

# [***Biden 'Willfully Retained' Classified Info But Charges Unwarranted: Report***](https://advance.lexis.com/api/document?collection=news&id=urn:contentItem:6B91-1CJ1-JBR6-90KW-00000-00&context=1516831)

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**Highlight:** Investigators found evidence President Biden mishandled classified information as a private citizen but not enough evidence that he committed a crime.

**Body**

President [*Joe Biden*](https://www.newsweek.com/topic/joe-biden?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) "willfully retained and disclosed" classified documents as a private citizen after stepping down as vice president, according to a special counsel report released Thursday, but prosecutors concluded there was not enough evidence to warrant criminal charges in the matter.

In a 345-page report to the Justice Department, Special Counsel Robert Hur said investigators found evidence Biden mishandled classified information after leaving the Obama administration, in the years before he took office as president.

But Hur said there was not enough evidence "to establish Mr. Biden's guilt beyond a reasonable doubt."

"We conclude that no criminal charges are warranted in this matter," Hur wrote.

Hur added that investigators would have drawn the same conclusion even if the [*Department of Justice*](https://www.newsweek.com/topic/department-justice?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) did not have a long-standing policy of not charging sitting presidents.

While the report cleared Biden of criminal wrongdoing, it nonetheless painted an unfavorable portrait of his handling of classified documents pertaining to U.S. national security and foreign policy during his decades-long career in ***politics***.

Biden kept notebooks that contained classified information in "unsecured and unauthorized spaces" at a home he rented in Virginia and his home in Delaware after leaving the vice presidency, the report found.

Biden used some of the information from the notebooks he kept as vice president as material for the 2017 memoir he wrote with the help of a ghostwriter, according to the report.

Some of the classified documents pertained to the war in Afghanistan, and the decision by the Obama administration in 2009 to send more U.S. troops to the country. Biden kept the notes to have a record of his strong opposition to the troop surge, investigators concluded.

"He always believed history would prove him right," the report said.

Despite concluding that Biden "willfully retained" classified information, prosecutors listed several reasons why they believed there was not enough evidence for a jury to find him guilty beyond a reasonable doubt.

One reason was the fact that Biden's memory was "significantly limited" in his interviews with his ghostwriter for the 2017 memoir, in which he referenced classified information, and in Biden's interviews with prosecutors for the special counsel investigation in 2023.

Prosecutors also cited Biden's cooperation with the investigation.

"His cooperation with our investigation, including by reporting to the government that the Afghanistan documents were in his Delaware garage, will likely convince some jurors that he made an innocent mistake."

Biden noted his cooperation with the investigation in a speech Thursday to House [*Democrats*](https://www.newsweek.com/topic/democrats?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) shortly after the report was released. Biden said he sat for five hours of interviews over two days last fall, on Oct. 8 and 9, 2023.

"The special counsel acknowledged I cooperated completely," Biden said.

Special Counsel to the President Richard Sauber said in a statement Thursday that Biden "takes classified information seriously and strives to protect it."

The report also concluded that jurors would be hard-pressed to vote to convict Biden when he would be a former president "well into his eighties," an apparent reference to the unlikelihood that a trial -- if Biden had been charged with a crime -- would have happened before he left office.

"At trial, Mr. Biden would likely present himself to a jury, as he did during our interview of him, as a sympathetic, well-meaning, elderly man with a poor memory," the report said.

That line will draw attention to Biden's age, a consistent political problem for the 81-year-old president as he runs for re-election and faces a likely rematch against 2024 Republican frontrunner and former President [*Donald Trump*](https://www.newsweek.com/topic/donald-trump?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships). Polls show a majority of Americans are concerned about Biden's age, though the concern also extends to Trump, who is 77.

Hur's decision that there was not enough evidence to charge Biden with a crime will also give Trump ammunition to argue that he should be cleared in a Justice Department investigation into his handling of classified documents after leaving office.

Trump was charged by the Justice Department with retaining classified information, obstruction of justice and making false statements in a 37-count indictment. Trump denied any wrongdoing in that case and three separate cases where he faces criminal charges.

The former president told [*Fox News*](https://www.newsweek.com/topic/fox-news?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) Digital in an interview Thursday that Special Counsel [*Jack Smith*](https://www.newsweek.com/topic/jack-smith?utm_source=Synacor&utm_medium=Attnet&utm_campaign=Partnerships) should drop the charges against him in the classified documents case now that Biden has been cleared.

"They should immediately drop the case against me," Trump said.

[*Link to Image*](https://d.newsweek.com/en/full/2346703/joe-biden-classified-documents.jpg)

**Graphic**

Joe Biden classified documents

Alex Wong/Getty Images

President Joe Biden walks towards to the Marine One prior to a South Lawn departure from the White House on February 8, 2024 in Washington, DC.

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