

# [***Standout moments from the hearing on the Biden classified documents probe by special counsel Hur***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6BJ1-NCP1-DYMD-64TH-00000-00&context=1516831)

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**Body**

WASHINGTON — It's a now-familiar ritual in Washington: a federal prosecutor being summoned to Capitol Hill to discuss the findings of a politically explosive investigation.

[*Tuesday's hearing with special counsel Robert Hur*](https://apnews.com/article/classified-documents-biden-hur-special-counsel-122526da6d89d7bf4d6ccfc54590312b), who [*investigated President Joe Biden's handling of classified information*](https://apnews.com/article/biden-hur-garland-classified-documents-836b99fe9cbef9ba7d32602f4928efec), broke little new legal or political ground. But it delivered plenty of talk about the president's memory — faulty, in Hur's assessment — about the laws surrounding classified material and, of course, lots of discussion about Donald Trump.

Here are a half dozen notable moments from Hur's testimony, the questioning surrounding it and the newly released transcript of Biden's fall interview with the investigator:

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**DEMOCRATS ON THE ATTACK**

Democrats sought to use Hur’s [*Republican bona fides*](https://apnews.com/article/robert-hur-biden-special-counsel-classified-documents-0f8e4a9d99f8b7d035f75f78e9b8d3d3) to paint him as a political partisan who set out to smear Biden to hurt the president's reelection campaign.

Though Hur concluded Biden should not face criminal charges, the special counsel also impugned Biden’s age and competence, saying in his report that the president would probably come across to jurors as a “sympathetic, well-meaning, elderly man with a poor memory.”

In one of the most contentious exchanges of the hearing, Rep. Hank Johnson, a Democrat from Georgia, walked through Hur’s career, including his time as a law clerk for conservative Supreme Court Chief Justice William Rehnquist and his service as a top official in the Trump Justice Department.

Johnson accused Hur of slamming Biden to try to boost Trump’s campaign, saying Hur knew his characterization of the president's age and memory “would play into the Republicans' narrative that the president is unfit for office because he’s senile.”

Hur acknowledged that he is a registered Republican, leading to a smattering of clapping in the crowd. But Hur insisted that ***politics*** had nothing to do with his investigation. And he rejected Johnson's suggestion that he was trying to get Trump elected because he wants to become a federal judge or return to the Justice Department.

“I can tell you that partisan ***politics*** had no place whatsoever in my work," Hur said. “It had no place in the investigative steps that I took, it had no place in the decision that I made. And it had no place in a single word of my report.”

**TRUMP ON TRIAL**

Trump, the former president and Biden’s expected opponent in this year’s election, was nowhere in the committee room and the prosecutor who investigated him, Jack Smith, wasn’t on the committee witness list.

But that didn’t stop Trump from being a central character in Tuesday’s hearing. Democrats time and again invoked the [*criminal case charging the ex-president*](https://apnews.com/article/trump-justice-department-indictment-classified-documents-miami-8315a5b23c18f27083ed64eef21efff3) with illegally hoarding classified documents and refusing to give them back as a way to a distinguish his behavior from that of Biden.

Democratic Rep. Jerrold Nadler of New York asked rhetorically why Trump was charged but Biden was not.

“Not because of some vast conspiracy, not because the so-called ‘deep state’ was out to get him, but because former President Trump was fundamentally incapable of taking advantage of even one of the many, many chances he was given to avoid those charges,” Nadler said.

Indeed, both Hur and Smith have taken great pains to illuminate the factual and legal differences between the two investigations.

Biden’s team returned the documents after they were discovered, and the president cooperated with the investigation by voluntarily sitting for an interview and consenting to searches of his homes.

Trump, by contrast, is accused of knowingly storing classified documents at his Mar-a-Lago estate, obstructing FBI efforts to get them back, soliciting the help of aides to conceal the documents from the government and seeking to have incriminating evidence destroyed.

**ELEMENTS OF A CRIME**

The hearing, just like the report, featured substantial discussion of the ins and outs of the criminal statutes governing the mishandling of classified information.

Republican lawmakers appeared repeatedly aghast that Hur could have recommended against prosecution, particularly given the storage of classified documents in a garage as well as a recorded conversation in which Biden can be heard telling his ghostwriter that he had “just found all the classified stuff downstairs.”

