



THE WHITE HOUSE  
WASHINGTON

March 3, 2023

The Honorable James Comer  
Chairman  
Committee on Oversight and Accountability  
United States House of Representatives  
Washington, D.C. 20515

Dear Chairman Comer:

This letter responds to your February 17, 2023, letter to Assistant to the President for National Security Affairs Jake Sullivan regarding the United States' withdrawal from Afghanistan.

When President Biden came into office, he was faced with the tough decision to return the United States to active combat with the Taliban and put even more of our troops' lives at risk, or finally end the twenty-year war in Afghanistan. The President refused to send another generation of Americans to fight and die in a war with no clear path to victory at the cost of tens of billions of dollars a year. The Biden Administration successfully evacuated more than 120,000 Americans and allies in one of the largest airlifts in history, is continuing to welcome our Afghan allies to the United States, and has maintained our ability to deal with terrorist threats we face, as evidenced by the strike taking out the leader of al-Qa'ida, without American forces on the ground. As a result, 2022 was the first year this century in which no Americans died in combat in Afghanistan. Now, we are in a stronger position to lead the world and address the threats and challenges we face today and in the future.

The Biden-Harris Administration has provided significant information about the withdrawal from Afghanistan to both Congress and the public. The Administration's senior leadership, including Secretary of State Antony Blinken, Secretary of Defense Lloyd Austin, Chairman of the Joint Chiefs of Staff General Mark Milley, and former Commander of U.S. Central Command General Kenneth McKenzie have all testified about the topics in your letter at multiple congressional hearings in both public and classified settings.<sup>1</sup> In addition, the Office of

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<sup>1</sup> See, e.g., House Committee on Foreign Affairs, *Hearing on Afghanistan 2001-2021: Evaluating the Withdrawal and U.S. Policies-Part I*, 117th Cong. (Sept. 13, 2021) (statement of Antony Blinken, Secretary of State); Senate Committee on Foreign Relations, *Hearing on Examining the U.S. Withdrawal from Afghanistan*, 117th Cong. (Sept. 14, 2021) (statement of Antony Blinken, Secretary of State); Senate Committee on Armed Services, *Hearing on the Conclusion of Military Operations in Afghanistan and Plans for Future Counterterrorism Operations*, 117th Cong. (Sept. 28, 2021) (statements of Lloyd Austin, Secretary of Defense; General Mark Milley, Chairman of the Joint Chiefs of Staff; and General Kenneth McKenzie, Commander, U.S. Central Command) (open in part); House Committee on Armed Services, *Hearing on Ending the U.S. Military Mission in Afghanistan*, 117th Cong. (Sept. 29, 2021) (statements of Lloyd Austin, Secretary of Defense; General Mark Milley, Chairman of the Joint Chiefs of Staff; and General Kenneth McKenzie, Commander, U.S. Central Command); Senate Committee on

the Director of National Intelligence and the Intelligence Community have provided multiple briefings and intelligence products to members and appropriately cleared staff. Other members of leadership at the Department of Defense and Department of State have also testified before Congress on multiple occasions in both public and classified settings.<sup>2</sup> Departments and agencies have continuously provided regular updates to Congress. The Administration has also already provided information on this topic to the Oversight Committee and made senior national security officials available to the Committee to answer similar questions posed by you and your colleagues.<sup>3</sup>

With respect to the requests in your letter, the Biden Administration is committed to participating in the constitutionally mandated accommodation process and to following the Executive Branch's longstanding approach to congressional oversight of the White House. In 1982, President Reagan articulated the policy that has guided the Executive Branch's response to oversight requests from congressional committees for decades. As President Reagan's Memorandum explains, the Executive Branch should make good faith attempts to respond to Congress's requests for information, just as Congress is obliged to make good faith attempts to respect the separation of powers and the constitutional and statutory obligations of the Executive Branch generally and the White House in particular.<sup>4</sup> The Biden Administration is committed to adhering to this "tradition of negotiation and compromise" between the branches,<sup>5</sup> and with the approach set forth in the Reagan Memorandum, which reflects a "[d]eeply embedded traditional way[] of conducting government."<sup>6</sup>

In this inquiry, we understand the Committee also sent letters to the Department of Defense, the Department of State, the Department of Homeland Security, and the U.S. Agency for International Development requesting similar information. These letters overlap with earlier requests by the Committee on Foreign Affairs and the Committee on Armed Services to the Departments of State and Defense, respectively. I understand that all of these agencies have

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Foreign Relations, Senate Committee on Armed Services, *Closed Briefing on U.S. Policy on Afghanistan*, 117th Cong. (Feb. 2, 2022) (statements of Antony Blinken, Secretary of State; and Lloyd Austin, Secretary of Defense).

<sup>2</sup> See, e.g., Senate Committee on Armed Services, *Closed Briefing on Department of Defense Support of Afghan Nationals Who Have Recently Left Afghanistan*, 117th Cong. (Sept. 21, 2021) (statements of Colin Kahl, Under Secretary of Defense for Policy; Michael McCord, Under Secretary of Defense (Comptroller), and Chief Financial Officer; and Rear Admiral Marc Miguez, Deputy Director for Operations, Joint Operations Intelligence Center, Joint Staff); Senate Committee on Armed Services, *Hearing on the Security in Afghanistan and in the Regions of South and Central Asia*, 117th Cong. (Oct. 26, 2021) (statements of Colin Kahl, Under Secretary of Defense for Policy; and Lieutenant General James Mingus, Director for Operations, Joint Staff) (open in part).

<sup>3</sup> House Committee on Foreign Affairs, House Committee on Oversight and Reform, *Joint Members Closed Briefing on Afghanistan*, 117th Cong. (Sept. 22, 2021) (press release available online at <https://oversightdemocrats.house.gov/news/press-releases/chairs-maloney-lynch-issue-statement-after-classified-briefing-on-afghanistan>) (last accessed March 3, 2023).

<sup>4</sup> See *Memorandum for the Heads of Executive Departments and Agencies*, from Ronald Reagan, *Re: Procedures Governing Responses to Congressional Requests for Information* (Nov. 4, 1982) ("Reagan Memorandum").

<sup>5</sup> *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020).

<sup>6</sup> *Id.* at 2035 (quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 610 (Frankfurter, J., concurring)).

already responded to the Oversight Committee in writing, indicating that they intend to respond to your requests in good faith and are gathering documents for production to the Committee.

Because of “[t]he President’s unique constitutional position,”<sup>7</sup> congressional requests to the White House implicate additional considerations that are not typically present when a committee requests information from an Executive Branch agency.<sup>8</sup> Where, as here, a committee can obtain much of the information it is seeking from the involved agencies, it is appropriate to seek information from those agencies in the first instance and to thereafter request information from White House officials only to the extent necessary. “Congress may not rely on the President’s information if other sources could reasonably provide Congress the information it needs in light of its particular legislative objective.”<sup>9</sup>

Once the Committee has addressed these matters with the relevant departments and agencies, and the appropriate accommodation process has taken place, we would be happy to discuss with you and your staff whether these materials address the Committee’s questions or if additional accommodations may be appropriate.

We look forward to continuing to work with you and the Committee. Please let me know if you have additional questions.

Sincerely,



Richard Sauber  
*Special Counsel to the President*

cc: The Honorable Jamie Raskin, Ranking Member  
Committee on Oversight and Accountability

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<sup>7</sup> *Id.* at 2036.

<sup>8</sup> See *Congressional Oversight of the White House*, 45 Op. O.L.C. \_\_\_, at \*1 (Jan. 8, 2021).

<sup>9</sup> *Mazars*, 140 S. Ct. at 2035–36.