

# [***Special Counsel Warns About Biden's Memory Problem; Biden: Notes Were My Personal Property; Panel Weighs In As President Biden To Address The Nation In Moments; Biden Slams Trump On Classified Documents***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B94-WN91-JCS1-60M3-00000-00&context=1516831)

Fox News INGRAHAM ANGLE 7:00 PM EST

February 8, 2024 Thursday

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**Length:** 9108 words

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**Body**

BRET BAIER, FOX NEWS HOST: The map looks good, at least now. Remember, if you can't catch us live, set your DVR, 6 PM in the East, 3 PM on the West Coast. Thank you for inviting us into your home tonight and every night. That's it for this "SPECIAL REPORT." Fair, balanced, and unafraid. THE INGRAHAM ANGLE is now.

LAURA INGRAHAM, FOX NEWS HOST: Good evening, everyone. I'm Laura Ingraham. This is THE INGRAHAM ANGLE from Washington tonight. An elderly man with a poor memory and one who willfully retained and disclosed classified documents. That is how Special Counsel Robert Hur described the current President of the United States in his report on the Biden classified documents investigation.

Now while her ultimately decided not to charge Biden for mishandling the classified documents going back decades, the bigger news was what his team uncovered about the President's mental faculties or lack thereof. The 345- page document is the must read tell all of the day complete with gems like this. He, the President did not remember when he was vice president, forgetting on the first day of the interview when his term ended, if it was 2013. When did I stop being vice president and forgetting on the second day of the interview when his term began in 2009, as still vice president.

He did not remember even within several years when his son Beau died, and his memory appeared hazy when describing the Afghanistan debate that was once so important to him.

Now, there is simply no way to explain this. You know, the White House is worried about the report when Biden's attorneys felt the need to dispute the findings about the President's terrifying memory lapses writing, we do not believe that the report's treatment of Biden's memory is accurate or appropriate. The report uses highly prejudicial language to describe a commonplace occurrence among witnesses. A lack of recall of years old events. Wait, wait, wait, whoa. These are two white collar criminal attorneys, right.

They alleged the report's treatment of Biden's memory isn't accurate or appropriate. Now, are they accusing Mr. Hur of fabricating the fact that Biden couldn't recall even the general timeframe of when his son died? Or are they implying that President Biden was lying and really did remember those things? How is it highly prejudicial to, quote, the President's own answers verbatim? Must be MAGA's fault.

Now Hur's team went into detail about the President's debilitated memory not to be cruel, and not for political reasons, but because it's relevant to whether they could have established intent. Writing in the report in a case where the government must prove that Mr. Biden knew he had possession of the classified Afghanistan documents after the vice presidency and chose to keep those documents knowing he was violating the law. We expect that at trial, his attorneys would emphasize these limitations in his recall.

Now, marinate on that for a moment. What Hur revealed in this report is what we've been telling you for years. The Democrat Party, the media, the party's plutocrat donors have all been behind closed-doors with Biden. The entire Biden presidency has been a lie because they've known the truth from day one, all of those groups. He's obviously not capable, he's obviously not in charge. He has no concept of time and space and that's dangerous. And on top of that, he's turned America into a laughingstock.

The Babylon B in tragic comedic fashion captured the moment perfectly. Man ruled too senile to stand trial still fine to run country. Joining me now is Sol Weisenberg, former Deputy Independent Counsel, Fox News Contributor, as well as Victor Davis Hanson, Senior Fellow at Hoover. So, I'm going to ask you, the question I brought up just moments ago, are Biden's attorneys -- what are they trying to do there in that statement about the inappropriateness or the inaccurate treatment of the President's mental state? How is that in any way convincing?

SOL WISENBERG, FORMER DEPUTY INDEPENDENT COUNSEL: First of all, they're obviously wrong for the reasons that you stated. I guess they felt they had to say something about it. But you'll notice that they only really said it very briefly because if you go into any detail, you're going to highlight the devastating material in there about his declining mental state.

INGRAHAM: And Sol, that goes to intent, does it not and whether a jury would consider him so sympathetic, as kind of an idol octogenarian that they just wouldn't pile on in this case

WISENBERG: I think -- yes, but I think they're being very crafty here. Hur was being very crafty, because on the one hand, he says, accurately, that in order to commit this crime, you have to willfully take and retain these documents, which Laura is, you know, means you're not only doing it deliberately, but you know, you're violating the law.

They said there is evidence of that. We just don't think it's beyond a reasonable doubt. Why? Because right now, he appears to be a really limited mental capacity. Those aren't their exact words, their mind, and the jury would be sympathetic to him. But that doesn't really deal with the question of whether or not he had the proper state of mind when he did these things within the statute of limitations.

INGRAHAM: Yes, well, you know, the Democrats are in trouble when they've even lost Frank Luntz, who, after reading this special counsel report, tweeted, Victor, that it will be hard for Democrats to make a case for this man to continue being the President of the United States. Victor, could this mean a slide towards someone else on the ticket or given what some of the Democrats were already saying in defense, we'll get that into that in a moment, that they're just sticking with this guy regardless of this embarrassment today?

VICTOR DAVIS HANSON, HOOVER INSTITUTION SENIOR FELLOW: No, Laura, I think at this point, their strategy is just to dodge each bullet as they come. What they're basically saying the prosecutor, and I guess, with the assent of the Democratic Party is that he's not qualified to teach a class, try a case, drive a truck, plumber, or wire a home, but he is capable of becoming president and staying President of the United States. And doesn't speak to what his mindset was like as senator, vice president, when he took these documents out.

