

John P. ...

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EXECUTIVE SUMMARY

We conclude that no criminal charges are warranted in this matter.¹ We would reach the same conclusion even if Department of Justice policy did not foreclose criminal charges against a sitting president.²

Our investigation uncovered evidence that President Biden willfully retained and disclosed classified materials after his vice presidency when he was a private citizen. These materials included (1) marked classified documents about military and foreign policy in Afghanistan, and (2) notebooks containing Mr. Biden's handwritten entries about issues of national security and foreign policy implicating sensitive intelligence sources and methods. FBI agents recovered these materials from the garage, offices, and basement den in Mr. Biden's Wilmington, Delaware home.

However, for the reasons summarized below, we conclude that the evidence does not establish Mr. Biden's guilt beyond a reasonable doubt. Prosecution of Mr. Biden is also unwarranted based on our consideration of the aggravating and mitigating factors set forth in the Department of Justice's Principles of Federal Prosecution. For these reasons, we decline prosecution of Mr. Biden.

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The classified documents and other materials recovered in this case spanned Mr. Biden's career in national public life. During that career, Mr. Biden has long seen

¹ We submit this report to the Attorney General pursuant to 28 C.F.R. § 600.8(c), which states that, "[a]t the conclusion of the Special Counsel's work, he or she shall provide the Attorney General a confidential report explaining the prosecution or declination decisions reached by the Special Counsel."

² *A Sitting President's Amenability to Indictment and Criminal Prosecution*, 24 Op. O.L.C. 222, 260 (2000).