

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States
House of Representatives

COMMITTEE ON THE JUDICIARY

2138 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6216

(202) 225-6906
judiciary.house.gov

December 21, 2023

Mr. Jack Smith
Special Counsel
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

Dear Mr. Smith:

The Committee on the Judiciary is continuing its oversight of the Biden Justice Department's commitment to impartial justice and its handling of an unprecedented investigation and prosecution of President Biden's chief opponent in the upcoming presidential election. In June 2023, we wrote to Attorney General Merrick Garland requesting information on your office's use of Federal Bureau of Investigation (FBI) personnel and unredacted copies of documents related to your appointment as Special Counsel.¹ On September 7, 2023, we wrote to you directly regarding allegations that your top aide, Jay Bratt, had improperly pressured an attorney representing a defendant whom you indicted.² To date, both you and the Department have failed to respond sufficiently to the Committee's requests.³

Based on publicly available information, the Committee has significant concerns about your commitment to evenhanded justice. You have a record of attempting to criminalize political discourse, as evidenced by your reported interest in how the Justice Department could prosecute conservative tax-exempt groups engaging in constitutionally protected political speech.⁴ Your staff appointments for the Office of Special Counsel also lead to concern about your commitment to fairness and justice. For example, one senior attorney in your office reportedly once pushed for an investigation into a conservative figure so adamantly that Department leaders worried that the

¹ Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Just. (June 1, 2023); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Just. (June 6, 2023).

² Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Jack Smith, Special Couns., U.S. Dep't of Just. (Sept. 7, 2023).

³ Letters from Hon. Carlos Uriarte, Assistant Att'y Gen., U.S. Dep't of Just., to Hon. Jim Jordan, Chairman, H. Comm. on the Judiciary (June 15, 2023).

⁴ See H. Comm. on Oversight and Gov't Reform, 113th Cong., Staff Report: The Internal Revenue Service's Targeting of Conservative Tax-Exempt Applicants: Report of Findings for the 113th Congress (Dec. 23, 2014).

attorney “could expose the department to accusations that it had politicized the probe.”⁵ The bullying tactics of Mr. Bratt, as we have detailed in our September 7 letter, only reinforce the perception that you and your staff are more interested in winning the case than in doing justice.

To compound our existing concerns about the actions of our office, we recently learned that you had compelled from Twitter voluminous amounts of private information—including core political speech—of millions of Americans, without an apparent specialized nexus to criminal activity.⁶ Accordingly, the Committee is conducting oversight in order to inform potential legislative reforms, including possible reforms regarding politically motivated prosecutions of current and former Presidents by federal prosecutors and disclosure requirements for Special Counsels and their staff. To allow the Committee to fulfill its oversight responsibilities, please produce the following information:

1. All documents and communications between or among the Office of Special Counsel, the Office of the Attorney General, or the Office of the Deputy Attorney General referring or relating to the investigation and prosecution of President Donald Trump;
2. All documents and communications sufficient to identify the universe of current and former Office of Special Counsel staff members, including but not limited to the following information:
 - a. Salaries for each Office of Special Counsel member of staff;
 - b. Travel costs incurred and trips taken by each Office of Special Counsel member of staff as it relates to the investigation and prosecution of President Trump; and
 - c. The organizational structure of the Office of Special Counsel.
3. All documents and communications referring or relating to the hiring and selection of current and former Office of Special Counsel staff members, including but not limited to the following information:
 - a. Job postings or solicitations;
 - b. Hiring criteria or prospective employees’ evaluations;

⁵ Carol D. Leonnig & Aaron C. Davis, *FBI resisted opening probe into Trump’s role in Jan. 6 for more than a year*, WASH. POST (June 20, 2023). Indeed, top Justice Department officials “reacted allergically” to the attorney’s plan to “tread[] on First Amendment-protected activities.” *Id.* Another prosecutor in your office, previously served as a political appointee in the Holder Justice Department—during which she helped to defend you in response to congressional oversight—and as a Democrat staff member for a House committee.