This is not a county prosecutor that has a limited budget and the House to judge the viability of case. This is one of the most important cases with unlimited resources. And he's basically doing the James Comey paradigm where I think this is what the jury might think, but really, it's his job as a prosecutor, if he feels that he is willfully guilty. And he did, to try to make that case to the jury, not to try to psychoanalyze the jury, and the viability of whether it's going to work or not given all of his resources, and the importance of the case.

And more importantly, he said things that I think were really inaccurate in the special prosecutor. This was not virtue; this was not altruism that brought this fact of the removal of files to case. Jack Smith was appointed in mid-November and right before he was appointed, suddenly after 15 years, the Biden attorney said, oh, my God, we just discovered we have no idea that he had these classified files just a few weeks, few days, before the prosecutor was going to be appointed to look at Trump and they didn't want a symmetry or asymmetry, I should say, they didn't want any culpability. So, they --

INGRAHAM: All right, we've got to get into Biden's comments today, he addressed briefly the report by Hur. Watch.

(BEGIN VIDEO CLIP)

JOE BIDEN (D), PRESIDENT OF THE UNITED STATES: As many of you know, this was an exhaustive investigation, going back literally more than 40 years, 40 years when I became a United States senator, as a kid, bottom-line is this special counsel in my case decided against moving forward with any charges. This matter is now closed.

(END VIDEO CLIP)

INGRAHAM: Sol, I guess what else would you expect him to say?

WISENBERG: He's doing better than the White House counsel did. He's just ignoring all the damaging stuff altogether. It's that -- that's from the Clinton playbook. I guess that's old news. And it certainly is old news to us. But Victor, you know, made a very important point. Prosecutor is, when he makes a charging decision is supposed to consider what a rational jury should do, not what a jury that is biased for or against. And I think that's what in effect Hur did here. And he had a very interesting sleight of hand, because he said, he talked about how doddering President Biden is now, but as Victor pointed out, the question is what was the state of mind when he actually retained and hid these documents and kept these documents.

And they point out, Hur points out when you look at the detail, there's no question he knew he shouldn't have them. He tells his -- or his biographer, his ghostwriter that oh, it's in a bunch of classified documents that I have downstairs. He spent time in a skiff. He knew exactly what he was doing.

INGRAHAM: Do you think Hur came to the right conclusion? I mean, you were an independent counsel's office. Do you think he came to the right conclusion here?

WISENBERG: Well, he did one thing that that was admirable in comparison to what Robert Mueller did. He says at the beginning, we can't indict him because he's a sitting president, but by the way, even if he wasn't we wouldn't ignite him, at least he took a stand. Mueller should have done the same thing for President Trump, and he didn't do it. So, I don't know. I haven't seen all of the evidence. So, I don't know if I would agree with the ultimate conclusion.

INGRAHAM: Victor, very quickly, I want you to react to some of the Democrats coming out to pile on in defense of Biden today. Watch.

(BEGIN VIDEO CLIP)

KATE BEDINGFIELD, FORMER WHITE HOUSE COMMUNICATIONS DIRECTOR: There's some editorializing in this report about Biden's memory. And I think if you think about what it takes to sit down for one of these interviews and asked to be -- asked to recall information, dates, specifics about things that happened six, seven, eight years earlier --

UNIDENTIFIED MALE: To not know what year you're vice president?

BEDINGFIELD: He's -- he's got a lot on his plate.

(END VIDEO CLIP)

INGRAHAM: Victor, is that convincing, really quick.

HANSON: Yes, well, they want to square the circle. On the one hand, they don't want him to be culpable and have faced legal jeopardy. On the other hand, they don't want him to be considered by the country to be demented. And they're not compatible. So, they've got kind of a problem.

INGRAHAM: Yes. It was a wild report to read, I must say, it was quite cleverly done. Sol and Victor, thank you. All right, Fox News White House Correspondent Peter Doocy joins us now with the latest reaction from the administration. We heard Biden earlier, Peter, what else?

PETER DOOCY, FOX NEWS WHITE HOUSE CORRESPONDENT: Yes. And Laura, we've known all day that the Biden team got this report ahead of time, they decided not to assert executive privilege on anything, but they did ask the Special Counsel for some slack. Expanding on what you read earlier, they wrote, the report uses highly prejudicial language to describe a commonplace occurrence among witnesses, a lack of recall of years old events. Such comments have no place in a Department of Justice Report, particularly one that in the first paragraph announces that no criminal charges are warranted, and that the evidence does not establish Mr. Biden's guilt.

Dear President Biden tell it himself though, unscripted remarks, but things he was asked about over two days in October covered a lot of ground.

(BEGIN VIDEO CLIP)

BIDEN: I cooperated completely. I did not throw up any roadblocks. I sought no delays. In fact, I was so determined to give special counsel what they needed. I went for the five hour in-person interview over the two days of October the 9th, 8th and 9th.

(END VIDEO CLIP)

DOOCY: And on the official side, the White House's Special Counsel is chiming in with this. We disagree with a number of inaccurate and inappropriate comments in the special counsel's report. Nonetheless, the most important decision the Special Counsel made that no charges are warranted is firmly based on the facts and the evidence. And remember, when I asked Karine Jean-Pierre two days ago about an apparent lapse in the President's memory over the weekend, I was told that talking about that as going down a rabbit hole.

Today, it's not a rabbit hole, it's 388 pages of a government report that concludes essentially, one of the main reasons not to charge President Biden or pursue charges is because if he wins another term, he's not going to be -- he's going to be in his late 80s, by the time they get to him, Laura.

INGRAHAM: And the jury would find him perhaps very sympathetic, because he's -- of his current state. I mean, that was -- that was basically the import of this. Peter, do you believe the White House will further address his lack of availability for comprehensive one-on-one interviews, especially that usual Super Bowl interview that presidents tend to like to do?

