

January 15, 2021

**RE: Request for the House to Investigate Allegations of Members and Employees' Involvement in Planning or Facilitating the January 6, 2021 Attack on the U.S. Capitol**

Dear Speaker Pelosi and Minority Leader McCarthy:

The American Civil Liberties Union strongly urges you to charge one or more standing committees of the House with investigating allegations of the potential involvement of Members of Congress or congressional employees in planning, facilitating, or otherwise conspiring with the individuals who mounted the attack on the United States Capitol on January 6, 2021. Given the seriousness of the allegations that elected representatives or congressional employees had been involved in the heinous incident for bad faith or even criminal purposes, it is imperative for Congress to act swiftly to exercise its jurisdiction over its own membership, staff, and security, investigate and make publicly known all the pertinent facts through public hearings and a publicly available report, and determine any next steps towards accountability, including punishment by the House, if warranted.

Regardless of the course of any related investigations by other entities that may be underway or being sought, including any criminal investigation, Congress should exercise its powers to investigate matters of national importance and its Article I, Section 5 constitutional authority to regulate its own membership and hold its own members and employees accountable — including by informing the American public of what their elected representatives' role may have been. Article I, Section 5 provides, “Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.” Multiple standing committees of the House, including the Committee on House Administration, have existing jurisdiction to investigate and report their findings. We urge you to coordinate a full investigation and report through those committees, including any next steps towards accountability.



National Political  
Advocacy Department  
915 15th St. NW, 6th FL  
Washington, D.C. 20005  
[aclu.org](http://aclu.org)

Susan Herman  
*President*

Anthony Romero  
*Executive Director*

Ronald Newman  
*National Political  
Director*

What the nation witnessed unfold on January 6 was an unruly mob of President Trump's followers storming the Capitol in an attempt to prevent the certification of the Electoral College results and to intimidate or block Members of Congress from carrying out their constitutional duty to count the votes, aiming to keep President Trump in office after he decisively lost the 2020 presidential election. These rioters broke into the Capitol carrying weapons, tactical gear, and — in symbols of the white supremacy underpinning their violent acts — Confederate flags, swastikas, and nooses. Five people died in the course of the assault. The gravity of the day's events prompted the ACLU to call for both the impeachment of President Trump<sup>1</sup> and the appointment of a special counsel to investigate, and if warranted, prosecute President Trump and his associates for their attempts to subvert the outcome of the election.<sup>2</sup>

Over the past several days, the Department of Justice has opened an extensive investigation, with scores of arrests of persons who allegedly had a role in the attack.<sup>3</sup> On Wednesday, the House took the historic and solemn step of impeaching President Trump.

The publicly reported allegations that certain Members of Congress or congressional employees may have actively and deliberately facilitated or coordinated with his followers on possible infiltration of the Capitol in the lead-up to or on the day of their assault on the Capitol are of grave concern. These allegations<sup>4</sup> include:

- An allegation by Representative Mikie Sherrill that unusual numbers of visitors had been given in-person “reconnaissance” tours of the Capitol Complex on the day before the attack and that only a Member of Congress or their staff could have provided such access, thereby contributing to those individuals’ detailed knowledge of the Capitol Complex layout and locations of lawmakers;

---

<sup>1</sup> American Civil Liberties Union, ACLU Again Calls For Impeachment Of President Trump (Jan. 10, 2021), <https://www.aclu.org/press-releases/aclu-again-calls-impeachment-president-trump>.

<sup>2</sup> American Civil Liberties Union, ACLU Calls For Special Counsel To Investigate Federal Crimes By Trump And Associates (Jan. 11, 2021), <https://www.aclu.org/press-releases/aclu-calls-special-counsel-investigate-federal-crimes-trump-and-associates>.

<sup>3</sup> Brad Heath & Sarah N. Lynch, Reuters, U.S. says Capitol rioters meant to 'capture and assassinate' officials – filing (Jan. 15, 2021), <https://reut.rs/3nL9CgU>.

<sup>4</sup> Aishvarya Kavi, The New York Times, Lawmakers recount feeling unsafe because of colleagues’ behavior during Capitol siege (Jan. 13, 2021), <https://nyti.ms/3i9rC3k>; Catie Edmondson & Luke Broadwater, The New York Times, Before Capitol Riot, Republican Lawmakers Fanned the Flames (Jan. 11, 2021), <https://nyti.ms/2LSBnHi>; Teo Armus, The Wash. Post, A ‘Stop the Steal’ organizer, now banned by Twitter, said three GOP lawmakers helped plan his D.C. rally (Jan. 13, 2021), <https://wapo.st/3spybU9>; Juliegrace Brufke, The Hill, GOP lawmakers told Trump takes some responsibility for Capitol riot (Jan. 11, 2021), <https://bit.ly/3sqQp7O>.

- An allegation by at least two House members that another member may have broadcast real-time information via Twitter about the Speaker's location during the ongoing assault;
- Reports that “Stop the Steal” organizer Ali Alexander stated, in a since-deleted video, that Representatives Andy Biggs, Mo Brooks, and Paul Gosar had "schemed" together with Trump followers to put "maximum pressure" on Members of Congress during their certification of Electoral College results; and
- Allegations of improper conduct by U.S. Capitol Police during the attack, which have prompted internal investigations.

The House has a constitutional obligation to hold its own members accountable if any member conspired in the attack on the Capitol, its occupants, and on the fundamental constitutional duty Congress was undertaking at the moment of the attack — namely, the counting of votes to determine the next president. The American people deserve an accurate and comprehensive accounting of the facts regarding these profoundly troubling activities and allegations, especially as the national debate continues on the appropriate consequences to last week's events. Congress is well-positioned to establish a common set of facts from which voters, the press, and Members of Congress themselves can operate, given Congress's authority under the U.S. Constitution to conduct inquiries as part of its legislative and oversight responsibilities and to regulate its own ranks. The time is now for committee investigation and subsequent hearings — to be conducted in the open before the public — along with a determination by relevant committees of next steps towards accountability.

Thank you for your attention to this urgent request, and if you have any questions, please contact Kate Oh at [koh@aclu.org](mailto:koh@aclu.org).

Sincerely,



Ronald Newman  
National Political Director



Kate Oh  
Policy Counsel