⁶ See Warrant by Telephone or Other Reliable Electronic Means at 2, Press Application for Access to Judicial Records in Case No. 23-SC-31, 23-MC-00084-JEB (D.D.C. Nov. 27, 2023), ECF No. 22. This is staggering partisan overreach, which Twitter called “a violation of the First Amendment.” Victor Nava, *Heavily redacted documents related to search warrant for Trump’s Twitter account released*, N.Y. POST (Nov. 27, 2023).

- c. Communications between the Office of Special Counsel and prospective employees; and
- 4. All documents and communications referring or relating to the “Warrant by Telephone or Other Reliable Electronic Means,” filed *In the Matter of the Search of Information That Is Stored at Premises Controlled by Twitter Inc., Identified in Attachment A*, Case No. 23-SC-31 (D.D.C. 2023).

Please provide this material, as well as the material requested in our June 1, June 6, and September 7, 2023, letters—attached and incorporated herein— as soon as possible but no later than 5:00 p.m. on January 4, 2024. If you do not produce documents responsive to these requests, the Committee may resort to compulsory process.

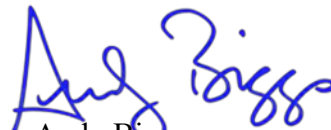
The Committee on the Judiciary has jurisdiction to oversee the activities of the Justice Department pursuant to Rule X of the Rules of the House of Representatives.⁷ Please contact Committee staff at (202) 225-6906 if you have any questions about this request.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman



Andy Biggs
Chairman
Subcommittee on Crime and Federal
Government Surveillance

cc: The Honorable Jerrold L. Nadler, Ranking Member
The Honorable Sheila Jackson Lee, Ranking Member, Subcommittee on Crime and
Federal Government Surveillance

Enclosures

⁷ Rules of the U.S. House of Representatives, R. X, 118th Cong. (2023).

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June 1, 2023

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

Dear Attorney General Garland:

On May 12, 2023, Special Counsel John Durham released a report detailing the Federal Bureau of Investigation's (FBI) failings in opening and conducting an investigation—code named “Crossfire Hurricane”—into debunked allegations of collusion between Donald Trump's presidential campaign and the Russian government.¹ The extent of the FBI's bias and reckless disregard for the truth, which Special Counsel Durham laid out in painstaking detail, is nothing short of scandalous. The FBI has tried to dismiss the report's findings by claiming to have “already implemented dozens of corrective actions” to prevent similar misconduct in the future.² The FBI's window dressing is not enough. The Special Counsel's report serves as a stark reminder of the need for more accountability and reforms within the FBI. Accordingly, as Congress conducts oversight to inform these legislative reforms, we write to ensure the Justice Department act to preserve the integrity and impartiality of ongoing investigations from the FBI's politicized bureaucracy.

The Special Counsel's report details how the FBI abused its law-enforcement authorities to achieve a political end—that is, hamstringing the campaign and presidency of President Trump. While we trust you are familiar with the report's findings, it is worth highlighting some of the report's most troubling conclusions:

- The FBI did not possess any actual evidence of collusion before deciding to launch Crossfire Hurricane as a full investigation.³ The FBI appears to have disregarded this

¹ JOHN H. DURHAM, OFF. OF SPECIAL COUNS., REPORT ON MATTERS RELATED TO INTELLIGENCE ACTIVITIES AND INVESTIGATIONS ARISING OUT OF THE 2016 PRESIDENTIAL CAMPAIGNS (2023) [hereinafter SPECIAL COUNSEL REPORT].

² Press Release, Fed. Bureau of Investigation, Statement on Report by Special Counsel John Durham (May 15, 2023).