DOOCY: Yes, my first read on this would be that they're going to actually have to make him more available, because you can't just say, his memory is fine. Just take my word for it, when we know that the Special Counsel has listened to all these interviews that he did with the ghostwriter of his book and said that it was painfully slow listening to the President talk. The number of things, important milestones in the President's life, that he says that he does not remember the exact timing of, it's not going to be enough for folks around here to say, we work with him every day, the staff has a hard time keeping up with him.

It just -- should take our word for it. We're the ones that see him, that's not going to be enough anymore. So, I could be wrong. But I would guess that we're going to start to see more of him and we'll see if that helps.

INGRAHAM: Are your colleagues going to demand that given they are in the press corps, and one would think that they would be really kind of tired of being given the stiff arm from the White House.

DOOCY: People ask for access. But I think it's one of those things that the White House press team knows that we're never going to be satisfied. We can talk to him every day. And it's never going to be enough. However, the amount that we have seen him since he came into office, because when it was the early days, social distancing, no guests at events, he would talk, there'll be like 13 reporters in there. There would be a back and forth after almost every single set of remarks for like two years.

And now that happens maybe once every two months. And so, in terms of demanding more access, I don't know that they really care about what we want. But it would be great.

INGRAHAM: We've got nine more months, Peter. Nine more months to the election, we'll see how they can hide him or are they going to put him out there. Peter, thank you. Great to see you tonight. All right, coming up Joe Biden use the same defense for having classified documents as President Trump. Only one of them got charged. Mike Davis, Chris Landau react to all of this, next.

(COMMERCIAL BREAK)

INGRAHAM: The Biden defense in that classified documents case, well, he told the investigators like presidents and vice presidents before me, I understand these notes to be my personal property. They're mine. Well, sound familiar? Yes, we've heard that defense before, but with a much different prosecution response.

(BEGIN VIDEO CLIP)

DONALD TRUMP (R), FORMER U.S. PRESIDENT AND 2024 PRESIDENTIAL CANDIDATE: Threatening me with 400 years in prison for possessing my own presidential papers, which just about every other president has done, is one of the most outrageous and vicious legal theories ever put forward in an American court of law.

(END VIDEO CLIP)

INGRAHAM: Joining me now, Mike Davis, former clerk for Justice Neil Gorsuch and Chris Landau, former law clerk to Justice Scalia and Thomas, former ambassador to Mexico. Mike Trump was obviously indicted in his case; Biden gets off with the -- he's old and can't remember anything defense. He wouldn't even answer investigators when they asked if he believed his notes contain classified information, and whether he believed he was authorized to possess classified information after his vice presidency or whether he took steps to avoid writing classified information in his notebooks.

Mike, your reaction to the special prosecutor's decision.

MIKE DAVIS, FORMER GORSUCH LAW CLERK: Well, I think what is important to remember is, it is Biden, Attorney General Merrick Garland, who made the decision to charge President Trump for retaining presidential records, he's allowed to have under the Presidential Records Act. He had them in the office of former president heavily guarded funded by Congress.

And then Garland's made the decision not to charge Biden for having five sets of stolen classified records moved several times unguarded for years, accessible by Biden's Chinese agent, almost certainly used by Hunter to secure Burisma funding and how does Merrick Garland explain that he's going to charge Trump for records he's allowed to have but not charged Biden for records that he stole?

INGRAHAM: I mean Chris to laymen out there, and you both clerked, we all clerked on the court, but for laymen out there hearing this, they think this is just a double standard. I mean it's just totally political. Hur though is a Trump -- he was a Trump appointee. But your reaction to this, is this a double standard?

CHRIS LANDAU, FORMER THOMAS AND SCALIA LAW CLERK: Laura, of course, it's a double standard. And worse than that, Laura, this is an emperor has no clothes moment. I mean, this man is obviously not fit to be President of the United States, much less to be running for another term. At this point, you have to ask the people who are his enablers. Have you no decency. I mean, what the heck is going on here? And obviously, the Hur report talks about the history of disputes over presidential papers going way back and tries to distinguish or suggest that there's a distinction for Trump, that Trump wasn't as forthcoming, but that's a process crime.

Again, this is just like the Mueller report. We get process crimes that they talk about. You know, this has no basis to charge a former president for the first time to be bringing criminal charges, Laura, it's just a travesty.

INGRAHAM: Now, CNN's Elie Hoenig referenced Trump's statements today and mentioned this point. Watch this, Mike.

(BEGIN VIDEO CLIP)

ELIE HONIG, CNN ANCHOR: Donald Trump repeats the tired false refrain that he's somehow protected by the Presidential Records Act.

UNIDENTIFIED MALE: Right.

HONIG: That has no application to any of this.

(END VIDEO CLIP)

INGRAHAM: No application, Mike, Going right at your favorite response?

DAVIS: Well, I mean, Joe Biden said that the Presidential Records Act applies but apparently not when his Justice Department is bringing a political prosecution against their political opponent, Donald Trump. The Presidential Records Act as any documents created or received by the President's and his White House staff and that includes documents that are sent to him from the CIA, the State Department, the Defense Department, those are presidential records.

INGRAHAM: Chris, I want to ask you about the White House attorneys response to this report, saying that the comments in the -- basically saying it's inappropriate, inaccurate editorializing about the President's mental condition saying they took issue with the conclusions, but it was showing signs of essentially severe bias in the report. Your reaction to that?

