

ONE HUNDRED EIGHTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON THE JUDICIARY  
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May 6, 2024

Mr. Jeffrey Ragsdale  
Counsel  
Office of Professional Responsibility  
U.S. Department of Justice  
950 Pennsylvania Ave., N.W.  
Suite 3266  
Washington, D.C. 20530-0001

Dear Mr. Ragsdale:

On Friday, May 3, 2024, Special Counsel Jack Smith acknowledged in a court filing that some of the evidence in President Trump's classified documents criminal case was altered or manipulated after it was seized by the FBI in its raid on Mar-a-Lago.<sup>1</sup> This acknowledgement presents grave concerns about the Department's commitment to impartial justice, whether the Special Counsel's Office misled a federal court, whether the Special Counsel's Office strenuously upheld the "highest professional standards" of the Department of Justice.<sup>2</sup> Accordingly, we write to ask what steps the Department's Office of Professional Responsibility is undertaking to examine these facts and hold accountable attorneys who violated the standards of professional conduct.

On May 1, 2024, Walt Nauta, a defendant indicted by Special Counsel Smith, notified the U.S. District Court for the Southern District of Florida of a discrepancy in evidence made available to his attorney.<sup>3</sup> According to Mr. Nauta's filing with the court, Special Counsel Smith produced or otherwise made available to defense counsel the boxes seized from President Trump's residence at Mar-a-Lago by the FBI in three formats: (1) access to the physical boxes as seized by the FBI; (2) scans of the unclassified contents of the boxes as produced by Special Counsel Smith; and (3) classified production of the seized documents containing classification

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<sup>1</sup> Government's Response to Defendant Waltine Nauta's Motion to Extend Time, *U.S. v. Trump, et al.*, No. 23-80101-CR-CANNON(s) (S.D. Fla. May 3, 2024) (hereinafter "Government's Response"); see John Solomon, *Trump Whodunnit: Prosecutors admit key evidence in document case has been tampered with*, JUSTTHENEWS (May 3, 2024).

<sup>2</sup> See U.S. Dep't of Justice, About OPR, <https://www.justice.gov/opr/about-opr> (last visited May 6, 2024) (hereinafter "About OPR").

<sup>3</sup> Motion to Extend Time, *U.S. v. Trump, et al.*, No. 23-80101-CR-CANNON(s) (S.D. Fla. May 1, 2024).

markings.<sup>4</sup> After reviewing the evidence, Mr. Nauta’s counsel “learned that the cross-reference provided by the Special Counsel’s Office [did] not contain accurate information.”<sup>5</sup> Consequently, Mr. Nauta informed the court that a review of these materials “calls into question whether the contents of the physical boxes remains the same as when they were seized by the FBI on August 8, 2022.”<sup>6</sup>

Two days after Mr. Nauta’s filing, Special Counsel Smith responded, admitting that “there are some boxes where the order of items within that box is not the same as in the associated scans.”<sup>7</sup> Special Counsel Smith also acknowledged that this new admission “is inconsistent with what Government counsel previously understood and represented to the Court.”<sup>8</sup> In particular, on April 12, 2024, Special Counsel Smith’s office represented to the court that the boxes were “in their original, intact form as seized,” “with one exception; and that is that the classified documents have been removed and placeholders have been put in the documents.”<sup>9</sup>

The organization, maintenance, and storage of the documents seized by the FBI from Mar-a-Lago are likely to be important aspects of Special Counsel Smith’s unprecedented prosecution and President Trump’s defense of the pending charges. To that end, legal experts believe that Special Counsel Smith’s filing “essentially is an admission of witness tampering.”<sup>10</sup> The admission, unfortunately, reflects a broader trend of attorneys on Special Counsel Smith’s team violating ethical norms in persecution of President Trump. According to a report in June 2023, Jay Bratt, a senior member of Special Counsel Smith’s office, improperly pressured the lawyer representing Mr. Nauta by implying that the Administration would look more favorably on the lawyer’s candidacy for a judgeship if his client cooperated with Special Counsel Smith.<sup>11</sup>

The mission of the Department’s Office of Professional Responsibility (OPR) is “to ensure that Department attorneys perform their duties in accordance with the highest professional standards, as would be expected of the nation’s principal law enforcement agency.”<sup>12</sup> It is imperative that the Department operate with a high level of professionalism and integrity in all its prosecutions. The role of a prosecutor is to seek justice. This obligation requires all Department prosecutors, including and especially Special Counsel Smith and the attorneys in his office, to investigate and prosecute claims without the taint of prosecutorial misconduct.

Given these highly concerning disclosures about the serious ethical lapses in Special Counsel Smith’s prosecution, the Committee requests that OPR brief the Committee about what

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<sup>4</sup> *Id.* at 5-7.

<sup>5</sup> *Id.* at 8.

<sup>6</sup> *Id.* at 10.

<sup>7</sup> Government’s Response, *supra* note 1, at 8.

<sup>8</sup> *Id.* at 8 n.3.

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

<sup>10</sup> Solomon, *supra* note 1. Harvard Law Professor Emeritus Alan Dershowitz stated, “[p]rosecutors and investigators should never tamper with or alter evidence in their possession, including the order of documents in a box because no one knows what may become relevant or crucial to a court or jury later in a case.” *Id.*

<sup>11</sup> See Ken Dilanian, *Lawyer for witness in Trump docs probe alleges prosecutorial misconduct*, NBC NEWS (Jun. 8, 2023).

<sup>12</sup> About OPR, *supra* note 2.

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steps you are taking to investigate the actions of Jack Smith, Jay Bratt, and other attorneys in the Special Counsel's Office to determine whether disciplinary actions are appropriate. In addition, as a part of the Committee's oversight of the Department and OPR, we request that you produce the following documents and information:

1. All documents and communications referring or relating to any allegation of ethical impropriety or any OPR investigation concerning the conduct of Jack Smith, Jay Bratt, or any other attorney assigned to work with the Office of Special Counsel Jack Smith;
2. All documents and communications referring or relating to the manipulation of documents seized from President Trump's residence at Mar-a-Lago; and
3. All documents and communications referring or relating to Jay Bratt interactions with Walt Nauta's defense counsel, including allegations that Bratt attempted to coerce Mr. Nauta's cooperation with the government by leveraging the prospect of a judgeship for his counsel.

We request that you schedule the briefing and provide the requested material as soon as possible, but no later than 5:00 p.m. on May 20, 2024.

The Committee has jurisdiction to oversee the activities of the Department pursuant to Rule X of the Rules of the House of Representatives. 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

cc: The Honorable Jerrold L. Nadler, Ranking Member