

Attorney General Garland appoints special counsel to oversee Trump investigations

Barry Grey**18 November 2022**

On Friday, Attorney General Merrick Garland announced the appointment of a special counsel to oversee the Justice Department's criminal investigations of Donald Trump in relation to the January 6, 2021 attempted overthrow of the 2020 election and Trump's refusal to hand over classified documents to the National Archives and Records Administration.

In a brief statement given from the Justice Department building, Garland said he had appointed Jack Smith, a former chief of the department's Public Integrity Section, to take over and run the ongoing investigations. In recent years, Smith has been a war crimes prosecutor at the Hague, involved in investigating alleged war crimes in Kosovo.

Garland cited as the reason for the move Trump's announcement on Tuesday declaring his candidacy for president in the 2024 election and the stated intention of President Joe Biden to seek a second term.

Special counsels are semi-independent prosecutors who can be appointed for high-level investigations when there can be a conflict of interest, or the appearance of one. They can be removed only if they commit misconduct, and the department must tell Congress if an attorney general overrules any step a special counsel wants to take, including a decision to indict or not indict.

Former FBI Director Robert Mueller served as special counsel during the Trump administration to investigate alleged ties between Trump's 2016 election campaign and the Russian government. After Mueller failed to indict Trump for any such ties or for obstruction of justice, then-Attorney General William Barr appointed John Durham special counsel to investigate the origins of the FBI probe of Trump's alleged Russian connections. Durham failed to release a report on his

findings, and now, after more than two years, his special counsel term has been ended with the appointment of Smith.

Smith will lead the Department of Justice's "investigation into whether any person or entity unlawfully interfered with the transfer of power following the 2020 presidential election or the certification of the electoral college vote held on or about Jan. 6, 2021," Garland said. He said Smith would also oversee "the ongoing investigation involving classified documents and other presidential records, as well as the possible obstruction of that investigation referenced and described in court filings."

However, Garland stressed, the US Attorney's Office in Washington will retain control over investigations and prosecutions of people "physically present on the Capitol grounds" on January 6. Some 900 people at or near the Capitol on that day have been charged criminally with offenses ranging from trespassing to seditious conspiracy.

Smith was not present at the Justice Department for Garland's announcement. But in a statement, he echoed Garland's claim that shifting oversight of the investigations to a special counsel would not cause a significant delay. "The pace of the investigations will not pause or flag under my watch," he said. "I will exercise independent judgment and will move the investigations forward expeditiously and thoroughly to whatever outcome the facts and the law dictate."

Smith is registered as an "independent." During his time at the Justice Department's Public Integrity Section, he oversaw the prosecution of CIA officer Jeffrey Sterling, who was convicted in 2015 of disclosing national defense information and obstructing justice in violation of the Espionage Act—two potential crimes at the center of the Trump documents probe.

Sterling, in fact, was a whistleblower. He revealed details of “Operation Merlin,” a covert operation to supply Iran with flawed nuclear warhead blueprints, to journalist James Risen, for which he was sentenced to three-and-a-half years in prison.

Garland’s move comes in the context of the Republican takeover of the House of Representatives just 22 months after the Republican Party and its current leaders backed Trump’s attempted coup of January 6. They are now in control of the House following an election that Biden, the Democratic Party and much of the corporate-controlled media have hailed as a “victory for democracy,” “normalcy” and political stability.

Only weeks ago, Biden warned that Trump’s MAGA Republicans dominated the GOP and were a dire threat to democracy. But this week he raced to congratulate Kevin McCarthy for winning the House Republican vote to become the next House speaker and stepped up his appeals for bipartisan “unity.” McCarthy, along with most of the other House Republican leaders and some two-thirds of GOP House members, voted against certifying Biden’s election victory in the hours after Trump’s fascist mob had ended its attack on the Capitol and departed.

It is a foregone conclusion that the House Select Committee to investigate January 6 will be wound up and its promised report treated as a dead letter, and House Republicans have announced investigations into Biden and his son, Hunter, along with probes of the Justice Department’s supposed “witch-hunt” of Trump.

The failure of Garland and the Justice Department to criminally indict a single leading figure in the coup conspiracy, beginning with Trump, has strengthened the far right, despite its clear lack of broad popular support, as shown in the midterm elections.

On Friday, Trump quickly attacked the special counsel announcement as a further step in Biden’s supposed politicization of the Justice Department and vendetta against him and charged that it was aimed at suppressing his reelection campaign.

He told Fox News that he would not “partake” in the special counsel investigation and declared: “I have been going through this for six years ... and I am not going to go through it anymore. And I hope the Republicans have the courage to fight this.”

In his fascistic speech Tuesday night announcing his

reelection bid, Trump denounced the “weaponization” of the FBI and the Department of Justice and invoked the QAnon “storm” image, declaring: “Anyone who truly seeks to take on this rigged and corrupt system will be faced with a storm of fire that only a few could understand.”

Georgia Representative Marjorie Taylor Greene, a QAnon adherent who has “liked” social media posts calling for the execution of Nancy Pelosi, tweeted: “IMPEACH MERRICK GARLAND!” McCarthy has promised to give her major committee appointments in the Republican-controlled House.

Texas Senator Ted Cruz, another coup co-conspirator, tweeted: “This is Trump derangement syndrome but this time with a gun and badge.”

Texas Senator John Cornyn, a supposed “moderate” Republican, joined a chorus of Republicans denouncing Garland’s special counsel appointment and demanding that he instead appoint a special counsel to investigate the Bidens.



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