LANDAU: Yes, Laura, as I think you mentioned earlier, it's very material to the ultimate outcome of the report because this thing was not a clean bill of health by any means, as the President was suggesting this afternoon. This is a very damning report, that concludes that the President did willfully take these documents and endangered national security. And the only reason this says we're not prosecuting is just because of his diminished mental capacity. This is a Justice Department report. This is the man who's negotiating with Putin and Xi Jinping, who's had their missile strikes on the Houthis, who may take us to war in Iran --

INGRAHAM: Who's in charge --

LANDAU: Laura, this is very disturbing.

INGRAHAM: Yes, but it goes to the point --

LANDAU: That is a great question --

INGRAHAM: -- I raised earlier. This entire presidency has been propped up by a lie that he was in charge.

LANDAU: Yes.

INGRAHAM: And when we read this special prosecutor's report, based on our direct interactions and observations with him, he is someone for whom many jurors will want to identify reasonable doubt, it would be difficult to convince a jury that they should convict him, by then former president well into his 80s of a serious felony that requires a mental state of willfulness. A mental state of willfulness. I mean, if you can't answer questions about when your own son passed away, the timeframe, are we to believe that Biden's making the calls about foreign policy trade, the border, Mike Davis?

DAVIS: I mean, think about what Hur is saying here that Biden is a criminal, but he's a lovable, demented criminal, so we're not going to charge him.

INGRAHAM: Well, we understand that the President, they see that this is a problem. And President Biden is planning now to address the nation at 7;45. So, we're going to stay on this.

Chris, the fact that they had to send their two lawyers out to respond to this report, when the report actually, in a sense, not vindicate -- says, we're not going to charge him because we don't think a jury will be able to find and this man with such a diminished memory. Again, about basic things.

So, they don't charge him. Biden kind of brags about that today, when he goes up there, avoiding the other issues. But then the lawyers feel compelled to come out to say, no, no, it's inaccurate and appropriate, you shouldn't have talked about his mental state. Wrong, wrong, wrong.

Now, the President is coming out at 7:45. We assume we don't have any other guidance on this. There's a reason he's coming out. So, I'm vigorous, I'm here, I'm with you, I'm leading the country. They're going to have to do more than come out for five minutes at the end of the day or 10 minutes.

LANDAU: I would think so, Laura, I think the gig is up. The emperor has no clothes. I mean, you have to believe your own eyes and ears are lying to you at this point, and they just can't hide it anymore. At some point, you just can't keep lying anymore. It's too obvious, Laura.

INGRAHAM: I mean, I mean, Mike, Mitterrand is gone. Helmut Kohl is -- passed away. But Biden keeps talking about conversations. Maybe he does actually think he's having conversations with him. I mean, I actually -- to some -- in some way, feel sorry for him. I blame his family. They know exactly the kind of condition he's in. My own father suffered from decline as so many of our aging parents do. It's just kind of a natural course that most people take.

But this is no joke at this point. We have serious issues facing this country. And we're all supposed to pretend that oh, it's kind of cute that he mentioned Mitterrand or it's kind of cute that he didn't know when seminal acts in his life occur. Those happened a long time ago. How serious of a juncture have we arrived at, Mike?

DAVIS: Well, you have a president who does not have the mental capacity to stand trial for criminal charges, including, according to his own Justice Department. How can he be the President of the United States, and the commander-in-chief. He doesn't remember when he was the vice president. He doesn't remember when his son died. I mean, this is very scary stuff. And if we actually followed the constitution, this might be the time for Biden's cabinet to look at the 25th amendment on his mental --

INGRAHAM: I was just going to say that --

DAVIS: -- incompetence.

INGRAHAM: I was just going to say that. Chris, you were in the administration, as ambassador to Mexico, when the Democrats were rushing in remember to say that, oh, who in the -- who in the Trump cabinet is going to act on the 25th Amendment. There was rumors that people were actually considering doing that. I think it was a Pentagon chief perhaps.

LANDAU: A 100 percent.

INGRAHAM: Oh, yes, so that was a -- that was a go-to line from the Left during the Trump presidency. That's how desperate they were. Now we actually have a situation where, I mean, you hate to say it, but it's for grave circumstances like this. I mean, you're the constitutional scholar here, Chris, is this -- is this a potential 25th Amendment situation, if people are being honest.

LANDAU: 100 percent, Laura. This President, if he's asking, am I still the Vice President? OK, if he's asking that question, he cannot possibly be faithfully executing his duties as President of the United States of America. This is exactly what the 25th Amendment is about.

And you are right. We heard all about the 25th amendment under Trump. It was a parlor game in Washington. That was a joke. But this is actually what it's about. But let me tell you, as you know better than I, this will be buried, nothing to see here, folks. Let's just move along. That's been their spin for years now. I don't necessarily think that will change.

But at some point, the American people just have to say enough is enough.

INGRAHAM: Yeah. Well, I think that approach has been their approach to major, major issues, including the border. They tried to pretend it wasn't a crisis. It always was a crisis. They tried to pretend that inflation was never going to come. Inflation was coming. They tried to pretend they could spend with no repercussions. They couldn't spend with no repercussions. Pretend that Biden could forgive student loans. The court said no.

So, they've been pretending for a long time, but I think pretending there's not a crisis at their own peril. Stay with us. And we also have the former Speaker of the House, Fox News contributor, Newt Gingrich. He joins me as well now.

Newt, your reaction tonight. The president doesn't often come out to address the nation at 7:45. He's usually not in the best shape at 7:45 given past experience They're worried about this report. No doubt about it.

NEWT GINGRICH, FOX NEWS CONTRIBUTOR: Well, it'll be interesting to see what he says. I mean, this report basically says that he is so incompetent, and so sad, and so lacking in any kind of memory, that no jury would convict him of willfully breaking the law because they don't think he has enough cognitive ability to willfully do anything. If you actually read what Hur wrote, the special prosecutor wrote, it's beyond devastating.

