

# Trump indictment – who’s on trial?

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By Terry A. Hurlbut

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By now everyone who cares to, has read the Trump indictment – which is unsealed and publicly available. The very word *indictment* sounds serious, and one normally expects someone writing one to pay attention to every relevant detail of the law. But has that happened in this case? Or has someone written a document full of scary words, hoping that something will stick? Furthermore, how can this document have two different interpretations, depending on *whether one wishes the defendant well or ill*? The answer is that this indictment is not part of a serious pursuit of truth. Rather, it is a weapon of political warfare typical of countries whose people have lost respect for its institutions. In that sense, the United States and its people, not Donald J. Trump, are on trial here.

## Examining the Trump indictment

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John Solomon’s *Just the News* newsletter broke the unsealing of the Trump indictment [here](#), and is [hosting it](#).

Charlotte Hazard, writing for *Just the News*, presents an adequate, if disjointed, picture of the indictment. Yes, it does show photographs of boxes stored in “a bathroom, ballroom, office and bedroom.” Yes, it has thirty-seven counts, including thirty-one counts of willful retention of national defense information, and one count each of:

- Conspiracy to obstruct justice,
- Withholding a document or record,
- Corruptly concealing a document or record,
- Concealing a document in a federal investigation,
- Scheme to conceal, and
- False statements or representations.

The indictment charges *two* men: Trump himself, and his valet, Waltine Nauta. This sounds like a typical prosecutor's trick: charge a man's employee, then offer him immunity for flipping.

SOURCES: Special Counsel Jack Smith is banking on Trump body man Walt Nauta copping a plea under threat of 20 years in prison and turning state's evidence against Trump to prevail in otherwise weak, circumstantial case

— Paul Sperry (@paulsperry\_) June 10, 2023

Which goes to show exactly how contemptuous Special Counsel Jack Smith is of Trump and his staff. This is how you treat an organized crime boss, not a former President of the United States. At least, this is how one treats certain people, by the standards of the United States of America as your editor has known it all his life. But by the standards of, say, *the Republic of Venezuela*, it is the customary treatment of a political opponent of the current head of state, and/or the Party or faction he leads.

## **When did those boxes leave the White House?**

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The key allegation, upon which everything else depends, is Allegation 4 on page 2 of the forty-nine-page Trump indictment. It tells us when Trump ceased to be President, per Amendment XX, Section 1. Then it tells us that “as he departed the White House,” he took “scores of boxes” with him. So: *when exactly did Trump leave the White House?* The most reliable source for that leavetaking will be any news coverage *on January 20, 2021*. It will not be in August of 2022, the month and year of the Mar-A-Lago Raid. According to *The Atlantic*, Trump left the White House for the last time at 8:20 a.m. EDT. According to NBC News, Trump's aircraft – still calling itself Air Force One – touched down in Florida before 11:00 a.m. NBC also noted, as most of us will remember, that he *did not* stay for the inauguration of Joe Biden.

So – he completed his leavetaking from the White House, and his trip to Florida, *while he was still President*. That any of those boxes would have awaited transshipment until *after* he left, and indeed *after* the Inauguration, beggars imagination. *Does Special Counsel Smith mean to tell the American people that Joe Biden would allow boxes to leave the White House after that House became his to occupy, without inquiring as to their contents?* Or that Donald Trump would not have moved those boxes out *well in advance of his own leavetaking?*

## ***The New York Times* clouds the issue**

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In contrast, on August 20, 2022, *The New York Times* published this piece under this lurid headline: “The Final Days of the Trump White House: Chaos and Scattered Papers.” The authors describe what they call a chaotic last four days of the Trump administration. They

include a picture of aides carrying out boxes as Trump *prepares* to board Marine One, his VH-3D helicopter. But note! Donald Trump boarded that vehicle, as *The Atlantic* has established, at 8:20 a.m. *Those aides moved those boxes out ahead of that time.*

So, you ask? *So, those boxes and everything in them belonged to President Trump at that very moment.* Every legacy media writer who has treated this matter has forgotten one thing about the Presidential Records Act. *The President and only the President decides on classification.* Furthermore, when the President causes a document to go to his private residence, *that document is automatically declassified, therefore personal.* In plain monosyllables, *what he says, goes.*

Gregg Jarrett: "The Presidential Records Act, a civil statute, gave Trump the right under the law to maintain custody and control of papers whether if they are classified or not." [pic.twitter.com/DJcPSZBGUC](https://pic.twitter.com/DJcPSZBGUC)

— MAGA War Room (@MAGAIncWarRoom) [June 10, 2023](#)

The authors of the *Times* piece then seek to draw a stark contrast between Trump's "chaotic" departure, and Mike Pence' "orderly" departure from his own quarters at the United States Naval Observatory. *But! Mike Pence would turn out to have classified documents in his possession, too!* And they at the *Times* were *so sure* that Mike Pence "left office without a single paper that did not belong to him."

## Another expert reads the Trump Indictment

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CNAV relies on the opinion of a recognized expert in such matters: Tom Fitton, current head of Judicial Watch. Although Fitton is not a lawyer, he presides over an organization that *routinely* litigates Constitutional matters. As such, Judicial Watch *is full* of lawyers, especially at its highest echelons.