But Hur repeatedly reminded committee members that the most relevant statute at issue in the investigation requires that the unlawful retention of national defense information be willful — in other words, that it’s done with criminal intent. It’s a high standard that investigators in some other prominent probes have not met, [*such as in the Hillary Clinton email inquiry.*](https://apnews.com/no-charges-for-clinton-fbi-says-despite-biting-criticism-f9d071a7d1f5401696d825d46c34e4ff)

Hur did say in his report that he had uncovered evidence to support the idea of willful retention, but repeatedly noted he had not found enough to establish proof beyond a reasonable doubt.

Rep. Matt Gaetz, a Florida Republican, asserted that Hur had found the elements of a criminal violation but had given the president a pass because Biden was “senile.” Hur objected to that characterization.

“I need to disagree with at least one thing that you said, which is that I found that all of the elements were met,” Hur replied. “One of the elements of the relevant mishandling statute is the intent element. And what my report reflects is my judgment that based on the evidence, I would not be able to prove beyond a reasonable doubt to a jury that that intent element had been met."

**ALL THE PRESIDENT’S MEMORY**

The release of the transcript of Biden’s interview with Hur and the special counsel’s testimony were unlikely to change anyone’s preconceived notions on the 81-year-old president’s mental stamina and fitness for office.

Biden repeatedly demonstrated a fuzzy recollection of some dates in his interviews with Hur, including the year of his son’s death and the years of his service as vice president. Yet he also demonstrated his ability to provide detailed accounts of both significant and mundane parts of his life.

Biden gave Hur a “photographic” overview of his home, long discourses on his political life and humorous asides about his sports car.

The interview transcript showed that Hur never asked Biden about the timing of his son Beau's death, as the president had angrily accused him of doing. But it also suggests Hur's exchange with Biden about his son was less revealing about the president's memory than the special counsel had indicated when he cited the episode as an example of the president's confusion.

Already the country’s oldest president, Biden is seeking another term that if served out would have him at age 86 when he left office.

**SAME OLD STORY**

Biden has a stable of well-worn stories from his life and career that he uses when he speaks publicly. Turns out, he uses them when he’s talking privately, too.

The transcript of his interviews with the special counsel shows how Biden revisited some of his most oft-told tales with the investigators who questioned him.

There’s the one about how he decided to run for president following the violence at the “Unite the Right” rally in Charlottesville, Virginia, in August 2017. “And then a young woman got killed, and I spoke to her mom,” Biden said. “And that’s when I decided that I’ve got to run. I’ve got to be involved, because I thought, presumptuous of me, that I was the antithesis of everything that this guy stood for, and I could beat him.”

Later, he told investigators the story of his trip to Mongolia when he was vice president, where he got handed a bow and arrow during a demonstration of an invasion of yore. “Pure luck, I hit the goddam target.”

And there was the story of his son Beau’s death, which helped propel Biden back into public life and inspired the title of his memoir, “Promise Me, Dad.” As Beau Biden was dying of brain cancer, he asked for a minute of his father's time, Biden recalled.

And that’s when Beau said, according to the president: “’Promise me, dad. You have to stay engaged, promise me."

**PRESIDENTIAL *POLITICS***

Anyone expecting a sober discussion of the finer points of classified document handling would have been disappointed. Instead, Democrats and Republicans used the hearing as a vehicle to attack the other party’s presidential candidate.

The strategy was clear from the opening moments. Rep. Jim Jordan, an Ohio Republican, played a lengthy clip of a Biden press conference where he responded to Hur’s report but accidentally referred to Egypt’s leader as “the president of Mexico.”

Nadler responded with a sizzle reel of Trump struggling to remember things or messing up names.

Other Democrats also saw an opportunity to bring up Trump’s legal troubles beyond those involving classified documents. Rep. Ted Lieu, a California Democrat, asked Hur whether he uncovered evidence that Biden paid hush money to a porn actress or former Playboy model. (“No,” Hur replied.)

It’s unlikely that either side landed a knockout blow, even after hours of testimony. Voters’ views of Trump and Biden are deeply entrenched after years in the public eye.

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AP writers Colleen Long and Zeke Miller contributed to this report.

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