He couldn't remember what year he was vice president. He couldn't remember what year his son died. You can just go down the list. It makes you feel sad, and it makes you wonder how his family could allow him to be this publicly humiliated. So, I have no idea what he's going to say at 7:45.

At one level, and it won't happen, you can imagine him saying, you know, I read the report and he's right. and I can't really be president, so I'm resigning, and Kamala Harris will be the new president. That has its own set of problems and is the best argument against the 25th Amendment.

But I read this report today, and I'm now increasingly convinced he will not be the Democratic nominee. The party will rebel and will figure out you can't possibly ask the country to give four more years to a person who his own Justice Department says is mentally so incompetent that it wouldn't be fair to try him because he couldn't possibly know what he was doing. That's the essence of what they're saying.

Well, if that's true, how can he be commander in chief? How can he be dealing with Iran or Russia or China? I think this is a big, big problem and should be a serious national debate.

INGRAHAM: Well, we have to play this, Newt. This was when Biden ridiculed Trump over his glass of high-docs case. Watch this.

(BEGIN VIDEO CLIP)

UNKNOWN: When you saw the photograph of the top-secret documents laid out on the floor of Mar-a-Lago, what did you think to yourself looking at that image?

JOE BIDEN, PRESIDENT OF THE UNITED STATES OF AMERICA: How that could possibly happen? How anyone could be that irresponsible?

(END VIDEO CLIP)

INGRAHAM: It's irresponsible when Trump has personal presidential records, presidential records in Mar-a-Lago. But it's not irresponsible when you stuff them between some old hand-me-down clothes, some old files and shove them up near the classic Corvette. That's totally cool.

GINGRICH: Which, by the way, Hunter Biden was working on. Look, I said, as soon as I read this, I said, they don't prosecute Hillary Clinton. They don't prosecute Joe Biden. They should drop the case against Donald Trump. I mean, how can the attorney general justify a case against Trump for doing less than what Biden did over a shorter period of time?

And the truth is that Trump, in fact, offered to cooperate. The FBI came and visited and called a couple days later and said, would you put an extra lock on the door? I mean, this makes the Justice Department look even more totally outside the law. And I think the attorney general has a real challenge now.

I want to hear his explanation for how they avoided Hillary Clinton after deleting 33,000 emails and physically destroying her computer. And now they're going to avoid Biden. And remember, Biden's ghostwriter destroyed the audio tapes that they had made once he learned there was a special prosecutor.

So, when you talk about obstruction they certainly were engaged in obstruction. And I don't understand how any reasonable person can think that it's OK to ignore Hillary, it's OK to ignore Joe Biden, but now this Donald Trump problem, that's real. I think it puts the entire Justice Department process totally in disrepute. Unless the attorney general says we have to apply the same standard to Trump that we've applied to these two Democrats, and therefore the case is dismissed.

INGRAHAM: There should be a lot of resignations tonight after this report came out. A lot of resignations, given what we've learned. There are a lot of people who haven't been doing their jobs and have been covering for Biden.

Now, the Democrats knew it went out on a limb today for Biden. Democratic Senator Mark Kelly told CNN he's not seen any signs that Biden has a poor memory. Richard Blumenthal dismissed some of the claims that questioned Biden's memory, saying, I've talked to him at hours on end, as recently as a couple of months ago. And the president is as sharp as ever.

I mean, Newt, come on. I have it on good authority. A friend of mine was in the White House a couple of weeks ago, and she is not a Trump fan. Let me just say this. And she was up close and personal with the president and was shocked. Her words were shocked about his state.

GINGRICH: Yeah, I think people have to understand. The President of the United States has a military officer with him at all times carrying the briefcase which has the nuclear codes to launch weapons and, potentially, create World War III in a matter of minutes.

And we're now told we have a president who literally is so cognitively impaired based on his own Justice Department that he can't be tried because no jury would think he was capable of doing something deliberately.

I mean, if you read the actual language, and it's all available, it's all public information, if you read the actual language of the report, you'll read --

INGRAHAM: Yeah, we've been quoting it. Yeah. We've been quoting it all night.

GINGRICH: Literally.

INGRAHAM: I mean, it's -- yeah.

GINGRICH: Well --

INGRAHAM: I mean, they're basically saying he's too addled.

GINGRICH: I'm saying a reasonable person can look at that.

INGRAHAM: Yeah. He's too addled to actually --

GINGRICH: -- does raise the question, would it be less of a risk for America to have Kamala Harris, as bad as she is, to have Kamala in charge because she's at least here.

INGRAHAM: Well, but Newt -- I think, Newt, you're a lot smarter than I am. Newt, Newt, Biden is not in charge. I think we have to stop saying he's in charge. We don't know who's in charge, which I think is very, very disturbing. I mean, people say Obama's still in charge. Who knows who's in charge, you know? And maybe it's the National Security Advisor, maybe it's Blinken, and I don't know. We have no idea who's in charge. Maybe it's KJP. I mean, we have no idea who's in charge.

All right, Fox News Senior National Correspondent Kevin Corke joins me now from the D.C. Bureau with the latest details from the White House. Kevin, what can you tell us?

KEVIN CORKE, SENIOR NATIONAL CORRESPONDENT: Listen, this is one of those stories, Laura, that we will remember for quite some time. Of course, we're talking about damning allegations and a very lengthy report from the special counsel, Robert Hur. As you pointed out, he recommended against criminal charges in part because he believes a jury, Laura, would view President Biden as a, quote, "elderly man with a very poor memory." Just one of the many stunning proclamations in a 388-page investigation record, which, as you know, admonished the 81-year-old for willfully flouting legal restrictions by keeping sensitive documents throughout his career as both a senator and as a vice president.

