

**AMENDMENT TO THE AMENDMENT IN THE NATURE OF A
SUBSTITUTE TO THE COMMITTEE REPORT FOR THE RESOLUTION
RECOMMENDING THAT THE HOUSE OF REPRESENTATIVES FIND
MERRICK B. GARLAND IN CONTEMPT OF CONGRESS FOR
REFUSAL TO COMPLY WITH A SUBPOENA DULY ISSUED BY THE
COMMITTEE ON THE JUDICIARY**

Offered by **Mx.** ____ of ____.

On page 6, after the first full paragraph and before the section “Background on the Investigation,” insert:

As Special Counsel Hur noted specifically in his report, the laws on handling classified material do not apply to a sitting president or vice president.¹ Accordingly, even if Hur had determined that there was criminal conduct at issue here—which he did not—it would have pertained to the time *before* Biden was elected president. As perennial Republican witness and legal scholar Jonathan Turley noted when he testified before the House Oversight Committee last year:

The use of pre-office conduct [in impeachment proceedings] remains controversial and should be approached with great circumspection and abundant caution. Absent continuing misconduct in office, even criminal acts that occur in private life should not be the subject of an inquiry. If that were the case, the House could launch investigations for any crime committed by an individual as a private citizen before taking office. It would convert impeachment into a rationalization for subjecting officials to limitless inquiries.²

¹ Hur Report, *supra* note 3 at 15.

² THE BASIS FOR AN IMPEACHMENT INQUIRY OF PRESIDENT JOSEPH R. BIDEN, JR.: HEARING BEFORE THE H. COMM. ON OVERSIGHT & ACCOUNTABILITY, 118th Cong. (Sep. 28, 2023) (written statement of Jonathan Turley at 31), <https://docs.house.gov/meetings/GO/GO00/20230928/116415/HHRG-118-GO00-Wstate-TurleyP-20230928.pdf>.