



CITIZENS FOR
RESPONSIBILITY &
ETHICS IN WASHINGTON

November 19, 2024

The Honorable Richard Durbin
Chairman, Senate Judiciary Committee
United States Senate
Washington DC, 20510

Re: Release House Ethics Committee's Report on Former Rep. Matt Gaetz

Dear Chairman Durbin,

As President of Citizens for Responsibility and Ethics in Washington ("CREW") and a former counsel for the Senate Judiciary Committee who was charged with reviewing FBI background checks for nominees considered by the Committee, I respectfully urge the Senate Judiciary Committee to request that the House of Representatives Committee on Ethics' final report and investigation into former Rep. Matt Gaetz be immediately shared with the Committee. Should the Ethics Committee refuse to share their report and should you not receive assurances that your committee will not go forward with the nomination without it, the Senate Judiciary Committee should consider subpoenaing the report in coming days. As President-elect Trump's nominee to become the next Attorney General, Mr. Gaetz's credentials and character will soon come before the Senate Judiciary Committee. In order to properly consider Mr. Gaetz's nomination, and to provide the "advice and consent" which the Constitution requires, the Judiciary Committee must have access to the House Ethics Committee's findings and should not consider his nomination until those findings are shared and a full FBI background investigation into Mr. Gaetz is complete.

The Senate Judiciary Committee's role in evaluating and considering the President-elect's nominee for Attorney General is a deeply important responsibility. During my time working for the Senate Judiciary Committee, nominees were never moved through the confirmation process without their background being thoroughly vetted. If the Committee had known of a pending ethics report into a nominee, this would have been considered a crucial piece of information for review and consideration.

There are few nominees for whom this sort of thorough vetting is more important than it is for an Attorney General nominee. The Attorney General is tasked with overseeing and directing the nation's robust law enforcement apparatus, a crucial component of ensuring that our justice system works fairly and effectively. They are entrusted with highly sensitive information, and tasked with making difficult decisions to root out wrongdoing and promote justice. The House Ethics Committee's investigation into Mr. Gaetz is crucial to

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helping the Committee determine whether Mr. Gaetz possesses the necessary temperament and judgment to be entrusted with such immense responsibility. After all, an Attorney General who might be vulnerable to coercion or manipulation could pose a dangerous risk to the U.S. Government that domestic and foreign adversaries could use to their advantage and to the detriment of U.S. national security interests.

The Ethics Committee has investigated several allegations of misconduct against Mr. Gaetz, including engaging in sexual misconduct and illicit drug use, accepting improper gifts, dispensing special privileges and favors to individuals with whom Mr. Gaetz had a personal relationship, and seeking to obstruct government investigations of his conduct.¹ In the course of its investigation, the Ethics Committee has spoken with more than a dozen witnesses, issued 25 subpoenas and reviewed thousands of pages of documents.² The Ethics Committee's investigation has been substantial. If, after such a thorough investigation, the Ethics Committee has found no wrongdoing on the part of Mr. Gaetz, the Senate Judiciary Committee has a right to know that prior to considering his nomination to be Attorney General, and Mr. Gaetz, for his part, should be eager to have such an exoneration shared with the Senate Judiciary Committee. If the Ethics Committee has found wrongdoing, that is of course also extremely relevant to your committee's consideration.

Declining to consider Mr. Gaetz's nomination until receiving investigative findings from the House Ethics Committee and the FBI is consistent with Judiciary Committee precedent. In my own experience, there were several instances where the Committee requested or conducted follow-up investigations into nominees. More recently, when credible allegations of sexual assault against then-Judge Brett Kavanaugh surfaced during his confirmation proceedings in 2018, members of the Committee agreed to delay his confirmation vote to be an Associate Justice of the U.S. Supreme Court pending the results of a supplemental investigation by the FBI.³ In orchestrating the decision to delay the vote, then-Senator Jeff Flake correctly stated that "we ought to do what we can to make sure that we do all due diligence with a nomination this important."⁴ Despite recent revelations that the FBI's investigation into Justice Kavanaugh was severely limited,⁵ it is clear that the Committee made the prudent decision at the time to pause so that they could obtain all available relevant information. The Committee should follow its precedent and do so again here.

¹ Press Release, U.S. House of Representatives Committee on Ethics, Statement Regarding the Matter of Representative Matt Gaetz (June 18, 2024), <https://ethics.house.gov/press-releases/statement-regarding-matter-representative-matt-gaetz>.

² *Id.*

³ Noor Wazwaz, Scott Detrow, Tim Mak, and Jessica Taylor, *Trump Orders Limited FBI Investigation To Supplement Kavanaugh Background Check*, NPR (Sept. 28, 2018), <https://www.npr.org/2018/09/28/652486413/judiciary-committee-set-to-vote-on-kavanaugh-friday-with-eyes-on-undecided-jeff>.

⁴ *Id.*

⁵ Press Release, U.S. Sen. Sheldon Whitehouse, Whitehouse Unveils Report Examining Failures of Supplemental Background Investigation of Justice Brett Kavanaugh (Oct. 8, 2024), <https://www.whitehouse.senate.gov/news/release/whitehouse-unveils-report-examining-failures-of-supplemental-background-investigation-of-justice-brett-kavanaugh>.

Additionally, the House Ethics Committee's disclosure of its investigative findings into Mr. Gaetz would not be inconsistent with that committee's precedent. While the Ethics Committee has not typically continued investigations or released its investigative findings after a member has resigned, there have been some notable exceptions to this practice. For example, in 2010, the Committee launched an investigation into former Democratic Rep. Eric Massa *after* he had resigned due to allegations of sexual harassment.⁶ Similarly, in 2022, the Committee released a report into allegations of ethical violations by former Republican Rep. Madison Cawthorn less than a month before Rep. Cawthorn's term ended, despite the fact that he would not be serving in Congress going forward.⁷

The public trusts that the Senate will meaningfully fulfill the "advice and consent" role mandated by the Constitution when evaluating cabinet nominees, including by committees thoroughly vetting nominees for temperament, expertise and fidelity to the Constitution. When the nominee is someone like Mr. Gaetz, who has been the subject of credible allegations of misconduct, the need for meaningful "advice and consent" is only heightened. The Judiciary Committee should follow its own practice of thoroughly vetting nominees and should not proceed with its consideration of Mr. Gaetz's nomination to be Attorney General until it receives the House Ethics Committee report in full as well as a full FBI background investigation. Proceeding in this manner would be consistent with Committee precedent, constitutional structure and the will of the people.

Sincerely,



Noah Bookbinder
President and Chief Executive Officer

⁶ Jennifer Yachnin, Ethics panel launches Massa investigation, Roll Call (Apr. 21, 2010, at 1:30 ET), <https://rollcall.com/2010/04/21/ethics-panel-launches-massa-investigation>.

⁷ H.R. DOC. NO. 117-591, 2d Sess., (2022),

https://ethics.house.gov/sites/ethics.house.gov/files/documents/Report%20%28GPO%20Print%29_11.pdf; Myah Ward, *Cawthorn loses primary in North Carolina*, Politico (May 7, 2022),

<https://www.politico.com/news/2022/05/17/cawthorn-north-carolina-primary-00033315>.