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United States Senate

SELECT COMMITTEE ON INTELLIGENCE
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February 2, 2023

The Honorable Merrick Garland
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

The Honorable Avril D. Haines
Director of National Intelligence
1500 Tyson's McLean Boulevard
McLean, VA 22102

Dear Attorney General Garland and Director Haines:

In a letter dated August 14, 2022, we wrote to you to request that you provide, in a manner compliant with the need to protect an ongoing investigation, all classified documents that were seized in the search of former President Donald Trump's Mar-a-Lago residence, as well as an assessment of the risk to national security if those classified documents were to be exposed in public or to a foreign adversary. In a subsequent letter to Director Haines, dated January 11, 2023, we made a similar request with respect to the classified documents that were discovered at the *Penn Biden Center for Diplomacy and Global Engagement*.

As of this writing, neither of you have complied with these requests, citing the Department of Justice's ongoing investigations of both matters. In a letter dated January 28, 2023, the Department of Justice cited its "longstanding policy . . . to maintain the confidentiality of information regarding open matters" and explained that "[t]he Committee's interest in overseeing the nation's intelligence activities must be carefully balanced to protect the conduct and integrity of law enforcement investigations." We agree, but the Department alone does not decide this balance. In fact, our letters explicitly recognized the need to protect the Department's ongoing investigations. Mindful of the Department's interests, the letters were narrowly tailored and only requested access to the relevant classified documents and an assessment of the risk to national security if the documents were to be exposed in public or to a foreign adversary. This information does not implicate any of the concerns cited in the Department's January 28, 2023 letter.

As outlined in our prior letters, the Senate Select Committee on Intelligence is charged with overseeing counterintelligence matters, including the handling and mishandling of classified information. Our jurisdiction is clear, as are our responsibilities. Without access to the relevant classified documents we cannot effectively oversee the efforts of the Intelligence Community to address potential risks to national security arising from the mishandling of this classified information.

Our request is not unprecedented. In other investigations involving the mishandling of classified information the Attorney General and the Director of National Intelligence have accommodated the legitimate oversight needs of this Committee without detriment to any ongoing investigation.

As we expressed previously, in light of the substantial public interest, the need for bipartisan and responsible oversight of these matters is at its highest. We urge your immediate compliance with our previous requests, which we now extend to those classified materials subsequently discovered at President Biden's home and the home of former Vice President Pence. These matters are the highest priority of the Committee and our oversight and authorization efforts will align accordingly.

Thank you for your prompt attention to these important matters.

Sincerely,



Mark R. Warner
Chairman



Marco Rubio
Vice Chairman