



ATTORNEY GENERAL OF MISSOURI
ANDREW BAILEY

March 4, 2025

Hon. Michael E. Horowitz
U.S. Department of Justice
Office of the Inspector General
950 Pennsylvania Avenue NW
Washington, D.C. 20530

**RE: Legality of presidential actions in light of President Biden's
mental decline.**

Dear Mr. Horowitz,

I write to request that you conduct a full investigation into President Biden's mental capacity in his final days in office. By now, Biden's mental decline is famous. Under the 25th Amendment, his inability to make decisions should have meant a succession of power. Instead, it appears staffers and officers in the Biden administration may have exploited Biden's incapacity so they could issue orders without an accountable President of sound mind approving them. That would explain why the Biden administration's orders were aggressively much farther to the left than any previous President. If in fact Biden's staffers were exploiting his mental decline, those orders are null and void.

The States need to know because those orders affect us. For example, the Biden White House purported to vacate the death sentences of several convicted murderers who committed their crimes in Missouri. As the Supreme Court recently held, States like Missouri can criminally try individuals under state law even if they already were prosecuted under federal law.¹ States like Missouri need to know whether to pursue that path or similar paths.

Biden was forced to drop out of the 2024 race because of his obvious decline, but his decline was evident even before then. As Speaker of the House Mike Johnson recently reported, Biden did not know what orders he was signing. In January 2024, when Johnson asked Biden about a moratorium on energy exports to Europe, Biden

¹ See *Gamble v. United States*, 587 U.S. 678 (2019).

Johnson asked Biden about a moratorium on energy exports to Europe, Biden informed Johnson that he thought he had merely signed an order authorizing a *study* on exports.² In addition, last February, Special Counsel Robert K. Hur released his report on his investigation into wrongdoing by Biden.³ In what was described as “[t]he loudest public alarm about Joe Biden’s mental acuity,”⁴ Special Counsel Hur described Biden as an “elderly man with a poor memory” who could not even remember when he was Vice President or, even within several years, when his son passed away.⁵ If Biden could not even form a *mens rea* for allegedly criminal activity (a low bar), how can anyone have confidence he had the capacity to make decisions as the chief executive of the United States?

There are profound reasons to suspect that Biden’s staff and political allies exploited his mental decline to issue purported presidential orders without his knowing approval. In addition to Speaker Johnson’s recounting of Biden completely misunderstanding the energy document he signed, those closest to Biden appear to have worked hard to hide Biden’s decline so they could retain influence they would not otherwise have had. Speaker Johnson, for example, reported that staff and elected officials—including former Vice President Kamala Harris and former Senate Majority Leader Chuck Schumer—tried to prevent Johnson from meeting with Biden.⁶ Though presidents always have gatekeepers, in Biden’s case, the walls around him were higher and the controls greater, according to Democratic lawmakers, donors and aides who worked for Biden and other administrations.⁷ Staff limited Biden’s ability to speak with others and limited the sources of information he consumed.⁸ And prominent Democratic National Committee fundraiser Lindy Li recently acknowledged that Biden was not in charge; rather, “the people who ran our country for the last four years” were his staff, his wife, and his son Hunter Biden.⁹

Finally, there is the streak of extraordinarily far-left orders purportedly issued by Biden. Just the extraordinary orders since November include:

- Vacating the death sentences of nearly all persons sentenced to the ultimate punishment,

² Eli Lake, *When Mike Johnson Knew Joe Biden Was Not in Charge*, THE FREE PRESS (Jan. 17, 2025), <https://www.thefp.com/p/when-mike-johnson-knew-joe-biden-not-in-charge>.

³ <https://www.justice.gov/storage/report-from-special-counsel-robert-k-hur-february-2024.pdf> (Report) (page numbers refer to PDF page numbers).

⁴ Annie Linskey et al., *The World Saw Biden Deteriorating. Democrats Ignored the Warnings.*, WALL ST. J. (June 28, 2024), <https://archive.is/CC3hP>.

⁵ Report, *supra* note 3, pp. 10, 211–12, 224.

⁶ Lake, *supra* note 2.

⁷ Linskey et al., *How the White House Functioned With a Diminished Biden in Charge*, WALL ST. J. (Dec. 19, 2024), <https://archive.is/DEsb4>.

⁸ *Id.*

⁹ “It Was Obama’s 3rd Term” – Lindy Li on the Puppets of the Joe Biden Admin (Feb. 6, 2025), https://www.youtube.com/watch?v=52Zc6__ZLK0

- Granting his son Hunter Biden a blanket pardon going back more than 10 years, despite previously promising he would not do so, and
- Endorsing the legally frivolous theory that the Equal Rights Amendment was timely ratified.

Indeed, apparently in reliance on far-left groups, Biden pardoned or commuted the sentences of 2,500 individuals whom he described as “non-violent”—but he gave clemency to people like Adrian Peeler, who killed a mother and her 8-year-old child.

This, plus an ocean of other far-left orders that Biden purportedly issued—but never supported before his mental decline—strongly suggest exploitation by staffers and officials who wanted to promulgate far-left policies without any accountability or democratic legitimacy.

It is black-letter law that a document is void, *ab initio*, when the person signing it lacks mental capacity. That is why the 25th Amendment authorizes power to pass to the Vice President when the President lacks mental capacity. Staffers and the Vice President cannot constitutionally evade accountability by laundering far-left orders through a man who does not know what he is signing. If in fact this has been occurring, then all those orders are void.

I thus ask you to launch an investigation, or refer my request to another investigating body,¹⁰ to determine which of Biden’s purported orders were knowingly issued by a competent President and which were not.

Who has been running the country for the last few years? I fear that Mr. Biden, while he held the office of President, did so in name only and was a mere puppet for far-left, unelected staffers. The people deserve to know the truth.

I call on you to investigate whether it was Biden or others who took executive actions. If it was not Biden, then the people should know that whatever actions he took were void.

If you have any questions, please contact my office.

Respectfully,



ANDREW BAILEY
Missouri Attorney General

¹⁰ § 1-8.000 of the *Justice Manual*, U.S. DEP’T OF JUST., <https://www.justice.gov/jm/jm-1-8000-congressional-relations> (authorizing redirection of communications) (last visited Feb. 6, 2025).