

ONE HUNDRED NINETEENTH CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY

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January 15, 2025

The Honorable Merrick B. Garland  
Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue NW  
Washington, DC 20530

Dear Attorney General Garland:

We write to urge you to publicly release Special Counsel Jack Smith's full report on President-elect Donald Trump's refusal to return classified documents after he left office.

Over the course of your tenure, in the spirit of the Department of Justice's (DOJ) strong commitment to independence and transparency, and consistent with the Department's regulations and historical practices, you have released, in full, without any redactions, three special counsel reports: Special Counsel Robert Hur's report regarding President Biden's possession of classified documents,<sup>1</sup> Special Counsel David Weiss's report regarding Hunter Biden's tax and gun offenses,<sup>2</sup> and Volume 1 of Special Counsel Jack Smith's report regarding President Trump's efforts to remain in power after losing the 2020 presidential election.<sup>3</sup>

The American people now deserve the opportunity to read Volume 2 of Special Counsel Smith's report, which explains how President Trump knowingly retained hundreds of presidential and highly classified records at his Mar-a-Lago club and then deliberately defied subpoenas, obstructed law enforcement, hid evidence, and lied about his continuing retention of these records. It is in the very nature of American democracy that the people have a right to know of the public actions of their public officials, and it is essential to the rule of law that Justice

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<sup>1</sup> Special Counsel Robert K. Hur, *Report on the Investigation Into Unauthorized Removal, Retention, and Disclosure of Classified Documents Discovered at Locations Including the Penn Biden Center and the Delaware Private Residence of President Joseph R. Biden, Jr.*, U.S. DEP'T OF JUSTICE (Feb. 5, 2024), <https://www.justice.gov/storage/report-from-special-counsel-robert-k-hur-february-2024.pdf>.

<sup>2</sup> Special Counsel David Weiss, *Report on the Investigation Into the Criminal Conduct of Robert Hunter Biden*, U.S. DEP'T OF JUSTICE (Jan. 10, 2025), <https://www.justice.gov/storage/Report-of-Special-Counsel-Weiss-January-2025.pdf>.

<sup>3</sup> Special Counsel Jack Smith, *Final Report on the Special Counsel's Investigations and Prosecutions Volume One: The Election Case, Report on Efforts to Interfere With the Lawful Transfer of Power Following the 2020 Presidential Election Or the Certification of the Electoral College Vote Held on January 6, 2021*, U.S. DEP'T OF JUSTICE (Jan. 7, 2025), <https://www.justice.gov/storage/Report-of-Special-Counsel-Smith-Volume-1-January-2025.pdf>.

Department special counsel reports continue to be available and accessible to the public. As Attorney General, it is incumbent upon you to take all necessary steps to ensure the report is released before the end of your tenure, including, if necessary, by simply dismissing the remaining criminal charges against Mr. Trump's co-conspirators, Waltine Nauta and Carlos De Oliveira.

To the extent that such a decision to dismiss these cases might encourage these defendants to keep enabling the corruption of their superiors, those concerns are outweighed by the many indications that Mr. Trump will simply end the prosecutions against his co-conspirators upon taking office anyway and then instruct his DOJ to permanently bury this report. Mr. Trump has not been secretive about his plans to weaponize the DOJ for his own personal whims and preferences. He has promised to name a Special Prosecutor to target political opponents,<sup>4</sup> stated he would use the Department to prosecute his enemies,<sup>5</sup> and threatened to "direct the DOJ to investigate" progressive district attorneys who have not supported his personal agenda.<sup>6</sup> And of course, we are all aware that his administration plans to give "loyalty tests," only extending government positions to those who pledge to put Donald Trump's interests above the Constitution.<sup>7</sup>

Donald Trump has made it clear that he does not want Special Counsel Smith's report to see the light of day and has repeatedly sought to prevent disclosure of any part of it. Just two days ago, his lawyers filed a motion—once again—to prevent the public disclosure of both Volume 1 and Volume 2 of his report.<sup>8</sup> Although Volume 1 was released publicly Tuesday night, consistent with the orders of both Judge Aileen Cannon and the Eleventh Circuit Court of Appeals, Volume 2 remains the subject of litigation. Judge Cannon has scheduled a hearing for January 17 to hear arguments from the litigants regarding the release of Volume 2, and the DOJ has taken the position that it will not publicly release the report so long as Mr. Nauta and Mr. De Oliveira's criminal proceedings remain pending.<sup>9</sup> While we understand your honorable and steadfast adherence to Mr. Nauta's and Mr. De Oliveira's due process rights as criminal defendants, the practical effect of this position is that Volume 2 will almost certainly remain concealed for at least four more years if you do not release it before President-elect Trump's inauguration on January 20.

