, we have grown to a firm of approximately 40 employees, with our headquarters in Washington, DC, and developed what I believe to be a good reputation as a security consulting firm focused primarily on physical and cyber security risk management services. Our clients include well-known Fortune 500 companies, and we have also supported government entities on occasion.

In 2018, the Chief Justice's staff reached out to our firm to advise the Supreme Court Police on a variety of matters related to protecting the Justices, including at their homes and while travelling. In 2020, during the COVID-19 pandemic, the Court requested that we assist them in developing a pandemic risk management plan for Court employees and their courtroom operations. In 2021, the Supreme Court asked that we again advise on matters designed to protect the Court premises, employees, and members of the public.

As you would understand, it is customary for public and private entities to often rely upon specialized firms for a variety of, and multiple, different engagements, and I believe our firm has become a trusted security advisor who understands the Court's practices, operations, and culture stemming from our engagements since our support began in 2018. Given this trusted advisory role on security matters and my professional credentials as a former Circuit Judge, Homeland Security Secretary, and law clerk at the Court, Chief Justice Roberts advised us that he believed we were a logical choice to perform the assessment of the Dobbs leak investigation conducted by Court personnel.

5. Do you maintain personal relationships with any of the justices of the Supreme Court? If so, with whom and of what nature?

Answer: I do not maintain ongoing or regular social relationships with any of the Supreme Court Justices. That said, over the course of my nearly 50-year legal and public service career, I have had periodic interactions with many of them, mostly in public social settings. As described above, Chertoff Group has also had ongoing professional interactions with the Supreme Court and its personnel since 2018 concerning security matters pursuant to our engagements which has included engaging with the Justices in some instances. During my professional legal career, I worked with certain Justices in a variety of capacities, including over 15 years ago serving as a judge of the U.S. Court of Appeals for the Third Circuit when Justice Alito was also a Circuit Judge and working with Justice Alito when he was in the U.S. Attorney's Office for the District of New Jersey. Lastly, I have had occasional social exchanges with several Justices over the past 15 years, mostly at widely attended events.


Michael Chertoff

Executive Chairman, The Chertoff Group