

January 11, 2023

The Honorable Merrick Garland  
Attorney General  
United States Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530

Dear Attorney General Garland:

On January 9, news broke that classified documents dating back to the Obama Administration had been located in President Biden's former office at the Penn Biden Center for Diplomacy and Global Engagement in Washington, D.C. These facts uncannily echo another recent scandal involving the Department. In August of last year, FBI agents raided the Mar-a-Lago residence of former President Donald Trump, supposedly to secure classified documents dating back to President Trump's time in office. President Biden appears to have done exactly what President Trump did—only he didn't get his home raided by the FBI over it.

The double standard here is astounding. The underlying behavior at issue—a President's retention of old classified documents dating back to a past presidency—is materially the same in both cases. But in President Trump's case, that retention triggered an unprecedented raid on the home of a former president, rationalized with a thicket of partisan doublespeak. President Biden has not experienced anything remotely similar.

To make matters worse, it's taken until January of 2023 for this news to surface, even though the documents were found on November 2, 2022—just days before a hotly contested midterm election. Clearly, the Biden Administration and its allies in the media did their best to bury the story.

Your Department's apparent disparate treatment of these two cases thus far isn't especially surprising, because today's FBI leadership is growing more partisan by the day. We know from an Inspector General report that the FBI fabricated evidence to justify spying on President Trump's campaign in 2016. Now the FBI is once again up to the same tricks, putting its thumb on the scales to punish the Democratic Party's political opponents. We shouldn't forget, after all, that you also unleashed the FBI on parents who challenged critical race theory at school board meetings in the fall of 2021. Evidence of the Department's internal rot is piling up everywhere.

During your confirmation hearings, you assured me—and the rest of the Judiciary Committee—that if confirmed, you would take the high road. In particular, you said in your responses to my questions for the record, "I have spent my whole professional life looking up to Ed Levi and the other post-Watergate Attorneys General who stood up on behalf of the Department against impermissible pressure and influence. If I am confirmed as Attorney General, I intend to do the same." But on your watch, the Department's conduct has clearly failed to live up to this standard.

Please respond to me immediately with full responses to the following questions:

1. Will you appoint a special counsel to investigate President Biden's alleged retention of classified records, as you did for President Trump?
2. At what point were you notified that these documents existed?
3. Please provide a full explanation of the Department's decision not to dispatch FBI agents to search the Penn Biden Center for Diplomacy and Global Engagement for classified documents dating back to the Obama Administration.
4. Did you personally direct Department personnel or FBI agents not to engage in a broader search of the Penn Biden Center for Diplomacy and Global Engagement?
5. What communications did you have with personnel at the White House, the National Archives and Records Administration, President Biden's campaign team, or members of the press regarding these classified documents?
6. Why was the fact that President Biden apparently improperly retained classified documents from a prior administration not divulged until long after the 2022 midterm elections?

I await your response.

Sincerely,

A handwritten signature in black ink, appearing to read "Josh Hawley". The signature is written in a cursive, flowing style with a large initial "J" and "H".

Josh Hawley  
United States Senator

CC: FBI Director Christopher Wray