³ SPECIAL COUNSEL REPORT, *supra* note 1, at 8 – 9.

issue largely due to the personal and political biases against Donald Trump harbored by FBI personnel involved in the investigation.⁴

- The FBI failed to apply basic investigative techniques, appropriately assess the credibility of information it received, or adequately consider exculpatory evidence gathered during the investigation.⁵
- The FBI applied different standards for investigating information related to Donald Trump and information related to Hillary Clinton, rapidly opening an investigation into President Trump based on raw, uncorroborated information when it had not done so with Clinton.⁶
- The FBI disregarded “highly significant intelligence it received from a trusted foreign source” that the purported collusion at the heart of the Crossfire Hurricane investigation was a ploy by the Clinton campaign to divert attention away from Clinton’s mishandling of classified information on her private server while serving as Secretary of State.⁷

Public trust in the FBI is low.⁸ Recent examples of political bias in FBI and Department of Justice operations show that the so-called “corrective measures” the FBI instituted after Crossfire Hurricane have done nothing to address, let alone cure, the institutional rot that pervades the FBI.⁹ It is clear that Congress must consider legislative reforms to the FBI, and the Committee has been engaged in robust oversight to inform those legislative proposals. In the interim, however, due to the FBI’s documented political bias, the Justice Department must ensure any ongoing investigations are not poisoned by this same politicization. We therefore request that you provide the following information:

1. Provide information about the use of FBI personnel by Special Counsel Jack Smith, including but not limited to the following:
 - a. The total number of FBI employees assigned to work on the investigation;

⁴ *Id.* at 50 – 51.

⁵ *Id.* at 18. *See also id.* at 11, 67.

⁶ *Id.* at 9, 77.

⁷ *Id.* at 10. *See also id.* at 87.

⁸ *See* HARV. CTR. FOR AM. POL. STUD. & HARRIS INSIGHTS & ANALYTICS, MONTHLY HARVARD CAPS/HARRIS POLL: MAY 2023, at 42 (2023) (finding that 70 percent of voters are concerned about “interference by the FBI and intelligence agencies in a future presidential election” and that 71 percent of voters believe “the US government need[s] wide-ranging reform to prevent interference in elections by law enforcement and the intelligence community”). *See also* Miranda Devine, Opinion, *FBI gets an ‘F’ in trust due to recent scandals, but shows absolutely no remorse*, N.Y. POST (May 21, 2023).

⁹ *See generally* H. COMM. ON THE JUDICIARY, 118TH CONG., FBI WHISTLEBLOWER TESTIMONY HIGHLIGHTS GOVERNMENT ABUSE, MISALLOCATION OF RESOURCES, AND RETALIATION (2023); H. COMM. ON THE JUDICIARY, 117TH CONG., FBI WHISTLEBLOWERS: WHAT THEIR DISCLOSURES INDICATE ABOUT THE POLITICIZATION OF THE FBI AND JUSTICE DEPARTMENT (2022).

The Honorable Merrick B. Garland

June 1, 2023

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- b. The number of FBI employees from FBI Headquarters working on the investigation; and
 - c. The number of FBI employees from the Washington Field Office working on the investigation;
2. Explain whether any FBI employees who have worked on Special Counsel Smith's investigation previously worked on any other matters concerning President Trump; and
3. Explain whether Special Counsel Smith's investigation relies on any information or material gathered exclusively by the FBI prior the Special Counsel's appointment.

We also ask that you arrange a briefing by Deputy Attorney General Lisa Monaco with Committee members about matters related to the report by Special Counsel Durham, including remedial measures the Department has implemented based to address the misconduct described in the report.

The Committee is authorized to conduct oversight of the Department of Justice and the FBI pursuant to Rule X of the Rules of the House of Representatives.¹⁰ Please provide a response to each of these requests as soon as possible, but no later than 5:00 p.m. on June 15, 2023. If you have any questions about this matter, please contact Committee staff at (202) 225-6906.

Thank you for your prompt attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

¹⁰ Rules of the House of Representatives, R. X, 118th Cong. (2023).

