



## Trump threats raise question: Can Bolton's book proceeds be seized?

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As controversy swirls around former National Security Adviser John Bolton's tell-all about his time in the Trump White House, President Trump has repeatedly warned that Bolton could face criminal charges for the book and others have mentioned that he may end up losing out on the profits.

The questions over what sort of legal backlash Bolton might face from his alleged decision to pull out of the prepublication review process for the book, titled "The Room Where it Happened: A White House Memoir," come after a federal judge ruled last week that the release could go forward. Trump reacted to that order in an interview with Fox News Saturday night.

"The judge essentially said he was guilty," Trump said. "And also, much more importantly, classified information; he should go to jail for that for many, many years. I don't know what's going to happen. And it's up to the Justice Department. But I can tell you, they're not happy."

@realDonaldTrump

Washed up Creepster John Bolton is a lowlife who should be in jail, money seized, for disseminating, for profit, highly Classified information. Remember what they did to the young submarine sailor, but did nothing to Crooked Hillary. I ended up pardoning him - It wasn't fair!

The president continued his broadsides against his former national security adviser Tuesday.

"But what he did do is he took classified information, and he published it during the presidency," Trump said in an interview with Brian Kilmeade. "... And I believe that he's a criminal. And I believe, frankly, he should go to jail for that."

"Washed up Creepster John Bolton is a lowlife who should be in jail, money seized, for disseminating, for profit, highly Classified information," Trump said in a tweet, also Tuesday. "Remember what they did to the young submarine sailor, but did nothing to Crooked Hillary. I ended up pardoning him - It wasn't fair!"

There have been cases in the past of people writing books about their time working jobs with access to highly classified information and having their profits taken.

Former Navy SEAL Matt Bissonnette forfeited \$6.6 million in 2016 for violating nondisclosure agreements and not getting his book cleared by the government after he published the story about his role in the raid that killed Usama bin Laden. Those are similar to the allegations that Bolton faces.

And in the 1980 Supreme Court case *Snepp v. United States*, the Supreme Court ruled that a former CIA employee could be denied the proceeds from a book he wrote without getting the government's approval.

In its ruling allowing Bolton's book to be delivered to readers around the country this week, a D.C. District Court judge cited the fact that copies had already been printed and distributed to booksellers.

"For reasons that hardly need to be stated, the Court will not order a nationwide seizure and destruction of a political memoir," Judge Royce Lamberth's order read.

But despite that, could Bolton face backlash, including criminal charges or the seizure of any proceeds he makes? Lamberth appeared to believe that Bolton, like others before him, could be exposing himself to civil and criminal risks.

"Bolton could have sued the government and sought relief in court. Instead, he opted out of the review process before its conclusion," Lamberth wrote.

**'This was Bolton's bet: If he is right and the book does not contain classified information, he keeps the upside mentioned above; but if he is wrong, he stands to lose his profits from the book deal, exposes himself to criminal liability, and imperils national security.'**

— Judge Royce Lamberth, in an order allowing the publication of Bolton's book to go forward

The judge continued: "Unilateral fast-tracking carried the benefit of publicity and sales, and the cost of substantial risk exposure. This was Bolton's bet: If he is right and the book does not contain classified information, he keeps the upside mentioned above; but if he is wrong, he

stands to lose his profits from the book deal, exposes himself to criminal liability, and imperils national security. Bolton was wrong."

Lamberth said that the government had convinced him Bolton's book did indeed contain classified information in a sealed hearing. The judge wrote, "the Court is persuaded that Defendant Bolton likely jeopardized national security by disclosing classified information in violation of his nondisclosure agreement obligations."

Other outside voices appear to agree with Lamberth.

Walter Olson, a senior fellow at the libertarian Cato Institute's Robert A. Levy Center for Constitutional Studies, told Fox News that despite the emphasis put on free speech in the United States, a person in Bolton's situation -- having signed nondisclosure agreements and been entrusted with classified information on the condition that he would not reveal it -- is subject to legal limits on what he can say.

"The terms of that agreement are not very favorable to Bolton," Olson said, referring to the kinds of contracts one needs to sign to get access to the highly classified information a national security adviser needs to do the job.

"This case may be taught in media law courses because it points out the differences in things that are accepted," he said, specifically referring to how contracts can limit speech.

Olson added that under the rules Bolton is subject to when it comes to disclosing information about his time working for the Trump administration, he can find himself in legal trouble even if the information he publishes isn't classified.

"Not only does he have to be right" that his book doesn't include any national security secrets, "but there can't be uncertainty in his mind," Olson said. "Bolton has to convince the judge not only that some detail that was not classified but also that Bolton was not reasonably uncertain about it."

Bolton, in court documents, has argued that he at all times has been confident his manuscript did not include any classified material.

Fox News Chief Judicial Analyst Judge Andrew Napolitano, on "Fox & Friends" Tuesday morning, said that the Department of Justice (DOJ) would have to decide just how far it wants to take any action against Bolton.

"I don't know what the secrets are in this book and the judge didn't know what the secrets are in the book until they went in the chambers with John Bolton's lawyer and the DOJ lawyers and the

judge. And the press wasn't there and they pointed out what the national security secrets are," he said.

"So at some point, we will see just how serious and how damaging this is," Napolitano continued. "If it's serious and damaging, the president is right. The Justice Department can pursue John. They can get a judge to order Simon & Schuster, his publisher, to preserve all income derived from the sale of the book and the Justice Department can attempt to seize that. They can also try and persuade a grand jury that this was a criminal act. So the president's right."

George Washington University Law Professor Jonathan Turley wrote in an op-ed for The Hill that a criminal prosecution as discussed by Trump, who has a long history of exaggeration, might be a stretch -- but that it's possible Bolton could lose out on his book proceeds.

"In waiting for Bolton to run, the Justice Department handed him just enough rope to hang himself," he said. "Given the prior notice of classified content, it could bring a criminal prosecution under the Espionage Act, though such prosecutions are rare and difficult. The main goal would be the profits."

But Bolton and Simon & Schuster tell a different story -- they say there is no classified information in the book and point to the fact that the book apparently received initial approval before the government later changed its mind.

"In the months leading up to the publication of *The Room Where It Happened*, Bolton worked in cooperation with the National Security Council to incorporate changes to the text that addressed NSC concerns," a June 10 statement from the publisher said. "The final, published version of this book reflects those changes, and Simon & Schuster is fully supportive of Ambassador Bolton's First Amendment right to tell the story of his time in the Trump White House."

Additionally, court documents submitted by Bolton's lawyers argue that National Security Council official Ellen Knight said on April 27 that she intended to approve his manuscript. But, they say, when the official approval from Knight didn't come down "[i]t soon became obvious that the White House had no intention of permitting Ms. Knight to issue the clearance letter, but instead was attempting to run out the clock before the election by simply refusing to respond to Ambassador Bolton's requests."

Bolton's team argues that despite Knight's approval, Deputy Assistant to the President Michael Ellis sent back "extensive and sweeping" redactions to Bolton's book that "deleted numerous passages portraying President Trump in an unflattering light."

Despite Bolton's contentions, Olson says he will face an uphill climb if the government decides to take him to court -- even after a favorable ruling last week.

"First Amendment law is more hostile toward prior restraint than it is to liability after the fact," Olson said.

"People who take these sorts of government jobs sign agreements that are onerous to them if they want to talk about these things after, and beneficial to the government," he said. "That puts him in a box."