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CHARLES E. GRASSLEY

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February 4, 2021

Ms. Dana Remus
Counsel to the President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20002

Dear Ms. Remus:

According to *Politico*, President Biden is constituting “a bipartisan commission to study reforms to the Supreme Court and the federal judiciary.”¹ This idea was first floated by President Biden during his campaign, when he said he would task it to present “recommendations as to how to reform the court system because it’s getting out of whack, the way in which it’s being handled.”²

The *Politico* article sets forth some details about the “bipartisan commission,” namely that it will supposedly be housed in the White House Counsel’s Office and that one of President Biden’s campaign attorneys, Bob Bauer, will direct its operations.³ It also noted that the “bipartisan commission” would likely include between nine and fifteen members and is already rumored to include: (1) Cristina Rodriguez, a former Deputy Assistant Attorney General in the Obama Department of Justice; (2) Caroline Frederickson, the former president of the left-wing American Constitution Society; and (3) Jack Goldsmith, a prominent critic of President Trump and former Assistant Attorney General in the George W. Bush Department of Justice.⁴ At least one of the aforementioned rumored commission members supports ideological court packing, which is a direct assault on the independent judiciary.⁵

¹ Tyler Pager, *Biden starts staffing a commission on Supreme Court reform*, *Politico*, Jan. 27, 2021, available at: <https://www.politico.com/news/2021/01/27/biden-supreme-court-reform-463126>

² Joseph Choi, *Biden begins staffing commission to study Supreme Court reform: report*, *The Hill*, Jan. 27, 2021, available at: <https://thehill.com/homenews/administration/536155-biden-administration-begins-staffing-commission-on-court-reform>

³ Tyler Pager, *Biden starts staffing a commission on Supreme Court reform*, *Politico*, Jan. 27, 2021, available at: <https://www.politico.com/news/2021/01/27/biden-supreme-court-reform-463126>

⁴ *Id.*

⁵ *Id.*

Committee Assignments:

AGRICULTURE
BUDGET
JUDICIARY

INTERNATIONAL NARCOTICS
CONTROL CAUCUS

CHAIRMAN,
FINANCE

Leaving aside the merits of this “bipartisan commission,” of which I am skeptical, even though I am a longstanding proponent of certain reforms to the federal judiciary, this report presents many troubling questions.

Chief among those are the extent to which this commission will operate in an open, transparent manner. If the report is correct that the commission will be housed out of the White House Counsel’s Office, its business would likely be subject to the Presidential Records Act, which will delay any public transparency about the “bipartisan commission’s” activities. The Executive Office of the President is shielded from many important public-transparency laws and I am concerned that any efforts to house this “bipartisan commission” in the White House will therefore shield its work from the public eye. I hope that is not the case.

I would therefore like responses to the following questions no later than February 15, 2021:

1. Was *Politico* correct to report that this “bipartisan commission” will be housed in the White House Counsel’s Office?
2. Was this “bipartisan commission” constituted under the Federal Advisory Committee Act?
 - a. If not, why not?
 - b. If not, will you agree to have the “bipartisan commission” abide by the public-disclosure rules of the Federal Advisory Committee Act, as if it had been so constituted?
3. Will the “bipartisan commission” be subject to the Presidential Records Act?
4. If the “bipartisan commission” will be subject to the Presidential Records Act, will you nevertheless agree to give the public access to all unredacted presidential records generated by the “bipartisan commission” in a timely manner, notwithstanding the provisions of the Presidential Records Act?
5. Because this “bipartisan commission” involves the federal judiciary, will you agree to provide the whole Judiciary Committee regular briefings on its progress?
6. Did you consider housing the “bipartisan commission” in the Department of Justice, where its activities and findings would be subject to the Freedom of Information Act?
7. Was *Politico* correct to report that this “bipartisan commission,” housed in the White House Counsel’s Office, will be headed by former White House Counsel Bob Bauer? If so, what is his employment status in the Executive Office of the President?

Thank you for your prompt attention to this request.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is fluid and cursive, with the first name "Chuck" and last name "Grassley" clearly legible.

Chuck Grassley
Ranking Member
Judiciary Committee