This may be, tonight, a chance for the president to not only push back against this narrative that somehow, he did something nefarious. You heard earlier today he tried to draw a very clear distinction between what he did and what the former President Trump is accused of having done. Still, that said, I for one would like to see him talk more about why he was in possession of all this material, especially for quite some time.

There's something else the president could want to talk about tonight in addition to what happened, obviously, with the special counsel. In fact, he may want to allied past any questions related to that. We also have a very serious budget circumstance here in Washington. We have a situation where we have numerous foreign entanglements, including, obviously, one in Gaza between Israel and the Hamas. He may want to address that.

And I wouldn't be surprised, Laura, as I sort of talked to some of my sources. In fact, I've been checking my phone here saying if I got any new messages. I have some feelers out. I let you know. I would also not be surprised to see the president try to use this one moment to really lay out his argument for a pathway forward as it relates to, not only national security, but international security.

We can talk about the border as well, by the way. But for me, especially today here in Washington, everyone is talking about what the special counsel had to say today. Robert Hur would -- I think he's scathing report that said, among other things, that Biden's practices present very serious risks to national security. He also added that the president portrayed himself as an elderly man.

INGRAHAM: Thank you. Joining me now is Ned Ryun, American Majority founder and CEO. Ned, you're with us now. Your reaction to what you're seeing, I might have some audio problems here, but I'm going to let you go ahead. Ned, the double standard argument has been made. You're reading through this report and you see in excruciating detail where all these documents were. Again, they did that with Trump. They're in the bathroom. They're under the safe. And I can hear you now. It's good.

And so, excruciating detail, you know, what they were labeled and how they were just lying all around. And Biden's going to say, oh, no, this is different. How is it different?

NED RYUN, AMERICAN MAJORITY FOUNDER AND CEO: Yeah, it's not. I mean, again, you mentioned double standard. I mean, I think the thing that's terrifying to me is when the special counsel says that he's in such poor health he can't remember anything, it's terrifying to think, and I don't think he's actually in charge, but what if he is in charge, that you're saying this guy has such poor memory, is in such poor health that he can't be accused of these things because he literally can't remember.

And if that's true, why is he still considered the leader of the free world? And if he's not in charge, who's in charge? And then what's the point of having elections if somebody sitting in the White House that clearly has such poor memory and has such cognitive decline, that they can't be held accountable supposedly for their actions.

But Laura, this continues to play out as I thought it might. I mean, a lot of people have looked at this one side of the coin of all this lawfare against Trump as though it's somehow going to take him down, as though somehow it was going to succeed. There were some fatalists among people that said they're going to get him on something.

I would challenge people to look at the other side of the coin. What if this all starts to fall apart and the normies, the people that really aren't political but that are voting this fall, start to realize and it becomes abundantly clear that this is purely political, this is lawfare that is meant to take out Trump that is on the most spurious of charges. There's no validity to this.

You see the Fani Willis thing falling apart. You see this happening. You see the Colorado case today that I think was a complete disaster in front of the Supreme Court.

INGRAHAM: Engoron.

RYUN: And what if it's on the foot?

INGRAHAM: Judge Engoron. Let's not forget him.

RYUN: On the flip side of the coin, these things all fall apart. And instead of bringing down Trump, it causes him to surge with the normies and the independent voters. I want people to think of that side of the coin.

INGRAHAM: Hey, Ned, so we don't know what the president's going to say today, tonight, but they don't come out and they don't put him out there unless it's absolutely necessary. No way, no how do they risk him on live television unless it's absolutely critical that he goes out. Am I correct on that?

RYUN: You are correct. And again, it kind of ties into something that you and I have talked about a couple times, that they are holding on to the slimmest of margins with this empty husk of a person trying to keep him moving forward in hopes that they can continue to fool the American people that he's somehow able to run for reelection in November.

But again, it's a very tenuous hold that I think they have on keeping him propped up. And they're doing all that they can to make sure they allay the fears of people that somehow this is all going to implode sometime this summer. I'm starting to sense that, again, if they cannot hold this together, and they're realizing the desperate situation that they're in, Laura --

INGRAHAM: Well, they think they're going to lose, they're going to pull them from the ticket.

RYUN: I'm telling you, August DNC.

INGRAHAM: Yeah. They're going to pull them from the -- I mean, if they -- look, they are the most -- the thing that they're most afraid of, Ned, is that Trump's going to get back to Washington and this time the swamp will be drained, OK. And this time it's like no more Mr. Nice Guy, right? He's going to drain the swamp.

RYUN: Day one.

INGRAHAM: Everything is on the table.

RYUN: Day one against the administrative state. Day one, restoration of the republic, devolve and break apart the administrative state and remove these unelected bureaucrats from doing the actual governing and return it back to the duly elected representatives of the American people.

INGRAHAM: Yeah, they're worried about a melee moment in Washington where suddenly 20 percent of the federal workforce is giving a pink slip, and the rest of them are put on notice.

RYUN: Maybe more.

INGRAHAM: Yeah. Well, I think they're definitely afraid of that. And if they believe that he's so wounded, with the New York Times tonight saying Biden cleared in documents case, report raises concerns about his memory, and it's every headline. I mean, they can't deep-six what's in the actual report. They're trying, but they really can't.

So that's the lead story in the New York Times tonight. Ned, stay with me. Yeah, just hold on, Ned. We had to get back to Mike Davis, former law clerk along with Chris Landau, both clerked on the Supreme Court.

Mike, you know, we are going to see what President Biden, what they try to cook up for him tonight to clearly restore the public's faith in his abilities. I think it's going to take a lot more than whatever they can produce on a teleprompter at 7:45-plus at night.

