



THE WHITE HOUSE
WASHINGTON

January 3, 2024

Special Counsel Robert K. Hur
Deputy Special Counsel Marc Krickbaum
Department of Justice
145 N Street Northeast
Washington, D.C. 20503

Dear Special Counsel Hur and Deputy Special Counsel Krickbaum:

We write to reiterate our pending request which we discussed yesterday during our call, and which we have made in previous submissions to you—including those dated October 18, 2023 and October 31, 2023—and during our discussions over the last several months. Personal counsel to the President and the White House Counsel's Office seek the opportunity to review a draft of your report prior to its submission to the Attorney General. We would provide you with prompt written comment on any factual and legal issues in the report, and contemporaneously the White House Counsel's Office would raise any executive privilege or confidentiality concerns, including pursuant to the April 26, 2023 agreement between the Special Counsel and the White House Counsel (attached). We would ask that you provide our written submission to the Attorney General when you submit your report to him.

The subject matter of your report—national security and the sensitive subject of the handling of national security information—is uniquely within the President's constitutional duties. Its contents may impact the national security or foreign policy interests of the United States. It may also affect understandings and public discussion of long-standing White House practices and procedures in the management of classified information. Among the issues in this investigation are presidents' and vice presidents' note-taking practices and their reliance on staff in achieving prompt and secure access to the information they need. The appropriate public presentation of these and other issues in the Special Counsel's report is unquestionably a legitimate concern for the President. Under these circumstances, the President has a responsibility to help ensure that the report is fair and entirely accurate.

Another reason we seek this opportunity to review and comment on your draft report is one of basic fairness. Critical or derogatory comment about an uncharged party who lacks a forum to respond is patently unfair, and the President should be afforded the opportunity to review a draft of the report so that he has some ability to address for your consideration any inaccurate or materially misleading legal and factual representations. The decision whether to make any changes in response to those concerns will ultimately be yours, but particularly given President Biden's extensive cooperation, he should be able to raise concerns about inaccurate or incomplete information.

The Special Counsel regulations do not bar you from permitting the President a final step of review and comment. The “confidential” nature of the report to the Attorney General is for the protection of subjects and third parties. It is not reasonably read to deny the Special Counsel the authority to provide a review of the draft for the benefit of both the President and the Government—and for the benefit overall of a thorough, accurate, and fair accounting of a Special Counsel inquiry involving national security practices, systems, and processes.

We appreciate your consideration of this request.

Respectfully,

A handwritten signature in blue ink, appearing to read "R. Sauber".

Richard Sauber

Special Counsel to the President

A handwritten signature in blue ink, appearing to read "Bob Bauer".

Bob Bauer

Personal Counsel to Joseph R. Biden, Jr.

Enclosure

CC: Matthew B. Klapper
Chief of Staff and Counselor to the Attorney General