

## OPENING STATEMENT

Chairman Jordan, Ranking Member Nadler, Chairman Comer, Ranking Member Raskin, members of the Committee. Good morning.

I'm privileged to have served our country for the majority of my career—a decade and a half—most of those years with the Department of Justice. I have served as a line prosecutor, a supervisor, the Principal Associate Deputy Attorney General, a United States Attorney, and a Special Counsel.

I have served in these roles with gratitude as the son of immigrants to this country, the first member of my family to be born here. My parents grew up in Korea and were young children during the Korean War. My father remembers being hungry and grateful for the food that American GIs shared with him and his siblings. My mother fled what is now North Korea in her own mother's arms, heading south to safety. My parents eventually met, married, and came to the U.S., seeking a better life for themselves and for their children. Their lives, and mine, would have been very different were it not for this country.

No matter the role, no matter the administration, I have applied the same standards and the same impartiality. My respect for the Justice Department, and my commitment to this country, are why I agreed to serve as Special Counsel when asked by the Attorney General. I resolved to do the work as I did all my work for the Department: fairly, thoroughly, and professionally, with close attention to the policies and practices that govern Department prosecutors.

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My team and I conducted a thorough, independent investigation. We identified evidence that the President willfully retained classified materials after the end of his vice presidency, when he was a private citizen. This evidence included an audio-recorded conversation during which Mr. Biden told his ghostwriter that he had “just found all the classified stuff downstairs.” When Mr. Biden said this, he was a private citizen speaking to his ghostwriter in his private rental home in Virginia. We also identified other recorded conversations during which Mr. Biden read classified information aloud to his ghostwriter.

We did not, however, identify evidence that rose to the level of proof beyond a reasonable doubt. Because the evidence fell short of that standard, I declined to recommend criminal charges against Mr. Biden. The Department’s regulations required me to write a confidential report explaining my decision to the Attorney General. I understood that my explanation about this case had to include rigorous, detailed, and thorough analysis. In other words, I needed to show my work. Just as I would expect any prosecutor to show his or her work in explaining the decision to prosecute or not.

The need to show my work was especially strong here. The Attorney General had appointed me to investigate the actions of the Attorney General’s boss, the sitting President of the United States. I knew that for my decision to be credible, I could not simply announce that I recommended no criminal charges and leave it at that. I needed to explain why.

My report reflects my best effort to explain why I declined to recommend charging President Biden. I analyzed the evidence as prosecutors routinely do: by assessing its strengths and weaknesses, including by anticipating the ways in which the President’s defense lawyers might poke holes in the government’s case if there were a trial and seek to persuade jurors that the government could not prove his guilt beyond a reasonable doubt.

There has been a lot of attention paid to language in the report about the President’s memory, so let me say a few words about that. My task was to determine whether the President retained or disclosed national defense information “willfully”—meaning, knowingly and with the intent to do something the law forbids. I could not make that determination without assessing the President’s state of mind. For that reason, I had to consider the President’s memory and overall mental state, and how a jury likely would perceive his memory and mental state in a criminal trial. These are the types of issues prosecutors analyze every day. And because these issues were important to my ultimate decision, I had to include a discussion of them in my report to the Attorney General.

The evidence and the President himself put his memory squarely at issue. We interviewed the President and asked him about his recorded statement, “I just found all the classified stuff downstairs.” He told us that he didn’t remember saying that to his ghostwriter. He also said he didn’t remember finding any classified material in his home after his vice presidency. And he didn’t remember anything about how classified documents about Afghanistan made their way into his garage.

My assessment in the report about the relevance of the President's memory was necessary and accurate and fair. Most importantly, what I wrote is what I believe the evidence shows, and what I expect jurors would perceive and believe. I did not sanitize my explanation. Nor did I disparage the President unfairly. I explained to the Attorney General my decision and the reasons for it. That's what I was required to do.

I took the same approach when I compared the evidence regarding President Biden to the Department's allegations against former President Trump. There too, I called it like I saw it. As a prosecutor, I had to consider relevant precedents and to explain why different facts justified different outcomes. That is what I did in my report.

I'm confident the analysis set forth in Chapters 11, 12, and 13 of my report provides a thorough evaluation and explanation of the evidence, and I encourage everyone to read it to inform their opinions of the report.

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Prosecutors rarely write public reports or testify about their investigations. That is the Justice Department's longstanding policy, and it protects important interests. My team and I prepared the report to the Attorney General with care and the report stands as the primary source of information. My responses today will be limited to clarifying information for the committee. I will refrain from speculating or commenting on areas outside the scope of the investigation. Nor will I discuss what investigative steps we did or did not take, beyond what's in the report.

In conclusion, I want to express my heartfelt thanks to the attorneys, agents, analysts, and professional staff who helped us do our work fairly, thoroughly, and independently. I am grateful and privileged to have served with them. I single out for particular thanks Deputy Special Counsel Marc Krickbaum, a former United States Attorney himself, who brought great wisdom, skill, and judgment to our task.

Thank you. I welcome your questions.