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<sup>4</sup> *Trump claims he'll investigate Biden if re-elected*, NBC NEWS (Jun. 13, 2023), <https://www.youtube.com/watch?v=YzjIxYfaQjc&t=6s>.

<sup>5</sup> *Trump on Univision: the former president talks about the Latino vote, foreign policy and economy*, UNIVISION (Nov. 9, 2023), <https://www.univision.com/univision-news/politics/donald-trump-exclusive-univision-interview>.

<sup>6</sup> Nathan Layne, *Trump vows to investigate prosecutors, says Biden represents anarchy*, REUTERS (Apr. 27, 2023), <https://www.reuters.com/world/us/trump-paints-doomsday-scenario-if-biden-wins-white-house-again-2023-04-27/>.

<sup>7</sup> Dan Diamond, Daniel Lippman and Nancy Cook, *Trump team launches a sweeping loyalty test to shore up its defenses*, POLITICO (Jul. 16, 2020), <https://www.politico.com/news/2020/07/15/trump-appointees-loyalty-interviews-364616>.

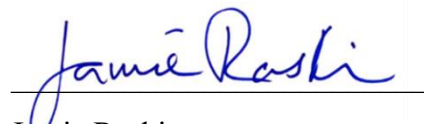
<sup>8</sup> Katherine Faulders, et al., *Judge denies Trump's last-ditch effort to block midnight release of Jack Smith's final report*, ABC NEWS (Jan. 13, 2025), <https://abcnews.go.com/US/trumps-former-defendants-continue-push-block-release-jack/story?id=117620958>.

<sup>9</sup> *Id.*

Based on a review of court filings by the Special Counsel, this report presumably not only outlines the evidence supporting the 40 felony counts against Mr. Trump related to willfully hiding and mishandling extremely sensitive national defense information, but also explains *why* President-elect Trump retained and concealed classified documents and *what* he intended to do with those materials, neither of which was included in the indictment. It is essential that the American people and Congress understand how Mr. Trump mishandled our nation's most sensitive classified information, especially because he will be sworn in as Commander-in-Chief and take leadership of our national security apparatus in just five days.

We obviously do not condone the sycophantic, delinquent, and criminal behavior that Mr. Nauta and Mr. De Oliveira are charged with. However, Donald Trump was plainly the mastermind of this deception operation to conceal and abuse classified material, a fact made clear by his being charged with 32 counts of willfully retaining these classified documents, while his co-defendants were charged with lesser offenses related to obstructing the investigation, largely at Mr. Trump's direction. By virtue of DOJ policy prohibiting the indictment or prosecution of a sitting president, Mr. Trump has dodged any criminal accountability for his own wrongdoing. Mr. Trump's 2024 victory saved him from a public trial and robbed the American people of the opportunity to learn the meaning and details of his unpatriotic, reckless, and intentional abuse of national security information. The public interest, however, now demands that the President-elect must not escape accountability to the American people. Accordingly, to the extent the tangential charges against Mr. Nauta and Mr. De Oliveira stand in the way of the overriding imperative of transparency and truth, the interests of justice demand that their cases be dismissed now so that the entirety of Special Counsel Smith's report can be released to the American people.

Sincerely,



Jamie Raskin  
Ranking Member  
House Committee on the Judiciary



Dan Goldman  
Member of Congress



Jerrold Nadler  
Member of Congress



Zoe Lofgren  
Member of Congress



Steve Cohen  
Member of Congress



Henry C. "Hank" Johnson, Jr.  
Member of Congress



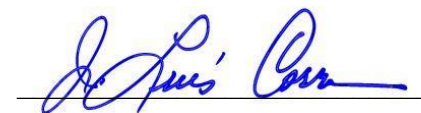
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Member of Congress



Ted W. Lieu  
Member of Congress



Pramila Jayapal  
Member of Congress



J. Luis Correa  
Member of Congress



Mary Gay Scanlon  
Member of Congress



Joseph Neguse  
Member of Congress



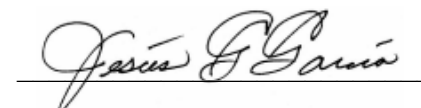
Lucy McBath  
Member of Congress



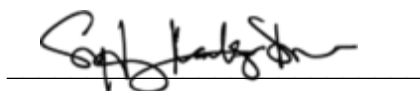
Deborah Ross  
Member of Congress



Becca Balint  
Member of Congress



Jesús G. "Chuy" García  
Member of Congress



Sydney Kamlager-Dove  
Member of Congress



Jasmine Crockett  
Member of Congress

cc: Jim Jordan, Chairman, House Committee on the Judiciary