

**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 M_. _____ of _____.

On page 13, after the second full paragraph, insert:

There are stark differences between the former President Trump’s criminal mishandling of documents versus the circumstances that led to a special counsel investigation into President Biden.

As noted by Special Counsel Hur:

- “[S]everal material distinctions between Mr. Trump’s case and Mr. Biden’s are clear.” There are “serious aggravating facts” in the Trump case.¹
- “Most notably, after being given multiple chances to return classified documents and avoid prosecution, Mr. Trump allegedly did the opposite. According to the indictment, he not only refused to return the documents for many months, but he also obstructed justice by enlisting others to destroy evidence and then to lie about it.”²
- “In contrast, Mr. Biden turned in classified documents to the National Archives and the Department of Justice, consented to the search of multiple locations including his homes, sat for a voluntary interview, and in other ways cooperated with the investigation.”³

Unlike the deliberate acts by former President Trump to retain and conceal classified materials from the federal government, Special Counsel Hur found likely inadvertence and/or mistake. For example, Special Counsel Hur made the following findings:

¹ Hurr Report, *supra* note 3, at 11.

² *Id.*

³ *Id.*

- “[W]e find the evidence as a whole insufficient to meet the government’s burden of proving that Mr. Biden willfully retained the Afghanistan documents in the Virginia home in 2017.”⁴
- “For other recovered classified documents, the decision to decline criminal charges was straightforward.”⁵
- “[T]he evidence suggests that Mr. Biden did not willfully retain these documents and that they could plausibly have been brought to these locations by mistake.”⁶

Unlike President Biden, Donald Trump intentionally and flagrantly took and concealed highly classified documents. Mr. Trump’s actions are extremely serious and warrant the 32 counts of Willful Retention of National Defense Information, Conspiracy to Obstruct Justice, and Making False Statements. Republican efforts to conflate the two cases is morally bankrupt and dishonest. It also shows that it is in fact Republicans who seek to discredit and undermine the fair administration of justice, just because they want to seize political power for themselves and make Donald Trump an authoritarian figurehead who is above the law.

⁴ *Id.* at 168-69.

⁵ *Id.* at 12.

⁶ *Id.* at 12.