

ONE HUNDRED EIGHTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON THE JUDICIARY

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June 9, 2023

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

Dear Attorney General Garland:

The Biden Department of Justice is reportedly about to indict a former president and President Biden's chief rival in the upcoming presidential election.¹ According to reports, the Department will indict President Donald Trump, despite declining to indict former Secretary of State Hillary Clinton for her mishandling of classified information and failing to indict President Biden for his mishandling of classified information. The indictment creates, at the minimum, a serious appearance of a double standard and a miscarriage of justice—an impression that is only strengthened by allegations that a Biden Justice Department lawyer “inappropriately sought to pressure” a Trump-affiliated lawyer with the prospect of a judgeship.² Additional information recently obtained by the Committee about the Department's execution of a search warrant on President Trump's residence only reinforces our grave concerns that your reported actions are nothing more than a politically motivated prosecution.

On June 7, 2023—days before the reported indictment of former President Trump—the Committee conducted a transcribed interview of Steven D'Antuono. Mr. D'Antuono served as the former Assistant Director in Charge of the FBI's Washington Field Office (WFO) and one of the most senior FBI officials in charge of effectuating the unprecedented raid of President Trump's residence at Mar-a-Lago. During his testimony, Mr. D'Antuono expressed strong concerns with the Department's pursuit of the raid and noted several unusual features in the Department's handling of the case. Mr. D'Antuono, who had over two decades of FBI experience, noted his frustration that the FBI was going to be “left holding the bag again” with respect to the search of President Trump's residence.³

¹ Paula Reid, et al., *Donald Trump indicted on 7 counts in classified documents probe*, CNN (Jun. 9, 2023).

² See Ken Dilanian, *Lawyer for witness in Trump docs probe alleges prosecutorial misconduct*, NBC News (Jun. 8, 2023).

³ Transcribed Interview of Steven D'Antuono at 30 (Jun. 7, 2023).

During his transcribed interview, Mr. D’Antuono detailed how he disagreed with the Justice Department’s approach to the raid and described several abnormalities about the Department’s actions in pursuing its investigation of President Trump:

1. **The Miami Field Office did not conduct the search.** Mr. D’Antuono testified that FBI headquarters made the decision to assign the execution of the search warrant to the Washington Field Office (WFO) despite the location of the search occurring in the territory of the FBI’s Miami Field Office. Mr. D’Antuono stated that he had “absolutely no idea” why this decision was made and questioned why the Miami Field Office was not taking the lead on this matter.⁴ Mr. D’Antuono stated that the FBI “learned a lot of stuff from [the] Crossfire Hurricane” investigation—notably “that the [FBI] Headquarters does not work the investigation, it is supposed to be the field offices working the investigations.”⁵ Mr. D’Antuono indicated that his “concern is that [the] DOJ was not following the same principles”⁶ In fact, as recently as May 2023, in response to the report of Special Counsel Durham, the FBI asserted that “investigations should be run out of the Field” and not from Washington, D.C.⁷
2. **The Department did not assign a U.S. Attorney’s Office to the matter.** According to Mr. D’Antuono, it was unusual to not have a U.S. Attorney assigned to an investigative matter, especially a matter of this magnitude. He explained that he “didn’t understand why there wasn’t a US Attorney assigned” and “raised this concern a lot with” Department officials because this was out of the ordinary.⁸ Mr. D’Antuono indicated that he “never got a good answer” and was told that the National Security Division would be handling this matter—with Jay Bratt, who leads the Department’s counterintelligence division, as “the lead prosecutor on the case.”⁹ Mr. Bratt is the same Department lawyer who allegedly improperly pressured a lawyer representing an employee of President Trump.¹⁰ Mr. D’Antuono again noted his concern regarding lessons learned from Crossfire Hurricane, that the Justice Department was not following the principle that “Headquarters does not work the investigation”¹¹
3. **The FBI did not first seek consent to effectuate the search.** Mr. D’Antuono recounted a meeting between FBI and Department officials during which the Department assertively pushed for the FBI to promptly execute the search warrant.¹² Based upon his over-20-year tenure at the FBI, Mr. D’Antuono testified that he believed that the FBI,

⁴ *Id.* at 16.

⁵ *Id.* at 77.

⁶ *Id.*

⁷ Letter from Mr. Jason A. Jones, Gen. Counsel, Fed. Bureau of Investigation, to Mr. John H. Durham, Special Counsel, U.S. Dep’t of Justice (May 15, 2023).

⁸ D’Antuono Interview at 19-22.

⁹ *Id.* at 19.

¹⁰ Dilanian, *supra* note 2.

¹¹ *Id.* at 77.

¹² *Cf.* Paula Reid et al., *Justice Department was prepared to seek warrant had Biden not consented to home search, sources say*, CNN (Jan. 25, 2023) (“Federal investigators also were prepared to seek a warrant if they did not get consent to search the Wilmington property, according to multiple sources.”).

prior to resorting to a search warrant, should have sought consent to search the premises. He testified that this outcome would have been “the best thing for all parties” involved— “[f]or the FBI, for former President Trump, and for the country”¹³ Mr. D’Antuono indicated a belief that either you or Director Christopher Wray made the decision to seek a search warrant, despite opposition from the line agents working this case in the WFO.¹⁴ Following that meeting, Mr. D’Antuono described how Justice Department counterintelligence official George Toscas—who also reportedly worked on the “Crossfire Hurricane and Clinton email investigations”¹⁵—told him that FBI agents were ready to execute the warrant.¹⁶ Mr. D’Antuono pushed back on the Department for trying to unilaterally allocate FBI resources.¹⁷

4. **The FBI refused to wait for President Trump’s attorney to be present before executing the search.** Mr. D’Antuono testified that the FBI sought to exclude President Trump’s attorney from the search, a move with which Mr. D’Antuono disagreed.¹⁸ Mr. D’Antuono believed that the FBI should have worked with the attorney to get consent to search the residence prior to seeking a warrant for the search. Mr. D’Antuono believes that “there was a good likelihood that [they] could have gotten consent”¹⁹

The Committee previously requested information and documents related to the FBI’s raid of President Trump’s home, which the Department has refused to provide.²⁰ In light of this testimony and the Department’s failure to respond to our previous oversight requests, we write to renew and supplement our request for documents necessary for our oversight. Specifically, we ask that you produce the following information:

1. All documents and communications referring or relating to meetings between FBI and Justice Department officials prior to the execution of the search warrant on President Trump’s private residence;
2. All documents and communications referring or relating to the execution of a search warrant on President Trump’s private residence, including those sent or received by the following FBI and Justice Department Officials:
 - a. Paul Abbate,
 - b. Matthew Olsen,

¹³ *Id.* at 23.

¹⁴ *Id.* at 24.

¹⁵ Carol D. Leonnig, et al., *Showdown before the raid: FBI agents and prosecutors argued over Trump*, WASH POST (Mar. 1, 2023).

¹⁶ D’Antuono Interview at 107.

¹⁷ *Id.* at 107-08.

¹⁸ *Id.* at 108-09.

¹⁹ *Id.* at 30.

²⁰ *See, e.g.*, 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); 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, 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).

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- c. Jay Bratt,
 - d. George Toscas,
 - e. Steven D'Antuono; and
3. All documents and communications between or among Washington Field Office agents and employees and the U.S. Secret Service about a potential search of President Trump's residence.

Please provide this information as soon as possible but not later than 5:00 p.m. on June 16, 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. If you have any questions about this request, please have your staff contact Committee staff at (202) 225-6906.

Sincerely,



Jim Jordan
Chairman

cc: The Honorable Jerrold Nadler, Ranking Member