MIKE DAVIS, FORMER GORSUCH LAW CLERK: Man, those White House military doctors are going to have to load him up with a lot of drugs after today.

INGRAHAM: OK, stop. We don't know that. Stop, stop, stop.

DAVIS: To keep him --

INGRAHAM: But the truth is, this is a kind of do-or-die moment for Biden, politically. This is a low watermark after many low watermarks for him. He didn't get the border bill. They didn't get that through for political cover. They're going to lose this case in Colorado at the court, as we already discussed. And now this report about his mental faculties. He's not chalked up a lot of wins lately.

DAVIS: No, I mean, the Biden presidency is in complete and total freefall. And I don't know how the Democrats are going to rescue this. You have to wonder what is their Plan B? Who are they going to bring in to replace Biden on the ticket? How do they pass over the sitting black female vice presidents and replace Biden with someone who actually has a shot at beating President Trump on November 5th, 2024. They're in a very bad place.

INGRAHAM: Chris, I'm looking at the New York Times tonight, and the way they describe it is this is a legal exoneration, but a political nightmare. Again, I'm reading headlines just up on the New York Times. This has been the great defender of Joe Biden, but they see that this -- he's at a crossroads here. And I don't see at his age with his mental declining mental state, and I know it sounds harsh to say that, but it's there. He's quoted in this report. These are not made-up quotes. These are quotes from the investigators in this report. I don't see how you can say anything except this is on -- this is literally on life support right now.

LANDAU: I'm surprised the New York Times doesn't headline this, Republicans Pounce on Report. I mean, that's kind of par for the course for them. Yeah, look, I think the question now is can -- right. Oh, OK, is that there, too? OK, go figure.

INGRAHAM: That's sprinkled in the coverage, you know, Republicans Pounce on Report. But in the end, I mean, everyone will hear about what's been in this report. I mean, if people are in any way connected to the news, in any way online, I mean, they're doing screen grabs of this special counsel's report, and the screen grabs are devastating. Devastating.

LANDAU: Laura, this is forcing us to confront what we've been seeing now for a long time, but especially getting worse in the past year. This man is not fit to be president. I think the question is, can he finish his term? Much less, can he actually run again and serve for another four years? I don't see how he allays those concerns, at least the reelection concern tonight.

I mean -- yeah, I think the question is, what the heck is he doing in that office right now if he's not even fit to stand trial?

INGRAHAM: What are they telling him? Is he actually cognizant and aware of how serious this is? That question I'll pose to Victor Davis Hanson, who's still with us.

Victor, I mean, given kind of his approach. Like he goes out, they have the prompter there. When he goes off script, he makes comments that make no sense, refer to dead people, doesn't know how to get off a stage, has trouble, you know, with his gait, you've seen that before. But do you think he really is cognizant of how much of a hole he's in right now?

VICTOR DAVIS HANSON, HOOVER INSTITUTION SENIOR FELLOW: I don't know. But I think they're in a rock and a hard place, Laura, because they have two choices. He can go out and try to be cognizant and show everybody that he's in control. And the more that he does that, the more he justifies a sentence or an indictment, because the prosecutor said he was guilty of these alleged crimes. And if he's as competent as he says he is, and they say he is, then he's more guilty than ever.

On the other hand, if he goes out and says, I'm not guilty because look at me, I can't really know what's -- I don't really know what's going on, then he's not qualified to be president. So, he's either going to be -- according to the logic of it, he's either going to be indicted or he's not going to be a president.

And I don't -- I think that seems simplistic, but that's the real truth. And they can't get out of that because the prosecutor has basically told the nation, this man would be indicted if he were not cognitively challenged.

So, he's going to come out tonight and do what? I'm not cognitively challenged, but I deserve to be indicted, or I am cognitively challenged and I'm not qualified to be president. I don't know how they get around that. And people aren't stupid. They're watching this. They know that.

INGRAHAM: Yeah, Victor, getting back to the media, the Washington Post is kind of trying to, you know, gloss over this. But even CNN takeaways from scathing report into Biden's handling of classified documents. I mean, these aren't headlines you're used to seeing in the traditional corporate press, maybe they feel like now it embarrasses them for having protected him all these years.

HANSON: I think so. And I think they're very scared that all of these cases against Trump are starting to crumble. We saw that with Fani Willis. And I think they feel, wow, it's going to be politically impossible now to indict Trump when he had putative power to declassify, when he didn't have these documents in his possession for 15 years, when Mar-a-Lago was more secure than that rickety garage of Joe Biden. It's just -- as a political matter, it's almost impossible now to go through that.

The public outrage would be overwhelming. It would be unendurable. And I think they're afraid that these things are blowing up in their face and they're giving enormous empathy for Donald Trump. He's the beneficiary of this entire sorted date we had today, Laura.

INGRAHAM: Well, we even have a situation, Victor, where Jake Tapper on CNN was pressing a former Biden administration official, Kate Bedingfield, about the president's memory lapses. I mean, again, there's almost -- it reminds me of how they treated Bidenomics, right? Or they didn't talk about the disastrous Afghanistan withdrawal. If they pretend like it's not actually happening, then people will forget about it.

People forget that people were falling from plane wheel wells, or people forget that, you know, they can't afford a house now, a mortgage. But the spin, it doesn't work. It falls apart. But that's all they thought they had was a P.R. problem. And if they treat this moment like it's a P.R. problem, Victor, where does this go?

HANSON: Well, I think they've jumped the proverbial shark. And I think right now there's a lot of journalists who are saying, I want to get out of Dodge. I want to go on record that I've always said, I always believed he had mental problems or he was not. And I think they're going to try to be the first to say, I'm a -- I have integrity. I'm empirical. I'm disinterested because it's going to get worse and worse. And they don't want to be the last person on the Biden incompetent train, and I think they want to get off.