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June 6, 2023

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

Dear Attorney General Garland:

The Committee on the Judiciary is continuing to investigate the Federal Bureau of Investigation's (FBI) unprecedented raid of President Trump's residence at Mar-a-Lago on August 8, 2022. We previously requested information and documents related to the FBI's raid on President Trump's residence and its subsequent investigation.¹ Because you have not provided this information, and in light of your appointment of Jack Smith as special counsel,² we write to request an unredacted copy of the memorandum outlining the scope of Mr. Smith's probes regarding President Trump and any supporting documentation related to his appointment as special counsel. Accordingly, please provide the Committee with an unredacted copy of the memorandum outlining the scope of Special Counsel Smith's investigations pursuant to his appointment on November 18, 2022, and any other document describing, listing, or delineating the authority and jurisdiction of the special counsel as soon as possible, but no later than 5:00 p.m. on June 20, 2023.

The Committee on the Judiciary has jurisdiction to oversee the activities of the Department of Justice and the Federal Bureau of Investigation pursuant to Rule X of the Rules of the House of Representatives.³ Please ask your staff to contact Committee staff at (202) 225-6906 if you have any questions about this request.

¹ See, e.g., Letter from Rep. Jim Jordan, *et al.*, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (Aug. 15, 2022); Letter from Rep. Jim Jordan, Ranking Member, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (Nov. 2, 2022); Letter from Rep. Jim Jordan, Chairman, H. Comm. on the Judiciary, to Hon. Merrick B. Garland, Atty Gen., U.S. Dep't of Justice (Jan. 17, 2023).

² See *Appointment of Special Counsel*, The United States Department of Justice (Nov. 18, 2022), <https://www.justice.gov/opa/pr/appointment-special-counsel-0>.

³ Rules of the U.S. House of Representatives, R. X, 118th Cong. (2023).

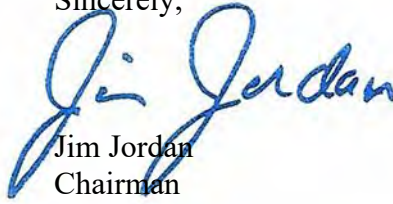
The Honorable Merrick B. Garland

June 6, 2023

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Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink that reads "Jim Jordan". The signature is written in a cursive, flowing style. The "J" is large and loops around the "i". The "Jordan" part is also cursive and flows from the end of the first name.

Jim Jordan
Chairman

cc: The Honorable Jerrold L. Nadler, Ranking Member

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September 7, 2023

Mr. Jack Smith
Special Counsel
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Dear Mr. Smith:

The Committee on the Judiciary is continuing its oversight of the Biden Justice Department's commitment to impartial justice and its handling of a special counsel investigation against President Biden's chief opponent in the upcoming presidential election. Last year, Jay Bratt—one of your senior prosecutors and top aides—allegedly improperly pressured Stanley Woodward, a lawyer representing a defendant indicted by you, by implying that the Administration would look more favorably on Mr. Woodward's candidacy for a judgeship if Mr. Woodward's client cooperated with the Office of the Special Counsel.¹ This attempt to inappropriately coerce Mr. Woodward raises serious concerns about the abusive tactics of the Office of the Special Counsel and the Department's commitment to its mission to uphold the rule of law and ensure impartial justice.

In November 2022, when your prosecutors were trying to secure the cooperation of Walt Nauta—who is alleged to have “move[d] boxes of documents” at Mar-a-Lago²—prosecutors, including Mr. Bratt, summoned Mr. Woodward to a meeting at the Department's headquarters for “an urgent matter that they were reluctant to discuss over the phone.”³ When Mr. Woodward arrived, Mr. Bratt threatened him that Mr. Nauta should cooperate “because he had given potentially conflicting testimony that could result in a false statement.”⁴ Mr. Bratt commented that he did not take Mr. Woodward as a “Trump guy” and indicated that he was confident that Mr. Woodward “would do the right thing.”⁵ Mr. Bratt referenced Mr. Woodward's pending

¹ See Ken Dilanian, *Lawyer for witness in Trump docs probe alleges prosecutorial misconduct*, NBC NEWS (Jun. 8, 2023).