Bear this in mind when reading this tweet by Fitton:

I've carefully reviewed the indictment of Trump by his political opponents at the Biden Justice Department. (.@JudicialWatch has nearly 30 years of experience litigating federal and presidential records issues, including the famous "Clinton sock drawer" case.) The document...

— Tom Fitton (@TomFitton) [June 9, 2023](#)

The reaction to that tweet says more about those making the reaction, than about anything Fitton said. Several users protested, "You are not a lawyer!" Of course others said those same users were living in worlds of their own. They meant that Tom Fitton has lawyers to advise him on the Presidential Records Act and all applicable precedent.

Now this user said something that reveals her own misunderstanding:

I read it. I as a registered Democrat, independent voter, I concur. If this is an indictment that will stand, Hillary better watch out. She's fucked. That hard drive in her house, will BURY her. So what's good for the goose. As long as they both charged, okay.

— Holly Putman (@reahollylee) [June 10, 2023](#)

Except that this is not a case of sauce for the goose and the gander. Hillary Clinton was never President, though she tried to become one. She was Secretary of State – and as such had no legal right to store classified material on an electronic server under her exclusive control.

CNAV confidently relies on Tom Fitton's analysis, based on the thirty-year history of Judicial Watch and the legal credentials of many of its officers.

## Other evidence of earlier declassification

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Aside from expert opinion that, under the Presidential Records Act, what the President carries away with him, ceases to be classified, we have further evidence that Donald Trump declassified certain materials with somewhat more fanfare. From *American Voter Polls* we have [these tweets](#):

Signed Letter by Trump Reveals He Declassified Docs on Obama "Spying" before Leaving Office <https://t.co/soTjLvb5BI>

— The Daily Fetched (@DailyFetched) [June 7, 2023](#)

Kinds hard to prosecute a former President for classified documents that he not only officially declassified, but that also have a presumption of declassification under the PRA

— DC\_Draino (@DC\_Draino) [June 7, 2023](#)

We also have another time stamp for declassification: January 19, 2021, the day before his departure. Again, he didn't have to do that, but he did. The "classified markings" mean nothing, because one does not erase them upon declassification.

The Trump indictment document has photographs of boxes in the bathroom, on the stage, and strewn on the floor. Several Twitter users have shared what purport to be good color counterparts to the black-and-whites in the document. Those black-and-whites are obviously very poor photocopies, but we have no provenance of those color photos making the Twitter rounds. In any event: *we do not know whether the FBI took those photographs upon discovering the boxes, or after they themselves set them up*. Furthermore we do not know

what they contain, or the resolution of photographs prosecutors will admit into evidence at trial. So at present those photographs are *incompetent, irrelevant and immaterial*. Yet we see people pontificating about them as if they have custody of actual prosecution exhibits.

If the prosecution has better quality photographs, no doubt they'll introduce them at trial – if this case goes to trial. But the defense will surely challenge them – because *the FBI excluded Trump's lawyers from the scene*.

## How good a lawyer is Jack Smith?

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Not very, according to rumor – which few have contradicted. And Paul Sperry, who already observed the reason for indicting Mr. Nauta, has this statement about the record:

NEW: Special Counsel Smith's indictment alleges Trump showed off a military paper that he boasted was classified "highly confidential" and "secret," but the transcript reveals Trump actually said: "like, highly confidential" and "a secret." Smith omitted the words "like" and "a."

— Paul Sperry (@paulsperry\_) [June 10, 2023](#)

If Mr. Sperry's sources are correct, that will definitely come out at trial, if not before. And it could form the basis of a motion for a directed verdict of acquittal. In fact, one other user seized on Sperry's statement and said he knows Smith – and how careless he can be:

Let me be clear about Jack Smith....who I've been dealing with on his Kosovo indictments: he is reckless and highly emotional. He makes mistakes like this all the time.... <https://t.co/HjOgt83Cj1>

— Richard Grenell (@RichardGrenell) [June 10, 2023](#)

Laura Loomer observed that Smith and others would *like* to have had a more serious Trump indictment – for seditious conspiracy. In fact she expects that charge, because the people let the Proud Boys go to prison over the January 6 Event.

They will 100% try to charge Donald Trump with seditious conspiracy. That's why more people should have stood up and said something when the Proud Boys were attacked with charges of seditious conspiracy.

It's absurd. And because people were silent, the DOJ feels emboldened to...  
<https://t.co/iWmN0sbYK5>

— Laura Loomer (@LauraLoomer) [June 10, 2023](#)

Donald Trump must report to the federal courthouse in Miami to answer this indictment. That will happen on Tuesday, June 13, at 3:00 p.m. EDT. Laura Loomer will be there, at noon – and has asked as many who can travel, to come.

| [pic.twitter.com/36Bu42x2pM](https://pic.twitter.com/36Bu42x2pM)

| — Laura Loomer (@LauraLoomer) June 10, 2023

Besides anything that will happen to Trump, the American people are now on trial. Does the truth matter to them? Actually it might, and to more people than some people think. Bill Kristol, Mister Neoconservative himself, polled Twitter users on the proposition that Trump should not be President again. After obtaining these results, he probably wishes he hadn't.

| Trump shouldn't be president again.

| — Bill Kristol (@BillKristol) June 9, 2023