And I expect just the opposite. I think a lot of people are going to say, I knew this the whole time, I just couldn't say so. Because I think we're reaching a point where it's -- I don't see how he's going to be tenable when a federal special prosecutor appointed by his own attorney general says that he's essentially unfit to be President of the United States. What do you do after that?

INGRAHAM: Well, Newt, I'm going to get back to Newt Gingrich for a moment. Newt, they've tried but failed to explain this away from the White House briefing room. And Karine Jean-Pierre has been pushed on this, the memory lapses, especially the meter on, and it's so obvious now. This is what she said.

(BEGIN VIDEO CLIP)

UNKNOWN: The president, in his public remarks, talked about having conversations in 2021 with European leaders who were deceased at that time.

UNKNOWN: As it relates to the names and what he was trying to, you know, what he was trying to say -- look, many people, elected officials, many people, you know, they tend -- they can, they can misspeak sometimes.

(END VIDEO CLIP)

INGRAHAM: I mean, Newt, at what point do the journalists try to save the remaining shreds of their own credibility here after having covered for Biden for three years?

GINGRICH: Well, let me take this to a slightly different level, closer to where I think Victor Davis Hanson was. This isn't political. The President of the United States, the man who could create a nuclear war, has been declared by his own Justice Department to be mentally incompetent. Remember, their argument for not trying him is that no jury would believe that this pathetic, aging person who has no memory could have done anything deliberately.

Now, I find that terrifying. I mean, if we literally tonight have a President of the United States who is that incompetent, this is the worst thing since Woodrow Wilson had a stroke, and for a year, his wife ran the White House with nobody realizing he was totally incapacitated.

We now are being told publicly by the Justice Department that Biden is, for all practical purposes, incapacitated, and this is the man who could start a nuclear war. I think it is the most sobering thing I can think of, frankly, in American history. This is a huge crisis. And it's way beyond ***politics***. It's about the very survival of the United States.

INGRAHAM: Well, we have really serious foreign policy crises that we're facing. We have Taiwan on edge because of China's ambitions. We have an ongoing massacre of Christians happening in Africa, which we don't talk about. You know, we have, obviously, the war in Ukraine, kind of at the very, you know, most charitable description, at a stalemate. And of course, we have the Middle East.

So -- and we got the border. So, we have all these problems. And is this not a time, Newt, where our adversaries would feel most comfortable in taking advantage of this obviously addled president?

GINGRICH: Well, I understand also that North Korea probably has enough nuclear weapons now, and they're increasingly belligerent and increasingly leaning towards attacking South Korea. So, add all these things up. And then just say this to yourself, in every major capital, the intelligence officers tomorrow morning are going to walk into their leader and say, here is what the American Justice Department has told us about the President of the United States. He is mentally incompetent.

I find that as sobering as anything I have seen, including in the entire Cold War. This is a really dangerous moment for America.

INGRAHAM: Well, Section 4 of the 25th Amendment, and I do not say this lightly, could be at play here. I mean, we have cabinet members who I assume are concerned about this. I just want to read this, Newt, for people as their constitutional refresher, pardon not having the graphic up.

But whenever the vice president and a majority of either the principal officers of the executive departments, or such other body as Congress may, by law, may provide, transmit the president pro tempore of the Senate, the Speaker of the House, their written declaration that the president is unable to discharge the powers and duties of his office. The vice president shall immediately assume the powers and duties of the office of acting president.

Could we be at that moment, Newt?

GINGRICH: I think we're very close to it, if in fact he continues to decay. And I think this speech is really important in trying to assess, you know, I mean, what is he going to try to communicate to the country tonight? And my hunch is that nobody in the White House quite gets the devastating nature of the way in which he was dismissed by the special counsel as being literally incapable.

INGRAHAM: Oh, here he is. He's coming out.

GINGRICH: -- for doing something --

INGRAHAM: We got to go. Thank you. The president is about to walk out. And I think we're going to take it. Oh, it's not him. OK. Well, didn't look like Biden. Newt will continue. They gave us a 30 second warning. And as these things go, they're just establishing so --

GINGRICH: I was hoping you were going to take the president.

INGRAHAM: Sorry, I'm going to -- sorry, I'm going to cut you off in a second. But I think they do realize this is, this is bad. Because they don't -- again, I said this before, and I'm going to say it again. They don't put Joe Biden out. Here he comes. We'll go to the president on his way out at the White House.

JOE BIDEN, PRESIDENT OF THE UNITED STATES OF AMERICA: Let me say a few things before I take your questions. As you know, the special counsel released his findings today about their look into my handling of classified documents. I was pleased to see he reached a firm conclusion that no charges should be brought against me in this case. This was an exhaustive investigation going back more than 40 years, even into the 1970's when I was still a new United States senator.

The special counsel acknowledged I cooperated completely. I did not throw up any roadblocks. I sought no delays. In fact, I was so determined to give the special counsel what he needed, I went forward with a five-hour in- person, five-hour in-person interview over two days on October the 8th and 9th of last year, even though Israel had just been attacked by Hamas on the 7th and I was very occupied. It was in the middle of handling an international crisis.

I was especially pleased to see special counsel make clear the stark distinction and difference between this case and Mr. Trump's case. The special counsel wrote, and I quote, "several material distinctions between Mr. Trump's case and Mr. Biden's are clear, continuing to quote, "most notably, after giving multiple chances to return classified documents to avoid prosecution, Mr. Trump allegedly did the opposite."

According to the indictment, he not only refused to return the documents for many months, he also obstructed justice by enlisting others to destroy evidence and then to lie about it.

**Load-Date:** February 9, 2024

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