² *Id.*

³ Hugo Lowell, *Lawyer for Trump valet in Mar-a-Lago documents case alleges misconduct*, THE GUARDIAN (June 8, 2023).

⁴ *Id.*

⁵ *Id.*

application for a judgeship on the D.C. superior court, implying that the Biden Administration would perceive Mr. Woodward's application more favorably if Mr. Nauta was a cooperating witness for the Special Counsel against President Trump.⁶ Mr. Woodward subsequently informed the Justice Department that they "would have no further communications" unless the Justice Department charged Mr. Nauta or brokered an immunity deal.⁷

After Mr. Woodward declined to give in to Mr. Bratt's intimidation and coercion, Mr. Bratt once again sought to induce Mr. Nauta's cooperation by attacking Mr. Woodward's representation. On August 2, 2023, Mr. Bratt filed a motion in Mr. Nauta's case raising alleged conflicts of interests presented by Mr. Woodward's representation of two other witnesses "who could be called to testify at a trial in the case involving classified documents at Mar-a-Lago."⁸ He further suggested that the court should "procure independent counsel" to be present at the hearing "to advise Mr. Woodward's clients regarding the potential conflicts."⁹ Mr. Woodward's reply brief stated that Mr. Bratt's intimidation threats were merely "an attempt to diminish the Court's authority over the proceedings in this case and to undermine attorney-client relationships without any basis specific to the facts of such representation."¹⁰

The Department's mission is to ensure impartial justice by upholding the rule of law, requiring all Department employees—including Mr. Bratt—to maintain the highest standards of ethical conduct. Mr. Bratt's attempt to bully Mr. Nauta in cooperating, first by extorting his attorney and then by alleging a conflict of interest that precludes his attorney from the case, seriously calls into question your team and your ability to remain impartial and uphold the Department's mission.

Accordingly, so that the Committee can fulfill its oversight obligations, please produce the following information:

1. All documents and communications referring or relating to any appointment, meeting, or other visit by Mr. Woodward to the Justice Department, including the Office of the Special Counsel, concerning the representation of Mr. Nauta;
2. All documents and communications between or among the Office of the Special Counsel, the Office of the Attorney General, or the Office of the Deputy Attorney General referring or relating to Mr. Woodward and his representation of individuals involved in the matters before you; and

⁶ *Id.*

⁷ *Id.*

⁸ Glenn Thrush, et al., 'Divided Loyalties' May Afflict Lawyer in Mar-a-Lago Case, Prosecutors Say, N.Y. TIMES (Aug 2, 2023).

⁹ Mot. for *Garcia* Hearing at 1–2, United States v. Donald J. Trump et al., No. 23-80101 (S.D. Fl. filed Aug. 2, 2023), ECF No. 97.

¹⁰ Opp. to Mot. For *Garcia* Hearing at 8, United States v. Donald J. Trump et al., No. 23-80101 (S.D. Fl. filed Aug. 18, 2023), ECF No. 126.

Mr. Jack Smith
September 7, 2023
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3. All documents and communications referring or relating to Mr. Woodward's application to fill a vacancy on the Superior Court of the District of Columbia.

Please provide this material as soon as possible but no later than 5:00 p.m. on September 21, 2023.

The Committee on the Judiciary has jurisdiction to oversee the activities of the Justice Department pursuant to Rule X of the Rules of the House of Representatives.¹¹ Please ask your staff to contact Committee staff at (202) 225-6906 if you have any questions about this request.

Thank you for your attention to this matter.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member

¹¹ Rules of the U.S. House of Representatives, R. X, 118th Cong. (2023).